



Guidelines for the Evaluation of
Workers' Human Rights and Labour Standards

(Version: May 2017)

1. Background

The Global Unions Committee on Workers' Capital (CWC) is an international labour union network for dialogue and action on the responsible investment of workers' retirement savings. It is a joint initiative of the International Trade Union Confederation (ITUC), the Global Union Federations (GUFs), and the Trade Union Advisory Committee to the OECD (TUAC).

This document was developed by the CWC Taskforce on Workers' Rights and Labour Standards in the Investment Chain ("the Taskforce"). The Taskforce is composed of trade union representatives who are experts on matters of social sustainability and responsible investment. The following table draws on extensive discussions with the Taskforce about key indicators to measure corporate performance on workers' human rights and labour standards. Furthermore, the Guidelines were updated based on input received from sustainability rating agencies that took part in the CWC Dialogue with Sustainability Rating Agencies on June 9th 2016 in Amsterdam.

2. Rationale for the Guidelines for the Evaluation of Workers' Human Rights and Labour Standards

The link between the CWC and financial markets is via the trade union- and worker-nominated pension fund trustees from across the world who oversee the retirement savings of (generally) unionised workers. Pension trustees are now seen to have a fiduciary duty to take into account ESG issues.¹ The integration of social issues – including labour standards – into investment decision-making is particularly relevant to the trustee boards of pension plans, because they oversee the retirement savings of unionised workers who generally benefit from decent labour standards. In recent years, two trends have encouraged pension trustees to improve their incorporation of social issues in board level discussions: 1) governments and regulatory agencies are encouraging the incorporation of ESG risk and reward into investment policies and decision making and 2) companies are under increasing pressure from governments, trade unions, investors and civil society organizations to provide reliable, relevant, understandable and comparable information to stakeholders, such as investors or consumers.

Governments and regulatory agencies in the UK, the USA, Canada and other countries have created or clarified regulations that encourage the incorporation of ESG issues into investment decisions. The UK Law Commission, for instance, in its report entitled *Fiduciary Duties of Investment Intermediaries* (2014), indicated that financially material ESG factors should be taken into account by fiduciaries. In addition, non-financially material ESG factors can be taken into account under the following conditions: "1) trustees should have good reason to think that scheme members would share the concern and 2) the decision should not involve a risk of significant financial detriment to the fund."² In the USA, the Department of Labor clarified in 2015 that fiduciaries can consider ESG issues "as tie-breakers when choosing between investments that are otherwise equal with respect to return and risk over the appropriate time horizon."³ In Ontario, pension plans are now required to disclose whether ESG factors

¹ [UNEP-FI \(2015\), Fiduciary Duty in the 21st Century, p.9](#)

² [Law Commission \(2014\), Fiduciary Duties of Investment Intermediaries, p.13](#)

³ [US Department of Labor \(2015\), Interpretive Bulletin Relating to the Fiduciary Standard under ERISA in Considering Economically Targeted Investments, p.4](#)

are incorporated into their investment policies, since the “comply or explain” requirement came into force in January 2016 under the Pension Benefits Act.⁴

In parallel, the sustainability reporting landscape is also rapidly evolving. For instance, the European Union has adopted a requirement for corporate entities with more than 500 employees to “disclose in the management report relevant and useful information on their policies, main risks and outcomes” relating to ESG matters.⁵ The US-based Sustainability Accounting Standards Board is encouraging companies to incorporate material extra-financial information into investor filings. In December 2016, the Financial Stability Board’s Task Force on Climate-related Financial Disclosures announced consultations on its recommendations for the voluntary reporting of climate-related information. Finally, the UK’s Modern Slavery Act and the California Transparency in Supply Chains Act are examples of legislation that require companies with a minimum threshold of operations in these jurisdictions to produce a report on the steps they are taking to eradicate forced labour and human trafficking from their supply chains.

The link between ESG issues and financial performance has been studied and measured empirically with an increasing degree of sophistication and recognition.⁶ A recent review of approximately 2200 individual studies revealed an overall positive link between firm-level ESG performance and corporate financial performance (including accounting-based performance, market-based performance, operational performance, growth metrics, risk measures, and the performance of ESG portfolios).⁷ A new strand of literature is focussing on the role of specific “sustainability drivers” in driving firm performance: firms with strong ratings on material sustainability topics (as opposed to sustainability topics in general) have been found to outperform firms with poor ratings.⁸

The role and importance of sustainability ratings is bound to increase as pension funds seek to integrate social issues into investment processes. However, over 80 percent of institutional investors remain dissatisfied by “how risks and opportunities are identified and quantified in financial terms.”⁹ Investors would like to see more information on the strategic relevance of specific sustainability considerations to company performance.¹⁰ The Taskforce recognises the limits inherent in the ability of rating agencies to evaluate social indicators in light of the following

⁴ [Financial Services Commission of Ontario \(2016\), Investment Guidance Notes: ESG Factors](#)

⁵ The Commission will [prepare non-binding guidelines on methodology](#) for reporting non-financial information, including KPIs, by 6 December 2016, and countries are expected to transpose the rule into national legislation by 6 December 2016

⁶ As demonstrated by the publication of studies into “mainstream” financial and accounting academic journals (e.g.: *The Accounting Review*)

⁷ [Friede, G., Busch, T., & Bassen, A. \(2015\). ESG and financial performance: aggregated evidence from more than 2000 empirical studies. *Journal of Sustainable Finance & Investment*, 5\(4\), 210-233](#)

⁸ [Khan, Mozaffar and Serafeim, George and Yoon, Aaron \(2015\). *Corporate Sustainability: First Evidence on Materiality*, *The Accounting Review* \(forthcoming\)](#)

⁹ See [Verdantix \(2015\), The Future of Sustainability Disclosures – 2015](#) (extracted from [Deloitte \(2015\). Sustainability Disclosure: Getting ahead of the curve, p.2](#))

¹⁰ See [GRI \(2016\), Defining What Matters: Do companies and investor agree on what is material, p. 6](#)

factors: 1) variability in the scope of reported social data across a) issuers and b) jurisdictions (e.g.: USA versus Europe), as well as 2) the constraints regarding the verifiability of companies' self-reported data.¹¹

Asset owners from across the globe – and the trustees that are fiduciaries of the capital of millions of workers throughout the world – are expressing a desire for an enhanced understanding of company commitments to worker well-being.¹² This desire partly stems from a closer alignment of investment policies with international norms, principles and frameworks like the OECD Guidelines for Multinational Enterprises (OECD GLs), the UN Guiding Principles for Business and Human Rights (UNGPs) and the ILO Fundamental Conventions. Furthermore, an increasing corpus of empirical evidence is highlighting the superior financial performance of companies that empower their workers and provide decent working standards.¹³

3. Organisation of the Guidelines:

The indicators found in the table below are recommendations formulated by the Taskforce. The Taskforce believes that incorporating these indicators into the investment chain (e.g.: ratings methodology frameworks of sustainability rating agencies and responsible investment policies approved by trustee boards and asset managers) would help provide a better assessment of a company's commitment to upholding worker rights and avoiding adverse impacts to the human rights of workers – in line with international norms and frameworks that prevail. In developing this table of indicators, the Taskforce has taken into account the following elements:

- Importance of using indicators that can be evaluated feasibly in a global context;
- Balancing global metrics with representative country snapshots;
- Existing support (e.g.: from reporting frameworks) for companies to disclose specific indicators and, by extension, ability of rating agencies to evaluate companies.

See the appendix for a list of international norms, standards and frameworks from which the Taskforce drew to develop the table.

The indicators are grouped by themes:

1) Workforce composition

¹¹ The Taskforce notes that a recent study found that 1) efforts to fully standardize sustainability disclosures are likely to fail and 2) disclosure practices will become tailored by type of audience. See [Verdantix \(2015\), The Future of Sustainability Disclosures – 2015](#) (extracted from [Deloitte \(2015\), Sustainability Disclosure: Getting ahead of the curve, p.2](#)).

¹² For example, see [Pensions and Lifetime Savings Association \(2015\) "Where is the Workforce in Corporate Reporting: An NAPF Discussion Paper"](#) or the [Corporate Human Rights Benchmark investor coalition statement of support](#).

¹³ An extensive review of literature found that "in aggregate, the literature offers considerable empirical evidence that human capital policies (which encompass training and HR policies which include selection, training, mentoring, incentives, knowledge-sharing, engaging front-line workers in operational decisions and partnership based labour management relations) can be material to corporate performance". See detail here: Bernstein, Aaron and Beeferman, Larry, The Materiality of Human Capital to Corporate Financial Performance (May 12, 2015), p.5. Other important texts include: Locke, R., Kochan, T., Romis, M. and Qin, F. (2007), Beyond corporate codes of conduct: Work organization and labour standards at Nike's suppliers. *International Labour Review*, 146: 21–40

- 2) Social Dialogue
- 3) Workforce participation
- 4) Supply chain
- 5) Occupational Health and Safety
- 6) Pay Levels
- 7) Grievance Mechanisms
- 8) Training and Development
- 9) Workplace diversity
- 10) Pension fund contributions for employees

Furthermore, each indicator is placed under a specific category to help differentiate policies, processes and the actual performance of a company around the treatment of workers:

- **Disclosure:** These indicators are generally published by companies that have better sustainability reporting yet they do not convey a sense of company performance when assessed on their own (e.g.: number of positions held by contract type);
- **Governance and policy commitments:** These indicators evaluate whether a company's governance structure or its corporate policies reflect a commitment to decent working conditions and the ILO Fundamental Principles and Rights at Work;
- **Due diligence:** This category of indicators touches on the quality and extent of due diligence carried out by companies in their own operations or in those of their suppliers and sub-contractors;
- **Performance assessment:** These indicators are outcome-based and they are meant to assess how well a company performs given its due diligence and policy commitments. These key performance indicators can be used to compare the company year over year or against its peers;
- **External engagements:** This category evaluates whether issuer engagements with governments, international organisations and other relevant stakeholders reflect a commitment to avoiding adverse impacts on the rights of workers.

4. Review of the Guidelines:

The Taskforce will review the Guidelines at a frequency of no less than once every 24 months.

Indicators Related to Workers’ Human Rights and Labour Standards

Indicators to Evaluate	Category	Source	Reference	Guidance for Incorporation Into Analysis
1. Workforce Composition				<p>This information helps assess an organisation’s human resource management model.</p> <p>The suggested indicators are meant to convey an understanding of the volume of workers delivering core services on behalf of the company, including workers who may not be captured by the official employee count figure but who are linked to the lead company through a first-tier business relationship.</p> <p>Excessive use of temporary/contract workers increases the risk of creating a two-tier workforce with resulting repercussions on staff morale,¹⁴ treatment of workers and turnover.</p>
<p>1.1 How many full-time <u>and</u> part-time positions (number) are held by permanent, contract, or temporary workers, disaggregated by region and gender?</p> <p><i>1.1.1 What is the estimated number of workers employed through labour agencies?</i></p> <p><i>1.1.2 What is the estimated number of workers employed through franchisees?</i></p> <p><i>1.1.3 What is the estimated number of independent contractors delivering core services on behalf of the company (including online on-demand platforms)?</i></p>	Disclosure	Sustainability report, national company websites, franchisee websites	GRI: G4-10	<p>Gather numbers and/or percentages and report on a country basis, or at least in economic regions or areas, due to the different regulations and the differences that could arise. These figures are particularly important in countries where worker rights are at higher risk of violation, i.e.: countries that have not ratified ILO C098 and C087. An analysis of the level relative to industry mean would be an asset.</p> <p>Gathering information on the number of workers employed through labour agencies, franchisees and independent contractors would help assess the level of reliance of the company on direct and indirect – yet core – workers. Capturing this data and assessing against the benefits provided to workers and the level of responsibility assumed by the lead company over labour standards provides a snapshot of the risks to rights holders that arise from lack of oversight by the lead company.¹⁵</p>

¹⁴ [Pensions and Lifetime Savings Association \(2015\) “Where is the Workforce in Corporate Reporting: An NAPF Discussion Paper”](#), p.14.

¹⁵ Taking the example of Qatar, a high risk country for labour rights, a large volume of workers employed through labour agencies can increase the risk of labour rights violations, depending on the level of responsibility assumed by a company over outsourced workers (for an example, see [Amnesty International \(2016\). “The Ugly Side of the Beautiful Game, p.51](#)). Franchises are prevalent in the retail and quick service restaurant sectors, such as McDonalds, and are not tallied in the total employee count. Nonetheless, they can be tallied by aggregating data provided by different sources (e.g.: specific country pages of company websites, franchisee home pages). Independent contractors are prevalent in the shipping sector, e.g.: Fedex (vs. a unionised workforce at UPS). Tallying this data would give a more accurate picture of the company’s employment footprint.

				An important trend in the field of online on-demand platforms is the classification of workers as independent contractors instead of employees. The implications of this include arrangements that allow employers to circumvent minimum wage rates and withhold social benefits while shifting risks onto workers by denying workers' compensation, sick leave, other employee safety nets and the right of collective bargaining.
1.2 Does the company have a statement of policy that includes a commitment to uphold the working conditions of workers employed through business relationships, including labour agencies, franchises and independent contractors? <i>1.2.1 Is the statement of policy approved by a top executive officer and/or the board of directors?</i>	Governance and policy commitments	Sustainability report, Code of Conduct, agreements with franchisees	OECD GLs; UNGPs	This information – combined with indicator 1.1 - helps identify the level of commitment by a company to upholding its responsibilities over the treatment of workers under the UNGPs and the OECD Guidelines. ¹⁶
1.3 Do the parent company's working conditions policies apply to the activities of subsidiaries (+50% of ownership), associates (20-50% of ownership), franchises and/or joint ventures?	Governance and policy commitments	Company website, Code of Conduct		This helps determine if all workers employed in different units of a given company with a complex organisational structure are covered by the lead company's policies. ¹⁷
1.4 What are the wages and working conditions provided to full-time employees that are not provided to temporary, part-time, labour agency, franchise and independent contractor workers delivering services on behalf of the company? <i>1.4.1 Does the company pay for or require that business partners pay for the social protection of temporary, part-time, labour agency, independent contractor and franchise workers delivering services on behalf of the company?</i>	Performance assessment	Sustainability report, company news	GRI: G4-LA2	In recent years, it has become more common for companies to issue news releases to highlight increases in benefits provided to employees. These press releases may also allow analysts to discern benefits provided to permanent employees relative to those provided to subcontracted, franchise or independent contractor workers. ¹⁸ This indicator would also reveal the differences in the employment model of online on-demand platforms. ¹⁹

¹⁶ For example, Starbucks' Global Human Rights Statement applies to Starbucks employees and it states that it "expects any parties who do business on Starbucks behalf to conduct business in ways that uphold the principles of this Policy." This does not provide reasonable grounds to believe that the company is taking proactive actions to ensure that licensees uphold the policy. Given that 76% of its stores in China/Asia Pacific are licensee operated – with the associated employees not reported in Starbucks' total employee count – the proactive gestures taken (or not taken) by Starbucks to uphold its policy among licensees are an important indicator.

¹⁷ For instance, as of May 2016, Spain's Grupo ACS owned 67% of Germany's Hochtief; Hochtief owned 70% of CIMIC (Australia) and CIMIC held 45% of Habtoor Leighton Group – a prominent construction contractor in Qatar. Despite Hochtief's International Framework Agreement with a Global Union, Habtoor Leighton Group has declined to provide disclosure to the Business and Human Rights Resource Centre on its approach to labour standards in Qatar. See [Business and Human Rights Resource Centre, "Migrant Workers in Gulf Construction."](#)

¹⁸ For instance, in April 2015, [McDonald's increased the wage for employees of company-owned restaurants in the US](#), a decision which affected 90,000 employees out of the 750,000 employees who work in a McDonalds' restaurant (company-owned and franchise) in the US. On the other hand, when [Wal-Mart announced that it would raise wages for Wal-Mart store employees](#), this measure covered all store employees in the US (1.3 million) and directly affected 500,000 workers. The Wal-Mart announcement did not mention whether the wages of temporary workers would also be increased. Temporary workers can make up to 20 percent of the workforce inside a Wal-Mart store (see [here](#) and [here](#)).

¹⁹ On-demand online platforms have different approaches to worker classification and, thus, the level of benefits provided. Companies such as [Uber](#) and [Taskrabbit](#) rely on independent contractors; on the other hand, [Shyp](#) and [Instacart](#) extend the option for contractors to join the company payroll as employees.

				<p>The benefits indicate the extent to which a company recognises its direct influence over workers that are part of these first-tier business relationships, i.e., a direct contractual relationship with a lead company.</p> <p>Social security payments are usually direct contributions made by an employer to a government and are usually shown as a deduction on an employees' pay stub.</p>
1.5 What is the number and rate – over time - of full-time/part-time/contractor workforce turnover by type of employment and by region?	Performance assessment	Sustainability report	GRI: G4-LA1	This indicator helps determine the trend in turnover by type of employment arrangement. High level of turnover warrants further investigation around risks of precarious work.
1.6 What is the turnover level relative to industry mean?	Performance assessment	Sustainability report, sector comparisons		Certain industry sectors may be characterised by higher turnover than others (e.g.: seasonal variations). This indicator should thus be compared with industry-level means if possible.
1.7 What is the average length of service of full-time/part-time/contractor workers by type of employment and by region?	Performance assessment	Sustainability report		Higher average length of service suggests more stability in the workforce and increases the likelihood that the workforce is satisfied and productive. ²⁰
2. Social Dialogue				<p>Rating agencies should go beyond an assessment of employee satisfaction surveys and evaluate the broader climate in industrial relations and social dialogue.</p> <p>In analysis of a workforce covered by collective bargaining, rating agencies need to evaluate country data points where related risks are most salient (e.g.: based on (i) employment footprint and (ii) company presence in high-risk countries).</p>
<p>2.1 What percentage of the workforce is covered by collective bargaining agreements, by region, compared with industry average?</p> <p><i>2.1.1 Do the topics included in collective bargaining agreements vary by region?</i></p>	Disclosure	Sustainability report, industry-level data	GRI: G4-11	<p>Provide figures on a key country basis. Relative level to industry average would be valuable.²¹</p> <p>In some countries, such as Spain, collective agreements cover all employees, not only the members of the trade unions that negotiated those agreements. These nuances need to be considered when evaluating figures provided by companies.</p> <p>Collective bargaining agreements may have payroll implications if, for instance, union dues are deducted directly from employee pay cheques or different salaries are paid for workers covered by the agreement. Therefore, companies should be able to relay this information.</p>

²⁰ For instance, average length of service at [McDonalds' in the UK](#) is 2.5 years vs. [9.4 years at utility company SSE](#).

²¹ An example of an informative disclosure is the one provided by Johnson Controls in its 2015 GRI report ([See G4-11 indicator](#)).

<p>2.2 Does the company have a statement of policy on freedom of association and collective bargaining?</p> <p><i>2.2.1 Does the company state that it upholds the ILO's Fundamental Principles and Rights at Work on freedom of association and collective bargaining?</i></p> <p><i>2.2.2 Is the statement of policy approved by a top executive officer and/or the board of directors?</i></p>	<p>Governance and policy commitment</p>	<p>Company website and sustainability report</p>	<p>ILO C098 and C087</p>	<p>Assess on a country basis. In the case of freedom of association, include specific qualitative information for the countries where those rights are at risk.</p> <p>Industrial relations models vary greatly from country to country, but, to the extent possible, information captured should be assessed against international norms and standards.²²</p> <p>Close attention should be paid to the tone and formulation used by the company.²³</p>
<p>2.3 Does the company carry out due diligence on freedom of association and collective bargaining?</p> <p><i>2.3.1 Does the company disclose the number of high risk operation sites, where ILO conventions on freedom of association and collective bargaining are not ratified?</i></p>	<p>Due diligence</p>		<p>GRI: G4-HR4; UNGPs; OECD GLs</p>	<p>Some companies indicate how they manage risks to the rights-holders²⁴ (e.g.: workers) in countries where freedom of association is at risk of violation.²⁵</p> <p>Disclosing the number of sites in high risk jurisdictions for freedom of association and collective bargaining (e.g.: countries that have not signed ILO Conventions 98 and 87) demonstrates that the company has developed a risk map and is thus more aware of potential issues at specific sites.²⁶</p>
<p>2.4 Have there been any work stoppages (strike and/or lockouts) in the company's operations over the past 12 months? If so, how have they been resolved?</p> <p><i>2.4.1 In the past 12 months, has the company been required to appear before an industrial tribunal to resolve an industrial dispute?</i></p> <p><i>2.4.2 In the past 12 months, has there been more than zero lost time due to industrial dispute?</i></p>	<p>Performance assessment</p>	<p>News sources, union websites</p>	<p>SASB accounting metric</p>	<p>This disclosure cannot be evaluated simply based on quantitative metrics. It requires an analysis of the scale of the strike or lockout, peer comparison and position in economic cycles.</p> <p>Regular and ongoing strikes in the company's operations may indicate problems in the quality of social dialogue.</p>

²² Sustainability disclosures should be closely compared with Annual reports (e.g.: 10-k form).

²³ For example, [Starbucks stops short of using the ILO terminology](#) "Freedom of Association", rather it uses the term "free association" and it delegates enforcement responsibility to "every partner"; this suggests that executive management does not take full ownership of the policy.

²⁴ Rights holders is the term utilised in [OECD](#) and [UN](#) publication to define individuals who are potentially impacted by company operations (e.g.: communities, workers)

²⁵ For instance, [Vinci has established a Human Rights Committee which notably includes the human resources directors of companies located in potentially sensitive regions](#).

²⁶ See [Iberdrola \(2015\), "Sustainability Report", p.171](#).

<p>2.5 Is there (i) any pending litigation against the company brought forward by employees or employee representatives or (ii) has the company initiated litigation seeking penalties against workers and/or their trade union?</p>	<p>Performance assessment</p>	<p>Annual reports, Business and Human Rights Resource Centre (B&HR), union websites</p>		<p>Companies may be required to disclose material pending litigation. However, this threshold – and the element of subjectivity - may result in an underreporting of proceedings that relate to upholding human and labour rights responsibilities.²⁷ Thus, the analyst should monitor pending lawsuits against companies and ensure that this includes an analysis of lawsuits against foreign subsidiaries.</p> <p>Litigation against workers and trade unions are indicative of a company with poor social dialogue that is engaging in approaches to labour management that generate financial and reputational risk, as well as strained labour relations in the medium to long term.</p>
<p>2.6 Is there an active International Framework Agreement (IFA) between the company and a union?</p> <p><i>2.6.1 Are there annual progress updates from employer and employee representatives on IFA implementation?</i></p>	<p>Performance assessment</p>	<p>Company website, union websites</p>	<p>Global Union Federation Framework Agreements list</p>	<p>IFAs demonstrate an advanced level of collaboration between workers and management.</p>
<p>2.7 Does the company encourage, remain neutral or discourage social dialogue and/or employees from joining trade unions?</p> <p><i>2.7.1 Has the company produced advertising that discourages freedom of association?</i></p> <p><i>2.7.2 Has the company refused to bargain in good faith when a union sought recognition to bargain?</i></p> <p><i>2.7.3 Has the company dismissed union members for their union activities?</i></p> <p><i>2.7.4 Has the company issued statements calling for workers to withdraw from their union membership?</i></p>	<p>Performance assessment</p>	<p>News sources, trade association policy submissions, trade unions (website/releases), sustainability reports, Annual Reports</p>	<p>ILO CO87, CO98, CO135</p>	<p>This indicator is related to the recognition of the representational role of trade unions as the collective voice of the workforce and commitment to workplace democracy.</p> <p>This indicator requires the evaluation of multiple sources of information which, assessed together, enable an analyst to formulate an answer.</p> <p>Trade unions should be included as a source of information for company attitudes towards unions.</p> <p>Sustainability disclosures should be closely compared with Annual Reports to identify mutually negating statements/actions.²⁸</p>

²⁷ For instance, [in the US](#), no information need be given on “material pending legal proceedings... if the amount involved, exclusive of interest and costs, does not exceed 10 percent of the current assets of the registrant and its subsidiaries on a consolidated basis.”

²⁸ For instance, Chiquita has an International Framework Agreement (IFA) with the IUF and the banana workers’ trade union COLSIBA. It says that over 60% of its banana employees are members of a trade union and 100% are covered by written agreements detailing wages, benefits and working conditions negotiated with trade unions or – as in Costa Rica – permanent committees. However, in its investor filings, the company identifies labour issues as a risk factor. It says that “while we respect freedom of association, increased unionization of our workforce could lead to increases in our operating costs and/or constraints in our operating flexibility.”

<p>2.7.5 <i>If the company has one or more collective agreements in place, are those agreements negotiated with a trade union with representational rights to cover the company's employees?</i></p>			<p>Close attention needs to be paid to the legitimacy of the trade union the company deals with in countries where company-controlled unions are prevalent.²⁹</p> <p>The level of executive commitment to social dialogue is an important indicator of a company's approach to workers' rights.</p>
<p>2.8 Is the company involved in initiatives or bodies that discourage social dialogue and/or freedom of association at the local, national and/or international level?</p> <p>2.8.1 <i>Is the company member of trade associations whose advocacy towards governments or standard setters discourage social dialogue and/or freedom of association?</i></p> <p>2.8.2 <i>Has the company dissociated itself from trade association positions that discourage social dialogue and/or freedom of association?</i></p> <p>2.8.3 <i>Has the company made donations to civil society organisations that discourage social dialogue and/or freedom of association?</i></p>	<p>External engagements</p>	<p>Trade association websites, public policy submissions, trade union websites, B&HR</p>	<p>Rating agencies should have a functional understanding of the voice that is projected by trade associations – which is implicitly endorsed by member companies, unless there is an explicit dissociation by a company from a trade association position - on the matter of workers' human rights and labour standards. This sheds light on a company's role in reinforcing or weakening existing international norms and standards.</p> <p>Ad hoc monitoring of policy submissions allows analysts to track this indicator.³⁰</p> <p>Instances where companies publicly dissociate themselves from trade associations of which they are members will often appear on the Business and Human Rights Resource Centre webpage.³¹</p>
<h3>3. Workforce Participation</h3>			<p>The company's commitment to involvement of its workforce in its affairs leads to more productive workplaces as a result of greater cooperation and collaboration, better and more informed decision making and successful implementation of ideas, attraction and retention of skilled staff, workplaces that are better able to cope with change, minimisation of employer/employee disputes and minimisation of employee claims against the employer.³²</p> <p>An employee satisfaction score - based on surveys - on its own does not demonstrate continuous engagement with the workforce.</p>

²⁹ For instance, [according to the US Department of State](#), protection (company-controlled) unions are a problem in all sectors in Mexico. [There is evidence](#) - for instance in the auto sector - that foreign companies are occasionally complicit in colluding with protection unions, thereby undermining legitimate trade unions.

³⁰ For instance, the US Chamber of Commerce has recently invoked US laws to downplay corporate responsibilities under international norms and standards in the [public consultation on the Corporate Human Rights Benchmark](#).

³¹ See the example of [tech companies dissociating themselves from the US Chamber of Commerce](#) over conflict mineral disclosures in the US.

³² See [Australia Fair Work Ombudsman](#).

3.1	What is the level of workforce participation in the affairs of the company through (i) worker representation at the board level, (ii) company-level work councils and (iii) formally established workforce participation mechanisms, compared to peers?	Governance and policy commitment	Annual reports, Sustainability reports		This indicator should account for the corporate governance arrangements in place throughout a company's operations to effectively weigh company commitment to workforce participation. Formally established workforce participation mechanisms include European Works Councils.
3.2	Do employee representatives participate in the elaboration, application and verification of the company's social responsibility commitments?	Governance and policy commitments	Sustainability report, company website		Trade union or worker participation in various reporting functions demonstrates an advanced level of collaboration between workers and management. ³³
3.3	Does the company have a statement of policy on board diversity that requires the inclusion of an independent director with expertise in labour relations, workforce development and workforce health and wellbeing?	Governance and policy commitments	Company website, annual reports		A company's commitment to labour standards is enhanced by ensuring in-house, independent expertise.
3.4	Does the company recognise the presence of trade union representatives and elected representatives within its operations? <i>3.4.1 Does executive management initiate periodic (not less than annual) discussions with senior trade union leaders?</i> <i>3.4.2 Does the company recognise the right of worker representatives to communicate with workers (i) throughout operation sites and (ii) in the activities of suppliers?</i>	Performance assessment	Company websites, union websites, sustainability reports	ILO CO135	This indicator helps evaluate a company's commitment to the involvement of its workforce in the affairs of the company. ³⁴
3.5	Does the company consult with the workforce on retrenchment or the introduction of technological change that impacts the workforce?	Performance assessment	Company website, union websites		It is important to consider in sectors where human tasks face prospects of being digitalised or mechanised.
4. Supply Chain					When evaluating a company's approach to the consideration of human and labour rights in its supply chain, analysts should have a wider understanding of the structural issues relating to the efficacy of the different mechanisms employed by companies to monitor supplier adherence to norms and standards. The predominant model of company-led social audit has demonstrated its failings in numerous instances and has been documented in academic circles. ³⁵ Best

³³ For example, see Repsol (2014). "Informe de Responsabilidad Corporativa", p.23, or [reports](#) by the IndustriALL coordinator of the implementation of the Inditex Framework Agreement.

³⁴ Examples include [Inditex, and Repsol](#).

³⁵ For a good primer, see "[AFL-CIO \(2014\). Responsibility Outsourced: Social Audits, Workplace Certification and Twenty Years of Failure to Protect Worker Rights.](#)" Academic studies that provide a critical evaluation of social auditing include the following: O'Rourke, D., "Monitoring the Monitors: A Critique of Corporate Third-Party Labor Monitoring," in Jenkins, R., Pearson, R. and Seyfang, G. (eds.), [Corporate Responsibility and Ethical Trade: Codes of Conduct in the Global Economy](#), (Earthscan, 2002), pp. 196-208; Barrientos,

				<p>practice in effectively upholding international norms and standards (e.g.: UN Guiding Principles for Business and Human Rights, OECD Guidelines for Multinational Enterprises) warrants independent oversight of the social audit systems with teams made up of business representatives, local and international unions and NGO representatives named by workers.</p> <p>Analysis should focus on key countries based on (i) volume of business with specific suppliers and (ii) suppliers present in high-risk countries</p>
<p>4.1 Does the company disclose the number of (i) tier 1 and (ii) tier 2 suppliers, as well as top countries where suppliers are located?</p> <p><i>4.1.2 Does the company disclose the number of workers employed by its tier 1 and tier 2 suppliers?</i></p>	Disclosure	CDP report	CDP	<p>This figures gives an idea of the scope of suppliers that a company transacts with.³⁶</p> <p>Some companies provide an estimate of the number of workers employed by tier 1 and tier 2 suppliers.³⁷</p>
<p>4.2 Is there an explicit recognition of the company’s responsibility to avoid or mitigate adverse human rights impacts in its supply chain?</p> <p><i>4.2.1 Does the company indicate how it mitigates risks through the duration of contracts with suppliers?</i></p>	Governance and Policy Commitments	Company documents	UNGPs; OECD GLs	Length of relationships with suppliers are a key factor to mitigate workers’ rights risks in the supply chain.
<p>4.3 Does the company have a statement of policy on working hours and compensation for supplier employees?</p> <p><i>4.3.1 Does the maximum number of work hours exceed 40 hours per week?</i></p> <p><i>4.3.2 Does the company state that overtime needs to be paid and voluntary?</i></p>	Governance and policy commitment	Sustainability reports, industry initiatives	ILO Instruments ³⁸	A policy that cites a maximum number of work hours of 48 sends a specific signal to suppliers. However, enforcement of working hour provisions is only effective if accompanied by credible and effective inspections that assess compliance with international standards. Otherwise, exceedance of the stated number of maximum work hours may be systematic. ³⁹

S. and Smith, S., “[Do Workers Benefit from Ethical Trade? Assessing Codes of Labour Practice in Global Production Systems](#),” *Third World Quarterly*, 28:4 (2007); Locke, R.M., Qin, F. and Brause, A., “Does Monitoring Improve Labor Standards? Lessons from Nike”, Cornell University ILR School, *ILR Review*, 61:1 (2007); Anner, M., “[Corporate Social Responsibility and Freedom of Association Rights: The Precarious Quest for Legitimacy and Control in Global Supply Chains](#)”, *Politics & Society*, Vol. 40, No. 4 (2012), pp. 609-644.

³⁶ Examples include [H&M](#), Ikea (see [tier 2 suppliers \(p.66\)](#)).

³⁷ Examples include [Apple](#) and [H&M](#)

³⁸ See [ILO International Labour Standards on Working Time](#).

³⁹ For instance, Apple limits the work week of the workers of its suppliers to 60 hours per week. In [2015, it achieved a 97 percent compliance](#) across all workweeks and the average workweek was 55 hours. Apple is a member of the Fair Labor Association, which states that “The regular work week shall not exceed 48 hours...Employers shall not request overtime on a regular basis and shall compensate all overtime work at a premium rate.” Thus, in the case of Apple, the 97 percent compliance to its standard is deceptive relative to the FLA Code of Conduct and ILO MNE Declaration.

<p>4.3.3 Does the company take proactive measures to avoid excessive overtime in periods of peak demand?</p> <p>4.3.4 Does the company state how frequently suppliers have breached the policy?</p>			<p>Supply chain weekly work hours may exceed a 48 hour average in the operations of companies in different sectors (e.g.: electronics). This exceeds the hours of work prescribed by ILO instruments. Thus, analysis should go beyond simple peer comparison and take into account the proximity of the company's standard to the ILO MNE Declaration: "MNEs are encouraged to progressively reduce the normal hours of work from 48 hours to 40 hours."⁴⁰</p>
<p>4.4 Does the company recognise specific risks for migrant workers in the activities of suppliers?</p>	Due diligence	Company websites, Codes of Conduct	<p>Migrant workers face unique risks in global supply chains because they are often more vulnerable to employer abuses as a result of their migratory status. This is applicable across multiple sectors and countries (e.g.: electronic industry workers in Malaysia, construction workers in Qatar, quick service restaurant workers in Canada).</p>
<p>4.5 Does the company conduct supplier due diligence during (i) prequalification stages and (ii) on an ongoing basis?</p> <p>4.5.1 Does the company conduct supplier audits using independent and external auditors?</p> <p>4.5.2 Are supplier audits unannounced?</p> <p>4.5.3 Does the company require corrective action plans to be produced and implemented when human rights violations are uncovered in the supply chain?</p> <p>4.5.4 Does the company publish the audit reports and progress reports of remedial action?</p>	Due diligence	Sustainability report, civil society reports, union websites	<p>If a company only indicates that it conducts supplier due diligence in the prequalification stage, this increases the risk of adverse human and labour rights impacts in the operations of suppliers once the supplier is contracted.</p> <p>If a company carries out supplier audits, the quality and governance of the audit system is a key point. A robust audit system usually involves the following key stakeholders: business representatives, local and international unions, and NGO representatives named by workers. This provides for a degree of independence from the company in the audit process.⁴¹</p> <p>Prevailing forms of audit systems include supplier self-audits,⁴² auditing of suppliers by the lead company (by lead company inspectors or hired auditors) and multi-stakeholder audit systems.</p> <p>Within multi-stakeholder processes, there is an added layer of credibility for processes that include trade union representatives in the governance structure of audit systems. This increases both the independence of the audit and the likelihood that failings will be flagged and taken into account by companies (e.g.: Bangladesh Accord, Global Framework Agreements).</p> <p>Lack of trade union representation in multi-stakeholder audit systems often leads to a gap in the independence of the auditing schemes. For</p>

⁴⁰ See [ILO Q&A's on business and working time](#).

⁴¹ See footnote 25.

⁴² For instance, [Amnesty International \(p.52\)](#) recently demonstrated failures in the self-auditing process of subcontractors in the construction sector in Qatar whereby subcontractors would contract and deal with the auditors before transmitting the reports to the main contractors (e.g.: multinational construction firms).

				instance, the Fair Labor Association has often been criticised for the lack of worker voice in the governance of the organisation and this has had consequences on the credibility of the FLA audit process. This was illustrated in 2012, when news media noted that the FLA CEO's "apparent praise of conditions at Foxconn [Apple supplier] came despite previous reports of employees committing suicide, dying in factory explosions and complaining of sometimes working more than 70 hours a week." ⁴³
4.6 Does the company encourage its subcontractors and/or labour agency hires to maintain collective agreements covering employees and contractors working for, or supplied to, the company?	Due diligence			This reflects a company's commitment to influence labour standards across its entire supply chain, thereby reducing risk of labour dispute outside the company's immediate control. ⁴⁴
4.7 Does the company take proactive measures to avoid or mitigate adverse human rights impacts for workers in high-risk countries in its supply chain? <i>4.7.1 Does the company promote the formation of joint health and safety committees in worksites (including workforce representatives chosen by the factory's trade union or democratic election where there is no trade union)?</i> <i>4.7.2 Does the company facilitate the election of workers' representative committees to safeguard freedom of association in its supply chain, by region?</i> <i>4.7.3 Does the company require that workers are employed and paid by the supplier, not by agents, sub-agents or third parties?</i>	Performance assessment	Company documents	Bangladesh Accord; GRI: G4-LA15; UNGPs	A number of companies take proactive measures to uphold worker rights in their supply chains. Bangladesh Accord signatories are expected to promote the formation of joint health and safety committees. Some companies have recently facilitated the creation of national trade union networks in their supply chains while implementing Global Framework Agreements. ⁴⁵ Companies in the electronics sector have started banning the practice of having suppliers outsource employment. As a result, these workers are now employed by a lead company's supplier, not by recruitment agencies or other third parties used by the supplier. Direct employment by suppliers provides a better ability for lead companies to track the treatment of workers and offers greater protections to workers. ⁴⁶
4.8 Does the company reward suppliers with the highest levels of labour rights compliance?	Performance assessment	Sustainability report, civil		

⁴³ See [New York Times \(2012\). "Early Praise in Inspection at Foxconn Brings Doubt."](#)

⁴⁴ Farstad (Indian Pacific) Pty Ltd (Integrated Ratings, Cooks and Caterers) Offshore Oil and Gas Enterprise Agreement 2015 approved by the Australian Fair Work Commission on 11 September 2015 [contains the following provision](#): Clause 16.3 "In the event that Farstad engages a contractor to supply personnel to fill any of the classifications covered by this Agreement, it will ensure they are paid wages and conditions no less favourable than those provided in this Agreement". The rationale behind the collective agreement containing such a provision is, first, to ensure that contractors do not provide for wage competition for the same jobs, and, second, to ensure that suppliers are not the subject of dispute which adds business risk.

⁴⁵ In November 2016, [Inditex was the first company](#) to help create a national trade union network in its clothing production supply chain in Vietnam.

⁴⁶ See [HP Company Supply Chain Foreign Migrant Worker Standard Guidance](#) (2016).

		society reports, union websites		
5. Occupational Health and Safety				Strong company performance on health and safety issues entails strong controls, systems and support for employees on physical and mental health issues.
5.1 Does the company report leading indicators (e.g.: near misses and unsafe conditions reported, safety discussions held, H&S audits, safety focused improvement events)?	Disclosure	Company websites		Certain companies have started promoting the use of leading indicators as better predictors of H&S performance. ⁴⁷ Improvements generally require a year-over-year increase in the performance metric.
5.2 Does the company have a statement of policy and practices to address mental health in the workplace? <i>5.2.1 Has the company contracted with an Employee Assistance Program (EAP) provider that can be confidentially accessed by its workforce?</i>	Governance and policy commitment	Company websites		Strong management of health and safety in the workplace can have short-term and long-term positive impacts on operational and therefore financial performance. ⁴⁸
5.3 What is the percentage of the total workforce represented in formal joint-management-worker health and safety committees, by region?	Performance assessment	Sustainability reports, company websites	GRI: G4-LA5	Analysis should focus on key countries based on (i) employment footprint and (ii) presence in high-risk countries.
5.4 What are the types of injuries and rates of injury, occupational diseases, lost days, absenteeism, and total number of work-related fatalities by region and gender? <i>5.4.1 What are the work-related fatalities, injury rates, lost day rates by region for employees?</i> <i>5.4.2 What are the work-related fatalities, injury rates, lost day rates by region for labour agency, franchise and independent contractors working on-site to whom the organisation is liable for the general safety of the working environment?</i>	Performance assessment	Sustainability reports, company websites	GRI: G4-LA6	This data is complex to analyse across different sources (Australian Standard: lost time injury rate; US OSHA: total recordable injury frequency rate), sectors and countries. To the extent possible, companies should be benchmarked against peers on their performance in specific countries. ⁴⁹ Larger employers are far more likely to have an injury and there is a concern that concentrating on injuries implies that health issues are secondary. Significant fatality rates, no matter the circumstances, should trigger concerns over the commitment of a company to employee H&S. The analyst should also monitor developments around the development of an international OHS standard.
5.5 What H&S training (at induction and ongoing) is provided to full-time employees that is not provided to temporary, part-time, labour agency, franchise and independent contractor workers delivering services on behalf of the company?	Performance assessment	Sustainability reports, company websites		This enables the analyst to capture information on (i) the level of commitment by the company toward H&S in general and (ii) the level of responsibility assumed to avoid adverse health and safety risk impacts for workers that are linked to the company through business relationships.

⁴⁷ See [Johnson Controls](#) (p.4).

⁴⁸ See "[Shareholder Association for Research and Education \(2015\), Psychological Health and Safety and the Canadian Financial Sector.](#)"

⁴⁹ For an example of comparison, see [data provided by construction companies over their operations in Qatar.](#)

6. Pay Levels				
6.1 Has the company committed to paying the minimum of a living wage to its workforce? <i>6.1.1 Is the company encouraging the payment of the minimum of a living wage among its suppliers and subcontractors and, if so, how?</i>	Governance and policy commitment	Sustainability report		The concept of the living wage has gained significant support from government, civil society and industry in the UK, and is gaining popularity in other countries. Important progress has also been made in recent years around the identification of a living wage in various countries where companies have extensive supply chain footprints. For instance, the Asia Floor Wage provides evidence-based living wage estimates.
6.2 Does the company ensure that everyone, without any discrimination, has the right to equal pay for equal work?	Performance assessment	Sustainability report	ILO CO100, CO111; UN Declaration of Human Rights: Article 23.2	
6.3 What is the CEO-to-median worker pay level, relative to industry average?	Performance assessment	Proxy circulars		This metric should be evaluated through industry/sector comparisons and factored in where the information is available through regulatory disclosures (e.g: India).
6.4 How do average company wages compare with minimum wages in significant locations of operation? <i>6.4.1 Has the company negotiated collective bargaining outcomes that maintain or improve real wages, i.e. annual wage growth which exceeds the nation's price movement index?</i>	Performance assessment	Sustainability report	GRI: G4-EC5	
6.5 Does the company operate an employee financial participation scheme? <i>6.5.1 Does the financial participation program include all company workers, including part-time, outsourced workers or franchisee employees?</i> <i>6.5.2 Does the scheme require workers to commit their own money to the scheme?</i>	Performance assessment	Proxy disclosures		This indicator needs to be considered by country and company-specific context. For instance, smaller companies may offer financial participation schemes to attract skilled employees when they are in their growth path and have insufficient cash flows. These schemes, however, do not replace worker voice. Schemes that require workers to commit their own money are likely to effectively exclude low-paid workers and to deliver greater benefits higher paid workers.
7. Grievance Mechanisms				An effective grievance mechanism should be independent and provide workers with a channel of communication that does not involve their direct supervisors. This enhances employee confidence in the degree of independence of the process and removes the risk of retaliation by supervisors.

7.1	Does the company have an operational-level grievance mechanism that provides workers with access to remedy?	Governance and policy commitment	International Framework Agreement, union websites	UNGPs	
7.2	Does the process to deal with employee grievances include the presence of trade union representatives?	Performance assessment		ILO Recommendation 130	
7.3	Can suppliers and supplier workforces file formal grievances? <i>7.3.1 Does the company take proactive measures to ensure that suppliers' workforces are aware and familiar with the grievance mechanism procedure?</i>	Performance assessment	Codes of Conduct, company websites, sustainability report		Leading companies provide suppliers and supplier workforces with a reporting channel that is easy to access and locally adapted. This includes ensuring that employees with lower education levels (e.g.: not literate) and lack of access to modern technologies are able to utilise the mechanism in their own language. ⁵⁰
8. Training and Development					The company's commitment to accepted sector, industry, national or international vocational standards.
8.1	Does the company offer programs for skills management and lifelong learning that support continued employability of employees? <i>8.1.1 Does the company financially support its employees to improve their employability, productivity and adaptability to change, and to better prepare for career advancement by gaining vocational qualifications and or occupational licenses?</i> <i>8.1.2 Do trade unions and/or worker representatives take part in determining the type and scope of program offered by the company?</i>	Performance assessment	Sustainability report, company website	GRI: G4-LA10	
8.2	Do all categories of workers (full-time, part-time) by permanent/contract/temporary employment type have access to training and development programs?	Performance assessment	Sustainability report, company website		
9. Workplace Diversity					
9.1	Does the company have a statement of policy on workplace diversity?	Governance and policy commitment	Company website, securities filings		
9.2	Is the company implementing a workplace diversity policy that promotes gender, ethnic and age diversity?	Performance assessment	Proxy circular, Annual Report		This should be assessed against the presence (or not) of jurisdiction specific legislation. An increasing number of jurisdictions have

⁵⁰ Unilever has been developing and continuously improving its reporting system for employees, suppliers and their workforce since 2012, using web-based reporting, telephone and email systems.

<p>9.2.1 Is there any evidence of successful implementation of gender equity and diversity policies (e.g. proportion of senior or board positions filled by women and disadvantaged ethnic groups)?</p>				<p>adopted “comply or explain” board diversity legislation in recent years. Companies should be evaluated on their annual improvements in (i) the quality of their “comply or explain” disclosure and (ii) their actual progress in moving toward the objectives behind the legislation.⁵¹</p>
<p>10. Pension Fund Contributions for Employees</p>				
<p>10.1 Does the company contribute to a company or industry pension fund for its employees?</p> <p>10.1.1 Does the company have the same contribution rates for staff and executive officers?</p>	<p>Performance assessment</p>	<p>Annual Report, Financial Statements (notes)</p>		<p>The average multinational has a complex web of pension arrangements. The financial statements usually provide some detail on home country and foreign country pension arrangements. Analysis should, at a minimum, evaluate the gap in pension benefits between executives and employees in the company’s headquarter country. There is increasing recognition among investors that pension benefit arrangements of executive management should be in line with those of the wider workforce.⁵²</p>
<p>10.2 Does the governance board of the pension fund include both employer and fund member representatives nominated by employers and trade unions or workforce respectively?</p>	<p>Performance assessment</p>	<p>Annual reports, separate pension plan websites</p>		<p>Separate websites may disclose the pension plan details, investment policy statements.⁵³</p>

⁵¹ For instance, Ontario has adopted board diversity disclosure requirements [“that will encourage greater representation of women on corporate boards and in senior management teams.”](#) In this case, a company’s actual progress in moving toward the objectives behind the legislation would consist in having improving representation of women on corporate boards up to a satisfactory level (which hovers between one third and two thirds).

⁵² For example, see [Hermes \(p.5\)](#) and the [Legal and General Investment Management \(p.3\)](#) 2016 remuneration principles.

⁵³ For example see [La Caixa Employees Pension Plan.](#)

Appendix: Key International Norms, Standards and Frameworks

- United Nations Guiding Principles on Business and Human Rights
- ILO Fundamental Conventions
- ILO Declaration on Fundamental Principles and Rights at Work
- ILO MNE Declaration
- OECD Guidelines for Multinational Enterprises
- Global Reporting Initiative (GRI)
- Universal Declaration of Human Rights