

» ENABLING EFFECTIVE DUE DILIGENCE ON HUMAN RIGHTS RISKS THROUGH SOCIAL DIALOGUE

INTRODUCTION

Internationally agreed principles and standards for responsible business conduct (RBC), such as the OECD Guidelines for Multinational Enterprises ([OECD Guidelines](#)), the United Nations Guiding Principles on Business and Human Rights ([UNGPs](#)), and the ILO Tripartite Declaration of Principles concerning Multinational Enterprises and Social Policy ([MNE Declaration](#)), call on enterprises to conduct due diligence. In other words, enterprises are expected to identify, prevent, mitigate and account for how they address actual and potential adverse impacts on internationally recognised human rights in their own operations, their supply chain and other business relationships.



Freedom of association and collective bargaining, as well as industrial relations and social dialogue, play a central role in enabling the implementation of effective due diligence on human rights. Engagement with workers' representatives and trade unions helps enterprises to identify and address potential adverse impacts that result from their operations, or that occur through their supply chains and other business relationships. At the same time, due diligence protects and strengthens social dialogue itself, as enterprises should carry out due diligence on the fundamental rights to freedom of association (FOA) and collective bargaining to ensure that they are respected in their own operations and in their value chains.

ABOUT THIS TOOL

This tool is designed to support enterprises in enhancing their human rights due diligence efforts through meaningful engagement with workers' representatives and trade unions. It offers practical recommendations and good practices of company engagement with workers' representatives and trade unions and use of social dialogue throughout the due diligence process.

At the core of this tool is the OECD's practical framework for due diligence, [a 6-step process that describes how companies](#) can identify and prevent harms related to human rights, labour, environmental and integrity risks in their own operations and in their supply chains. This tool provides enterprises with a systematic, comprehensive and structured approach to engage and undertake joint actions with workers' representatives and trade unions throughout their due diligence.

In the last segment, the tool focuses specifically on risks associated with FOA and collective bargaining. It applies the OECD due diligence framework to these fundamental rights, offering enterprises essential factors to consider when addressing such risks in their own operations, their supply chain and other business relationships.

The tool was informed by discussions within the Focus Group on social dialogue and human rights due diligence organised by the Global Deal partnership to facilitate the exchange of good practices between partners. The development of the tool was supported by the OECD Centre for Responsible Business Conduct.



KEY FEATURES OF SOCIAL DIALOGUE FOR DUE DILIGENCE

Workers' representatives and trade unions, including global union federations, are key stakeholders of enterprises for the purpose of due diligence on human rights. Enterprises should prioritise [meaningful engagement with trade unions where they exist](#) and are bona fide, and trade unions should not be bypassed for other forms of engagement with workers.

Meaningful stakeholder engagement is an interactive process characterised by ongoing two-way communication, it relies on the good faith of the participants on both sides, and is responsive to stakeholders' views. This means there is follow-through on implementation of agreed commitments, ensuring that adverse impacts to stakeholders are appropriately addressed, including through provision of remedies when enterprises have caused or contributed to the impacts, and that stakeholder views are taken into account in project decisions.

Parties should be provided with timely information needed, and with the opportunity to offer input prior to major decisions that may affect them.

Ways in which workers' representatives and trade unions can be engaged throughout the process change based on the size of the enterprise and the nature and context of the operation.

Enterprises should take into account potential barriers that workers' representatives and trade unions may face when engaging with them. Barriers may include language or cultural differences, as well as gender and power imbalances.

Industry-led or multi-stakeholder processes through which enterprises conduct due diligence should be credible and [include engagement with workers' representatives and trade unions](#).

Please note that the due diligence process is not static, but ongoing, responsive and changing. It includes feedback loops so that the enterprise can learn from what worked and what did not work.

Regular consultation on due diligence should not be a substitute for collective bargaining.



WHAT IS SOCIAL DIALOGUE ?

Social dialogue includes all types of negotiation, consultation or simply exchange of information between, or among, representatives of governments, employers and workers, on issues of common interest relating to economic and social policy. It encompasses peak-level bipartite and tripartite social dialogue, collective bargaining, and workplace consultation and cooperation. It can take place at the international, national/regional, sectoral or at enterprise level. Social dialogue is underpinned by two fundamental principles and rights at work: freedom of association and the effective recognition of the right to collective bargaining. Together, these principles constitute the democratic foundations of labour markets, and pave the way for the inclusive and effective governance of work.

Social dialogue is both a means to achieve social and economic goals and an objective in itself, as it gives people a voice and a stake in their societies and workplaces. Successful social dialogue structures and processes have the potential to resolve important economic and social issues, encourage good governance, advance social and industrial peace and stability and boost economic progress.

HOW TO INTEGRATE SOCIAL
DIALOGUE THROUGHOUT THE
DUE DILIGENCE PROCESS

1

EMBED RBC
INTO POLICIES
& MANAGEMENT
SYSTEMS

DEVELOP THE
RBC POLICY IN
CONSULTATION WITH
WORKERS'
REPRESENTATIVES AND
TRADE UNIONS

SYSTEMATICALLY EMBED
ENGAGEMENT WITH
WORKERS'
REPRESENTATIVES AND
TRADE UNIONS INTO
MANAGEMENT SYSTEMS

[VIEW DETAILS](#)

[VIEW DETAILS](#)

2

IDENTIFY &
ASSESS ADVERSE
IMPACTS ON
RBC ISSUES

ACTIVELY INVOLVE
WORKER REPRESENTATIVES
AND TRADE UNIONS IN
THE ASSESSMENT OF
PRIORITISED OPERATIONS,
SUPPLIERS AND BUSINESS
RELATIONSHIPS

ENGAGE AND CONSULT
WITH WORKER
REPRESENTATIVES AND
TRADE UNIONS IN THE
SCOPING, IDENTIFICATION
AND PRIORITISATION OF
RBC RISKS

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3

CEASE,
PREVENT
OR MITIGATE
IMPACTS

ENGAGE WITH WORKERS'
REPRESENTATIVES AND TRADE
UNIONS TO STOP, PREVENT,
OR MITIGATE RBC IMPACTS
ON LABOUR RIGHTS

[VIEW DETAILS](#)

4

TRACK
IMPLEMENTATION
AND RESULTS

ENGAGE WORKERS'
REPRESENTATIVES AND TRADE
UNIONS IN THE DESIGN,
MONITORING AND VALIDATION
OF EFFECTIVENESS OF DUE
DILIGENCE ACTIVITIES

[VIEW DETAILS](#)

5

COMMUNICATE
HOW IMPACTS
ARE ADDRESSED

COMMUNICATE PUBLICLY
HOW THE ENTERPRISE HAS
ADDRESSED POTENTIAL AND
ACTUAL HARMS AND HOW IT
ENGAGES WITH WORKERS'
REPRESENTATIVES AND
TRADE UNIONS

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COMMUNICATE WITH
AFFECTED OR POTENTIALLY
AFFECTED STAKEHOLDERS

[VIEW DETAILS](#)

6

PROVIDE FOR OR
CO-OPERATE IN
REMEDiation

ENGAGE AFFECTED PARTIES
IN THE DETERMINATION OF
APPROPRIATE REMEDIES

ENGAGE WORKERS'
REPRESENTATIVES AND
TRADE UNIONS IN THE DESIGN
AND IMPLEMENTATION OF
PROCESSES TO ENABLE
REMEDiation

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[VIEW DETAILS](#)

EMBED RBC INTO POLICIES & MANAGEMENT SYSTEMS

The first step is for an enterprise to design, adopt and disseminate a combination of policies on RBC issues that articulate its commitments, its plans for implementing due diligence, and seek to embed the enterprise's policies on RBC issues into management systems.

SOCIAL DIALOGUE IN STEP 1

Enterprises' engagement with workers' representatives and trade unions in the development of RBC and due diligence policies generates better outcomes and strategies that respond to the reality 'on the ground'. For example, workers' representatives and trade unions can provide deep insights on the human rights risks in the operating context.

Develop the RBC policy in consultation with workers' representatives and trade unions

- Ensure workers' representatives and trade unions can provide guidance to design RBC policies and commitments. Explain how and when the enterprise will engage with workers' representatives and trade unions during the due diligence process. This might be different depending on the nature of the risk and the operating context.
- Include trade unions in enterprises' advisory boards and ensure their involvement in the development of the due diligence policy.

Systematically embed engagement with workers' representatives and trade unions into management systems

- Ensure recognition of engagement at an organisational level for activities to be adequately resourced and planned for. For example, enterprises should establish corporate governance to oversee and support due diligence (e.g. assigning board and senior management level accountability); assign responsibility to senior staff with the necessary competence, knowledge and experience to oversee the implementation; secure adequate staff time and ensure that those who work on supply chain due diligence have the competence to perform their duties.
- Share information with and consult meaningfully workers' representatives and trade unions before making decisions that may affect them, including when forming business relationships and making investments.
- Embed ongoing engagement to ensure activities continue throughout the lifecycle of an operation and are not a one-off endeavour. Timelines should be planned to allow for engagement to begin as early as practicable, to provide stakeholders with sufficient time to engage meaningfully, and to be flexible enough that adjustments can be made when necessary.



- Make efforts to identify and remove potential barriers to engagement with workers' representatives and trade unions, which may include language or culture differences, gender and power imbalances, and lack of resources. Strategies to address these barriers should be identified and revised according to changing circumstances and feedback. For example, enterprises should ensure that workers' representatives and trade unions have access to adequate human and financial resources to engage meaningfully in the enterprise's due diligence. Resources may include support for engagement and outreach activities, compensation for costs of participation in engagement activities (e.g. lost working hours) and support to enable stakeholders to participate (e.g. childcare, transport, meals), capacity building and access to experts with positive record in terms of previous engagement efforts and a lack of allegations of human rights infringements, as well as personnel with language and cultural knowledge of the region (e.g. trained local facilitators, local translators or interpreters). Read more about common challenges to meaningful stakeholder engagement and response strategies on page 71 of the [OECD Due Diligence Guidance for Meaningful Stakeholder Engagement in the Extractive Sector](#).

SOCIAL DIALOGUE IN PRACTICE

ACT on Living Wages (ACT) brings together international brands and IndustriALL Global Union in an agreement to achieve living wages for workers in the global garment industry through collective bargaining at the industry level.

ACT signatory brands and trade unions jointly designed RBC policy commitments that cover responsible purchasing practices, freedom of association and collective bargaining. Such RBC policy commitments include:

- the design of purchasing practices that facilitate the payment of a living wage,
- the implementation of strategies to proactively promote freedom of association, including through providing capacity building,
- the respect of fair terms of payment, including the payment of suppliers in line with agreed timeframes, and better planning and forecasting, including in forecasting processes with suppliers.

Negotiating policies at a sectoral level with trade unions sets a common standard for all industry actors and levels the playing field. Read more about ACT and social dialogue in the [Global Deal Flagship Report 2022: A Partnership in Action](#).



IDENTIFY & ASSESS ADVERSE IMPACTS ON RBC ISSUES

An enterprise should then carry out a broad scoping exercise to identify all areas where RBC risks are most significant and conduct in-depth assessments of prioritised operations, suppliers and other business relationships. The enterprise should also assess its involvement and prioritise the most significant risks and impacts for action based on severity and likelihood.

SOCIAL DIALOGUE IN STEP 2

Engagement with workers' representatives and trade unions enables enterprises to have more information on human rights and labour risks in their operations and supply chain. Workers' representatives and trade unions are important partners in determining how to tailor assessments, and can provide valuable context information to enterprises. Such involvement is particularly important to better identify RBC risks that are generally not well assessed through standard audits.

Engage and consult with workers' representatives and trade unions in the scoping, identification and prioritisation of RBC risks

- Consult meaningfully with workers' representatives and trade unions when conducting the scoping exercise to identify RBC risks. The scoping should also identify the stakeholders that enterprises will need to engage with to address each of the risks. Enterprises should also consider how certain impacts may vary amongst workers and identify the most vulnerable groups to prioritise for engagement.
- Engage with workers' representatives and trade unions to fill information gaps and better understand sector, product or geographic risks. This is particularly important for RBC risks that are difficult to assess, or which are not well documented.
- Consider information raised through early warning systems (e.g. hotlines) and grievance mechanisms.
- Consult with potentially impacted stakeholders when determining which RBC risks to prioritise, based on their likelihood and severity.
- Review the findings of the scoping exercise on a regular basis.

Actively involve workers' representatives and trade unions in the assessment of prioritised operations, suppliers and business relationships

- Engage with workers' representatives and trade unions to understand the local context an enterprise is operating in. This helps ensure that the assessments the enterprise carries out are tailored to the operating context. This should be a dynamic process: information on the local and operating environment should be updated over time.
- Consider potential barriers the enterprise may face when engaging with workers' representatives and trade unions. Workers' fears of reprisals should also be taken into account.
- Engage with workers' representatives and trade unions in the design, and ensure their active participation in the implementation, of on-site-level assessments of prioritised operations, suppliers and other business relationships. For example, they should be involved in deciding on the scope of the assessment, including in the identification of questions, issues covered, and how information is gathered.
- Engage with workers' representatives and trade unions to collect data on risks of harm which require subjective determinations. Multiple data points should be used to assess a situation, which helps ensure that findings are credible and defensible. For example, involving workers' representatives and trade unions in the design and implementation of interviews and focus groups is particularly helpful to identify human rights risks that are sensitive and/or generally undocumented.
- Reassess impacts at regular intervals as needed: prior to major decisions or changes in the activity; in response to, or in anticipation of, changes in the operating environment; and periodically throughout the life of an activity or relationship.
- Consult with workers' representatives and trade unions to assess the enterprise involvement with the actual or potential adverse impact to determine the appropriate response.



SOCIAL DIALOGUE IN PRACTICE

The International Accord for Health and Safety in the Garment and Textile Industry (International Accord) is a legally binding agreement between global brands and **UNI Global Union** and **IndustriALL Global Union** to improve workplace safety in ready-made garment factories. All suppliers covered by the International Accord are inspected by independent engineers for fire, electrical, structural and boiler safety risks. Following an inspection, a detailed report and update is sent to the factory, the responsible enterprise signatories and the trade union. This means that employers, trade unions and global brands are aware of any severe risks and are involved in ensuring that they are addressed.

The International Accord and its predecessor agreement, the Accord on Fire and Building Safety in Bangladesh, set the first industry-wide standard for how severe risks on fire and building safety should be technically assessed and addressed in the global garment supply chains. Building on widespread safety improvements in Bangladesh, signatories have decided to extend the agreement to Pakistan. Read more about the International Accord and social dialogue in the *Global Deal Flagship Report 2022: A Partnership in Action*.



Once RBC risks and impacts have been identified, the enterprise should address them. This means developing and implementing plans to cease, prevent and mitigate both identified and future harms in the enterprise's operations and supply chain.

SOCIAL DIALOGUE IN STEP 3

Workers' representatives and trade unions should be provided with complete and accurate information and given the opportunity to raise concerns and provide input throughout the process. By meaningfully engaging with workers' representatives and trade unions, enterprises can access information on how to best address complex and severe human rights risks within a particular context.

Engage with workers' representatives and trade unions to stop, prevent, or mitigate RBC impacts on labour rights

- Involve workers' representatives and trade unions in the creation and implementation of roadmaps for stopping the activities which cause or contribute to adverse impacts.
- Support or collaborate with workers' representatives and trade unions in developing and implementing fit-for-purpose plans to prevent or mitigate adverse impacts identified within reasonable and clearly defined timelines, using qualitative and quantitative indicators for defining and measuring improvement.
- Establish worker-management committees to address RBC risks and involve workers' representatives and trade unions in the design and implementation of trainings to strengthen the capacity of trade unions and other relevant stakeholders to prevent and mitigate impacts on labour rights. Collective bargaining and international agreements can include effective and innovative risk mitigation clauses and strong commitments to freedom of association and collective bargaining.
- Implement internal measures to guarantee workers representatives and trade unions involvement to mitigate risks in the supply chain. Use leverage to ensure suppliers adequately engage with workers representatives and trade unions.
- Engage with governments to address systemic issues in the sector and in the operating context.
- Consult stakeholders on impacts in case of disengagement and meaningfully engage with workers' representatives and trade unions on the decision to disengage. Enterprises should take reasonable and appropriate measures to mitigate adverse impacts related to disengagement.



SOCIAL DIALOGUE IN PRACTICE

ACT on Living Wages (ACT) is an agreement between global brands and IndustriALL Global Union. ACT members identified unique challenges to building social dialogue in Türkiye due to the fragmentation of the sector and low trade union density. In 2022, global brands sourcing from the country and IndustriALL Global Union agreed on a Memorandum of Understanding that establishes a protocol on how brands should partner with global and national trade unions to support constructive and mature industrial relations in Türkiye and address grievances that may arise. Read more about ACT on Living Wages and social dialogue in the [Global Deal Flagship Report 2022: A Partnership in Action](#).

The enterprise should verify, monitor and validate progress on due diligence and its effectiveness in its own operations and its supply chains. This means verifying that identified RBC risks and impacts have been addressed.

SOCIAL DIALOGUE IN STEP 4

Workers' representatives and trade unions, including work councils and trade unions at the enterprise, national/regional and international level, play an important role in the ongoing monitoring of human rights and labour risks. They are also important partners for enterprises in assessing whether an enterprise's strategy or approach to addressing a particular risk is effective.

Engage workers' representatives and trade unions in the design, monitoring and validation of effectiveness of due diligence activities

- Enterprises should partner with workers' representatives and trade unions to design an effective monitoring mechanism.
- Workers' representatives and trade unions can support continued monitoring on human rights to flag if a risk arises, is continuing (e.g. through existing industrial relations and grievance mechanisms, hotlines and whistleblowing procedures).
- Engage with workers' representatives and trade unions on sensitive issues for which it may be difficult to collect data, as well as to identify issues that are severe or overlooked.
- Engage on why due diligence is not working to understand the root causes. When tracking due diligence and its effectiveness, enterprises should engage with workers' representatives and trade unions to collect feedback on how well an issue is being addressed and understand why processes the enterprise has in place are not tackling identified risks.
- Monitor and evaluate the effectiveness of stakeholder engagement activities both to ensure that engagement activities are accomplishing their objectives, particularly with regard to avoiding and addressing adverse impacts to stakeholders, and that resources are not being wasted through activities that are not well conceived or implemented.

SOCIAL DIALOGUE IN PRACTICE

In March 2022, the Belgian enterprise Solvay and IndustriALL Global Union renewed their global framework agreement. The agreement stipulates that Solvay will create a working group to analyse labour rights in Solvay suppliers. This working group will conduct a deep analysis into Solvay suppliers in at least one country per year, investigating whether core labour rights are respected at the suppliers and seeking remediation in case of non-compliance. IndustriALL Global Union will provide support to this work. In addition, the parties agreed to jointly monitor the implementation of the agreement via two annual monitoring missions to Solvay sites worldwide. For more information about the role social dialogue and GFAs play in operationalising due diligence on labour rights, see the [Global Deal Flagship Report 2022: A Partnership in Action](#).

- Include monitoring and feedback on how a global framework agreement (GFA) is actually implemented, if an enterprise is part of one. GFAs are negotiated on a global level between trade unions and a multinational enterprise. They regulate labour standards and industrial relations worldwide within the signatory enterprises and put in place high standards of trade union rights, health, safety and environmental practices, and quality of work principles across an enterprise's global operations, regardless of whether those standards exist in an individual country. Effective realisation of a GFA can act as a key mechanism for the implementation of due diligence. In particular, GFAs can help identify and assess human rights risks, track the implementation and effectiveness of measures taken by companies and provide non-governmental operational level grievance and remediation mechanisms.

This step involves communicating externally relevant information on the enterprises' due diligence policies, processes and activities conducted to identify and address actual or potential adverse impacts, including on how the enterprise meaningfully engages with workers' representatives and trade unions.

SOCIAL DIALOGUE IN STEP 5

When enterprises disclose information on their due diligence and their suppliers and other business partners, workers' representatives and trade unions can more readily share insights and information and raise supply chain cases with those enterprises. Public disclosure is an additional guarantee that all relevant stakeholders are informed and are able to provide their perspectives or defend their interests. Public disclosure also provides an additional guarantee that adverse impacts to stakeholders can be identified, avoided and appropriately addressed.

Communicate publicly how the enterprise has addressed potential and actual harms and how it engages with workers' representatives and trade unions

- Publicly report relevant information on due diligence processes. This includes measures taken to embed RBC into policies and management systems, the significant adverse impacts or risks identified, prioritised and assessed, as well as the prioritisation criteria, the actions taken to prevent or mitigate those risks, measures to track implementation and results and the enterprise's provision of or co-operation in any remediation.
- Communicate how the enterprise engages workers' representatives and trade unions throughout the due diligence process. Following through and reporting back on how outcomes of stakeholder activities have been taken into account in practice allows stakeholders to feel that their perspectives are being considered and is also helpful in managing expectations.
- Publish the above information in a way that is easily accessible and appropriate. For example, relevant documentation could be translated in different languages.
- Where there is a GFA, the enterprises can include clauses requiring the agreement to be disseminated to all workers and, where agreed, to suppliers and other business partners. GFAs may embed obligations on the parties to both raise awareness of the enterprise's commitments and to work together to effectively implement them. Enterprises should be transparent and communicate the content of the GFA and provide information related to the monitoring of implementation of the agreement.

Communicate with affected or potentially affected stakeholders

- Meaningfully engage with workers' representatives and trade unions regarding the best ways to communicate with potentially impacted stakeholders (e.g. type of information, form of communication). Communication may take a variety of forms (e.g. in-person meetings, online dialogues).
- Communicate with workers' representatives and trade unions. Enterprises may choose to communicate through the sharing of audits or assessment findings with workers representatives and trade unions. Enterprises can present policies and actions to workers' representatives and trade unions at a global and site level, including through internal communication.
- Ensure communication does not put people at risk, is timely and culturally sensitive.

SOCIAL DIALOGUE IN PRACTICE

GfAs are efficient tools to communicate about the commitments, as clauses in the agreement provide for its content to be discussed with workers' representatives and trade unions ahead of external dissemination. Clauses can also indicate how communication and reporting on the enterprise' due diligence policies, processes and activities should be circulated to workers, and sometimes to enterprises in the value chain.

In February 2019, the French enterprise **Société Générale**, and **UNI Global Union** renewed their GfA. Société Générale started to consult UNI Global Union about the enterprise's duty of vigilance plan in advance of its publication. This fostered a constructive dialogue between the union and the enterprise on some aspects of Société Générale's due diligence process and reporting. In particular, the parties dived deeper into the data sources used to identify and assess potential impacts on human rights. UNI Global Union suggested including the International Trade Union Confederation's (ITUC) Global Rights Index as a tool for risk identification in global supply chains. For more information about GfAs and social dialogue, see the [Global Deal Flagship Report 2022: A Partnership in Action](#).



In the last step, the enterprise should provide for, or co-operate in, the remediation of adverse impacts that it has caused or contributed to. When appropriate, the enterprise should also provide for, or co-operate with, legitimate remediation mechanisms through which impacted stakeholders can raise complaints and seek to have them addressed with the enterprise.

SOCIAL DIALOGUE IN STEP 6

Grievance mechanisms and other processes to enable remediation are only effective if they are known, trusted and can be safely accessed by affected workers' representatives and trade unions. By engaging them on the design, operation and oversight of grievance mechanisms, enterprises can ensure that potential barriers facing workers to raise grievances are identified and addressed from the start. Engagement also helps to ensure that grievances can be addressed efficiently and effectively without needing to be escalated.

Engage workers' representatives and trade unions in the design and implementation of processes to enable remediation

- Involve workers' representatives and trade unions in the design of grievance mechanisms. Ensure grievance mechanisms are:
 - Legitimate – grievance mechanism should be trusted by workers and accountable for. Retaliation against complainants is prevented by guaranteeing freedom from discrimination or reprisal of any kind.
 - Accessible – grievance mechanism should be known to all workers and their representatives. Systems should be in place to provide assistance when barriers to access exist.
 - Predictable – grievance mechanism should have a clear procedure (timeframe, process and outcomes) available to workers.
 - Equitable – grievance mechanism should ensure workers have access to necessary information, advice and expertise.
 - Transparent – grievance mechanism should keep workers informed on complaints' progress and its performance.
 - Dialogue-based – grievance mechanism should be based on dialogue with relevant stakeholders.
- Operational-level grievance mechanisms can be an effective means for providing remedy. They operate at the firm or site-level and are therefore often the first entry point for a worker or community member to raise a concern. In addition, they can act as early warning system to identify risks, or actual impacts, to provide an opportunity for workers to raise concerns about issues affecting their rights directly with enterprises as well as through workers' representatives and trade unions. Enterprise- or community-established grievance mechanisms should not be used to undermine the role of trade unions in addressing labour related disputes.
- Ensure that where a GFA is in place, it establishes a process by which trade unions can raise complaints with the enterprise that its practices have caused or contributed to harm in its supply chain, for the purpose of providing remedy. GFAs can provide effective non-governmental operational-level grievance mechanisms, particularly for violations of the rights of freedom of association and collective bargaining.



Engage affected parties in the determination of appropriate remedies

- When cases of adverse impact do arise (e.g. when trade unionists are dismissed illegally or health and safety at work are compromised) the perspective of affected workers on what constitutes appropriate remedy is important. This means that after first consulting with the complainant, the workers' representatives and trade unions should be consulted in the determination of a remedy.
- Meaningfully consult with those who have raised complaints to assess their level of satisfaction with the process provided and its outcomes.

SOCIAL DIALOGUE IN PRACTICE

Under the International Accord, and its precedent agreement the Bangladesh Accord, workers and their representatives can raise complaints on occupational safety and health risks through an independent grievance mechanism. The mechanism protects against retaliation and provides an avenue for workers to access remedy in cases of harm. Brands commit to leverage their business relationships with suppliers to address complaints. From 2013 to 2018 more than 200 complaints were resolved through the independent grievance mechanism of the Bangladesh Accord. For more information about the International Accord and social dialogue, see the [Global Deal Flagship Report 2022: A Partnership in Action](#).





DUE DILIGENCE ON THE RIGHTS TO FREEDOM OF ASSOCIATION AND COLLECTIVE BARGAINING

Enterprises need to ensure safeguards are in place that support respect for the rights to organise and bargain collectively. These are instrumental 'enabling rights', the realisation of which makes it possible to promote and realise other human rights. There are several elements an enterprise should take into consideration when addressing risks to FOA and collective bargaining in its own operations, its supply chain and other business relationships.

1 STEP

1 Embed RBC into policies & management systems

Enterprises should commit to upholding international labour standards in their RBC policies, which should contain provisions that:

- allow workers to form and join trade unions of their own choosing without previous authorisation;
- protect workers against acts of anti-union discrimination in respect of their employment;
- prohibit imposing any penalties or discriminating against workers because of their membership to the union;
- prohibit any acts of interference of organisations representing the workers;
- allow workers to meet unhindered for consultation and exchange of views among themselves, provided that the functioning of operations is not prejudiced;
- protect the right of the workers, acting individually or jointly, to have their grievances processed through an appropriate procedure without suffering any prejudice as a result of bringing a complaint.

For instance, GFAs provide an effective means to uphold and promote these standards by ensuring they are fully integrated in enterprises' RBC policies, management system and practices.

2 STEP

Identify & assess adverse impacts on RBC Issues

Through their scoping exercises and in-depth assessments, enterprises should understand the legal, institutional and judicial framework for industrial relations in the operating context, and the extent to which trade unions function and collective bargaining takes place as well as how legal protections for workers are enforced. Enterprises should also evaluate whether anti-union discrimination policies and practices are being promoted through supplier assessments for FOA (e.g. through use of the ITUC Global Rights Index). They should take into consideration sector, product, geographic and enterprise risk factors that will help determine the likelihood of risks and severity of harm in their own operations and in supply chain. For example, the extent to which civil and political liberties are protected and exercised, a lack of adjudication bodies to support freedom of association rights and provide effective remedy, the extent to which union organisers are jailed or exiled by the government, or fired, injured, or murdered, without prompt and effective prosecution on the part of the government, and their purchasing practices.

The ILO Right to Organise and Collective Bargaining Convention, 1949 (No. 98) includes protection against anti-union discrimination. Anti-union discrimination includes any action that makes a worker's employment dependent on giving up union membership or not joining a union. It also includes actions that cause the dismissal or prejudice a worker because of union membership or participation in union activities.

Source: ILO Helpdesk for Business on International Labour Standards

3 STEP

Cease, prevent or mitigate impacts

Enterprises should address their own activities which may contribute to or increase the risk of anti-union discrimination, and use leverage with suppliers to prevent such practices. To implement sound standards on trade union rights in the supply chain, enterprises should consider entering into direct agreements with trade unions, such as through GFAs or FOA protocol agreements, which may also provide for training to strengthen the capacity of workers' representatives and trade unions as well as local managers. Experience shows that GFAs foster a positive collaboration between enterprises as well as global, national and local trade unions, including those in the supply chain. Such relationships can provide a decisive contribution to helping enterprises to cease, prevent and mitigate harm through protecting and promoting the rights to organise and bargain collectively. As a last resort, consider and implement responsible disengagement in cases in which severe human rights impacts have been identified, such as violence against trade unionists.

5 STEP

Communicate how impacts are addressed

Enterprises should communicate externally relevant information on due diligence policies, processes, activities conducted to identify and address actual or potential adverse impacts related to FOA and collective bargaining risks, including the findings and outcomes of those activities. Information should be public, accessible and appropriate. Enterprises should establish systems to provide regular information to workers' representatives and trade unions.



4 STEP

Track implementation and results

Enterprises should monitor any changes to the levels of risks to these rights, including by using metrics that show the outcome of these activities, such as the percentage of workers covered by collective bargaining agreements at significant locations of operation. They should also assess the effectiveness of the measures taken, in consultation with workers' representatives and trade unions.

6 STEP

Provide for, or co-operate in, remediation

Enterprises should provide for, or co-operate with, legitimate remediation mechanisms through which impacted stakeholders can raise complaints and seek to have them addressed with the enterprise. This includes complaints related to FOA and collective bargaining.

THE GLOBAL DEAL FOR DECENT WORK AND INCLUSIVE GROWTH

The Global Deal is a multi-stakeholder partnership of governments, businesses and employers' organisations, trade unions, civil society and other organisations for the promotion of social dialogue and sound industrial relations as effective means for achieving decent work and inclusive growth.

The Global Deal enables knowledge sharing, facilitates policy discussions, strengthens the capacity of partners to engage in dialogue, and produces evidence-based research. As a unique action-oriented platform, the Global Deal accelerates positive change by encouraging partners to make voluntary commitments to advance social dialogue.

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