Institut National du Travail, de l'Emploi et de la Formation Professionnelle

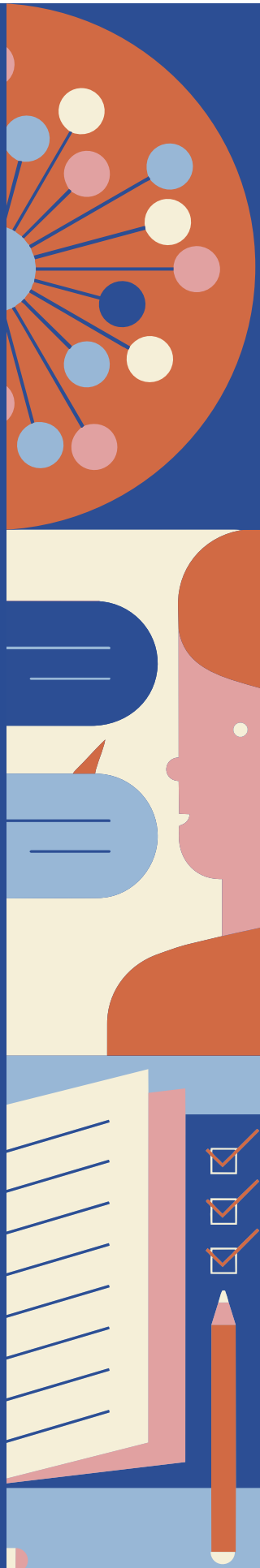
Centre international de formation

MINISTÈRE DU TRAVAIL ET DES SOLIDARITÉS
Liberté Égalité Fraternité

Organisation internationale du Travail

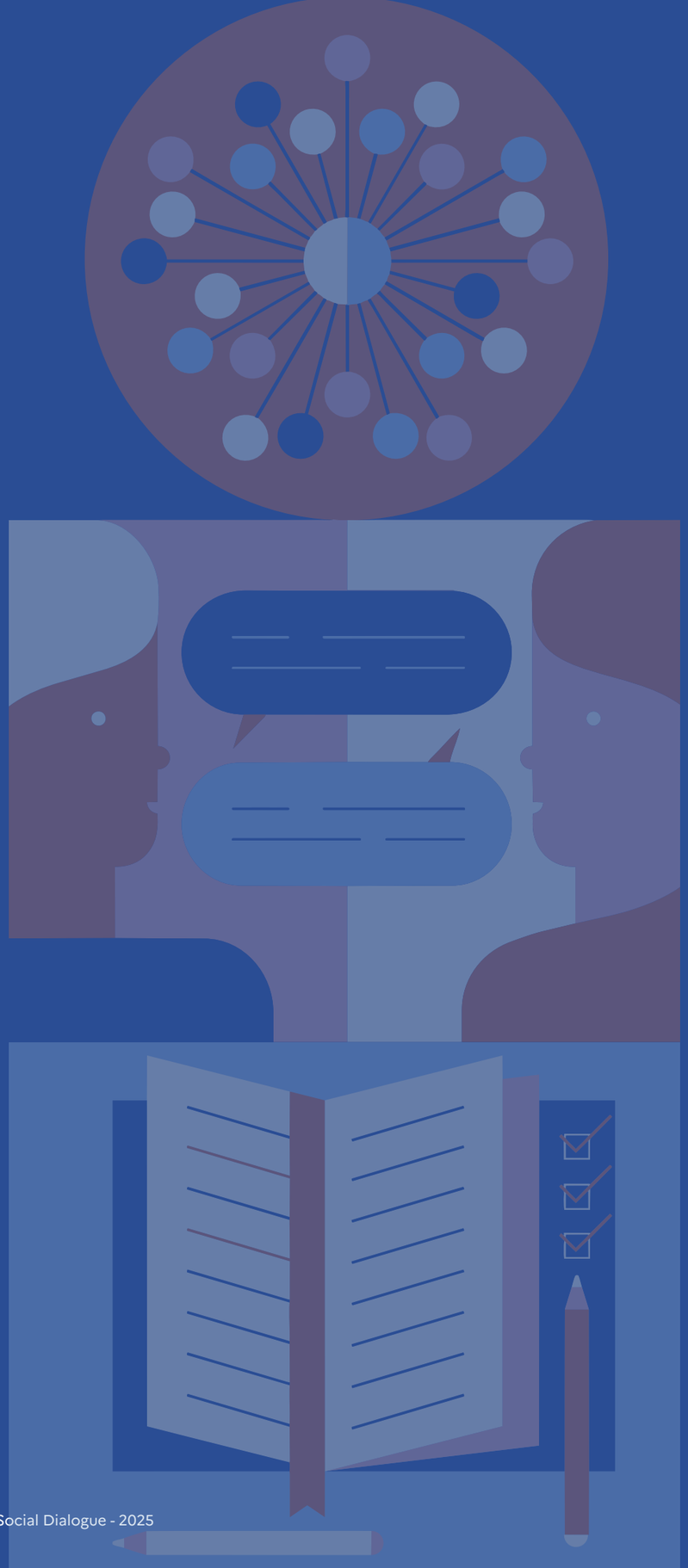
SUMMER SCHOOL
ON SOCIAL DIALOGUE
COEDITION ITC ILO - INTEFP

INDUSTRIAL RELATIONS AND DUE DILIGENCE



25

1st EDITION



Industrial relations and due diligence
International Training Centre of the International Labour Organization (ITCILO)

Edited by Sylvain Baffi (ITC ILO) and Mélanie Burlet (INTEFP)

Scientific editor:
Jan Cremers

Editorial coordination:
Sophie Guillemin

Language coordination:
Maria Teresa Gautier di Confiengo

Proofreading:
Maria Teresa Gautier di Confiengo, Françoise Thomas

Graphic design and layout:
Enotikom

Illustration :
Alice Lotti

The texts were written by the authors in French or English, depending on their nationality. This bilingual publication, accompanied by translations, has sought to preserve the accuracy of the concepts as far as possible.

Edito

The Summer School on Social Dialogue, organized on the campus of the International Training Centre of the ILO (ITC-ILO) in Turin, was made possible thanks to an innovation introduced in the partnership between the French government and the ILO. Its first edition took place in September 2025; at the very moment this agreement was renewed. It is now part of the ILO activities supported by France, from which French constituents can directly benefit. This initiative is the result of a renewed collaboration between the French Ministry of Labour, the ILO Office in Paris, and the International Training Centre of the ILO (ITC-ILO) in Turin.

Funded by the French Ministry of Labour, this first session was a real success, not only among French constituents but also beyond, with participants coming notably from Africa and Central Asia. It thus confirms the ITC-ILO's role as an international platform for connecting ILO constituents and fostering collective learning based on the sharing of practices and experiences.

The ambition was to innovate and complement the range of activities offered on the Turin campus by opening a new space for reflection and exchange on social dialogue, bringing together experts and practitioners, whether ILO constituents, business actors, or researchers. The Summer School format, as well as its anchoring in the Turin School of Development, encourages a freedom of expression conducive to the emergence of new ideas and approaches in response to contemporary challenges in social dialogue. Moreover, the campus setting and residential accommodation of participants facilitate interactions and extend exchanges in an informal and friendly environment.

The involvement of the research community is another distinctive feature of this initiative. The call for academic contributions launched beforehand, through its open and interdisciplinary nature, aims to enrich the dialogue. It makes it possible to structure the programme around selected papers–compiled in this publication–and thus to produce new knowledge on the topics addressed.

Given these characteristics – academic participation, open exchanges, informal interactions – the Summer School provides a particularly suitable framework for addressing emerging issues in social dialogue, which often place its actors outside their comfort zone.

Due diligence obligations are undoubtedly among these issues. Social dialogue is indeed not the only framework for implementing these new due diligence requirements. Other policy and legal instruments are used by companies and public authorities, while civil society actors intervene outside the traditional frameworks of social dialogue.

Included in the ILO agenda since 2015, decent work in supply chains nevertheless remains a relatively new issue for constituents. It was therefore fully justified that it be chosen as the theme of this first edition of the Summer School.

This publication reports on the work and discussions that made it possible to examine the conditions under which social dialogue can contribute to better governance of supply chains, as well as the forms it is likely to take. It thus constitutes a joint contribution by practitioners and researchers to reflection on the renewal of social dialogue, in the face of transformations in work and its governance models. The collected contributions call for continuing and deepening this collective work in future editions of the Summer School.

On behalf of the ILO and the ITC-ILO, I extend my sincere thanks to the French Ministry of Labour for its trust and support, in particular to Anousheh Karvar, the French Government's delegate to the ILO, Ivann Liberatore, her deputy, Antoine Saint-Denis, Delegate for European and International Affairs, as well as their teams, notably Nicolas Dumas.

I also thank the French social partners for their commitment, in particular Béatrice Lestic (CFDT) and Anne Vauchez (MEDEF), who coordinated the trade union and employer contributions, as well as all the participants in this first session.

My thanks also go to INTEFP and to Mélanie Burlet, Director of Innovation and Partnerships, as well as to Rémi Bourguignon (IAE Paris-Est) and Marie-Noëlle Lopez (New Bridges), for their support throughout the project.

Finally, I would like to thank my colleagues from the ILO Governance Department, in particular Andrea Marinucci, from the MULTI Department, especially its Director Githa Roelans, Frédérique Dupuy from the ILO Office for France, as well as all the teams at the ITC-ILO in Turin–Sylvain Baffi, Giuseppe Zefola, Maria Teresa Gautier di Confiengo, and Amina Boumerdassi– and its Director Christophe Perrin, commending them for the success of this project.

Cyril Cosme,
director of the International Labour Organisation (ILO) Office for France

SUMMARY

Foreword

Sylvain Baffi and Mélanie Burlet

Keywords: due diligence, Corporate Social Responsibility (CSR), double materiality, non-financial reporting, governance standards, workers' involvement, social dialogue, International Framework Agreements.

INDUSTRIAL RELATIONS AND DUE DILIGENCE: A TOPIC AT THE HEART OF SOCIAL AND ECONOMIC CHALLENGES

The transformation of value chains and due diligence

Throughout the twentieth century and in recent decades, global value chains have undergone major transformations, with ambivalent effects on decent work, varying depending on the sectors and locations involved.

The resolution adopted at the 105th International Labour Conference (ILC) in 2026 recognizes that supply chains have contributed to economic growth, job creation, poverty reduction, and the transition from the informal to the formal economy. However, the ambivalent effects of their development highlight the importance of promoting decent work by strengthening fundamental rights at work, social protection, and social dialogue.

For example, in labour-intensive sectors such as garment manufacturing, the integration of certain countries into supply chains has helped improve women's access to employment, while also confining them to low value-added activities characterized by poor working conditions.

In this context, several international organisations have adopted instruments to guide government policies and encourage businesses. The three main ones are:

- "The UN Guiding Principles on Business and Human Rights" and the implementation of the "Protect, Respect and Remedy" framework (2011).
- "The Tripartite Declaration of Principles concerning Multinational Enterprises and Social Policy" (2017).
- "OECD Guidelines for Multinational Enterprises on Responsible Business Conduct" (2023).

Over the past decade, some States have also adopted national labour laws as well as other non-binding initiatives aimed at protecting fundamental workers' rights in supply chains beyond the national framework. These regulations aim to require companies to reduce actual and potential human rights risks linked to their activities and business relationships.

They are often based on the due diligence process, which helps companies better understand the impact of their operations and take measures to address it. This process rests on several key steps:

- Identifying actual or potential human rights impacts
- Assessing these impacts and implementing appropriate actions
- Monitoring the measures taken
- Communicating on the solutions implemented to remedy identified harms

Companies must therefore monitor the impacts they may cause or contribute to, whether through their products, services, or business relationships. This approach, which is part of a process of continuous improvement, can be more or less complex depending on the size of the company, the severity of the risks, and the sector of activity. To ensure effective risk assessment and management, it is essential that companies consult relevant stakeholders in order to incorporate diverse perspectives and context-specific insights.

In doing so, the transformations of global value chains have profoundly reshaped labour governance systems, shifting governance spaces beyond national borders and multiplying the actors involved in defining and implementing social standards. In this context, the growing prominence of due diligence mechanisms is part of a broader dynamic of reconfiguring regulatory instruments, at the intersection of law, corporate social responsibility, and industrial relations.

In this context, these transformations are characterised by a proliferation of labour regulation instruments, belonging to distinct but interconnected registers: forms of public regulation led by States and international organisations, forms of managerial regulation developed by companies through risk management tools, and forms of social regulation based on dialogue between social partners.

This plurality of instruments raises a central question: are these mechanisms complementary or competing? Rather than considering these frameworks as substitutable, the aim is to analyse the conditions under which they can be effectively combined, to avoid fragmentation of resources and dilution of their impact (Haipeter et al., 2021).

Hence, what place can social dialogue occupy within due diligence systems that are often designed according to legal and managerial logics?

The key role of social dialogue

Structured social dialogue is essential to ensure implementation aligned with the standards and guiding principles of these obligations. By directly involving the stakeholders concerned, particularly workers and their representatives, it makes it possible to accurately identify the risks specific to each sector and company. This process should include genuine consultations with workers' organisations, groups, and other relevant stakeholders likely to be affected, depending on the size of the company and the nature and context of its activities. Structured social dialogue also contributes to the development and monitoring of due diligence and remediation plans by establishing a transparent and participatory approach, which fosters both buy-in and the effectiveness of the actions implemented.

Strengthened cooperation between companies and trade unions can reduce risks related to human rights and working conditions in supply chains, by promoting the development of more responsible practices.

This perspective invites us to move beyond a traditional opposition between control and cooperation. While due diligence mechanisms are based on control logics aimed at identifying and reducing risks, social dialogue can also be part of cooperative dynamics, grounded in negotiation and the construction of shared solutions. The challenge lies in the ability to articulate these two logics, making social dialogue both a tool of control and a space for cooperation between actors contributing to better governance of supply chains. It is in this perspective that the International Training Centre of the International Labour Organisation (ITC-ILO) organised, from 16 to 19 September 2025 in Turin, a Summer School dedicated to the articulation between social dialogue and due diligence. Conceived as a space for exchange between research and practice, this initiative aimed to stimulate academic work while fostering the confrontation of analytical perspectives with the concrete realities of work in different national and sectoral contexts.

The ITC ILO Summer School on Social Dialogue

The Summer School is aimed at a diverse audience: representatives of employers' and workers' organisations, officials from the ILO and other international organisations, national civil servants responsible for labour-related issues, practitioners of national and international social dialogue, legal experts, as well as researchers and academics from various disciplines, mong others. Bringing together around sixty participants, it aims to:

- develop their knowledge and understanding of the issues related to the chosen topic;
- foster dialogue between actors involved in corporate governance and workers' organisations;
- encourage research and the presentation of academic work on the subject.

Spanning three and a half days, the Summer School is structured into several modules combining theoretical lectures, case studies, participatory workshops and expert testimonies. Some sessions are dedicated to the state of the art in academic research on the topic, and these presentations help deepen participants' knowledge while also feeding discussions and fostering the emergence of new ideas.

To this end, the scientific preparation of the event was based on a call for contributions inviting researchers, practitioners and experts to submit papers on industrial relations and due diligence in global value chains. This call generated strong interest, with over 30 proposals received. Following a rigorous selection process, eight contributions1 were chosen to be presented during the Summer School.

In addition, a specific study was commissioned to further explore certain empirical dimensions of the debates, by identifying the main obstacles to the effective implementation of the due diligence within companies, assessing the quality and intensity of social dialogue in these processes, and examining existing practices, available levers, as well as structural barriers.
The Summer School was overseen by a scientific committee bringing together representatives from academia, public institutions and the ILO, with the task of validating the call for contributions, evaluating submitted proposals, and structuring the scientific programme. It was composed of

- Rémi Bourguignon, professor at the University of Paris-Est Créteil, specialist in industrial relations,
- Githa Roelans, Head of the Multinational Enterprises and Responsible Business Conduct Unit at the ILO,
- Cyril Cosme, Director of the ILO Office for France,
- Ivann Liberatore, Deputy Government Delegate to the ILO,
- Andrea Marinucci, Social Dialogue Officer, Social Dialogue, Labour Relations and Governance Branch (LABGOV), ILO
- Mélanie Burlet, Director of Innovation and Partnerships at INTEFP,
- Sylvain Baffi, Senior Programme Officer at the International Training Centre of the ILO (ITC ILO).

The entire process also benefited from the active support of Frédérique Dupuy within the ILO Office in Paris, as well as the involvement of the ITC ILO teams in Turin, in particular Vera Da Costa and Rafael Peels from the Bureau for Workers' Activities (ACTRAV) and Jeanne Schmitt from the Bureau for Employers' Activities (ACT/EMP) for the technical aspects related to social dialogue, and Maria Teresa Gautier di Confiengo and Amina Boudermassi for logistical matters.

Agenda and key discussion points

Sylvain Baffi et Mélanie Burlet

DAY 1

SOCIAL DIALOGUE AND DUE DILIGENCE: BETTER UNDERSTANDING THE TERMS OF THE DEBATE

At the opening of the Summer School, Rémi Bourguignon, Professor at the University of Paris-Est Créteil, explicitly raised the question of the place of social dialogue in the regulation of global value chains. His intervention showed that the multiplication of regulatory instruments– public, managerial, and social– does not necessarily lead to better protection of workers but may instead generate forms of competition or fragmentation between frameworks. **In this context, due diligence appears as a hybrid instrument, both a risk management tool and a transparency mechanism, which tends to be embedded primarily in managerial and legal logics, whereas social dialogue follows a distinct logic based on participation and negotiation.** T he discussions thus highlighted a central challenge of articulation: how can social dialogue be integrated into frameworks that were initially designed without it? This question points to the underlying tension between control and cooperation in modes of dialogue, which runs through all debates on due diligence.

An overview of the challenges facing social dialogue in the context of due diligence

After laying the foundations for the debate, the study presented by Marie-Noëlle Lopez, founding partner of New Bridges, made it possible to share empirical data. This research, based on several dozen interviews conducted mainly with French companies, representatives of management (industrial relations, CSR, due diligence), and worker representatives, including international trade union federations, provides a detailed account of the concrete ways in which social dialogue is integrated into due diligence processes.

A first key finding is that the **involvement of worker representatives in due diligence processes remains uneven and often limited.** While some companies formally involve social dialogue actors, particularly through consultations or information exchanges, these practices are rarely systematised and remain highly dependent on national contexts, corporate cultures, and existing power relations.

The study also highlighted **the diversity of actors involved in these processes.** On the company side, functions responsible for due diligence, corporate social responsibility, and industrial relations coexist without always being fully coordinated. On the workers' side, representatives may operate at different levels–local, national, or transnational–making it more difficult to structure dialogue. **This multiplicity of actors contributes to fragmenting spaces for discussion and makes it harder to develop coherent and structured social dialogue.**

Finally, the predominance of a compliance-oriented approach was noted. I**n many cases, due diligence is implemented as a legal obligation or a reporting exercise, in which social dialogue is seen as one element among others rather than as a structuring lever.** This logic tends to limit the transformative scope of these mechanisms, reducing worker participation to forms of expression that are controlled and often indirect.

By placing these findings in perspective with experiences from different national and sectoral contexts, the exchanges among participants confirmed that the identified difficulties do not stem solely from legal gaps but are embedded in broader dynamics linked to the fragmentation of value chains, the diversity of institutional frameworks, and tensions between risk management logics and collective representation logics.

The participatory workshop that followed extended this analysis by inviting participants to identify, based on their own experiences, the obstacles encountered in implementing social dialogue within due diligence processes. This collective work led to the emergence of a shared mapping of challenges, as well as possible avenues for action, particularly in terms of coordination between actors, strengthening the capacities of worker representatives, and more systematically integrating social dialogue at each stage of due diligence processes.

From the very first day, the discussions highlighted a key point: **while due diligence opens up potential spaces for social dialogue, it does not in itself guarantee effective participation of workers and their representatives.** The central challenge therefore lies in the ability to transform these frameworks into concrete dialogue practices capable of sustainably structuring industrial relations.

DAY 2

SOCIAL DIALOGUE AND THE DUTY OF CARE: COMPLEMENTARITIES BETWEEN EXISTING MECHANISMS

The second day of the summer school began with an overview of due diligence mechanisms within the framework of international standards, led in particular by Githa Roelans, Chief of the Multinational Enterprises and Responsible Business Conduct Unit at the ILO. Her presentation situated the discussions within a global regulatory framework by drawing on the UN Guiding Principles on Business and Human Rights, structured around three pillars: the State's duty to protect human rights, the corporate responsibility to respect them, and access to remedies for affected parties. In this context, due diligence emerges as the primary operational tool enabling companies to fulfil their responsibility to respect human rights. However, this procedural approach cannot be fully effective without taking into account the social dynamics and the stakeholders concerned.

International principles indeed emphasise the need to conduct genuine consultations with stakeholders likely to be affected, in particular workers and their representatives. This requirement is not a peripheral element, but a central condition for the credibility and effectiveness of due diligence processes. In this context, the ILO Declaration on Multinational Enterprises (MNEs) provides a particularly useful complementary framework. **It reiterates that due diligence cannot be separated from respect for fundamental rights at work, notably freedom of association and collective bargaining, and highlights the essential role of social dialogue in identifying and managing risks.** It also proposes a multi-level approach to dialogue, covering relations between governments and social partners, interactions between companies and trade unions, and internal dynamics within companies.

The discussions thus highlighted that the governance of due diligence does not rely on a single instrument, but on a variety of complementary mechanisms. These include not only national and international legal frameworks, but also mechanisms such as international framework agreements, OECD National Contact Points, multi-stakeholder initiatives and social dialogue structures at national and sectoral levels.

However, this multiplicity of instruments poses a coordination challenge. Whilst each of these mechanisms helps to regulate corporate practices, their coexistence can also lead to a fragmentation of regulatory frameworks and a dispersal of resources. Discussions thus highlighted that the challenge lies not only in developing new instruments, but in the ability to better link them together, in order to build coherent due diligence approaches rooted in social dialogue.

In this context, the role of tripartite institutions appears particularly central. The ILO Declaration highlights operational tools designed to support dialogue between businesses and trade unions, notably through facilitation, technical assistance and mediation mechanisms. These mechanisms provide neutral and structured forums for discussion, fostering the emergence of shared solutions and the resolution of disputes.

The role of the social partners in the context of due diligence

In the continuation of this presentation of international normative frameworks, Elena Sychenko, Associate Professor at Mercatorum University, drew attention to a less visible but decisive aspect of due diligence: the role of sustainability reporting as both a governance tool and a potential space for worker participation.

The discussions first highlighted the profound transformation of reporting practices over the past decades. **From a tool limited to the communication of financial information, reporting has gradually expanded to include non-financial data related to companies' environmental, social, and governance (ESG) impacts.** This evolution is part of a broader movement toward transparency, in which companies are now required to account not only for their economic performance but also for their effects on society and on workers.

In this context, the European Corporate Sustainability Reporting Directive (CSRD) marks an important milestone. It introduces in particular the principle of "double materiality", according to which companies must both report on how ESG factors affect their financial position and on how their own activities impact these factors. This approach significantly broadens the scope of reporting and strengthens its connection with due diligence mechanisms.

At the heart of this evolution lies a new requirement: the involvement of workers representatives in the reporting process. The directive provides that company management must inform workers representatives, discuss relevant information and methods for collecting and verifying data with them, and, where appropriate, convey their views to the governing bodies. **This provision explicitly recognises that the production of sustainability information cannot be separated from social dialogue.**

However, discussions quickly highlighted the ambiguities of this requirement. **Several questions remain unanswered:** who exactly are the worker representatives concerned? At what level – local, national or transnational – should these consultations take place? What do the notions of "discussion," "consultation," or "meaningful engagement" concretely entail? Finally, the wording "where appropriate" introduces significant room for interpretation, potentially limiting the effective scope of these obligations.

An analysis of the national legislation transposing the directive shows that these ambiguities result in highly variable practices. Some countries allow companies considerable latitude in defining the consultation procedures, whilst others provide broader definitions of employee representatives, without clarifying the conditions under which their views must be taken into account. This diversity contributes to the uncertainty surrounding employee participation in reporting processes.

The examples of companies presented illustrate this variability. In some cases, dialogue is limited to a top-down presentation of sustainability policies to trade unions, with no real opportunity for them to influence the process. In others, more structured mechanisms are put in place, particularly where workers' representatives are included in governance bodies or involved in defining due diligence policies. These differences show that reporting can be used either as a communication tool or as a genuine forum for dialogue.

The discussions also highlighted the growing role of international reporting standards, particularly those developed by the International Sustainability Standards Board. These standards set out specific requirements for the disclosure of sustainability-related risks, strategies and performance, helping to shape corporate practices on a global scale. However, their focus remains largely centred on the needs of investors, which may limit the consideration of workers' interests.

One particularly important aspect concerns the link between reporting and due diligence. Disclosure requirements oblige companies to document their risk identification and management processes, creating an incentive to structure their due diligence procedures. In this context, worker participation can play a key role by providing essential information on working conditions and the actual impacts of economic activities.

However, as the discussions have shown, this participation often remains merely formal. It may be limited to an indirect contribution to data collection, without any real ability to influence its interpretation or the decisions that follow from it. The risk is therefore that reporting transforms the "voice" of workers into measurable information, incorporated into reports, without translating into effective participation in governance processes.

Thus, far from being a mere technical tool, sustainability reporting emerges as a regulatory space in its own right, in which key issues of power, representation and participation are at stake. It constitutes an extension of due diligence mechanisms, but also a point of tension between different conceptions of labour governance.

Generally speaking, discussions among participants highlighted the fact that due diligence cannot be understood solely as a set of technical procedures.

Following on from these discussions, Pauline Moreau Avila, a PhD student at the University of Paris 1 Panthéon-Sorbonne, presented an in-depth analysis of the French experience of the duty of care, which provides a particularly valuable case study for understanding the practical dynamics of the involvement of workers' representatives in human rights due diligence processes.

The original ambition of the French law was significant. Adopted in the aftermath of the Rana Plaza disaster, it sought to strengthen the accountability of multinational enterprises (MNEs) by requiring them to identify, prevent and mitigate adverse impacts on human rights, occupational safety and health (OSH), and the environment throughout their value chains. Within this framework, the effective involvement of workers' representatives was viewed as a key condition for ensuring the effectiveness of the due diligence process.

However, the analysis shows that such involvement has remained largely insufficient. A first major limitation stems from the highly imprecise nature of the legal provisions. The French law does not clearly define the scope, modalities, or level of participation of workers' representatives. It merely provides for consultation with trade union organizations on certain aspects, notably the whistleblowing mechanism, while granting enterprises considerable discretion in determining how dialogue is conducted.

This lack of clarity has resulted in highly diverse practices, which nevertheless point to a common conclusion:

participation is often merely formal, occurs at a late stage, and has limited influence on decision-making. In many enterprises, workers' representatives are consulted only after vigilance plans have already been developed, through mechanisms that are frequently limited to annual presentations before representative bodies and do not allow for meaningful engagement in the design or implementation of preventive measures.

Beyond these procedural shortcomings, **another significant issue concerns the dilution of workers' representatives within the broader category of "stakeholders".** In the absence of a clear legal definition, some enterprises have prioritized consultations with non-governmental organizations or external experts, thereby marginalizing trade unions and workers' organizations. In other instances, workers' representatives have been incorporated into multi-stakeholder arrangements in which their views carry no particular institutional weight despite their representative mandate, thereby reducing their capacity to influence outcomes.

A third fundamental challenge relates to **the level of representation**. Although the duty of care is intended to cover the entire value chain, participation remains largely confined to the level of the parent company, often located in France. This territorial limitation sits uneasily with the transnational nature of global supply chains and prevents the effective representation of workers most exposed to adverse impacts, particularly those employed by suppliers and subcontractors in developing countries.

More fundamentally, the analysis highlights **a structural disconnect between the duty of care and traditional industrial relations institutions.** Enacted in the Commercial Code, the law does not align with existing labour law mechanisms, such as information and consultation obligations or collective bargaining. **This institutional disconnect contributes to undermining the role of workers' representatives, by depriving them of the procedural safeguards, resources and sanctions associated with labour law.**

These limitations cannot be attributed solely to enterprises.They also reflect the challenges faced by trade unions in taking ownership of these new tools. The duty of care is often still perceived as a complex mechanism, removed from the day-to-day concerns of social dialogue, and requiring specific skills as well as significant resources. This situation limits the ability of workers' representatives to engage strategically in these processes.

In response to these challenges, several avenues for improvement were discussed. One of the most important is the need to provide a more structured framework for the involvement of workers' representatives by clarifying their rights and ensuring coordination across different levels of representation, from the local to the global level. Another avenue lies in strengthening collective bargaining, particularly through global framework agreements, which can establish clearer procedures for information-sharing, consultation and participation, while embedding these processes within more binding arrangements.

More broadly, these discussions highlighted **the gradual emergence of new forms of transnational social dialogue,** which go beyond the traditional framework of the company to extend to supply chains. **While these initiatives remain limited in scope, they demonstrate the potential for developing more effective forms of worker participation, provided that the institutions and mechanisms of social dialogue are adapted to the realities of transnational production networks.**

The French experience thus reveals a fundamental tension at the heart of human rights due diligence and duty of vigilance frameworks: the contrast between a transnational ambition to protect workers' rights and participation mechanisms that remain largely anchored in national institutional settings and are only weakly binding. It confirms that, in the absence of robust institutional arrangements and meaningful engagement by all actors, the participation of workers' representatives' risks remaining largely symbolic.

Social dialogue and due diligence: what levels of involvement for the social partners?

The afternoon session then shifted the analysis to the transnational level, through a presentation by Thomas Haipeter, a professor at the University of Duisburg-Essen, focusing on **the role of global framework agreements in regulating labour within multinational companies.** In a context marked by the proliferation of cross-border economic activities and the persistence of violations of fundamental labour rights, these agreements appear to be one of the main responses based on social dialogue.

The discussions first recalled that traditional regulatory approaches, in particular unilateral corporate social responsibility (CSR) instruments, have indeed led to certain improvements but continue to face significant limitations, especially with regard to the effective monitoring of working conditions and the respect of freedom of association. Multi-stakeholder initiatives, while promising, remain largely confined to specific sectors, such as the garment industry. Within this fragmented landscape, global framework agreements stand out for their foundation in social dialogue, based on negotiated commitments between multinational enterprises and global union federations.

These agreements are not limited to statements of principles. They establish both substantive standards, generally based on the fundamental conventions of the ILO, and procedural standards that govern their implementation. It is precisely the quality of these procedural rules that appears to be decisive for their effectiveness. The analysis presented, based on a series of case studies covering several sectors and drawing on numerous interviews with trade union representatives and company management, has made it possible to identify the concrete conditions for successful implementation.

Three main dimensions of this implementation were identified. **The first concerns the abiliy to collect information on violations of labour standards,** which requires the existence of channels enabling workers and their representatives to report problems. The second relates to the communication of this information to management, through social dialogue mechanisms that allow these issues to be raised at the decision-making level. The third concerns the effective resolution of problems, which involves forms of intervention on the ground and the capacity to handle conflicts in a structured manner.

The effectiveness of these processes, however, depends on several conditions. The discussions highlighted the importance of having robust procedural standards capable of

structuring transnational dialogue forums, but also of strengthening the resources and capacities of the actors involved, particularly workers' representatives. Access to company management, participation in monitoring activities and the ability to intervene in problem-solving appear to be key elements in ensuring the effectiveness of agreements.

Another key lesson concerns **the need to coordinate the different levels of action.** Global framework agreements only have an impact if they are implemented at the local level, through trade union networks capable of translating global commitments into concrete practices. This coordination between the transnational, national and local levels is a determining factor in their impact.

The case studies presented also helped to illustrate the potential effects of these mechanisms. In certain contexts, framework agreements have helped to strengthen trade union recognition, improve working conditions or facilitate the opening of collective bargaining. These results, however, vary and depend heavily on available resources, the organisational capacities of the actors involved and institutional contexts.

Finally, the discussions highlighted the limitations of these instruments. **Their uptake remains relatively limited, concentrated mainly in certain companies and regions, and their implementation remains uneven.** Furthermore, the resources required for their operation, on the part of both companies and trade unions, often appear insufficient to address the scale of the challenges.

From this perspective, global framework agreements appear less as a stand-alone solution than as one element of a broader set of regulatory mechanisms. Their contribution to due diligence depends on their ability to interact with other instruments, notably emerging legal obligations, and to **strengthen workers' participation in the processes of identifying and addressing risks.**

Building on this discussion, Isabelle Martin, Associate Professor at the University of Montreal, offered a particularly illuminating counterpoint. The Canadian case has shifted the discussion towards contexts characterised by a weak structure of social dialogue and the absence of a binding legal framework regarding due diligence. **It explores the forms of institutional experimentation that emerge when traditional mechanisms of collective regulation are absent or limited.**

The Canadian case is indeed distinguished by several characteristics. Social dialogue there appears relatively decentralised, taking place mainly at the workplace level rather than at the level of the company as a whole. Furthermore, human rights due diligence is encouraged but not mandated, allowing the dynamics of implementation to be observed without any explicit legal constraints. This context is all the more significant given that Canada plays a central role in certain globalised industries, notably the mining sector.

In this context, the analysis focused on two types of institutional experiments aimed at compensating for the absence of formal social dialogue mechanisms. The first relies on the law, through the use of the common law 'duty of care' to hold parent companies liable for human rights violations within their value chains. In theory, this approach creates a space for dialogue by compelling the company to answer in court.

However, empirical observations show that this type of mechanism is primarily part of a conflictual dynamic. Workers are involved as claimants, represented by lawyers, rather than as participants in a structured dialogue process. Whilst such actions may sometimes directly involve the parent company and open up avenues for negotiation, they remain characterised by difficulties in accessing information and by an approach focused on redress rather than prevention.

Analysis of the effects of these lawsuits on companies also reveals ambivalent dynamics. **In some cases, they lead to the adoption of social responsibility policies, the introduction of audits, or increased collaboration with non-governmental organisations. However, these developments do not necessarily translate into a strengthening of social dialogue and may even reinforce managerial approaches centred on compliance and control.**

The second form of experimentation is based on shareholder engagement, through the use of shareholder rights to influence corporate practices. This approach involves, in particular, submitting proposals at general meetings, mobilising institutional investors and incorporating social issues into environmental, social and governance (ESG) considerations.

Here too, this form of intervention opens up avenues for discussion, but under specific conditions. The dialogue shifts towards the company's governance bodies, notably boards of directors, and involves different stakeholders, such as pension funds or investors. Labour issues must be reframed in terms of material risks to the company, so that they can be taken into account in decision-making processes.

The examples presented, particularly in the cases of Alimentation Couche-Tard and Amazon, illustrate the limitations of this approach. In some cases, proposals put forward by shareholders receive little support or are excluded from decision-making processes, whilst in others, they may contribute to the emergence of forms of indirect negotiation. These dynamics depend heavily on institutional contexts, ownership structures and economic actors' perceptions of risk.

Beyond these differences, the two types of experiment share several characteristics. They rely on forms of indirect dialogue, often fragmented, and marked by significant power asymmetries. **Above all, they tend to shift labour issues into other spheres – legal or financial – to the detriment of structured social dialogue based on collective representation.**

The discussions thus highlighted a fundamental limitation: **in the absence of an institutional and legal framework supporting social dialogue, due diligence mechanisms tend to be implemented according to managerial or conflict-driven logics, in which workers are regarded as external stakeholders rather than as actors integrated into decision-making processes.**

This analysis highlights the central role of public institutions in structuring social dialogue. Without state support and without formal recognition of collective actors, companies retain considerable latitude to define the terms of implementation of due diligence, which appears to limit the transformative scope of these mechanisms.

DAY 3

SOCIAL DIALOGUE AND DUE DILIGENCE: WHAT LEVELS OF INVOLVEMENT FOR THE SOCIAL PARTNERS?

Having explored international normative frameworks and instruments of transnational governance, the third day of the Summer School marked a significant shift in focus, refocusing attention on the workplace and on the concrete practices of companies. This transition provided an opportunity to examine a central question: **how do the principles of due diligence actually translate into the employment relationship and into employers' day-to-day decisions?**

The contribution by Attila Kun (Professor at Gáspár-Károli Reformed University in Budapest) offered a particularly insightful reinterpretation of this issue by suggesting that due diligence should no longer be viewed merely as an external tool for regulating value chain , but rather as a method that can be integrated into the very heart of labour law and human resources management practices.

From this perspective, human rights due diligence is defined as an ongoing process aimed at identifying, preventing and mitigating the negative impacts of economic activities. However, the discussions highlighted that this concept, widely adopted within corporate social responsibility frameworks, has yet to be sufficiently embraced by those working in the fields of labour law and human resources. **This gap between normative frameworks and professional practice constitutes a major obstacle to its effectiveness.**

To bridge this gap, the proposed approach consists in introducing "human resources due diligence", understood as a method for operationalising labour law principles within organisational practices. The aim is not to create a new standard, but to provide a tool to give concrete content to existing obligations, particularly where these rely on general principles such as good faith, proportionality, or fairness.

The due diligence method thus appears as a structured process, based on a circular and proactive logic. It involves integrating labour principles into internal policies, identifying risks, implementing preventive and corrective measures, establishing grievance mechanisms, monitoring the effectiveness of actions taken, and communicating on outcomes. Applied to the field of human resources, this approach makes it possible to systematise the consideration of labour rights across all management decisions.

The value of this approach also lies in its capacity to transform the logic of labour law. Traditionally, labour law has largely relied on reactive mechanisms, based on litigation or intervention by public authorities. By introducing a proactive dimension, due diligence would make it possible to anticipate risks and integrate social requirements upstream of decision-making, thereby strengthening the effectiveness of standards.

The examples discussed have shown that this logic can be applied to a wide range of situations, from recruitment practices to dismissal decisions, including working time management, wage policies, and restructuring processes. It also appears relevant for regulating relations with trade unions and collective bargaining processes, by providing a more systematic framework for analysis and action.

However, this approach can only fully achieve its effects under certain conditions. **The discussions notably highlighted that the risk management logic underlying due diligence becomes genuinely binding for enterprises only when it is embedded in an institutional environment in which labour law violations are likely to lead to effective consequences, particularly through labour inspections, sanctions, or judicial remedies.** In the absence of such mechanisms, due diligence risks remaining a formal tool, integrated into managerial practices without fundamentally transforming industrial relations.

Thus, far from replacing existing institutions, due diligence appears as a complementary instrument, capable of strengthening their effectiveness by introducing a more dynamic and systematic dimension to the application of labour standards. By re-embedding vigilance at the core of the employment relationship, this approach opens new perspectives for articulating compliance, management, and social dialogue logics.

Building on this reflection on the integration of due diligence into management practices, the next session examined empirically the concrete conditions under which industrial relations function in the workplace, drawing on a study conducted within multinational enterprises operating in Africa by Shakirudeen Taiwo, a development economist at the University of Johannesburg.

This contribution highlighted a fundamental point: the effectiveness of formal labour regulation frameworks cannot be understood without taking into account the social and cultural dynamics that shape day-to-day interactions between actors. The analysis presented is based on a survey conducted among workers in several African countries and across different sectors of activity, making it possible to capture the diversity of contexts and practices.

The findings show that industrial relations in African multinational enterprises are characterised by a complex interaction between formal frameworks and informal norms. While institutional mechanisms—such as legal rules or social dialogue processes—play an important role, they are not sufficient on their own to ensure sustainable cooperation. Local sociocultural norms, informal practices, and interpersonal relationships appear to be decisive factors in shaping labour relations.

This observation is particularly evident in the ways in which trust, communication, and workers' participation are constructed. It highlights that trust in management is a central factor in the quality of industrial relations, influencing both employee engagement and the ability to resolve conflicts. Organisational culture also plays a structuring role, shaping behaviours and either facilitating or hindering cooperation between actors. As for the "employee voice", it emerges as an important but ambivalent lever: while it enables the expression of concerns, it can also generate tensions when response mechanisms are insufficient.

One of the major contributions of this analysis lies in highlighting the moderating role of social dynamics. Cultural norms and forms of social cohesion profoundly influence the effectiveness of formal industrial relations mechanisms. **In contexts where social cohesion is strong, institutional mechanisms tend to function more smoothly, facilitating**

communication and conflict resolution. Conversely, in environments marked by social fragmentation or cultural tensions, these same mechanisms may prove less effective, or even counterproductive.

The empirical findings also underscore the importance of adapting management practices to local contexts. Multinational enterprises operating in Africa are confronted with environments characterised by specific institutional legacies, often fragmented forms of trade unionism, and systems of informal governance, sometimes including the role of traditional authorities. In this context, the author argues that the direct transplantation of industrial relations models from other regions of the world is often inappropriate and requires adjustments that take sociocultural realities into account.

These observations highlight the value of hybrid approaches, combining formal regulatory mechanisms with an understanding of informal social dynamics. The recommendations put forward particularly emphasise the need to strengthen trust within organisations, support both formal and informal spaces for dialogue, and develop management practices that are sensitive to cultural contexts. They also highlight the role of public policies, notably through the reinforcement of labour inspection services and the promotion of frameworks adapted to sectoral and local specificities.

Thus, this empirical study shows that the effectiveness of hybrid approaches depends closely on the social dynamics within which they operate. It confirms that the transformative re of industrial relations cannot result solely from the introduction of formal mechanisms, but requires **constant attention to social practices, power relations and cultural contexts.**

Certification and due diligence: between leveraging and marginalising social dialogue

The first session on Thursday afternoon provided a particularly concrete opportunity to address the limitations and ambivalent effects of due diligence mechanisms, based on an analysis of the tea and floriculture sectors in Kenya. The contribution by Jennifer Wachira, a Kenyan lawyer specialising in labour law, highlighted a key blind spot in current approaches: the possibility that compliance mechanisms, far from strengthening social dialogue, may contribute to profoundly redefining its contours, or even marginalising it.

In these sectors, which are heavily integrated into global value chains and dependent on access to European markets, certification schemes now play a central role. They are often a prerequisite for market access and play a defining role in setting social and environmental standards. This rise in the prominence of certification schemes is taking place against a backdrop where due diligence is becoming institutionalised, particularly through recent developments in the European framework.

However, these schemes have mixed effects on industrial relations. **On the one hand, they help to improve certain working conditions, particularly through the introduction of mechanisms for monitoring and handling complaints. On the other hand, they tend to transform the ways in which workers express themselves, favouring individualised and supervised forms of participation at the expense of traditional collective structures.**

One of the most striking findings concerns the decline in trade union membership. In the case studied, only a minority of workers are union members, whilst companies are developing alternative forms of representation, such as workers' committees. These structures, which are often integrated into certification schemes, tend to replace trade unions as the primary interlocutors in dialogue processes.

At the same time, certification schemes are altering the channels for conflict resolution. Workers are encouraged to raise their grievances directly with auditors, within the procedures set out by certification schemes, rather than resorting to the mechanisms provided for under collective bargaining. This shift helps to move the handling of conflicts from the realm of industrial relations to that of compliance, favouring rapid and individualised responses, but ones that are often disconnected from collective dynamics.

In this context, trade unions appear to be gradually marginalised. They are often excluded from audit and training processes, and their role tends to be reduced to a formal requirement in certification checklists, with no real capacity to influence company practices. This situation illustrates a shift in the centre of gravity of regulation, from collective institutions towards private control mechanisms.

These observations highlight a fundamental tension between two regulatory approaches. On the one hand, certification and due diligence schemes rely on technical mechanisms designed to ensure compliance with defined standards. On the other, industrial relations are based on collective processes of negotiation and representation. When these two approaches are not properly coordinated, the former can come into conflict with the latter, at the risk of undermining them.

The analysis thus leads to a broader critique of current approaches to due diligence. In the absence of the explicit integration of trade unions and collective bargaining mechanisms, these mechanisms could result in fragmented forms of regulation, in which **workers are viewed as passive beneficiaries of standards, rather than as collective actors capable of participating in their development and implementation.**

The proposed recommendations therefore emphasise the need to rebalance these mechanisms by integrating trade unions more systematically into certification processes, strengthening their role in audits, and aligning private regulatory mechanisms with the requirements of social dialogue, as recognised in particular in recent European frameworks.

The discussions at the end of the day found a particularly powerful theoretical formulation in the contribution by İsmet Çiçek, a research assistant at Ankara University, **who introduced the concept of 'silent due diligence'.** This notion refers to a situation in which vigilance mechanisms exist in form and produce visible effects in terms of compliance, without, however, generating effective worker participation or transforming social relations within companies.

The analysis highlights that this 'silence' does not simply result from shortcomings in implementation but is part of structural mechanisms that limit the emergence of a genuine 'voice' for workers. Three main dimensions help to understand this phenomenon.

The first relates to the transformation of participation requirements into measurable indicators. In many cases, due diligence processes incorporate measures such as consultations, audits or complaint mechanisms. However,

these tools tend primarily to generate visibility and measurability, reducing workers' participation to data that can be incorporated into reports. Workers' 'voice' is thus translated into performance indicators, without necessarily resulting in a real capacity to influence decisions.

The second dimension relates to power imbalances in global value chains. Sourcing companies exert strong pressure on suppliers regarding costs, deadlines and flexibility, which limits the latter's ability to fully comply with social standards. In this context, the costs of compliance are often passed on to workers, whilst due diligence mechanisms favour individualised solutions rather than forms of collective regulation.

The third dimension concerns the role of institutional and political contexts. The analysis of the Turkish case highlights the importance of labour governance regimes in shaping opportunities for collective expression. Where trade union rights are formally recognised but difficult to exercise in practice, due diligence mechanisms can only generate limited participation. Restrictions on freedom of association, obstacles to collective bargaining and the risk of reprisals all contribute to creating a climate in which workers are encouraged to remain silent.

These three dimensions converge on **a broader observation,** which echoes the analyses developed in previous sessions. **Due diligence mechanisms tend to produce forms of 'decoupling' between stated standards and actual practices,** in which companies adopt policies compliant with international standards without these necessarily translating into concrete changes on the ground. Audits, reports and meetings with stakeholders can thus function as organisational rituals, aimed at reinforcing the legitimacy of companies without fundamentally altering power relations.

This analysis makes it possible to reread the various contributions of the day from a common perspective. Human resource management approaches highlight the potential for integrating due diligence into companies' internal practices, but their effectiveness depends on the institutional conditions in which they are embedded. Empirical studies underline the importance of social and cultural dynamics, as well as the ambivalent effects of certification mechanisms. Overall, the contributions converge on the idea that, in the absence of mechanisms ensuring effective worker participation, due diligence risks being reduced to formal compliance.

Ultimately, the notion of "silent due diligence" synthesises these observations by highlighting a central risk: that vigilance mechanisms may be transformed into instruments of symbolic governance, generating visibility and legitimacy while leaving the underlying structures of industrial relations unchanged. It thus underscores that the issue of worker participation cannot be reduced to a procedural question but must be understood as a constitutive element of power relations in global value chains.

DAY 4

ANTICIPATING THE TRAJECTORIES OF DUE DILIGENCE

To move beyond the findings and limitations identified in the previous sessions, participants were invited to engage in a foresight exercise exploring possible trajectories of due diligence and social dialogue towards 2035. Based on a set of scenarios, they were asked to collectively analyse the conditions under which contrasting configurations could emerge, identifying drivers of change, obstacles, and priority areas for action.

The exercise was deliberately designed as pluralistic, combining diverse geographical contexts, differentiated institutional configurations, and evolving economic and technological dynamics. This diversity made it possible to highlight the strong dependence of due diligence mechanisms on their social, political, and economic environments.

A first, decidedly optimistic scenario described a context in which due diligence is fully embedded in companies' day-to-day practices, supported by structured social dialogue and robust institutions. In this setting, freedom of association and collective bargaining are fully respected, and social partners actively participate in the identification and resolution of issues. Monitoring mechanisms no longer function merely as reporting obligations but become operational regulatory tools, leading to tangible improvements in working conditions. This development relies on a strong legal framework, high levels of worker representation, and strong social trust, which together enhance the legitimacy of governance mechanisms.

A second scenario highlighted the growing impact of environmental transformations on industrial relations, particularly in the Global South. In the face of climate disruptions, due diligence evolves to integrate occupational safety and health (OSH) concerns as a central dimension. It relies on expanded forms of dialogue involving not only social partners but also public authorities, community organisations, and experts. This multi-stakeholder approach, grounded in corporate responsible business conduct commitments, enables the development of prevention and rapid-response mechanisms, including the use of risk-monitoring technologies and insurance schemes designed to protect workers' incomes in the event of disruption.

A third scenario explored the effects of technological change, particularly the development of artificial intelligence, on labour governance. In this configuration, due diligence is extended to algorithmic systems, which play an increasingly central role in the organisation of work. Social dialogue adapts by incorporating mechanisms of oversight and co-determination regarding the use of these technologies, notably through collective agreements ensuring algorithmic transparency and the protection of workers' rights. This scenario underscores

the importance of institutional frameworks capable of turning technological innovation into a lever for improving working conditions, rather than a source of new forms of control.

A fourth scenario highlighted the risks associated with the multiplication and fragmentation of regulatory frameworks. In this context, enterprises face a proliferation of sometimes contradictory norms, obligations, and initiatives, which complicates the implementation of due diligence. This may lead to administrative overload, particularly for small and medium-sized enterprises, and to a dilution of effectiveness. However, the scenario also emphasises the potential role of social dialogue as a factor of coherence, enabling the development of common reference frameworks and the simplification of requirements based on workplace realities. Experiments in this area suggest that multi-level coordination mechanisms can help strengthen both the effectiveness and legitimacy of regulatory systems.

Finally, a more pessimistic scenario described a situation in which due diligence is reduced to a formal exercise, characterised by the absence of social dialogue and the weakening of public institutions. In this context, monitoring mechanisms take the form of checklists and superficial audits, with no real impact on working conditions. Workers have limited means to assert their rights, while enterprises prioritise reputational risk management strategies. This scenario highlights the consequences of weakened institutional frameworks and collective representation, leading to a growing disconnect between formal standards and actual practices.

Beyond the diversity of these scenarios, the forward-looking exercise and the discussion that followed brought to light several cross-cutting lessons. **In particular, participants identified the decisive role of certain drivers of change, such as the strengthening of legal frameworks, evolving business models, technological transformations and environmental dynamics. They also emphasised the importance of labour institutions, particularly trade unions and collective bargaining mechanisms, as essential conditions for effective due diligence.**

At the same time, several major obstacles were highlighted, notably power imbalances within value chains, the fragmentation of regulatory frameworks, weak institutional capacity in certain contexts, and the risks of excessive formalisation of mechanisms. Finally, the discussions helped to identify priorities for action, including strengthening social dialogue, involving workers in decision-making processes, improving coordination between regulatory instruments, and developing more binding accountability mechanisms.

Far from proposing a single vision of the future, this exercise has highlighted that **the trajectories of due diligence remain open and dependent on political, institutional and economic choices.** It demonstrates very clearly that social dialogue plays a decisive role in shaping these trajectories, by enabling formal obligations to be translated into effective practices.

About the authors

Sylvain Baffi is a legal expert trained in France and holder of a Master's degree in International Law from the University of Verona (Italy). He has been working at the International Training Centre of the ILO (ITC-ILO) since 2003, with contributions to the Better Work programme and to the ILO Office in Doha. At ITC-ILO, he coordinates training programmes on social dialogue, industrial relations, and labour dispute resolution. He is responsible for key programmes, including the Master's in Industrial Relations and the Summer School on Social Dialogue. Certified ACAS/CIWM in workplace mediation, he has published on these topics and worked with employers, trade unions, and public institutions in Africa, Eastern Europe, and Southeast Asia.

Mélanie Burlet is Director of Innovation and Partnerships at INTEFP (National Institute for Labour, Employment and Vocational Training). She holds a PhD in sociology and specialises in socio-organisational transformations and working conditions, particularly in the industrial sector. She worked for over twelve years at the ANACT network, where she led numerous projects and held managerial responsibilities. At INTEFP, she heads a unit dedicated to analysing emerging issues in the world of work—occupational health, social dialogue, and quality employment—through territorial, national, and international projects. Her work aims to inform social debate and strengthen the capacity for action of social partners and public actors involved in designing and implementing public policies in the institute's areas of expertise.

Jan Cremers is a sociologist of work and an associate researcher in the Department of Private, Business and Labour Law at Tilburg University. His research and publications focus on policy areas such as corporate governance and worker participation, industrial relations and European social policy, cross-border labour recruitment and migration. He is a member of the Management Board of the European Labour Authority as an independent expert, appointed by the European Parliament. https://orcid.org/0000-0002-6544-5487

Thomas Haipeter

is an associate professor and head of a research department at the Institute for Labour, Skills and Training within the Faculty of Social Sciences at the University of Duisburg-Essen in Germany. His research and publications focus on collective bargaining and worker participation, industrial relations in multinational enterprises, trade unions and employers' organisations, as well as digital and ecological transformations and institutional change from a comparative perspective. https://orcid.org/0000-0002-4780-6437.

Markus Helfen

is a professor of strategy and leadership in non-profit organisations at the Frankfurt University of Applied Sciences in Frankfurt am Main, Germany. He has published in leading journals on management and industrial relations, such as Organisation Studies, *Human Relations and the British Journal of Industrial Relations*. His research focuses on industrial relations and organisational theory, with a particular emphasis on meta-organisational dynamics, multi-employer labour agreements and sustainability studies. https://orcid.org/0000-0003-1958-386X.

Marie-Noëlle Lopez

began her career as a specialist in French labour law. As a journalist for *Liaisons sociales Europe*, she shifted her focus to European labour law. She founded and edited *Planet Labor*, a daily digital newsletter dedicated to international industrial relations. In 2021, she co-founded *Newbridges*, a consultancy firm specialising in international industrial relations. She regularly advises major international groups and has been consulted by various European and international institutions (European Commission, ILO).

Isabelle Martin

is an associate professor at the School of Industrial Relations at the University of Montreal, a member of the Penner Institute on ESG issues, and a co-researcher at the Inter-University Research Centre on Globalisation and Labour (CRIMT). Her research and publications focus on corporate social responsibility, worker participation, social innovations within multinationals, the use of ESG practices to improve working conditions, and issues of power and dignity in employment relations. https://orcid.org/0000-0002-2629-6204.

Pauline Moreau Avila

is currently a PhD student at the Doctoral School of Law at Paris 1 Panthéon-Sorbonne University. She worked for six years in the International/Europe division of a French trade union organisation, where she was responsible for various issues, such as the duty of care, and specialised in international and European labour law. She co-authored the France national report for the GDPoweR project, published by the European Centre for Social Policy and Well-being Research (2025), which analyses the role of workers' personal data in collective bargaining within the platform economy.

Sophie Rosenbohm

is a senior researcher at the Institute for Work, Skills and Training at the Faculty of Social Sciences, University of Duisburg-Essen, Germany. Her research and publications focus primarily on works councils and co-determination, European works councils, industrial relations in multinational companies, as well as new forms of digital work and the sociology of organisations. https://orcid.org/0000-0002-5532-3056.

Elena Sychenko

is an associate professor at Mercatorum University in Rome and at Saint Petersburg State University. Her research and publications focus on international labour law, business and human rights, ESG criteria and sustainability reporting. She was a Fulbright Scholar at the Wharton Business School and an external consultant for the International Labour Organisation. https://orcid.org/0000-0002-7045-9218.

Shakirudeen Taiwo

is a postdoctoral researcher at the University of Johannesburg. His research and publications cover areas such as macroeconomics, development economics and public policy, with a particular focus on government policies and industrial relations. He is a member of the World Economic Association and a full member of the Nigerian Economic Society. https://orcid.org/0000-0001-9023-7690

Jennifer Wanjiru Wachira

is a Kenyan lawyer and Head of Legal Affairs and Industrial Relations at the Agricultural Employers' Association. She has 15 years' experience working with trade unions and employers' organisations. She holds a Master's degree in Labour Law and Industrial Relations from the University of Turin and the ILO International Training Centre. Her work focuses primarily on labour law, industrial relations and social dialogue, particularly on the settlement of labour disputes and the application of international labour standards within national and sectoral frameworks. She is particularly interested in labour market governance and the interaction between global economic frameworks and social dialogue.

Introduction

Jan Cremers

THE IMPACT OF DUE DILIGENCE PRACTICES ON INDUSTRIAL RELATIONS

In the socio-economic sphere, the International Labour Organization (ILO) plays a central role in setting priorities relating to decent work, the social dimension of corporate social responsibility (CSR), the promotion of social dialogue and the emergence of new models of corporate due diligence. These themes are closely linked to corporate governance issues. Against this backdrop, the ILO International Training Centre (ILO-ITC) has chosen as the central theme for the September 2025 Summer School: Industrial Relations and Due Diligence'. Over four days, participants explored ways to strengthen social dialogue within due diligence processes, with a view to promoting responsible business conduct throughout global supply chains[1].

The organisers invited participants to develop contributions covering four key dimensions. Given the ILO's tripartite nature, the involvement of the social partners was a fundamental focus, closely linked to the potential emergence of new forms of social dialogue and the identification of relevant institutional frameworks. Another dimension concerned the identification of good practices and appropriate national structures. Before presenting the various contributions brought together in this volume, it is worth providing some background information to shed light on the discussions.

[1] https://www.itcilo.org/stories/bridging-industrial-relations-and-due-diligence-itcilo-launches-first-summer-school-social
https://www.itcilo.org/fr/stories/concilier-relations-professionnelles-et-diligence-raisonnable-le-cif-oit-lance-la-premiere

A reminder of the underlying debates

Over the past few decades, issues relating to the governance of global value chains, climate change and corporate responsibility have taken centre stage on the agendas of many international bodies. This has led to the development of various approaches and instruments aimed at monitoring and promoting social and climate justice. A significant part of the debate has focused on the policies needed to achieve the United Nations Sustainable Development Goals (SDGs). At the same time, there has been a growing demand for regulatory standards, particularly in the tax sphere: ensuring that value chains effectively contribute to public policies in the countries where value is created.

In line with these developments, and more specifically in the field of industrial relations, discussions have intensified around responsible business conduct, non-financial reporting, accountability in production and supply chains and subcontracting, as well as the duty of care[2] . The United Nations, the ILO and the OECD have developed voluntary frameworks based on recommendations and guidelines on due diligence[3] . These initiatives aimed to reconcile social and environmental sustainability, whilst promoting a renewed approach to corporate governance, characterised by a greater focus on long-term investment and worker participation. Policy proposals highlighted the importance of international initiatives aimed at enhancing transparency, notably through binding social and environmental reporting requirements and the development of appropriate standards[4].

These deliberations culminated, in the late 1990s, in what sometimes resembled a patchwork of commercial and environmental labels, promoting fair trade, workers' rights and labour standards, including decent wages and the right to organise. During this period, the independent international organisation, the Global Reporting Initiative (GRI), developed guidelines for sustainability reporting, which were adopted in 2000 by multinational companies, governments, NGOs and industry groups. In 2016, these guidelines were transformed into the first global sustainability reporting standards. Over the years, they have become a widely used framework globally, covering transparent information on environmental, economic and social impacts[5]. Whilst the ILO has always emphasised the promotion of social dialogue as a key element of good governance, the number of companies publishing sustainability information has risen sharply as a result of these initiatives.

A common feature of these initiatives is that the recommendations, guidelines and standards—as well as their implementation—were based on non-binding, voluntary mechanisms. In the quest to strike a balance between mandatory and voluntary measures likely to promote respect for human rights by businesses, 'soft law' approaches have long predominated. This has not been without controversy. Trade unions, in particular, as well as various NGOs, have often described these non-binding mechanisms as 'paper tigers', incapable of guaranteeing effective implementation or genuine compliance with standards. An AFL-CIO report thus criticised certification schemes as exemplifying two decades of 'privatised regulation' of global supply chains, highlighting their limitations in protecting workers. The report highlighted a serious lack of transparency regarding hazardous working conditions and the withholding of information (Finnigan 2013). Of course, this is an older report, but the tone is clear[6].

In many cases, working conditions and the working environment were not considered key elements of sustainability concerns, and workers' representatives were not sufficiently involved in their companies' long-term sustainability policy. At best, this could serve as a source of information for workers' representatives (Cremers 2013). The ITUC has noted that, over the years, a sector of social auditors has developed around the voluntary approach to corporate social responsibility. However, many auditors have seen their impartiality compromised by their dependence on consultancy contracts with companies. Auditors may be competent in sustainability and social issues in general, but lack knowledge of international labour standards. Such factors can lead to inadequate audits that completely ignore the workers' perspective and the effects on them[7]. Of course, companies may suffer reputational damage in the event of persistent and widespread violations throughout a supply chain, following 'public exposure', but critics have questioned whether this would lead to structural change (Anner 2017).

From voluntary to binding procedures – the debate within the European Union

Based on the observation that the non-binding approach to due diligence is not delivering the desired improvements, there has been a growing call within the European Union for binding principles and standards. Monitoring of compliance with the requirements of the UN Guiding Principles has shown, for example in Germany, that only a very small percentage of companies comply with these voluntary requirements[8]. This has led to the adoption of national legislation imposing due diligence obligations on large companies, such as the 2017 French law on the 'duty of vigilance', the German 2021 Act on Due Diligence in the Supply Chain, the Norwegian 2021 Transparency Act and the Dutch 2019 Act on Due Diligence regarding Child Labour. Generally speaking, transparency is a prerequisite for active engagement. National experiences with legislative measures point to a lack of internal control mechanisms, insufficient external oversight, and inadequate remedies or punitive damages . However, whilst serious questions may be raised about the effectiveness of these laws, these initial experiences also show that co-decision bodies and trade unions are key actors in achieving the legislation's objectives. In this regard, the role of national and European provisions on information and consultation (including the powers of European Works Councils) for workers and their representatives is essential. It is not our intention to review the various national laws in this introduction. Several researchers have studied the functioning of these national

[2] https://www.ilo.org/publications/social-dialogue-collective-bargaining-and-responsible-business-conduct.

[3] As this is an introductory section, this topic will not be covered in detail; see, for example: https://www.ohchr.org/sites/default/files/documents/publications/guidingprinciplesbusinesshr_fr.pdf. https://www.oecd.org/content/dam/oecd/fr/publications/reports/2018/02/oecd-due-diligence-guidance-for-responsible-business-conduct_c669bd57/a9375127-fr.pdf. *ILO Tripartite Declaration of Principles concerning Multinational Enterprises and Social Policy,*5th edition, 2017. https://www.ilo.org/fr/propos-de-loit/organigramme-du-bureau-international-du-travail/departement-des-entreprises-durables-productivite-et-transition-juste-de/declaration-de-principes-tripartite-concernant-les-entreprises. *ILO Declaration on Fundamental Principles and Rights at Work*, 1998. https://www.ilo.org/fr/resource/autre/declaration-de-1998-de-loit-relative-aux-principes-et-droits-fondamentaux.

[4] For example, three volumes on sustainable business, published by the ETUI: https://www.etui.org/fr/publications/livres/long-term-investment-and-the-sustainable-company-a-stakeholder-perspective-vol-iii. https://www.etui.org/publications/books/european-company-law-and-the-sustainable-company-a-stakeholder-approach-vol-ii.

[5] For further information on the history and development of the GRI, see: https://www.globalreporting.org/.

[6] The 2013 AFL-CIO report refers to a 'fundamental flaw in the CSR model, which relies primarily on brief and superficial factory visits and the absence of genuine dialogue with workers'. According to this report, the dominant social audit model will never ensure decent and safe jobs for the millions of workers on the front line of the global economy. https://aflcio.org/reports/responsibility-outsourced.

[7] https://www.ituc-csi.org/IMG/pdf/2019-12_labour_standards_multilateral_development_banks-en.pdf.

[8] https://www.auswaertiges-amt.de/en/aussenpolitik/themen/monitoring-nap-2131054.

measures, and we refer the reader to the literature (Clerc 2021, Lafarre 2023, Zimmer 2023). Furthermore, some of the contributions in this publication will review and evaluate the functioning of these mechanisms.

A 2019 working document from the European Commission concluded that corporate regulations, corporate governance frameworks and accountability mechanisms emphasise financial performance and accountability to members/shareholders[9]. However, it is often unclear whether and how the broader interests of stakeholders should be taken into account in decisions made in the company's interest. The document highlights low uptake of due diligence processes by companies and insufficient implementation in practice of guidelines on due diligence for human rights and environmental impacts when applied on a voluntary basis. The conclusion is that existing international policy frameworks and voluntary standards aimed at mitigating negative external impacts do not fully reflect the European Union's commitments on human rights and the environment and do not incorporate adequate management of impacts.

In the years that followed, the European Union worked to develop a set of corporate sustainability policies aimed at strengthening the protection of the environment and human rights within the European Union and beyond. This package, the 2024 Corporate Sustainability Due Diligence Directive (CSDDD), includes EU rules on corporate sustainability due diligence, the objectives of which are to promote more sustainable production and investment, as well as better working conditions for workers. The CSDDD establishes a common standard for all companies operating in the EU market and prevents foreign companies outside the EU from circumventing social and environmental standards. Another component, set out in the 2022 Corporate Sustainability Reporting Directive (CSRD), aims to increase transparency through the publication of detailed information on how a company's activities affect society and the economy. This reporting must be carried out in accordance with the European Sustainability Reporting Standards (ESRS)[10].

This is not the place to go into the details of the political debate that followed. However, shortly after the adoption of the Corporate Sustainability Package, and even before some parts of it had been implemented, the European Commission began a process aimed at watering down the rules. In short, with *'A New Plan for Europe's Sustainable Prosperity and Competitiveness'*, the European Commission announced proposals aimed at simplifying the European Union's rules on sustainability reporting. These proposals included postponing reporting obligations for certain companies until 2028 and several amendments to both the CSRD and the CSDDD. In this regard, it is worth noting in particular the return to voluntary disclosure for companies no longer falling within the scope of the CSRD, the raising of the threshold to 5,000 employees in the CSDDD, and a substantial reduction in the number of data points in the ESRS. Furthermore, the draft provided for the removal of the obligation to systematically carry out in-depth assessments of negative impacts that occur or are likely to occur within often complex value chains, at the level of indirect business partners. Similarly, the obligation imposed on Member States regarding representative actions carried out by trade unions or NGOs should, according to the proposals, be repealed[11].

Following a heated debate with the European Parliament, these proposals—which form part of a series of simplification measures grouped under the name 'Omnibus Package'—led to a provisional agreement between the European Parliament and the Council of the European Union at the end of 2025[12] . The revised rules allow companies with fewer than 1,000 employees to refrain from providing information beyond that required by voluntary disclosure standards. With regard to due diligence, only large EU companies with more than 5,000 employees and an annual net turnover exceeding €1.5 billion will be required to implement due diligence procedures to mitigate their adverse impacts on people and the environment. Fines for non-compliance are reduced. Penalties for non-compliance are reduced. In order to reduce the burden on companies and ensure the proportionality of stakeholder involvement, companies are required to consult only with workers, their representatives, including trade unions, as well as individuals and communities whose rights or interests are or could be directly affected by the products, services and activities of the company, its subsidiaries and its business partners, and which are relevant to the specific stage of the ongoing due diligence process. The legislative act was formally adopted by the Council on 24 February 2026[13].

Are workers relevant stakeholders?

Following this legal digression, we return to the question of how social dialogue can be strengthened within due diligence processes in order to promote responsible business conduct throughout global supply chains. The revision of the European Union framework does not introduce any new elements in this regard, as there is no specific mention of encouraging or promoting social dialogue. The company's employees, those of its subsidiaries and business partners, as well as their trade unions and workers' representatives, are defined as 'stakeholders', with the clarification that only 'relevant' stakeholders must be consulted at the various stages of the due diligence process (amended Article 13, Directive (EU) 2024/176). Beyond this aspect, reference is made to consultation on sector-specific guidelines, intended to illustrate and facilitate the application of the European Sustainability Reporting Standards (ESRS) in a given sector. Before returning to a broader perspective, it is worth briefly outlining the main elements of the European Union framework that remain applicable.

Directive (EU) 2022/2464 states in its recitals that if companies were to improve the disclosure of sustainability-related information, the ultimate beneficiaries would be citizens and savers, including trade unions and workers' representatives, who would thus be properly informed and therefore better able to engage in social dialogue. The lack of sustainability information provided by companies limits the ability of trade unions and workers'

[9] https://eur-lex.europa.eu/legal-content/EN/TXT/HTML/?uri=CELEX:52022SC0042.

[10] Directives (EU) 2022/2464 and (EU) 2024/1760 on certain requirements regarding the disclosure of information on corporate sustainability and due diligence. Given the existence of various abbreviations, we use the European Commission's abbreviation CSDDD in this report

[11] https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A52025PC0081

[12] https://www.consilium.europa.eu/fr/press/press-releases/2025/12/09/council-and-parliament-strike-a-deal-to-simplify-sustainability-reporting-and-due-diligence-requirements-and-boost-eu-competitiveness/.

[13] The Council approved the simplification on 24 February 2026. It enters into force 20 days after its publication in the Official Journal. https://eur-lex.europa.eu/legal-content/EN/HIS/?uri=celex:52025PC0081#2026-02-24_APR_R1_byCONSIL.
For a critical assessment of the Omnibus package, see: https://en.frankbold.org/news/how-has-omnibus-1-impacted-the-csddd.

representatives to engage in dialogue with companies on sustainability issues. Consequently, a company's management should inform workers' representatives at the appropriate level and discuss with them the relevant information, as well as the means of obtaining and verifying sustainability-related information. This involves establishing a dialogue and an exchange of views between workers' representatives and central management or any other level of management that may be more appropriate, at times, in a manner and with content that enable workers' representatives to express their views, which must be communicated to the relevant management or supervisory bodies[14].

Directive (EU) 2024/176 grants the company's employees and their representatives the right to prior consultation before the due diligence policy is drawn up. Trade unions and other workers' representatives representing those working in the relevant supply chain have the right to lodge complaints in the event of legitimate concerns regarding actual or potential adverse impacts on human rights and the environment. Companies must establish a fair, public, accessible, predictable and transparent procedure for handling such complaints, and inform the workers concerned, trade unions and other workers' representatives of the existence of these procedures. Complainants have the right to meet with company representatives at an appropriate level to discuss the serious actual or potential adverse impacts that are the subject of the complaint, as well as possible remedial measures. Workers and their representatives should be afforded adequate protection, and any non-judicial remedy should not undermine the promotion of collective bargaining and the recognition of trade unions, nor in any way compromise the role of legitimate trade unions or workers' representatives in the resolution of labour disputes[15] .

In summary, the various initiatives aimed at developing due diligence frameworks at global, European and national levels have expanded the opportunities for trade unions and workers' representatives to pay greater attention to the social and sustainability policies of large companies. In principle, they can contribute to strengthening social dialogue. However, for example, the rules applicable to companies falling under the EU's mandatory framework, which grant workers' representatives rights to information and consultation, do not specify either the compliance procedures or the processes to be followed. Furthermore, academic research has also cast doubt on the ability to effectively address negative impacts, for which the Corporate Sustainability Due Diligence Directive (CSDDD) introduces due diligence obligations, highlighting in particular underinvestment in safety prevention measures aimed at avoiding such impacts (Lafarre 2023).

Forms and dimensions of social dialogue

Participants at the Summer School were invited to submit a contribution on the potential strengthening of social dialogue at company level resulting from the various existing measures and provisions. The organising team also asked them to analyse and reflect on the possible emergence of new forms of social dialogue, as well as on the question of the most relevant institutional frameworks in this area. Before presenting the various contributions, and without claiming to be exhaustive, it is necessary to provide a brief overview to situate existing forms of dialogue, their characteristics and the relevant institutional frameworks, in order to better understand the developments that follow.

When examining the forms and dimensions of dialogue, a wide range of practices can be observed globally, characterised by a great diversity of mandates and structures, whilst sharing certain common features. The main dimensions, which are often interdependent, are as follows:

- The ***level*** of dialogue, which can range from the establishment (production site) level, through local, regional and national levels, to the global level. Dialogue takes place at company level, sectoral (industry) level and cross-sectoral level.
- The ***institutional framework*** and instruments, ranging from information, consultation and co-decision procedures – which may be more or less formalised – to collective bargaining, social pacts, codes of conduct, as well as sectoral or company-level framework agreements and global agreements[16] .
- The ***stakeholders involved***, which include local management and employers' organisations within a bipartite framework, local worker representatives, trade union representatives and trade union organisations, works councils, as well as stakeholders at sectoral, national and global levels, notably (con)federations. In some cases, community groups and civil society actors are also involved (when only civil society actors are engaged with companies, researchers generally refer to 'civil dialogue').
- The ***scope and*** content may cover working conditions, fundamental workers' rights and international labour standards, the promotion of decent work within subsidiaries and throughout supply chains, social policies and human resource management issues. They also include mechanisms for compliance, monitoring and implementation[17] .

The prerequisites for effective operation are clearly defined partners, mutual recognition, freedom of negotiation, institutionalised procedures and working methods, as well as the commitment of society and political institutions. Success factors include, in particular, a certain balance of power, internal discipline and/or external legitimacy, as well as a common interest among the parties. The instruments may be voluntary in nature, enshrined in agreements or regulated by law. The outcomes may be binding (*de facto* or *de jure* mandatory rules) or guaranteed by the discipline traditionally observed by the parties. In practice, these dimensions apply in certain regions, countries and continents, but not (entirely) in others. Given this diversity in industrial relations, the impact on dialogue at company level can vary significantly (Cremers 2011). Consequently, the experiences presented in this publication are not necessarily transferable to all contexts. Nevertheless, they help to enrich our understanding and open up new perspectives.

[14] https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:32022L2464.
[15] https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=OJ:L_202401760.
[16] See, for example: https://www.ilo.org/publications/international-framework-agreements-food-retail-garment-and-chemicals or https://www.ilo.org/publications/global-framework-agreements-achieving-decent-work-global-supply-chains.
[17] https://www.ilo.org/publications/what-drives-csr-empirical-analysis-labour-dimensions-csr.

Overview of the contributions in three parts

Part A compares two converging analyses of the limitations of effectively involving workers in sustainability frameworks. Elena Sychenko shows that European standards (CSRD, CSDDD, ESRS) primarily impose a reporting obligation regarding consultation, with little regulatory oversight, which encourages largely formalistic practices. Isabelle Martin's Canadian study sheds light on these issues from a different angle, analysing due diligence through the lens of litigation and engaged shareholder activism, in the absence of a binding framework. In both cases, the absence or marginalisation of duly elected workers' representatives appears to be a key factor in the ineffectiveness of these mechanisms, limiting their concrete impact on working conditions.

Part B explores a broader range of social dynamics and regulatory instruments, focusing on the interplay between social dialogue and civil dialogue within production chains dominated by multinational corporations. The contributions by Shakirudeen Taiwo and Jennifer Wanjiru demonstrate, drawing on African contexts, that formal mechanisms–whether institutional frameworks or certification schemes–only produce lasting effects if they are rooted in relationships of trust and fully incorporate the trade union voice. The study by Thomas Haipeter and his co-authors sheds light on these dynamics at the transnational level, highlighting the structuring role of procedural standards and coordination spaces in global framework agreements.

All the contributions converge on the idea that the effectiveness– of sustainability instruments depends less on their formalisation than on their capacity to establish enduring spaces for dialogue and interaction with workers' representatives.

Part C is devoted to the French experience of the duty of care, based on two contributions that examine the actual role of social dialogue in its implementation. Marie-Noëlle Lopez highlights that, several years after the law came into force, social dialogue is rarely integrated in a structured manner into due diligence procedures, whilst identifying the conditions necessary to enhance its effectiveness. Pauline Moreau Avila's analysis confirms this observation by highlighting the still modest level of participation by workers' representatives in France. She nevertheless highlights concrete levers for improvement, drawing on practices from international social dialogue. Taken together, these contributions underscore the strategic importance of better coordination between the governance of the duty of care and social dialogue, conceived as a lever for continuous improvement.

BIBLIOGRAPHY

Anner, M. 2017. "Monitoring Workers' Rights: The Limits of Voluntary Social Compliance Initiatives in Labor Repressive Regimes". *Global Policy*, Volume 8, Issue S3, Wiley. Special Issue: Public and Private Labor Standards Policy in the Global Economy.

Clerc, C. 2021. "The French 'duty of vigilance' law". *Policy Brief*, ETUI, The European Trade Union Institute.

Cremers, J. 2011. "Management and worker involvement: cat and mouse or win-win ?", in *The Sustainable Company: a new approach to corporate governance,* edited by S. Vitols and N. Kluge, ETUI, Brussels.

Cremers, J. 2013. *Non-financial reporting beyond the strict minimum: is the workforce a well-informed stakeholder ?* ETUI, The European Trade Union Institute. http://dx.doi.org/10.2139/ssrn.2220226.

Finnegan, B. 2013. *Responsibility outsourced: Social Audits, Workplace certification and Twenty Years of Failure to Protect Worker Rights.* AFL-CIO. https://aflcio.org/reports/responsibility-outsourced.

Lafarre, A. 2023. "The proposed corporate sustainability due diligence directive: Corporate liability design for social harms". *European Business Law Review,* vol. 34 (2), 213-237.

Zimmer, R. 2023. "The Supply Chain Due Diligence Act - Options for action for German co-determination actors and trade unions". *HSI-Working Paper* Nr. 19. Hans-Böckler-Stiftung.

A.

HOW DO THE DEVELOPED, APPLICABLE STANDARDS FIT

01 Elena Sychenko

The involvement of workers' representatives in sustainability reporting under EU CSRD

02 Isabelle Martin

Echoes from Canada: Institutional experiments in social dialogue in the absence of legislation imposing the principle of due diligence

Elena Sychenko

Université Mercatorum, Italie

The involvement of workers' representatives in sustainability reporting under the UE CSRD

Elena Sychenko

ABSTRACT

This contribution examines the role of workers' representatives in sustainability reporting processes and materiality assessment under the EU norms (the Corporate Sustainability Reporting Directive, Corporate Sustainability Due Diligence Directive, and European Sustainability Reporting Standards). It outlines the history of non-financial reporting and analyses the provisions under EU law for the participation of workers' representatives in materiality assessment. Next, it analyses the 2024 non-financial reports of large companies (Nestlé, Unilever, SAP) to assess whether workers' engagement has been meaningfully integrated, followed by a review of national transpositions of the CSRD in Italy, Ireland, and Poland to determine whether EU-level gaps have been addressed domestically. The disclosure requirement obliges companies only to disclose the information about the consultation with affected stakeholders to understand how they may be impacted, without specifying any detail. National legislation also leaves questions unanswered about timing, procedures of engagement, and the definition of workers' representatives. As a result, companies often comply only formally, without ensuring meaningful engagement. The author concludes that the formal rights under EU-norms for workers' involvement in sustainability reporting systems must be integrated into the daily trade union activities, as sustainability requires ongoing commitment. Training for trade unions and workers' representatives is needed on how to effectively exercise and integrate these rights into the reporting.

Keywords: due diligence, double materiality, non-financial reporting, disclosure, workers' involvement, social dialogue

INTRODUCTION

Two Directives adopted by the EU have significantly changed the traditional soft law approach to due diligence and reporting.[1] The shift to hard law and treating due diligence and reporting as a legal obligation and not just "a nice thing to do" is evident, even with the changes proposed in the Omnibus package.[2] Despite comprehensive research on due diligence, there is an obvious gap in understanding how reporting obligations can impact the conditions of labour at the workplace and in the supply chain and what the role is of social partners in this process.[3] However, scholars note that sustainability is a process that requires a full, inclusive and participatory process (Novitz 2020).

Interestingly, there are studies that demonstrate that the employee participation if built into organisational structures can lead to better sustainable results, increase competitiveness and employee motivation simultaneously (García-Arca, González-Portela Garrido and Prado-Prado 2024). Trade unions and workers' representatives are mentioned in both EU Directives (Corporate sustainability due diligence (hereafter CSDDD) and Corporate sustainability reporting (hereafter CSRD) as part of the stakeholders. They are also referred to in the first set of reporting standards adopted by the EU - European Sustainability reporting standards (hereafter ESRS) and have a role in materiality assessment which is the first step for the further reporting.[4]

It is important to consider the Due diligence and the Reporting Directives as a whole in this context. Reporting, being a part of the due diligence process, is called "disclosure" in terms of the CSDDD, and the evaluation of impacts, risks and opportunities is a common part for both due diligence and reporting processes under these directives. Companies which are in the scope of CSRD are exempt from providing disclosure under article 16 of the CSDDD. Therefore, speaking about reporting we have to perceive it as a necessary part of due diligence and vice versa. The meaningful engagement of workers' representatives at the enterprise level may enhance the capacity of trade unions to influence the content and scope of sustainability reporting and contribute to the systematic inclusion of core labour issues within reporting frameworks and provide them additional information and better understanding of the whole system of the enterprise, that might be helpful for bargaining.

Scholars note that a strong worker involvement is needed in order to achieve sustainability (Kowalsky 2015). Their active role in the reporting process may also counteract the widespread practices of greenwashing - the misleading presentation of a company's social or environmental performance. It is crucial to understand the role of workers' representatives in the process of materiality assessment as it is the core process for the further non-financial or sustainability reporting. Only at this stage the enterprise may decide to include workers' rights to the list of material issues to be reported, which rights to include, and what is the scope of workers covered (only own workforce or also supply and/or value chain workers).

The methods of doctrinal legal research, comparative analysis, and a limited empirical review were used in this study. The contribution is divided into five sections. First, the objective and the evolution of non-financial reporting will be analysed. Secondly, the norms about the participation of workers' representatives in materiality assessment under the CSRD, CSDDD and the ESRS will be investigated. In the third section, examples of non-financial reporting of three large companies are considered, to determine if they are in line with the applicable EU norms and ensure a meaningful workers' engagement in reporting. The selected sustainability reports (by Nestlé, Unilever and SAP) were published by large companies for 2024 in line with the CSRD and the ESRS and reflect various degrees and forms of workforce engagement. Fourthly, the implementation of CSRD in national laws of some EU member states is reviewed to determine if the lacunas in the EU norms were filled at the national level. The analysed national jurisdictions (Italy, Ireland and Poland) illustrate different approaches to the involvement of workers' representatives in the sustainability reporting process. The concluding section addresses the challenges for the trade union movement in participating in the sustainability reporting system, based on the formal rights granted under the CSDDD and the CSRD.

[1] Directive (EU) 2024/1760 of the European Parliament and the Council of 13 June 2024 on corporate sustainability due diligence and amending Directive (EU) 2019/1937 and Regulation (EU) 2023/2859; Directive (EU) 2022/2464 of the European Parliament and the Council of 14 December 2022 amending Regulation (EU) No 537/2014, Directive 2004/109/EC, Directive 2006/43/EC and Directive 2013/34/EU, on corporate sustainability reporting.

[2] For links of the official texts, see: https://commission.europa.eu/publications/omnibus-i_en.

[3] The ETUC worked in this direction, see: "Recommendations For Transposition Of The Corporate Sustainability Reporting Directive (CSRD)", https://www.etuc.org/sites/default/files/2024-01/CSRD_Recommendations_web.pdf. See also: Vitols, S. 2023; Waas, B. 2023; Mandliya, A. et al. 2025; Harvey, G. et al. 2017; Samani, N. et al. 2023.

[4] Commission Delegated Regulation (EU) 2023/2772 of 31 July 2023 supplementing Directive 2013/34/EU of the European Parliament and of the Council as regards sustainability reporting standards https://eur-lex.europa.eu/legal-content/en/TXT/?uri=CELEX:32023R2772. See also EFRAG guidelines on materiality assessment: https://www.efrag.org/sites/default/files/sites/webpublishing/SiteAssets/IG%201%20Materiality%20Assessment_final.pdf.

1 • The evolution of reporting scope and process

When we speak about reporting we have to realise that the regulation in this field has significantly changed in the last 100 years. To understand these changes better, let's consider the public reports of Procter & Gamble, an American multinational consumer goods corporation, published a century ago and a recent one. The report, published in 1919, was quoted by Rebecca Henderson in her book *Reimagining Capitalism in a World on Fire*: "Aggregate state and military taxes, ...was $7,325,531.85. We shall be pleased to communicate further details **to any authorized shareholder** who wishes to contact the Cincinnati office of the Company" (Henderson 2020).

What can we learn from this information? We can learn that the data that wer supposed to be reported were very much limited to only financial information, also, the information only dealt with the taxes that the company had to pay. The report considered the shareholders only as those who had the right for information. Thus, the information to be reported was very limited and the scope of actors, who could have access to it, was also very limited.

Now, let's compare this with the recent reporting activities of Procter & Gamble. There is a 92-page annual report available for 2024. In this report, the company underlines that balancing the needs of all stakeholders, "they see success in environmental, social and governance areas, as an opportunity to create competitive advantage that can drive shareowner value creation." In the separate *Citizenship* report (available only for 2023) the company reports about its activities in such fields as community impact, equality & inclusion, environmental sustainability, ethics and corporate responsibility.[5]

The shift in reporting over the course of 100 years is clear: from publishing only the information about the taxes for the shareholders on the 3 lines of a newspaper, to almost 200 pages covering financial and non-financial information about the company, addressing both the shareholders' and the stakeholders' concerns.

The development of such reporting was driven by growing demands for transparency and accountability from states, investors, trade unions (Cremers 2013), NGOs and other stakeholder groups (Deegan and Islam 2014). It was also reinforced by international initiatives. Launched in 2000, the UN Global Compact requires participating companies to submit an annual Communication on Progress explaining how they implement the Global Compact's Ten Principles in their strategies and operations.[6] Similarly, under Principle 21 of the UN Guiding Principles on Business and Human Rights, adopted in 2011, companies are expected to communicate externally how they address their human rights impacts.[7] In response to these growing demands for transparency, various public and private reporting frameworks emerged. At the same time, an Expert Group on disclosure of non-financial information by EU companies was established at the EU level, though its work did not cover any disclosure related to the workforce (Cremers 2013). Interestingly, the Summary report of the responses received to the public consultation on disclosure of non-financial information by companies, published in 2011, stated that UN Global Compact, the Global Reporting Initiative (hereafter GRI), the OECD guidelines and the ILO conventions, as far as aspects of labour law are concerned, should be taken into account while developing EU standards.[8]

The adoption of the Non-financial Reporting Directive in 2014 was a significant step towards ensuring transparency and accountability on social and environmental issues.[9] It obliges large listed companies, banks and insurance companies with more than 500 employees to publish reports on the policies they implement in relation to, inter alia, social responsibility and treatment of employees (Hahnkamper-Vandenbulcke 2021). This Directive was criticised by the trade unions for the limited scope of application, the option for companies to "pick and choose" the standards they use for reporting, and the option to hold back the disclosure of information in certain cases (Kaliga and Oberdieck 2020). The changes brough by the CSRD and the adoption of the ESRS are addressing these issues, as we will see below. Against this historical background, the next step is to consider the concept and the types of reporting.

We define reporting as the publication of information on both financial and non-financial results of a company's activities. While financial reporting is guided by well-established international standards, the International Financial Reporting Standards (IFRS), adopted by most countries, non-financial reporting has historically lacked a common global framework. Recent developments, such as the adoption of IFRS S1 and S2, the first two global sustainability disclosure standards, can form a start toward addressing this gap.[10]

Non-financial reporting can take different forms depending on its focus. On one hand, financial materiality concerns how sustainability issues may affect a company's financial performance, as the abovementioned IFRS S1 and S2 indicate. On the other hand, impact materiality focuses on how a company's activities affect environmental, social, and governance outcomes, with the Global Reporting Initiative (GRI) standards being the most commonly applied framework before the adoption of the EU CSRD.[11]

The CSRD and the ESRS were a sign of the move towards mandatory reporting requirements. As noticed in the *Carrots and Sticks* report, there is a clear trend of adopting binding rules on sustainability disclosures all over the world.[12]

Many authors writing about due diligence, ESG or CSR point out that there is a risk of inconsistency when different reporting frameworks are considered and of a lack of clarity about what is business supposed to report (Landau 2019; Weil et al. 2006; Rusinova and Korotkov 2021; Parker 2007). The EU CSRD is an attempt to solve this issue, making

[5] https://us.pg.com/citizenship-report-2023/.
[6] https://unglobalcompact.org/participation/report.
[7] https://www.ohchr.org/en/publications/reference-publications/guiding-principles-business-and-human-rights.
[8] https://ec.europa.eu/finance/consultations/2010/non-financial-reporting/docs/summary_report_en.pdf.
[9] Directive 2014/95/EU of the European Parliament and of the Council of 22 October 2014 amending Directive 2013/34/EU as regards disclosure of non-financial and diversity information by certain large undertakings and groups. Available at: https://eur-lex.europa.eu/legal-content/EN/TXT/HTML/?uri=CELEX:32014L0095.
[10] IFRS S1 requires an entity to disclose information about all sustainability-related risks and opportunities that could reasonably be expected to affect the entity's cash flows, its access to finance or cost of capital over the short, medium or long term, while S2 is about the disclosure of the information about climate-related risks: https://www.ifrs.org/issued-standards/ifrs-sustainability-standards-navigator/ifrs-s1-general-requirements/ and https://www.ifrs.org/issued-standards/ifrs-sustainability-standards-navigator/ifrs-s2-climate-related-disclosures.html/content/dam/ifrs/publications/html-standards-issb/english/2023/issued/issbs2/#about.
[11] https://www.globalreporting.org/.
[12] Carrots & Sticks is an international initiative to assess the regulatory non-financial and sustainability reporting landscape.

sustainability (or non-financial) reporting obligatory for the wide scope of business and providing the list of matters to report on. Together with the ESRS, CSRD also outlines the procedure for choosing the right matters to report (so-called materiality assessment).

The EU Directives made the concept of double materiality the cornerstone of the EU approach to reporting. It means that the intended approach integrates both financial and impact materiality, requiring companies to report not only on the ways ESG factors influence their business, but also on how their business activities impact ESG factors.

According to the CSRD, the first wave of reporting should cover companies which were in the scope of the Non-financial reporting Directive and other large companies.[13] This point remained unchanged by the so called "Stop-the-Clock" Directive that entered into force in April 2025.[14] The CSRD had to be transposed into national law by 6 July 2024, but the abovementioned Directive postponed it to the end of 2025. Next to thus, the changes brought by the previously mentioned *Omnibus* Directive, should be transposed by 19 March 2027 (Article 5 of the Directive (EU) 2026/470).

As for March 2026, 21 countries have fully transposed the CSRD. Infringement proceedings for non-communication of the national transposition measures are currently pending against Austria, Czech Republic, Germany, Luxembourg, Malta, Netherlands, Portugal and Spain.[15] This implies that, at least for large companies based in the countries where the CSRD has been fully transposed, their reporting can be examined to assess how the provisions of the Directive are understood by businesses. Particular attention can be paid to the ESRS requirement to involve trade unions as stakeholders in materiality assessment, and to the extent to which this requirement is effectively implemented. In the next paragraph the requirements of the CSRD and the ESRS on materiality assessment, as well as the guidelines formulated by the European Financial Reporting Advisory Group (hereafter EFRAG), will be considered to evaluate the approach of the EU to the trade union's role in this process.

[13] Directive 2014/95/EU of the European Parliament and of the Council of 22 October 2014 amending Directive 2013/34/EU as regards disclosure of non-financial and diversity information by certain large undertakings and groups: https://eur-lex.europa.eu/eli/dir/2014/95/oj/eng. Issuers of securities admitted to trading on EU regulated markets, as well as banking and insurance companies, which at the balance sheet date, even on a consolidated basis: i) exceed the average number of 500 employees ; ii) have exceeded at least one of the following limits: a) total asset more than 20 million euros; b) net revenue more than 40 million euros. And: Companies, which at the balance sheet date, including on a consolidated basis, have exceeded at least two of the following criteria (including EU and non-EU subsidiaries): a) average number of 250 employees; b) total asset > €25 million; c) net revenue > €50.

[14] Directive (EU) 2025/794 of the European Parliament and of the Council of 14 April 2025 amending Directives (EU) 2022/2464 and (EU) 2024/1760 as regards the dates from which Member States are to apply certain corporate sustainability reporting and due diligence requirements.

[15] https://finance.ec.europa.eu/regulation-and-supervision/financial-services-legislation/enforcement-and-infringements-banking-and-finance-law/monitoring-banking-and-finance-directives/corporate-sustainability-reporting-directive_en?prefLang=mt (accessed 01.09.2025).

2 • Materiality assessment in impact materiality: EU approach

Materiality assessment is the process of choosing the most material information, in other words, both relevant and important data about the enterprise and its value chain, if leaving such information out would be misleading (ITUC 2008). The draft simplified ESRS, published by EFRAG in December 2025 provide a more detailed definition of material information:
"Information is material when omitting, misstating or obscuring that information could reasonably be expected to influence: (a) decisions that primary users of general-purpose financial reports make based on those reports, including financial statements and the sustainability statement, relating to providing resources to the undertaking; or (b) decisions, including informed assessments, that other users of 'general-purpose' sustainability statements make based on the sustainability statement regarding the undertaking's material impacts, risks and opportunities and how the undertaking manages them" (para. 3.1.1. of the Draft ESRS 1. General Requirements).[16]

The CSRD requires companies to assess and report sustainability information based on double materiality, but it does not prescribe a methodology for how companies should organise this assessment. However, the Directive sets important rules for the involvement of the workers' representatives into reporting process, which was a key ETUC demand (Vitols 2023).

In Article 19a (5) the Directive states the following:

"The management of the undertaking shall inform the workers' representatives at the appropriate level and discuss with them the relevant information and the means of obtaining and verifying sustainability information. The workers' representatives' opinion shall be communicated, where applicable, to the relevant administrative, management or supervisory bodies" (CSRD 2022).

In the article 29a, dedicated to the consolidated sustainability report to be prepared by parent company for the entire group, there is another mentioning of the need to inform the workers' representatives:

"The management of the parent undertaking shall inform the workers' representatives at the appropriate level and discuss with them the relevant information and the means of obtaining and verifying sustainability information. The workers' representatives' opinion shall be communicated, where applicable, to the relevant administrative, management or supervisory bodies" (CSRD 2022).

As we see the norm leaves a lot of questions: who are the workers' representatives to be informed, what does "where applicable" mean, when and how should workers' representatives be informed, what is the appropriate level? Let's see if other EU or national norms on sustainability reporting give an answer to these questions.

Firstly, stakeholders are defined in the new version of article 3 (1) of the CSDDD, changed by the Omnibus Directive, as including "the company's employees, the employees of its subsidiaries and of its business partners, and their trade unions and workers' representatives".[17] Therefore, the norms on consultation are applicable in respect of three groups (employees, trade unions and workers' representatives) of the company itself, its subsidiaries and business partners.

Secondly, Article 13 of the CSDDD, lays down a framework on how companies must engage meaningfully with "relevant" (this word was introduced by the Omnibus Directive) stakeholders throughout their due diligence processes. In the preamble, the Omnibus Directive (rec. 45 of Directive (EU) 2026/470) argues a need to narrow the requirements for the stakeholder engagement, limiting it only to certain parts of the due diligence process, namely at the identification stage, for the development of action plans and enhanced action plans and when

[16] https://www.efrag.org/sites/default/files/media/document/2025-07/Amended_ESRS_Exposure_Draft_July_2025_ESRS_1.pdf and https://www.efrag.org/sites/default/files/media/document/2025-12/November_2025_ESRS_1.pdf.

[17] Directive of the European Parliament and of the Council Amending Directives 2006/43/Ec, 2013/34/Eu, (Eu) 2022/2464 And (Eu) 2024/1760 As Regards Certain Corporate Sustainability Reporting Requirements and Certain Corporate Sustainability Due Diligence Requirements, 24 February 2026. Available at: https://data.consilium.europa.eu/doc/document/PE-66-2025-REV-2/en/pdf.

designing remediation measures. Article 13 of the CSDDD, therefore, excluded the consultation of relevant stakeholders when deciding to terminate or suspend a business relationship pursuant to Article 10(6) and Article 11(7); and when developing qualitative and quantitative indicators for the monitoring required under Article 15.

As we are considering the participation of workers in the reporting process, it is important that stakeholder engagement is required during the gathering of the necessary information on actual or potential adverse impacts, in order to identify, assess and prioritise adverse impacts pursuant to Articles 8 and 9 of the CSDDD. This process should also be the basis of the materiality assessment for the reporting, following the spirit of the ESRS.

The CSDDD operates with the notion of "meaningful engagement". It states in the Article 13 that consulted stakeholders shall be allowed to make a reasoned request for relevant additional information, which shall be provided by the company within a reasonable period of time and in an appropriate and comprehensible format. If the company refuses a request for additional information, the consulted stakeholders shall be entitled to a written justification for that refusal. Also, if it is not reasonably possible to carry out effective engagement with stakeholders to the extent necessary to comply with the requirements of this Directive, companies shall consult additionally with experts who can provide credible insights into actual or potential adverse impacts (Article 13.4. of the CSDDD). In consulting stakeholders, companies shall identify and address barriers to engagement and shall ensure that participants are not the subject of retaliation or retribution, including by maintaining confidentiality or anonymity (Article 13.5. of the CSDDD). The Directive also provides an opportunity for the companies to fulfil the obligations of stakeholders' engagement through industry or multi-stakeholder initiatives, if the consultation procedures meet the requirements set out in Article 13. However, the use of industry and multi-stakeholder initiatives shall not be sufficient to fulfil the obligation to consult the company's own employees and their representatives (Article 13.6. of the CSDDD). Therefore, the direct consultations of the own workforce are a necessary element of the impact assessment as the part of the due diligence process. Finally, article 13.7 of the CSDDD established the hierarchy of the norms in the field of consultation, stating that the engagement with employees and their representatives shall be without prejudice to relevant EU and national law in the field of employment and social rights as well as to the applicable collective agreements.

It is the most detailed description of the process of engagement with the stakeholders that the trade unions should be aware of. It is important to perceive the process of reporting as the part of due diligence and require from the employer the information which might be necessary for determining sustainability impact of the company. However, we should be mindful of an obvious limit of the CSDDD when determining the right of trade unions in the reporting process - the different scope of application of the CSDDD and the CSRD. In the updated version, the CSDDD covers EU companies with more than 5000 employees and over EUR 1.5 billion in net *worldwide* turnover, and for non-EU companies, there is only a turnover threshold - net turnover of more than EUR 1,5 billion in the EU in the financial year preceding the last financial year (Article 2 of the CSDDD). The scope of the CSRD has also been significantly narrowed, now it covers EU companies with more than 1,000 employees and a net turnover of over EUR 450 million (Article 19a), and the parent undertakings of a group which, on its balance sheet date, exceeds, on a consolidated basis, a net turnover of EUR 450 000 000 and an average number of 1 000 employees (Article 29a). Also, regarding third-country undertakings, the updated requirements (Article 40a) will apply only to companies with a net turnover above 450 million euro for the parent undertaking within the EU and above 200 million euro generated turnover for the subsidiary or branch (Council of the EU 2026). Therefore, the detailed provisions of the CSDDD apply to much less companies than the norms of the CSRD.

The procedure of the materiality assessment is defined in the European Sustainability Reporting Standards that include a special paragraph on impact materiality (3.4). However, it doesn't provide the answers to the mentioned questions. To understand better the approach of ESRS to workers' engagement, there is a need to explain briefly their structure. ESRS consist of 12 reporting standards: ESRS 1 and ESRS 2 are cross-cutting standards, establishing the general principles and disclosures that all companies must provide, the rest are topical standards that cover environmental (E1–E5), social (S1–S4), and governance (G1) issues. The norms of ESRS 1 and ESRS 2, as general standards, mean that regardless of what a company finds in its materiality assessment, the information requested by ESRS 2 must always be disclosed.[18] Also, and very important for the present research, the company has to disclose the process to identify and assess material impacts, risks and opportunities (para 29). The Standards list trade unions and workers as stakeholders and underline that involvement of stakeholders should play a central role materiality assessment (Application requirement 8).

According to Application requirement 9, the assessment of impact materiality should consist of three main steps. First, the company must gain a thorough understanding of the context in which its impacts arise, taking into account its own activities, business relationships and stakeholders. Second, it identifies both actual and potential impacts - negative as well as positive - drawing on engagement with stakeholders and experts, and, where appropriate, on scientific and analytical research concerning sustainability matters. Finally, the company assesses the significance of these impacts and determines which matters should be considered material and reflected in its sustainability statement. The Disclosure Requirement IRO-1 states that an undertaking shall disclose the information about the consultation with affected stakeholders to understand how they may be impacted, though without specifying any detail that might be helpful for both companies and trade unions. Despite the underlined significance

[18] The ESRS include Disclosure Requirements (DRs) that are about what companies must report, and Application Requirements (ARs) that provide a more detailed prescription, explain the level of detail, structure, or methodology expected in fulfilling the DRs. ARs are also mandatory (see para 17 ESRS).

of workers' representatives' engagement in at least two of the three steps of reporting, the standards do not provide norms on how this process should be organized. However, indirectly the EU-view on this process might be deduced from the information, which is supposed to be reported under Disclosure Requirement S1-2 (Processes for engaging with own workforce and workers' representatives about impacts). It should be noted that this requirement is not obligatory and is included to the report only if the company chooses it as a material topic.

In accordance with Disclosure Requirement S1-2 (para. 25-29), and Application Requirement (18-26) undertakings should explain whether and how the perspectives of their workforce are taken into account when managing actual and potential impacts.[19] This disclosure includes clarifying: whether engagement occurs directly with employees or via workers' representatives (para. 27a); the stages of the process in which engagement takes place, the type (information, consultation, participation) and the frequency of engagement (para. 27b; AR 19a-b, AR 24a); which organisational function and which senior role have operational responsibility for ensuring that engagement is carried out and informs decision-making (para. 27c; AR 18); whether there are Global Framework Agreements or other collective agreements with workers' representatives that provide ongoing insights into workers' perspectives (para. 27d; AR 20, AR 22); and how the effectiveness of engagement is assessed, including through specific outcomes or agreements (para. 27e; AR 26). Companies may disclose whether responsibility for engagement lies within a dedicated function or as part of a broader role, and whether relevant staff receive training or capacity building to support meaningful dialogue (AR 18, AR 19d). Undertakings are encouraged to provide illustrations from the current reporting period showing how employee input informed decisions or activities (AR 21, AR 23). Equally, they should explain how feedback is recorded, centralised where engagement occurs at site or project level, integrated into decisions, and communicated back to workers (AR 24b-c). Moreover, undertakings must indicate whether they have developed processes to engage with vulnerable or marginalised groups within the workforce, such as women, migrants, or persons with disabilities (para. 28). They may also disclose approaches to addressing barriers such as language differences, power imbalances, or cultural divisions, and explain how they ensure communication is understandable and accessible (AR 25a-c). Finally, companies should be transparent about how they handle conflicting interests that may arise among the workforce, and how they respect the human rights of employees during engagement, including privacy, freedom of expression, and the right to peaceful assembly and protest (AR 25d-e).

If an undertaking does not yet have a general process for engaging with its workforce, it must disclose this fact (para. 29) and may indicate a timeframe for establishing such a process. Comparing these non-binding norms with the abovementioned mandatory Disclosure Requirement IRO-1 makes it obvious that companies can relatively easily choose not to take the engagement of the workers' representatives seriously. Those companies that would like to avoid meaningful engagement can simply do this, there are no legal barriers for that.

[19] Summary is prepared with the use of ChatGPT and verified by the author.

3 • Examples of non-financial reporting and the role of workers' representatives in reporting

As mentioned before, it is obligatory to disclose **the process to identify and assess material impacts, risks and opportunities**. Taking into account the considerations of section 2, it might be assumed that mere mentioning the engagement of the workers representatives might suffice to formally comply with the ESRS. To check this assumption, we can consider several examples of large companies whose non-financial reports for 2024, made in line with the CSRD and the ESRS, are available online.

Nestlé

Nestlé published its 200-pages non-financial statement for 2024.[20] The report describes the process of engaging with the workers' representatives as follows: "Nestlé discloses in the Workforce Disclosure Initiative (WDI) how it engages with employees and how it takes their views on board, either as part of a formal information and consultation process, or as part of employee-engagement surveys and different idea-generating platforms." The WDI is a voluntary disclosure platform that collects data from companies on workforce-related issues such as diversity, working conditions, well-being, labour rights, and governance. It is obviously not designed to document how stakeholder input is considered in the materiality assessments. It means that instead of reporting how they engage employees as required by the ESRS, they state that workers' related information is disclosed in the WDI system.[21]

However, in the parts of the statement dedicated to the social disclosures, the company briefly describes its general approach to employee engagement approach: "Nestlé's Employee Relations Policy ensures that direct and frequent communication is established between management and employees, **for both union members and non-union members**. This happens in the form of town-hall meetings, focus groups, opinion surveys and information and consultation meetings. While dialogue with trade unions is essential, it does not replace the close relationship that Nestlé's management maintains with its employees."[22] Also, the paragraph entitled "Employee engagement approach" covers only measures to manage risks and impacts related to freedom of association.

These parts do not clarify how trade unions or other workers' representatives are engaged in the materiality assessment, but it is clear that, at least formally, there is dialogue between the company and the workers. Was it the objective of the EU norms on sustainability reporting? The answer is yes but recalling norms of article 14 of the CSDDD and the article 19a of the CSRD, it is not enough. It should be obvious from the report that workers' representatives are meaningfully engaged in discussions about the content of reporting and

[20] https://www.nestle.com/sites/default/files/2025-02/non-financial-statement-2024.pdf.
[21] https://wdi.trust.org/.
[22] https://www.nestle.com/sites/default/files/2025-02/non-financial-statement-2024.pdf.

the methods used to collect and verify the information. Considering the included information under the heading "Materiality assessment", the impression is given that the workers' engagement is not mentioned for other reasons that saving space, as half page of the inserted text cannot provide any valuable information.[23]

Unilever

Unilever's non-financial report for 2024, prepared in line with the CSRD and the ESRS, contains a separate section on "Engaging with own workforce and workforce representatives" that describes various mechanisms used by the company to get "employees' valuable insights", including face-to-face sessions, employee representatives, surveys, town halls, and direct interactions with senior leaders.[24] Unilever states that it conducts "both formal and informal consultations with unions and works councils", mentioning specifically the Unilever European Works Council. According to the report, these discussions are integrated into Board-level reporting to ensure workforce feedback informs decision-making. The report also includes a section titled "Engaging on human rights impacts" where Unilever underlines that engagement with rightsholders, and stakeholders is "an essential part" of identifying and assessing human rights impacts in its operations and value chain. Third-party worker interviews during audits and impact assessments, the use of technology solutions to collect workers' views and raise awareness of rights, and grievance mechanisms to gather concerns and provide remedy are mentioned as the methods of engagement.

It is of relevance that the company refers to the cooperation with international trade union federations.[25] "The Memorandum of Understanding that we have with the IUF and IndustriAll confirms our commitment to biannual meetings and communications between meetings as required. These meetings are an engagement between Unilever's senior executives, industrial relations leaders and union representatives, and allow us to address human and trade union rights." However, there is no mention if these meetings have any impact on general materiality assessment. The report does not clearly explain how these worker engagement mechanisms inform the materiality assessment process. Under the heading "Description of the processes to identify and assess material impacts, risks and opportunities", there is no mentioning of workers representatives' engagement, as needed under ESRS IRO-1, but it is present in the "Interest and views of stakeholders" and "Company and board engagement with stakeholders" parts of the report. In particular, the company states that around 100,000 office- and factory-based employees were engaged in 2024 through the "UniVoice survey" on topics such as culture, engagement, strategy, safety, careers and sustainability.

Compared to Nestlé, Unilever offers a more elaborate and structured account of engagement with employees and trade unions. However, the company presents this engagement in a fragmented and somewhat haphazard manner, which makes it difficult to determine the actual role of trade unions and other workers' representatives in the materiality assessment process.

[23] Some parts are worth citing: "This process is designed to substantiate Nestlé's exposure and ensure a comprehensive understanding of each impact's potential ramifications. Additionally, this helps put in place the right metrics to measure progress in mitigating risks. (...) Nestlé's business model (see General Disclosures) is designed to integrate sustainability at its core, ensuring that every strategic decision considers the potential impacts on society, the environment and Nestlé. (...) Nestlé endeavours to contribute positively to global sustainable development goals while addressing negative.

[24] Unilever Annual Report and Accounts 2024. https://www.unilever.com/files/92ui5egz/production/09f61a8bd4822fc77d5aa170504e1a8d44c55501.pdf#page=225.

[25] Ibid.

SAP

SAP's non-financial report sets out its methodology for materiality assessment as being conducted primarily by "internal stakeholders and experts" together with the sustainability team and relevant business units.[26] There is no explicit mention of the role of workers' representatives in determining or validating the identification of material impacts, risks, and opportunities. The company does, however, as Unilever, dedicate considerable space to describing its broader engagement with employees in different paragraphs of the report. SAP describes the use of various communication channels and feedback mechanisms, including global and local communication teams, surveys, and employee portals. SAP also mentions regular meetings with employee representatives held in 2024 to discuss issues connected to the German Supply Chain Act, particularly in the area of complaints management and reporting. Interestingly, the company states that, "where local laws restrict the establishment of certain employee representations, we are open to other forms of employee representation that are not prohibited under local law", a stance that may be interpreted as all references to employee representatives should be understood in line with the national labour laws.[27]

According to SAP's "Corporate Governance Statement Pursuant to Sections 315d and 289f of the German Commercial Code", the company maintains a two-tier governance structure comprised of an Executive Board which manages the Company, and a Supervisory Board which advises and monitors the Executive Board.[28] This is the key point of the SAP's reporting approach to worker's participation: nine of the eighteen members of the Supervisory Board are employee representatives. This institutional framework might give a real voice to employees in the process of materiality assessment, and it makes SAP stand out in this consideration of companies' approaches to workers' representatives' participation in reporting.

The brief review of the companies' reports under the CSRD and the ESRS demonstrate that without clear norms for how workers are involved into materiality assessment, the engagement may largely remain on paper. Although the CSRD and the CSDDD urge for the meaningful participation of workers' representatives in materiality assessment, companies considered above do not disclose what kind of workers' representatives were engaged, how their opinion was considered. This information is not required by the binding set of the ESRS standards. Provided the complexity of the sustainability reporting issue and variety of national approaches to workers' representation,

the lack of the norms on how to engage with the workers' representatives seems to be an intentional legislative omission. The EU refrained from regulating the issue, probably, leaving to the states the elaboration of the details.

In the next paragraph the examples of national laws on this point will be considered.

[26] 2024 SAP Integrated Report. https://www.sap.com/integrated-reports/2024/en.html.

[27] Ibid.

[28] https://www.sap.com/investors/en/governance-and-sustainability.html?pdf-asset=40e26607-f57e-0010-bca6-c68f7e60039b&page=1.

4 • Implementation of CSRD in national laws of some EU member states

Italy

The Italian Legislative Decree of 6 September 2024, No. 125 regulates the engagement with the workers' representatives in the following way.

Article 3.7. **"**The company, also in compliance with the applicable legislation and agreements in the matter, shall establish procedures for informing workers' representatives at the appropriate level and shall discuss with them the relevant information and the means to obtain and verify information on sustainability. The workers' representatives shall communicate the opinion, where adopted, to the management and supervisory body."

Article 4.9. "The parent company, also in compliance with the applicable legislation and agreements in the matter, shall establish procedures for informing workers' representatives at the appropriate level and shall discuss with them the relevant information and the means to obtain and verify information on sustainability. The workers' representatives shall communicate the opinion, where adopted, to the management and supervisory body."

Evidently, the Italian norms leave all the questions, formulated above, to be answered by the company when a single sustainability report is at stake, and by the parent company, when the group report is prepared. Also, as the norm does not specify the notion of workers' representatives, we can imply that general national norms should be applied.

Ireland

In Ireland, the legislator also did not specify the procedure but fixed the obligation of the company to provide information to, and consult with, employees' representatives at the appropriate level in relation to the sustainability information ... "and the means of obtaining and verifying" such information.[29] It stated that any opinion of the employees' representatives shall be communicated, where applicable, to the directors of the applicable company. The act, though, does not specify what does "where applicable" mean. Another important point of the Irish approach is a broad vision of the workers' representatives: it might be either employees' representatives within the meaning of the Provision of Information and Consultation Act 2006, if it covers the company, or any persons duly appointed or elected by employees of the company as an employees' representative for the purposes of this section (Article 1591 of the Statutory Instruments No. 336 of 2024).

Poland

In Poland the legislator also stated that consultation of company's managers with employee representatives is on information relevant to the entity's employees regarding sustainable development and the methods for obtaining and verifying it. The entity's manager communicates the opinion of employee representatives to members of the supervisory board or other supervisory body of the entity, if the entity has such a body (Art. 63r(8)).[30]

Taken together, these examples show three distinct tendencies. Italy relies on existing regulation and leaves wide discretion to companies. Ireland offers a broader and more flexible understanding of workers' representation but maintains ambiguity on the conditions under which opinions must reach the board. Poland establishes a direct link between consultation and supervisory boards but limits itself to an undefined notion of employee representatives.

[29] Statutory Instruments. S.I. No. 336 of 2024. https://www.irishstatutebook.ie/eli/2024/si/336/.

[30] ACT of December 6, 2024, amending the Accounting Act, the Act on Statutory Auditors, Audit Firms and Public Oversight, and certain other acts. December 17, 2024. https://dziennikustaw.gov.pl/D2024000186301.pdf.

CONCLUSIONS

We began by considering the new EU norms on sustainability reporting and the role of trade unions and other workers' representatives in the materiality assessment. It was established that these norms leave important questions open for trade unions, including timing, procedures, the definition of workers' representatives, and the precise meaning of the "appropriate level" for informing and consulting. Some of these questions are clarified by the national laws reviewed above: at minimum, it appears that workers' representatives should be defined by national law and by collective agreements. However, issues such as timing, procedures and the "appropriate level" of information and consultation remain largely unregulated and are effectively left to companies to determine. The analysis indicates that, in practice, companies may avoid meaningful engagement with workers' representatives by limiting their reporting to a formal reference in the IRO-1 disclosure requirement, since there are currently no effective legal safeguards to prevent this.

The three examples of non-financial reports published in 2024 under the CSRD and the ESRS demonstrate that companies often avoid specifying who the workers' representatives are and do not disclose how those representatives participated in the materiality assessment, while nevertheless reporting on meetings with employees and on general workforce surveys.

At this point, it is worth turning to Directive 2002/14/EC of the European Parliament and of the Council of 11 March 2002, which establishes a general framework for informing and consulting employees in the European Community. That instrument provides concrete arrangements for information and consultation that are omitted in both the CSRD and the ESRS. Summarising Article 4 of that Directive, one can conclude that information provided during the materiality assessment must be timely, adequate and useful. Consultation must be genuine, structured, two-way, take place at the appropriate level, and aim to reach agreement where possible. This approach aligns closely with the general rules on meaningful stakeholder engagement set out in Article 13 of the CSDDD.

Article 21 of the Revised European Social Charter is as well useful for determining how information and consultation should be organised: it requires that workers' representatives be informed regularly or at an appropriate time and in a comprehensible manner. The European Committee of Social Rights has underlined in its case law that the right of workers to information and consultation must ensure their views are taken into account.[31] These EU and Council of Europe norms should therefore inform how companies interpret the CSRD, the ESRS and national laws on sustainability reporting.

Provided that workers' representatives are now granted formal rights under the CSDDD and the CSRD to participate in the sustainability reporting system, these rights need to be mainstreamed into the everyday activities of trade unions, since sustainability requires continuous engagement.

It is also crucial to provide training for trade unions and other workers' representatives on how to exercise these rights effectively and how to channel them into the reporting process.

[31] See, for example, European Committee of Social Rights, Conclusions 2022 - Hungary - Article 21. 2022/def/HUN/21/EN, 01/01/2017 - 31/12/2020.

BIBLIOGRAPHY

Chalmers, A.W., Klingler-Vidra, R., van de Wijs, P.P., Lysenkova, M. and C.T. Van der Lugt. 2024. *Carrots & Sticks: 2024 annual report*. University of Edinburgh, King's College London, Global Reporting Initiative (GRI), and the University of Stellenbosch Business School (USB). Available at: chrome-extension://efaidnbmnnnibpcajpcglclefindmkaj/https://d2iztrg3kgqpue.cloudfront.net/production/uploaded-files/2024-Carrots-and-Sticks-report%20(1)-7738f34b-9fc6-48a0-8d63-d1626d113944.pdf (Accessed: 16 March 2026).

Council of the European Union. 2026. "Council signs off simplification of sustainability reporting and due diligence requirements to boost EU competitiveness", *Press release*, 24 February. Available at: www.consilium.europa.eu/en/press/press-releases/2026/02/24/council-signs-off-simplification-of-sustainability-reporting-and-due-diligence-requirements-to-boost-eu-competitiveness/ (Accessed: 17 March 2026).

Cremers, J. 2013. *Non-financial reporting beyond the strict minimum: Is the workforce a well-informed stakeholder?* ETUI Working Paper Series, 2013(02). Brussels: ETUI. Available at: WP 2013 02 Cremers Non financial reporting EN Web Version.pdf.

Deegan, C. and M.A. Islam. 2014. "An exploration of NGO and media efforts to influence workplace practices and associated accountability within global supply chains", *The British Accounting Review*, 46(4). 397-415.

Freeman, R. E. 1984. *Strategic management: A stakeholder approach*. Boston, MA: Pitman.

García-Arca, J., González-Portela Garrido, A.T. and J.C. Prado-Prado. 2024. "Deploying sustainability through employee participation: An action research proposal", *Systemic Practice and Action Research*, 37, 19-40. doi:10.1007/s11213-023-09639-x.

Hahnkamper-Vandenbulcke, N. 2021. *Non-financial Reporting Directive*. Implementation Appraisal. Brussels: European Parliamentary Research Service (EPRS), Ex-Post Evaluation Unit, PE 654.213. Available at: European Parliament website (Accessed: 17 March 2026).

Harvey, G., Hodder, A. and S. Brammer. 2017. "Trade union participation in CSR deliberation: An evaluation", *Industrial Relations Journal*, 48(1), pp. 42–55. doi:10.1111/irj.12167.

Henderson, R. 2020. *Reimagining capitalism in a world on fire*. New York: PublicAffairs.

ITUC. 2008. *A trade union guide to the GRI sustainability reporting guidelines*. Brussels: International Trade Union Confederation.

Kaliga, A. and A. Oberdieck. 2020. *Non-financial reporting: how can it be a resource for workers?* European Economic, Employment and Social Policy, No. 10/2020. Brussels: ETUI. Available at: Policy Brief-EEESPolicy-N°10-2020-EN-V2.indd (Accessed: 17 March 2026).

Kowalsky, W. 2015. "The ETUC on the way towards sustainable European employee involvement", in *Long-term investment and the sustainable company: a stakeholder perspective*. Vitols, S., ed. Vol. 3, 207-220, ETUI Brussels.

Landau, I. 2019. "Human rights due diligence and the risk of cosmetic compliance", *Melbourne Journal of International Law*, 20, 221.

Mandliya, A., Pandey, J., Sohani, S.S. and R.A. Sheikh. 2025. "From union clout to corporate couture: Unveiling the impact of trade unions on corporate social responsibility", *PLoS One*, 20(1), e0311244. doi:10.1371/journal.pone.0311244.

Novitz, T. 2020. "Engagement with sustainability at the International Labour Organization and wider implications for collective worker voice", *International Labour Review*, 159(4), 463-482.

Parker, C. 2007. "Meta-regulation: Legal accountability for corporate social responsibility", in *The new corporate accountability: Corporate social responsibility and the law*. McBarnet, D., Voiculescu, A., and T. Campbell. eds. Cambridge: Cambridge University Press.

Rusinova, V. and S. Korotkov. 2021. "Mandatory corporate human rights due diligence models: Shooting blanks?", *Russian Law Journal*, 9(4), 33-71.

Samani, N., Overland, C. and S. Sabelfeld. 2023. "The role of the EU non-financial reporting directive and employee representation in employee-related disclosures", *Accounting Forum*, 47(2), 278-306.

Vitols, S. 2023. "The emerging corporate sustainability reporting system: what role for workers' representatives?", *Transfer: European Review of Labour and Research*, 29(2), 261-265. Available at: https://doi.org/10.1177/10242589231175607

Waas, B. 2023. "Some thoughts on the new EU-directive on corporate sustainability reporting", *Zbornik Pravnog Fakulteta u Zagrebu*, 73(2-3), 457-473.

Weil, D., Fung, A., Graham, M., and E. Fagotto. 2006. "The effectiveness of regulatory disclosure policies", *Journal of Policy Analysis and Management*, 25(1), 155-181.

02

Isabelle Martin
University of Montreal, Canada

Echoes from Canada: Institutional experiments in social dialogue in the absence of legislation imposing the principle of due diligence

Isabelle Martin

ABSTRACT

This study of the Canadian situation aims to delve into the question whether human rights due diligence enables social dialogue between enterprises, workers, and the state. In Canada, enterprises may engage in human rights due diligence, but this is not mandatory. This offers opportunities for experiments aimed at either including it in corporate decision-making processes or holding corporations accountable for failing to exercise it. The study analyses initiatives conducted by workers representatives and their allies to improve working conditions within production chains. It examines two regulatory mechanisms: legal proceedings seeking recognition of a duty of care owed by the head company of MNCs to workers in its production chain, and shareholder engagement by union pension funds. Each experiment has the merit of raising issues of working conditions in global value chains. Sometimes, it may facilitate negotiations and the conclusion of agreements. Both tracks have the major flaw of not including duly elected workers' representatives as participants, resulting in distinct disadvantages.

Whereas social dialogue can have the merit of legitimising considerations of the socio-economic sphere within corporate governance, a basis in due diligence forces a discourse rooted in profitability or risk analysis. And a lack of representation prevents dispute settlements from reaching workers who are not parties to the legal action (and improving their working conditions). The study also underlines the indispensable role of government support for freedom of association in ensuring that enterprises genuinely commit to it.

Keywords : due diligence, corporate social responsibility, workers' involvement, social dialogue, civil dialogue, shareholder engagement

INTRODUCTION

Human rights due diligence, a means of making enterprises more accountable?

The last thirty years have been characterised by the rapid rise of transnational corporations, whose economic weight and power continue to grow (Ruggie 2018). Their elusive nature, due to both their fragmentation and their transnational character, contributes to the consolidation of their power. Whether they are fragmented into a myriad of corporate subsidiaries or organised into a network of contracts (Weil 2014), and whether their various establishments are located in the Global North or South, they regularly manage to evade the various means developed to rebalance the power relationship between employers and workers (Jackson et al. 2013). Social dialogue, compliance with minimum labour standards, and employer accountability for working conditions have become difficult, if not impossible, to impose on transnational enterprises.

Various public and private initiatives have been proposed to recreate the different means of rebalancing the power relationship between enterprises and the workers who contribute to their global value chain (Gereffi 1994). Most of these initiatives, such as the introduction of human rights due diligence, supplier codes of conduct (e.g. *Apple Supplier Code of Conduct)*, and social certification (e.g. SA 8000), aim to recognise the social responsibility of enterprises to respect the fundamental rights of workers. Rarer are initiatives such as international framework agreements (Bourguignon and Hennebert 2021) that seek to establish social dialogue between transnational corporations and trade unions. However, trade union participation is crucial to the success of the various initiatives put in place to ensure respect for workers' fundamental rights (Kun 2021). It prevents enterprises from co-opting private regulatory regimes (Pekdemir et al. 2015: 226), in particular by reporting specific violations of workers' rights (Koch-Baumgarten and Kryst 2015: 164).

The recognition of a duty of human rights due diligence for enterprises is a flagship initiative of the movement for corporate social responsibility (hereafter CSR) among transnational corporations. Some jurisdictions have imposed a duty of care on corporations or are in the process of doing so (France, Norway, Germany, Netherlands, EU). And even in countries that have not legislated in this regard, human rights due diligence is now a *soft* law standard recognised by the UN Guiding Principles and the OECD.

Does human rights due diligence make it possible to establish social dialogue between enterprises, workers, and the state? Admittedly, its primary objective is rather to implement a process within enterprises to identify and prevent the risk of potentially negative impacts of their activities on human rights (UNGP; Bonnitcha and McCorquodale 2017: 912). Several studies point out that it only allows for limited stakeholder engagement (Schilling-Vacaflor 2021) and may even hinder mobilisation (Maher et al. 2021) and the ability of workers to challenge corporate practices (Landau 2023: 184). The managerial interpretation of due diligence (Barraud de Lagerie et al. 2020) and the predominant role of for-profit intermediaries (Landau 2023: 184), marginalise the contribution of unions. Unions have also historically been *reluctant stakeholders* in the use of any CSR tool (Preuss 2008). Due diligence has nevertheless been used by union actors to obtain shareholder support in campaigns denouncing an enterprise's practices in order to establish themselves as valid interlocutors (Martin et al. 2021). The recent conviction of La Poste for failing to establish a dialogue with trade unions when developing a whistleblowing mechanism as part of its duty of vigilance (*SA La Poste* v. *Syndicat SUD PTT*, 2025) suggests the potential usefulness of due diligence in establishing social dialogue (Kun 2021).

At a time when many trade unions are devoting their resources to supporting the legislative adoption of a duty of care (Özkan 2025; Unifor 2025), it is important to assess the real potential of this duty to establish social dialogue between workers' representatives and transnational enterprises. Empirical studies, rooted in the various national manifestations of due diligence, are needed to determine whether the game is worth the risk (Landau 2023: 186). This study aims to do this with a focus on Canada.

Human rights due diligence is permitted in Canada but not imposed on corporations. This situation opens the door to various initiatives aimed at either including it in corporate decision-making processes or holding corporations accountable for failing to exercise it. These initiatives draw on existing legal structures, such as the *common law duty of care* or the powers of shareholders to submit proposals to the management of corporations, to convey concerns about working conditions in global value chains. These initiatives constitute genuine organisational or institutional experiments (Murray et al. 2020) in which actors combine "unusual actions with traditional structures and policies" (Ferreras et al. 2020: 122) to protect working conditions (Pulignano et al. 2020). In the absence of institutional infrastructures establishing transnational social dialogue, such experiments are the best alternative (Bourguignon and Helfen 2022: 61). The question to what extent these experiments in human rights due diligence facilitate the establishment of social dialogue is at the heart of this study.

The potential contribution of the Canadian experiments to the establishment of enterprise-wide social dialogue extends beyond Canada's borders due to the transnational reach of many Canadian enterprises, particularly mining enterprises. Canada is a major player in the international mining industry (Studnicki-Gizbert 2016), accounting for nearly 50% of publicly traded mining corporations (Government of Canada 2026). Not only does Canada's subsoil contain many of the minerals critical to the energy transition and the digital age, but two-thirds of Canadian mining companies' assets come from abroad, mainly from mining operations in the Global South (Government of Canada 2025, 2026).

This study is structured as follows. The first section identifies the main components of social dialogue and distinguishes it from civil dialogue. The second part assesses the state of social dialogue and duty of care in Canada. The third part examines the first case of institutional experimentation, namely litigation aimed at holding the head company of an enterprise accountable through the *common law duty of care*. The last part deals with the use of shareholder engagement as an institutional experiment in creating social dialogue.

1 • Social dialogue: broadening its scope, participants, and the concept itself

Strictly speaking, social dialogue takes place between representatives of workers and employers and, in the case of tripartite dialogue, governments. It concerns their involvement in the decision-making process (ILO 2013: 5) on labour issues or, more broadly, social and political issues (Ishikawa 2003: 17). It can be informal and ad hoc or formal and institutionalised (Ishikawa 2003: 3). It is characterised by a dynamic of conflictual partnership (Bourguignon and Helfen 2022: 54). It can be found at the enterprise level, or at the sectoral, regional, national (Ishikawa 2003: 3; Kun 2021: 229) and even supranational levels, particularly in the case of the European Union (Bir 2019: 75).

Social dialogue includes at least the exchange of information, followed by consultation and negotiation, the latter representing its highest intensity (Ishikawa 2003: 3). The ILO includes in social dialogue consultation, all forms of cooperation, prevention or dispute resolution, as well as collective bargaining (Ishikawa 2003: 3; Foster 2011: 290; ILO 2013: 5). Some authors, however, distinguish collective bargaining from social dialogue. The latter is considered a less confrontational form of negotiation, inspired by a *win-win* partnership ideal and driven by the search for consensus (Bourguignon and Stimec 2022: 10; Hyman 2011). Hanin, on the other hand, believes that such a distinction between the two is more characteristic of the conservative approach that prevails in many of our democracies (Hanin 2016: 281). In any case, social dialogue adds cohesion and regulation functions to negotiation (Hyman 2011: 12). Social dialogue is often conceived as a process of socio-economic policymaking rather than a simple structure representing divergent interests (Foster 2011; Guardiancich and Molina 2021). Even at enterprise level, it seeks to regulate organisational and societal phenomena that frequently go beyond the scope of collective bargaining (Bourguignon and Stimec 2022: 12).

The potential of social dialogue and the adaptability of its formula make it an ideal process for responding to the challenges posed by global value chains (International Labour Conference 2018: 4). It offers the possibility of a forum for discussion where the social impacts of transnational enterprises' activities could be taken into account (Supiot 2010: 126-127) and conflicts between stakeholders would be resolved through negotiation or regulation. The ILO also presents social dialogue, combined with tripartism, as the main governance paradigm for promoting social justice, decent work, and peaceful labour relations (ILO 2013: para. 2).

Numerous transnational social dialogue initiatives have emerged, broadening the categories of actors involved (Bourguignon and Helfen 2022), and, in some cases, the concept of social dialogue itself. First, some transnational enterprises of European origin have established transnational social dialogue (Bourguignon and Helfen 2022), in addition to the European Works Councils set up at the instigation of the EU. Second, public and private initiatives using social dialogue to promote decent work and sound management practices throughout global value chains have proliferated (ILO 2019: 2).[1] Finally, various practices of consultation or exchange on social or societal issues (ILO 2013: para 40) taking place between enterprises and their stakeholders, or conducted by trans-state organisations (European Economic and Social Committee 2022), or civil society organisations (CSOs) are presented as social dialogue, *stakeholder dialogue* or participatory governance.[2]

In these cases, the concept is broadened and, according to Hanin's definition, refers to "a set of mechanisms, through the imposed or spontaneous creation of a space for dialogue between designated or elected collective actors, in order to build political agreement around collective rules in a context where there are conflicting positions on economic issues" (Hanin 2016: 281). The broadening of the scope of social dialogue, its concept, and the participants invited to take part opens interesting prospects for engaging transnational corporations. In particular, the inclusion of civil society organisations (hereafter CSOs), including NGOs, described as *tripartism-plus* by the ILO (2013: para 39), makes it possible to better take into account the interests of unrepresented workers in global value chains, particularly migrant workers and those from marginalised communities, and social issues such as child labour. It also encourages openness to broader societal issues and the integration of environmental concerns (Kun 2021), contributing to trade union renewal and the dissemination of decent work principles and ILO concerns. Finally, it facilitates the formation of alliances between trade unions, CSOs, and even investors, opening new arenas for raising workers' concerns.

However, the emergence and expansion of transnational social dialogue entail numerous challenges and risks. Transnational social dialogue experiences are often precarious due to the lack of an institutional framework (Bourguignon and Helfen 2022: 52), except for the specific case of European Works Councils. Apart from the latter and international framework agreements, the social actors involved in social dialogue are rarely represented by organisations firmly established at the transnational level. Transnational social dialogue initiatives are also complex because they involve a multiplicity of levels and actors, whose interests are sometimes conflicting (Bourguignon and Helfen 2022: 46).

[1] See, for example, the Better Work program: https://betterwork.org/fr/social-dialogue/.

[2] E.g. : Proforest, Shaping a social dialogue culture for more sustainable palm oil, December 19, 2022, https://www.proforest.net/news-and-events/news/shaping-a-social-dialogue-culture-for-more-sustainable-palm-oil/. Also: Deloitte, Stakeholder Dialogue Strategy, https://www.deloitte.com/fr/fr/services/consulting-risk/services/dialoguer-avec-ses-parties-prenantes.html.

The lack of representativeness of CSOs carries the risk of increasing the number of actors involved in social dialogue (ILO 2013: para 41; Papadakis 2021: 57-58). Compared to workers' and employers' organisations, which are mandated by clearly identifiable actors in the economy (ILO 2013: 39), CSOs derive their legitimacy from the causes they promote. Their leaders are not elected, unlike union representatives, but appointed. They have no decision-making power and therefore cannot commit to implementing decisions or complying with agreements; at best, they can participate in the implementation. Questions can also be raised about the selection of CSOs invited to take part in social dialogue. Are the most powerful organisations included, or the most accommodating? Does their inclusion force them to give up their most powerful means of mobilisation, such as denunciation and *name and shame* tactics? All of this makes CSOs potentially more vulnerable to co-optation. Furthermore, it can be noted that CSOs are generally focused on a single mission, which removes their ability to arbitrate between conflicting interests (Papadakis 2021: 58).

Finally, broadening the very concept of social dialogue risks distorting it, watering it down so that it becomes nothing more than deliberations between unelected participants, leading at best to an unguaranteed consensus rather than an agreement (Papadakis 2021: 57-58). Participation in these exercises could result in the marginalisation of workers' representatives while giving transnational corporations a veneer of legitimacy. This is why the ILO prefers to use the term *civil dialogue* to describe these initiatives and reserves the concept of social dialogue for its strict meaning of exchanges between workers' and employers' representatives, whether bipartite, tripartite, or including CSOs. *Ad hoc* and unstructured consultations on societal issues between public authorities and a wide range of non-state actors are therefore considered civil dialogue initiatives (Papadakis 2021: 57).

For the purposes of our study on the contribution of Canadian experiments with human rights due diligence to the establishment of social dialogue, we will distinguish between social and civil dialogue initiatives. The table on next page lists the elements, both distinct and shared, that characterise them.

Comparative analysis of the implementation of social dialogue

Elements	Social dialogue	Civil dialogue
Participants	Bipartite: Representatives of workers and employers Tripartite: addition of the government Tripartite-plus: addition of CSOs	Appointed or elected representatives of various enterprises and CSOs; State or supranational actors may be added
Levels	Enterprise, sectoral, regional, national, or supranational	Enterprise, sectoral, regional, national, or supranational
Topics	Labour, social or political issues, or certain environmental issues (health and safety, climate, energy transition) (ITUC, 2019)	Labour, social, political, or environmental issues
Dynamics	Conflictual partnership	Consensus-seeking
Form	Informal and *ad hoc* or formal and institutionalised	Informal and ad hoc
Functions	Negotiation, cohesion, and regulation	Creating consensus, legitimising a situation or solution (Papadakis, 2012: 131)
Practices	Exchange of information, consultation, negotiation, coordination, dispute prevention or resolution	Defining terms, deliberations, exchange of arguments
Desired outcome	Agreement or resolution	Consensus

2 • Social dialogue and human rights due diligence in Canada

Canada lags in terms of both social dialogue and human rights due diligence. Regarding social dialogue, Canadian institutions are not conducive to the establishment of social dialogue. There is no national institution for social dialogue (Molina 2022) and industrial relations are highly decentralised, with collective bargaining generally taking place at the establishment level rather than at enterprise level (Foster 2011: 292; Hennebert 2022). This decentralisation, in addition to contributing to the institutional vacuum, prevents the formation of union actors powerful enough to force social dialogue with private sector enterprises (Foster 2011: 292).

Some instances of social dialogue do occur, particularly when health and safety regulations are being revised.[3] However, it should be noted that there are more social dialogue initiatives in the province of Quebec (Hennebert et al. 2012).
A few *ad hoc* provincial consultations on various socio-economic issues exist.[4] Next, there are established consultative bodies with permanent representation from trade unions and employers, such as the *Comité consultatif sur le travail et la main-d'œuvre* and the *Commission des partenaires du marché du travail*. In addition to these traditional forums for social dialogue, Hennebert includes local alliances between unions and community organisations, which are common throughout North America and sometimes lead to dialogue with local authorities (2022: 80).

As for the duty of care with regard to human rights, Canada has no law that imposes this duty in the global value chain of an enterprise (Martin 2020b). It should also be noted that neither the corporation nor the group of corporations has legal existence in Canada (Martin 2020a). Only corporations or other legal entities involved in the organisation and operation of businesses are legally regulated. The directors of corporations must act in the best interests of the corporation (CBCA s. 122(1.1)). Only within this framework, they have the opportunity to consider the interests of multiple stakeholders, including their employees (CBCA, s.122(1.1)), and societal interests.[5] Directors therefore have considerable latitude in deciding what is in the best interests of the corporation (Martin 2018). This protection of directors' discretionary power allows them to refrain from seeking to maximise shareholder value and to determine to what extent they will take into account the interests of various stakeholders. However, they are not required to consult them before making decisions that impact their interests (Martin 2018).

Rather than imposing due diligence on its corporations, the Canadian government has promoted business and human rights mandates through non-judicial mechanisms such as the OECD National Contact Points (Perillo 2023), and the creation of a Canadian Ombudsperson for Responsible Enterprise (Johnston and Bittle 2023), or through a reporting law (*Fighting Against Forced Labour and Child Labour in Supply Chains Act*, 2023). Various bottom-up institutional experiments aimed at making enterprises more accountable to workers in their global value chain have nevertheless emerged in recent years. These experiments implement, to varying degrees, the principle of due diligence in human rights. The following sections address the question to what extent they can contribute to the establishment of social or, at the very least, civil dialogue.

[3] Notably in Alberta (Foster 2011: 292).
[4] In particular, the 1996 Summit on the Economy and Employment (Comeau et al. 2002).
[5] Shareholders, retirees and pensioners, creditors, consumers, governments, and the environment are the other factors cited in section 122 (1.1) CBCA.

3 • Litigation seeking recognition of a common law duty of care

In the absence of a state law imposing human rights due diligence, some civil society actors have sought to use common law to establish the liability of the head corporation of a business for human rights violations committed in its global value chain. Such a common law duty of care has not yet been recognised by the courts in transnational cases.[6] But five lawsuits filed in recent years before Canadian courts have relied on it (*Choc*, 2013; *Garcia*, 2015; *Das*, 2017; *Araya*, 2016: para 542; *Matiko John*, 2024). Recognition of this duty of care by the courts would have the effect of establishing in Canadian common law provinces a duty of care similar to that provided for in the UN Guiding Principles (Parance et al. 2018). However, the five lawsuits were dismissed without judgment on the merits. Three lawsuits (*Garcia*, 2015; *Araya,* 2016; *Choc*, 2013) were settled out of court by an agreement whose terms are confidential (Agence France Presse 2019; Brent 2020; *Hudbay Minerals,* 2024). The other two, *Das* and *Matiko John*, were dismissed at a preliminary stage. But any hope of recognition of a duty of care under common law did not die with the settlement or dismissal of these lawsuits. In addition to the fact that a new lawsuit based on the duty of care could potentially be filed in Canada, similar lawsuits pending in the UK (*Vedanta*, 2019; *Alame*, 2025) could provide recognition of such a duty at the transnational level applicable to other common law jurisdictions.[7]

The obstacles to a Canadian court recognising a duty of care between a head corporation of a transnational enterprise and victims of human rights violations caused by its subsidiaries or subcontractors are considerable. Even setting aside the difficulties associated with recognising the jurisdiction of Canadian courts for events that occurred abroad (Martin 2020b),[8] the demanding nature of the criteria for recognising a duty of care,[9] the costs of such litigation,[10] and the uncertainties associated with authorising class action lawsuits[11] suggest that such a duty will rarely be recognised, except in the most obvious cases.

These disputes concerning the recognition of the duty of care can, in themselves, be analysed in terms of their contribution, as a process, to social dialogue, regardless of the question of the possible recognition of this duty and their strategic impact on corporate compliance with human rights (Bueno and Bright 2020; Schrempf-Stirling and Wettstein 2017). They can be considered as mechanisms for dialogue that can lead to the resolution of disputes. Our analysis is limited to the elements of social dialogue present in the two disputes involving workers, namely *Araya* v. *Nevsun,* which dealt with forced labour and abusive working conditions in an Eritrean mine, and *Das* v. *Weston,* concerning the deaths and injuries caused by the collapse of the Rana Plaza in Bangladesh.

[6] However, it was recognised in the United Kingdom between a company and an employee of its subsidiary: Chandler and Cape Plc. 2012. EWCA Civ 525.
[7] It has to be noticed that the *common law* system does not apply in Quebec, which has a civil law tradition and its own rules on civil liability under the Civil Code of Quebec. For a comparison of the two systems in the area of duty of care, see Katsivela 2017.
[8] The decision *Matiko John* v. *Barrick Gold*, 2024, demonstrates the difficulty of overcoming these jurisdictional obstacles except in the most extreme cases, such as that of forced labour in Eritrea, a dictatorial single-party regime, at issue in *Araya* v. *Nevsun*.
[9] In assessing whether a duty of care should be recognised between the company and the plaintiffs, the court needs to consider three factors: foreseeability, proximity, and public policy. For a discussion of the criteria, see Bueno and Bright 2020: 809 et seq.
[10] Comprising lawyers' fees, costs associated with establishing evidence in another country, and legal costs, which can be considerable in the event of defeat, if we are to believe the $1,350,000 in costs awarded against the Rana Plaza victims (on appeal, this amount will be reduced by 30% due to the public interest of the class action: *Das* v. *Weston*).
[11] Rejected in *Araya* 2016 and in Das 2017.

Examining first the identity of the participants in these disputes, we see that, due to the refusal to allow class action in each case, only the workers acting as plaintiffs in the dispute are represented. Thus, in *Araya*, only three workers who had been forced to work in the mine were represented, while approximately 1,000 Eritrean conscripts were in this situation between 2008 and 2016 (*Araya*, 2016: para 58). In *Das* v. *Weston,* three injured workers and the father of three deceased workers acted as plaintiffs, while 452 people working in Weston's global value chain were injured or died (2017: para 94). An observation may thus be made that access to class action certification, which criteria are set by the legislative branch of the States and interpreted by the judicial branch, is critical in ensuring workers' representation in the judicial process.

It should also be noted that filing a lawsuit allows plaintiffs to define the identity of their interlocutors, subject to their relevance to the action. Thus, *Das* named as defendants the Canadian corporations that made up the Loblaws value chain, as well as its parent company *Weston*. In the *Araya* case, the plaintiffs sued the head corporation of *Nevsun*, Nevsun Resources Ltd. In addition, the government or CSOs may be heard as interveners in the cases. This was the case with the Attorney General of Ontario at first instance in *Das* and seven CSOs during the Supreme Court of Canada hearing of *Araya*.

In terms of the issues addressed and the level at which the exchange takes place, these legal actions have the merit of raising the issue of working conditions in global value chains at the transnational level and formally involving the head corporation of these chains in the conversation. From a dynamic perspective, the clearly antagonistic nature of legal action is obviously a far cry from the conflictual partnership that characterises social dialogue. And legal recourse is probably the most costly and formal way for enterprise and worker representatives to exchange views.

That said, these proceedings create a real motivation for head corporations to negotiate in the shadow of the law i.e. outside the formal proceedings brought before the court and before a final judicial decision is rendered, as evidenced by the out-of-court settlements obtained in these cases (Bercusson 1992; Lo Faro 2012).

In addition to the already mentioned possible practices of negotiation and conflict resolution, we may question the information exchange that takes place during the proceedings. In the Canadian legal system, it is up to the parties to provide the information on which their claims are based. The judge has no investigative role and relies solely on the evidence presented by the parties. It is therefore up to the plaintiffs to find the evidence necessary to justify a claim. Access to evidence can be complex, if not impossible, and the costs can be significant in transnational cases. In the *Araya* case, for example, the plaintiffs did not know the exact number of conscripted workers at the Bisha mine (2014: para 566; Martin and Falardeau-Papineau 2024: 420) and the documents in English or Tigrinya, the official language of Eritrea, establishing whether the workers had been released from their military obligations or were still conscripted, were kept at the Bisha mine in Eritrea or in the hands of subcontractors, one of which located in South Africa (*Araya* 2016: para 121-123). By comparison, access for the defendant corporation may be much easier: for example, an evaluator hired by *Nevsun* was able to make two field visits to Eritrea, conduct interviews with workers and officials, and review relevant internal files and reports (*Araya* 2016: 57-63). Finally, if a lawsuit results in an out-of-court settlement, the terms of the settlement will generally be confidential.

What impact could the litigation have on the subsequent establishment of social dialogue between the enterprise and workers in its global value chain? Research by Schrempf-Stirling and Wettstein (2021) showed that lawsuits for human rights violations in value chains had some impact on corporate behaviour: adoption of policies on human rights, conducting audits on the subject, and adherence to CSR instruments. In terms of social dialogue, the impact seems limited to increased collaboration with NGOs on the part of half of the enterprises (Schrempf-Stirling and Wettstein 2021: 555). However, examination of the *Das* and *Araya* cases in this regard is inconclusive. First, neither case involved trade unions nor promoted subsequent dialogue with trade unions. Second, regarding *Das* v. *Weston*, it can be noted that Loblaws, the Weston subsidiary involved in the Rana Plaza case, signed a tripartite agreement involving international trade unions about building safety in Bangladesh (*Accord on Fire and Building Safety in Bangladesh)* in 2013 and has since renewed its adherence to this agreement and its subsequent versions (Loblaws 2024: 53). But this agreement, signed shortly after the disaster, was more a reaction to the scale of the disaster and the widespread condemnation that followed than a reaction to the lawsuit filed in 2017. Nevsun Mining, for its part, was acquired in 2018 by a Chinese corporation, Zijin Mining (PR Newswire 2018). In its 2024 annual report, Zijin Mining states that it opposes forced labour and conducts audits in its value chains regarding respect for human rights. In Eritrea, these audits are curiously carried out by a smelter, and not by a third-party expert in the field, as is the case with Loblaws. No major human rights violations are reported. It should be noted that a separate section is devoted to the issue of forced labour, but only in relation to Xinjiang and the situation of the Uyghurs (Zijin Mining Group 2024: 9-33). These few elements lead to the conclusion that this is more a case of token accountability practices, or greenwashing, than an enterprise policy determined to combat forced labour in the Eritrean mine.

Nonetheless, legal proceedings do have an impact on enterprises other than those targeted, by highlighting the legal and reputational risks associated with human rights violations in their global value chains (Simons 2023: 385). The exercise of human rights due diligence can therefore be seen as a protection against this risk. To what extent will this exercise lead corporations to engage in social dialogue with workers in their global value chains? Will they apply due diligence in a managerial way, or will they simply settle for superficial compliance? Landau's study highlights the risk that the judicial interpretation of due diligence will be limited to verifying that codes of conduct have been put in place, without considering the shortcomings

of such an approach, particularly regarding respect for freedom of association (Landau 2023: 147).

Moreover, lawsuits seeking to establish a duty of care highlight that failure to implement it in value chains can constitute a financial risk. They may justify the shareholders' demands that the corporation protects corporate financial value. Thus, shareholder engagement, the second institutional experiment studied, is also based on the duty of reasonable diligence.

Subject of the next section will be to what extent it can help lay the foundations for social dialogue.

4 • The rise of shareholder engagement on issues related to working conditions

With the increasing financialization of the economy, many unions have added shareholder engagement to their toolkit to gain a voice at the corporate governance table (Jacoby 2021: 60). In using the powers associated with the shares held by union pension plans, they were able to submit proposals at the annual meetings of the corporations in their portfolios, ask questions, and participate in the election of directors (Bowley et al. 2024). For example, in 2002, a union pension plan used its shareholder status to form alliances and force the management of *The Bay* to comply with fundamental ILO conventions in its global value chain (Sayce and Gold 2011: 491).[12] Social dialogue could be established through shareholder proposals concerning human rights violations presented at the annual meetings of corporations (Hanin 2016) or other form of shareholder engagement, such as the search for allies among other shareholders (Martin et al. 2021). This dialogue brings together unionised workers' pension funds, other shareholders of the corporation, and its directors. It is usually preceded by backroom diplomacy, in which pension fund representatives seek support from other shareholders. Such support is crucial for union pension plans, which hold only a small fraction of outstanding shares.[13] In fact, a proposal must obtain more than three percent support from the total number of shares for which voting rights have been exercised in order to be resubmitted in a subsequent year (s. 137(5)(d) CBCA; s. 51(1) (a) Canada Business Corporations Regulations, 2001).[14]

The potential for shareholder engagement to spark dialogue on human rights issues stems from the expansion of the duty of care to include environmental, social, and governance (hereafter ESG) issues. More than 5,000 institutional investors, representing half of institutional assets under management (Principles for Responsible Investment 2024: 4), now adhere to the UN-backed Principles for Responsible Investment, thereby committing to being active shareholders and integrating ESG issues into their policies and practices (Principles for Responsible Investment. Principle 2).

Extending the duty of care to ESG issues facilitates dialogue on respect for human rights in value chains because it addresses two fundamental aspects. The first aspect relates to the acceptance of a proposal concerning respect for human rights. For a shareholder proposal to be admissible, it must be materially related to an enterprise's business or internal affairs and not be aimed at a personal claim or grievance (137 (5) b) CBCA). The recognition that directors have a duty of care to consider social and governance issues increases the legitimacy of a shareholder proposal asking the board of directors to take the necessary steps to ensure respect for human rights in its global value chain.

The second aspect facilitated by the broadening of the duty of care concerns the ability of institutional investors, including union pension plans, pension and mutual funds, to submit or support proposals concerning respect for human rights in value chains. In *common law* countries such as Canada, these investors are bound by a fiduciary duty of loyalty to serve only the interests of their beneficiaries (Grant 2021). They will only have the latitude to act if the human rights violation represents a financial risk, commonly referred to as *material*, to the corporation in which they hold shares (Richardson 2021: 74), unless their beneficiaries have given them an explicit mandate to take extra-financial issues into consideration (Curtiss et al. 2010). Extending due diligence to ESG issues allows these investors to justify their support for human rights proposals when engaging in dialogue with corporate executives about the management of risks related to potential human rights violations. The rise of responsible investment (Hawley 2015: 20), media campaigns denouncing working conditions in global value chains, disasters such as the collapse of the Rana Plaza building, the 2008 financial crisis, and widely publicised lawsuits have helped highlight the materiality of the risks posed by neglect of ESG issues, thereby justifying their consideration by investors. As Hawley puts it, "what is material can move markets" (2015: 22).

It is therefore clear that a dialogue initiated through shareholder engagement has the merit of raising issues relating to respect for human rights and workers' rights in the global value chain at the level of corporate governance of the parent corporation. It promotes both formal and informal dialogue between shareholders and management on these issues and enables trade unions, through their shareholdings in union pension funds, to seek new allies in the financial world and add forums where they can voice their concerns.

[12] Union pension plans, established by unions for their members, must be distinguished from public pension plans such as La Caisse (formerly Caisse de dépôt et de placement du Québec) and workers' pension plans that are not managed by unions, such as the Ontario Teachers' Pension Plan. To these must be added labour-sponsored investment funds such as the Fonds de solidarité FTQ registered as a savings plan fund (Quarter et al. 2001)

[13] There is generally one vote per voting share held, so one shareholder may hold thousands of shares, and another may hold only a few dozen.

[14] The percentage of support rises to 6% if the proposal has been presented at two annual meetings, and to 10% if it is presented at three meetings.

It enables unions to highlight human rights violations in a global value chain within investor forums, in the hope of eventually establishing themselves as interlocutors, with the aim of creating a permanent structure for dialogue within the transnational corporation (Martin et al. 2021: 65).

However, the ability of shareholder engagement to create a space for dialogue with the management of corporations regarding violations of workers' human rights is conditioned by three factors. The first factor concerns whether the corporation is public or private. Shareholder engagement is more feasible in the case of a public corporation, whose shares are listed and traded on the stock exchange, than in the case of a private corporation, which does not raise capital through public offerings. In private corporations, only a handful of shareholders will be able to make their voices heard at annual meetings and use the various tools of shareholder engagement. In addition, private corporations are not subject to as many disclosure rules, which makes their operations opaque (Coates 2023: 51-93). Incidentally, the number of private equity funds continues to grow and has exceeded the capital raised through public offerings every year since 2011 (Abraham et al. 2024).

The second factor relates to the regulations applicable to shareholder engagement, which depend on the jurisdiction where the corporation is incorporated and the jurisdiction of the stock exchange where the shares are traded. The Canadian corporate environment is permissive, which facilitates shareholder engagement. Shareholders are allowed to submit proposals if they have held, for more than six months, one percent of the total number of shares or a value of two thousand dollars (s 137 (1.1) CBCA and s. 46 CBCR). Other jurisdictions are less favourable to shareholder engagement. In the United States in particular, the current tightening of U.S. Securities and Exchange Commission (hereafter SEC) regulations and the interpretations that have prevailed since February 2025 (Lewis and Foda 2025) reduce the possibilities for shareholder engagement on human rights issues. SEC-regulations stipulate that a shareholder who holds only $2,000 worth of shares must wait three years to submit a proposal (but only one year if the shares are worth $25,000)[15] and require a higher level of support for a proposal to be submitted in a subsequent year.[16] Finally, these regulations provide for more grounds for excluding proposals. Corporations may exclude proposals that relate to the ordinary course of a company's business (SEC, Staff Legal Bulletins, Rule 14a-8(i)(7)), either because they concern matters that cannot be directly controlled by shareholders as they are fundamental to management's ability to run a business on a day-to-day basis, or because they constitute micromanagement (Division of Corporation Finance. SEC 2025). In 2025, the SEC ruled that a proposal asking Ford Motor Inc. to adopt and disclose a non-interference policy committing to respect the human rights to freedom of association and collective bargaining in its operations constituted micromanagement and could be excluded (SEC 2025a).

The third factor affecting shareholder engagement is the obligation to translate respect for human rights, including workers' rights, into material risks for the parent company. Investors bound by a fiduciary duty will only engage in shareholder activism if the potential benefits of their actions, or the risks avoided, outweigh the time and energy expended (Curtiss et al. 2010: 305). However, the material risks posed by human rights violations vary across corporations, sectors, and regions.

The comparison between the Couche-Tard and Amazon cases illustrates how these last two factors determine the potential for shareholder engagement to create dialogue with corporate management. Both cases are based on similar facts. They involve the closure of stores as part of a union certification campaign. *Alimentations Couche-Tard*, a Quebec-based corporation with transnational operations whose shares are traded on the Toronto Stock Exchange, closed two of its Quebec convenience stores in 2011 after employees at those stores took steps to unionise. A shareholder campaign was conducted by the union confederation's pension plan in parallel with legal action brought by the confederation. A shareholder proposal calling on Couche-Tard to adopt a policy in line with ILO conventions (RRCSN 2011) was tabled at the company's annual general meeting. Although the proposal received only negligible support (0.83%) and the outcome of the legal proceedings was uncertain, an agreement was finally reached by the union (Dubuc 2013; Martin 2018).

In turn, *Amazon*, a US transnational corporation whose shares are traded on the US NASDAQ market, closed all its Quebec facilities in January 2025 and outsourced the sorting and delivery of its products throughout the province (Caillou 2025). The closure came after warehouse workers obtained union certification, despite Amazon's objections (*Syndicat des travailleuses et travailleurs d'Amazon Laval* – CSN 2024). However, the enterprise had already been the subject of a shareholder campaign for several years concerning its anti-union practices and demanding an audit of its compliance with freedom of association in its establishments. The campaign, coordinated by a Canadian shareholder association, brought together some 20 investors and obtained 34.9% of the votes at the 2023 annual meeting (SHARE 2023) and 32% in 2024 (SHARE 2024). But despite the considerable support the proposal received in previous years and the wave of closures in Quebec, the SEC allowed Amazon in 2025 not to submit this proposal at its annual meeting because it related to the ordinary course of the company's business (SEC 2025b).

Comparing the two cases, we see first that the materiality of a social risk varies across context. The reputational risk generated by anti-union closures of establishments in Quebec is more obvious for a corporation based in Quebec than for one based outside the country. Furthermore, Quebec stands out from the rest of North America with a neo-corporatist economy that increases the influence of unions (Sayce and Gold 2011: 494) and players who have helped institutionalise shareholder engagement in Canada (Berthelot 2022). Secondly, the comparison highlights the role, facilitating or not, of the regulatory framework and its potential modifications. The very broad interpretation of the right of US corporations to exclude proposals relating to the ordinary course of business, which justified the rejection of the 2025 shareholder proposal on respect for freedom of association, effectively reverses a previous practice of the U.S. SEC, which considered shareholder proposals calling for the adoption of concrete policies on human rights to be appropriate subjects

[15] Or $15,000 for two years, or $25,000 for one year: Securities and Exchange Commission, Staff Legal Bulletins, Rule 14a-8(b)(1)(i).
[16] 5% for a submission in another year; 15% for a resubmission after 2 years, and 25% for a submission after 3 years. Securities and Exchange Commission, Staff Legal Bulletins, Rule 14a-8(i)(12)(i).

(Lewis and Foda 2025). Thirdly, the fact that both cases are from the Quebec province underlines the enabling role of state policies and economic culture in facilitating social dialogue. On one hand, Quebec legislation is unique in North America in facilitating unionization through the possibility of imposing a first collective agreement. On the other hand, the economic and social importance of Quebec labour-sponsored investment funds in the development of its corporate sector (Sayce and Gold 2011: 493) explain the greater traction unions had in the homegrown Couche-Tard case than in the Amazon case.

In conclusion to this section on the potential contribution of shareholder engagement to the establishment of social dialogue, it is necessary to emphasise the fundamentally paradoxical nature of using the position of shareholders, as providers of capital, to foster social dialogue between the company and its workers. As explained, shareholder engagement is based on an increased acceptance of shareholders using their powers to influence the social objectives of companies. It therefore helps to legitimise active shareholding and increase the powers of shareholders in the governing corporation to influence corporate decisions. The risks of co-optation and capture should not be overlooked: shareholder campaigns on social issues could be nothing more than a facade legitimising financial capitalism or could be used to serve the interests of shareholders and corporations (Martin 2018). Trade union pension schemes are themselves caught in a dilemma with no easy solution: either they exercise their fiduciary roles and seek to maximise shareholder value, pursuing socio-economic objectives only to the extent that these do not conflict with the profitability of the corporation for capital providers, or they fail in these duties and side exclusively with the workers (Grant 2021).

5 • Concluding remarks: the limits of due diligence and institutional experimentation in establishing social dialogue between transnational enterprises and their workers

The development of human rights due diligence has been the focus of advocates for greater accountability of transnational corporations for working conditions throughout their value chains. This strategy has undeniable advantages (McInerney-Lankford 2019). Let us mention two of them. The first is that it can be developed at the transnational level without legislative intervention or treaties, through guiding principles such as those of the United Nations and the OECD and implemented by third-party organisations such as development banks. Another advantage lies in the multiplicity of forms and arenas in which due diligence can be deployed. It can be designed both as a means of prevention and as a justification for remedying a violation, invoked within a board of directors, a legal proceeding, a media campaign, or before a court. However, as revealed by the study of two Canadian experiments based on non-legislated due diligence, its contribution to the establishment of social dialogue is clearly limited.

The two institutional experiments studied have the merit of bringing the issue of working conditions and freedom of association for all workers to the attention of the head corporation of a global value chain and, in some cases, enabling an agreement to be reached. However, both experiments have the major flaw of not including duly elected worker representatives among their participants. This absence results in distinct disadvantages in both experiments studied. In the case of disputes, the lack of representation prevents a settlement, such as the one reached in the *Nevsun* case, from reaching workers who are not parties to the legal action and contributing to a real improvement in their working conditions. In the case of shareholder engagement by union pension funds, this absence can sometimes be mitigated by their coordination with union action, which may eventually lead, as in the *Couche-Tard* case, to the conclusion of a union agreement. But beyond this exceptional result, the normal exercise of shareholder engagement requires that its protagonists translate every issue they raise into an argument for commercial profitability for the corporation. In doing so, they contribute to legitimising the model of financial capitalism, further privatised regulation (AFL-CIO 2013) and prevent consideration of another socio-economic model. The impact of including union pension funds in corporate governance as shareholders forces them to participate in a dialogue whose focus is the interests of the corporation itself rather than the workers' interests.

This is probably the biggest pitfall of human rights due diligence: forcing its proponents to focus on risk prevention or cost-benefit analysis, the famous *business case*. While social dialogue has the main merit of legitimising consideration of the socio-economic sphere (Papadakis 2012: 131) within corporate governance, shareholder engagement implies giving up advocating for the intrinsic importance of human rights and the special status of workers within the enterprise. A similar risk looms over the implementation of *the duty of care*, which could be limited to its role in preventing risks for the company at the top of the value chain. What place will social dialogue find if the corporation at the top of the enterprise decides to limit risks by implementing a corporate code of conduct applied by intermediaries (Landau 2023), or by distancing itself further from the workers in its global value chain?

Furthermore, studying the contribution of institutional experiments to social dialogue reveals the impact of the lack of government or legislative support on its implementation. As Ishikawa (2003) notes, the role of government, whether directly or indirectly through legislation, is essential to making social dialogue *possible and effective*. In both the case of lawsuits seeking recognition of a duty of care and in the case of shareholder engagement, the Canadian government has taken no measures to facilitate these experiments or the conduct of social dialogue. In doing so, it leaves the field open for corporate leaders to use all legal means to refuse to engage in discussion. The resulting adversarial dynamic means that it

cannot even be claimed that the experiments studied allow for civil dialogue in the absence of social dialogue. Clearly, the consensual dynamic that characterises civil dialogue is not present.

The cases studied also highlight how CSOs and trade unions are often engaged in parallel play in Canada. No unions were involved in the *Nevsun* nor *Das* cases. In the latter, international trade unions were involved at a higher level in negotiating the Bangladesh Accord, but not in the legal proceedings seeking remedies for the victims. By comparison, unions, CSOs and investors came together in the *Amazon* case and were able to attain impressive support at the 2023 and 2024 shareholders' assembly. While this coalescing hasn't brought a positive outcome for the Quebec Amazon workers whose plant was closed, similar unions' involvement in due diligence experiments may be a way forward for union revitalisation (Gold et al. 2020).

In conclusion, other Canadian experiments based on due diligence could have been the subject of a similar study. One recent Canadian government initiative is worth mentioning: the creation of a Canadian Ombudsman for Corporate Responsibility whose mandate is to promote the implementation of the UN and OECD Guidelines among Canadian enterprises operating abroad in the extractive (mining, gas, or oil) or apparel sectors, advise them on these issues, and provide informal mediation services (Appendix to Decree C.P. 2019-299, 2019).[17] As part of its mandate, the Ombudsman may recommend that a case be referred to arbitration or to Canada's National Contact Point, established to implement the OECD Guidelines for Multinational Enterprises, if he/she considers that the case falls within its jurisdiction. At the time of writing, the position was still vacant, since the departure of Ms Sheri Meyerhoffer in May 2024. To what extent this creation facilitates social dialogue deserves to be the subject of another study.

[17] https://core-ombuds.canada.ca/core_ombuds-ocre_ombuds/mandate-mandat.aspx?lang=fra.

BIBLIOGRAPHY

a. Regulatory instruments:

Canada Business Corporations Act (CBCA). (1985, R.S.C., c. C-44).

Canadian Business Corporations Regulations (2001) (SOR/2001-512).

Directive (EU) 2024/1760 of the European Parliament and of the Council of June 13, 20242024, on corporate sustainability due diligence and amending Directive (EU) 2019/1937.

Fighting Against Forced Labour and Child Labour in Supply Chains Act (S.C. 2023, c. 9).

Law No. 2017-399 of March 27, 2017, on the duty of care of parent companies and contracting companies, JO, March 28, 2017 (France).

Lieferkettensorgfaltspflichtengesetz [Supply Chain Due Diligence Act]. Germany. https://www.gesetze-im-internet.de/lksg/.

Norway's Transparency Act (2022): *Act relating to enterprises' transparency and work on fundamental human rights and decent working conditions*

SA 8000 standard from Society Accountability International https://sa-intl.org/programs/sa8000/.

Securities and Exchange Commission (2002) 'Staff Legal Bulletins: Rule 14a'. https://www.sec.gov/interps/legal/cfslb14a.htm.

Wet verantwoord en duurzaam internationaal ondernemen [Responsible and Sustainable International Business Conduct Act], November 2, 2022. Netherlands, still pending.

b. Case law:

Araya v. *Nevsun Resources Ltd*, 2016 BCSC 1856, aff'd 2017 BCCA 401, aff'd 2020 SCC 5,

David Brian Chandler and Cape Plc, [2012] EWCA Civ 525.

Choc v. *Hudbay*, 2013 ONSC 1414.

Das v. *Weston* 2017 ONSC 4129, para. 4, aff'd 2018 ONCA 1053, leave to appeal to Supreme Court of Canada denied with costs: 2019 CanLII 73201.

Garcia v. *Tahoe Resources Inc.*, 2015 BCSC 2045, para. 8, inf. by 2017 BCCA 39.

Matiko John et al. v. Barrick Gold Corporation, ONSC Court File No. CV-22-00690649-0000 (Statement of Claim), dismissed by Matiko John v. Barrick Gold Corporation, 2024 ONSC 6240. https://www.barrickontrial.ca/wp-content/uploads/2025/02/2024-MatikoJohnAll_V_Barrick-Gold_ONSC.pdf.

SA La Poste v. Syndicat SUD PTT, Paris Court of Appeal, Judgment of June 17, 2025, No. RG 24/05193 - No. Portalis 35L7-V-B7I-CJDK3.

Syndicat des travailleuses et travailleurs d'Amazon Laval - CSN / Laval Amazon Workers Union - CSN v. *Amazon Canada Fulfilment Services,* 2024 QCTAT 3754 (CanLII), & lt; https://canlii.ca/t/k7fng.

Vedanta Resources Plc and Konkola Copper Mines Plc v Lungowe and Ors. [2019] UKSC 20; Alame and others -v- Shell, [2025] EWHC 1539 (KB).

c. Works Cited

Abraham, J., et al. 2024. "ESG Disclosures in the Private Equity Industry". *Journal of Accounting Research* 62(5): 1611–1660.

AFL-CIO. 2013. *Responsibility Outsourced: Social Audits, Workplace Certification and Twenty Years of Failure to Protect Worker Rights*. AFL-CIO report. https://aflcio.org/reports/responsibility-outsourced.

Barraud de Lagerie, P., et al. 2020. "La mise en œuvre du devoir de vigilance: une managérialisation de la loi ?" *Droit et société* 106(3): 699–714.

Bercusson, B. 1992. "Maastricht: a fundamental change in European labour law". *Industrial Relations Journal* 23: 177-190.

Berthelot, S., et al. 2022. "Institutionalization of Shareholder Activism in Canada". *Revue française de gouvernance d'entreprise* 26: 33–56.

Bir, J. 2019. "The European social dialogue". In: *The Future of Europe*. Brussels: European Trade Union Institute.

Bonnitcha, J. and R. McCorquodale. 2017. "The Concept of 'Due Diligence' in the UN Guiding Principles on Business and Human Rights". *European Journal of International Law* 28(3): 899–919.

Bourguignon, R. and M. Helfen. 2022. "Chapter 2. Transnational social dialogue and the dialectic of conflictual partnership". In: *Organizational Analysis of Social Dialogue*. Paris: EMS Éditions, 44–67.

Bourguignon, R. and M-A. Hennebert. 2021. "Building transnational social dialogue: a process-based analysis of the effectiveness of international framework agreements". In: *Decent Work in a Globalized Economy: Lessons from Public and Private Initiatives*. Delautre, G., Echeverria Manrique, E., and C. Fenwick, eds. Geneva: ILO.

Bourguignon, R. and A. Stimec. 2022. "Introduction. Penser les dynamiques organisationnelles pour penser le dialogue social". In: *L'analyse organisationnelle du dialogue social*. Paris: EMS Éditions, 8–20.

Bowley, T., et al. 2024. "Shareholder Engagement inside and outside the Shareholder Meeting". In: *Board-Shareholder Dialogue: Policy Debate, Legal Constraints and Best Practices*. Strampelli, G. and L. Enriques, eds. Cambridge: Cambridge University Press. 368–390.

Brend, Y. 2020. "Landmark settlement is a message to Canadian companies extracting resources overseas: Amnesty International". *CBC News*, 23 October 2020.

Bright, C. and N. Bueno. 2020. "Implementing Human Rights Due Diligence through Corporate Civil Liability". *International and Comparative Law Quarterly* 69(4): 789–818.

Caillou, A. 2025. "Amazon Canada closes its seven warehouses in Quebec". *Le Devoir*, 22 January 2025.

Coates, J. 2023. *The Problem of Twelve: When a Few Financial Institutions Control Everything*. New York: Columbia Global Reports.

Comeau, Y., et al. 2002. "The social economy and the 1996 Socioeconomic Summit: the assessment of actors in the field". *Nouvelles pratiques sociales* 15(2): 186–202.

Curtiss, F., et al. 2010. "The Institutional Investor's Role in 'Responsible Ownership'". In: *The Future of Financial Regulation*. MacNeil, IG. and J. O'Brien., eds. Oxford: Hart Publishing. 303–320.

Deloitte (n.d.) *Stakeholder Dialogue Strategy*. Available at: https://www.deloitte.com/fr/fr/services/consulting-risk/services/dialoguer-avec-ses-parties-prenantes.html.

Division of Corporation Finance, Securities and Exchange Commission. 2025. "Shareholder Proposals: Staff Legal Bulletin No. 14M (CF)". *Publication of CF Staff Legal Bulletin*. 12 February 2025.

Dubuc, A. 2013. "Couche-Tard: l'entente surprend deux spécialistes". *La Presse Affaires*, 30 October 2013.

European Economic and Social Committee. 2022. "Social Dialogue within the Green Transition". Press statement, 13 October 2022.

Ferreras, I., et al. 2020. "Institutional experimentation at work, for better (or for worse)". *Transfer: European Review of Labour and Research* 26(2): 119–125.

Foster, J. 2011. "Talking Ourselves to Death? The Prospects for Social Dialogue in North America—Lessons from Alberta". *Labor Studies Journal* 36(2): 288–306.

Gereffi, G. 1994. "The Organization of Buyer-Driven Global Commodity Chains: How US Retailers Shape Overseas Production Networks". In: *Commodity Chains and Global Capitalism*. Gereffi, G. and M. Korzeniewicz, eds. Westport, CT: Praeger Publishers.

Gold, M., et al. 2020. "Moving out of the comfort zone? Trade union revitalisation and corporate social responsibility". *Journal of Industrial Relations*, *62*(1), 132-155.

Government of Canada. 2025. *Canada's Critical Minerals*. Ottawa: Government of Canada. https://www.canada.ca/en/campaign/critical-minerals-in-canada/critical-minerals-an-opportunity-for-canada.html.

Government of Canada. 2026. *Canadian Mining Assets*. Information bulletin, January. Ottawa: Government of Canada. https://natural-resources.canada.ca/minerals-mining/mining-data-statistics-analysis/minerals-mining-publications/canadian-mining-assets.

Grant, BC. 2021. "The Dual-Agency Problem of Labor Union Pension Fund Shareholder Activism". *Employee Responsibilities and Rights Journal* 33(4): 253–263.

Guardiancich, I., and O. Molina, 2021. "From gradual erosion to revitalization: National Social Dialogue Institutions and policy effectiveness". *European Journal of Industrial Relations* 28(1): 85–103.

Hanin, F. 2016. "The transformation of social dialogue in the era of conservative democracy, financial constraints, and trade union innovations". In: *Social Dialogue, Labor Relations, and Trade Unionism: Historical and International Perspectives*. Lapointe, P-A., ed. Québec City: Presses de l'Université Laval. 281–313.

Hawley, JP. 2015. "Setting the Scene: The Basics and Basis of Responsible Investment". In: *The Routledge Handbook of Responsible Investment*. Hebb, T., et al. eds. London: Routledge. 16–33.

Hennebert, M. 2022. "Chapter 3. North America: in search of social dialogue". In: *Organizational Analysis of Social Dialogue*. Paris: EMS Éditions, 68–90.

Hennebert, M., et al. 2012. "Concertation sociale et négociation collective au Québec en temps de crise: restructurations et découplage". *Travail et Emploi* 132: 65–77.

Hyman, R. 2010. *Social Dialogue and Industrial Relations during the Economic Crisis: Innovative Practices or Business as Usual?* Geneva: International Labour Organization.

International Labour Conference. 2018. *Provisional Record, 107th Session*. Geneva: ILO.

International Labour Office. 2013. *Social Dialogue: Recurrent Discussion under the ILO Declaration on Social Justice for a Fair Globalization. Report VI, International Labour Conference, 102nd Session*. Geneva: ILO.

International Labour Organization. 2011. *Guiding Principles on Business and Human Rights: Implementing the United Nations "Protect, Respect and Remedy" Framework*. Report of the Special Representative of the Secretary-General, John Ruggie. UN Doc A/HRC/17/31.

International Labour Organization. 2019. *Cross-Border Social Dialogue*. Report for discussion at the Meeting of Experts on Cross-border Social Dialogue (MECBSD/2019). Geneva: ILO.

Ishikawa, J. 2003. *Key Features of National Social Dialogue: A Social Dialogue Resource Book*. Geneva: ILO.

Jackson, G., et al. 2013. "Across Boundaries: The Global Challenges Facing Workers and Employment Research". *British Journal of Industrial Relations* 51(2): 205–223.

Jacoby, SM. 2021. "Labor's Shares". In: *Labor in the Age of Finance: Pensions, Politics, and Corporations from Deindustrialization to Dodd-Frank*. Princeton, NJ: Princeton University Press, 60.

Johnston, K., and S. Bittle. 2023. "Extracting Profits: State Regulation and the Canadian Ombudsperson for Responsible Enterprise". *Canadian Journal of Law and Society / Revue Canadienne Droit et Société*. 38(1):23-45.

Katsivela, M. 2017. "Le manquement à la norme de diligence et la faute dans le cadre du délit de négligence (common law) et de la responsabilité extracontractuelle du fait personnel (droit civil) au Canada: une étude compare", Canadian Bar, *Review* 95 (2): 535-555.

Landau, I. 2023. *Human Rights Due Diligence and Labour Governance*. Oxford: Oxford University Press.

Lewis, S., and K. Foda. 2025. "Beyond the Pendulum: Lessons from SEC's Implementation of Staff Legal Bulletin 14M". *Harvard Law School Forum on Corporate Governance*, 26 June.

Loblaws. 2024. *Live Life Well: 2024 Environmental, Social, and Governance Report*.

Lo Faro, A. 2012. "Bargaining in the Shadow of 'Optional Frameworks'? The Rise of Transnational Collective Agreements and EU Law". *European Journal of Industrial Relations* 18(2): 153-165.

Martin, I. 2018. "The Use of Transnational Labour Law in Steering Socially Responsible Corporate Governance towards Increased Worker Protection". *Canadian Journal of Law and Society / Revue canadienne droit et société* 33(2): 159–176.

Martin, I. 2020a. "L'entreprise existe-t-elle en droit?" In: *Les relations industrielles en question*. Jalette, P., ed. Montréal: Éditions de l'Université de Montréal.

Martin, I. 2020b. "Case Against Canadian Mining Company Alleging Use of Forced Labor in Eritrea May Proceed in Canadian Court". *International Labor Rights Case Law* 6: 191–198.

Martin, I., et al. 2021. "Against, before, or with Corporate Social Responsibility? Unions' Perception and Mobilization of CSR Regulation in Transnational Mining Enterprises". *Canadian Labour & Employment Law Journal* 23: 37–72.

Martin, I. and J. Falardeau-Papineau. 2024. "Impact on Remedies of the Use of Corporate Governance Norms to Address Forced Labor". *International Journal of Comparative Labour Law and Industrial Relations* 40(4): 420–444.

Marx, A., Wouters, J. and LB. Rayp. (eds) (2015) *Global Governance of Labor Rights: Assessing the Effectiveness of Transnational Public and Private Policy Initiatives*. Cheltenham: Edward Elgar Publishing.

McInerney-Lankford, S. 2019. "Human rights, international financial institutions and environmental and social due diligence: The value added of HRIA". In: *Handbook on Human Rights Impact Assessment*. Cheltenham: Edward Elgar Publishing. 405–423.

Molina, O. 2022. *The Role of Tripartite Social Dialogue in Facilitating a Just Transition: Experiences from Selected Countries*. ILO Working Paper No. 76. Geneva: International Labour Organization.

Murray, G., et al. 2020. "Disruption and Re-regulation in Work and Employment: From Organizational to Institutional Experimentation". *Transfer: European Review of Labour and Research* 26(2): 135–156.

Natural Resources Canada. 2023. *Canadian Mineral Assets (CMA) by Country and Region, 2022 and 2023 (dpr)*. Ottawa: Government of Canada.

OECD. 2023. *OECD Guidelines for Multinational Enterprises on Responsible Business Conduct*. Paris: OECD Publishing. doi:10.1787/0e8d35b5-fr.

Özkan, K. 2025. "What good is due diligence without the people it's meant to protect?". IndustriALL, 22 May 2025.

Papadakis, K. 2012. "Global Framework Agreements: Bridging Social Dialogue and Civil Dialogue?" In: *Renewing Democratic Deliberation: The Future of Social and Civil Dialogue in Europe*. De Munck, J., et al., eds. Brussels: Peter Lang, 129–144.

Papadakis, K. 2021. "Social dialogue at the dawn of the ILO's centenary: Sorting out challenges, setting priorities for the future". In: *The Governance of Labour Administration*. Heyes, J. and L. Rychly, eds. Cheltenham: Edward Elgar Publishing.

Parance, B., et al. 2018. "Regards croisés sur le devoir de vigilance et le 'duty of care'". *Journal du droit international* 1: 21–40.

Pekdemir, C., et al. 2015. "On the Transformative Capacity of Private Fair Labor Arrangements". In: *Global Governance of Labor Rights: Assessing the Effectiveness of Transnational Public and Private Policy Initiatives*. Marx, A., Wouters, J. and LB. Rayp, eds. Cheltenham: Edward Elgar Publishing, pp. 209-229.

Perillo, P. S. 2022. "The Role of the OECD Guidelines for Multinational Enterprises and the National Contact Points in Shaping the Future of Corporate Accountability". *International Community Law Review*, 24(1-2), 36-56.

Preuss, L. 2008. "A reluctant stakeholder? On the perception of CSR among European trade unions". *Business Ethics: A European Review* 17(2): 149–160.

Principles for Responsible Investment. 2024. *Annual Report 2024*. London: Principles for Responsible Investment.

Proforest. 2022. "Shaping a social dialogue culture for more sustainable palm oil". News. 19 December 2022.

Pulignano, V., et al. 2020. "Workplace Change and Institutional Experimentation: A Case Study of Service-Sector Work in Europe". *Transfer: European Review of Labour and Research* 26(2).

Quarter, J., et al. 2001. "Social Investment by Union-Based Pension Funds and Labour-Sponsored Investment Funds in Canada". *Relations industrielles / Industrial Relations*, 56(1), 92–115.

Richardson, BJ. 2012. "Fiduciary and Other Legal Duties". In: *Socially Responsible Finance and Investing: Financial Institutions, Corporations, Investors, and Activists*. Baker, HK. and JR. Nofsinger, eds. Hoboken, NJ: John Wiley and Sons, 69–74.

RRCSN. 2011. "Proposal No. 6". In: *Management Proxy Circular, Alimentation Couche-Tard*. Annex C, p. 8.

Ruggie, JG. 2018. "Multinationals as Global Institutions: Power, Authority and Relative Autonomy". *Regulation and Governance* 12(3): 317–333. doi:10.1111/rego.12154.

Sayce, S., and M. Gold. 2011. "Revisiting industrial democracy and pension trusteeship: The case of Canada". *Economic and Industrial Democracy* 32(3): 477–497.

Schilling-Vacaflor, A. 2021. "Putting the French Duty of Vigilance Law in Context: Towards Corporate Accountability for Human Rights Violations in the Global South?". *Human Rights Review* 22(1): 109–127.

Schrempf-Stirling, J., and F. Wettstein. 2017. "Beyond Guilty Verdicts: Human Rights Litigation and its Impact on Corporations' Human Rights Policies". *Journal of Business Ethics* 145(3): 545–562.

SEC (2025a) "2024–2025 No-Action Responses Issued under Exchange Act Rule 14a-8: Amazon". 4 April 2025. https://www.sec.gov/rules-regulations/shareholder-proposals/2024-2025-responses-issued-under-exchange-act-rule-14a-8.

SEC. 2025b. "2024–2025 No-Action Responses Issued under Exchange Act Rule 14a-8: Ford Motor Company". 19 March 2025. https://www.sec.gov/files/corpfin/no-action/14a-8/sistersford31925-14a8.pdf.

SHARE. 2023. "Proposal on Freedom of Association Receives Strong Support from Shareholders at Amazon AGM". Press statement, 29 May 2023. https://share.ca/blog/press-release-proposal-on-freedom-of-association-and-collective-bargaining-receives-strong-support-from-shareholders-at-amazon/.

SHARE 2024. "Proposal on Labour Rights at Amazon Maintains Strong Investor Support". Press statement, 28 May 2024. https://share.ca/blog/amazon-labour-rights-strong-support/

Simons, P. 2023. "Developments in Canada on Business and Human Rights: One Step Forward, Two Steps Back". *Leiden Journal of International Law* 36(2): 363–388.

Studnicki-Gizbert, D. 2016. "Canadian Mining in Latin America (1990 to Present): A Provisional History". *Canadian Journal of Latin American and Caribbean Studies* 41(1): 95–113.

Supiot, A. 2010. *L'esprit de Philadelphie*. Paris: Éditions du Seuil.

United Nations. 2011. *Guiding Principles on Business and Human Rights: Implementing the "Protect, Respect and Remedy" Framework*. Report of the Special Representative of the Secretary-General, John Ruggie. UN Doc A/HRC/17/31.

Unifor. 2025. "Unifor Takes Action to End Human Trafficking". Press statement. 18 February 2025.

Weil, D. 2014. *The Fissured Workplace: Why Work Became So Bad for So Many and What Can Be Done to Improve It*. Cambridge, MA: Harvard University Press.

Zijin Mining Group Co. 2024. *2024 Sustainability Report: Providing the Materials that Improve Standards of Living in a Low Carbon Future*.

B.

BROADENING AND VARYING THE SCOPE AND INSTRUMENTS

03

Shakirudeen Taiwo

School of Economics, University of Johannesburg, South Africa

Social dynamics and workplace industrial relations: evidence from multinational firms in Africa

Shakirudeen Taiwo

ABSTRACT

This contribution investigates how indigenous social dynamics influence workplace industrial relations in multinational corporations operating across Africa. While traditional IR literature often emphasises legal frameworks and formal grievance mechanisms, this study foregrounds the role of informal socio-cultural norms - such as trust, communication styles, hierarchy, and community values - as critical determinants of industrial harmony. Using a cross-sectional survey across African countries and sectors, it examines the relationships between organisational culture, employee voice, trust in management, and conflict resolution, with a focus on the moderating effects of social dynamics. Findings reveal that trust in management is the most significant predictor of industrial harmony, followed by organisational culture and employee voice. These effects are notably enhanced or constrained by underlying social dynamics. In environments with strong interpersonal trust, respect for authority, and communal engagement, formal IR mechanisms are more effective, and conflicts are less frequent. Conversely, misalignment between organisational policies and local social norms exacerbated workplace tensions. The study recommends adopting hybrid industrial relations models blending formal procedures with informal, culturally sensitive mechanisms. It calls for trust-building strategies and highlights the need for managers and policymakers to reimagine industrial relations as a socially embedded, rather than purely institutional process.

Keywords: industrial relations, social dynamics, corporate social responsibility, workers' involvement, social dialogue

INTRODUCTION

Multinational corporations (hereafter MNCs) profoundly shape the contemporary globalised economy, wielding disproportionate influence over human capital management. According to the International Labour Organisation, 82,000 MNCs and their 810,000 subsidiaries employ 77 million people worldwide, cementing their pivotal roles in global trade, industrial development, and employment practices (ILO 2020). These entities often introduce innovative industrial relations while disrupting host-country norms, particularly by prioritising home-country business systems on contentious issues like trade union recognition (Edwards et al. 2022). In Africa, where MNC expansion accelerated amid resource booms and market liberalisation, this tension manifests acutely, transforming workplace dynamics as firms grapple with diverse cultural, organisational, and institutional frameworks far removed from their origins.

African industrial contexts defy the relative homogeneity of advanced economies, blending plural legal traditions - colonial legacies, customary laws, and post-independence reforms - with evolving employment practices and deeply entrenched communal values. Norms of hierarchy, community, authority, and communication do not merely provide a backdrop for operations; they actively shape how employees perceive fairness, resolve disputes, and engage in dialogue (Lamptey and Debrah 2019; Budhwar and Mellahi 2018; Kamoche et al. 2003; Horwitz 2017). For instance, in Nigeria's oil and gas sector or South Africa's manufacturing hubs, communal solidarity often trumps individualistic incentives, influencing everything from grievance handling to loyalty. Yet, much literature fixates on formal mechanisms, legal frameworks, institutionalised bargaining, and unions, overlooking these social undercurrents (Brewster and Wood 2014). This oversight is critical in Africa, characterised by institutional fragmentation, cultural heterogeneity, and historical disruptions like structural adjustment programs, which amplify the role of employee-centric variables such as perceived voice, interpersonal trust, and cultural integration (Jackson 2014).

This study investigates how host-country social structures shape employer-employee interactions in African MNCs, centering on five interconnected constructs: organizational culture, employee voice, trust in management, conflict resolution mechanisms, and broader social-cultural dynamics. It posits that true industrial harmony - beyond mere strike absence to encompass collaborative dialogue, mutual respect, and sustained engagement - demands embedding these elements into corporate strategies. Empirical analysis of MNCs across key African markets reveals local social patterns as dual enablers and mediators. Firms aligning decision-making with cultural norms for consensus-building foster higher trust and lower conflict, delivering favourable worker outcomes - prompt grievance resolution, equitable promotions - even absent robust unions. Informal channels shine here: in hierarchical or bureaucratic structures, workers leverage trusted peer networks or spokespersons to voice concerns, bypassing rigid protocols. This echoes ubuntu-inspired relationalism in Southern Africa or extended family patronage in West Africa, where social embeddedness sustains cooperation amid weak formal institutions.

These insights challenge universalist assumptions in industrial relations theory, which privilege Western models of adversarial bargaining. Instead, they advocate contextualised frameworks that integrate social capital theories (e.g., Putnam 1993) with African indigenous paradigms, such as indigenisation (Zoogah 2008). For MNCs, the implications are strategic: hybrid dialogue models - marrying formal committees with informal spaces like welfare groups, team-building games, or community catch-ups - enhance responsiveness beyond wages or disputes. In practice, this could mean training expatriate managers in local relational norms or co-designing policies with elder councils in rural operations, reducing misalignment risks that fuel discord (Jackson 2014).

Theoretically, this work enriches the field by anchoring workplace dialogue within Africa's social ecosystems, demonstrating social embeddedness as a harmony enhancer rivalling formal tools. In practice, it equips managers with actionable hybrid strategies that inform policies for stable, productive environments amid Africa's demographic dividend and investment surge.

The paper is structured as follows: sections one and two robustly discuss the conceptual overview, including theoretical review, and materials and methods. Section three presents the empirical results and discusses them. Section four presents the conclusions and policy recommendations.

1 • Conceptual Overview

The dynamics of workplace and labour relations are increasingly becoming complex. This situation is due to these MNCs' integration of diverse cultural, institutional, and organisational frameworks as demanded by their operating environment. Thus, understanding how these factors shape industrial relations is important to ensure stable and cooperative workplaces for MNCs operating in Africa (Adeleye et al. 2020). This section explores the roles of organisational culture, employee voice, trust in management, conflict-resolution mechanisms, and social and cultural dynamics in shaping industrial harmony in multinational firms operating across African regions.

1.1 Defining Key Concepts

Social Dynamics of Employment

This concept refers to the intricate patterns of interaction, communication, and relationships that emerge within the workplace. These dynamics are not static; they are shaped by a confluence of factors, including the overarching organisational culture, prevailing management practices, and the diverse characteristics of employees (Tafvelin et al. 2019). Research consistently demonstrates that positive social dynamics are correlated with beneficial employee outcomes, such as increased job satisfaction, reduced employee turnover, and enhanced productivity (Dirks et al. 2009; Kristof-Brown et al. 2005). Conversely, negative social dynamics can precipitate decreased morale, heightened conflict, and diminished collaboration (Chatman and Jehn, 1994). Beyond these, key elements contributing to employee well-being and happiness in the workplace include flexibility, autonomy, a sense of belonging, and inclusion (Ryan and Deci 2000).

Workplace Industrial Relations (IR)

Industrial relations, or employment relations, constitute a multidisciplinary academic field dedicated to the study of the employment relationship (Mzangwa 2015). This encompasses the complex interrelations among employers, employees, labour/trade unions, employer organisations, and the state. The scope of IR extends to the rules, agreements, and practices that govern conditions of work, mechanisms for workers' participation, and methods for conflict resolution. The overarching aim of IR is to foster harmony in the workplace by effectively balancing the often-divergent interests of all parties involved in an industrial dispute. At its core, the field is concerned with trade unionism, collective bargaining, labour-management relations, and the national labour policy and law that underpin these interactions (Vivian 2023).

Multinational Firms (MNCs)

Multinational corporations are defined by their operations across multiple countries, serving as pivotal conduits between local economies and the global market (Dunning and Lundan 2008). Their presence significantly influences host economies through various channels, including economic integration, the creation of employment opportunities, investment in infrastructure, and the transfer of technology and knowledge (Dunning and Narula 2004). However, this transformative power is not without its complexities; MNCs frequently face criticisms and challenges related to potential labour exploitation, market dominance over smaller local businesses, and environmental concerns (Frenkel 2008, Myant et al. 2023). Understanding this dual nature is crucial for a nuanced analysis of their role in African industrial relations.

1.2 Theoretical Perspectives on Social Dynamics and Industrial Relations in MNCs

Institutional Theory

Institutional theory provides a framework for understanding the deeper and more resilient aspects of social structure, focusing on how various elements, such as schemes, rules, norms, and routines, become established as authoritative guidelines for social behaviour, thereby providing stability and meaning to social life (Newenham-Kahindi and Stevens 2018). For organisations, including MNCs, survival and legitimacy are contingent upon conforming to the prevailing rules and belief systems within their operating environments, a phenomenon known as institutional isomorphism (DiMaggio and Zucker 1988).

In the context of MNCs in Africa, applying institutional theory reveals that these firms face diverse pressures when operating in varying institutional environments. The social, economic, and political factors inherent in a particular institutional structure significantly influence the types of activities firms engage in and their overall efficiency (Jackson and Deeg 2019). A critical aspect is the understanding that national institutional frameworks are often closely coupled, implying that changes in one area, such as financial systems, can trigger corresponding adaptation in employment relations.

A significant dimension of institutional theory in Africa is the enduring impact of colonial legacies and the persistence of institutional structures. African industrial relations systems are deeply rooted in their colonial histories, which often institutionalised labour controls primarily to facilitate resource exploitation, leaving behind legacies of fragmented unionism and state-dominated IR frameworks. Post-independence, countries such as Uganda and Nigeria experienced authoritarian regimes that undermined labour rights (Barya 2021). The extent to which an MNC can influence or adapt to local industrial relations is ultimately determined by the relative strength of competing forces and the specific contextual constraints it encounters.

Cultural Theory

Cultural theory posits that national culture serves as a primary determinant of cross-national variations in industrial relations institutions, acting as a significant force for ongoing diversity in labour market systems (Hofstede 1984). Key to this perspective are

cultural dimensions, such as those identified by Hofstede, which include power distance, individualism/collectivism, uncertainty avoidance, and masculinity/femininity. These dimensions are instrumental in classifying national and regional cultures and profoundly influence the formation of Human Resource Management (hereafter HRM) models and the macroeconomic effectiveness of various practices.

When applied to MNCs in Africa, cultural theory highlights that the direct applicability of Western management assumptions and motivational models in African contexts is often questionable (Jackson 2011). This is particularly true for societies characterised by high power distance and collectivistic tendencies, such as Nigeria. African cultures frequently emphasise community, cooperation, and respect for authority, which directly influence workplace interactions, communication styles, and decision-making processes (Kamoche et al. 2017). Traditional values can also present significant challenges for African managers attempting to integrate modern HRM practices effectively within their organisations.

The challenge of transferability and adaptation of headquarters' policies is a central theme for MNCs. These firms constantly grapple with the dilemma of standardisation versus localisation of HRM practices, often referred to as the global-local debate. While some practices may exhibit a tendency to converge globally, strong socio-cultural influences frequently lead to divergence, resulting in "bounded convergence" where hybrid models of HRM practices emerge (Gomes et al. 2015). Although MNCs may initially adopt an ethnocentric approach, local cultural and institutional factors often necessitate substantial adaptation of their policies and practices. Therefore, successful MNC operations in Africa require a deep understanding and integration of local cultural values into their HRM and IR policies, rather than a mere transplantation of Western models. This includes cultivating sensitivity to the unique needs and communication methods of a culturally diverse workforce and developing tailored approaches to management (Adeleye et al. 2015).

Resource Dependence Theory (RDT)

Resource Dependence Theory (RDT) offers a crucial lens for understanding how organisations, including multinational corporations, navigate their external environments to secure vital resources and ensure their survival (Pfeffer and Salancik 1978). The core tenet of RDT is that organisations are not self-sufficient; they fundamentally depend on external resources such as raw materials, capital, labour, and knowledge to achieve their objectives and thrive. This dependence inherently grants external resource providers power over organisations, leading to power imbalances, particularly when an organisation's reliance on a specific resource or supplier is high (Hillman et al. 2000).

In the African context, RDT illuminates several critical dynamics. Many African countries, especially those heavily reliant on natural resources, are particularly vulnerable to fluctuations in commodity prices, which can lead to economic instability (Auty 2001). This reliance can also result in phenomena like "Dutch Disease" and exacerbate issues of corruption, both of which can significantly strain industrial relations within these nations. MNCs operating in extractive sectors, for instance, are often perceived as contributing to environmental degradation or poor governance, underscoring the broader societal implications of their resource dependencies (Frynas 2005). Furthermore, the availability and cost of labour, a critical resource, directly influence a firm's cost structure, organisational design, and operational efficiency.

Unique Characteristics of Industrial Relations in African MNC Contexts

The landscape of industrial relations for MNCs in Africa is shaped by a distinctive set of characteristics, including enduring colonial legacies, the pervasive influence of traditional structures and informal governance, and the increasing importance of community engagement and corporate social responsibility (Frynas 2005). African industrial relations systems are profoundly rooted in their colonial histories, which systematically institutionalised labour controls primarily to facilitate resource exploitation. This historical foundation left behind enduring legacies of fragmented unionism and state-dominated industrial relations frameworks (Kanyongolo 2004). Following independence, many African nations experienced significant political turbulence.

These post-independence trajectories have led to diverse regional disparities in IR systems. Kenya and Uganda, for instance, developed hybrid IR systems that blend colonial past experiences with modern needs (Munene 1995). South Africa stands out with its robust tripartite system, exemplified by institutions like the Commission for Conciliation, Mediation and Arbitration, which enforces procedural fairness in disputes. The persistence of pre-colonial informal institutions, such as cultural norms and beliefs, combined with the enduring influence of colonial labour markets, continues to shape the institutional quality and economic constraints faced by contemporary African countries (Meagher 2010).

In many African contexts, traditional leaders play a significant role in the social, political, and economic lives of citizens, deriving their legitimacy from custom, tradition, and spirituality. These leaders function often as crucial development intermediaries, influencing the distribution of public goods, representing citizen demands to the state, overseeing land access, and coordinating local collective action (Boone 2003). Their position between formal state structures and local communities provides a unique layer of governance that MNCs must acknowledge. Therefore, MNCs must develop adaptive practices that acknowledge and engage with these informal governance structures and workforce realities.

Challenges and Opportunities for MNCs in Africa

Multinational corporations in Africa face a complex array of challenges and opportunities that significantly influence their social dynamics and industrial relations (Horwitz 2017). These include navigating intricate regulatory and institutional landscapes, adapting workforce management to diverse cultural contexts, and balancing profit maximisation with growing social responsibility expectations (Adeleye et al. 2024).

A critical challenge for MNCs in Africa is the inherent inapplicability of many Western management assumptions and models to the local cultural contexts. This is particularly evident in societies characterised by high power distance and collectivism, where traditional Western motivational theories may not resonate effectively (Jackson et al. 2014). Consequently, MNCs are compelled to adapt their HRM practices to align with local cultural and institutional environments, moving away from purely ethnocentric approaches. This often results in the development of hybrid "cross-vergence" models, which integrate elements from both home and host country practices, or "bounded convergence" where global best practices are localised (Ralston et al. 2006). MNCs operating in Africa also face increasing scrutiny to demonstrate responsible corporate behaviour that extends beyond mere profit generation. This includes addressing critical issues such as potential labour exploitation, mitigating market dominance over local businesses, and minimising negative environmental impacts.

2 • Materials and Methods

Research Design

This study adopts a cross-sectional, deductive research design using Structural Equation Modelling (SEM) to examine the complex relationships between social dynamics and workplace industrial relations in multinational firms across Africa. SEM is well-suited for this analysis due to its ability to model latent constructs such as trust, communication, cultural diversity, and leadership styles, and to assess their impact on key industrial relations outcomes, including conflict resolution, employee engagement, union-management relations, and grievance handling (Hair et al. 2017).

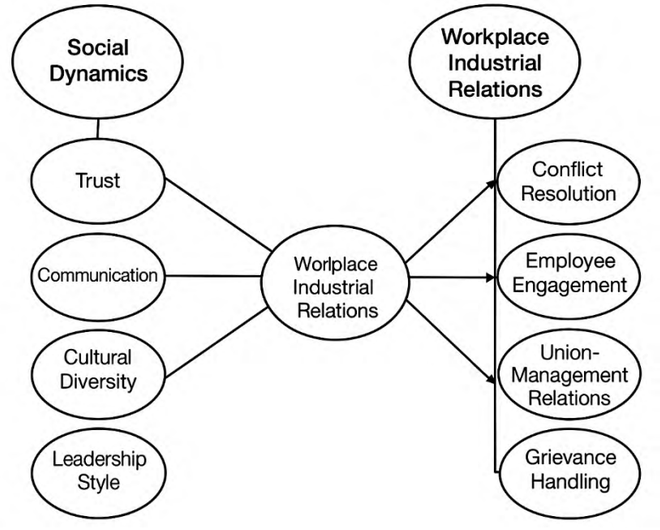
SEM also enables the identification of both direct and indirect effects, providing deeper insight into how variables interact, for example, how leadership styles may influence engagement through trust or communication (Preacher and Hayes 2008).

Data was collected using a structured questionnaire distributed online via social media and professional platforms. The sample size followed SEM guidelines (under 200 participants, 5% margin of error). Tools used included Google Forms, XLSTAT, and SMARTPLS for data collection, analysis and modelling of relational factors.

Hypothesis Development

This contribution aims to measure employees' perceptions to determine whether social and cultural factors influence the nature of workforce relationships in multinational firms operating in Africa. The literature used to identify the factors for each construct is highlighted in Figure 1.

Figure 1: Social Exchange Theory for Study



Source: Author

Table 1 (on the next page) provides more information as to how these factors were measured through the following hypotheses.

H1: Trust among employees and management will be positively associated with employee engagement and effective grievance handling in multinational firms operating in Africa.

H2: Effective communication channels will be positively associated with the successful resolution of industrial conflicts in multinational firms across Africa.

H3: Organisational Culture plays a positive role in trust and employee communication in conflict resolution and industrial harmony in multinational firms across Africa.

H4: Social and Cultural Dynamics of host countries/communities/employees moderate employee-management relations and perceptions of fairness in multinational firms operating in Africa.

Table 1: Key Study Variables, Definitions and Motivating Studies

Abbreviation	Definition	Hypothesised Relationship	Motivating Studies
Organisatio-nal Culture (OC)	Shared norms, values, and beliefs within the firm	OC → EV: A positive organisational culture enhances employee willingness to speak up. OC → TM: Ethical and value-driven cultures build trust in leadership.	Cox & Blake (1991)
Employee Voice (EV)	Employees' perceived ability to express opinions and concerns	EV → TM: When employees feel heard, they are more likely to trust managers. EV → CRM: Active employee voice leads to better dispute resolution mechanisms.	Kahn (1990) ; Morrison (2011)
Trust in Management (TM)	Employees' confidence in leadership's fairness and competence	TM → IH: Trust in leadership contributes to fewer labour disputes.	Mayer et al. (1995); McAllister (1995)
Conflict Resolution Mechanisms (CRM)	Systems available/ established for managing workplace disputes	CRM → IH: Effective conflict resolution mechanisms foster industrial peace	Rahim (1983); Bass & Avolio (1990); Colquitt (2001)
Industrial Harmony (IH)	Overall state of cooperation and absence of industrial disputes	OC → EV→TM→IH	Kochan et al. (1986)
Social and Cultural Dynamics (SCD)	Societal norms, beliefs and customs that influence employees' perspectives.	OC → EV→TM→(SCD)→CRM (SCD)→IH	Cox & Blake (1991)

Partial Least Squares Path Modelling (PLS-PM)

To empirically investigate the hypothesised relationships among key drivers of workplace industrial relations and moderating effects of social dynamics within MNCs in Africa, this study adopts the Partial Least Squares Path Modelling (PLS-PM) as the primary analytical method. PLS-PM is a variance-based structural equation modelling (SEM) approach that is particularly suited to predictive and exploratory research in complex and under-theorised environments, such as Africa's MNC workplace setting (Hair et al. 2017; Henseler et al. 2009).

PLS-PM is appropriate for this study for several reasons. First, the conceptual model integrates both reflective constructs (e.g. trust in management, employee voice, and organisation culture) and formative constructs (social dynamics), making it methodologically suitable. Second, the research deals with moderate sample sizes and data that may deviate from multivariate normally, thereby justifying the method as robust for such distributional assumptions (Ringle et al. 2015). Third, the objective of this study is to explore the predictive and mediating influence of social dynamics in shaping industrial relations outcomes, rather than merely confirming an existing theory.

The PLS-P model comprises two key components. The measurement model specifies how each latent construct is measured by its respective observed indicators (both reflective and formative). The other is the structural model, which defines the hypothesised relationships. Estimation of the model is conducted using XLSTAT software. The measurement model is evaluated for reliability and validity using Cronbach's alpha, composite reliability (CR), average variance extracted (AVE), and heterotrait-monotrait ratio (HTMT). For the structural model, key assessment criteria include path coefficients, R^2 values, effect sizes (f^2), and predictive relevance (Q^2). The significance of the hypothesised relationships is tested using a bootstrapping technique with 5,000 subsamples, providing robust estimates of standard errors and t-statistics to determine whether the population mean differs significantly, particularly given the population standard deviation.

Questionnaire and Data Collection Procedure

The questionnaire was developed with insights drawn from previous studies, such as Dunning and Narula (2004), and from African-specific case studies on MNCs and industrial relations dynamics, such as Adeleye (et al. 2020) and Jackson (2011). The respondents in this survey were individuals and employees of MNCs across sub-regions in Africa, and key economic sectors, including FMCG, Management Consulting, and Agriculture, among others.

Sampling procedure involves random sampling methods with sample clustering of targeted professional groups via social media and other platforms. The raw data were collected from respondents across various employee strata and MNCs' activity sectors in Africa. A total of 133 respondents' data were collected over a 30-day period from African countries such as Egypt, Ethiopia, Ghana, Kenya, Morocco, Nigeria, and South Africa. The collected data were entered into Microsoft Excel to ensure accurate data recording

and to prevent errors. Thereafter, the data were exported to SPSS 19 for descriptive and other thematic analysis. For further analysis and modelling of causal relationships, the data were imported into XLSTAT for Partial Least Squares Path Modelling (PLS-PM) and analysis.

3 • Results

Descriptive Analysis of Respondent Distribution

This section presents a descriptive analysis of the characteristics of respondents from MNCs operating across Africa as shown in Table 2. Understanding the demographic, professional, and geographic distribution of the sample is essential for contextualising the study's exploration of social dynamics and workplace industrial relations. The distribution data reflects the diversity of the African labour force and offers critical insight into how trust, communication, organisational culture, and socio-cultural dynamics shape industrial relations outcomes.

In addition, the sample reveals a female majority (57.1%) compared to male respondents (42.9%). This demographic shift highlights a relatively inclusive gender representation within the participating MNCs. Gender composition is crucial in shaping social relations in the workplace, particularly in culturally diverse and male-dominated sectors where perceptions of fairness, trust in management, and communication styles may vary significantly between genders (Ogunyomi and Bruning 2016). As such, gender dynamics are likely to play a moderating role in employee-management trust relations and grievance handling processes - key themes under Hypothesis 1 (H1).

Respondents are fairly distributed across five age categories: under 25 (19.5%), 25-34 (20.3%), 35-44 (22.6%), 45-54 (19.5%), and 55+ (18.0%). This indicates a multi-generational workforce that brings together varying communication preferences, work values, and expectations for industrial engagement. Younger employees may favour open and tech-enabled communication platforms, while older employees might place more value on hierarchy and institutional processes (Hofstede 2001). The generational spread supports the investigation of how workplace communication systems and organisational culture affect employee engagement and industrial conflict resolution across different age groups.

Respondents hold diverse roles within their organisations: Technicians (21.8%), Line Managers (18.8%), Union Representatives (18.0%), HRM Officers (16.5%), Engineers (12.8%), and Administrative Staff (12.0%). This distribution ensures that insights into workplace industrial relations are drawn from both operational and administrative perspectives. The strong representation of union representatives and HRM officers is particularly relevant, given their centrality to core aspects of trust-building mechanisms, as industrial dispute resolution, grievance handling, and collective bargaining (Guest 2017; Budd 2004).

Respondents are drawn from six core departments: Legal (23.3%), Operations (20.3%), Finance (17.3%), Production (15.0%), IT (12.8%), and HRM (11.3%). The predominance of legal and operational departments indicates a workforce familiar with compliance and industrial frameworks. However, the comparatively low representation from HRM may reflect structural limitations in HRM-led social dialogue mechanisms. This departmental configuration affects how organisational culture and communication systems are perceived and operationalised within industrial conflict settings.

The workforce is highly educated, with bachelor's degrees (28.6%), master's degrees (25.6%), Diplomas (23.3%), and PhD (22.6%). A well-educated workforce is typically more assertive in its expectations regarding organisational justice, transparency, and participatory grievance mechanisms. This dynamic reinforces the salience of trust, communication, and cultural sensitivity in shaping fair and effective workplace industrial relations. Employees with higher educational attainment are likely to challenge ambiguous grievance procedures and demand a more dialogical and institutionalised approach to dispute resolution.

The respondents work across five major economic sectors: Services (22.6%), Oil & Gas (20.3%), Manufacturing (20.3%), Finance (18.8%), and Technology (18.0%). These sectors differ in their regulatory exposure, unionisation levels, and maturity of social dialogue. For instance, the oil and gas and manufacturing sectors are typically characterised by strong union activity and formal grievance structures, whereas the technology and services sectors may favour informal and agile HRM systems, as noted by Brewster (et al. 2011). These sectoral differences offer a nuanced lens for evaluating the implementation and effectiveness of conflict resolution mechanisms and trust systems across organisational contexts.

Table 2: Descriptive Statistics

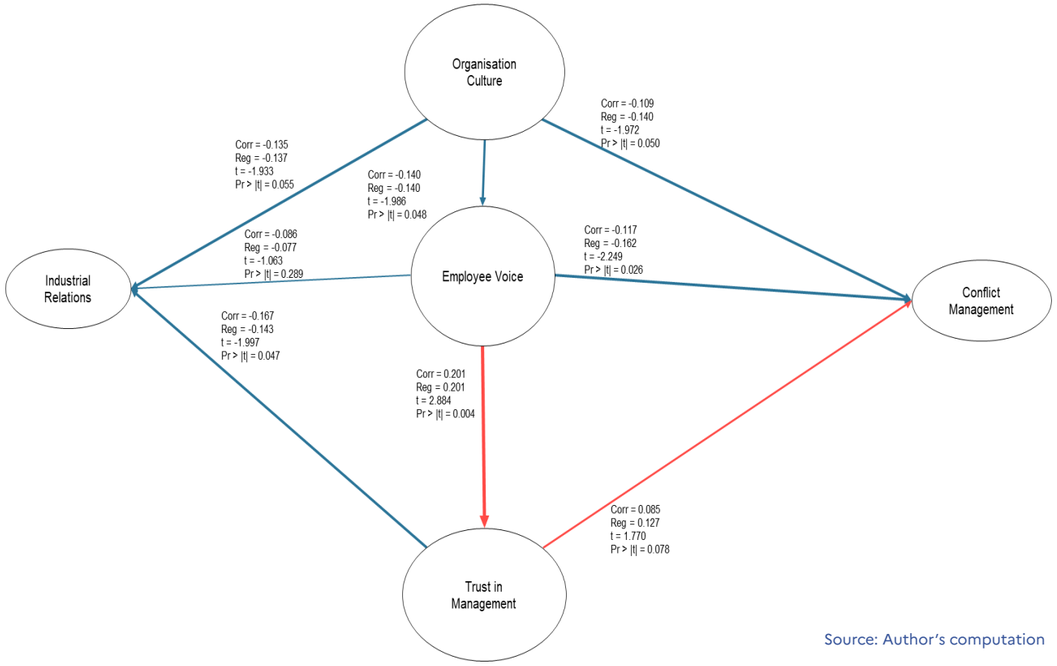
		% Distribution
Gender	Female	57.1%
	Male	42.9%
Age Group	<25	19.5%
	25–34	20.3%
	35–44	22.6%
	45–54	19.5%
	55+	18.0%
Job Role	Admin Staff	12.0%
	Engineer	12.8%
	HRM Officer	16.5%
	Line Manager	18.8%
	Technician	21.8%
	Union Rep	18.0%
Department	Finance	17.3%
	HRM	11.3%
	IT	12.8%
	Legal	23.3%
	Operations	20.3%
	Production	15.0%
Education	Bachelor's	28.6%
	Diploma	23.3%
	Master's	25.6%
	PhD	22.6%
Sector	Finance	18.8%
	Manufacturing	20.3%
	Oil & Gas	20.3%
	Services	22.6%
	Technology	18.0%
Region	Central Africa	21.8%
	East Africa	19.5%
	North Africa	18.8%
	Southern Africa	20.3%
	West Africa	19.5%

The regional distribution is balanced across Africa: Central Africa (21.8%), Southern Africa (20.3%), East and West Africa (19.5% each), and North Africa (18.8%). This allows for a comparative analysis of how cultural values, institutional strength, and regulatory environments influence dynamics of industrial relations. The diversity reinforces the relevance of Hypothesis 4, which posits that social and cultural dynamics moderate employee-management relations and perceptions of fairness. For example, a study (ILO 2020) found that Southern Africa may offer more structured unionised environments, while Central and East Africa may rely more heavily on informal resolution systems embedded in local cultural norms.

Workplace Industrial Relations in MNCs – Baseline Assessment

This section provides a baseline analysis of the state of industrial relations and the drivers of conflict-resolution mechanisms in MNCs operating in Africa. The findings result from the SEM modelling (Figure 2), which highlights the impacts and contributions of trust in management, employee voice, and organisational culture on conflict resolution and industrial relations.

Figure 2: SEM Modelling of Conflict Resolution Mechanism and Industrial Relations in MNCs



Source: Author's computation

Conflict Resolution Mechanism (CRM)

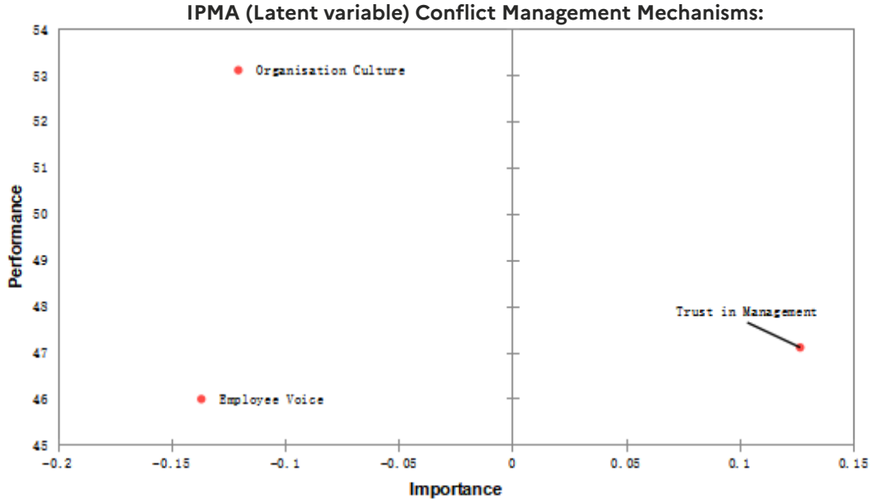
Employee Voice is the strongest contributor to CRM, accounting for 42.3% of the explained variance in R^2, despite the negative correlation and path coefficient. This suggests that increased voicing of dissatisfaction or exclusion from decision-making might be linked with increased conflict, aligning with Freeman and Medoff (1987), who noted that voice mechanisms can reduce exit but may also increase formal conflict expression if mismanaged. Despite the negative correlation and path coefficient, Employee Voice accounts for the largest share of the variance explained by CRM. This implies that a lack of employee voice or ineffective mechanisms for voicing may escalate workplace conflict. Tetteh and Mustchin (2022), studying MNCs in Ghana, found that employees' frustration from being unheard or ignored often triggers formal conflict escalation, particularly in culturally stratified workplaces. Tubey (2015) emphasised that, in Kenyan firms, the absence of effective feedback loops can worsen industrial friction, echoing similar findings in this study.

Table 3: Contribution of Variables to CRM

Source: Author's computation

Variable	Correlation	Path Coefficient	Corr. × Coeff.	Contribution to R^2 (%)
Trust in Management	0.085	0.127	0.011**	23.951
Organisation Culture	-0.109	-0.140	0.015**	33.766
Employee Voice	-0.117	-0.162	0.019**	42.282

IPMA (Latent variable) Conflict Management Mechanisms:



Organisational Culture contributes 33.8% and reflects how the structural and normative environment shapes conflict resolution. The negative coefficients imply that certain types of culture (e.g., rigid, hierarchical, or non-inclusive) are linked to higher conflict levels. This supports findings on the critical role of culture in the emergence and mitigation of conflict (Kochan 2004). A South African study showed that organisational cultures that are not inclusive or responsive to workforce diversity increase inter-group tension and reduce cooperation, especially in MNCs with foreign management layers (Olabiyi 2022).

Trust in Management, although showing a positive path coefficient, contributes the least (23.95%). This suggests that while trust reduces conflict, its explanatory power is lower than that of voice and culture. According to Obiekwe and Obibhunun (2019), in Nigerian MNCs, trust must be reinforced through procedural fairness and cultural adaptation to have a significant impact on conflict management. This finding contrasts with Dirks and Ferrin's (2002) argument that trust is a core antecedent of cooperative conflict resolution. The dominance of voice and culture in explaining conflict mechanisms emphasises the need for effective participation and aligned cultural values in MNCs, especially in African contexts with diverse workforces and hierarchical structures.

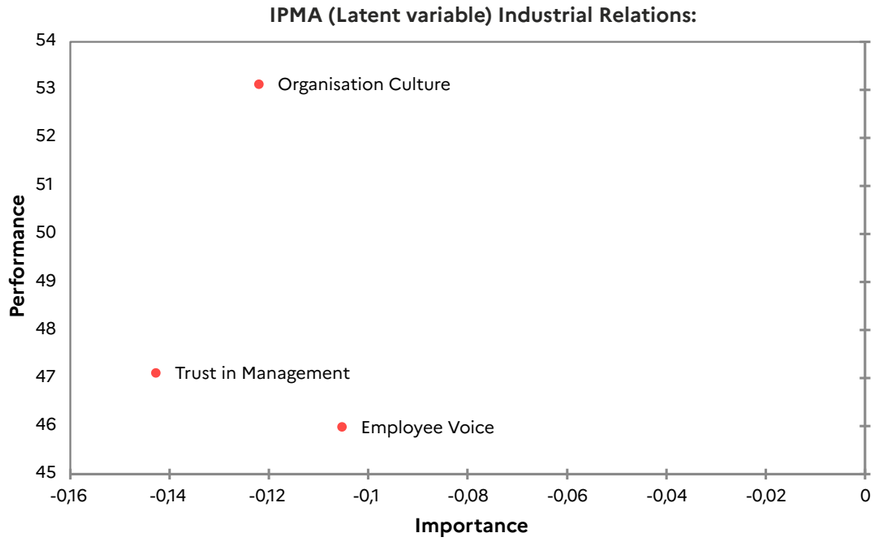
Industrial Relations

Trust in management emerges as the strongest predictor of industrial relations, accounting for 48.7%. This confirms Selmer's (2001) findings that mutual confidence between employees and management enhances cooperation, reduces disputes, and is foundational to cooperative industrial relations, especially in cross-cultural or expatriate-heavy environments. A study by Dan-Jumbo and Akpan (2018) found that in Nigerian MNCs, trust mediates the effectiveness of expatriate leadership, improving union-management dialogue and compliance with IR protocols. Fiedler et al. (2020) showed that in manufacturing firms, lack of trust in management was a major driver of strikes and IR breakdowns.

Table 4: Contribution of Variables to Industrial Relations (IR)

Source: Author's computation

Variable	Correlation	Path Coefficient	Corr. × Coeff.	Contribution to R^2 (%)
Employee Voice	-0.086	-0.077	0.007***	13.488
Organisation Culture	-0.135	-0.137	0.018**	37.785
Trust in Management	-0.167	-0.143	0.024**	48.727



Organisation Culture again shows a significant influence (37.8%), reinforcing the idea that inclusive, communicative, and participatory cultures enhance industrial relational stability. This aligns with Hofstede (1984) and later with Newman and Nollen (1996) on the idea that cultural congruence improves employee-employer relationships. In Ethiopia, Endris and Xiaoyan (2021) found that MNCs that adapted their organisational culture to local norms and included local leadership structures had more stable and effective industrial relations.

Employee Voice shows the least contribution (13.5%), which is an interesting reversal from the conflict chart. It suggests that while voice may escalate conflict, its direct impact on broader Industrial Relations stability is weaker, possibly due to inadequate structures for acting on voiced concerns, a common issue in many African MNC environments. Zhao (2020), studying firms in Kenya, reported that employee voice improved Industrial Relations only when there was a corresponding commitment from management to act on feedback.

Moderating Role of Social Dynamics in Workplace Industrial Relations in MNCs

This analysis examines the moderating role of Social Dynamics. It evaluates the relative performance of Trust in Management, Employee Voice, and Organisational Culture in influencing the workplace industrial relations within MNCs in Africa. A contextual comparison of the baseline results is presented to further amplify the role of social dynamics as a moderator of workplace industrial relations outcomes.

A. Conflict Resolution Management in MNCs

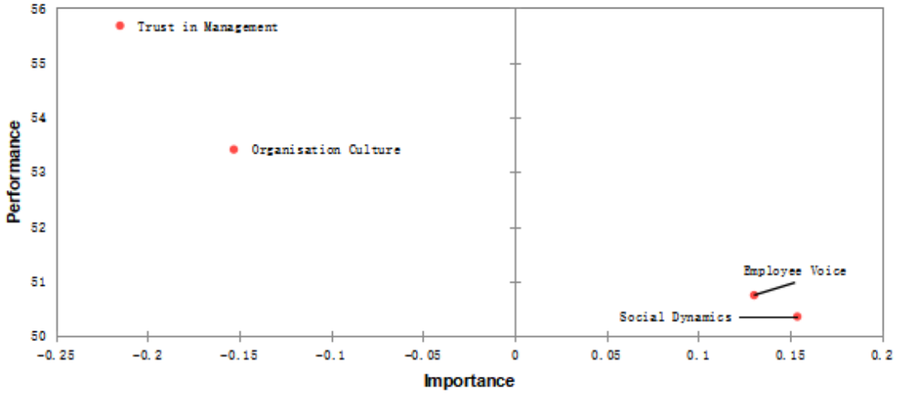
Even with a negligible direct effect, social dynamics play a critical moderating role, improving the performance of other predictors. Its inclusion in the model increases trust, reduces the potential for conflict in voice, and softens the rigidity of organisational culture. Studies such as Kasozi and Namatovu (2013) found that in multinational workspaces in Uganda, social capital - characterised by respect, communal obligation, and informal networks - mediated the impact of HRM policies on conflict outcomes. Farndale et al. (2022) found similar patterns in culturally diverse firms: social cohesion and informal relationships amplify formal conflict-management mechanisms.

Table 5: Conflict Resolution Management in MNCs

Source: Author's computation

Variable	Correlation	Path Coefficient	Corr. × Coeff.	Contribution to R^2 (%)
Trust in Management	-0.177	-0.239	0.042**	39.63
Organisation Culture	-0.157	-0.182	0.029**	26.81
Employee Voice	0.146	0.161	0.024**	22.14
Social Dynamics	0.079	0.154	0.012**	11.42

IPMA (Latent variable) Conflict Resolution Management:



The inclusion of social dynamics as a moderator significantly enhances the role of trust, suggesting that when social cohesion, communication norms, and interpersonal respect are strong, trust in management becomes even more pivotal in reducing workplace conflict. Martínez-Tur and Peiró (2009) assert that trust, under culturally sensitive leadership, acts as a powerful buffer against conflict. Omolekan (2022) found that high social capital amplifies the relationship between trust and conflict resolution, especially in diverse teams managed by expatriates in Nigeria.

Although its absolute contribution decreases slightly, organisational culture remains critical, particularly when moderated by social dynamics. The model suggests that cultures aligned with local social values (e.g., communalism, hierarchy) help reduce conflict more effectively. According to Wambugu (2024), organisational cultures that embed local social norms - like respect for elders, group consensus, and avoidance of confrontation - tend to experience fewer disputes in Kenya. This conclusion is also echoed by Hofstede's cultural dimensions theory, particularly the relevance of collectivism vs individualism in African workplace culture.

Social dynamics enhance the effectiveness of employee voice, suggesting that employee voice reduces conflict only in environments with respectful interaction, inclusion, and supportive peer relationships. It confirms Hirschman's (1970) framework on *Exit, Voice, and Loyalty*, but with an African reinterpretation: "voice" is valuable only when embedded in collectivist norms and strong interpersonal ties. A South African study reported that voice mechanisms without corresponding social cohesion often backfire, but where social bonds exist, employees use voice channels more constructively (Delhey et al. 2023).

B. Industrial Relations in MNCs

This analysis focuses on the quality of Industrial Relations in the context of the moderating effects of social dynamics. The findings show that social dynamics have a negative correlation/path coefficient, implying that in poorly managed or fragmented social environments, dynamics may worsen IR. While expected to strengthen relationships, if social cohesion is low or interpersonal tensions exist, social dynamics can magnify IR challenges (e.g., group-based resistance, informal alliances). In East Africa, Mugoya and Mutekanga (2017) found that social ties enhance IR only when aligned with organisational values; otherwise, they become parallel systems that resist formal policies. Lumineau (et al. 2023) also noted that informal group dynamics can either soften or harden industrial opposition, depending on the levels of psychological safety and mutual respect.

Table 6: Industrial Relations in MNCs

Source: Author's computation

Variable	Correlation	Path Coefficient	Corr. × Coeff.	Contribution to R^2 (%)
Trust in Management	0.284	0.297	0.084	40.68%
Employee Voice	-0.256	-0.269	0.069	33.26%
Organisation Culture	-0.199	-0.168	0.034	16.18%
Social Dynamics	-0.175	-0.117	0.020	9.88%

Trust in Management is the strongest contributor to Industrial Relations within the social dynamics moderated work environment. The moderating effect of social dynamics seems to balance the trust effect, suggesting that trust's power is somewhat shared with other relationship-enhancing variables, such as peer interaction and group norms.

This confirms earlier findings from the baseline estimation and the global literature, such as those of Farndale (et al. 2022). In the African context, Adeleye (et al. 2020) found that trust reduces adversarial union-management relationships, especially where expatriate managers engage transparently with local employees.

Employee Voice's contribution rises sharply from 13.5% in an environment without consideration for social dynamics to 33.3% in a workplace with consideration for it. The increase suggests that social dynamics amplify the role of voice in shaping industrial relations outcomes. Despite negative correlations, the combined product (correlation × path coefficient) is large, indicating a strong negative impact on Industrial Relations when voice is mishandled. Egu and Aregbeshola (2017) found that voice mechanisms in South African MNCs only enhance IR when culturally embedded and actively listened to. This supports Hirschman's (1970) assertion that *voice* is an effective mechanism only in trust-rich, socially cohesive environments.

Organisation Culture contribution drops from 37.8% in baseline to 16.2%, indicating reduced influence when social dynamics are accounted for. This suggests that formal organisational norms are less effective in isolation when informal social norms are present. Abodohoui et al (2020) noted that African workplace relations are heavily governed by informal peer dynamics and communal expectations, often overriding formal cultural prescriptions from MNCs. It aligns with Mazrui's idea of the "triple heritage" of African identity - traditional, Islamic/Christian, and Western influences - where local norms often buffer external cultural impositions (Njogu and Adem 2017).

The findings underscore the critical role of social dynamics in shaping how trust, voice, and organisational culture affect industrial relations in Africa's MNCs. While trust remains foundational, employee voice becomes more effective, and organisational culture becomes secondary when social cohesion is either strong or fractured. This aligns with the communal and relationship-oriented nature of African societies, where informal norms, collective dialogue, and interpersonal trust often mediate or override formal institutional structures in workplace settings.

4 • Conclusion, Policy Relevance, and Recommendations

Conclusion

This study underscores the critical role of socio-cultural dynamics in shaping workplace industrial relations within multinational corporations in Africa. Using a robust empirical strategy and structural equation modelling,

the findings demonstrate that while trust in management, organisational culture, and employee voice are foundational to industrial harmony, their effects are significantly moderated by informal social systems, cultural norms, and interpersonal networks.

Trust in management emerged as the most influential predictor of industrial relations quality, while organisational culture and employee voice also played notable roles depending on their alignment with local expectations. However, employee voice, when not supported by respectful social norms or appropriate managerial feedback systems, can escalate conflict, as concluded by Freeman and Medoff (1987) and Ojo and Adedayo (2021).

Lastly, social dynamics, particularly informal communication and collective trust, were found to enhance or undermine these factors depending on the level of cohesion or fragmentation in the workplace, similar to the conclusion of Farndale (et al. 2022) and Hosseini and Kenshlow (2024). Thus, sustainable industrial peace in African MNCs cannot rely solely on formal mechanisms but must also integrate the socio-cultural fabric of their host communities.

Policy Relevance

The findings of this study offer critical insights into labour policymaking and organisational management in Africa's evolving industrial landscape.

By highlighting how informal social structures mediate the effectiveness of formal industrial relations mechanisms, the study bridges a significant gap in both academic and practical understanding of employment relations in emerging markets. In many African contexts, the persistence of colonial-era labour frameworks and underdeveloped formal institutions has led to a reliance on social cohesion and communal systems to manage conflict.

For policymakers, this evidence calls for a more holistic approach to workplace regulation - one that formally acknowledges the power of trust, social networks, and cultural norms in reducing conflict and promoting engagement.

Additionally, for multinational firms, the study emphasises the importance of cultural adaptation and locally responsive HRM strategies that align with employees' expectations of fairness, authority, and communication.

Recommendations

The following are crucial recommendations from this study to enhance further industrial relations within MNCs operating in Africa.

a) Promote Socially Embedded Industrial Relations Frameworks: Governments and labour institutions should encourage hybrid models of industrial relations that integrate both formal (e.g., unions, grievance committees) and informal (e.g., peer mediation, welfare groups) channels of dialogue, especially in multicultural workplace environments.

b) Institutionalise Trust-Building Measures in Labour Regulations: Labour ministries and regulatory bodies should include trust-enhancing provisions - such as transparency, feedback mechanisms, and employee protection - in IR policy frameworks. These will support harmonious relations between management and labour, particularly in foreign-led firms.

c) Mandate Cross-Cultural Training for Expatriate Managers: MNCs should institutionalise cultural orientation programmes for foreign managers to sensitise them to local norms around hierarchy, communication, conflict, and decision-making, thereby improving trust and reducing miscommunication.

d) Support Informal Dialogue Platforms within Enterprises: Policies should incentivise or mandate the creation of informal workplace engagement platforms - welfare committees, team bonding activities, employee-led forums - that complement formal industrial relations structures and enhance employee expression.

e) Strengthen Labour Inspection to Monitor Social Climate: Labour inspectors and industrial relations officers should be trained to assess not only legal compliance but also the social climate within MNCs - e.g., levels of interpersonal trust, communication openness, and cultural alignment in management practices.

f) Sector-Specific Guidelines for Socially Responsive Industrial Relations: Develop sector-specific industrial relations codes of practice that reflect the unique socio-cultural sensitivities of key sectors such as oil and gas, agriculture, FMCG, and telecoms, where communal dynamics and informal systems are particularly strong.

BIBLIOGRAPHY

Abodohoui, A., Su, Z., Bocco, B. S., and E. Chrysostome. 2020. "African and Chinese managerial practices: A cross-cultural comparison". *Management International/ International Management/Gestiòn Internacional*, *24*(3), 195–209. https://doi.org/10.7202/1072632ar.

Adeleye, B.N. 2024. "Does institutional quality moderate the human capital–inequality dynamics? Comparative evidence from LAC and SSA countries". *African Development Review*, African Development Bank, vol. 36(1), 153-169.

Adeleye, I., Luiz, J., Muthuri, J., and K. Amaeshi. 2020. "Business ethics in Africa: The role of institutional context, social relevance, and development challenges". *Journal of Business Ethics*, *167*(4), 717–729.

Adeleye, I., White, L., Ibeh, K., and A. Kinoti. 2015. "The changing dynamics of international business in Africa: Emerging trends and key issues". In *The changing dynamics of international business in Africa*, 1-12. Palgrave Macmillan.

Auty, R. 2001. *Resource abundance and economic development*. Oxford University Press.

Barya, N. 2021. *The role of diplomatic engagement in the implementation of regional integration in Africa: Case study of Kenya and Tanzania* [Doctoral dissertation, University of Nairobi].

Boone, C. 2003. "Decentralisation as a political strategy in West Africa". *Comparative Political Studies*, *36*(4), 355–380. https://doi.org/10.1177/0010414003251173.

Brewster, C., and G.T. Wood. 2014. "Comparative HRM and international HRM". In *The Routledge companion to international human resource management*, A. Wilkinson, N. Bacon, S. Snell, and D. G. Lepak, eds., 121–137. Routledge.

Budd, J.W. 2004. *Employment with a human face: Balancing efficiency, equity, and voice*. Cornell University Press.

Budhwar, P., and K. Mellahi. 2018. "HRM in the Middle East". In *Handbook of research on comparative human resource management*, Jackson T. ed. 487-505. Edward Elgar Publishing.

Chatman, J.A., and K.A. Jehn. 1994. "Assessing the relationship between industry characteristics and organisational culture: How different can you be?" *Academy of Management Journal*, *37*(3), 522–553.

Dan-Jumbo, C.T., and E.E. Akpan. 2018. "The promises and perils of multinational corporations: The Nigerian experience". *International Journal of Management Science and Business Administration*, *4*(3), 73–77.

Delhey, J., Dragolov, G., and K. Boehnke. 2023. "Social cohesion in international comparison: A review of key measures and findings". *Kölnische Zeitschrift für Soziologie und Sozialpsychologie*, *75* (Suppl 1), 95–120. https://doi.org/10.1007/s11577-023-00891-6.

DiMaggio, P. J., and L.G. Zucker. 1988. "Institutional patterns and organisations: Culture and environment". In *Institutional patterns and organisations: Culture and environment*, Zucker L.G., ed. 3-22. Ballinger.

Dirks, K., Lewicki, R.J., and A. Zaheer. 2009. "Repairing relationships within and between organisations: Building a conceptual foundation". *Academy of Management Review*, *34*(1), 68-84.

Dirks, K., and D.L. Ferrin. 2002. "Trust in leadership: Meta-analytic findings and implications for research and practice". *Journal of Applied Psychology*, *87*(4), 611–628. https://doi.org/10.1037//0021-9010.87.4.611.

Dunning, J.H., and S.M. Lundan. 2008. "Institutions and the OLI paradigm of the multinational enterprise". *Asia Pacific Journal of Management*, *25*(4), 573–593.

Dunning, J.H., and R. Narula. 2004. "Multinationals and industrial competitiveness: A new agenda". *In Multinationals and Industrial Competitiveness. Edward Elgar Publishing.*

Edwards, T., Almond, P., Murray, G., and O. Tregaskis, 2022. "International human resource management in multinational companies: Global norm making within strategic action fields". *Human Resource Management Journal*, *32*(3), 683–697.

Egu, E.M., and R.A. Aregbeshola. 2017. "The odyssey of South African multinational corporations (MNCs) and their impact on the Southern African development community (SADC)". *African Journal of Business Management*, *11*(23), 686–703.

Farndale, E., Beamond, M., Corbett-Etchevers, I., and S. Xu. 2022. "Accessing host country national talent in emerging economies: A resource perspective review and future research agenda". *Journal of World Business*, *57*(1), 101257.

Fiedler, A., Casey, C., and B. Fath. 2020. "Transnational employee voice and knowledge exchange in the multinational corporation: The European Company (SE) experience". *Human Relations*, *74*(7), 1033–1059. https://doi.org/10.1177/0018726720905351.

Freeman, R.B., and J.L. Medoff. 1987. *What do unions do?* Basic Books.

Frenkel, M. 2008. "The multinational corporation as a third space: Rethinking international management discourse on knowledge transfer through Homi Bhabha". *Academy of Management Review*, *33*(4), 924–942.

Frynas, J.G. 2005. "The false developmental promise of corporate social responsibility: Evidence from multinational oil companies". *International Affairs*, *81*(3), 581–598.

Gomes, E., Sahadev, S., Glaister, A.J., and M. Demirbag. 2015. "A comparison of international HRM practices by Indian and European MNEs: Evidence from Africa". *The International Journal of Human Resource Management*, *26*(21), 2676–2700.

Guest, D.E. 2017. "Human resource management and employee well-being: Towards a new analytic framework". *Human Resource Management Journal*, *27*(1), 22–38. https://doi.org/10.1111/1748-8583.12139.

Hair, J.F., Hult, G.T.M., Ringle, C.M., and M. Sarstedt. 2017. *A primer on partial least squares structural equation modelling (PLS-SEM)* (2nd edition). Sage Publications.

Henseler, J., Ringle, C., and R. Sinkovics. 2009. "The use of partial least squares path modelling in international marketing". *Advances in International Marketing*, *20*, 277–319. http://dx.doi.org/10.1108/S1474-7979(2009)0000020014.

Hillman, A.J., Cannella, A.A., and R.L. Paetzold. 2000. "The resource dependence role of corporate directors: Strategic adaptation of board composition in response to environmental change". *Journal of Management Studies*, *37*(2), 235–255.

Hirschman, A.O. 1970. *Exit, voice, and loyalty: Responses to decline in firms, organisations, and states*. Harvard Universty Press.

Hofstede, G. 1984. *Culture's consequences: International differences in work-related values* (Vol. 5). Sage.

Hofstede, G. 2001. *Culture's consequences: Comparing values, behaviours, institutions and organisations across nations*. SAGE.

Horwitz, F. 2017. "International HRM in South African multinational companies". *Journal of International Management*, *23*(2), 208–222.

Hosseini, S.A., and H. Kenshlow. 2024. "Studying the relationship between human resource development and justice, satisfaction and increasing the efficiency of social security employees". *System Engineering and Productivity*, 4(3), 1-10.

International Labour Organisation. 2020. *World employment and social outlook: Trend 2020*. https://www.ilo.org/sites/default/files/wcmsp5/groups/public/@dgreports/@dcomm/@publ/documents/publication/wcms_756877.pdf.

Jackson, G., and R. Deeg. 2019. "Comparing capitalisms and taking institutional context seriously". *Journal of International Business Studies*, *50*(1), 4–19.

Jackson, S.E., Schuler, R.S., and K. Jiang. 2014. "An aspirational framework for strategic human resource management". *Academy of Management Annals*, *8*(1), 1-56.

Jackson, T. 2014. "Employment in Chinese MNEs: Appraising the dragon's gift to sub-Saharan Africa". *Human Resource Management*, *53*(6), 897–919.

Jackson, T. 2011. "From cultural values to cross-cultural interfaces: Hofstede goes to Africa". *Journal of Organisational Change Management*, *24*(4), 532–558.

Kamoche, K., Debrah, Y., Horwitz, F., and G. Nkombo Muuka, eds. 2003. *Managing human resources in Africa*. Routledge. https://doi.org/10.4324/9780203633762.

Kamoche, K., e Cunha, M.P., and J.V. Da Cunha. 2017. "Towards a theory of organisational improvisation: Looking beyond the jazz metaphor". In *The Aesthetic Turn in Management*, 425-453. Routledge.

Kanyongolo, F. E. 2004. "The rhetoric of human rights in Malawi: Individualisation and judicialization". In *Rights and the politics of recognition in Africa*, van der Berg H.J.J., ed. 165–182. African Books Collective.

Kasozi, D., and R. Namatovu. 2013. "Working conditions as correlates of employee productivity in selected multinational companies (MNCs) in Central Uganda". *International Journal of Business Performance Management*, *15*(3), 253–268.

Kochan, T. A. 2004. "Restoring trust in the human resource management profession". *Asia Pacific Journal of Human Resources*, *42*(2), 132–146. https://doi.org/10.1177/1038411104045352.

Kristof-Brown, A.L., Zimmerman, R.D., and E.C. Johnson. 2005. "Consequences of individuals' fit at work: A meta-analysis of person-job, person-organisation, person-group, and person-supervisor fit". *Personnel Psychology*, *58*(2), 281–342.

Lamptey, Y.A., and Y.A. Debrah. 2019. "Irreconcilable differences–Union organising in the informal sector in Ghana". In *Advances in industrial and labour relations,* M. van der Meer and E.N.C.C. Overman, eds., Vol. 28, 61–89. Emerald Publishing Limited.

Lumineau, F., Long, C., Sitkin, S.B., Argyres, N., and G. Markman. 2023. "Rethinking control and trust dynamics in and between organisations". *Journal of Management Studies*, *60*(8), 1937–1961. https://doi.org/10.1111/joms.12999

Martínez-Tur, V., and J.M. Peiró. 2009. "The trust episode in organisations: Implications for private and public social capital". *Social Science Information*, *48*(2), 143–174. https://doi.org/10.1177/0539018409102404.

Meagher, K. 2010. *Identity economics: Social networks and the informal economy in Nigeria*. James Currey and HEBN Publishers.

Mugoya, J., and D. Mutekanga. 2017. "Industrial relations and organisational regulatory practices in East Africa: A case of selected manufacturing firms in Uganda". *IOSR Journal of Business and Management (IOSR-JBM)*, *19*(8), 66–69. https://doi.org/10.9790/487X-1908046669.

Munene, J.C. 1995. "The institutional environment and managerial innovations: A qualitative study of selected Nigerian firms". *Journal of Occupational and Organisational Psychology*, *68*(4), 291–300. https://doi.org/10.1111/j.2044-8325.1995.tb00588.x.

Myant, M. et al. 2023. "Are multinational companies good for trade unions?". *The European Trade Union Institute.* Brussels.

Mzangwa, S.T. 2015. "Descriptive analysis of the theoretical perspectives in employment relations". *Corporate Ownership & Control*, *13*(1), 184–194.

Newenham-Kahindi, A., and C.E. Stevens, 2018. "An institutional logics approach to liability of foreignness: The case of mining MNEs in Sub-Saharan Africa". *Journal of International Business Studies*, *49*(7), 881–901.

Njogu, K., and S. Adem. 2017. *Critical perspectives on culture and globalisation: The intellectual legacy of Ali Mazrui*. Twaweza Communications. https://doi.org/10.2307/j.ctvh8r1n5.

Obiekwe, O., and L. Obibhunun. 2019. "The roles of the labour union in Nigeria industrial harmony and development". *International Journal of Sustainable Development & World Policy*, *8*(1), 10–20.

Ogunyomi, P., and N.S. Bruning. 2016. "Human resource management and organisational performance of small and medium enterprises (SMEs) in Nigeria". *The International Journal of Human Resource Management*, *27*(5), 612–634. https://doi.org/10.1080/09585192.2015.1033640.

Olabiyi, O.J. 2022. "A study of conflict resolution mechanisms and employment relations in multinational corporations in Africa: Empirical evidence from Nigeria and South Africa". *SA Journal of Human Resource Management/SA Tydskrif vir Menslikehulpbronbestuur*, *20*(0), a1900. https://doi.org/10.4102/sajhrm.v20i0.1900.

Omolekan, O. 2022. "Trust-building and consensus approach to conflict resolution: Alternative tactics to strike actions in Nigeria". *Journal of Techno-Social*, *14*(1), 37–47. https://doi.org/10.30880/jts.2022.14.01.006.

Pfeffer, J., and G.R. Salancik. 1978. *The external control of organisations: A resource dependence perspective*. Harper & Row.

Preacher, K.J., and A.F. Hayes. 2008. "Asymptotic and resampling strategies for assessing and comparing indirect effects in multiple mediator models". *Behaviour Research Methods*, *40*(3), 879–891. https://doi.org/10.3758/BRM.40.3.879.

Ralston, D.A., Pounder, J., Lo, C.W.H., Wong, Y.Y., Egri, C.P., and J. Stauffer. 2006. "Stability and change in managerial work values: A longitudinal study of China, Hong Kong, and the U.S.". *Management and Organisation Review*, *2*(1), 67–94.

Ringle, C.M., Wende, S., and J.M. Becker. 2015. *SmartPLS 3*. SmartPLS GmbH. http://www.smartpls.com.

Ryan, R.M., and E.L. Deci. 2000. "Intrinsic and extrinsic motivations: Classic definitions and new directions". *Contemporary Educational Psychology*, *25*(1), 54–67.

Selmer, J. 2001. "Expatriate selection: Back to basics?" *International Journal of Human Resource Management*, *12*(7), 1219–1233. https://doi.org/10.1080/09585190110083767.

Tafvelin, S., Nielsen, K., von Thiele Schwarz, U., and A. Stenling. 2019. "Leading well is a matter of resources: Leader vigour and peer support augments the relationship between transformational leadership and burnout". *Work & Stress*, *33*(2), 156–172.

Tetteh, N., and S. Mustchin. 2022. "Contrasting union orientations and engagement with international private regulation: The agency and role of labour in MNC subsidiaries in Ghana". *British Journal of Industrial Relations*, *60*(4), 949–968. https://doi.org/10.1111/bjir.12723.

Vivian, J. 2023. *Varieties of unionism? Trade union strategies and the challenges of establishing industrial relations at Chinese MNCs in sub-Saharan Africa* [Doctoral dissertation, Loughborough University].

Wambugu, R.M. 2024. *The impact of culture on firm performance: A study on the effect of respect, teamwork, innovation, quality and integrity on corporate profitability* [Master's thesis, The University of Texas Rio Grande Valley]. ScholarWorks @ UTRGV. https://scholarworks.utrgv.edu/etd/1486.

Zhao, Q. 2020. "How to establish labour protection standards for Kenyan local workers in Chinese multinational corporations". *Washington International Law Journal*, *29*(2), 455–480. https://digitalcommons.law.uw.edu/wilj/vol29/iss2/8.

04

Jennifer Wanjiru Wachira
High Court of Kenya

Certification bodies versus collective bargaining: reclaiming workers' voice in Kenya's tea and floriculture sector

Jennifer Wanjiru Wachira

ABSTRACT

Kenya's tea and floriculture industries are central to global supply chains, with the European Union as their most critical export market. Under the Corporate Sustainability Due Diligence Directive, certification schemes such as Fairtrade, GlobalG.A.P. and Rainforest Alliance have become key compliance tools. While these schemes have improved working conditions through occupational health safeguards, grievance channels, and wage adjustments, they have also coincided with a decline in collective bargaining and diminished the influence of trade unions in Kenya by redirecting worker grievances to external audit mechanisms. Workers often prefer certification grievance mechanisms, which are free and externally monitored, over union processes that require dues and are seen as slow or ineffective.

This contribution examines whether certification schemes reinforce or undermine worker's voice, focusing on ILO Conventions 87 and 98. Using a qualitative design, it draws on interviews and document analysis in Kenya's Rift Valley and Mt. Kenya regions, with comparative insights from Ethiopia, South Africa, Colombia and Ecuador. The key takeaway is that, in Kenya's tea and floriculture sectors, certification improves conditions but sidelines unions, highlighting the need for reforms embedding tripartite dialogue in due diligence frameworks at the national, certification, and global levels to ensure that certification strengthens rather than substitutes worker's voice.

Keywords: due diligence, corporate social responsibility, certification schemes, workers' involvement, social dialogue

INTRODUCTION

The Tea and Floriculture industries in Kenya are an integral part of the global supply chains. They mainly export to the European markets where compliance with human rights and environmental due diligence standards are becoming mandatory. Kenya exported in 2024 approximately 80.9 million kilograms of tea to the European Union and the United Kingdom, underscoring the continent's critical role as a market for Kenyan tea under emerging due diligence requirements. Kenya's tea accounted for the country's GDP (Tea Board of Kenya 2025). Meanwhile, the Kenyan Floriculture industry is amongst the world's top five cut-flower and ornamentals producers and exporters in 2023. Kenyan Cut flowers account for nearly 70% of total exports to the European Union (hereafter EU). These industries employ more than 200,000 workers directly, with indirect employment reaching over two million when considering supply chains, logistics, and family livelihoods (Bermudez and Ngige 2024).

Certification schemes such as Fairtrade, GlobalG.A.P. and Rainforest Alliance have become dominant tools for social compliance in these sectors. With the introduction of the EU's Corporate Sustainability Due Diligence Directive (hereafter CSDDD) the mandatory compliance list has further increased (European Union 2024). The centrality of the EU market is crucial: European buyers are tightening labour and environmental standards under the CSDDD, which requires companies to identify and mitigate human rights risks in their supply chains. The CSDDD turns previously voluntary compliance into a mandatory legal obligation. For Kenya, whose exports are heavily reliant on the EU, the stakes are high: access to the European market depends on aligning with these due diligence requirements.

The rise of certification schemes coincided with a decline of collective bargaining and a weakening of trade unions. Viswanathan cited a study which found the possibility of trade unions being dismantled due to Fairtrade initiatives that promoted free trade and a marked failure to bypass national legislation (Viswanathan 2012). Interviews with workers in the Kenyan Flower and Tea sectors provided evidence that certification bodies and standards offered faster and cost-free alternatives to unions.

Workers are increasingly preferring third-party audit and grievance channels offered by worker's committees as these are cost free and their needs are taken care of without the involvement of the trade unions who they need to pay union dues to and do not appear to be as effective in resolving their issues. A Fairtrade International Report revealed that workers committees were preferred by employees in the handling of employee needs (Fairtrade International 2024).

The contradiction is evident: certification bodies, designed to enhance compliance and worker welfare, risk undermining the very principles of freedom of association and collective bargaining, as protected under ILO Conventions 87 and 98. This paper examines whether the certification schemes are displacing, rather than supporting, the ILO's foundational principles of social dialogue and freedom of association, particularly as set out in Conventions 87 and 98 and ILO's 2022 Labour Due Diligence Guidance. The paper seeks to answer the following research questions:

A. Have certification bodies caused marginalisation of trade unions in Kenya?
B. How have certification bodies negatively influenced Social Dialogue in the Tea and Floriculture in Kenya?
C. Can certifications evolve to reinforce rather than replace the worker's voice?
D. How can certification schemes be restructured to support collective bargaining rather than replace it?
E. What reforms are needed to embed genuine worker representation in global due diligence frameworks?

This contribution adopts a structured approach combining normative analysis, qualitative interviews, and comparative case studies to address the research questions. It examines literature that deals with the question whether and how certification bodies have contributed to a marginalisation of trade unions and a weakening of social dialogue in Kenya's tea and floriculture sectors. It then advances reform-oriented proposals on how certification schemes and global due diligence frameworks can be restructured to strengthen collective bargaining and embed genuine worker representation.

1 • Literature Review and Theoretical Framework

This section reviews existing literature on certification schemes, collective bargaining, and social dialogue in Kenya's tea and floriculture sectors. It examines the evolution of certification systems, their interaction with union-led collective bargaining, and their alignment with ILO Conventions and global due diligence frameworks. Moreover, the section also introduces theoretical perspectives that help explain the tensions between certification and workers' representation.

Evolution of Certification Schemes in Kenya

According to Fairtrade Africa, the certification of flowers started in 2001 to address labour rights and environmental challenges (Fairtrade Africa 2025). According to Fairtrade Foundation (UK), Fairtrade is "about better prices, decent working conditions, local sustainability, and fair terms of trade for farmers and workers in the developing world" (Galtung 2019).

Certification Schemes in Kenya are a recent phenomenon. Kuiper and Gemählich (2017) revealed that the first Fairtrade Certified Flower Farm was certified in 2003 and in the span of 12 years the number increased to 15 farms within the Naivasha region. They found that Fairtrade standards have progressively been adopted from existing Collective Bargaining Agreements (hereafter CBAs) and note that Kenya Plantations and Agricultural Workers Union entered into a Collective Bargaining Agreement with Danish Chrysanthemum Kultur as early as 1971 when fair trade had not even been conceptualised.

Comparative Certification Schemes

Certification in Kenya has not been limited to Fairtrade. The Rainforest Alliance and GlobalG.A.P. schemes initially focused on sustainability and food safety but later incorporated social standards. According to Loconto, the most studied standards are Fairtrade, Organic and GlobalG.A.P. for coffee and horticulture production in Kenya (Loconto 2024).

The Kenya Flower Council (hereafter KFC), which was established in Kenya by Flower Producers in 1996 to ensure equality in industry standards, has now incorporated a Flower Growers Collective Bargaining Agreement within its standards, recognising it as the industry standard (2025). This Collective Bargaining Agreement is a sectoral CBA negotiated by the Kenya Plantations and Agricultural Workers Union and the Agricultural Employers Association on behalf of its 70 employer members in the Flower, Horticultural and Botanical sectors.

Thus, this CBA covers the 70 members of the Agricultural Employers Association, an employer body amongst whom are members of KFC, but is nowadays also the industry standard. In comparison, KFC has a membership of over 200 members who now have to comply with the minimum terms and conditions of employment covered in the Sector CBA which comprises of terms like working hours, health and safety in provision of protective wear, payment of gratuity, improved terms on severance pay amongst others (Kuiper and Gemählich 2017).

It was noted that certification schemes, such as Fairtrade especially in large tea plantations in Kenya have improved the terms and conditions of employment of employees (Viswanathan 2021). Notably, all these schemes did not begin with labour rights as a pillar and it is only in time that they embraced the same. Trade unions and governments have been central in creating laws and ensuring better terms and conditions for workers.

GlobalG.A.P. Risk Assessment on Social Practice audit parameters find that freedom of association and collective bargaining is classified as a Major Must, meaning that it is a mandatory requirement in the certification. The system covers areas of worker's voice, human and labour rights information and child protection. This standard was introduced in 2015 as an add on to the existing stand-alone standard (GlobalG.A.P. 2025).

Tensions Between Certification and Collective Bargaining

Tensions between certification bodies and trade unions have grown in global supply chains. Trade unions have long doubted private certification and CSR schemes, especially when these replace legally binding labour standards or collective bargaining. This scepticism has been articulated by several trade union organisations. A report by the American Federation of Labour and Congress of Industrial Organisations (AFL-CIO) described certification and social auditing initiatives as part of two decades of "privatised regulation" of global supply chains, arguing that such mechanisms have often failed to adequately protect workers' rights and, in some cases, provided reputational cover for companies despite persistent labour violations (AFL-CIO 2013).

These tensions, rooted in longstanding concerns, are particularly visible in certification schemes applied in export-oriented agricultural sectors such as tea and floriculture, where private labour standards intersect with established national labour law frameworks.

The Fairtrade Standard for Hired Labour (2024) comprises terms and conditions on the welfare of employees and this author offers a critique on the same as the terms are created by an independent body which is not party to any negotiations between the employer and the employee. Furthermore, the terms are created and enforced by a certification body with limited input from the part of the producers in the Global South (Sen and Majumder 2011).

An interesting scenario arose when a certification body found an employer to be in contravention of the Fairtrade Standard for Hired Labour due to workers not having conducted union elections. This situation raised a critical dilemma. Under Kenyan labour law, the responsibility for organising and supervising trade union elections lies solely with the union and its members, not with the employer. An employer cannot compel a trade

union to hold elections, nor can they interfere in such internal union matters beyond granting employees the statutory right to participate in lawful union activities during working hours.

In this case, the union's failure to conduct elections was interpreted by the certification body as non-compliance by the producer. The result was that a producer who had heavily invested in certification risked losing the certification status, while employees themselves stood to lose access to Fairtrade premiums. This creates an inequitable outcome, punishing both employers and workers for circumstances beyond the employer's control.

Such incidents also raise the concern that certification bodies may, in effect, interfere in union autonomy by imposing requirements on employers that relate to union governance. While intended to promote democratic worker representation, these provisions risk distorting the delicate balance established in labour law - where employers are prohibited from involvement in union elections precisely to safeguard freedom of association.

Kuiper and Gemählich (2017) recognised that trade unions are not devoid of politics and are not party to the creation of the standard. An active contention at the moment is the provision on Freedom of Association which Fairtrade embraces as a basic tenet of labour relations. The standard created for a producer who is the employer, mandates an employer to ensure that elections of workers representatives are conducted at the workplace.

Global Frameworks and Human Rights Indicators

According to ILO's broad working definition, Social Dialogue reflects a wide range of processes and practices that are found worldwide, social dialogue includes all types of negotiation, consultation or exchange of information among representatives of governments, employers and workers or between those of employers and workers on issues of common interest relating to economic and social policy (ILO 2013). Social Dialogue is fundamental to industrial relations and enshrined in Conventions 87 (freedom of association) and 98 (collective bargaining rights). Kenya has ratified convention 98 on right to organise and to collectively bargain, yet agricultural compliance is now shaped more by external certification audits than by CBAs negotiated under these conventions (ILO 2025b).

Filice (2015) quoted Navi Pillay, the UN High Commissioner for Human Rights, who stated on 10 May 2013:

"Twenty years ago, one of the recommendations of the World Conference on Human Rights in Vienna was that we employ and analyse indicators to help measure our progress in human rights. Only robust and accurate statistics can establish the vital benchmarks and baselines that translate our human rights commitment into targeted policies and only they can measure how effective those policies truly are."

Millard observed in 2021 that several countries in Europe individually, Germany being one of them, and the EU have passed legislation requiring compliance with defined criteria for certain commodities, and legislation that ensures that human rights and environmental protection in all their commodity supply chains is adopted. This legislative change was observed to be in line with the agenda of Fairtrade (Millard 2021).

3 years later, against this backdrop, the EU introduced the CSDDD which entered into force on 25 July 2024 with the aim to foster sustainable and responsible corporate behaviour in companies' operations and across their global value chains. Amongst the recognised rights in the provision are the freedom to associate and collectively bargaining as enshrined in ILO Convention 87 and 98 (European Union 2024).

Criticisms of Certification Schemes

Felice (2015) is of the view that corporate reporting by companies lead to underreporting and, additionally, companies could withhold information about human rights abuses especially where the breach was found to be illegal.

Galtung (2019) noted in his article that companies were under pressure to make positive reports in their sustainability reporting. However, none of the certification schemes that were present reported on the improvement of worker wellbeing. He opined that organisations collected data but questioned why there was no reporting of the collected data.

Certification schemes have also faced significant criticism. Interviews with workers from several producer organisations revealed that the practice of providing advance notification of audits often results in producers temporarily improving conditions to pass inspections. For example, some workers reported that employers would distribute new protective clothing only on the day of the audit, creating the appearance of compliance. This concern was corroborated by auditors themselves, who noted that interviews with employees frequently exposed discrepancies between documented compliance and everyday practices.

As the interview with the auditors emphasised, compliance should be a continuous process, embedded in daily workplace practices rather than staged for periodic external audits. When certification becomes the primary benchmark, producers tend to treat compliance as a trade requirement rather than a commitment to upholding fundamental rights.

Furthermore, producers who align their operations strictly with certification standards often bypass direct engagement with workers through social dialogue or collective bargaining. This reduces labour law obligations to a set of compliance checklists, where freedom of association and collective bargaining are treated as technical indicators rather than living rights. The result is a growing detachment from workers' collective struggles, undermining the ILO's foundational principles on which genuine worker's voice depends on (Kuiper and Gemählich 2017).

Moberg and Lyon (2010) have criticised Starbucks for presenting itself as a supporter of fair trade and ethical sourcing while simultaneously opposing unionisation among its own

employees in the United States. This contradiction highlights the gap between the company's public commitment to Fairtrade principles in its supply chains and its resistance to applying those same principles of worker's voice and collective bargaining within its direct workforce.

Critical review and identification of research gaps

This section examined the evolution of certification schemes in Kenya's tea and floriculture sectors and their complex interaction with collective bargaining and social dialogue. The review showed that while certification schemes such as Fairtrade, Rainforest Alliance, GlobalG.A.P., and the Kenya Flower Council have played a central role in shaping compliance, they were initially designed with limited focus on labour rights. Over time, they have incorporated social clauses, often borrowing from existing collective bargaining agreements, yet tensions persist where externally imposed standards overlap or conflict with union-driven processes.

The literature also highlighted several contradictions. Certification bodies have at times penalised producers for issues beyond their control, such as union election delays, thereby inadvertently interfering in union autonomy. Similarly, the practice of pre-announced audits has been criticised for enabling "cosmetic compliance", where improvements are staged to meet audit requirements rather than be embedded in everyday practice. These trends risk reducing fundamental labour rights, particularly freedom of association and collective bargaining, to technical compliance checklists.

Placing these developments in a broader context, the review connected certification schemes to global labour governance frameworks, including the ILO's conventions on social dialogue and the EU's CSDDD by applying the theoretical lens of rights as audit metrics.

The literature demonstrates that

certification schemes in Kenya's tea and floriculture sectors have evolved from voluntary sustainability initiatives into de facto gatekeepers of market access. While they have introduced improvements in wages, grievance procedures, and health and safety, they have as well been criticised for promoting "cosmetic compliance" and weakening collective bargaining structures.

Comparative studies suggest that the outcomes of certification in South Africa and Ethiopia, have contributed to union marginalisation (Fairtrade International 2023b). The review also highlights gaps, particularly the limited involvement of workers in setting certification standards and the lack of integration between certification bodies and national labour institutions. These gaps justify the qualitative approach adopted in this study, which investigates how certification interacts with trade unions and worker's voice in Kenya.

The literature review reveals three key gaps:

- Limited integration between certification schemes and trade union structures.
- Minimal worker participation in setting certification standards.
- Insufficient exploration of models where certification supports rather than replaces social dialogue.

These gaps underscore the need for research examining how certification can be restructured to reinforce collective bargaining and worker's voice in Kenya's tea and floriculture sectors.

2 • Methodology

The preceding section highlighted the evolution of certification schemes in Kenya's tea and floriculture sectors, their interaction with collective bargaining, and the tensions they create in relation to social dialogue and ILO standards.

It revealed key gaps in the literature: existing research has not sufficiently examined how workers can be meaningfully included in standard-setting processes, how certification bodies and trade unions might be more effectively integrated, or what models might enable certification to support rather than replace collective bargaining.

Based on these insights, this section outlines the research design, data collection methods, analytical approach, and the delimitations and limitations of the study. It explains how qualitative methods were employed to examine the interaction between certification schemes and collective bargaining in Kenya's tea and floriculture sectors.

The study adopted a qualitative research design, focusing on tea and floriculture farms in the Rift Valley and Mt. Kenya regions. These regions were selected because they host large-scale plantations and export-oriented farms, making them central to both certification schemes and collective bargaining practices. The qualitative approach was chosen to capture the lived experiences of workers and stakeholders, and to provide nuanced insights into how certification bodies influence social dialogue.

Methods for Collecting Data

Data was collected using a combination of semi-structured interviews and document analysis. In total, 15 farmworkers (10 women and 5 men) drawn from both tea and flower farms were interviewed. A sample of the Questionnaire can be found in the Appendices as Appendix A.
The sample size was deemed sufficient to capture a diversity of workers' perspectives within the constraints of time and resources, while still reaching thematic saturation. Special attention was given to gender balance, as women

form a significant proportion of the floriculture workforce and often face distinct challenges such as wage disparities, job insecurity, and risks of sexual harassment. Their inclusion was therefore essential in reflecting gendered dimensions of worker's voice.

Additionally, four representatives of the Kenya Plantation and Agricultural Workers Union and two certification auditors were interviewed to provide institutional and compliance perspectives. A sample of the Questionnaire can be found in the Appendices as Appendix B & C respectively.

To supplement interview data, document analysis was conducted on collective bargaining agreements, grievance logs, certification standards, and ethical trade policy reports.

To add depth and external validity, the study incorporated comparative examples from Ethiopia, South Africa, Colombia and Ecuador. These countries were selected due to their reliance on export agriculture and extensive adoption of certification schemes, offering useful benchmarks for how certification interacts with labour institutions in different contexts.

Data Analysis

The data was analysed using thematic coding, which enabled the identification of key patterns and recurring themes. Three dominant themes emerged from the analysis:
Union marginalisation.
Certification as a substitute for social dialogue.
Accountability shifts from labour law to certification frameworks.

Ethical Considerations

Strict ethical protocols were followed throughout the study. Participation was voluntary, informed consent was obtained from all respondents, and anonymity was preserved. The study adhered to established best practices in qualitative research ethics. A sample of the Consent Form can be found in the Appendices as Appendix D.

Limitations and Relevant Indications of the Study

Like all qualitative research, this study is subject to certain limitations. The relatively small sample size (15 farmworkers, 5 union representatives, and 3 certification auditors) limits the generalisability of findings across Kenya's entire tea and floriculture sectors. Instead, the study is intended to provide in-depth insights into dynamics that may reflect wider trends.

The study also relied primarily on self-reported interview data, which may be influenced by recall bias or social desirability bias. Furthermore, comprehensive quantitative data on union membership decline and certification coverage in Kenya remains limited, requiring reliance on interviews and secondary reports rather than national-level datasets.

Despite these limitations, the study's triangulation of perspectives from multiple stakeholders, supplemented by document analysis and comparative case studies, enhances the robustness of the findings and provides a sound foundation for policy and academic reflection.

3 • Findings and Analysis

Influence on Social Dialogue

The basic tenets of Social Dialogue include all types of negotiation, consultation or exchange of information among representatives of governments, employers and workers or between those of employers and workers on issues of common interest related to economic and social policy (ILO 2013).

In an interview with officials of Fairtrade Africa based in Kenya, these officials cited that there was a drop in trade union membership by employees. In as much as they are encouraging the collaboration between the union and the employer, this partnership is at the expense of the employees having a voice on what is best for them.

When standards are set by a third party, which are purportedly meant to assist in the welfare of the employee without the participation of the employee by themselves or through their union of choice, then social dialogue has been erased from the equation.

This information is supported by a report from Fairtrade International as it conducted a study in Kenya, Uganda and Ethiopia, and found that the employers preferred not to interact with the trade union. It was noted that only 22 percent of workers, eligible to join unions, were actually in unions. Furthermore, in both Kenya and Uganda, shop stewards and other union representatives outside the farms described the tendency of management to indirectly discourage workers from joining the unions, through improved benefits or by empowering other workers' committees (Fairtrade International 2023b).

In Ecuador, Fairtrade has made little progress in supporting unionisation as flower plantation managers oppose the major rural union FENACLE whereby they have threatened Fairtrade that their efforts to encourage engagements with the union will lead them to exiting Fairtrade and shifting to Fairtrade USA or Rainforest Alliance which require only "respect" for freedom of association. The managers argue that workers' committees already ensure representation, since committee resolutions are legally binding under Ecuadorian law. Worker committee representatives also distrust national unions, fearing that affiliation would

undermine their achievements and autonomy (Raynolds 2022). Raynolds further underpins that the position of workers' committees cannot claim worker's rights and can only articulate concerns as the existence of these committees is pegged on the employer's decision to maintain Fairtrade certification.

Colombia, a neighbouring country, has a long history of armed and organised conflicts (OECD 2024). According to the Fairtrade Risk Map, Colombia has 54 fairtrade certified plantation farms that cultivate, bananas, coffee, fruit and cocoa (Fairtrade Risk Map 2025). While Colombia has ratified convention 87 and 98, human rights and labour rights violations remain widespread (ILO 2025a). According to data collected by the Ministry of Labour, 3323 members of trade unions are reported to being victims of homicides between 1971 and 2023, 449 experienced attacks on their lives, 254 were victims of disappearance, 7884 received threats, and 1987 were victims of forced displacement (OECD 2024). Although the country would seem committed to upholding the law, freedom of association is severely curtailed by the threat to life and body, hence the freedom to associate and freely join a trade union of your choice is just but a dream.

In contrast to Kenya, where the decline of trade union influence is largely driven by structural factors such as the growth of certification schemes and worker preference for grievance mechanisms over union channels, Colombia illustrates a more severe context in which freedom of association is undermined by violence and threats to life.

Fairtrade America indicated in an article, published in 2019, that a worker in a banana plantation has the right to join a trade union, if they so choose, as per the Fairtrade Standards, however, the reality of this may not exist, as evidenced by the 2024 OECD review on labour market and social policies. In the same year, 2019, trade unions and employers in Colombia (and Ecuador) were lauded for negotiating collective bargaining agreements that increased the worker's salaries to a decent wage which was above the set minimum wage by the Government (Banana Link 2019).

Although Kenya and Colombia have ratified ILO Conventions 87 and 98, the barriers differ. In Kenya, trade unions face challenges from parallel compliance systems, while in Colombia, union activity is often limited by threats and intimidation. Despite these obstacles, Colombia offers a valuable example for Kenya. Successful collective bargaining agreements in Colombia (and Ecuador) in 2019 show that progress is possible when unions and employers collaborate, even in difficult conditions. Certification bodies in Kenya should focus on enabling meaningful union participation, rather than replacing it.

An annual report published by Fairtrade International in 2023, cited that through a collaboration with the Ministry of Foreign Affairs in Finland, they were supporting efforts in South Africa to create better collective bargaining agreements, increase dialogue with rightsholders, and improve relationships between trade unions and management on 26 wine grape farms with 28,000 workers in the Western Cape Province. In an interview with union officials of Agricultural Broadbase and Allied National Trade Union, operating within the wine industry in South Africa, they also stated that they had experienced challenges with their members as the standards set by Fairtrade and the strict enforcement by the employers led them to lose relevance where their members rejected union interventions. Other efforts cited are in Ethiopia where trade unions operating in seven Fairtrade Certified Flower Farms are being supported in coming up with a sectoral based collective bargaining agreement and to become more democratic and inclusive.

One union official explained that most disputes in South Africa's wine sector had to be enforced through the Commission for Conciliation, Mediation and Arbitration, whereas non-compliance with certification standards immediately threatened the licensing of farms. In their view, this created a situation where producers complied with certification requirements primarily out of fear of losing market access, rather than from a genuine obligation to uphold labour law.

What is not clear from the Fairtrade International 2023 report is whether these efforts are supported by the Government in the respective countries and whether the International Labour Organization has been involved in ensuring that good labour practices are maintained. A critique from the 2023 report presents itself especially where the role of the Government in enhancing dialogue and relationships is overlooked at the expense of a certification body. At the same time the efforts to create a sectoral CBA can be viewed as being coercive especially where the agenda of Fairtrade International has been to establish a Living Wage in developing countries and as a result an overlooking of the autonomy of the trade unions (Fairtrade International 2023a).

Certification Bodies and Marginalisation of Trade Unions

Workers are, according to the same report, increasingly preferring third-party audit and grievance channels as they are cost-free compared to union dues, and unions are seen as less effective in handling grievances. The workers' committees were revealed to handle workers needs more effectively than trade unions and thus employees left the trade union or did not feel the need to join the trade union as a result. This was reported in six producer organisations where employees were interviewed (Fairtrade International 2023a). Additionally, workers preferred Certification standards as they offered monetary benefits through payment of premiums.

In a paper by Viswanathan (2021) dedicated to tea plantations in India, he found that workers believed that Fairtrade was about additional income from selling tea outside the country. Additionally, in interviews, the employees were of the view that they did not see the value for money in joining the trade union as the services were not commensurate to the union dues paid.

In an interview on a tea plantation, it was revealed that the negotiated collective bargaining agreement provided for higher wages. These improvements were attributed not to certification programs, but to the long-standing role of the trade

union in the tea sector and the length of service of workers. At the same time, the worker explained that Fairtrade premiums were mainly utilised for the payment of school fees for their children, which was a key reason why they remained in use. Access to education through the premiums was therefore seen as a significant incentive, operating alongside but separate from the benefits negotiated through the union (Viswanathan 2021).

Kenya lacks a robust database on sector specific trade union density and as such it is not easy to find quantitative data except through the interviews conducted with employers who indicate that the money submitted to unions in union dues has drastically reduced while that paid in agency fees has increased due to the fact that employees withdraw union membership.

As mentioned before, the Fairtrade International study found that only 22 percent of workers eligible to join the union were union members (Fairtrade International 2023b).

One interviewee quoted in a Fairtrade study indicated that the monies deducted towards union dues was 2% of their basic wages and they had not seen their union representatives from the time of recruitment, which was more than 3 years ago, they did not understand how the union functioned and felt that they were not benefiting from an absentee representative. As a result, the interviewee wanted to withdraw from membership of the union (Fairtrade International 2023a).

Interviews with trade union officials treated in the same report were varied. One of the union officials felt that there was no impact to their activities. They would still benefit from the sectoral CBA as they would still obtain agency fees from employees and thus, they would have their income. However respectfully, this is a myopic view as the intention of trade unionism is lost, given the fact that the element of representation is lost.

These are the varied interests that present themselves from all perspectives. From an employer perspective the fact that they do not have to deal with a meddlesome union is to be applauded, while from the union perspective as long as they receive money whether through union dues or agency fees the end goal is money. As can be seen these are selfish interests on both sides especially where it can be easily recognised that where there is no goodwill to promote good industrial relations, the worker stands to suffer.

Accountability Shift

The certification body will embrace in its standards the good industrial practices. However, when looking at this situation through the lens and the spirit of freedom of association and the right to collectively bargain these principles are lacking.

For the worker, the risk appears that the certification body takes precedence over any other principle and the union is replaced by workers committees, which do not in any way negotiate with the management team, as all terms and conditions of employment are set by the employer and or certification body. The question then arises, where is the worker's voice?

The Fairtrade International study (2023b) found that there was a displacement of the worker's voice in some of the worker's committees as the perception of workers was that the worker's committees served the interests of the employer while in other organisations, the employer influenced the persons who joined the worker's committees.

It was noted that employees tended to report their grievances to the auditors who conduct audits during their interviews as the employees felt that the Certifying bodies had more power than the union in terms of immediate redress. In a certain farm, employees reported abusive language of their supervisors to the auditor, in another they reported instances of sexual harassment which had not been brought to the attention of the union. The results were instant; the certifying body issued a non-compliance to the farms with a threat of suspension if the farms did not rectify and act on the grievances raised.

This has a direct impact on the trust placed by employees on internal grievance handling procedures, which have been negotiated upon on their behalf by the union.

In a letter seen by the author, Kenya Plantations and Agricultural Workers Union accused Fairtrade Africa of interfering in its activities, showing the divided lines that can be caused by certification bodies.

In an interview, one union representative expressed concern that trade unions were not consulted on information gathered by auditors during the certification process, particularly on issues relating to freedom of association and the right to collective bargaining. This highlights a fundamental weakness: certification audits often appear to verify the existence of a union and a negotiated CBA merely as compliance indicators, rather than as a mechanism to promote genuine social dialogue.
An interesting contradiction, from the interviewed officials of the trade union, amongst them a senior officer, indicated that the trade unions had even been taken over in training of shop stewards which was their role. They felt that certification bodies were now further interfering in this activity which was also being encouraged by the employers. On the other hand, the report by the Fairtrade International depicts a different picture where the trade union officials are appreciative of the efforts of the certification body to train (Fairtrade International 2023a).

Findings summarised

Earlier findings indicate that certification has diminished the influence of trade unions in Kenya by redirecting worker grievances to external audit mechanisms. This pattern is observed elsewhere but varies: in Colombia, union rights are restricted due to violence; in South Africa, certification can overshadow statutory dispute-resolution systems; and in Ethiopia and Ecuador, certification interacts with weak or contested union structures. These differences show that certification outcomes depend on specific national labour relations contexts. The key takeaway is that, in Kenya's tea and floriculture sectors, integrating unions into certification governance is essential to prevent the marginalisation of worker representation.

While certification schemes in Kenya's tea and floriculture sectors have strengthened workplace protection, they have also contributed to the marginalisation of trade unions by providing faster, cost-free grievance mechanisms that workers perceive as more effective than union channels. While there has been an improved access to remedies, it has weakened social dialogue by reducing the role of collective bargaining and shifting accountability to external auditors. Reforms at the national, certification, and global levels are therefore critical to ensure that certification strengthens rather than substitutes worker's voice.

4 • Recommendations

The findings reveal that certification schemes improve some material conditions. However, they often sideline social dialogue, fragment worker's voice, and move accountability away from employer-worker negotiations. Trade unions have not adapted to this change, but there is a chance for reinvention. Trade unions can become co-monitors of ethical standards and partners in certification governance. Including tripartite dialogue in due diligence is essential for resilient, rights-based supply chains.

National Policy Reforms

The current grievance handling mechanisms and the duration required to resolve disputes are not conducive to employees. Both trade unions and employers should consider implementing faster resolution processes.

The existing systems follow the Employment Act and Labour Relations Act in Kenya (Kenya Law Reports 2007). Amending these laws for shorter and more effective grievance resolution would better represent worker's voices.

Given the increasing prevalence of certification schemes registered in Kenya, their involvement in social audits aimed at enforcing freedom of association and collective bargaining rights should be formalised within national law. Integrating these schemes under the Ministry of Labour would promote compliance with labour laws and International Labour Organization Conventions 87 and 98, and foster collaboration with trade unions to strengthen labour relations.

Trade Union Strategies

The distinct roles of the trade union and the certification bodies are blurred for employees as employees believe that the certification bodies are meant to represent their interests which is not the case. Employees should understand the role of the trade unions and their capacity to empower the employees through the tools of negotiation, dialogue and representation which is lacking in certification schemes. An employer cannot be expected to fully agitate for the rights of an employee through a certification standard as argued earlier on in this paper.

By embedding trade unions as co-monitors and integrating CBAs into certification governance, a hybrid governance model can emerge - aligning with ILO tripartism and EU due diligence requirements. The future of worker's voice in Africa's export industries depends on reclaiming social dialogue within global supply chains.

This is in line with the proposals of the European Trade Union Confederation (ETUC) in 2019; trade unions should push for inclusion and consultation of social partners in the European initiatives on mandatory human rights due diligence and responsible business conduct.

Certification Body Reforms

Certification schemes should incorporate a separate audit criterion requiring the active consultation of trade unions during the certification process. This would ensure that assessments of freedom of association and collective bargaining reflect the lived reality of workers, rather than being reduced to procedural checkboxes especially in the lived reality of the literacy levels of agricultural workers. This is corroborated by the findings in the Fairtrade International Study (2023b).

Notably, any government intervention is missing. As a tripartite partner, the Government is an important component of social dialogue, however they are not featured in the certification audits, clearly bringing to the forefront the fact that social dialogue is not key for certification bodies as it is for the tripartite parties.

Global Governance Strategies

While creating standards, like the EU Corporate Sustainability Due Diligence Directive, and developing of directives from the ILO, there should be note of the global role that is played by the international bodies in policy formulation. They should be deployed to promote the spirit and purpose of social dialogue.

Article 14 of the Corporate Sustainability Due Diligence Directive has brought in key stakeholders being the trade unions and recognises their importance in bringing out complaints and grievances to affected companies without repercussions (EU 2024).

According to Giovannone (2024), certification schemes should be restructured to align with the CSDDD's emphasis on workers' information and participation rights, by requiring that trade unions be actively consulted during audits and compliance processes. Embedding these criteria would transform certification from a technical checklist into a tool that strengthens social dialogue and collective bargaining, consistent with the Directive's stakeholder-involvement mandate and would be in line with the European Trade Union Confederation's objectives.

CONCLUSION

This study finds that, in Kenya's tea and floriculture sectors, certification bodies improve material conditions but weaken union-led representation and collective bargaining. Drawing on evidence from interviews and comparative case studies that refer to the EU Corporate Sustainability Due Diligence Directive and ILO Conventions 87 and 98, the study highlights that certification can support worker welfare, but at the same time displace union power.

Addressing the Research Questions

A. Have certification bodies caused marginalisation of trade unions in Kenya?

Workers are drawn to certification grievance mechanisms because they are cost-free, externally monitored, and provide faster outcomes than union channels. As a result, union membership and bargaining power have declined, especially in the agricultural sector. Certification bodies have thus played a significant role in marginalising unions.

B. How have certification bodies negatively influenced social dialogue in the Tea and Floriculture in Kenya?

Certification audits commonly reduce union presence and collective bargaining to a checklist item. Employers primarily comply to retain export licenses and often do not engage in meaningful dialogue with unions. This bypasses ILO principles, as real negotiation and consultation between employers and worker representatives are undermined.

C. Can certifications evolve to reinforce rather than replace the worker's voice?

Comparative analysis reveals that certification frameworks can support, rather than supplant, worker representation. Integrating unions into Fairtrade governance has allowed them to co-monitor ethical standards, demonstrating that direct union involvement underpins a stronger worker's voice.

D. How can certification schemes be restructured to support collective bargaining rather than replace it?

This study recommends that certification bodies add a separate audit criterion that requires direct consultation with trade unions. Standards should assess whether negotiations are active and inclusive, not just verify the existence of CBAs. These steps would better uphold ILO Conventions 87 and 98.

E. What reforms are needed to embed genuine worker representation in global due diligence frameworks?

Kenya should strengthen labour inspections and coordinate certification audits with national institutions. Internationally, the EU and ILO must require supply chain buyers to show both compliance and active worker engagement under the CSDDD, embedding tripartite dialogue in due diligence.

Contribution of the study and future outlook

This research contributes in three ways. First, it documents how certification in Kenya shifts accountability from unions to auditors. Second, it reframes certification as private labour governance that can depoliticise collective struggles. Third, comparative cases suggest how certification could strengthen rather than undermine unions.

The study concludes that

certification bodies cannot remain neutral if worker's voice is to be preserved. They must support collective bargaining instead of replacing it. In Kenya, this means reassessing the roles of unions on certified farms and ensuring that representation is not shifted to auditors.

For the EU, due diligence must reflect the realities of labour in the Global South. The long-term future of Kenya's exports relies on both environmental compliance and credible worker's voice in production.

BIBLIOGRAPHIE

American Federation of Labor and Congress of Industrial Organizations. 2013. Responsibility outsourced: Social audits, workplace certification and twenty years of failure to protect worker rights. Available from https://aflcio.org/sites/default/files/2017-03/CSReport.pdf [Accessed on 15 March 2026]

Banana Link. 2019. *Fairtrade highlights Ecuador and Colombia's progress in increasing banana wages*. Available from: http://bananabrands.co/index-272.html [Accessed on 6 September 2025].

Bermudez, S., and J. Ngige. 2024. *The Kenyan Flower Subsector A model of enhanced competitiveness through mandatory and voluntary sustainability standards* [Online]. Available on https://www.iisd.org/ssi/publications/kenyan-flower-subsector/ [Accessed on 7 July 2025].

European Trade Union Confederation. 2019. ETUC Position for a European directive on mandatory Human Rights due diligence and responsible business conduct. Available from https://www.etuc.org/en/document/etuc-position-european-directive-mandatory-human-rights-due-diligence-and-responsible [Accessed on 6 September 2025].

European Union. 2024. *Directive (EU) 2024/1760 of the European Parliament and of the Council of 13 June 2024 on corporate sustainability due diligence and amending Directive (EU) 2019/1937 and Regulation (EU) 2023/2859*. Available from: https://eur-lex.europa.eu/eli/dir/2024/1760/oj [Accessed on 30 August 2025].

Fairtrade Africa. 2025. *Flowers*, https://fairtradeafrica.net/flowers-2 [Accessed on 28 August 2025].

Fairtrade America. 2019. *Banana Producers thrive in Colombia*. Available from: https://fairtrade.net/us-en/news/banana-producers-thrive-in-colombia.html [Accessed on 6 September 2025].

Fairtrade International. 2023a. *Driving the Fairness Agenda Fairtrade International Annual Report 2023*. Available from: https://www.fairtrade.net/content/dam/fairtrade/fairtrade-international/library/2023/2023-anual-report/Fairtrade-International-Annual-Report-2023.pdf [Accessed on 6 September 2025].

Fairtrade International. 2023b. *Impact of Fairtrade on flower workers and market access by flower farms in East Africa*. Available from: https://www.fairtrade.net/content/dam/fairtrade/fairtrade-international/library/2023/impact-of-fairtrade-on-flower-workers-and-market-access-of-flower-farms-in-east-africa/Fairtrade-flower-impact-study-Feb-2023.pdf [Accessed on 6 September 2025].

Fairtrade International. 2024. *Fairtrade Standard for Hired Labour.* Available from https://www.fairtrade.net/content/dam/fairtrade/fairtrade-international/standards/hired-labour-/HL_EN.pdf [Accessed on: 2 September 2025].

Fairtrade Risk Map. 2025. *Colombia*. Available from: https://riskmap.fairtrade.net/countries/Colombia [Accessed on 6 September 2025].

Felice, D. 2015. "Business and Human Rights Indicators to Measure the Corporate Responsibility to Respect: Challenges and Opportunities". Human Rights Quarterly [Online] Jstor Database, 37(2). 511-555. Available from https://www.jstor.org/stable/24518328 [Accessed on 30 August 2025].

Galtung, F. 2019. "How impactful is Fair Trade? A paradigm shift in reporting would tell a better story". *Journal of Fair Trade* [Online] Jstor Database 1(2). Available from: https://www.jstor.org/stable/10.13169/jfairtrade.1.2.0040 [Accessed on 7 July 2025].

Giovannone, M. 2024. "The European directive on 'corporate sustainability due diligence': the potential for social dialogue, workers' information and participation rights". *Italian Labour Law e-Journal* [Online] 17(1). Available from https://doi.org/10.6092/issn.1561-8048/19692 [Accessed on 6 September 2025].

GlobalG.A.P. 2025. *GlobalG.A.P. Risk Assessment on Social Practice*. Key documents: the GRASP general rules, the GRASP Principles and Criteria, and the checklists. Available from: https://www.globalgap.org/search/?area=documents&offset=0&q=grasp [Accessed on 6 September 2025].

International Labour Organization. 2013. *National tripartite social dialogue: an ILO guide for improved governance*, ILO, Social Dialogue and Tripartism Unit, Governance and Tripartism Department. Geneva. Available from: https://www.ilo.org/publications/national-tripartite-social-dialogue-ilo-guide- improved-governance [Accessed on 23 September 2024].

International Labour Organization. 2025a. *NORMLEX-Ratifications for Colombia*. Available from: https://normlex.ilo.org/dyn/nrmlx_en/f?p=NORMLEXPUB:11200:0::NO::P11200_COUNT RY_ID:102595 [Accessed on 6 September 2025].

International Labour Organization. 2025b. *NORMLEX-Ratifications for Kenya*. [Online] Available from https://normlex.ilo.org/dyn/nrmlx_en/f?p=NORMLEXPUB:11200:0::NO::P11200_COUNTRY_ID:103315 [Accessed on 3 September 2025].

Kenya Flower Council. 2025. *Our history.* Available on https://kenyaflowercouncil.org/index.php/our-story/our-history.

Kenya Flower Council. 2025. *KFC Certification Scheme Auditing and Certification Regulations*, Available from https://kenyaflowercouncil.org/images/certification/B1.pdf [Accessed on 2 September 2025].

Kenya Law Reports. 2007. *Employment Act* (2007). Available from https://www.kenyalaw.org/kl/fileadmin/pdfdownloads/Acts/EmploymentAct_Cap226-No11of2007_01.pdf [Accessed on 26 September 2024].

Kenya Law Reports. 2007. *Labour Relations Act* (2007). Available from https://kenyalaw.org/kl/fileadmin/pdfdownloads/Acts/LabourRelationAct_No14of2007.pdf [Accessed on 16 September 2024].

Kuiper, G., and A. Gemählich. 2017. "Sustainability and Depoliticisation: Certifications in the Cut-Flower Industry at Lake Naivasha, Kenya". *Africa Spectrum* [Online] Jstor Database 52(3). Available from https://www.jstor.org/stable/44982234 [Accessed on 7 July 2025]

Loconto, A. 2024. "State of the art". *Journal of Fairtrade* [Online] Jstor Database 5(2). Available from: https://www.jstor.org/stable/10.2307/48810872 [Accessed on 7 July 2025].

Millard, E. 2021. "How Fair Trade can stay strong as companies scale up their social and environmental programmes". *Journal of Fairtrade*. [Online] Jstor Database,3(1). 54-63. Available from: https://www.jstor.org/stable/10.13169/jfairtrade.3.1.0054 [Accessed on 7 July 2025].

Moberg, M., and S. Lyon. 2010. "What's Fair? The Paradox of Seeking Justice through Markets". *NYU Press*. [Online] Jstor Database. Available from: https://www.jstor.org/stable/j.ctt9qg61z.4 [Accessed on 7 July 2025].

OECD. 2024. "OECD Reviews of Labour Market and Social Policies: Colombia 2024", *OECD Reviews of Labour Market and Social Policies*, OECD Publishing, Paris. Available from: https://doi.org/10.1787/6ed40726-en [Accessed on 6 September 2025].

Raynolds, L.T. 2022. "Can certification increase trade fairness and worker empowerment? Lessons from Fairtrade International-certified plantations in Ecuador". *International Sociology*, [online] Sage Journals *37*(6), 716-739. Available from: https://doi.org/10.1177/02685809221103598 [Accessed on 6 September 2025].

Sen, D., and S. Majumder. 2011. "Fair Trade and Fair Trade Certification of Food and Agricultural Commodities: Promises, Pitfalls, and Possibilities". *Environment & Society*, 29-47. [Online] Jstor Database 2. Available from: https://www.jstor.org/stable/43296985 [Accessed on 30 August 2025].

Tea Board of Kenya. 2025. *Kenya Tea Industry Performance Highlights for 2024*. Available from https://www.teaboard.or.ke/resources/kenya-tea-industry-performance- reports/kenya-tea-industry-performance-report-2024 [Accessed on 8 August 2025].

Viswanathan, P. 2021. "Do trade certifications alleviate economic and social deprivations of plantation workers? A study of the tea plantation sector in India". *Work Organisation, Labour & Globalisation*. [Online] Jstor Database 15(2) 46-72. Available from: https://www.jstor.org/stable/10.13169/workorgalaboglob.15.2.0046 [Accessed on 7 July 2025].

APPENDICES

Appendix A: Questionnaire for Farm Workers

Section 1: Background

1. Gender: ☐ Male ☐ Female
2. Age: __
3. Type of farm: ☐ Tea ☐ Flowers
4. Years of employment: __

Section 2: Employment and Representation

Are you a member of a trade union? Why or why not?

Have you ever participated in a Collective Bargaining Agreement (CBA) process?

Do you feel your concerns at work are adequately represented by trade unions?

Section 3: Certification and Grievance Mechanisms

Is your farm certified under any scheme (Fairtrade, GlobalG.A.P., Rainforest Alliance)?

If yes, are you aware of the certification grievance channels available to workers?

Have you ever used certification grievance channels? If so, how did they compare to union mechanisms?

Do you feel certification has improved your working conditions (wages, safety, benefits)?

Section 4: Worker Voice

Do you feel your voice is stronger through unions, certification bodies, or neither? Why?

What improvements would you recommend to ensure workers have a stronger voice?

Appendix B: Questionnaire for Union Representatives

Section 1: Background

1. Union name: __
2. Position in union: __
3. Years of service: __

Section 2: Union–Employer Relations

How would you describe current collective bargaining in the tea/floriculture sectors?

What challenges do unions face in recruiting and retaining members in certified farms?

How has certification affected the role of unions in grievance handling?

Section 3: Certification and Social Dialogue

In your experience, do certification bodies consult unions during audits or grievance processes?

Have CBAs been sidelined or reinforced by certification standards?

What reforms do you believe are necessary to align certification with collective bargaining?

Appendix C: Questionnaire for Certification Auditors / Bodies

Section 1: Background

Certification body: __
Role: __
Years of auditing experience: __

Section 2: Certification Practices

What are the main labour standards you assess during audits?

How do you engage with workers, unions, and employers in the audit process?

Do you notify farms in advance of audits? If so, how do you ensure genuine compliance rather than staged improvements?

Section 3: Certification and Worker Voice

To what extent do certification standards integrate social dialogue and collective bargaining?

Have you encountered conflicts between certification standards and national labour law?

In your view, how can certification schemes better support worker's voice and union representation?

Appendix D: Informed Consent Form for Participation in Research Study

Purpose of the Study:

The purpose of this study is to explore the impact of certification schemes (such as Fairtrade, GlobalG.A.P., and Rainforest Alliance) on trade unions, collective bargaining, and worker's voice in Kenya's tea and floriculture industries.

Participation:

- Your participation in this study is voluntary.
- You may choose not to answer any question or to withdraw at any point without any consequences.
- The interview is expected to take approximately 30–45 minutes.

Confidentiality:

- All responses will be treated as confidential.
- Your name will not appear in any report or publication resulting from this study.
- Data will be reported in a way that ensures your anonymity.

Risks and Benefits:

- There are no known risks associated with participating in this study.
- While there is no direct financial benefit, your views will contribute to research aimed at strengthening worker's voice and improving labour standards.

Consent Statement:

I have read and understood the information above. I voluntarily agree to participate in this research study.

Name or Initials of Participant: ___
Signature/Thumbprint: ___

Date: ___ (Optional for anonymity)

Researcher's Signature: ___

05

Thomas Haipeter, Markus Helfen and Sophie Rosenbohm *Universities of Duisburg-Essen and Frankfurt am Main, Germany*

Procedural norms in global framework agreements. Building transnational labour relations in multinational companies

Thomas Haipeter, Markus Helfen and Sophie Rosenbohm

ABSTRACT

Global Framework Agreements are key instruments for establishing transnational labour relations in multinational companies (MNCs). They apply to operations of MNCs – and in some cases to their suppliers – and are negotiated between multinational companies and Global Union Federations. The value of GFAs depends crucially on their implementation. GFAs contain two types of regulations: substantive norms and procedural norms. While much attention has been paid to their substantive content, this contribution focuses on the procedural norms that govern implementation practices. Based on qualitative case studies of 12 MNCs, the authors develop a typology of procedural norms and analyse how they shape implementation practices and transnational labour relations. Their findings show that, while not all GFAs give rise to transnational labour relations, the design of procedural norms plays a critical role in determining whether such relations can potentially develop at all, even if conditions are generally conducive to this end. Particularly the distinction between event-driven and systematic monitoring and the establishment of new transnational arenas plays a crucial role in enabling transnational coordination, monitoring, and negotiation. The study highlights the potential of Global Framework Agreements to institutionalise new levels of labour relations and outlines implications for industrial relations research and practice.

Keywords : Global Framework Agreements, transnational labour relations, procedural norms, multinational companies, labour standards, social dialogue

INTRODUCTION

From an industrial relations perspective, Global Framework Agreements ((hereafter GFAs) are the most important instruments of transnational labour regulation in multinational companies (hereafter MNCs), as they constitute a pathway towards transnational labour relations in MNCs. Two defining features distinguish GFAs (Hadwiger 2018): they apply to operations of MNCs – and in some cases to their suppliers – and are negotiated between multinational companies and Global Union Federations (hereafter GUFs). While the actual dissemination of GFAs remains limited – 132 agreements were in force at 104 multinational companies by the end of 2020, the majority headquartered in Europe (Haipeter et al. 2023) – this sort of agreements serves as a pioneering model of transnational labour regulation inasmuch as it contributes to the recognition of (global) unions as a negotiation party for transnational and global issues by MNCs.

The value of GFAs depends crucially on their implementation. GFAs contain two types of regulations: substantive norms and procedural norms. Substantive norms typically codify *what* labour standards a GFA covers. Procedural norms, by contrast, specify *how* these standards are to be enforced, monitored and renegotiated. Both types are closely interrelated, as procedural norms describe how the substantive norms are put to practice.

Our focus lies on procedural norms of GFAs. These norms not only guide the practical steps for implementing a GFA but also bear the potential for establishing a framework for transnational labour relations in MNCs. On the grounds of private norms, GFAs allocate "rights" related to information, monitoring, consultation, and problem-solving to employee representatives. Absent GFAs, these options would not be available to unions, due to missing legal obligations for MNCs regulations. In other words, GFAs set the ground for social dialogue between unions and the management of MNCs for global and transnational matters.

Hence, our focus is on the effects of procedural norms on constituting transnational arena(s) of labour relations in MNCs as a whole as a precondition to articulate interests between the various levels – local, national and transnational – of labour relations (Haipeter et al. 2019). We discuss whether these norms – and which specific types – provide a stable foundation for the creation of a new level of labour relations in MNC that extends beyond the local, national or European level, and what kind of activities are developing at this transnational level. In other words, we engage with the following question: To what extent do GFAs contribute to the emergence of transnational labour relations within MNCs?

For answering this question, we proceed as follows: First, we discuss the literature on GFA implementation with an emphasis on the salience of procedural norms, and what these procedural norms ultimately imply for the constitution of transnational labour relations in MNCs. Second, based on detailed qualitative analysis of 12 selected cases of European MNCs – predominantly with German headquarters – we develop a typology of procedural norms. For so doing, we examine what types of procedural norms are codified in GFAs, whether and how these norms vary across GFAs, and to what extent types of procedural norms pattern into distinguishable groupings of implementation practices. On these grounds, we discuss what our findings imply for GFAs contribution to the emergence of transnational labour relations, and the role of the design of procedural norms within it. We end by discussing political implications and future research questions.

1 • Procedural norms and implementation

Following a longstanding definition in industrial relations, procedural norms are about how substantive norms regarding work and employment are implemented (Dunlop 1958). In the GFA context, this includes all norms about information, monitoring, consultation, and joint problem-solving as well as the formal set-up of the arenas (or forums) in which management and unions negotiate about these issues. Procedural norms are particularly important for understanding GFAs as a private institution in a void of formal law enforcement. GFAs are not legally enforceable through judicial or industrial action such as strikes. Although they are not unilaterally determined by companies like voluntary corporate social responsibility measures (hereafter CSR), they remain voluntary in nature (Seidman 2007). As a result, their effective implementation depends on the robustness of the privately agreed upon procedural norms.

Research on GFA implementation has primarily focused on the monitoring of labour standards and the processing of cases – i.e. the handling of violations of minimum standards stipulated in the GFA – while neglecting an explicit comparative analysis of the procedural norms and how these shape implementation practice. Procedural rules have been interpreted as (1) a central prerequisite for GFAs to become effective at all (Sydow et al. 2014), (2) necessary for sustained monitoring by involving employee representatives (Bourguignon et al. 2019), (3) enablers of joint learning processes among management and unions in the MNC (Barreau et al. 2020), and (4) a key for dealing innovatively with labour rights violations on the ground (Casey et al. 2024).

Yet, while procedural norms represent a crucial aspect for GFA implementation, the existing literature has paid limited attention to how procedural design shapes implementation practices in the long run, especially by considering whether and how procedures contribute to the emergence of transnational labour relations. This is even more important as monitoring is addressed as the "Achilles Heel" of implementing GFA (Guarriello and Stanzani 2018).

Another strand of literature focuses on the formal analysis of agreement texts (e.g. Hadwiger 2018). Apart from the scope of the agreements, such analyses usually examine the substantive topics covered by the agreements' provisions, the references made to multinational standards such as ILO conventions or OECD and UN guidelines, or the mentioning of single instruments such as supply chain audits (Marassi 2020). Thereby, agreements may vary, for example by whether they contain labour rights beyond the ILO's core labour standards or not, whether they include explicit mechanisms for implementation or not, or whether the agreements apply solely to the contracting company or also extend to its suppliers. A textual analysis alone does not make it clear which norms will shape the implementation of the agreement, or whether or not this will lead to the emergence of a new transnational level of labour relations in MNCs.

However, previous research findings are indirectly related to our question by pinpointing a range of factors that hinder sustained implementation practices of GFAs:

(1) Implementation by management dominates. For example, monitoring measures conduced exclusively by management have proven to be of limited impact on implementation practices. Bourguignon et al. (2019) use the case of Orange to explain the limits of a management-dominated information channel, showing that the quality of the information can hardly be ensured without cooperation with local employee representatives. At the same time, Fichter and McCallum (2015) analyse the case of ISS, where the trade union federation UNI Global Union completely handed over the review of implementation to management – with the result that there was not a single report of a violation of the agreement at the time of the investigation (also Fichter et al. 2011).

(2) Implementation is dominated by headquarter actors. In an earlier paper, Davies et al. (2011) argue that monitoring by central actors alone can hardly lead to consistent practices across local sites. However, it remains unclear in their analysis how the active involvement of local employee representatives can be achieved in practice. For example, when violations of labour standards are identified, a process of case handling ought to be initiated. In such cases, headquarters often launch responses to obtain more detailed information and to involve local stakeholders in resolving the issue (Mustchin and Lucio 2017). Unsurprisingly, research highlights that the handling of violations can be a lengthy and uncertain process (Nifourou 2014; Williams et al. 2015) and that local issues must first be confirmed as sufficiently serious before they are escalated to the corporate level (Davies et al. 2011; Gregoratti and Miller 2011). Furthermore, institutional differences in employee representation at central level like the differences between monistic and dual systems of employee representation can have an influence on case handling (Helfen et al. 2016).

(3) Implementation lacks a stable organisational anchor. Implementation and monitoring may not be anchored in an organisational unit and only take place indirectly in the form of regular or even completely "ad hoc" meetings. Fichter et al. (2011) observe that in around 41 percent of the agreements texts they analysed, regular meetings serve as the only means of monitoring. Seignour and Vercher (2011) explain, using the example of Rhodia, that even site visits could not reliably guarantee the monitoring of local supply chain relationships. Another study emphasises that trade unions and employee representatives in the company's headquarter play a particularly important role in successful case management (Helfen et al., 2016). Other studies point out that weakly regulated approaches to case handling can lead to delayed and hesitant responses to reported violations, undermining the confidence of local actors in the credibility of GFA implementation (Riisgaard 2005; Helfen and Sydow 2013).

(4) Implementation lacks resources. Even where organisational anchoring has been formally established, implementation practices may still be deficient due to capacity constraints or resource conflicts among local actors. Niforou (2012) describes how meetings of a forum agreed upon in the Endesa GFA failed to take place because competing local trade unions could not agree on who should represent them within the forum. Bourguignon et al. (2019) point out the practical difficulties of involving trade union networks when GUFs lack local affiliates or the resources needed to participate in or sustain the network.

However, while these authors argue that the realisation of GFAs depends less on formal provisions than on the situated practices of actors embedded in loosely coupled, multi-actor constellations, we contend that procedural norms play a more structuring role than previously assumed. In particular, there is limited comparative understanding of how procedural design shapes the organisation and routinisation of implementation activities that are relevant for transnational industrial relations in MNCs. While the literature has differentiated procedural arrangements in terms of unilateral versus joint approaches (e.g. Sydow et al. 2014), monitoring versus more participatory approaches (e.g. Bourguignon et al. 2020), or the presence of transnational union coordination (e.g. Barreau et al. 2020), we propose to shift the focus to how procedural norms routinise implementation practices over time and through specific organisational structures.

By defining arenas, allocating responsibilities and specifying procedures, procedural norms provide organisational and institutional resources that shape how actors interact, exchange information, and monitor compliance. This perspective does not deny actor agency and organisational dynamics, as resources can be used more or less extensively, responsibilities performed in various ways or different interpretations attributed to procedures. However, it highlights similarities between cases with similar process norms in terms of organisational structures and process characteristics, showing how procedural designs structure transnational implementation practices in terms of arenas, responsibilities and routines, and how these arrangements shape ongoing interaction between management and labour representatives at transnational level. The following sections will explore this question in greater detail empirically.

2 • Methods used

We draw on 12 case studies conducted as part of a research project funded by the German Hans-Böckler-Foundation. The comparative case study design allows for an in-depth analysis of procedural norms and implementation practices across different MNCs. For reasons of comparability and feasibility, all cases are situated in the organisational domain of IndustriALL Global Union. The study focuses on GFAs with observable implementation activity, irrespective of its scope or intensity. We excluded agreements for which we could not identify any implementation practices.
Most cases are headquartered in Germany, complemented by two companies headquartered in Belgium and Sweden, respectively, but with substantial operations in Germany (*Chemicals* and *Paper*).

This selection reflects the comparatively high prevalence of GFAs signed by German-based MNCs and allows for observing variation in procedural design and implementation practices under similar institutional conditions, because the potentially observed variation is not driven primarily by institutional differences between countries. At the same time, analysing differences in procedural norms in terms of organisational structures and process characteristics between the cases allows to identify patterns or procedural configurations of practices.

Table 1 provides an overview of the companies in our study. To protect identities of both firms and interviewees, company names are anonymised.

Table 1: Overview of the sample

Source: own presentation

Name	Industry	Headquarters	Number of employees
Equipment	Metal and electrical industry	Germany	< 100.000
Chemicals	Chemical industry	Belgium	< 50.000
Electronics	Metal and electrical industry	Germany	> 100.000
Retail	Retail	Germany	< 50.000
Pencils	Wood industry	Germany	< 50.000
Cables	Metal and electrical industry	Germany	> 100.000
Construction	Construction	Germany	< 50.000
Machines	Metal and electrical industry	Germany	> 100.000
Metal	Metal and electrical industry	Germany	> 100.000
Paper	Consumer goods industry	Sweden	< 50.000
Steel	Metal and electrical industry	Germany	> 100.000
Composite	Chemical industry	Germany	> 100.000

Company sizes range from fewer than 50,000 to over 100,000 employees. Five GFAs were signed in the early 2000s, while the remaining were concluded from 2012 onward. In one case (Equipment), implementation structures were still in development at the time of data collection. At Composite, the agreement centres on a formalised regional social dialogue underpinned by a transnational union network.

The case studies are based on 81 semi-structured interviews conducted with representatives from GUFs, national trade unions, members of works councils at national level, European Works Councils (hereafter EWC) and – if existing – world works councils (hereafter WWC) and, finally, local union actors at selected foreign sites in Tunisia, the USA, Chile, Brazil, India, China and South Africa, and Europe (Table 2). Wherever possible, we conducted interviews with management representatives, primarily from HR departments at corporate headquarters in charge of GFA-related implementation processes. An analysis of the GFA documents complements each case.

The interviews focused on:
(a) implementation processes and practices,
(b) the roles and interactions of the various actors in these processes, and
(c) the application and effects of the GFAs at local level. Due to COVID-19 travel restrictions in place at the time of data collection, we conducted the interviews online via digital video conferencing software. The interviews were transcribed and analysed using qualitative content analysis, combining deductive coding with inductive insights to identify patterns in how actors engage with procedural norms.

Table 2: Interviews

Source: own presentation

	Trade unions and works council's headquarters	Local trade unions	GUF	EWC / WWC	Management
Equipment	1		1	1	1
Chemicals			1	4	2
Electronics	2	8	1	1	1
Retail		2	1		1
Wood	3	1	2		1
Cable	2	3	1	1	1
Construction	2	1	1		
Machine		6	1	1	1
Metal		6	1	1	1
Paper	1	1	1		1
Steel	1		1	2	2
Composition	2	2	1		1
	14	**30**	**13**	**11**	**13**

Note: Some interviewees held multiple roles across organisational levels. Our classification is based on the primary function that was the focus of the respective interview.

3 • Procedural norms in GFAs

Our analysis examines the procedural norms of GFAs and the respective implementation practice in our sample of companies. We first focus on the type and quality of these norms, which define both the organisational forms through which implementation occurs and the process norms regarding information-sharing, monitoring, consultation, and joint problem-solving. Two ideal types of process norms can be distinguished in the GFAs: *event-driven* and *systematic*. *Event-driven* approaches are reactive, triggered by reports of specific violations of labour rights. Such a detection may occur ad hoc – for example through reports from affected subsidiaries or trade unions – or via structured mechanisms such as grievance systems that allow individual employees to report violations, often anonymously. *Systematic* approaches, by contrast, are embedded into routines and operate proactively, irrespective of specific violations. This includes, for example, regular site visits, or audits, but also the development or strengthening of local employee representation structures and trade unions aimed at fostering ongoing compliance with labour standards. In practice, GFAs can contain hybrid forms of both ideal types. For instance, while a GFA may be activated through individual complaints, it may also enable broader improvements in working conditions across various locations.

Regarding organisational forms, norms specify the institutional arenas and actors responsible for implementation. GFAs may establish new transnational bodies – typically in the form of steering or monitoring committees – to facilitate coordination between management and employee representatives. In such cases, the committees institutionalise *transnational arenas of action* for labour relations within the firm. Alternatively, the implementation of GFAs may rely on established arenas of communication and negotiation, such as the meetings of WWCs or EWCs. Although EWCs and WWCs are transnational in nature, GFA implementation is not the main purpose of these bodies, and their existence is not necessarily tied to a GFA. Also, national action arenas at the headquarters can be involved, i.e. in German companies, group works councils or central works councils, including their relationships with the trade unions.

Based on two dimensions – whether implementation is primarily *event-driven* or *systematic*, and whether implementation occurs through *newly created transnational arenas* or takes place in *existing arenas* – we identified four types of procedural norms (Table 3). We observed considerable variation across the 12 case studies, with the GFAs corresponding to three of the four ideal types.

Table 3: Procedural norms of the GFAs in the case studies

Source: own presentation

		Process norms	
		Event-driven	**Systematic**
Organisational forms	**New transnational arenas of action**	Equipment Electronics Paper Steel	Chemicals Retail Pencils Composite
	Established arenas	Cables Construction Machines Metal	-

In our sample, we could not identify any cases in which systematic implementation was assigned to existing arenas. It could be assumed that such a combination is difficult to establish as the tasks of accompanying systematic processes may overwhelm existing actors. In addition, it should be noted that these classifications are not always clear-cut, particularly in more recent agreements where event-driven and systematic approaches are sometimes interlinked. The following section illustrates the distinct types and variations based on our case studies.

Type 1: Event-driven norms in established arenas

Construction provides an extreme example of minimal event-driven procedural norms. The agreement is brief, it spans one page and includes three key provisions regarding procedural norms: (1) the signatories on the employee side – the GUF, the German trade union and the German central works council – support the company in complying with the agreed standards; (2) violations are to be reported to the executive board for investigation and remedial action; (3) questions of interpretation regarding the application of the agreement are to be resolved jointly on a case-by-case basis. Overall, the GFA outlines an ad hoc handling of violations, where unions report violations and the executive board is responsible for addressing and resolving them. Union involvement is limited to reporting violations and clarifying interpretation questions with management in the application.

In the other three cases (*Cables*, *Machines*, *Metal*) of this type, the provisions are somewhat more precise. In these three cases, the agreement stipulates that the implementation and compliance with the principles of the GFA are to be included in the reporting and consultation processes during the annual meetings of the existing EWC (*Cables*, *Machines*) or WWC (*Metal*). The agreements do not provide further details on these provisions and lack concrete mechanisms for ongoing monitoring or structured responses on how to deal with

violations of labour standards. In the case of *Metal* and *Machines*, management is, however, required to incorporate labour standard reporting into their management systems.

Type 2: Event-driven norms in new arenas

By contrast, GFAs that establish new transnational arenas exhibit significantly more elaborated procedural norms. Especially evident are the cases of *Steel* and *Equipment*, where various grievance channels are specified for reporting violations. Steering committees form the actual centre of the GFA process in these cases. In the case of *Steel,* it includes the chair and deputy chairs of the group works council, the chair of the EWC, representatives from the German trade union and IndustriALL Global Union. The chief human resources manager is obliged to report annually to the committee on implementation progress and reported and unresolved violations, for which the committee can then propose solutions. The committee is authorised to conduct site visits in selected countries once a year. This marks a departure from the purely reactive model of event-driven implementation.

Similar arrangements can be observed in the cases of *Paper* and *Electronics*, which have established dedicated transnational arenas to manage the implementation of GFAs, and where the agreements set out procedures for handling complaints.

Type 3: Systematic norms in new arenas

The third type of regulation links new transnational arenas with systematic implementation procedures. In the case of *Pencils*, the core of the agreement forms a monitoring process, which is to be conducted by a steering committee, composed of representatives from the company, the GUF, and the German trade union. The committee is assigned the central task of monitoring compliance through biennial audits of all sites. Local trade unions may be explicitly involved. Additionally, the steering committee is required to meet at least once a year to discuss any unresolved issues and to agree on appropriate measure for their resolutions.

At *Chemicals*, the steering committee is globally composed and consists of company representatives, representatives of IndustriAll Global and company employee representatives from North and South America, Europe, and Asia. Compliance with the GFA is monitored through annual site visits conducted by the steering committee. Local union representatives and employees may be involved, reinforcing the participatory character of implementation. The *Retail* and *Composite* cases deviate slightly from the former ones; in the case of *Retail*, the procedural norms – apart from describing what the steering committee is and must do – focus primarily on capacity building at suppliers. In the case of *Composite,* the agreement centres on South America and includes new transnational communication and problem-solving mechanisms in this region.

4 • The practice of implementing the agreements

This section explores the implementation of how the procedural standards stipulated within the GFA are implemented in practice, following the typology introduced above. We analyse the specific patterns of action according to the three types of procedural norms identified in our case studies.

a. Implementation practice in Type 1

In cases where GFAs include only event-driven procedural norms and do not establish new transnational arenas, implementation tends to be weaker. *Construction* represents an extreme instance of such weak implementation. Without clear procedural guidance, practices highly contingent on situational factors and actor discretion. Complaints and violations are typically addressed by a local trade union with the GUF, which then contacts the German trade union at the headquarters. The national trade union assesses the relevance of the complaint considering its broader strategic priorities:

"Of course, that's a question that has to be weighed against other concerns that you're dealing with in the company. Let me put it this way: if you're in the final phase of a collective bargaining round and somehow this and that is pending, then you're not going to place an individual GFA case in that moment" (Construction, Headquarters, Trade Union).

Moreover, union actors emphasise that local labour conflicts only gain traction at headquarters when they receive broader international attention.

The *Metal* case is located at the other end of the spectrum of this type, which demonstrates a more active implementation practice, albeit not primarily driven by the GFA and its procedural norms itself. The actual driving forces here are the company's Corporate Social Responsibility strategy, and the more active role of the German group works council. As part of CSR audits, which are conducted by the corporate compliance department, labour standards are occasionally reviewed by auditing on-site, with sporadic participation from employee representatives. At the same time, the German works council is usually informed in the event of violations of labour standards and takes a leading role in follow-up, often contacting management directly. This role of the group works council is an expression of the importance of the national action arenas at headquarters for the implementation practice. However, such activities of employee representatives remain the exception rather than the rule. The employee side emphasises that management tends to see limited added value in the GFA given its broader CSR measures. On the other hand, the labour representatives themselves do not try to put more pressure on the issue. At the same time, the WWC of the company has other activities and priorities and the GFA plays only a marginal role in the process.

The implementation activities at *Machines* and *Cables* fall somewhere in between. In the case of *Cables*, as stipulated in the agreement, the EWC engages in the implementation. However, implementation at this level is in practice limited to an annual review with management, during which management presents the number and type of reported cases, and the measures taken. Problem-solving or substantive case handling involving employee representatives does not take place.

At *Machines*, information on emerging issues is generally channelled to the group works council through the German trade union, the GUF, or directly by affected employees. The works council subsequently follows up on complaints and engages in dialogue with company management to address unresolved issues; however, this is contingent upon its willingness and capacity to act. Another limiting factor are resource constraints. The German works council lacks the institutional capacity to conduct comprehensive and systematic monitoring of the agreement, particularly one that would require sustained engagement with sites across multiple global regions, and the GFA does not explicitly provide for these requirements, for instance, through additional resources.

b. Implementation practice in Type 2

A different picture emerges when GFAs explicitly introduce new transnational arenas of action that are responsible for implementation. At *Steel* and at *Equipment*, employees can file complaints via an electronic reporting system, or issues can be raised by unions to the GUF, the German trade union or the works council within the steering committee if local resolution fails.

Reported cases are reviewed at least quarterly in face-to-face meetings of the GFA steering committee. In urgent cases, extraordinary meetings may be convened. Investigations typically follow two parallel paths: while management attempts to obtain further information about the case on the management side, employee representatives reach out to the complainant and local trade unions to clarify the case and verify the complaint. The steering committee then jointly assesses the findings and determines follow-up measures, including potential site visits. So far, site visits have mostly taken place in selected countries where a conflict has been reported.

The implementation practice at *Electronics* is quite similar. Here, site visits are also conducted in consultation between employee representatives and central management, often focusing on specific issues raised in individual cases. Both the negotiating delegation and central management take part in the site visits, which include plant tours and discussions with employees and local management. These visits are considered effective by both central management and the German central works councils, which is the central actor of GFA implementation on labour side. Their perceived value lies in three main aspects: first, they signal the importance of the GFA to local management and help promote its dissemination; second, they offer valuable insights into local working conditions, knowledge that is relevant for both employee representatives and management at headquarters; and third, they foster personal relationships and strengthen transnational networks.

The management reporting system of *Electronics* provides more systematic information on individual working standards. However, this reporting lacks documentation and liability, as HR management concedes itself.

"We don't have a process that centrally documents these things. I think for most issues we've regulated, you would say they are clearly being complied with, e.g. no forced labour, no child labour, and there are other audits, but we don't do them as HR, so to speak" (Electronics, Headquarters, Management).

In contrast, implementation is comparatively weaker in the case of *Paper*: no regular site visits are conducted, and the steering committee meets regularly, but only once every two years, although more frequent meetings are possible if required. Overall, more structured monitoring procedures are lacking. The committee mainly acts on an ad hoc basis when violations are brought to its attention. Cases are typically raised by local unions via IndustriALL Global Union or national union federations. The committee is seen less as an enforcement body and more as a forum for dialogue:

"If a problem is brought to us, we do not have to look in the agreement and check which paragraph applies to make them [the management] solve it, we just tell them, 'there is a problem with this or that', and they try to solve it. [...]. So, it's more of a dialogue" (Paper, Headquarters).

In all these cases employee representatives based at headquarters play a pivotal role in the implementation of the GFA and within the newly established transnational arenas. This central involvement is reflected in the composition of the steering committees, which are either entirely or predominantly – except for the representatives of the GUFs – made up of actors located at headquarters who maintain close ties to senior management and serve as key actors in facilitating implementation processes more broadly.

c. Implementation practice in Type 3

A more robust and institutionalised implementation practice emerges when GFAs combine systematic monitoring mechanisms with newly created transnational arenas of action. *Pencils* exemplifies this model. Here, a steering committee, including HR representatives and equally involving trade union officials from the GUF and the German trade union, conducts regular audits across all sites. This monitoring by the steering committee is the central process surrounding the GFA in the company. The feasibility of the audits is supported by a manageable number of sites, allowing for the inclusion of all locations in the audit cycle within a reasonable timeframe. With exception of the COVID-19 pandemic period, the audit cycle – covering all sites every two years – has been consistently maintained over the past two decades. Key components include an initial briefing, review of documents, presentations given by local management, site inspections, and

discussions with employees and local trade union representatives. As auditors, trade union representatives play an active role in the process. They not only review documents but engage directly with local unions and employees to gain an authentic understanding of working conditions at the sites. Where inconsistencies or problems are identified – like repressions of trade union building in Peru by management – efforts are made to resolve them immediately, as emphasised by the HR manager: "Although we go through points and documents in meeting rooms, we always make the point of involving the employees on site. That means the trade unions take the lead in talking to people and asking: Hey, what's it really like with your pay?" (Wood, Headquarters, Management).

The regular on-site audits have contributed to strengthening the relationships between local trade unions, the GUF, and the German trade union. Importantly, the actors involved have drawn on the experiences gained through these audits to deepen cross-border collaboration. Over time, this has led to the development of a stable transnational union network that both supports and complements the audits, enabling continuous information exchange across locations. This communication has strengthened both the network's operational capacity and the overall implementation of the GFA.

The *Chemicals* case is also characterised by a comprehensive implementation practice of the GFA. At the centre of implementation functions a steering committee as the transnational actor, which also conducts joint annual site visits. When selecting locations, both recent developments and an equitable geographic rotation across world regions are considered. Each visit typically includes reports from local management, plant inspections, discussions with local trade unions and employees, concluded with a joint debriefing session involving both union and management representatives.

One of the site visits revealed that trade union representatives at two locations in Mexico lacked even the most basic resources necessary to fulfil their representative roles. Similarly, during a visit to India, it became evident that no adequate structure existed to facilitate communication and coordination among representatives across the company's Indian sites. In response, the establishment of a "national platform" was agreed upon during the visit, enabling representatives from different sites to regularly meet and exchange information on their working and employment conditions.

Due to its transnational composition, the steering committee serves not only as a coordination body but also as a hub for transnational communication. Representatives from different world regions channel information from local contexts into the transnational arena, facilitating reciprocal flow of knowledge and experience. This dynamic represents a quality of transnational integration that is largely absent in committees dominated by actors at headquarters.

In *Chemicals*, the GFA has also spurred additional transnational "institution building" (Djelic/ Quack 2003), which in turn has had a reinforcing effect on the implementation practice of the GFA. Clear parallels can be drawn with the development of the transnational trade union network at *Pencils*. In the case of *Chemicals*, however, the WWC takes centre stage in this process of institution building. On the one hand, the implementation of the GFA is a standing agenda item at the annual meeting of the WWC and the WWC serves as a key hub for information and communication, enabling a continuous exchange of implementation-related updates and local-level issues from across the company's global operations. On the other hand, however, the WWC has played an active part in transnational labour governance, successfully negotiating global agreements with corporate management, most notably on global minimum standards for the social security of employees.

The implementation practices at *Composite* and *Retail* do not show the same intensity and scope observed in the other two cases, though for different reasons. The level of activity at *Composite* is high but geographically limited to South America. Nonetheless, several developments are noteworthy that would not have taken place without the procedural norms of the agreement: the establishment of a social dialogue with previously anti-union management, the formation of trade union structures, and the creation of a network of trade unions spanning multiple countries and company sites within the region. In contrast, implementation at *Retail* focuses entirely on the suppliers. What distinguishes this agreement is its explicitly proactive approach: it seeks to prevent conflict before it arises by enhancing the capacity of local actors. In this context, workshops are held with employees of the suppliers and local trainers to equip employees with the skills to articulate their interests and pursue solutions through social dialogue. A total of 40 trainers is currently active across nine countries, supported by international experts. Since it is not feasible to extend this process to the entire supply chain simultaneously, priority countries are selected and tailored implementation plans are developed accordingly, which are then implemented at national level.

5 • Key findings on the role of procedural norm for the implementation of the GFA and the development of transnational labour relations

Our analysis reveals that the nature of norm setting in GFAs significantly influences how implementation unfolds in practice. Both the distinction between event-driven and systematic procedural norms, as well as the differentiation between different organisational forms – whether responsibility is assigned to existing or newly created transnational arenas – have proven useful for understanding variation in social practices across our case studies and for explaining the diversity of implementation outcomes. Procedural design clearly shapes how labour standards are monitored, how violations are detected, and how related conflicts are addressed. In other words, what is regulated in a GFA – and how – is far from inconsequential.

Among our case studies, we found the weakest implementation practices in companies where GFAs lack procedural detail and do not establish transnational arenas. In the case of *Construction*, the agreement does not contain any detailed procedural norms for dealing with problems or monitoring labour standards. Therefore, violations of labour standards are only addressed when unions raise informally violations; whether such issues are pursued depends on strategic considerations rather than institutional procedures. Similarly, while *Machines* and *Metal* lack strong procedural norms in the GFA, implementation is slightly more developed due to company-driven CSR mechanisms that enable more regular reporting, even if largely disconnected from employee involvement.

A much higher level of implementation activity is found in cases where event-driven norms are combined with the creation of transnational arenas. Here, steering committees function as focal points for coordination, monitoring, and conflict resolution. This introduces a new layer of labour relations, promoting continuity, structuring procedures, and establishing spaces for interaction with company management. However, there are also gradual differences within this type. At *Steel*, for example, the steering committee meets at regular intervals with the company's labour director and deals with problems arising from the complaints system. In the case of *Electronics* and *Paper*, however, activities are less intensive due to less sophisticated processes for gathering information. In the former, this gap is partially bridged through frequent site visits; in the latter, ad hoc responses dominate due to a lack of systematic information gathering.

The key difference that is made by the introduction of a new transnational arena of labour relations lies in the fact that they go along with dedicated organisational provisions – such as regular meetings with top management, covered travel costs, and defined procedures for monitoring and conflict resolution – that are exclusively assigned to the implementation of the GFA. Addressing the GFA is no longer just one item among many in the agenda of a busy EWC or a German central or group works council meeting. Instead, it becomes the sole purpose of a separate meeting between employee representatives and top management. This interaction can be considered genuinely "transnational", as it focuses on linking local developments with decision-making processes at the global level of MNCs.

The most effective implementation practices, however, are associated with systematic procedural norms coupled with new transnational arenas dedicated to GFA enforcement. This is most evident in the case of *Pencils* and *Chemicals*. In the case of *Pencils*, the practical effectiveness of the procedural norms can be explained primarily by the systematic monitoring of working conditions as part of audits at the company's sites. Moreover, the audits and contacts to local employee representatives have supported the formation of a transnational trade union network that enhances ongoing communication and in turn strengthens the implementation of the global framework agreement. Similarly, *Chemicals* combines structured monitoring with regular site visits, involving a steering committee with a truly transnational composition. This arrangement is further strengthened by the formation of a WWC, which also supports broader transnational coordination and negotiation. In both cases, transnational institution-building occurred, creating feedback loops that reinforce implementation practices of the GFA. In the case of *Composite*, local implementation has been effective – especially in South America, where union presence has grown, and social dialogue has been institutionalised. Nevertheless, efforts to expand the network beyond the region have not yet succeeded. At *Retail*, the processes relate not only to monitoring suppliers' compliance with labour standards, but also to developing the relevant skills among suppliers so that they can implement the standards in practice. However, there are clear limitations to the level of implementation, which are due to the weak ties to the local trade unions.

Table 4 summarises core elements of the implementation practice across the types. Our findings underline that systematic procedures together with institutionalised transnational arenas are key to effective and sustained implementation. They enable continuous monitoring, meaningful employee participation, and institutionalised dialogue with management at the transnational level. This insight has important implications for GFA design: how procedural standards are structured matters significantly for their effectiveness.

Table 4: Core elements of implementation practice

Source: own presentation

	Event-driven	Systematic
New transnational arenas of action	• Governance and implementation in a new transnational arena of action • Nationally dominated bodies • Case-related problem solving	• Management and implementation in a new transnational arena of action • Continuous monitoring and problem solving through audits (*Pencils* and *Chemicals*) • Transnational "institution building" (*Pencils* and *Chemicals*) • Limitation of expansion (*Composite*) and local anchoring (*Retail*)
Established arenas	• Less continuity of control, implementation activity only when required • Partially low level of information	

Nevertheless, successful implementation also depends on broader factors – including power resources and capacities of the actors involved. As our analysis has shown, the institutional norms of the GFA offer an important source for this.

The establishment of new transnational arenas unlocks organisational resources that strengthen the operational capacities of the actors.

As seen in the cases of *Chemicals* and *Pencils*, these institutional settings can serve as platforms for transnational communication and coordination.

Rather than merely supporting implementation, they enable the development of new strategic capacities and institutional pathways for employee representatives.

6 • Summary and perspectives

Procedural norms and their design are of crucial importance for the implementation of GFAs. According to our findings, a combination of two procedural norms is associated with more routinised and less ad hoc implementation practices: (1) systematic processes; and (2) dedicated and separate transnational arenas. These norms enable the implementation of GFAs in terms of organisational structures and process characteristics by identifying the relevant actors, delineating their responsibilities and rights, and defining concrete implementation procedures and resources on how information on violations of labour standards is gathered, how it is verified and interpreted in consultation with management, and how problems and conflicts are addressed. The stronger these norms are, the less implementation practice is dependent on ad hoc priorities and more firmly embedded in organisational routines.

Dedicated arenas are typically established through transnational steering committees whose explicit task is the oversight and implementation of the GFA. These bodies make interaction between labour and management continuous and foster accountability.

Addressing the GFA is no longer just one item among many on the agenda of a busy EWC or a central or group works council meeting. Instead, it becomes the sole purpose of separate and continuous meetings between employee representatives and top management. This interaction can be considered genuinely "transnational", as it focuses on linking local developments with decision-making processes at the global level of MNCs. These arenas not only enhance implementation but also generate new organisational capacities and strategic opportunities for employee representatives.

Although our analysis is based mainly – though not exclusively – on cases from German MNCs, the implications of our findings are not confined to a German based institutional setting of headquarters and their actors. First, the variation across our cases is so pronounced that we consider the significance of a country effect to be low. Rather, our explanation for this variety is that actors neither have ready-made templates available for designing implementation procedures nor reliable prior knowledge of which procedures would be viable in terms of practice in the end. In this process of experimentation, actors rely on the procedural norms they have created. Against this backdrop, we explain variation by examining how procedural norms allocate responsibilities, define arenas, and thereby structure interactions and implementation practice in situations of uncertainty.

This extends, secondly, to the institution of works council as an institutional idiosyncrasy of German MNCs. One might expect GFAs to be attached to existing work council bodies. However, one of our core findings is that GFAs based on the establishment of new bodies at the transnational level, transcending existing national bodies, create the most substantial changes in practice. At the same time, the role of works councils in implementation shows a wide range of practises. Looking at our two "model" cases, *Pencil* and *Chemicals*, in the German company (*Pencil*) the implementation process is driven by the trade union, whereas in the Belgian case (*Chemicals)* the European Works Council plays the leading role. This supports our interpretation that it is not the institutional structure of the country in which the HQ is based that constitutes the decisive factor, but rather the process of interaction both on the employees' side and between labour representatives and management, which are considerably shaped by the procedural norms defined in the GFAs.

With an eye on the broader debates around global labour regulation and transnational institution-building in employment relations, we conclude from our findings that

the design of procedural norms in GFAs bears the potential to be more relevant than merely being a way to formalise implementation of these agreements.

Procedural norms in GFAs can be understood as a proto-institutional element (Helfen & Sydow 2013) to foster recurring interaction between management and labour representatives at transnational level. In this sense, they structure arenas and practices through which transnational labour relations may emerge more generally within multinational companies.

In conclusion, while not all GFAs give rise to transnational labour relations, the design of procedural norms plays a critical role in determining whether such relations can potentially develop at all, even if conditions are generally conducive to this end. These norms thus function as both enabling and constraining as they provide actors with opportunities to act transnationally. However, they do not in themselves guarantee the emergence of transnational labour governance. The emergence of transnational labour relations depends also on sustained organisational support, actor commitment, and the availability of resources. Moreover, the political climate and MNC strategies in relation to their workforces and social sustainability matter a great deal to engage in social dialogue and reaching agreements with employees in the first place. Future research should therefore explore how procedural norm design interacts with organisational dynamics across the multilevel system of industrial relations in MNCs.

BIBLIOGRAPHY

Barreau, J., Havard, C., and A. Ngaha Bah. 2020. "Global union federations and international framework agreements: Knowledge exchange and creation". *European Journal of Industrial Relations* 26(1): 41–57.

Bourguignon, R., Garaudel, P., and S. Porcher. 2019. "Global framework agreements and trade unions as monitoring agents in transnational corporations". *Journal of Business Ethics* 165: 517–533.

Casey, C., Delaney, H., and A. Fiedler. 2024 "Transnational labour governance: Crafting the authority and regulatory effectiveness of global agreements". *Economic and Industrial Democracy*. Epub ahead of print 12 January 2024. DOI: 10.1177/0143831X241287849.

Davies, S., Hammer, N., Williams, G., Raman, R., Ruppert, C.S., and L Volynets. 2011. "Labour standards and capacity in global subcontracting chains: Evidence from a construction MNC". *Industrial Relations Journal* 42(2): 124–138.

Djelic, M-L., and S. Quack. 2003. "Theoretical building blocks for a research agenda: Linking globalization and institutions". In: *Globalizations and Institutions: Redefining the Rules of the Economic Game*, edited by M-L. Djelic and S. Quack, 15-34. Cheltenham: Edward Elgar.

Dunlop, JT. 1958. *Industrial Relations Systems*. University of Michigan. New York: Holt.

Fichter, M., Helfen, M., and J. Sydow. 2011. "Employment relations in global production networks: Initiating transfer of practices via union involvement". *Human Relations* 64(4): 599–622.

Fichter, M., and JK. McCallum. 2015. "Implementing global framework agreements: The limits of social partnership." *Global Networks* 15: 65–85.

Gregoratti, C., and D. Miller. 2011. "International framework agreements for workers' rights? Insights from River Rich Cambodia." *Global Labour Journal* 2(2): 83–105.

Guarriello, F., and C. Stanzani. 2018. *Trade Union and Collective Bargaining in Multinationals. From International Legal Framework to Empirical Research.* Milan: FrancoAngeli.

Hadwiger, F. 2018. *Contracting International Employee Participation: Global Framework Agreements*. Cham: Springer.

Haipeter, T., Helfen, M., Rosenbohm, S., Puhl, C., Üyük, C., and T. Zimmermann. 2023. *Global Framework Agreements at a Crossroads: It Depends on the Implementation* (HBS Study No. 488). Düsseldorf: Hans Böckler Foundation. Available at: https://www.imu-boeckler.de/fpdf/HBS-008772/p_study_hbs_488.pdf (accessed 28 May 2025).

Haipeter, T., Hertwig, M., and S. Rosenbohm. 2019. *Employee Representation in Multinational Companies: The Articulation of Interests in Multilevel Action Fields*. Cham: Palgrave Macmillan.

Helfen, M., Schüßler, E., and D. Stevis. 2016. "Translating European labour relations practices to the United States through global framework agreements? German and Swedish multinationals compared." *ILR Review* 69(3): 631–655.

Marassi, S. 2020. "International framework agreements and management of global supply chain: Extra-judicial mechanisms to enforce international labour standards". *QIL, Zoom-out* 73: 51-69.

Mustchin, S., and MM. Lucio. 2017. "Transnational collective agreements and the development of new spaces for union action: The formal and informal uses of international and European framework agreements in the UK". *British Journal of Industrial Relations* 55(3): 577–601.

Niforou, C. 2014. "International framework agreements and the democratic deficit of global labour governance". *Economic and Industrial Democracy* 35(2): 367–386.

Niforou, C. 2012. "International framework agreements and industrial relations governance: Global rhetoric versus local realities". *British Journal of Industrial Relations* 50(2): 352–373.

Riisgaard, L. 2005. "International framework agreements: A new model for securing workers' rights?" *Industrial Relations* 44(4): 707–737.

Seidman, G.W. 2007. *Beyond the Boycott. Labour Rights, Human Rights and Transnational Activism*. New York: Russel Sage.

Seignour, A., and C. Vercher. 2011. "Les accords-cadres internationaux face au challenge de la régulation sociale des chaînes globales mondiales". *Revue de l'organisation responsable* 1: 38–54.

Sydow, J., Fichter, M., Helfen, M., Sayim, K., and D. Stevis. 2014. "Implementation of global framework agreements: Towards a multi-organizational practice perspective." *Transfer* 20(4): 489–503.

Williams, G., Davies, S., and C. Chinguno. 2015. "Subcontracting and labour standards: Reassessing the potential of international framework agreements". *British Journal of Industrial Relations* 53(2): 181–203.

C.

THE FRENCH LAW - INNOVATION OR THE DIALECTIC OF PROGRESS?

06

Marie-Noëlle Lopez
Newbridges, France

Social dialogue and human rights due diligence: practices, obstacles and perspectives

Marie-Noëlle Lopez

ABSTRACT

This study takes a fresh look at the observation that social dialogue is rarely integrated in a structured manner into due diligence procedures. It analyses practices developed by enterprises several years after the French law on due diligence came into force. Based on a sample of 14 enterprises, the author examines concrete practices developed to involve, inform or consult employee representatives at various stages of the process: risk mapping, action plan development, alert mechanism implementation, monitoring and remediation. Additionally, three enterprises operating outside the French legal framework were studied to illustrate the diversity of approaches to social dialogue and the due diligence. The aim is to identify forms of engagement currently in place, and to highlight the obstacles encountered, as well as the misunderstandings and points of tension that can hinder the effective integration of social dialogue into the due diligence process. The study examines the prerequisites that must be met for social dialogue to contribute fully to the effectiveness of the due diligence process: clarification of respective expectations, recognition of roles, capacity building, diversification of dialogue spaces, and coordination between local, national and transnational levels. This highlights the need for strategic thinking: how to link due diligence governance with the logic of social dialogue, how to define the appropriate level of intervention and the relevant actors, and how to make social dialogue a tool for the continuous improvement of due diligence.

Keywords: due diligence, corporate social responsibility, workers involvement, social dialogue, international framework agreements

INTRODUCTION

International instruments relating to due diligence – such as the UN Guiding Principles on Business and Human Rights, the OECD Guidelines for Multinational Enterprises on Responsible Business Conduct, and the ILO Tripartite Declaration on Multinational Enterprises – set high expectations for enterprises, calling on them to assume greater responsibility for preventing serious human rights, health and safety, and environmental abuses, both in their own operations and throughout their value chains. These texts recommend the implementation of a continuous process of risk identification, assessment, prevention and remediation, based on the effective involvement of stakeholders, particularly workers and their representatives, at every stage. In line with this, the 2017 French law on due diligence requires large enterprises to draw up and publish a plan aimed at preventing the risks of serious violations, including a risk map, mitigation measures, an alert mechanism and a monitoring system.[1] Whilst the legislation explicitly provides for consultation with trade unions on the alert mechanism, it does not specify the procedures for social dialogue or the involvement of workers' representatives in other aspects of the plan, thus leaving room for a variety of interpretations and practices.

The academic literature review (Section 1) highlights the still limited integration of social dialogue into human rights due diligence processes, despite expectations set by international instruments regarding stakeholder engagement. While some studies emphasise the transformative potential of the participation of workers' representatives in risk governance, empirical research shows that such involvement often remains symbolic or confined to a late-stage consultative role. The review also identifies barriers to engagement in social dialogue, as well as the conditions necessary for the emergence of fully effective and meaningful dialogue. Complementing the literature, the study draws on the ILO knowledge base on transnational social dialogue (Section 2), which compiles a range of initiatives involving workers' organisations, enterprises, and employers' organisations, all aimed at promoting decent work. This resource makes it possible to identify and characterise forms and spaces of social dialogue that extend beyond national boundaries and are better suited to addressing contemporary social challenges related to global supply chains. Some of these initiatives could be articulated with social dialogue conducted at the subnational level, thereby helping to strengthen the coherence and effectiveness of actions undertaken across different levels.

The section devoted to the state of practices (Section 3) updates the findings from the literature based on feedback from enterprises several years after the entry into force of the French Due Diligence Law. Based on a sample of 14 enterprises subject to the French legal framework, the analysis examines the practical ways in which workers' representatives are, or are not, involved at the different stages of the process: risk mapping, development and monitoring of the action plan, establishment of grievance mechanisms, and remediation. The study aims to identify the forms of engagement actually implemented, and to shed light on the obstacles encountered, persistent misunderstandings, and points of tension that limit the role of social dialogue in these processes. Three enterprises not subject to the French law were also included in the analysis, in order to illustrate the diversity of approaches developed in other regulatory or voluntary contexts relating to due diligence and social dialogue. Finally, the study puts forward a number of reflections (Section 4) on the conditions required for social dialogue to fully contribute to the effectiveness of due diligence processes: clarification of respective expectations, recognition of roles, capacity-building, diversification of dialogue spaces, and articulation between local, national and transnational levels. Implicitly, the study raises the need for strategic reflection: how to align due diligence governance with the dynamics of social dialogue, how to determine the appropriate levels of intervention and the relevant actors, and how to make social dialogue a tool for the continuous improvement of due diligence.

[1] Act No. 2017-399 of 27 March 2017 on the duty of care of parent companies and contracting entities

1 • Literature review on due diligence and social dialogue

A wealth of academic literature has examined the emergence of due diligence obligations and the transformation they entail in the governance of global supply chains. These obligations seek to address a persistent challenge: ensuring respect for fundamental human rights and access to decent work in supply chains often characterised by outsourcing, fragmentation and opacity. Several authors highlight the strategic role that workers' representatives and social dialogue can play in ensuring the effectiveness of these new approaches (Reinecke and Donaghey 2021; Ashwin et al. 2020; Clerc 2021; Huyse 2021; Rémi Bourguignon et al. 2023). They stress the need to guarantee participation rights at every stage of the process: risk assessment, development of action plans, and the establishment of grievance or complaint mechanisms (Giovannone 2024; Nilsson and Cuciniello 2024).

Legal, political and organisational obstacles to the involvement of workers' representatives

Despite this growing recognition, the same literature highlights numerous obstacles to the effective integration of social dialogue due diligence frameworks. From a legal perspective, existing legislation remains largely non-binding. Clerc (2021) points out that the French law on due diligence contains no explicit obligation to consult workers' representatives. De Lagerie (et al. 2019) confirms this weakness by demonstrating, through an empirical study, that representative bodies are very rarely involved in the implementation of these plans, and are often confined to an informational role. She describes this as a *missed opportunity* to strengthen social dialogue

around issues of Corporate Social Responsibility. A study conducted by IRES (2023) based on interviews in several large French enterprises that have published a due diligence plan shows that trade union involvement in the development of these plans remains marginal. The trade unions consulted report a lack of information, an absence of genuine consultation, and a perception that the plans are documents produced by legal or Corporate Social Responsibility (hereinafter CSR) departments, with no connection to workplace realities. Furthermore, several authors point to the structural silos between CSR, legal and human resources departments, which operate according to distinct logics – regulatory compliance, reputational risk management, day-to-day management of industrial relations – without systematic coordination. This fragmentation hinders the emergence of bridges between due diligence processes and social dialogue and marginalises workers' representatives in the design and monitoring of due diligence measures (Bourguignon et al. 2023; de Lagerie et al. 2019). Reinecke and Donaghey (2021) refer to mechanisms dominated by top-down approaches (codes of conduct, audits), lacking participation that would confer greater legitimacy on these processes. Finally, contexts of trade union repression or absence of representation, particularly in the Global South, remain major obstacles to any form of participation (Li, Kuruvilla and Bae 2024; Geenen et al. 2024).

Levers for greater involvement of workers' representatives in improving working conditions

In light of these limitations, several authors call for a renewal of approaches. Reinecke and Donaghey (2021) advocate for *a* worker-driven governance model, based on participatory mechanisms established at every stage of the value chain, enabling dialogue not only with the direct employer but also with the client. These authors point to global framework agreements (hereinafter GFAs) as examples of transnational mechanisms that can support the establishment of such participatory governance, by institutionalising worker participation at these different levels.

Among the other levers provided by GFAs, Ashwin et al. (2020) highlight the importance of monitoring structures for the effective dissemination of social commitments within supply chains. The authors show that spillover effects are more likely when formal monitoring committees are established and when workers' representatives have institutional capacity (resources, structures, skills). These committees can then play a coordinating role between global and local levels, facilitate the flow of information, and reinforce the legitimacy of the commitments made by enterprises. Finally, Bourguignon, Masson and Oka (2023) emphasise the role of these agreements in bridging the gap between soft law (transnational social dialogue) and hard law (due diligence), and call for stronger institutionalisation of monitoring mechanisms to ensure their effectiveness.

The conditions for a social dialogue to be truly impactful

However, to truly fulfil this role, particularly with regard to the supply chain, these agreements need to promote a form of social dialogue at the global level that is more firmly rooted in local realities, by strengthening the involvement of local trade unions throughout the process (Hadwiger 2015). The challenges of coordinating the different levels of social dialogue are also highlighted by the literature, but the need for coordination is even broader when it comes to addressing issues within the supply chain. Haipeter et al. (2021) highlight the coexistence of multiple heterogeneous instruments – state legislations, private standards, GFAs, sectoral agreements, and multi-stakeholder initiatives. This form of regulation, which the authors describe as *polycentric*, relies on uncoordinated initiatives. The authors emphasise that each of these instruments has its own strengths and limitations, and that none is sufficient on its own to guarantee the effective protection of fundamental rights at work. Rather, it is the coordination between these different levels and mechanisms that would truly enable the promotion of decent work within these supply chains. This point therefore raises the question of the coordination between the various mechanisms put in place, stemming from social dialogue, as well as how to foster complementarity between these mechanisms and those established by other instruments.

2 • Transnational social dialogue and the ILO knowledge base on transnational social dialogue: what lessons can be drawn

In a context marked by the internationalisation of enterprises, the expansion of global supply chains, the increasing mobility of labour, and the emergence of new corporate responsibilities regarding their social footprint at the international level, the ILO's tripartite constituents have expressed the need for a dedicated knowledge base on transnational social dialogue mechanisms. This knowledge base aims to address contemporary challenges by documenting existing social dialogue practices that go beyond the national level and are therefore better suited to addressing these issues, while also highlighting the instruments and frameworks developed in this field.[2]

These practices, by their innovative nature, illustrate the evolution of social dialogue towards renewed forms of cooperation, fostering interaction between actors who, until now, did not participate in the same consultation spaces. They are implemented within frameworks tailored to specific issues such as workers' rights in supply chains, the international mobility of labour, or corporate social responsibility.

This knowledge base captures a wide range of practices, from international framework agreements concluded by multinational enterprises, to responsible business conduct initiatives, as well as sectoral platforms, dialogue forums developed within regional frameworks, multilateral mechanisms, and processes embedded in trade agreements.[3] What these initiatives have in common is that they bring together, around

[2] Available at https://cbsd.ilo.org/.
[3] Transnational Company Agreements | CBSD.

decent work issues, representatives of workers, multinational enterprises and employers from different countries.

These initiatives demonstrate not only the ability of stakeholders to take ownership of dialogue spaces – whether driven by international organisations, regional frameworks or partnerships between countries – with a view to contributing to improved working conditions and respect for fundamental rights, but also their active role in developing new forms of cooperation and transnational initiatives. A significant share of these initiatives specifically aims to address the challenges posed by global supply chains, and more particularly the need for transnational dialogue mechanisms between lead firms, suppliers and workers' representatives.

This is where a direct link can be established with the focus of this study. These initiatives contribute to better identification and anticipation of risks of human rights violations, the establishment of grievance mechanisms and remediation plans, as well as the development of certification schemes for purchasing practices based on effective consideration of working conditions throughout the supply chain. As such, they support and strengthen the due diligence processes undertaken by enterprises that engage with them. More broadly, through their normative role and initiatives, international organisations and regional frameworks contribute to creating a more enabling environment for enterprises to take concrete action to improve working conditions and promote decent work.

However, beyond the practices it highlights, the knowledge base reveals their interdependence and their potential for complementarity. It is therefore for social dialogue actors to make full use of this framework by working towards better articulation and greater synergy between the different initiatives.

Global Framework Agreements and due diligence

As a topic that was rapidly taken up in the strategies of international trade union organisations, due diligence has naturally found its place in the instruments they develop with multinational enterprises, namely Global Framework Agreements. The ILO knowledge base on transnational social dialogue documents these transnational agreements signed by enterprises and is regularly updated.
The integration of this issue takes different forms: it may involve a commitment to engage in dialogue on the subject within the monitoring bodies of the agreement (as is the case at Engie or EDF), or more direct dialogue between the enterprise and the signatory global union federation (for example at BNP Paribas, Société Générale or Crédit Agricole).
The approach differs in two Belgian enterprises in the chemical sector, Umicore and Solvay, where the agreements provide for further exploration of supply chain issues through dedicated thematic working groups.
However, in themselves, these agreements are already fully embedded in due diligence processes by setting out explicit commitments and establishing a structured dialogue framework to address potential situations of violations.

3 • Overview of social dialogue practices on due diligence and related issues

This non-exhaustive overview of practices and issues is based on 25 interviews conducted with 41 individuals between June and mid-July 2025. These interviews were carried out with representatives of 14 groups headquartered in France. Three non-French enterprises also contributed to the study in order to reflect practices developed outside any legislation establishing due diligence obligations for enterprises, or under other legal frameworks. The enterprises in the sample operate in a variety of sectors (agri-food industry, banking, utilities, telecommunications, energy, etc.). In 15 enterprises in the sample, interviews were conducted with staff responsible for industrial relations at group level. In 8 of these, additional discussions were held with those responsible for due diligence and/or human rights. In 6 of these enterprises, interviews were conducted with a workers' representative (see the summary table of interviewees and figures in the Annex). Interviews conducted with representatives of 4 global union federations made it possible to address practices developed at the international level with the enterprises in the sample. In addition, they helped broaden this overview to include initiatives involving multinational enterprises but extending beyond their scope, by addressing human rights issues at sectoral or industry level in order to better capture supply chain challenges.

3.1 Social dialogue as a specific form of stakeholder engagement: initial issues and challenges

Workers' representation is not only a channel for engaging with stakeholders such as direct employees or those in the value chain.[4] Through its role in social regulation, it also contributes to enterprise risk management. Whether through its core functions of ensuring respect for workers' collective and individual rights, raising concerns about problematic situations, or developing solutions through dialogue or collective bargaining, it helps create the conditions and an enabling environment for the respect of human rights within the enterprise – through everyday actions that are not always recognised as such.

This complementary role in supporting due diligence processes is not the focus of this study, which instead examines the mobilisation of these actors and their contribution to the development of such processes – namely, what the enterprise puts in place to prevent and mitigate the most severe risks of adverse impacts on human rights and the environment linked to its activities and supply chains. Under French legislation, this process must be disclosed in a formal document – the vigilance plan. The study has primarily been conducted with reference to this legal framework.

However, this role in resolving individual situations or responding

[4] By 'workers' representatives', we mean staff representatives within the enterprise as well as national, European or international trade unions

to collective issues, often carried out behind the scenes, is not unrelated to the difficulties faced by workers' representatives in grasping a process perceived as highly abstract. Indeed, it draws on concepts derived from international standards that set out principles often open to interpretation and not necessarily aligned with their day-to-day experience of representation, which is based on the defence of clearly defined, enforceable rights.

Stakeholder engagement is not merely a good practice; it is a fundamental condition for ensuring that due diligence is more than a formal exercise. It enables enterprises to better understand the real impacts of their activities on individuals and communities. This, in turn, allows them to design more appropriate and effective prevention or remediation measures, thereby enhancing their credibility in the eyes of external stakeholders, who closely assess how enterprises take on this new responsibility.

However, while stakeholder engagement in general does not follow a predefined framework and reflects an open-ended approach, it takes on a different logic and encounters different realities when situated within the field of industrial relations:

- those of institutionalised actors whose legitimacy derives from recognition or representativeness processes at the national level (or regional level, such as European Works Councils), who have established prerogatives and rights, but whose scope of representation, action and experience does not match the international dimension of the issues at stake, particularly those relating to supply chains;
- those relating to the weakness or even absence of workers' representation, especially in high-risk countries and often even more so within supply chains, raising questions about the role that actors interacting with the management of parent companies or lead firms can play.

The issue of working conditions among service providers or subcontractors, is not always as remote as it may seem

The due diligence plan must enable actions to be prioritised in response to the most severe risks of human rights violations. While such risks may also arise within the direct operations of large groups, they are, in proportion, more prevalent in supply chains. The question of the contribution that a workers' representative sitting in a body of a lead firm can make to improving working conditions for workers in these chains requires careful consideration, both on the part of the representatives themselves and of enterprise management, which is often reluctant to engage, citing the complexity of supply chains. However, this representation is not entirely without resources to address issues arising in the environments in which it operates and/or in relation to the occupations it is familiar with. For example, the issue of workplace accidents among service providers and subcontractors, and the extension of prevention measures to on-site contractors, is a long-standing practice in France. Building on this experience, social dialogue in some enterprises has been extended to other social risks (see the example of enterprise E § 3.2). In enterprise I, workers' representatives involved in the risk assessment exercise showed particular concern about issues of undeclared work among their subcontractors, whose occupations and tasks they are familiar with, as they perform similar work themselves. In other examples, two management representatives from different enterprises reported having received alerts from workers' representatives regarding working conditions among on-site contractors. In one case, the workers' representative used the grievance mechanism. In the other, the site HR manager was approached and referred the workers' representatives to the general secretariat responsible for general services.
To address the obstacles identified during several interviews–particularly regarding the legitimacy to raise such issues and the identification of appropriate interlocutors–further avenues need to be explored so that workers' representatives can play a role in raising alerts and addressing problematic situations affecting employees of subcontractors and service providers operating on site.

It is also in light of these boundaries inherent to established industrial relations that this paper explores initiatives that move beyond traditional dialogue within representative bodies, involve other actors, and develop new forms of interaction between enterprises and workers' representatives.

3.2 Social dialogue at the different stages of the vigilance plan

Due diligence is a process, and social dialogue often involves procedures. Examining the contribution of social dialogue to due diligence processes requires identifying the points at which the two intersect—or could further intersect.

a) Risk mapping: an expert-driven exercise leaving limited room for workers' representatives

As a structuring stage of the process, risk mapping and prioritisation determine the priorities and actions needed to mitigate the most salient risks. Although due diligence requires broadening the perspective beyond risks to the enterprise itself to include risks to the environment and human rights, and entails regular updates of these analyses, this exercise remains embedded in established practices of operational risk management. It is designed as an expert-driven exercise, relying on complex methodologies and paid databases on which enterprises heavily depend. Moreover, it is regarded by management as a managerial prerogative, marked by a degree of confidentiality given external risks. While the exercise is highly structured, enterprises that engage stakeholders at this stage also use dialogue to challenge internal analyses and remain open to the possibility that a well-substantiated risk or risk factor may shed new light on existing assessments and help refine the corresponding action plan.

From the perspective of stakeholders, this exercise also has a political dimension. The inclusion of an issue within due diligence frameworks influences resource allocation and the prioritisation of actions in operational committees. Civil society organisations engaged in advocacy have clearly understood this, often calling on enterprises to elevate specific issues on their agendas. Being heard–particularly through media exposure–thus becomes a strategy for advancing certain concerns. In many cases, enterprises that have engaged in stakeholder dialogue with NGOs on their impacts have done so following external pressure. Several trade union representatives interviewed highlighted this difference in responsiveness and expressed what they perceive as unequal treatment between external inputs and those coming from internal actors, including themselves. Because they tend to rely on channels other than public pressure to raise concerns, their inputs may receive less attention. Many reported a lack of responsiveness from enterprises to their alerts and noted that corrective actions were often taken only belatedly, frequently in response to external pressure.

The methods used to construct the vigilance plan matrix vary greatly from one enterprise to another, but all involve, in various forms, the different functions and departments of the enterprise in this work of identification and prioritisation. The exercise may be more or less centralised or, conversely, rely on feedback from local entities. This feedback is gathered through questionnaires, interviews and various committees. In a minority of cases within this panel, they may also involve sending out these questionnaires or conducting interviews with workers' representatives during this preliminary stage. More rarely (in only one enterprise in the panel), a person representing the workers (in this instance from an international trade union organisation) is invited to take part in meetings organised with various stakeholders to work on the due diligence plan. However, when this work is carried out, coordination between the labour relations department and the department responsible for the due diligence in identifying representatives does not always take place. Consequently, when the process is presented to the relevant bodies, the fact that no member of those bodies has been consulted in this context automatically raises doubts about the process itself and fuels an already significant misunderstanding between management—who regard the methodology as robust and indisputable—and workers' representatives, who feel that, given the information provided, they are unable to have confidence in this methodology.

In the vast majority of enterprises in the sample, no specific upstream interaction with workers' representatives is organised at this structuring stage. When interaction does occur, it takes place at the stage of presenting the plan, in the form of information-sharing. It is precisely at the stage of risk mapping and risk assessment that the capacity of workers' representatives to contribute is most frequently called into question. The reasons put forward by management include the complexity of the issues, the perceived limited understanding by institutionalised workers' representation bodies at the levels concerned (Group Works Council France, Central Social and Economic Committee, European Works Council) of the challenges faced by the enterprise given their international dimension and the complexity of supply chains. The (perceived or experienced) difficulty in obtaining their contribution to the prioritisation of risks—yet central to the due diligence process—is also cited as an obstacle. Indeed, risk scoring (used to identify the most salient risks) relies on an evaluation method and criteria, including the level of risk control. This criterion makes it possible to assess a risk as less of a priority if the preventive or mitigation measures implemented by the enterprise are considered sufficient to manage it. However, assessing the level of control of a risk in its international dimension can prove complex for workers' representatives, who may associate such prioritisation with a form of validation of actions whose scope and actual implementation at local level remain unclear to them.

When efforts are made to engage at this stage, both management and workers' representatives emphasise the need for significant investment in training and preparation, as well as sufficient time for appropriation in order to fully understand the rationale of the process and the assessment methodology. Workers' representatives also stress the need to better understand how this exercise fits within the overall process, to have greater visibility on subsequent steps and outcomes, to receive feedback on their contributions, and to be assured of the continuity of their involvement.

Entreprise I: a workshop bringing together employee representatives from various European countries to assess defined risks related to labour rights

A risk assessment workshop was held in March 2025 with around a dozen participants, including trade Union representatives at France Group level, the secretary of the Group Works Council France, employee board representatives, and at European level, the secretary of the European Works Council and her two deputies.
Preparatory handouts outlining the topics were sent to participants prior to the workshop. During the workshop, a training session was held to explain the risk assessment methodology and the assessment criteria. Participants then worked in small groups to assess the risks, with each group led by a member of management to facilitate discussion and understanding of the methodology, before sharing their analyses in a plenary session.
Four themes were selected: illegal work, psychosocial risks (hereinafter PSRs), working conditions and discrimination. These themes were chosen because of their relevance to social dialogue and their frequent occurrence in discussions with workers' representatives. They were also selected because they lie at the heart of social dialogue and ongoing trade union negotiations.
The workshop enabled a comparison of the social partners' perception of risks with that of experts in the relevant roles/occupations who assessed these risks using the same methodology. The social partners put forward concrete proposals to improve the level of risk control. Their assessments were generally consistent with those of the other experts, particularly regarding the level of control. Some differences were observed in the prioritisation matrix, but the main priority (work-related risks requiring improved control) was identical. The exercise focused on risks affecting employees in France and Europe

The exercise of bringing stakeholders together to improve risk awareness can also take other forms.

We provide a few examples below.

The initiative led by IndustriAll Global Union and Drive Sustainability in nickel mines in Indonesia

The automotive manufacturers' alliance Drive Sustainability and the Global Union Federation IndustriAll Global Union organised a joint visit to nickel mines in Indonesia to observe working conditions and respect for trade union rights. This was not an inspection visit, but a trip aimed at informing the manufacturers' compliance officers about the reality of risks on the ground, beyond the information and documentation available elsewhere. Further consideration must then be given to the implications of the findings from this experience for the purchasing policies and risk mapping of the participating enterprises.

Enterprise K: the opportunity, through dialogue with a global union federation, to challenge the databases used by enterprises to assess risks

The Global Framework Agreement signed by Enterprise K recognises a role for the relevant global union federation in the development of the vigilance plan, particularly with regard to workforce-related aspects. The federation was consulted on the risk mapping. In this context, it highlighted the Global Rights Index developed by the International Trade Union Confederation in order to question the country risk assessments provided by the service provider used by the enterprise. This led to a discussion with the provider on the reasons for the discrepancies between the two assessments.

b) Action plan and monitoring: a top-down approach, distant from social dialogue

Here again, it is useful to recall at the outset that social dialogue and collective bargaining contribute to reducing the risk of adverse impacts on fundamental rights by enterprises, at least with regard to issues affecting direct employees, such as occupational safety and health, non-discrimination, and decent wages. In this sense, and using the concepts of due diligence, they can be considered as action plans in their own right.

When examining how, within the vigilance plan, measures aimed at eliminating or mitigating risks of adverse impacts on fundamental rights at work are presented, it appears—much like in other stages of the process—that workers' representatives are most often consulted only once the document has been finalised. The nature of the exercise often leads enterprise management to emphasise that risks are under control through the measures implemented, which, from the perspective of workers' representatives, leaves little room for meaningful contribution and provides no assurance that decisions taken at group level will be effectively implemented at the local level.

c) Grievance mechanisms and remediation: articulation with social dialogue still to be developed

Under international due diligence standards, a grievance mechanism is understood as a mechanism that must meet certain criteria—such as ensuring trust, respect for rights, transparency and accessibility—in order to be effective and credible. It should enable the reporting of human rights violations or risks, with a dual objective: to provide remediation, as due diligence also requires addressing harm caused, and to flag risks so that they can be taken into account in risk mapping and thereby improve prevention.

Under the French law on due diligence, such a mechanism must be established *in consultation* with representative trade union organisations within the enterprise subject to the obligation to publish a vigilance plan. A recent decision by the Paris Court of Appeal (see below) is expected to influence practices regarding the involvement of workers' representatives in this area.

The German Supply Chain Due Diligence Act provides for a more advanced level of involvement in this grievance mechanism, as the agreement of the works council is required.

None of the enterprises in the sample has gone beyond presenting this grievance mechanism to their representative bodies. Subsequently, enterprises sometimes provide data–most often perceived by workers' representatives as too general–when presenting the vigilance plan.

Based on similar dynamics as those observed in risk mapping, the lack of involvement in this mechanism creates doubts among workers' representatives about its validity. These doubts are sometimes reinforced by figures that, in their view, do not reflect reality, as well as by the lack of transparency surrounding how cases are handled. Here too, mutual misunderstanding can arise between management—who expect workers' representatives to promote the mechanism—and the representatives themselves, who consider that it is not their role to promote a system they perceive as a "black box," based solely on assurances provided by management, especially when they are not involved at all in the handling of cases.

This situation appears to hinder strategic reflection by workers' representatives on the potential usefulness and relevance of the grievance mechanism. During an interview with a representative of a global union federation, it was noted that he had made use of grievance mechanisms on several occasions across different enterprises, with positive results in many cases. He used this channel upon the suggestion of compliance officers within enterprises, who encouraged him to do so, as it gives requests a formal status, thereby accelerating their processing and helping to identify risks.

A due diligence officer from one of the enterprises in the sample referred a case in which a workers' representative raised a grievance concerning the working conditions of cleaning staff. The grievance was addressed through a working group—including the workers' representative concerned, the enterprise's general secretariat responsible for procurement of services, and the enterprise managing the building—to examin the case and decide on actions to be taken with the subcontractor involved, both to remedy the most serious violations and to develop an improvement plan for remaining issues.

What involvement of trade union organisations in grievance mechanisms? (Conclusions of the judgment of the Paris Court of Appeal of 17 June 2025)

This decision provides an initial definition of what consultation with representative trade union organisations should entail regarding grievance mechanisms under the French law on due diligence. According to the Paris Court of Appeal, such consultation goes beyond a simple consultation; it requires the provision of relevant information and an exchange of views and proposals on both the drafting and implementation of the mechanism. Consequently, it must take place upstream of its development. In doing so, the Court of Appeal builds on the first instance ruling by clarifying that this consultation cannot be limited to a mere opinion. It is for the enterprise to demonstrate that such dialogue has effectively taken place.

3.3 Social dialogue at which levels?

This section of the contribution provides a more detailed account of with whom—understood as which bodies and actors—the enterprises in the sample have engaged on the issues of human rights and due diligence. Given the roles of the individuals interviewed, the analysis focuses on the involvement of bodies at different levels of workers' representation and on engagement with global union federations. This approach notably does not cover questions related to the participation of these representatives in stakeholder committees, the contribution of employee board-level representatives on these issues within corporate governance bodies, or more direct forms of employee engagement *through workers' voice* mechanisms aimed at addressing representation gaps in supply chains.[5]

Limited social dialogue at the local level on these issues

The concept of stakeholder engagement implies a process of engagement wherever such dialogue is necessary to ensure the effectiveness of the process. Social dialogue, as a means of ensuring respect for labour rights, is in itself a tool that contributes to risk management and to addressing situations both individually and collectively.

It is important to reiterate that social dialogue—especially when it exists and develops at the local level—helps to reduce risks. However, as in the rest of this contribution, the focus here is on social dialogue relating to the development of the plan or involvement in the due diligence process.

Some enterprises involve local management in the risk mapping exercise and use data reported by local entities to prioritise risks. However, while this managerial reporting line is often well structured, the corresponding

[5] In the context of supply chains, the 'workers' voice' refers to all mechanisms (complaints channels, etc.) that enable workers to express their concerns, needs and experiences regarding their working conditions, as well as to raise complaints, thereby allowing these issues to be addressed.

dialogue dimension appears to be much less so. Few of the enterprises interviewed have a structured approach to fostering dialogue on risks of adverse impacts on human rights at this level. Those that have initiated such approaches report difficulties in generating interest among workers' representatives, in a context where the agendas of representative bodies are often already crowded and include issues that tend to relegate due diligence concerns to a secondary position, and where these actors do not necessarily see the relevance of engaging with such issues from a due diligence perspective. The further one moves away from France, and then from Europe, the more enterprises struggle to engage both management and workers' representatives –where they exist– on these issues.

Enterprise B: encouraging the development of social dialogue at the local level on due diligence

The group requires its local entities to present identified risks and associated action plans to their representative bodies and to engage in dialogue with them. The monitoring of the implementation of these actions by the entities is carried out through internal control processes and reporting from local entities to the group. Feedback is also requested on the quality of the dialogue that has taken place.

Enterprise N: involvement of employee representatives in countries identified as high-risk

Enterprise N systematically involves workers' representatives in risk assessments and action plans in countries with legislation on human rights due diligence. It has also undertaken to carry out similar exercises in countries identified as being at risk of violations of fundamental rights. As soon as a workers' representative body was established in Bulgaria, its members were engaged in assessing the severity of identified risks and the relevance of action plans. Following efforts to improve the exercise of freedom of association in Indonesia, after several cases of violations were identified, the group now plans to rely on existing workers' representatives to pilot dialogue on assessing the risk of violations of freedom of association and on the relevance and effectiveness of the measures put in place to prevent such violations from recurring.

A largely formal information exercise at central group-level bodies, aimed at raising awareness among workers' representatives of human rights issues

The development of the vigilance plan is an obligation placed at the level of parent companies, also with a view to leveraging their capacity to drive action.

The majority of enterprises in the sample have not due diligence or the vigilance plan on the agenda of their central representative bodies.

The mismatch between the scope of the issues (international and supply chain-related) and the mandate of these bodies (France) is very often put forward by enterprise management to explain why they do not prioritise this level of social dialogue. When such dialogue does take place, it is not, at least within our sample, considered strategic and is therefore conducted in a rather formal manner, without sufficient preparation by management (for example through training or a more in-depth introduction to the subject). It typically takes the form of providing information on a plan that has already been finalised.

The lack of interest from workers' representatives in some cases, and in others an interest but limited capacity to contribute—particularly when issues relating to suppliers and subcontractors are discussed—is frequently highlighted by enterprise management. While this observation of limited engagement on the part of elected representatives mirrors a lack of engagement from management, the workers' representatives interviewed acknowledge that, within these bodies, interest in the topic is not shared by all and that expectations on their side remain limited. Issues perceived as more immediate tend to take precedence, overshadowing those related to due diligence and human rights, which are often seen as distant from their day-to-day role as workers' representatives.

However, the enterprise management interviewed continue to repeat the exercise, considering that successive rounds of presentations help their counterparts gradually gain a better understanding of the group's social responsibility issues and create the conditions, over time, for greater mobilisation of social dialogue on some of these topics.

For this reason, all French enterprises in the sample have chosen from the outset to present the process in its most complex dimension—its global dimension. There is indeed value in providing information on this international scope to enable members of central representative bodies, who interact with the highest levels of management, to understand the challenges faced by the group at that level. However, meeting expectations regarding stakeholder engagement may require positioning a more in-depth and meaningful dialogue on issues that are more familiar and closer to these actors—namely those on which they have relevant expertise regarding the risks identified.

Enterprise N – Social dialogue on due diligence issues in countries where such regulation exists

Enterprise N is subject to German and Norwegian legislation on supply chain due diligence. Under the German law, it is required to inform the Economic Committee (Wirtschaftsausschuss).[6]
Prior to the entry into force of this legislation, the enterprise committed to going further by training members of its works councils on human rights and on the group's policy for managing its supply chain. While German law only requires information to be provided on the due diligence process, risk assessment and how it is conducted, the enterprise chose to involve workers' representatives within works councils in the risk assessment process. On the one hand, they were consulted and/or interviewed to assess the severity of all risks affecting direct employees in Germany (following training on the criteria used to classify and prioritise risks). On the other hand, they are treated as experts on issues related to freedom of association. This means that their assessment of this right carries particular weight and that, if at any point it were considered to be at risk, they could be engaged to discuss action plans.
In Norway, a similar approach was implemented. In both cases, the group observed a strong alignment between the assessments carried out by management and those resulting from the involvement of workers' representatives. As freedom of association and the right to collective bargaining were not assessed as being at risk in these countries, workers' representatives were not mobilised in their capacity as experts. The group applies the same approach of recognising workers' representatives as experts in other countries considered to be at higher risk.

Engagement in social dialogue on due diligence is more developed at the transnational level

The more transnational the workers' representative body, the more meaningful the involvement of workers' representatives appears to enterprise management. Despite its limited scope, the European Works Council is perceived as a more legitimate actor for engaging in dialogue on human rights.

When looking at what takes place at the European level, more advanced forms of dialogue can be observed, particularly where no global-level social dialogue structures exist within the enterprise. The table in the Annex clearly shows that this is often the first level at which forms of involvement go beyond merely providing information on a finalised plan. It is also at this level that, within the enterprises in the sample, more in-depth dialogue experiments can be observed, as illustrated in the following case examples.

[6] This is a representative body distinct from works councils (Betriebsrat) and operates alongside them in enterprises with at least 100 employees. Its role is to receive economic information from management, which it is responsible for passing on and making accessible to the works councils.

Enterprise E: a highly mobilised European Works Council on working conditions among subcontractors

The group's European Works Council is regularly informed about risks, actions and human rights policies more broadly. The issue of managing social risks and undeclared work among its subcontractors – particularly those operating on its sites – receives particular attention and drives its actions. This focus is motivated by the co-activity between subcontractors and the group's employees, which increases the risk of occupational accidents.
Workers' representatives show strong interest in this issue as it relates to sectors close to their own and because they have more direct levers for action. The European Works Council actively monitors this issue and requests regular updates. In this context, it has undertaken specific actions on this topic in France (including site visits) to address social risks in subcontracting. Workers' representatives seek to extend these actions to other European countries.
In addition, training on social risk management and the conduct of social audits of subcontractors, introduced since 2021 and open to all staff, has also been offered to EWC members, and some representatives have participated.
These trainings cover social issues related to subcontracting and the group's due diligence obligations, include comprehensive methodological materials and a toolkit comprising audit checklists and interview guides for engaging with subcontractor employees, and conclude with modules on interview techniques, case studies and role-playing exercises.

Enterprise J: a working group within the European Works Council to improve the vigilance plan

Enterprise J initiated a process of involving its European Works Council as early as 2018, with an initial presentation aimed at explaining the concept of due diligence and the measures implemented. For the second phase, workshops were organised in February 2023 following a call for participation. A working group was set up, bringing together around a dozen representatives from different countries.
These workshops, held over three half-days remotely and spaced out to allow time for reflection, included a presentation on due diligence, a question-and-answer session on the group's actions, and a session to gather participants' suggestions. The outcomes were then presented to the European Works Council in plenary session. The workshop made it possible to identify six areas for improvement, which were subsequently incorporated into the vigilance plan.
The involvement of the European Works Council will be repeated every two years in order to maintain regular dialogue and integrate employees' feedback into the continuous improvement of the vigilance plan.
The enterprise is nevertheless aware that social dialogue on this issue conducted at European level is inherently limited and is considering developing similar initiatives at other levels.

It can therefore be inferred that the highest level of engagement is observed within international social dialogue forums. The sample shows that the existence of global-level social dialogue spaces raises the level of involvement of workers' representatives. Indeed,

global committees or dialogue spaces established under GFAs are seen by management as particularly appropriate venues for developing social dialogue on due diligence, as they are considered more legitimate in terms of representativeness and are, by definition, designed to address issues of a global nature. For this reason, these forums are more frequently consulted than others to provide their input before the finalisation of the process.

3.4 International framework agreements that provide for social dialogue on due diligence

While management that has engaged at this level of dialogue, as well as their counterparts on the workers' side, clearly value its contribution, creating a dynamic of international social dialogue on human rights requires a particular level of investment. It entails overcoming two sets of challenges that compound each other: those inherent to transnational social dialogue and those related to the complexity of human rights issues.

Interviews conducted with actors involved in this social dialogue have highlighted some of the limitations of such engagement within current practices. These challenges stem from underlying factors that require specific attention and action:

- The limited representation of high-risk countries or activities. While transnational social dialogue forums are intended to represent different countries, in practice they tend to reflect those where workers' representative institutions exist. This logically stems from the absence or weakness of representation systems in many countries worldwide, as well as in newer sectors where collective representation is less developed. As a result, there is often strong representation from France (to reflect the diversity of its trade union landscape) or Europe more broadly, in contrast with limited representation from outside Europe. When international issues or those arising in other regions are discussed, this situation can lead to exchanges that remain at a general level, based on arguments not supported by concrete data, and which therefore contribute little to the due diligence process or to progress in risk management.
- Knowledge of due diligence—if not its full understanding—varies from one country to another, likely reflecting insufficient training efforts.
- As with any transnational body, the intercultural dimension adds a further layer of complexity, and global forums that include representatives from different continents experience difficulties in developing a shared understanding of human rights issues. In practice, the broader the geographical scope covered by representatives, the more difficult it becomes to reach a genuine synthesis of viewpoints, requiring management to adjust its expectations regarding the exercise.
- Issues relating to the value chain are often identified as not leading to discussions that effectively support due diligence processes.
- While the objective of the vigilance plan is to minimise adverse impacts and take measures to ensure respect for human rights in high-risk contexts while preserving business activities as far as possible, workers' representatives may take the view that enterprises should not prioritise business considerations at the expense of human rights.

These challenges also reflect misunderstandings regarding expectations and respective roles. As the plan is a global, group-level process, it results from an exercise of compilation and synthesis carried out by due diligence officers at group level. For management, this translates into global presentations of risks, actions implemented, monitoring tools, results, and data indicators that illustrate trends and trajectories, even if they are sometimes supported by concrete examples. For workers' representatives, however, these presentations do not fully reflect reality. Beyond aggregated data and summaries, they call for greater visibility on how the process is implemented and made effective at the local level. A gap in mutual expectations thus emerges, which would merit clarification and further work: CSR and due diligence departments expect these exchanges to generate field-based feedback to help identify potential issues, while workers' representatives expect management to provide more detailed information on what is actually happening on the ground (particularly in more remote geographies).

Entreprise C: a global social dialogue body whose work is largely dedicated to due diligence

The monitoring committee of the global framework agreement is particularly involved in the vigilance plan, to the extent that those responsible for due diligence attend all meetings, whether to discuss risk mapping, present action plans, or address other related aspects.

This body is therefore engaged at all stages of the due diligence process. This sustained and long-standing involvement has enabled workers' representatives to build their capacity and understanding of the issues, and to feel that they are making a meaningful contribution to the process.

Entreprise B: a global social dialogue body whose work is partly dedicated to due diligence

The monitoring body of the global framework agreement is also highly involved in due diligence issues, and here again, those responsible for due diligence participate in the annual meeting as well as in dedicated working groups on this topic to discuss the annual review and the draft vigilance plan.

In French enterprises, Global Union Federations are often the counterparts of group management within the framework of GFAs. Across their activities and initiatives, these international organisations promote and defend respect for freedom of association and the right to collective bargaining, considering these rights as essential conditions for ensuring and effectively protecting all other workers' rights.

Even before the emergence of due diligence legislation, the dialogue developed between enterprises and these Global Union Federations made it possible to raise grievances and address certain problematic local situations. With the development of these agreements, these federations have called for the inclusion of clauses providing for their involvement and/or for greater consideration of issues arising in supply chains. Most of the enterprise management interviewed value their dialogue with these federations and recognise their contribution to risk identification, their knowledge of the complex environments in which enterprises sometimes operate, and their ability to share good practices.

Entreprise G: a working group on due diligence established under the Global Framework Agreement

The Global Framework Agreement recently signed by Enterprise G provides for the establishment of a global-level working group, in which the signatory Global Union Federation will participate, with the aim of contributing to the continuous improvement of due diligence with regard to workforce-related aspects.

The contributions of global social dialogue resulting from transnational agreements have been widely documented in the literature. In this section, we have therefore chosen to present other approaches to cooperation with multinational enterprises, as well as the development of new forms of action and instruments aimed at better addressing issues related to working conditions among suppliers and subcontractors.

International inspection missions conducted by the Building and Wood Workers' International (BWI)

This Global Union Federation has signed around twenty GFAs with multinational enterprises and maintains regular relations with others.
Enterprise E, for example, conducts joint site visits with this federation on construction sites and values the organisation's pragmatic approach. BWI is also involved with another multinational in the sector, not based in France, with which it has concluded a Global Framework Agreement providing for an annual site visit, with the participation of trade unions from the parent enterprise. These visits have taken place in Qatar, the United Arab Emirates, as well as in Europe in the context of a major rail infrastructure project. Following each visit, the Global Union Federation provides feedback on working conditions, compliance with occupational safety standards, the accommodation conditions of migrant workers employed on these sites, as well as their social protection (insurance, repatriation, compensation, etc.). During these visits, the trade union delegation is able to engage freely with local management and to speak directly with workers without the presence of enterprise representatives.
Beyond its relations with large groups, the federation also establishes partnerships with public or semi-public bodies responsible for major infrastructure projects, such as in Qatar, Paris or within the Grand Paris project. These forms of cooperation vary, but generally include inspections carried out with local trade unions to assess working conditions, safety, accommodation and living conditions of workers, often migrants. BWI relies on an inspection charter for this purpose and may also organise training activities, particularly on labour law and occupational safety, sometimes discreetly through community channels in contexts where trade union rights are restricted.

The International Transport Workers' Federation (ITF) and its contribution to corporate due diligence in supply chains

This trade union actor covers activities found across the logistics chains of large groups, a component of the value chain where human rights issues are particularly sensitive. This sensitivity largely stems from the use of migrant workers and cascading subcontracting, which makes traceability more difficult. The International Transport Workers' Federation has recognised the role it can play in supporting due diligence processes for the clients of enterprises in its sector. Building on its experience in the maritime sector—where it has a dedicated inspectorate able to conduct ship inspections under agreements negotiated with shipowners, thereby enabling them to provide assurances to their own clients regarding their practices and respect for labour rights—the federation has developed an approach specifically targeting road transport through the Road Transport Due Diligence (RTDD) Foundation. This foundation offers services that support the due diligence efforts of transport enterprises' clients.
In addition to the ITF, the Dutch trade union federation FNV is involved in the initiative, as is the international union federation for agriculture and food (IUF). The latter has played a key role in facilitating connections with six enterprises in the food and beverage sector that are currently participating in the initiative. These enterprises have engaged in the process thanks to long-standing relationships of trust with the IUF. Within our sample, enterprises A and N are involved.
This represents a relatively unique configuration, bringing together several enterprises and several trade union federations within a single initiative, covering both lead firms and a specific segment of the value chain. The foundation provides enterprises with data—partly collected directly from workers—offering a detailed picture of transport practices and risks of violations of fundamental rights. This knowledge enables better integration of these issues into purchasing policies, for example. A grievance mechanism also allows for the rapid remediation of violations. The involvement of multiple enterprises in the initiative facilitates the handling of certain systemic issues.
Beyond this function, the ITF is also engaged with several garment enterprises to support their due diligence processes in supply chains related to freight transport activities. The organisation is also exploring the creation of a fund, similar to that for seafarers, aimed at providing remedies for drivers who have been victims of human rights violations.

The role of IndustriAll Global Union in the Global Battery Alliance (GBA)

IndustriAll Global Union is the only organisation representing workers' concerns within global alliances that bring together around 150 stakeholders (NGOs, enterprises, institutions and governments, among others). The GBA is a public-private collaboration platform aimed at building a socially, environmentally and economically sustainable battery value chain. Discussions are currently underway on the development of a "battery passport," intended to enable consumers purchasing a new electric vehicle to verify the associated CO_2 emissions and obtain detailed information on the supply chain.

4 • Lessons learned and areas for reflection

4.1 Summary of practices and obstacles to engagement in social dialogue on due diligence, or to achieving truly meaningful dialogue

Key findings on levels of engagement in social dialogue

Below, we present a synthetic visualisation of the practices observed regarding the levels of involvement of workers' representatives across the groups studied, in the form of a heat map. This analysis focuses exclusively on the 14 French enterprises in the sample, for the sake of comparability. Each cell of the chart indicates the number of enterprises that have engaged in social dialogue at a given level and at a specific stage of the vigilance process. The horizontal axis shows the different stages of this process: dialogue conducted at the level of the overall plan is, by definition, less in-depth than dialogue undertaken at a specific stage, as it takes place downstream, once the plan has already been finalised. Conversely, upstream engagement—at key moments such as risk mapping, the definition of the action plan, or remediation—better reflects the spirit of due diligence, which entails the active participation of stakeholders throughout the process.

The vertical axis shows the levels of social dialogue (local, national, transnational). At the transnational level, two types of dialogue are distinguished: one conducted with a European or global body, and another with Global Union Federations, which follow different logics. For each level, a distinction is made between simple information-sharing and prior consultation, the latter enabling workers' representatives to express a viewpoint at a stage when it can still be taken into account. Cases of upstream involvement that may lead to genuinely contributory dialogue are highlighted in blue.

Strong engagement would imply, first, involvement at a stage where the plan is being developed (rather than once it has been finalised), and second, a form of dialogue that goes beyond mere information-sharing. However, the chart shows that instances of upstream engagement are rare. The darkest areas most often correspond to information-sharing on finalised plans, where the capacity of workers' representatives to influence outcomes is very limited.

Another key finding concerns the distribution by level: where engagement exists, it is mainly at the transnational level. Indeed, 11 of the 14 French enterprises studied have engaged at this level of dialogue. It is also at this level that the most advanced forms of involvement of workers' representatives can be observed, particularly at key stages of the due diligence process. Concrete examples of participation in risk mapping exercises or in defining action plans are provided in the boxes.

Finally, the data relating to grievance mechanisms are more limited. The interviews were not conducted with those specifically responsible for these mechanisms, making it difficult to obtain precise information on the possible existence of social dialogue on this issue. As a result, these cells have been left blank, with the exception of one concerning upstream involvement: on this point, it was confirmed that none of the enterprises in the sample had engaged in dialogue with workers' representatives prior to establishing the mechanism.

To summarise the findings from a different perspective, it appears that:

- local-level social dialogue mechanisms remain underutilised. The local level is insufficiently leveraged, despite its relevance for managing concrete risks in certain countries and/or in activities that are more exposed to human rights violations;
- interactions at Group or parent enterprise level are characterised by limited management commitment and insufficient ownership by workers' representatives, resulting in a dialogue that is more formal than substantive;
- social dialogue is more developed at the transnational level, but the interviews show that it faces significant challenges related to the complexity of the issues addressed and to cultural diversity, particularly with regard to human rights.

Some obstacles identified in the interviews

With regard to barriers to engagement in social dialogue, the literature review highlights several recurring obstacles. Some are linked to enterprises' organisational structures, in particular the siloed functioning of CSR, legal and human resources departments, which limits coordination and the integration of due diligence processes.

The study also identifies other barriers that are more closely related to misunderstandings or a lack of clarity regarding expectations associated with social dialogue in the context of due diligence. These differences in interpretation among stakeholders are summarised below in a table highlighting the main perception gaps.

PERCEPTION GAPS: MANAGEMENT vs WORKERS' REPRESENTATIVES

	MANAGEMENT	WORKERS' REPRESENTATIVES
1. EXPECTATIONS OF ACTORS	Doubts about workers' representatives' capacity	Difficult appropriation / Issues seen as distant
2. TRUST & TRANSPARENCY	Confidence in methods used	Mistrust / Perceived opacity
4. DATA & FIELD REALITY	Global data, limited granularity	Need for field data / Reality of practices
4. PRINCIPLES & BUSINESS CONSTRAINTS	No business no-go / Mitigation measures	Primacy of values / No compromise

Stakeholders' expectations

The first obstacle identified primarily relates to the low level of expectation among management regarding social dialogue on these human rights issues, particularly when conducted within the central bodies of parent companies. In such contexts, dialogue is often perceived as remote from, or disconnected from, the issues addressed by these bodies, which already have to deal with many other matters. The issues at stake—particularly fundamental principles and rights at work—are seen as complex, geographically distant (given their international dimension) and structurally remote (due to supply chains). As a result, management struggles to identify in concrete terms what social dialogue could contribute to the process.

For their part, workers' representatives are aware of this disconnect from the issues concerned. Nevertheless, they express a genuine interest in becoming more actively involved in the vigilance process. However, given these challenges in terms of ownership—both of the rationale and the content of due diligence—little preparatory work is undertaken upstream, whether through joint reflection or training. This lack of investment in capacity-building for the actors involved significantly reduces the likelihood that social dialogue can develop in a genuinely constructive manner—even though it is understandable that, by its very nature, social dialogue at parent enterprise level cannot, on its own, cover all issues or provide a comprehensive response.

Trust and transparency

Another major difficulty stems from differing views on what can – or should – be shared within the framework of social dialogue. In exercising their due diligence, enterprises rely on tools, methods and practices that they consider to fall within their managerial prerogatives. From their perspective, these elements are neither open to discussion nor negotiation, and are not easily subject to in-depth disclosure.

This is particularly true for risk mapping, which involves sensitive data and may reveal areas of vulnerability likely to expose the enterprise. Opening social dialogue at this stage would imply granting access to such information, which many management teams perceive as a risk. In addition, workers' representatives are often considered to lack the technical expertise required to contribute meaningfully to this exercise, which is viewed as a specialised domain.

The absence of dialogue on grievance mechanisms can be explained by similar dynamics of control and the desire to retain ownership of the system, in a context where the highly sensitive nature of the issues addressed reinforces reluctance to open up or share governance.

It is precisely this perceived lack of transparency that workers' representatives identify as an obstacle. In their view, insufficient information is provided on how risk mapping—and, similarly, grievance mechanisms—are developed. As a result, they often express a degree of mistrust, fuelled by the impression of being excluded from processes that are nevertheless central.

Data and realities on the ground

Another source of misunderstanding lies in the very nature of the due diligence exercise as defined by law. By placing responsibility primarily on parent companies and requiring public disclosure through the vigilance plan, the legislation has led to a globalised approach to risk communication, supported by general action plans that are also intended to reassure stakeholders of the enterprise's ability to manage these risks. Enterprises operate in an environment where transparency about their vulnerabilities may expose them to legal, reputational or competitive risks, which encourages a cautious approach to communication.

As a result, the information shared with workers' representatives often remains generic, emphasising improvement trajectories and highlighting progress indicators, while providing limited insight into the concrete realities of work at the local level—yet these are precisely the aspects of primary interest to workers' representatives.

This disconnection between the top-down approach of vigilance plan and expectations grounded in on-the-ground realities constitutes a recurring source of misunderstanding.

Principles and business constraints

Another source of misunderstanding lies in a significant gap in expectations regarding due diligence, depending on the stakeholders involved. On the one hand, enterprise management generally considers that this obligation should not hinder business activity, provided that mitigation measures make it possible to reduce risks to a level deemed acceptable. On the other hand, workers' representatives advocate for an approach grounded in values and principles, which should take precedence over economic considerations when fundamental social or ethical issues are at stake.

4.2 Some avenues for reflection

Building a social dialogue strategy on due diligence and human rights

Social dialogue can only fully contribute to the effectiveness of due diligence if it is embedded in a strategic vision, where its modalities, forms and levels are defined according to the real added value it can bring at each stage of the process. The definition of these modalities of engagement should be based on criteria such as proximity to risks, the level of available expertise, as well as the capacity of the actors concerned to take action and ensure follow-up. Determining the relevant levels of intervention (worker representation bodies, stakeholder committees, etc.), identifying the appropriate counterparts (workers' representatives, trade unions, etc.), selecting suitable consultation formats, and considering how they can be articulated within a strategic perspective are essential steps. This process also helps to clarify the resource needs (training, means, etc.) required for social dialogue to genuinely contribute to improving due diligence processes. Developing a social dialogue strategy in the context of due diligence requires joint reflection between industrial

relations, CSR and legal/human rights departments, each of which brings specific expectations regarding the nature and objectives of such engagement.

One of the key challenges is also to establish a coherent framework capable of overcoming organisational silos, which still too often limit the actual scope of social dialogue in due diligence processes.

Discussing dialogue: clarifying roles, expectations and procedures

Given the specific nature of the due diligence process and the complexity of the issues it covers—which often lead to misunderstandings— it may be useful to openly discuss the respective expectations and constraints of all parties involved. This "dialogue on dialogue" could help define the appropriate levels of engagement depending on the different topics/components of the plan, based on the contribution each can provide, and clarify mutual expectations. This dialogue on how the engagement process will be conducted may also help to:

- clarify the objectives and organisational constraints of those responsible for the vigilance plan (in particular, timelines and communication requirements);
- acknowledge and value the role of workers' representatives within their mandate, especially their capacity to relay information from the workplace, including in relation to contractors and subcontractors;
- and, of course, jointly define the practical modalities of their involvement: scope of issues addressed, frequency of exchanges, expected level of engagement, and available resources (including with regard to training and capacity-building on broader issues).

Capacity building: a shared challenge for enterprise management and workers' representatives

Capacity-building is a shared responsibility between enterprise management and trade unions. Each, according to their respective roles and modalities, must work to ensure that their representatives are equipped with the tools and competencies needed to understand these complex issues and contribute to them effectively.

Addressing mistrust in tools and methodologies, and thereby strengthening due diligence

Enterprises have an opportunity to draw lessons from the mistrust expressed by workers' representatives regarding the tools and methodologies used to develop the plan. Indeed, what is perceived by them as a lack of transparency is likely to be perceived similarly by other stakeholders.

Beyond efforts to enhance transparency, enterprises can also engage selectively with the ecosystem of initiatives that support due diligence processes, by prioritising among them. This involves identifying and favouring mechanisms that structurally integrate stakeholder engagement –particularly those that give a meaningful role, in their governance or functioning, to organisations representing the voice of workers.

By relying on such mechanisms –which address challenges that traditional social dialogue frameworks (such as formal representative bodies at different levels) are less well equipped to capture– enterprises can strengthen the credibility of the tools used in their due diligence processes. In doing so, they help to build trust around these mechanisms, while enabling social dialogue within representative bodies to refocus on the issues, challenges and dimensions that it is genuinely able to address and influence.

The study highlights several examples of inspiring practices, including:

- the participation of workers' representatives in risk identification and prioritisation processes (through questionnaires, interviews, stakeholder committees, etc.);
- the diversification of sources for risk assessment by incorporating tools developed through trade union or multi-stakeholder initiatives (such as IndustriALL Global Union within the Drive Sustainability initiative, or the ITF and IUF's Road Transport Due Diligence), in order to better anchor assessments in on-the-ground realities and enable appropriate remediation measures;
- the complementing of procurement compliance policies with additional monitoring mechanisms (such as site visits conducted by BWI).

Re-thinking the dialogue around the whistleblowing mechanism

Grievance mechanisms are also subject to significant mistrust, even though French case law—notably the *La Poste* ruling—emphasises that they should be integrated into social dialogue. Beyond legal requirements, it is in the shared interest of all parties to strengthen trust in this channel by embedding it within a complementary approach alongside the alert functions of workers' representatives, rather than in a competitive dynamic.

The central objective of social dialogue should be to ensure trust in grievance mechanism(s), by promoting their effective dissemination and accessibility, particularly for the most remote or vulnerable groups.

A complementary objective would be to encourage the coexistence and coordination of multiple grievance channels, allowing for more comprehensive risk coverage.

Social dialogue and supply chains: towards a multi-level and multi-stakeholder approach

Social dialogue conducted at the level of lead enterprises alone cannot fully address all the issues related to supply chains. However, this does not mean that such issues should be excluded from the dialogue agenda. On the contrary, workers' representatives –given their close connection to workplace realities– can provide valuable information on working conditions among on-site contractors and subcontractors.

Improved access to information on the structure and complexity of supply chains could also

enhance workers' representatives' understanding of these issues and enable them to contribute more effectively.

For areas that fall beyond the direct sphere of influence of enterprises, businesses can rely on multi-stakeholder initiatives or private governance mechanisms (such as certification schemes, labelling systems or third-party audits) that genuinely incorporate workers' voices in their governance structures– particularly through Global Union Federations.

The ILO knowledge base on transnational social dialogue documents several initiatives built on governance models that fully integrate workers' organisations.

For trade unions, a key challenge may be to engage more actively in these multi-stakeholder initiatives and private compliance schemes, so that they do not remain mere instruments of corporate self-regulation. Their involvement can help distinguish the most robust initiatives—those that genuinely reflect workplace realities and support effective action on the ground.

BIBLIOGRAPHY

Bourguignon, R., Masson, L., et C. Oka. 2023. "Dialogue social transnational et devoir de vigilance : quelles complémentarités ?" CFTC – Collection Arguments.

Clerc, C. 2021. "The French 'duty of vigilance' law: Lessons for an EU directive on due diligence in multinational supply chains". *ETUI Research Paper–Policy Brief*, (1).

De Lagerie, P. B., Béthoux, E., Bourguignon, R., Mias, A., et É. Penalva-Icher. 2019. "Mise en œuvre de la Loi sur le devoir de vigilance Rapport sur les premiers plans adoptés par les entreprises", Doctoral dissertation, Bureau International du Travail.

Geenen, S., et al. 2024. *Un monde en chantier : le travail décent dans le secteur de construction et sa chaîne d'approvisionnement*. University of Antwerp.

Giovannone, M. 2024. "The European directive on 'corporate sustainability due diligence': The potential for social dialogue, workers' information and participation rights". *Italian Labour Law E-Journal*, 17(1), 227–244.

Haipeter et al. 2021. "Industrial relations at centre stage: Efficiency, equity, and voice in the governance of global labour standards", *Industrielle Beziehungen*, Vol. 28, Issue 2/2021, 148–171.

Huyse, H. 2021. "Pour une diligence raisonnable en matière de droits humains centrée sur les travailleurs (HRDD)". *Note d'orientation*. HIVA-KU Leuven.

IRES. 2023. *Loi sur le devoir de vigilance : quelle implication syndicale dans l'élaboration des plans ?* Institut de Recherches Économiques et Sociales.

Li, C., Kuruvilla, S., et J. Bae. 2025. "Between legitimacy and cost: Freedom of association and collective bargaining rights in global supply chains". *LSE Research Online Documents on Economics 125645*, London School of Economics and Political Science.

Mathews, R. D. 2024. *Framing intervention amidst emerging human rights due diligence frameworks*. ILO.

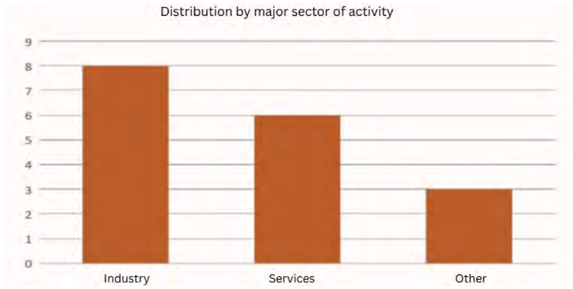
Nilsson, V., et B. Cuciniello. 2024. "The growing interest in due diligence as an instrument for improving workers' rights and working conditions". *International Union Rights*, 31(3), 6–8.

Reinecke, J., et J. Donaghey. 2021. "Towards worker-driven supply chain governance: Developing decent work through democratic worker participation". *Journal of Supply Chain Management*, 57(2), 14–28.

APPENDIX

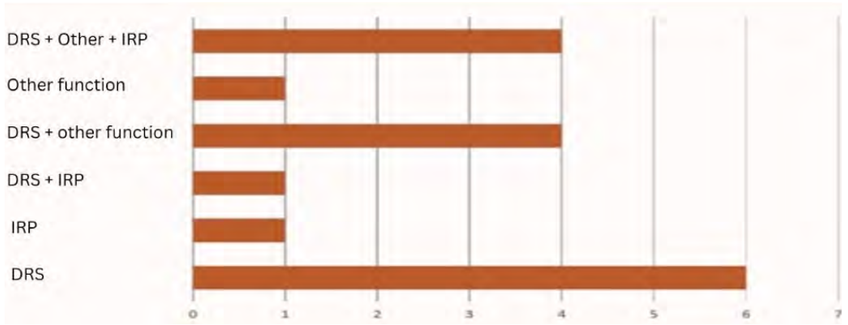
Summary of the enterprises that participated in the panel and details of the roles interviewed

Chart showing the sectors of activity of the enterprises studied



Industry: chemicals, defence, agri-food
Services: banking, retail
Other: water/waste, construction, energy

Diagram showing the different roles surveyed within the same enterprise



DRS: Industrial Relations Department
Other: Head of Due Diligence/Human Rights/CSR officer
IRP: Workers' representatives
Example of interpretation: in the first row, in five enterprises, interviews were conducted with individuals from the Industrial Relations Department, from Due Diligence/Human Rights/CSR functions, and with a workers' representative

Complete and detailed table (with the codes of the enterprise cited in the study)

Enterprise code	Sector	Nationality	Code	Number of people interviewed
A	Industry	FR	A	Group Industrial Relations Department
B	Other	FR	B	Group Industrial Relations Department, Due diligence Officer, Secretary of the Global Body
C	Other	FR	C	Group Industrial Relations Department, Due diligence Officers, Secretary of the Global Body
D	Services	FR	D	Group Industrial Relations Department, Due diligence Officer, Central Trade Union Representative for France
E	Other	FR	E	CSR Department
F	Industry	FR	F	Group Industrial Relations Department
G	Services	FR	G	Group Industrial Relations Department, Due diligence Officer, Central Trade Union Representative for France
H	Services	FR	H	Group Industrial Relations Department, Due diligence Officer
I	Services	FR	I	Group Industrial Relations Department, Due diligence Officer, Employee Director
J	Industry	FR	J	Group Industrial Relations Department, Due diligence Officer, Human Rights Department
K	Services	FR	K	Group Industrial Relations Department
L	Industry	No FR	L	Group Industrial Relations Department
M	Industry	FR	M	Group Industrial Relations Department, Human Rights Department
N	Industry	No FR	N	Group Industrial Relations Department
P	Industry	EN	P	Group Industrial Relations Department, Due diligence Officer, CSR Department
Q	Services	FR	Q	Workers' representatives
R	Industry	No FR	R	Group Industrial Relations Department

10

Pauline Moreau Avila
University of Paris 1 Panthéon-Sorbonne, France

The involvement of workers' representatives in the implementation of the due diligence – Lessons learnt from the application of the French law on due diligence

Pauline Moreau Avila

ABSTRACT

The aim of the French law on due diligence, adopted on 27 March 2017, is to make large companies more accountable by requiring them to exercise vigilance regarding their business partners throughout their supply chain, both in France and abroad. This contribution aims to analyse how the involvement of the various workers' representatives has been carried out in France, eight years after adoption. The involvement of representatives in these forms of social dialogue within companies remains relatively unexplored and is less widely publicised than the actions conducted by non-governmental organisations. Next to legal texts, the author examined vigilance plans and global framework agreements, also bringing in her professional experience in the international sector of the trade union Force Ouvrière. Her analysis highlights the low level of involvement of workers' representatives in France. She concludes that, without a legal obligation, few companies have chosen to involve workers' representatives in a meaningful way that could improve working conditions in the supply chain. At the end, she presents perspectives for strengthening their participation in vigilance processes, referring to good practices in involving workers' representatives that emerged in recent years through the development of international social dialogue.

Keywords: due diligence, corporate social responsibility (CSR), workers' involvement, social dialogue, global framework agreements (GFAs)

INTRODUCTION

The French law on due diligence was adopted on 27 March 2017 in response to the collapse of the Rana Plaza building in Bangladesh, which resulted in the deaths of more than 1,000 workers in the garment sector. The objective of the law is to enhance the accountability of lead firms by requiring them to exercise due diligence with respect to their business partners throughout their supply chains, both in France and abroad.[1] Given that workers are particularly affected by business activities (as illustrated by the Rana Plaza collapse), the law aims to ensure respect for fundamental labour rights as well as the occupational safety and health of workers across supply chains. To this end, it is essential to involve workers' representatives in the development of due diligence policies.

This contribution analyses how the involvement of different representatives has been implemented in France, eight years after the adoption of the law. The involvement of workers' representatives remains under-researched, as it relates to forms of social dialogue within enterprises and receives less public attention than actions carried out by non-governmental organisations. Moreover, while this legislation has been well understood by traditional Corporate Social Responsibility actors, it has proven more difficult for workers' representatives to fully engage with.

National due diligence legislation adopted in other countries in recent years (Senate 2024) has taken different approaches from the French law, which does not include detailed provisions on the involvement of workers' representatives in due diligence processes. For instance, the German Supply Chain Due Diligence Act assigns significant prerogatives to the supervisory board, which is "composed on a parity basis of employers' and workers' representatives" and is tasked with "monitoring compliance with due diligence obligations" (Grabosch 2022: 6). The European directive is also more explicit regarding the involvement of workers' representatives. The Omnibus Directive, which is likely to amend the requirements of the Corporate Sustainability Due Diligence Directive, currently reduces the stages of the procedure requiring stakeholder engagement, which may hinder the development of stronger involvement of workers' representatives (Sachs 2025).

Assessing the French law makes it possible to highlight existing challenges, as well as to identify good practices in relation to the involvement of workers. This study is based not only on legal texts, but also on an analysis of due diligence plans and Global Framework Agreements (hereinafter GFAs), as well as on the author's professional experience in the international department of Force Ouvrière (FO), where she is responsible for monitoring due diligence in coordination with numerous trade union members on this issue.

As outlined in Section 1, the French law on due diligence remains very vague regarding the involvement of workers' representatives in due diligence processes. This issue is also examined in light of the existing legal framework governing worker representation (Section 2). The result is largely insufficient participation of workers' representatives in due diligence processes, along with highly heterogeneous enterprises practices. Section 3 examines stakeholder engagement, followed by an analysis of the varying levels of consultation (Section 4). Section 5 presents practical recommendations to enhance the involvement of workers' representatives, while Section 6 discusses developments in international social dialogue aimed at adapting to the new requirements of due diligence.

[1] Act No. 2017-399 of 27 March 2017 on the due diligence of parent companies and companies giving orders.

1 • Insufficient involvement of workers' representatives due to the absence of precise provisions

The French law, as set out in the Commercial Code, contains gaps regarding the involvement of workers' representatives: both as to the nature of such consultation (1.1) and the level of involvement (1.2). Since its adoption, trade unions have called for stronger involvement of workers' representatives. These demands have borne fruit with the adoption of the EU Directive on corporate sustainability due diligence, which is more detailed than the French Law, and have also been reinforced by the first substantive rulings of French courts.

1.1 The nature of the involvement of workers' representatives

Shortcomings of French Law

The French Law is very brief and was intended to be supplemented by an implementing decree that has never been issued. Consequently, its provisions remain relatively imprecise, particularly those relating to the involvement of workers' representative bodies.

It provides for two "moments" of involvement.

First, it introduces an obligation to consult trade union organisations when establishing the alert mechanism. Article L. 225-102-4 of the Commercial Code provides that due diligence plans must include "an alert mechanism for reporting and collecting alerts relating to the existence or materialisation of risks, established in consultation with the representative trade union organisations within the enterprise."

The legislator has also allowed multinational enterprises, beyond this mandatory consultation, to involve stakeholders when developing the vigilance plan. Article L. 225-102-4 of the Commercial Code thus provides that the "plan is intended to be developed in association with the company's stakeholders, where appropriate within the framework of multi-stakeholder initiatives at sectoral or territorial level." This reflects the spirit of the law: "the ambition of this law is precisely to prevent a tragedy such as the Rana Plaza disaster from recurring, which implies that all stakeholders contribute to risk prevention, including States, large enterprises and their subsidiaries, subcontractors and suppliers, workers and their trade union organisations, non-governmental organisations (NGOs), and local actors" (Duthilleul and De Jouvenel 2020: 56).

Trade union demands

This has nevertheless not satisfied trade union organisations, which, during the legislative process leading to the adoption of a directive on due diligence, put forward demands aimed at strengthening the involvement of the world of work in such legislation, and in particular enhancing the involvement of workers' representatives in the development of due diligence policies.

The European Trade Union Confederation (ETUC) adopted a resolution in December 2019 in support of a directive on due diligence. In this resolution, the ETUC notably called for due diligence processes to be negotiated with trade union organisations at the levels deemed appropriate by those organisations (ETUC 2019), thereby preventing unilateral decisions by employers regarding the choice of stakeholders to be consulted.

In the context of negotiations on the revision of the Directive on European Works Councils (EWCs), the ETUC has also called for the subsidiary requirements to specify the transnational issues on which EWCs must be informed and consulted. These should include due diligence policies in supply chains (ETUC 2023).

Through these two demands, the ETUC assigns each type of workers' representative to its specific competence: trade unions are entrusted with a negotiating role, while European Works Councils are assigned a new area for information and consultation.

Contributions of the Directive and case law regarding the content of such involvement

The Directive (EU) 2024/1760 of the European Parliament and of the Council of 13 June 2024 on corporate sustainability due diligence, together with the first court decisions issued on the basis of the French law on due diligence, have helped clarify the requirements regarding the involvement of workers' representatives.

The Directive incorporates some of the ETUC's demands.[2] It contains multiple references to the role of trade unions in due diligence. Trade unions are considered stakeholders (Article 3(1)(n) of the Directive), and as such, enterprises covered by the Directive are required to engage in dialogue with them (Article 13). This dialogue is framed by various rules to ensure its quality and must take place at different stages of the implementation of due diligence policies by the enterprise.

Beyond stakeholder involvement, the Directive includes specific provisions concerning organisations representing workers. For instance, Article 7 of the Directive provides that "the due diligence policy referred to in paragraph 1 shall be developed in consultation with the company's workers and their representatives." The provisions of French Law are therefore strengthened, as workers' representatives must now be consulted prior to the development of due diligence policies, and not only trade unions during the establishment of the alert mechanism.

Finally, a recent decision of the specialised chamber of the Paris Court of Appeal has clarified what is meant by "consultation" (Paris Court of Appeal, Chamber 12, 17 June 2024, No. RG 24/05193). The Court held that consultation in the context of the alert mechanism must go beyond mere information or formal consultation: "development in consultation (…) requires the provision of information and an exchange of views and proposals on the drafting of the content and the implementation of the mechanism to be established, with a view to, and therefore prior to, its development." This interpretation is consistent with the notion of consultation under the French Labour Code, which refers to "a joint process of co-construction of a norm" rather than simple consultation (Delmas 2024: 17).

This will necessarily lead to changes in enterprise practices, as most enterprise have not, in practice, engaged in genuine consultation. The Court of Appeal further specified that it is for enterprises "to demonstrate that they have initiated and enabled a discussion on the alert mechanism to be developed." In the absence of documented evidence demonstrating that such consultation has taken place, enterprises' risk having their due diligence plans deemed non-compliant with the requirements of the law on due diligence (Daoud and Boudjellal 2025).

The judgment clearly provides an opportunity for workers' representatives to renew their demands for involvement, this time supported by stronger legal arguments. The due diligence plan of La Poste illustrates that practices had already begun to evolve following the first-instance decision, with strengthened involvement of workers' representatives. The plan refers to "three bilateral meetings with trade union organisations (…) in 2024," which "enabled improved exchanges on the identification and assessment of priority inherent risks," as well as a "presentation of the draft of due diligence plan (…) at the meetings of the Central Social and Economic Committee on 29 January 2025 and 6 March 2025" (La Poste 2024).

[2] This may evolve with the adoption of the Omnibus Directive, which notably aims to reduce the list of stakeholders. However, at the time of writing, this does not concern workers' representatives.

1.2 Limitations related to the level of consultation

If French Law is relatively unclear regarding the content of consultation, it is also imprecise as to the level at which workers' representatives should be involved.

The question of the appropriate level of involvement arises here because one of the innovations of the French law on due diligence is that it covers the entire workforce across the supply chain. It goes beyond the corporate group and beyond French borders, which contrasts with the strong territorial nature of labour law and the compartmentalisation of industrial relations within the legal personality of individual enterprises.

The law specifies that enterprises must establish a due diligence policy with regard to their supply chains and must therefore ensure that human rights and occupational safety and health of workers throughout the supply chain are respected.

The law could therefore have provided for the involvement of workers' representatives at a supranational level (thus recognising the existence of Global Works Councils and Global Union Federations) or at least required their involvement at different levels: at the level of the parent company, subsidiaries, and establishments in France, as well as within the various entities of the supply chain.

This was not the approach adopted by the French law on due diligence, which specifies the identity of the parties entitled to consultation. Consultation is limited to the representative trade union organisations within the enterprise established in France, as defined by Law No. 2008-789 of 20 August 2008 on the renewal of social democracy and reform of working time.[3] Their representativeness gives rise to specific prerogatives, to which is now added consultation in the development of the alert mechanism. This is therefore not a consultation at the level of the value chain, but one limited to the company established in France.

Beyond this explicit reference to trade unions, there is, as noted above, the possibility for enterprises to involve stakeholders in establishing risk mapping. The Government clarified the nature of this stakeholder consultation in its observations following the referral to the Constitutional Council: "these provisions are not mandatory in scope but highlight the value of approaches based on existing initiatives undertaken by different actors, who establish agreements for certain sectors or countries, bringing together not only subcontractors and suppliers but also non-governmental organisations and representatives of civil society" (Decision No. 2017-750 DC of 23 March 2017 – Government observations, Official Journal No. 0074 of 28 March 2017, Text No. 5). This is intended to encourage consultations not only at enterprise level, but also at sectoral level and across different countries. The rationale behind such consultations is that the more relevant stakeholders are consulted (at appropriate levels), the more information the enterprise will have on risks of human rights and environmental violations, enabling it to take appropriate measures to prevent, mitigate and remedy such risks. This provision therefore encourages (but does not require) enterprises to involve stakeholders –including workers' representatives– at different levels, and not to limit their involvement to consultation during the establishment of the alert mechanism alone.

The Directive, despite containing more numerous references to the role of workers' representatives, does not specify the appropriate level of representation. It nevertheless makes an indirect reference to international trade unions, and more specifically to global union federations, in Article 14. This provision states that, in establishing the complaints mechanism, companies may rely on GFAs. These agreements have, since the 1990s, been negotiated by global union federations. GFAs often include alert mechanisms that allow issues arising within multinational enterprise groups to be escalated to the management of the parent company.

It would have been possible to include provisions clarifying the level of involvement and to provide for the participation of supranational workers' representation bodies, in order to ensure representation of workers across the entire value chain, and not only within the parent company. In March 2021, the European Parliament adopted a resolution containing recommendations to the European Commission for the establishment of a European due diligence framework. The annex to this resolution included a proposal for a directive which envisaged, under a potential Article 5 on stakeholder involvement (European Parliament 2021), an obligation for Member States to provide trade union organisations, at the appropriate levels (including sectoral, national, European and international levels), as well as workers' representatives, with the right to be involved by companies in the establishment and implementation of a due diligence strategy, in good faith (European Parliament 2021).

The European Parliament's proposal thus left it to Member States to define, in accordance with their national traditions and specific features of industrial relations systems, a right for workers' representatives to be involved at supranational levels. This approach would have recognised the role of international trade union structures in due diligence processes, as well as the complementarity between the different levels of representation.

[3] French law has established a number of criteria to determine which organisations are considered representative (2008). In particular, they must have obtained at least "10 per cent of the votes cast in the first round of the most recent elections of members of the Social and Economic Committee, regardless of voter turnout" (Labour Code, Article L. 2121-1).

2 • Absence of reference to established concepts of industrial relations

Although the provisions of the due diligencelaw have been incorporated into the Commercial Code, it is possible to link these new obligations to the traditional obligations of enterprises vis-à-vis workers' representatives. French law recognises two main forms of involvement of workers' representatives: collective bargaining, traditionally reserved for trade union organisations, and information and consultation obligations vis-à-vis elected workers' representatives. Within enterprises, there is a dual channel of worker representation. Workers are directly represented by elected representatives for whom they vote, who are members of the Social and Economic Committees (Comités sociaux et économiques – CSE), which constitute "the basic structures of worker representation" (Teyssié 2023: 163). There are also European-level representation structures (European Works Councils) and international-level structures (Global Works Councils). While the establishment of Social and Economic Committees and European Works Councils is mandatory above certain workforce thresholds, Global Works Councils are established through GFAs and are not subject to any legal obligation. Alongside this elected representation, there are also trade union representatives or representatives of trade union sections, appointed by trade union organisations, who ensure "an indirect but effective form of representation" of workers. Beyond national-level trade union representation, there are also European and international trade union structures (European and Global Union Federations), which, since the 1960s, have developed international trade union action vis-à-vis multinational enterprises.

Provisions of the Commercial Code

The provisions of the French law on due diligence are set out in the Commercial Code and make no reference to the Labour Code or to the traditional obligations of employers vis-à-vis workers' representative bodies.

Thus, while French labour law provides for mandatory consultation of trade union delegates –"required in certain circumstances, such as the use of replacement teams in the absence of a collective agreement providing for this (Labour Code, Art. L. 3132-18) or exceeding the maximum daily working time of members of such teams" (Labour Code, Art. R. 3132-15, para. 1, and by reference, Art. R. 3132-13)– this is not their primary role. "French collective bargaining law traditionally reserves to representative trade unions (…) the task of concluding collective agreements" (Teyssié 2023: 955). Their main function is therefore to participate in collective bargaining, and they are only consulted in limited situations.

The beneficiaries of information and consultation rights are generally the elected workers' representatives, due to the dual channel of representation. It is therefore surprising that this law provides for "consultation" of representative trade union organisations for the establishment of the alert mechanism, whereas trade unions are normally responsible for collective bargaining. One could have envisaged the introduction of a new information and consultation obligation for the Social and Economic Committee (CSE), alongside a new topic for mandatory collective bargaining for trade unions, which would have been more consistent with the traditional allocation of prerogatives between trade unions and the CSE. The reference to "association with the company's stakeholders" is even further removed from the obligations set out in the Labour Code.

Moreover, in France, the law governing industrial relations determines which actors the employer must negotiate with, or which actors are entitled to information and consultation. These actors must "earn" their right to negotiate, or to be informed or consulted by the employer, through elections and social dialogue mechanisms, thereby acquiring legitimacy to represent the workforce. These are collective rights, not mere recommendations to involve workers' representative bodies. Under the due diligence law, the logic is different: enterprises are not required to develop the due diligence plan together with stakeholders (this is only a recommendation), and they are left to decide which stakeholders they wish to involve. This can lead enterprises to consult more "accommodating" stakeholders, who may lack legitimacy to represent the categories of persons affected by the enterprise's activities.

Furthermore, since the due diligence law does not refer to the Labour Code, no additional resources have been allocated to workers' representatives. The Law could have provided, as is the case for the usual functions of central trade union delegates, for the allocation of appropriate resources. In France, trade union delegates benefit in particular from paid time off for representation duties and freedom of movement within the enterprise. Applied to the specific context of due diligence, such time off would be necessary to enable meaningful consultation with international and local trade union organisations and, through these networks, to raise issues faced by workers throughout the supply chain. Similarly, the freedom of movement granted to trade union delegates in France—allowing them to meet workers in order to carry out their duties—could be extended in this context to include a right for trade unions, supported by adequate resources (such as translation and communication tools), to communicate with their counterparts (where they exist) across the various entities of the supply chain. The European Parliament resolution also emphasised the need to provide trade unions with sufficient resources to enable them to effectively perform their role in the context of due diligence (European Parliament 2021).[4] In addition, the CSE, in carrying out its usual functions, has the right to call upon an expert. Workers' representatives also benefit from training rights, although there is no specific training right relating to due diligence. In the absence of additional resources, consultation risks becoming a mere formality, without leading to any real improvement in working conditions along the value chain.

Finally, another consequence of the absence of reference to the Labour Code is the lack of specific sanctions in cases where workers' representatives are not involved.

[4] European Parliament, *Corporate due diligence and corporate accountability*, European Parliament resolution of 10 March 2021 with recommendations to the Commission on corporate due diligence and corporate accountability, 2020/2129(INL), 2021, recital 57 of the Annex: "Trade unions should be given the necessary resources to exercise their rights in relation to due diligence, including in order to establish connections with trade unions and workers in the undertakings with which the main undertaking has business relationships.

The Labour Code provides for a specific offence—obstruction (délit d'entrave)—in cases of "violation of legal provisions relating to the establishment or functioning of workers' representative bodies" (Teyssié 2023: 830). This entails "criminal penalties (…) and the perpetrator is also exposed to civil sanctions" (Teyssié 2023: 835). Although prosecutions are "in practice relatively limited compared to the number of infringements identified, the system constitutes a deterrent instrument, which may prove all the more effective as the elements of the offence are readily recognised by the courts" (Teyssié 2023: 828). This deterrent effect is absent from the due diligence law.

Linkages between due diligence and industrial relations

If the French law on due diligence does not directly refer to traditional industrial relations law, "classical" industrial relations frameworks nevertheless offer opportunities for workers' representatives to take up due diligence issues (Masnou and Klahr 2023). For example, there are annual information and consultation procedures that overlap with due diligence matters. This is the case for the annual consultation on the economic and financial situation of the enterprise. In this context, the employer must provide the Social and Economic Committee (CSE) with the "management report submitted annually to the general meeting of shareholders or partners" (Labour Code, Art. L. 2312-25). This report includes the due diligence plan (Commercial Code, Art. L. 225-102-4). To carry out this consultation, the CSE may decide to appoint an expert (Labour Code, Art. L. 2315-88) to analyse the enterprise's policies. The CSE could therefore request that this expert extend the analysis to the due diligence plan.

Furthermore, since 2021, the CSE has had competence in environmental matters. It "has the task of ensuring a collective expression of employees allowing their interests to be taken into account on a continuous basis in decisions relating to the management and economic and financial development of the enterprise, work organisation, vocational training and production techniques, particularly with regard to the environmental consequences of such decisions" (Labour Code, Art. L. 2312-8). These elements indicate the CSE's competence to issue an opinion on the due diligence plan and to propose amendments.

In addition, the CSE appoints representatives to the enterprise's main governing bodies. It designates representatives "who may attend general meetings of shareholders" (Labour Code, Art. L. 2312-77). It also appoints representatives who may attend meetings of the Board of Directors or the Supervisory Board (Labour Code, Art. L. 2312-72) and submit the CSE's proposals. The governing body must then provide a reasoned response to these proposals. This constitutes a further opportunity "to make its voice heard on the due diligence plan" (Masnou and Klahr 2023).

It is also possible to negotiate, within agreements governing the functioning of the CSE, the establishment of a Corporate Social Responsibility (CSR) committee or a monitoring committee for the due diligence plan, with dedicated resources. This is, for instance, a demand put forward by the trade union Force Ouvrière, which encourages its affiliates to "request the creation of a monitoring committee for the due diligence plan, composed, for example, of representative trade unions within the enterprise" (FO 2023).

Finally, linking due diligence obligations more closely with labour law would also make it possible to provide more detailed information to workers' representatives, while ensuring its confidentiality. This was recognised by the Paris Judicial Court in a judgment of 5 December 2023 (Paris Judicial Court, 5 Dec. 2023, No. 21/15827, SUD PTT v. La Poste). The SUD PTT union requested that La Poste publish the list of its subcontractors and suppliers in its due diligence plan. The judges considered that this would infringe business secrecy. However, they acknowledged that "nothing prevents the parent company (…) from maintaining, on a confidential basis, a detailed mapping enriched with quantified data broken down by operational units," which could be shared with workers' representatives. Article L. 2315-3 of the Labour Code provides that workers' representatives are bound by "an obligation of discretion with regard to information of a confidential nature presented as such by the employer." The list of suppliers and subcontractors "could therefore, within this framework, be communicated to elected representatives" without exposing the company to the risk of public disclosure (Delmas 2024).

Moreover, Article L. 2312-24 of the Labour Code provides for consultation of the CSE on the strategic orientations of the enterprise, in particular regarding their implications for the use of subcontracting (Masnou and Klahr 2023). These various provisions of the Labour Code could be used by workers' representatives to strengthen their involvement, which remains insufficient.

Although practices have evolved since the adoption of the due diligence law, the lack of precision regarding the involvement of workers' representatives has led companies to adopt diverse –but still insufficient–practices.

3 • Assessment of insufficient engagement – Diversity of stakeholders involved

The purpose of this section is to analyse the practices adopted by enterprises regarding the involvement of workers' representatives (where such practices have existed, as many enterprises remain reluctant to involve workers' representatives). However, it is difficult to systematise this analysis, given the wide variety of practices, both in terms of the actors involved and the way in which such involvement is carried out.

Enterprise practices have varied in their choice of actors to involve in the development of due diligence plans. Some enterprises have prioritised the involvement of "stakeholders", to the detriment of workers' representatives. Where workers' representatives have been consulted, enterprises have involved them at different levels (establishment, enterprise, multinational group, etc.).

The concept of "stakeholders" referred to in French legislation is interpreted in very different ways. This has led to a diversity of stakeholders being consulted (I), in some cases excluding workers' representatives from stakeholder groups (II) or diluting their role within this broader category of stakeholders (III).

3.1 Diverse interpretations of the concept of stakeholders

The composition of these stakeholder groups would merit greater transparency. In practice, few due diligence plans explicitly identify the stakeholders consulted; more often, they indicate only the categories to which the stakeholders involved belong. For example, Covéa's due diligence plan states that the following are considered "stakeholders": "customers or members (individuals, professionals or enterprises); workers and their representatives; suppliers of goods and service providers; delegated management entities and subcontractors; distributors of insurance and reinsurance products (brokers, agents, financial partners); reinsurers, to whom part of our risks are ceded; private or sovereign issuers in which the Group invests" (Covéa, 2024: 10).

To avoid discretionary decision-making, the NGO Sherpa recommends that enterprises publish a detailed list of the stakeholders consulted, as well as the methodology used to identify relevant stakeholders. It also encourages enterprises to provide further information on the substance of stakeholder engagement and to explain, in the due diligence plan, which concrete inputs from stakeholders were effectively taken into account and why (Sherpa, 2018).

The transposition of the Directive into French Law is expected to clarify the concept of stakeholders, as Article 3 of the Directive provides a definition. Stakeholders are defined as "the workers of the enterprise, the workers of its subsidiaries, trade unions and workers' representatives (...) and other individuals, groups, communities or entities whose rights or interests are or could be affected by the products, services and activities of that enterprise, its subsidiaries and its business partners, including the workers of business partners and the trade unions and workers' representatives of the enterprise's business partners" (Article 3(1)(n) of Directive (EU) 2024/1760 of the European Parliament and of the Council of 13 June 2024 on corporate sustainability due diligence, amending Directive (EU) 2019/1937 and Regulation (EU) 2023/2859, OJ L 1760, 5 July 2024).This transposition will likely lead to improved involvement of workers' representatives and trade unions (both within the undertaking concerned and its business partners), as they are explicitly identified in the Directive.

3.2 The exclusion of workers' representatives from the concept of stakeholders

The absence of a clear definition of stakeholders in French legislation has, in some cases, led enterprises to exclude workers' representatives from the stakeholders to be consulted in the development of due diligence plans. The departments involved in drafting these plans (such as Corporate Social Responsibility (CSR) departments) do not necessarily have experience working with trade unions or with employee representative bodies, such as the Social and Economic Committee, and therefore do not always consider them to be stakeholders. These departments tend to "prioritise NGOs over trade unions" and are not always aware of GFAs negotiated by the enterprise, even though these cover a scope broadly similar to that of due diligence (Bourguignon et al., 2023: 67).

Other enterprises have also considered workers themselves to be stakeholders, but not their representatives. For example, the due diligence plan of Seb SA (2024: 236) states that "the Group promotes individual worker expression, in particular through the use of satisfaction surveys and the conduct of managerial interviews in all countries".

Finally, in order to circumvent the direct involvement of workers' representatives, some enterprises prefer to consult organisations linked to civil society and trade unions, rather than engaging with them directly. This is reflected in the due diligence plan of Galeries Lafayette SA, which indicates that, for the purpose of risk mapping, it relied on "regular work carried out within the framework of the Initiative for Compliance and Sustainability 2, a professional organisation aimed at promoting improved working conditions in supply chains and which is also in regular contact with stakeholders involved in human rights issues (NGOs, trade union organisations, national and international public institutions)" (Galeries Lafayette SA, 2024: 5).

3.3 The dilution of workers' representatives within the stakeholder framework

The concept of stakeholders has, in some cases, led not only to the exclusion of workers' representatives from involvement, but also to the dilution of their voice within the broader group of stakeholders. Some enterprises have adopted a different approach by considering workers' representatives as part of the stakeholder group. This is, for example, the case of La Poste, which identifies 27 types of stakeholders, including the "social partners" (La Poste, 2024: 294).

Many enterprises have chosen to establish stakeholder committees that include workers' representatives. These committees are then consulted to improve due diligence policies within the enterprise. For instance, Bouygues states that "four stakeholder committees were convened in 2018, 2021, 2022 and 2024 to foster open dialogue between the Group and representatives of its stakeholders, and to propose areas for improvement of the due diligence plan and its implementation across business activities". This group is composed of "investors, civil society organisations, experts and workers' representatives" (Bouygues, 2024: 351).

These stakeholder committees bring together representatives from different organisations with very different forms of legitimacy. In 2019, the due diligence plan of SEB SA indicated that the main risks as well as the due diligence plan had been "presented to and validated by the stakeholder panel" (SEB SA, 2024: 121). This panel has existed since 2013. Its composition is highly

heterogeneous: it "consists mainly of external experts, including a specialist in positive branding, experts in responsible consumption and food, eco-design and the circular economy, a food blogger, and one workers' representative who is a member of the European Works Council" (SEB SA, 2024: 113). In this context, a workers' representative –elected by the workforce and subject to the requirements of Act No. 2008-789 of 20 August 2008 on the reform of social democracy and working time– is placed on the same footing as a food blogger, whose legitimacy to be involved in the development of a due diligence plan may be questioned.

Furthermore, the diversity of stakeholders within these committees—representing interests that may at times diverge or even conflict—raises questions regarding how their inputs are taken into account. In cases of differing views among stakeholders on the due diligence plan, which opinion prevails? How does the enterprise determine the relative weight to be given to the views of one stakeholder over another?

4 • Assessment of insufficient stakeholder engagement – Disparities in levels of consultation

As noted above, the law provides little guidance on the appropriate level of consultation (apart from the operation of the alert mechanism). Enterprises have therefore adopted a range of practices and have involved workers' representatives at different levels. While some enterprises have chosen to involve workers' representatives at the level of France, others have prioritised the involvement of supranational worker representation bodies, in order to take into account the extraterritorial effects of the due diligence legislation. In some cases, enterprises combine consultations by involving different levels of worker representation.

Where enterprises have chosen to consult worker representative bodies at the national level in France, they have also adopted different approaches regarding which actors to involve. Some enterprises involve worker representation at group level or at the level of the Economic and Social Unit, by consulting the central Social and Economic Committee. This is the case for Covéa, which states that "the materiality analysis (...) was also shared with the central Social and Economic Committee of the Covéa Economic and Social Unit" (Covéa, 2024: 16). Other enterprises involve workers' representatives at the level of individual establishments. For example, in one energy enterprise, since 2023, consultations of Social and Economic Committees have been rolled out across different establishments (FO Europe International Sector, 2023: 56). Limiting the involvement of workers' representatives to the national level in France does not allow for a comprehensive view of the supply chain.

Some enterprises have chosen to go beyond French borders by involving supranational worker representation bodies. This includes consultations with European Works Councils or Global Works Councils (where these exist). For instance, a CSR Committee has been established within Vinci's European Works Council to address issues related to the due diligence plan (Syndex and Institut Belleville, 2022: 32). Carrefour indicates in its due diligence plan that the European Information and Consultation Committee "regularly reviews the due diligence plan, alerts and risk mapping" (Carrefour, 2024: 257). Renault Group has chosen to involve members of its restricted Group Committee, "signatories to the Global Framework Agreement", who "were informed prior to the publication of the due diligence plan" (Renault Group, 2025: 7). While this allows for the involvement of workers' representatives beyond French borders, it remains limited to the enterprise group (i.e. the enterprise and its subsidiaries), thereby excluding workers' representation along the supply chain.

It has also occurred that, although an enterprise decided to consult a supranational worker representation body, the latter declined to engage on the issue and referred it back to French-level bodies. This was the case at Sanofi, where the European Works Council, consulted on the due diligence plan, preferred to allow "the representative French trade unions to take forward discussions on this issue initially", as the topic was not considered a "priority" for the EWC (Syndex and Institut Belleville, 2022: 38).

Finally, some enterprises have turned to Global Union Federations, which are the main international sectoral trade union organisations. These are considered by some enterprises to have "the right mindset" and to better understand the concept of due diligence plans, whereas "enterprise-level trade unions are focused on more immediate concerns" (Bourguignon et al., 2023: 67). For example, Carrefour identifies UNI Global Union (the Global Union Federation for the services sector) as one of its stakeholders (Carrefour, 2024: 261). Vinci develops its risk mapping following "a series of interviews (...) with key stakeholders (...), including Building and Wood Workers' International" (Vinci, 2024: 288). The involvement of these international trade union structures makes it possible to go beyond representation limited to a single multinational enterprise group, enabling a more unified representation of workers across a supply chain involving multiple employers.

Global Union Federations may be seen as relevant actors to consult, as they are often better equipped to understand the structure of multinational enterprises than local trade unions. In addition, supply chains differ significantly across sectors, and the sectoral approach of Global Union Federations may allow for a better understanding of sector-specific challenges.[5] However, there are also limitations to this form of international representation: for example, Chinese trade unions are not affiliated with these structures, despite the fact that a significant share of global production takes place in China.

While enterprises have therefore involved a wide range of actors—sometimes to the detriment of workers' representatives—the manner in which such involvement has been carried out has also shown significant disparities.

[5] There is nothing to prevent the involvement of several Global Union Federations in order to cover different areas.

In summary – A superficial consultation process

All the reports published show that workers' representative bodies have not been sufficiently involved in the development of due diligence policies (Bourguignon et al., 2023; FO Europe International Sector, 2023; Syndex and Institut Belleville, 2022). A large number of enterprises still do not involve their workers' representatives. Moreover, when trade unions and elected workers' representatives have been involved, enterprises have often conducted these consultations in a superficial manner, which has not enabled workers' representatives to have a meaningful impact on enterprise policies.

In many cases, the involvement of workers' representatives takes place only after the due diligence plan has been finalised. It has therefore often amounted more to a simple provision of information than to genuine consultation, which would have enabled workers' representatives to contribute to the due diligence plans. This information is frequently limited to a single agenda item during a meeting of the Social and Economic Committee or the European Works Council, where the due diligence plan is presented within the space of one hour, once a year (FO Europe International Sector, 2023: 57). Some enterprises space out consultations even further. For example, Orange reportedly consulted its global committee and then only again four years later, in 2022 (Syndex and Institut Belleville, 2022: 44).

For some workers' representatives, the Social and Economic Committee is therefore reduced to a "mere rubber-stamping body". Indeed, consulting workers' representatives for such a short period, on such a complex and ambitious document, makes it difficult to obtain constructive feedback. In some enterprises, however, a timeframe is provided to allow representatives to give an "informed opinion on the due diligence plan" (FO Europe International Sector, 2023: 57). These practices sometimes create the impression that "these information items are subsequently used by enterprises to state in their due diligence plans that worker representative bodies have been consulted, without such consultations having any meaningful effect" (FO Europe International Sector, 2023: 57). There are, of course, counterexamples, with more regular follow-up through the establishment of dedicated working groups on due diligence. This is the case at Sanofi, where a working group specifically dedicated to due diligence has been set up (Sanofi, 2024: 294).

Nevertheless, it remains difficult, based on due diligence plans, to determine what enterprises have actually taken into account from consultations with workers' representatives. While many due diligence plans refer to some form of dialogue with trade unions or elected workers' representatives, none specify the changes made to the plans as a result of these consultations. Some plans even state that "discussions held with members of the European Works Council have not, to date, led to any modification of the risk mapping" (Vinci, 2024: 288).

This superficiality of consultations can be explained by a reluctance on the part of enterprises to involve stakeholders in the development of their due diligence policies. One of the arguments put forward by La Poste, in its appeal against a decision of the Paris Judicial Court, was that the due diligence law "simply provides that trade union organisations are informed of the alert mechanism". It therefore considers that, rather than consultation or dialogue, the involvement of trade unions consists merely in informing them (Paris Court of Appeal, Chamber 12, Judgment of 17 June 2024, No. RG 24/05193).

However, not all enterprises adopt the same approach, and even within a single enterprise, different departments may take different positions. For example, in one energy company, "the ethics department is very much in favour of engaging with trade unions, whereas the industrial relations department sees much less value in doing so" (FO Europe International Sector, 2023: 56).

Beyond enterprise reluctance, there is also a lack of training among workers' representatives on the issue of due diligence, which may appear abstract and removed from the day-to-day realities of trade union representatives and the pressures of electoral cycles. It is sometimes even difficult to determine whether workers' representatives have been consulted, as due diligence is not always clearly identified as such; some representatives therefore struggle to know whether they have been consulted on the issue. Beyond this lack of awareness, there are also real challenges in contributing effectively to the due diligence plan process and in obtaining information on actual working conditions within supply chains.

Moreover, this lack of familiarity with due diligence appears to be used by some enterprises as an additional argument for not involving workers' representatives. Some enterprises state that they "tend to expect trade unions to provide information through their own networks, but so far, what they have shown is that they primarily need enterprises to provide them with information". Enterprises thus view trade unions as "an additional channel for information gathering". As trade unions do not meet these expectations, enterprises see little value in involving them further (Bourguignon et al., 2023: 77). This approach is nevertheless questionable, as it suggests that enterprises view workers' representatives as experts on working conditions in supply chains, in the same way as consultancy firms engaged to support the development of due diligence plans. They do not appear to take into account the significant disparity in resources between these representatives and consulting firms.

Trade union organisations and elected workers' representatives should therefore further develop their strategies on the issue of due diligence, beyond calls for greater involvement in the implementation and development of due diligence policies.

5 • What level of involvement is needed to implement the objectives of the law?

The assessment of the French Law highlights the need for workers' representatives to structure their involvement in relation to due diligence and to clarify the role they wish to play in these processes (5.1). One example of good practice that has emerged is the negotiation of agreements with supranational trade union organisations to define the involvement and role of workers' representatives in due diligence processes (5.2).

5.1 Structuring the involvement of workers' representatives and clarifying their role

While the assessment of the French law on due diligence shows that few enterprises have genuinely involved workers' representatives, the latter could clarify their expectations regarding the role they wish to play in due diligence processes. This requires improving knowledge and understanding of due diligence mechanisms, reflecting on the articulation between different levels of worker representation, and strengthening trade union strategies based on these new regulatory frameworks.

Insufficient knowledge of due diligence mechanisms

One of the key findings from the French experience is the limited awareness of due diligence legislation, and in particular of how workers' representatives can make use of it. French trade union representatives have reported "their initial disorientation in the face of this new legislation, as well as its perceived distance from their day-to-day responsibilities within the enterprise" (FO Europe International Sector, 2023: 65). In recent years, training programmes and guidance materials for workers' representatives have been developed in France to address this knowledge gap (FO, 2023).

The proliferation of different legislative instruments, combined with existing international guidelines (such as the United Nations Guiding Principles on Business and Human Rights, the OECD Guidelines for Multinational Enterprises on Responsible Business Conduct, and the ILO Tripartite Declaration of Principles concerning Multinational Enterprises and Social Policy), further complicates the normative landscape for workers' representatives. Each instrument has its own scope, remedies and enforcement mechanisms.

Even when these mechanisms are known, it is not always easy for French workers' representatives to use them in their day-to-day mandates. These laws are intended to have extraterritorial effects, and responsibility for monitoring them often lies with the international departments of trade union confederations. As such, they tend to be seen as tools for promoting international trade union solidarity. While this is a core trade union value, it remains difficult to operationalise, particularly given the pressures faced by trade unions in France to maintain their representativeness, which often places other priorities at the forefront of workplace-level action.

There is also some frustration with these mechanisms, which are based on a progressive, continuous improvement approach and involve sanctions that can be difficult to enforce. This may lead workers' representatives to rely instead on other mechanisms that are perceived as more effective and more readily actionable in the short term.

Trade unions have nonetheless developed training initiatives on due diligence. Global and European Union Federations have been particularly active in this regard. Since the adoption of the French Law, there has been a multiplication of projects led by these international trade union structures on due diligence. These initiatives have resulted in the publication of numerous guides, as well as the organisation of webinars and training sessions (e.g. UNI Global Union, 2023), which contribute both to improving understanding of these mechanisms and to strengthening links between trade unions within the same sector. Awareness of these mechanisms needs to be enhanced across the entire supply chain and should extend beyond trade union representatives in countries that have adopted such legislation, which underscores the importance of supranational structures.

IndustriALL Global Union, UNI Global Union and the German Trade Union Confederation (DGB) announced on 20 March 2025 the creation of a trade union training centre on due diligence entitled the "Competence Centre on Human Rights Due Diligence". It is funded by the German Federal Ministry for Economic Cooperation and Development. The centre has three main objectives: to train trade unionists on due diligence (both in countries where such legislation exists and throughout supply chains); to support strategic actions based on due diligence; and to advocate for the effective implementation of due diligence by enterprises and governments (IndustriALL Global Union, 2025a).
Significant awareness-raising efforts are still needed. Many trade unions in the Global South remain sceptical about the impact of this new type of legislation, given the perceived shortcomings of corporate social responsibility in holding multinational enterprises accountable. IndustriALL Global Union has indicated that it must continue to convince its affiliates in production countries that due diligence can be a "game changer". It acknowledges that "given past disappointments with other instruments", it must "recognise and respect this scepticism while demonstrating why this time could be different" (IndustriALL Global Union, 2025b). Some trade unions in the Global South also perceive these legislative frameworks as reflecting a neo-colonial approach, whereby Western values are imposed on countries with different social and cultural contexts.

The challenge of articulating different levels of worker representation

A key issue in improving the involvement of workers' representatives in due diligence processes is the need to better articulate the different levels of trade unionism and worker representation. As noted above, this legislation addresses a body of workers that extends beyond national borders and beyond the limits of a single multinational enterprise group. However, there is no single worker representative body that represents this entire workforce.

There are nevertheless representatives (either elected representatives or trade union organisations, in systems with dual channels of representation) at the level of the parent company in France, as well as within the various entities across the supply chain.[6] There are also supranational worker representation structures (European Works Councils and global works councils established through GFAs), as well as Global Union Federations. All of these actors possess valuable knowledge of the value chain and of working conditions within it. It is therefore important that all actors representing these workers be involved in one way or another.

To achieve this, coordination between different levels of representation is required. This coordination could be facilitated by Global Union Federations, which are accustomed to operating at the international trade union level and to coordinating the activities of their affiliates. These organisations have shown strong interest in due diligence legislation. Effective articulation and coordination are necessary in order to obtain a comprehensive view of the supply chain. Moreover, the interests of workers' representatives at the level of the parent company and those representing workers of business partners may differ, and may even be conflicting, which makes coordinated action essential.

Another avenue for improving coordination across the supply chain is to rethink global trade union alliances. These alliances were established as early as the 1960s by Global Union Federations to coordinate trade union action within multinational enterprises. They are composed of "national and international trade union officials" (Faulkner and Hennebert, 2010) and have enabled the development of trade union representation at the level of multinational enterprise groups. However, such alliances do not exist in all enterprises, and their functioning varies, with Global Union Federations playing a more or less central role.

These international trade union alliances could be extended beyond the enterprise group to include trade unions across the entire value chain. They could thus evolve into networks bringing together not only trade unions from entities within the multinational group, but also those representing workers employed by suppliers and subcontractors along the supply chain.

However, extending these alliances to all workers in the supply chain faces several obstacles. Trade union density tends to decline along the supply chain: the further down the chain, the lower the level of unionisation (IndustriALL Global Union, 2021). In addition, these supranational structures do not have affiliates in all countries.[7] As a result, Global Union Federations may face difficulties in ensuring representation across all entities. Nonetheless, initiatives are being implemented by these organisations to strengthen unionisation throughout supply chains (IndustriALL Global Union, 2021).

This work also faces challenges inherent to international trade unionism. The effective functioning of such alliances depends on the willingness of affiliates of Global Union Federations to engage in international action, which is often more uncertain than national-level trade union activities. It also depends on the resources available to them.

[6] However, trade union presence generally declines along the supply chain.
[7] This raises, in particular, the question of the representation of Chinese workers, whose trade unions are not affiliated with Global Union Federations.

These legislative developments invite workers' representatives to reflect on the most appropriate level of representation for engaging with due diligence, and subsequently to define a collective strategy in this area.

Developing a strategy for workers' representatives

The experience of the French Law shows that trade union demands have primarily focused on seeking involvement in the development of due diligence plans. However, after eight years of implementation of the due diligence law, trade union strategies in this area do not yet appear to be clearly established. Two main avenues for involvement can be identified: internal engagement within the enterprise, through consultation or even dialogue on due diligence policies; and external engagement, through the use of remedies provided under these new legislative frameworks.

The first approach, which appears to have been the most widely pursued, is to seek involvement in due diligence processes through consultation. The objective is to co-construct the enterprise's due diligence policy, in order to address violations of human rights, occupational safety and health, and environmental standards in supply chains, and to prevent risks affecting workers. In this context, workers' representatives position themselves as experts on the risks that enterprises may pose to workers throughout the supply chain.

However, this co-construction role may limit their ability to subsequently denounce violations of labour rights. Having participated in the drafting process, they may be perceived as co-responsible for the content of the due diligence plan, and therefore less free to criticise the actions of the multinational enterprise in relation to its value chain. Moreover, in the absence of a binding framework governing their involvement—such as those provided under labour law for information and consultation procedures—workers' representatives may be reluctant to adopt an overly critical stance, for fear of being excluded from future processes. It is therefore up to workers' representatives to determine whether this is the path they wish to pursue, and whether they wish to assume this role, potentially at the expense of a more advocacy-oriented approach.

The second approach would involve workers' representatives developing a more litigation-oriented strategy, making use of the remedies available under these new legislative frameworks to take action outside the enterprise, with the aim of compelling companies to improve their due diligence practices in their operations in France and abroad, throughout the supply chain. The French law on due diligence provides for both non-judicial mechanisms and judicial actions (including injunctions requiring companies to amend their due diligence plans, and liability actions).

The assessment of the French Law shows, however, that workers' representatives and trade union organisations have made limited use of these new remedies. Most actions have been initiated by non-governmental organisations, particularly on environmental issues (Michon et al., 2024). Where trade unions have taken action (to our knowledge, no global works council

or Social and Economic Committee has initiated proceedings), these have mainly been non-judicial. Trade unions have thus primarily issued formal notices –particularly against companies such as XPO, Teleperformance and McDonald's– requesting amendments to due diligence plans, without subsequently bringing cases before the courts. These formal notices were issued, respectively, by the International Transport Workers' Federation (ITF) in the case of XPO, by UNI Global Union (the Global Union Federation for the services sector) in the case of Teleperformance, and by the French General Confederation of Labour (CGT) in the case of McDonald's. In parallel, complaints have also been submitted to the OECD National Contact Points.[8] To date, only three court cases have been brought by trade union organisations– two by French trade unions and one by a Turkish union (Michon et al., 2024). The two cases brought by French trade unions concerned violations occurring within France, rather than abroad (Paris Judicial Court, 34th Chamber, Judgment of 13 February 2025, No. RG 24/11283; Paris Court of Appeal, Chamber 12, Judgment of 17 June 2024, No. RG 24/05193). The first case concerned the inadequacy of a due diligence plan and sought its amendment, while the second (which was dismissed) involved a liability claim and also sought modifications to the plan. The case brought by the Turkish union concerns the dismissal of unionised workers in Turkey employed by a subsidiary of the Rocher Group.

Several factors explain this preference for non-judicial mechanisms. Procedural challenges–including costs, burden of proof and the length of proceedings– constitute significant barriers to litigation. Additional obstacles include difficulties in identifying companies covered by the legislation, as well as in understanding the structure of multinational enterprises' value chains. Given the complexity of such procedures, trade unions need to develop effective litigation strategies to avoid committing substantial resources to cases with limited prospects of success.

Furthermore, these various forms of recourse appear to be used primarily as leverage by trade unions to secure their involvement in due diligence processes. The example of the global framework agreement signed between Teleperformance and UNI Global Union (the Global Union Federation for the services sector) illustrates how the risk of litigation can serve as a new bargaining tool. After issuing a formal notice and referring the matter to the French OECD National Contact Point, UNI Global Union succeeded in negotiating a global framework agreement with the company, signed in 2022 (UNI Global Union, 2022).

While demands for greater involvement are clearly articulated, trade union strategies regarding due diligence do not yet appear to be fully consolidated. One of the most advanced forms of trade union strategy in this area is the development of new forms of social dialogue and collective bargaining on due diligence, which have also enabled more unified trade union action on this issue.

[8] The French National Contact Point has been particularly active. See, in particular, the specific instances concerning Teleperformance, Air France and Crédit Mutuel, https://www.tresor.economie.gouv.fr/tresor-international/pcn-fr.

5.2 Negotiating the involvement of workers' representatives

Over the past decade, trade union practices aimed at improving working conditions in supply chains have evolved. French legislation has contributed to expanding the content of GFAs by enabling the negotiation of provisions on the involvement of workers' representatives, notably through the introduction of obligations to inform and consult on due diligence plans. Furthermore, new forms of international social dialogue have emerged that extend beyond the boundaries of enterprise groups to encompass value chains, thereby enabling the negotiation of the involvement of different levels of worker representation.

Negotiating an obligation to inform and consult

Although the negotiation of new GFAs has slowed since the late 2010s (Rehfeldt, 2021), the adoption of the French law on due diligence has led to the revision of numerous agreements to incorporate due diligence provisions. The similarity in scope between these agreements and the due diligence law, as well as parallels between alert mechanisms under these agreements and the alert mechanisms provided for in French Law, have encouraged both enterprises and workers' representatives to rely on GFAs to address due diligence issues.

Recourse to collective agreements makes it possible to address some of the shortcomings of the French law on due diligence, which, as noted earlier, does not specify the appropriate level of consultation nor the modalities of stakeholder engagement or consultation with representative trade union organisations. In practice, enterprises have therefore often unilaterally determined how to involve workers' representatives.

Negotiating such involvement through GFAs helps to overcome this unilateral approach. It allows the parameters of information and consultation to be defined through collective bargaining, including the scope of the obligation, the actors concerned, and its limitations. It also makes it possible to tailor these arrangements to the specific characteristics of the enterprise, as well as to trade union demands. It should nevertheless be noted that such negotiated practices remain relatively limited in scope.

Two Global Union Federations have been particularly active in negotiating clauses related to due diligence: UNI Global Union (representing the services sector) and IndustriALL Global Union (representing the industrial sector).

These two federations have adopted different approaches regarding the beneficiaries of the obligation to inform and consult. Most agreements concluded by UNI Global Union provide that the Global Union Federation itself is the recipient of this obligation. For example, the agreement signed with Teleperformance in 2022 specifies that "UNI shall be considered a stakeholder" in relation to due diligence and that, accordingly, "UNI must be consulted on risk mapping, preventive measures and the establishment of remediation mechanisms in the event of rights violations" (Teleperformance and UNI Global Union, 2022). In this model, the Global Union Federation plays a

central role. Representatives of UNI Global Union justify this approach by pointing to their expertise in due diligence, which their affiliates may not yet possess, and to the capacity of the UNI secretariat to respond effectively to such requirements.

By contrast, agreements concluded by IndustriALL Global Union generally designate as the recipient of the obligation to inform and consult a global worker representation body established under the agreement. These global committees typically include a minority of representatives from IndustriALL Global Union and a majority of representatives from its affiliates within the various entities of the enterprise group (rather than across the supply chain). For instance, the agreement signed with EDF in January 2025 provides that "the due diligence plan is presented and discussed annually within the Global Committee for Social and Environmental Responsibility Dialogue prior to its publication in the Group's universal registration document" (EDF, IndustriALL Global Union et al., 2025: 9). IndustriALL Global Union seeks, through this approach, to strengthen the role of its affiliates by involving them directly, as they are closer to workplace realities within the enterprise or its supply chain. At the same time, it acknowledges the challenges associated with effectively implementing due diligence policies, given the scale of the task and the limitations of available resources.

In both approaches, however, workers in the supply chain are not directly represented, even though due diligence frameworks are intended to cover the broader workforce across the entire supply chain.

Negotiating the content of the obligation to inform and consult

These new clauses relating to due diligence also make it possible to negotiate the content of the obligation to inform and consult. In this regard, such provisions specify the procedures for involving workers' representatives and define the scope of issues covered by this obligation.

For example, the Global Framework Agreement signed between UNI Global Union and BNP Paribas was revised in 2024. The 2018 agreement contained only a general reference to due diligence. The new provisions clarify the methodology for involving workers' representatives. UNI is considered a "contractual stakeholder" of the enterprise and is therefore a beneficiary of the obligation to inform and consult. As such, it "may contribute constructively at the global level to the continuous improvement of due diligence under the Human Resources pillar (covering Group employees), the objective of which is to identify and prevent risks of serious violations of human rights, fundamental freedoms, and occupational safety and health". Consultation is conducted within the monitoring committee established by the agreement (primarily composed of a delegation from UNI Global Union). The "Human Resources pillar" of the due diligence policy is presented to this committee during an initial meeting, and at a second meeting, "members of the committee may formulate suggestions or proposals for additions" (BNP Paribas and UNI Global Union, 2024: 11). Information and consultation thus take place in two distinct stages, allowing UNI to analyse the plan and provide constructive input. In addition, this procedure "will be subject to a pilot phase, with an initial assessment after one year", allowing for adjustments based on experience.

Most agreements provide for ad hoc consultation, typically taking place once a year. For instance, the Crédit Agricole Global Framework Agreement specifies that "each year, a report on the development and implementation of the due diligence plan will be presented for discussion to the UNI delegation within the framework of the monitoring committee (…) during a dedicated meeting held in the second quarter of the year" (Crédit Agricole and UNI Global Union, 2023: 18). Only a limited number of agreements provide for the establishment of working groups to enable more continuous engagement on due diligence issues. This approach appears more consistent with the complexity and scope of due diligence. It is the model adopted in the Société Générale Global Framework Agreement, which states that "in a spirit of continuous improvement, the parties agree, through working groups, to further analyse residual risks and how to mitigate them, for example through exchanges involving representatives of Human Resources and UNI at both central and local levels in certain countries, so that due diligence becomes a structuring element of social dialogue within the Group" (Société Générale and UNI Global Union, 2023: 5).

These agreements also define the scope of information and consultation. In most cases, consultation is limited to specific themes rather than covering the full scope of due diligence. The agreements delineate the rights concerned, typically focusing on labour rights and/or the rights covered by the global framework agreement itself. For example, the UNI/BNP Paribas agreement specifies that UNI is consulted only on the "Human Resources pillar" of the due diligence plan (BNP Paribas and UNI Global Union, 2024: 11).

These innovative practices contribute to structuring the involvement of workers' representatives in due diligence processes. However, to ensure that the obligation to inform and consult has a meaningful effect, these provisions could be strengthened. In particular, limited resources are allocated under these agreements to enable trade union representatives to effectively engage in these processes. While some agreements provide resources for members of global committees—such as additional time off for trade union duties—no specific resources are dedicated to due diligence. These provisions could include, for example, the right to expert support, as well as resources enabling representatives to engage with and meet workers' representatives across different entities of the group and among business partners (e.g. access rights, communication tools with interpretation). Without such support, it is difficult for workers' representatives to obtain detailed and supply chain-specific information.

Moreover, no agreement establishes an obligation for enterprises to disclose (whether confidentially or otherwise) the structure of their supply chains to the signatories. Some GFAs do provide that the group will supply members of global committees with "an updated list of companies and groups of companies included within the scope of consolidation of the Group" (EDF, IndustriALL Global Union et al., 2025: 5). However, this obligation could

be extended to include information on supply chain structures. Without such information, Global Union Federations and global committees may face difficulties in making informed and relevant proposals regarding due diligence policies.

In the absence of such guarantees, there is a real risk that consultation may become a mere administrative formality, allowing enterprises to demonstrate stakeholder involvement without leading to tangible improvements in working conditions within supply chains.

Enterprises are not required to incorporate trade union proposals, but only to consider them. For instance, the BNP Paribas agreement provides that suggestions made by the monitoring committee "are communicated by Group Human Resources to the CSR Department and will/may be examined/ considered as part of the annual review of the Group's due diligence plan" (BNP Paribas and UNI Global Union, 2024: 11). This significantly limits the influence of Global Union Federations.

6 • The development of social dialogue beyond multinational enterprise groups

The main outcomes of transnational social dialogue are the GFAs referred to above. These agreements primarily produce effects at the level of the multinational enterprise group, i.e. the parent company and all its subsidiaries. The extension of these agreements to business partners within the enterprise's supply chain remains relatively limited. Where suppliers and subcontractors are covered, the obligation is often qualified. For example, the Global Framework Agreement on fundamental rights and social responsibility concluded by Engie and renewed in 2022 (p. 26) states that "with regard to direct subcontractors and suppliers, the Group promotes the principles and standards set out in this agreement".

Since the Rana Plaza disaster, Global Union Federations have negotiated new types of agreements that go beyond the enterprise group and directly address supply chains. Some agreements focus specifically on the supply chain of a given enterprise, while others move towards a form of sectoral international social dialogue. These agreements follow a logic similar to that of due diligence and represent examples of good practice in the involvement of workers' representatives in due diligence policies.

New agreements addressing the supply chain

The International Transport Workers' Federation (ITF) has negotiated new types of agreements specifically targeting supply chains. This approach differs from that of GFAs, which are negotiated by Global Union Federations representing workers in the same sector as the enterprise (or by several such federations). In this case, ITF negotiates with a multinational enterprise whose core business is not transport and concludes an agreement covering exclusively transport and logistics workers within its supply chain.

In 2023, ITF published guidance for enterprises on cooperating with the federation on due diligence to ensure respect for seafarers' rights. ITF justifies its focus on seafarers by noting that 90 per cent of global trade is transported by sea (ITF, 2023a: 4). The focus on this sector is not surprising, as ITF has "a network of more than 140 inspectors and contacts present in over 120 ports across 57 countries worldwide". These inspectors are responsible for inspecting ships calling at ports, ensuring that seafarers benefit from decent working conditions and wages, and verifying that agreements concluded with ITF are properly implemented.[9] Through this extensive field presence, ITF has developed substantial expertise regarding labour risks in this sector.

In this guidance, ITF sets out a four-step process to establish cooperation with an enterprise on due diligence in its transport and logistics supply chain. First, ITF holds an initial meeting with the enterprise to discuss due diligence issues relating to workers in its transport and logistics supply chain (the sector covered by ITF). Second, ITF conducts an "ITF Rights Check": the enterprise provides information on the vessels transporting its cargo, enabling ITF to assess human rights risks affecting seafarers on those vessels over a given period. This provides ITF with a clear overview of the enterprise's transport supply chain. Following this risk assessment, a dialogue takes place between the enterprise and ITF on the identified risks and the measures required to mitigate them. The objective is to address these risks and update the enterprise's due diligence policy accordingly.

The final stage of this process is the conclusion of a cooperation agreement with ITF, comprising four components: cooperation with ITF to prevent or remedy risks of human rights violations in the maritime logistics sector; the regular implementation of "Rights Checks" for seafarers; mapping of the transport and logistics supply chain (with the possibility of extending these "Rights Checks" to other categories of workers); and recognition by the enterprise that ITF and its affiliates are the legitimate representatives of transport workers. This enables ITF to negotiate its involvement in due diligence policies and to intervene at the levels it considers most appropriate.

Two agreements inspired by this guidance have been concluded, providing for cooperation between ITF and multinational enterprises to implement due diligence policies in transport and logistics supply chains. However, the texts of these agreements are not publicly available.

A first agreement between ITF and the fashion group TFG Brands London was signed on 4 April 2023. Under this agreement, ITF is responsible, in particular, for conducting risk assessments concerning the working conditions of transport workers within TFG Brands London's supply chain. ITF carries out this work through field-based engagement with workers, gathering information on their experiences. In addition, the memorandum of understanding between TFG and ITF establishes a technical working group between the two parties (ITF, 2023b).

A second agreement was signed on 27 August 2024 between ITF and New Look. It follows a similar approach, with a specific emphasis on freedom of association: New Look commits to improving respect for freedom of association within its transport supply chain by allowing

[9] ITF, "ITF Inspectors", [online], [accessed 5 June 2025], https://www.itfseafarers.org/fr/issues/flags-of-convenience/itf-inspectors.

ITF affiliates access to the premises of logistics providers (ITF, 2024). This both facilitates ITF's involvement and strengthens trade union presence (or worker representation) throughout the supply chain, enabling ITF to gain a better understanding of working conditions.

These agreements effectively confer on ITF a role akin to conducting social audits within the transport supply chains of the signatory enterprises. However, this significant level of involvement in the implementation of due diligence policies on social issues raises questions regarding the potential implications for ITF should the liability of the enterprise be engaged as a result of violations of labour rights.

The development of sectoral international social dialogue?

The agreements concluded by ITF remain agreements between a multinational enterprise and a Global Union Federation, similar to GFAs. However, Article L. 225-102-4 of the French Commercial Code provides for other types of initiatives to implement due diligence. It states that "a decree of the Conseil d'État may supplement the due diligence measures set out in points 1° to 5° of this article. It may specify the modalities for the development and implementation of the due diligence plan, where appropriate within the framework of multi-stakeholder initiatives at sectoral or territorial level." As no implementing decree has been adopted, French law has not clarified the concept of such multi-stakeholder initiatives.

These initiatives could have been developed drawing inspiration from the International Accord for Health and Safety in the Textile and Garment Industry, signed in 2013 following the Rana Plaza disaster and renewed in 2023. This agreement has been signed by more than 200 textile importing companies and two Global Union Federations (UNI Global Union and IndustriALL Global Union). While the agreement initially applied only to Bangladesh in 2013, it has since been extended to Pakistan, and the signatories have committed to exploring its expansion to additional countries, such as India, Morocco and Sri Lanka.

Many of the mechanisms introduced by this agreement reflect a logic similar to that of the French law on due diligence: signatory enterprises are required to disclose their suppliers and subcontractors in order to enable the implementation of occupational safety and health programmes; an alert mechanism has been established; and so forth. Although the agreement is limited to occupational safety and health (whereas the French law also covers human rights and environmental issues), the signatories, in the 2023 revised version, have committed to exploring the possibility of expanding its scope to include additional due diligence responsibilities: "the signatories to the Agreement further commit to exploring the expansion of its scope to include other human rights due diligence responsibilities" (IndustriALL Global Union and UNI Global Union, 2023).

Since 2023, with the extension of the agreement to additional countries, country-specific programmes (referred to as "country-specific safety programmes") have been established. These arrangements are particularly noteworthy in that they provide, beyond the involvement of Global Union Federations, for governance structures that include national trade union organisations from the countries where suppliers are located. In Bangladesh, for example, this has led to the creation of a dedicated trade union structure (the Trade Union Association for Textile and Ready-Made Garment Sustainability in Supply Chains), which includes representatives of the two Global Union Federations as well as representatives of Bangladeshi trade unions. This ensures the involvement of workers' representatives from the business partners of lead firms.

While few other initiatives of this kind have emerged, the recent adoption of the European Union Directive on corporate sustainability due diligence may encourage the development of this new form of international social dialogue. Certain provisions of the Directive explicitly support multi-enterprise initiatives at sectoral level. For example, Article 13(6) provides that stakeholder consultation may be carried out "through sectoral or multi-stakeholder initiatives" (Directive (EU) 2024/1760).

This could foster the development of social dialogue involving Global Union Federations and multiple multinational enterprises within the same sector. Such arrangements would resemble sectoral collective agreements at the international level, as they would involve a group of enterprises (albeit not represented by an international employers' organisation) and one or more Global Union Federations. The purpose of such agreements would be to implement due diligence requirements across an entire supply chain, while also defining the modalities for the involvement of workers' representatives. This could represent an advantage for enterprises, allowing them to pool resources in order to comply with due diligence obligations.

Engaging in dialogue in the shadow of the law

The experience of the French law shows that, in the absence of a legal obligation to involve workers' representatives, few enterprises choose to engage them in a meaningful way that contributes to improving working conditions in supply chains.

Trade union organisations have begun to make use of these legislative frameworks but continue to face challenges in developing strategies based on due diligence. Nevertheless, a promising practice has emerged in recent years through the development of international social dialogue that takes these legislative developments into account.

It will be important in the coming years to assess the tangible impact of these new types of agreements on working conditions in practice.

Finally, the Directive is expected to contribute to the wider dissemination of these practices and to foster new approaches to involving workers' representatives in due diligence processes. However, it remains to be seen whether the proposed Omnibus Directive and the current geopolitical context—marked by a relative retreat on human rights issues—may act as constraints on these emerging and potentially beneficial initiatives.

BIBLIOGRAPHY

Bourguignon, R., Masson, L. et C. Oka. 2023. *Dialogue social transnational et devoir de vigilance : quelles complémentarités ?* Étude réalisée pour la Confédération CFTC dans le cadre de l'agence d'objectifs de l'Institut de Recherches Economiques et Sociales (IRES). Available at https://ires.fr/publications/cftc/dialogue-social-transnational-et-devoir-de-vigilance-quelles-complementarites/ (accessed 2 March 2026).

Daoud, E. et D. Boudjellal. 2025. "Devoir de vigilance : la chambre spécialisée de la Cour d'appel de Paris précise les exigences applicables". *Dalloz Actualités*.

Delmas, B. 2024. "Prendre (enfin) le devoir de vigilance au sérieux". *Bulletin Joly Travail* 1 : 17.

Duthilleul, A. et M. De Jouvenel. 2020. "Evaluation de la mise en œuvre de la loi n° 2017-399 du 27 mars 2017 relative au devoir de vigilance des sociétés mères et des entreprises donneuses d'ordre". *Rapport n° 2019/12/CGE/SG*. Rapport à Monsieur le ministre de l'économie et des finances. France.

ETUC. 2019. *ETUC Position for a European directive on mandatory Human Rights due diligence and responsible business conduct*. Available at https://www.etuc.org/en/document/etuc-position-european-directive-mandatory-human-rights-due-diligence-and-responsible (accessed 2 March 2026).

ETUC. 2023. *ETUC response to the second-phase consultation of Social Partners under Article 154 TFEU on a possible revision of the European Works Council Directive (2009/38/EC)*. Available at https://www.etuc.org/system/files/document/file2023-10/EN-Adopted-ETUC%20response%20to%20the%20second-phase%20consultation%20of%20Social%20Partners%202_0.pdf (accessed 2 March 2026).

Faulkner, M. et M-A. Hennebert. 2010. *Les alliances syndicales internationales, des contre-pouvoirs aux entreprises multinationales*. Paris: L'Harmattan.

FO. 2023. *Devoir de vigilance - Prévenir les risques sur la santé et la sécurité, les droits fondamentaux et l'environnement.* Available at https://www.force-ouvriere.fr/le-mot-de-branislav-rugani-secretaire-confederal-du-secteur-de-l (accessed 2 March 2026).

Grabosch, R. 2022. *La loi allemande sur le devoir de vigilance*, Friedrich-Ebert-Stiftung, Available at https://library.fes.de/pdf-files/iez/18892.pdf (accessed 2 March 2026).

IndustriAll Global Union. 2021. *Organizing along the battery supply chain*. Available at http://www.industriall-union.org/organizing-along-the-battery-supply-chain (accessed 2 March 2026).

IndustriAll Global Union. 2025a. *De la loi à l'action : Un nouveau centre pour renforcer les droits des travailleurs par la législation sur le devoir de diligence*. Available at https://www.industriall-union.org/fr/de-la-loi-a-laction-un-nouveau-centre-pour-renforcer-les-droits-des-travailleurs-par-la-legislation (accessed 2 March 2026).

IndustriAll Global Union. 2025b. *HRDD laws – a game changer for workers' rights*. Available at https://www.industriall-union.org/hrdd-laws-a-game-changer-for-workers-rights (accessed 2 March 2026).

ITF. 2023a. *ITF Human Rights Due Diligence Guidance*. Available at https://www.itfglobal.org/sites/default/files/node/resources/files/ITF-HRDD_Guidance.pdf (accessed 2 March 2026).

Masnou, B. et A. Klahr. 2023. "CSE et devoir de vigilance : un acteur de premier plan". *Bulletin Joly Travail* 3: 33.

Michon, C. et al. 2024. "Devoir de vigilance à la française, retour d'expériences et enseignements des contentieux", Table ronde. *Cahiers de droit de l'entreprise* 2.

Rehfeldt, U. 2021. "Stagnation des accords d'entreprise internationaux et recul des accords européens". *Chronique internationale de l'IRES* 174 : 46-66.

Sachs, T. 2025. "Le projet de directive Omnibus : anatomie d'un recul du devoir de vigilance". *Revue de droit du travail* 4 : 248.

Secteur International – Europe de FO. 2023. "Loi sur le devoir de vigilance : quelle implication syndicale dans les plans". *Etude de la CGT-FO réalisée dans le cadre de la convention IRES*, Available at https://ires.fr/wp-content/uploads/2023/05/AO-2019-4.pdf (accessed 2 March 2026).

Sherpa. 2018. *Guide de Référence pour les plans de vigilance*. Available at https://www.asso-sherpa.org/wp-content/uploads/2018/12/Sherpa_VPRG_web_pageapage-min.pdf (accessed 2 March 2026).

Syndex et Institut Belleville. 2022. *La mise en œuvre de la loi française sur le devoir de vigilance – Retours d'expériences et recommandations*. Available at https://portail.cfdt.fr/portail/rapport-etude-ddv-vf-srv1_1236208 (accessed 2 March 2026).

Teyssie, B. 2023. *Droit du travail - Relations collectives*, 13ème édition. Paris: LexisNexis.

UNI Global Union. 2023. *Human Rights Due Diligence – trade union toolkit*. Available at https://uniglobalunion.org/news/due-diligence-toolkit/ (accessed 2 March 2026).

Institutional publications

BNP Paribas et UNI Global Union. 2024. "Accord droits fondamentaux et socle mondial de BNP Paribas". Available at https://uniglobalunion.org/workers-rights/global-agreements/ (accessed 2 March 2026).

Bouygues. 2024. "Document d'enregistrement universel de Bouygues". Available at https://www.bouygues.com/wp-content/uploads/2025/03/bouygues_deu_2024_fr_-2503_14h.pdf (accessed 2 March 2026).

Carrefour. 2024. "Document d'enregistrement Universel de Carrefour". Available at https://www.carrefour.com/sites/default/files/2025-04/CFR_URD_2024_FR_250327_MEL.pdf (accessed 2 March 2026).

Covéa. 2024. "Rapport de durabilité de Covéa", Available at https://www.covea.com/sites/default/files/2025-06/rapport_durabilite_covea_2024.pdf (accessed 2 March 2026).

Crédit Agricole et UNI Global Union. 2023. "Accord Mondial". Available at https://uniglobalunion.org/news/teleperformance-and-uni-global-union-sign-global-agreement/ (accessed 2 March 2026).

Direction de l'initiative parlementaire et des délégations du Sénat. 2024. "Note sur le devoir de vigilance des entreprises en Europe". Available at https://www.senat.fr/lc/lc333/lc333.html#toc7 (accessed 2 March 2026).

EDF, IndustriALL Global Union et Public Services International. 2025. "Accord-cadre mondial 2025-2030 sur la responsabilité sociale et environnementale du groupe EDF". Available at https://www.industriall-union.org/edf-global-framework-agreement-renews-with-stronger-worker-protections (accessed 2 March 2026).

Engie et IndustriALL Global Union, Internationale du Bois et du Bâtiment, Internationale des Services Publics (et les syndicats nationaux). 2022. "Accord-cadre mondial sur les droits fondamentaux et la responsabilité sociale d'Engie". https://www.industriall-union.org/global-framework-agreements (accessed 2 March 2026).

Galeries Lafayette SA. 2024. "Plan de vigilance de Galeries Lafayette SA". Available at https://static1.squarespace.com/static/5c331d9550a54f7640c7d2af/t/685d19345c6fb0299b91d4ad/1750931764214/SAGL_Plan+Devoir+de+vigilance+2024.pdf (accessed 2 March 2026).

IndustriALL Global Union et Uni Global Union. 2023. *International Accord for Health and Safety in the Textile and Garment Industry*. Available at https://internationalaccord.org/ (accessed 2 March 2026).

ITF. 2023b. *Hobbs and Whistles owner first to commit to human rights due diligence across transport supply chain*. Available at https://www.itfseafarers.org/en/news/hobbs-and-whistles-owner-first-commit-human-rights-due-diligence-across-transport-supply-chain (accessed 2 March 2026).

ITF. 2024. *New Look and ITF join forces to protect transport supply chain workers via human rights due diligence*. Available at https://www.itfseafarers.org/en/news/new-look-and-itf-join-forces-protect-transport-supply-chain-workers-human-rights-due-diligence (accessed 2 March 2026).

La Poste. 2024. "Document d'enregistrement universel de la Poste". Available at https://le-groupe-laposte.cdn.prismic.io/le-groupe-laposte/Z__IVOvxEdbNPJUi_LA_POSTE_DEU_2024_MEL_FR_202504161435_VDEF.pdf (accessed 2 March 2026).

Parlement européen. 2021. "Corporate due diligence and corporate accountability, European Parliament resolution of 10 March 2021 with recommendations to the Commission on corporate due diligence and corporate accountability". 2020/2129(INL), Bruxelles, Mars.

Renault Group. 2025. "Plan de Vigilance". Available at https://assets.renaultgroup.com/uploads/2025/05/RG_Plan-de-Vigilance-2025-FR.pdf (accessed 2 March 2026).

Sanofi. 2024. "Document d'Enregistrement Universel de Sanofi". Available at https://www.sanofi.com/assets/dotcom/content-app/publications/financial/2024-Document-enregistrement-universel-2024.pdf (accessed 2 March 2026).

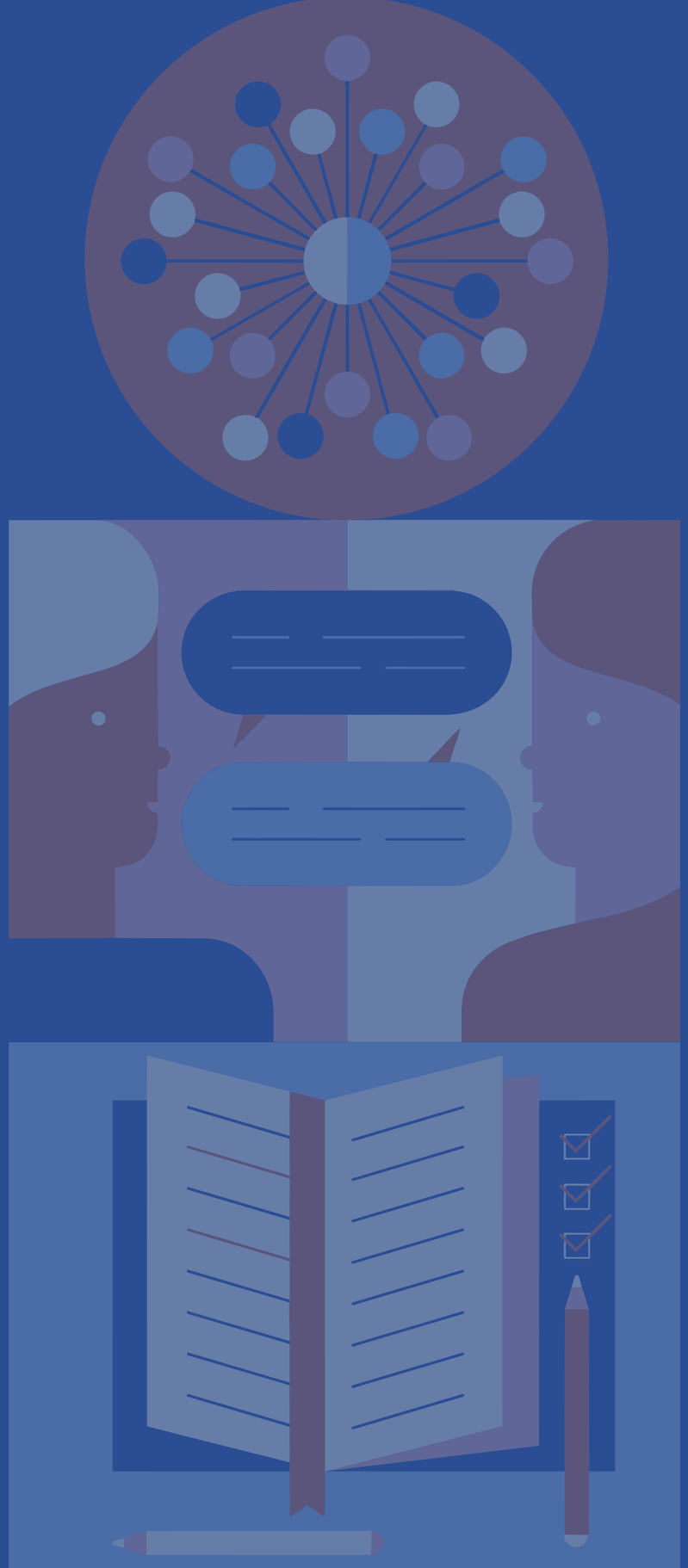
SEB SA. 2024. "Document d'Enregistrement universel de Seb SA". Available at https://www.groupeseb.com/sites/default/files/2025-04/GroupeSEB_Document_d_enregistrement_Universel_et_Rapport_Financier_annuel-2024_0.pdf (accessed 2 March 2026).

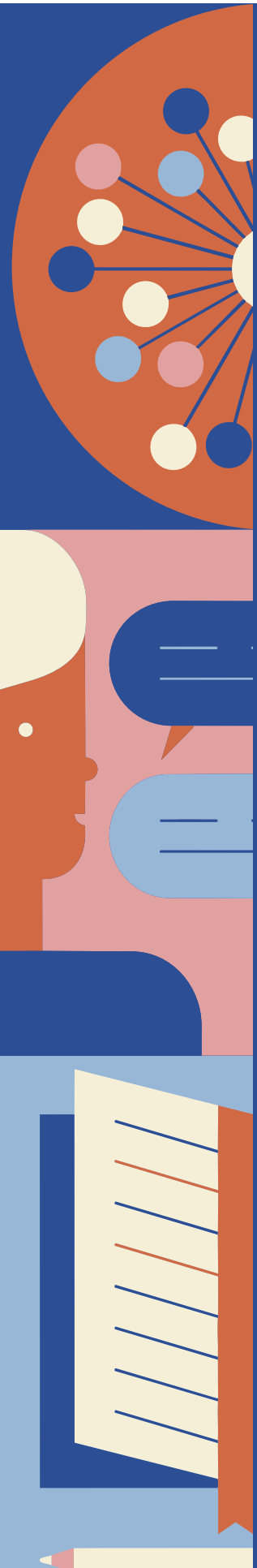
Société Générale et UNI Global Union. 2023. "Accord Mondial sur les droits des salariés du Groupe Société Générale". Available at https://uniglobalunion.org/workers-rights/global-agreements/ (accessed 2 March 2026).

Teleperformance et UNI Global Union. 2022. "Accord mondial sur la responsabilité sociale des entreprises". Available at https://uniglobalunion.org/workers-rights/global-agreements/ (accessed 2 March 2026).

UNI Global Union. 2022. "Teleperformance and UNI Global Union sign global agreement". Available at https://uniglobalunion.org/news/teleperformance-and-uni-global-union-sign-global-agreement/ (accessed 2 March 2026).

Vinci. 2024. "Document d'enregistrement universel de Vinci". Available at https://www.vinci.com/sites/default/files/medias/file/2025/03/vinci-plan-de-vigilance-2024.pdf (accessed 2 March 2026).





Summer school on social dialogue : industrial relations and due diligence
First edition

International Training Centre
of the ILO
Viale Maestri del Lavoro, 10
10127 Turin, Italy
www.itcilo.org

Institut National du Travail, de
l'Emploi et de la Formation
Professionnelle
1498 route de Sain Bel
69280 Marcy-L'Étoile, France
www.intefp.travail-emploi.gouv.fr

Coedition : International Training Centre of the ILO and INTEFP