



Roadmap to implement Freedom of Association (FoA), Collective Bargaining (CB) and Worker Representation (WR)

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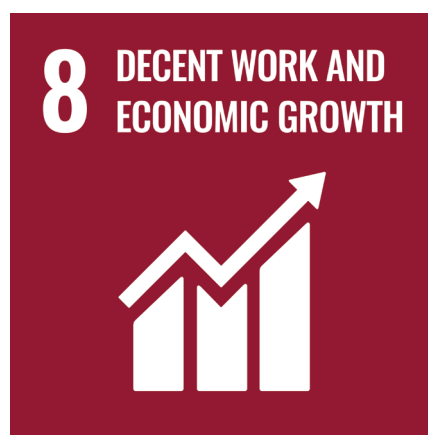
Introduction

Freedom of Association (FOA) has been important to form the society we have in Norway today, and the benefits workers in Norway have. Just to mention a few; annual leave, maternity and paternity leave, pay increase, sick leave and the list goes on. This human right is not as strong all over the world, on the contrary it's even forbidden in some countries, or within some companies. Freedom of Association, the right to form trade unions and collectively bargain, receives much less exposure and faces active opposition than other rights.

With this in mind, and the complex global supply chains that companies are working with, FOA can be difficult to work with. This guide is intended to make a step by step roadmap to enable and progress on Freedom of Association (FoA), Collective Bargaining (CB) and worker representation in the supply chain.

Enabling right to achieve decent work

FOA is a human right and one ILOs core conventions. It is also an enabling right. It is a complex, yet fundamental concept, as it is the key for workers to access other important workplace rights. In particular, it unlocks the door to collective bargaining and other effective mechanisms for worker representation. It involves raising awareness among workers of their rights, enables them to voice their concerns, and determines how disputes and grievances are handled in the workplace. Implementing FOA, including in the supply chain, is important to achieve the Sustainable Development Goals (SDGs), especially SDG 8 Decent work and economic growth, and SDG 12 Responsible consumption and production.



Address and resolve workplace human rights impacts

As a business sourcing products from the global marketplace, committing to meeting, promoting and supporting the right to freedom of association within your supply chains is part of being a responsible business. Responsible businesses recognize the absence of FOA, CB and worker representation as a salient risk to workers in their supply chains and how it affects the workplace in numerous ways.

Within due diligence mapping, freedom of association is a critical factor in assessing risk to workers, particularly in sourcing countries where the ability for workers to voice their concerns is suppressed and the legal framework, underpinning protection of worker rights, is weak or unenforced.

In sourcing countries where domestic laws and regulations conflict with international standards, businesses should seek to honour similar principles and standards to the fullest extent possible, without violating domestic law, in order to respect universal human rights.

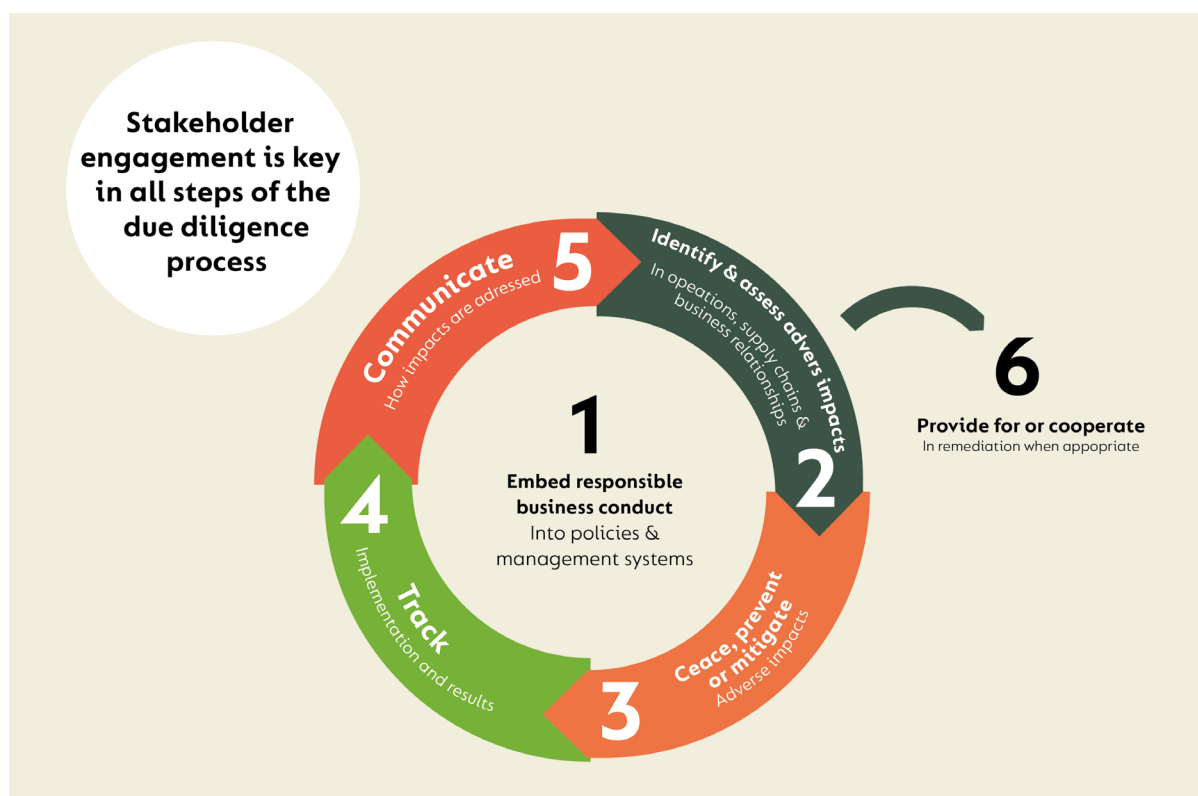
More than 40 per cent of the world's population lives in countries that have ratified neither ILO Convention No. 87 on freedom of association nor Convention No. 98 on collective bargaining; and in many countries that have ratified them violations of these rights persist in law and practice.

Due diligence with the FoA lense

The Ethical Trade Norway approach to due diligence is based on [UN Guiding Principles on Business and Human Rights](#) and [OECD Due Diligence Guidance for Responsible business](#). The purpose of this resource is to help companies implement Freedom of Association (FoA) and Collective Bargaining (CB). This roadmap is built around the six steps.

- Commitment and governance (step 1)
- Identify risk (step 2)
- Manage risk, seize opportunities and remedy (step 3 & 6)
- Tracking implementation and communication (step 4 & 5)

See the tool “Mapping and managing of Freedom of Association (FoA), Collective Bargaining (CB) and Worker Representation (WP)” that you can use throughout the process together with this guidance.



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Commitment and governance (step 1)

This section highlights the importance of the policy you have regarding workers' rights, namely freedom of association (FOA), collective bargaining (CB) and worker representation (WR). Your company's governance structure is key to implementation and progress on FOA, CB and WR.

Recommended actions:

1. Policy review

- a. Review current policy either as part of a scheduled review or as a specific activity
- b. Assess whether wording on workers' rights and protections is clear
- c. Appraise the scope of worker representation in overlapping areas such as health and safety expectations, and projects and programs
- d. Include women worker representation in codes of conduct
- e. Review policy position on collective bargaining and trade unions
- f. Consider strengthening:
 - i. Policy wording and expectation
 - ii. How implementation of the policy could be supported
 - iii. Examples of good practice within your supply chains
 - iv. Requirements for agents, suppliers and producers
 - v. Grievance mechanisms for reporting of breaches of policy or denial of workers' access to basic workplace representation
- g. Consider integration of FoA in other policies

2. Implementation and governance

- a. Develop and action plan for how the policy will be implemented and managed
- b. Implement and monitor your action plan
- c. Progress should be monitored and measured against goals

What should a policy say about FOA, CB and WR?

A clear policy is important as it expresses the organization's respect for workers in their supply chains, values workers' welfare, voice, rights and protections. The policy articulates your business commitment and contribution to mature industrial relations by respecting the collective formal voice of workers and to upholding, supporting and protecting workers' rights. A clear policy recognises the [universal core labour standards](#), even in countries that have not ratified ILO Convention No. 87 on freedom of association nor Convention No. 98 on collective bargaining.

See more in attachment 1: *Background and definitions*.

Along the way you might want to refine and upgrade your

policy and code of conduct. This is why the step of commitment is at the core of the due diligence model, you have to come back to it again and again as more knowledge is obtained.

Policy wording

When developing, reviewing or refining your policy of FOA, CB and worker representation we recommend using the universally accepted wording in ILO conventions. Build an overall statement that your company respects the rights of both employees and workers in your supply chain to access and exercise their right to freedom of association and collective bargaining.

A worker-centred policy based on core labour standards should - at a minimum - respect the Ethical Trade Norway's Declaration of Principles, international legal and policy frameworks. For members see templates on [member website](#).





Promoting support for FOA, CB and WR as a fair and balanced mechanism for reaching agreements between workers and managers should include implementation clauses giving substance to the statement. In particular, we recommend:

- Freedom of association is the right of all workers, without exception, to establish and join organisations of their own choosing without prior authorisation and without interference from government or their employer.
- Collective bargaining is supported and recognised as a mechanism for reaching agreements on how the relations between a supplier and its workers will be governed.
- Workers' rights and protections extend to all tiers of the supply chain - where FOA is restricted and where unions cannot operate, the best available form of independent worker representation should be pursued.
- Where trade unions face significant challenges to carry out legitimate activity this should not be used as a reason to establish alternative forms of representation that frustrate or interfere with trade union access or engagement in the future.
- Comply with both national law and international instruments and standards on freedom of association and collective bargaining.
- Workers of all status be they permanent, temporary, contract or seasonal will have access to fundamental workplace rights and protections.
- Workers have the right to raise concerns without fear of intimidation or reprisal.

Additional wording could include:

- Support workplace social dialogue and consultative industrial relations based on respect for the worker's chosen trade union or elected representatives.
- Support for early dispute resolution, grievance mechanisms and remediation action plans agreed with freely elected worker representatives.
- Ensuring that trade union or freely elected worker

representatives participate in the audit process, including to verify audit findings, as appropriate.

- Promote capacity-building for worker representatives and employers, in order to help them enter into dialogue, consultation or negotiations in a professional and effective manner.

Integration of FoA in other policies

Depending on the size of your company, you might have several policy-documentations. The universal nature of freedom of association, collective bargaining and worker representation lends itself to integration into all aspects of company supply chain policy commitments.

A review therefore could include adding expectations on freedom of association, collective bargaining and worker representation into other policies, such as:

- **Safety, health and well-being policy** – for example, the right of workers through their worker representatives or trade union committee, to raise collective concerns on matters pertaining to their safety, health and well-being. This could also be suggestions on improvements, participation in audits or continuous improvement initiative or systems.
- **Environmental performance or if integrated as Safety, Health and Environment (SHE)** – for example, similar to above but with specific focus on environmental safety such as use of hazardous chemicals but also on carbon reduction, water usage or energy savings.
- **Equality and diversity** – for example, the right of all workers, regardless of race, religion, gender or nationality, to access their rights and protections and be collectively represented through worker representation or a trade union. This could also apply to cross border or internal migration of workers.
- **Grievance mechanisms** – for example, elected worker representatives or the local trade union participate in the design and development of grievance mechanisms.





Wider policy considerations

As you expand the scope of the policy and set requirements for suppliers, we recommend keeping the following considerations in mind:

- **Export processing zones** – Many governments will seek to exclude trade unions from organising within export processing zones, even if workers are free to organise elsewhere in the country. We recommend supporting the right of all workers to be able to access and enjoy their rights and protections on site even where this goes above and beyond the local law.
- **Recognising situations where unions face significant challenges to carry out legitimate activity exists** – this should not be used as a reason to establish alternative forms of representation that frustrate or interfere with union access or engagement in the future. On the contrary policy text ought to affirm that steps should be taken to help build social dialogue, develop worker and employer industrial relations skills, support engagement with unions and build the relations that will enable full representation. This would be applicable when:
 - » **Union access to the workforce is denied** – Employers may inhibit unions from being able to communicate with the workers.
 - » **There is interference with union activity** – Suppliers may seek to influence elections or influence the ability of a trade union to represent the interests of its members. Removal of workers from registers reflecting lower density of permanent workforce required to form a trades union.
 - » **Victimisation of union representatives or workers expressing desire to unionise** – This may manifest in outward or obvious discrimination, intimidation and even violence or murder. It may also be subtle through, for example, relocation of workers.
 - » **Refusal to recognise and bargain** – Suppliers may allow their workers to join unions but undermine the value of workers' union membership by refusing to recognise or bargain with the union.
 - » **Denial of information** – To prevent trade union representatives from bargaining meaningfully, some suppliers refuse to provide them with sufficient information about the issues in hand.
 - » **Threats that hinder bargaining** – Companies can use threats to inhibit workers' ability bargain effectively, e.g. by threatening to move their operations to a prohibitive location.

» Externally communicated and implemented through supplier training, independent projects and programmes such as the Social Dialogue programme or country working groups.

- **The reach of the policy** – for example, the supply chain tiers and types of worker covered, including whether it covers vulnerable workers (e.g. casual, seasonal, migrant or temporary workers).
- **Expectation of new and existing suppliers.** The policy commitment to freedom of association, collective bargaining and independently elected representatives should also be included in supplier self-assessment questionnaires (SAQs).
- **Ownership and stewardship of the policy**, for example, lines of accountability, reporting and review frequency, and how the commitment is supported.
- **Where available, examples or reference** to where your organisation has evidence of good practice or formal arrangements such as Global Framework Agreements (GFAs).
- **Available complaints mechanism** whereby breaches of policy on access to FOA, CB and worker representation can be reported.

Developing your action plan

Implement and monitor your action plan.

- **In order to prioritise opportunities to improve freedom of association within your company's supply chain:**
 - a. Verify that actions were conducted within the agreed period.
 - b. Progress should be monitored and measured against goals.
 - c. Monitor and assess progress at a corporate and supplier level. Many larger enterprises have developed systems of supplier audits to measure compliance with their required level of performance on social and environmental issues. While these systems can work well to monitor suppliers' performance on issues such as greenhouse gas emissions, they are typically less effective in monitoring human rights violations in the supply chain.
 - d. Consult and communicate your requirements and plans.
 - e. Businesses should communicate and disclose their due diligence steps and report on the actions taken to prevent and mitigate negative impacts to their stakeholders, including recognised trade unions.
 - f. Implement continuous improvements mechanisms for more effective monitoring.
- **Ensuring suppliers' ongoing commitment to freedom of association and collective bargaining** requires a process of continuous improvement and monitoring. Provide constructive feedback to suppliers on any changes required to managers' attitudes and practices.
- **If all fails** – discontinue your business relationship with the supplier. If after various attempts at remediation, a supplier is unwilling or unable to comply, companies should end their business relationship with the supplier in question in a responsible manner.

Implementation and governance

A well thought through policy though goes beyond statements or broad stroke acknowledgement of worker's rights and protections - It should also include:

- **Information on how the policy will be implemented and managed**
 - » Internally managed and monitored, through, for example, management standards or a KPI system





Identify risk (step 2)

This section draws attention to the importance of identifying risk through the freedom of association (FOA), collective bargaining (CB) and worker representation lens. FOA as an enabling right and the key to unlocking other international labour standards, needs particular attention when identifying risk to workers.

Recommended actions:

1. Identify key risk to workers

2. Country assessment: Build understanding of the risk to workers in the sourcing or production country:

- a. Legal compliance
- b. Trade union verification
- c. Campaigning information

3. Site assessment

- a. Using the RED FLAGS for suppliers - map risks relating to suppliers throughout your supply chain, prioritising strategic suppliers.
- b. Additional consideration should be given to repressive countries.
- c. Consult widely with trade unionists and other labour stakeholders.

Understanding risk – key salient risk to workers

Companies usually understand 'risk' as referring to commercial risks to the enterprise – financial, operational and reputational. However, human rights risks are equally as important, and all due diligence procedures should identify and address risks to workers.

Freedom of Association (FOA), the right to form or join a trade union and collectively bargain (CB), receives much less exposure than other rights, even though it's subject to active opposition and recognized as an enabling right that can unlock other human rights. Responsible business, through their commitment to human rights at work, recognise the absence of freedom of association, collective bargaining and worker representation as a salient risk to workers in their supply chains.

Assessing risk

Through your due diligence mapping, ensure that you understand whether workers can freely associate which means they can form or join a trade union of their choice. This is a critical factor in assessing the level of human rights risk facing workers in your supply chain, particularly in sourcing countries where worker representation and trade union activity are suppressed, and where the legal framework underpinning protection of worker rights is weak or unenforced.

First you have to understand the wider context and do a country assessment, secondly a supplier assessment.

See attachment 2: FOA, CB and worker representation indicators
See attachment 3: Entry points to worker representation, mapping and actions

See the tool "Mapping and managing of Freedom of Association (FoA), Collective Bargaining (CB) and Worker Representation (WP)"

Beyond audit

Using the audit process alone to understand whether workers have access to the rights of freedom of association (FOA), collective bargaining (CB) and worker representation can present distinct challenges. Companies have shared that the relevant audit box may be ticked or signed off as "all in order", but the reality may be quite different.

FOA may be difficult to assess on site, as nuances of threats, harassment and intimidation of workers are easily masked on the production floor and create an environment where workers fear speaking out on issues that concern them. Collective bargaining through independent trade unions, however, should be visible through documented processes and records.

In the case of elected worker representatives, there should be evidence of worker nominations, secret ballots, terms of reference, worker meetings and meetings between workers and managers, through which worker concerns are raised.

See more in attachment 4: Beyond audit

It is important to commission auditors with strong knowledge of freedom of association and collective bargaining, appropriate skills for determining whether workers have access to these rights, and who understands the risk to workers in the relevant sourcing country.





Suggested mapping entry points

- 1: Workers cannot voice their concerns freely and there is no worker representation
- 2: Workers have some recourse to dialogue with employers
- 3: Workers' need are represented by trade unions or democratically elected representatives

Red flags for country assessments

Companies should investigate their own and their suppliers' operations to ensure that nothing they do – or fail to do – prevents or inhibits workers from accessing their core labour right of freely forming or joining trade unions, or from engaging in collective bargaining.

The legal and institutional framework of a country is an important risk factor when assessing the likelihood and severity of impacts on workers' human rights. In each sourcing country, businesses should identify the main trade union representing workers in the relevant sector, and assess:

- The extent to which civil and political liberties are protected.
- The legal and institutional framework for rights and the extent to which legal protections are enforced through inspectorates and judicial system.
- Obligation to join government-influenced unions.
- Prohibitions on bargaining and industrial action in designated industries.
- Differences in labour regulation between the national provision and export processing zone provision.
- Government interference in trade unions – dissolution of unions without legal recourse, imposition of burdensome union registration procedures, limitations on the formation of national unions, prohibition of multiple unions within a single plant.
- Exclusion of certain categories of workers from freedom of association, such as migrant, informal or other precarious workers.
- Restrictions to unions' legitimate political activities.
- Lack of access to remedy for anti-union discrimination and dissuasive sanctions against employers.
- Imprisonment, sanctions and violence against union leaders/members or retaliatory measures against striking workers without effective response by government.
- Defects in government's worker complaint processes, such as excessive delays or expense, light penalties, or non-punishment of offenders.
- Lack of government action to combat labour-related corruption, for example, trafficking or bonded labour.

At the global or national level, freedom of association indicators may be categorised into two groups:

Statistical indicators

These could include trade union density rate, collective bargaining coverage, days lost due to strike action or lockout, and where there is labour court provision, the number and type of cases and appeals. It is also useful to underpin the core indicators with broader indicators such as types of employment (permanent, casual, seasonal and both

internal and external migrants), industrial, agricultural or service workforce and the informal to formal economy ratio.

Legal indicators

This cover, for example, ratification of the fundamental International Labour Organization (ILO) conventions, and labour rights provision in local law, such as the right to organise and bargain collectively. It is important to establish whether there is a national law guaranteeing workers the right to join and form organisations for the protection of workplace interests and setting out trade union and agreement processes.

Legal indicators should also be considered in the context of whether workers can freely choose the trade union or independently elected representation group they join, or whether the state determines the role and activity of the trade union (as is the case in China, for example). Legal indicators typically translate well into and should guide and inform corporate policy, procedures and practice.

• Legal compliance:

- » [Ratification of ILO conventions](#) Freedom of Association and Protection of the Right to Organise Convention, and Right to Organise and Collective Bargaining Convention (87, 98, 135 og 154).
- » Workers' Representatives Recommendation, 1971 (No.143) – a recommendation concerning Protection and Facilities to be Afforded to Worker's Representatives.
- » Transposition into national regulation including governance institutions – for example, a department of labour.
- » Historical and current complaints raised via the ILO complaints mechanism.
- » Country rating on [ITUC global rights index](#).

• Trade union verification:

- » [ITUC affiliations](#) with national centres and federations.
- » Global union federation affiliations for sector specific trade unions aligned to ETI category groups.
- » Food & farming: [The International Union of Food, Agricultural, Hotel, Restaurant, Catering, Tobacco and Allied Workers' Associations \(IUF\)](#).
- » Hard goods: [Building and wood workers international \(BWI\)](#).
- » Apparel & textiles and manufacturing: [IndustriALL](#).
- » Logistics and transport: [International Transport Workers' Federation \(ITF\)](#).
- » Commercial, beauty and services: [UNI global](#).

• Campaigning information:

- » ITUC and global union federations (regional or campaign pages).
- » Labour NGOs and campaign organisations (for example Amnesty International, Banana Link and Justice for Colombia).
- » Human Rights Watch.
- » Transparency International.
- » Solidarity Centre.





Counting the cost of freedom - global rights index

Published annually, the is an interactive index of core labour standard violations. The report ranks countries against 97 internationally recognised indicators to assess where workers' rights are protected in law and in practice. It draws on reports from trade unions around the world to build a picture of how workers are treated. Countries are graded based on the extent to which workers have access to fundamental rights, including civil liberties. Overall, human rights abuses in the workplace remain an engrained and systemic issue globally, despite the efforts of many parties, including companies, to address this pressing issue.

Across all country assessments, there may also be designated Export Processing Zones (EPZs).

Export Processing Zones (EPZs)

EPZs may be based within countries with acceptable labour rights and protections. However, within the EPZ, labour rights and protections may be eroded and weakened. EPZs are often characterised by poor working conditions and widespread violations of workers' rights, notably violations of freedom of association.

For example, Mauritius has experienced a period of rapid economic growth driven by exports of textiles, sugar, tourism, seafood processing and the introduction of EPZs. Ratification of the ILO's core labour conventions underpins a well-developed, but fragmented, trade union movement. While labour legislation applies in the EPZs, there are no specific labour laws that allow for example:

Longer working hours (45 hours per week plus 10 hours compulsory overtime in the EPZs, compared to 35 to 48 hours in non-EPZ sectors)

Employer-controlled work councils to discourage unionisation.

To compensate workers for the weakened labour regulations, the Mauritian government established a welfare fund to finance social services for EPZ workers and their children.

Dealing with systematic abuse

Consider the extent to which risk to workers is systemic; this could be consistent denial of access to rights and related to the location of the site, industry type, or sub-sectors such as home working or illegal outsourcing. Consideration must be given to:

- The extent to which any negative impacts can be rectified (e.g. through compensation, reinstatement, etc.)
- Whether it is possible to restore the right in question to the affected workers.
- The extent to which intimidation of workers for forming or joining a trade union effectively denies workers the right to representation.

Red flags for individual suppliers /sites

While mapping "RED FLAG" for countries and individual suppliers, signs of denying workers their rights and protections – especially FOA – may be missed for an unexperienced auditor. In the case of elected worker representatives, there should be evidence of worker nominations, secret ballots, terms of reference, worker meetings and meetings between workers and managers, through which worker concerns are raised.

When mapping suppliers (sub-contractors, processes, logistics and agents), or establishing a new ethical supply chain policy, seek evidence of compliance with the law and with international operating requirements. If the supplier has answered a self-assessment questionnaire or you have an audit report from the supplier, you would probably have most of the information.

- *Are there corresponding policy commitments reflecting adherence to core labour standards?*
- *What proportion of the workforce is unionised?*
- *What proportion of the workforce belong to worker representation groups?*
- *Are worker representatives democratically elected by workers or selected by employers?*
- *Are there existing collective bargaining agreements (CBAs), including the name of the trade union?*
- *How do worker representatives contribute to the business?*
- *What worker engagement platforms are in place (or, how do workers express concerns)?*
- *Are workers involved in any factory/farm decision making?*
- *Has there been industrial action in the last 12 months – why?*
- *What is the workforce composition – for example, temporary, seasonal or migrant, gender mix?*
- *Which workers are members of the site trade union or worker committee – for example, gender mix, local and foreign migrants, contract workers, seasonal etc?*
- *Are pay, terms and conditions determined by a sector wage board or managers, and do they apply to all jobs regardless of the person employed?*





Manage risk seize opportunities and remedy (step 3 & 6)

This section aims to give advice on how to manage risk and seize opportunities in implementing freedom of association, collective bargaining and worker representation in the supply chain.

Recommended actions:

1. **Harmonize your purchasing practice with your vision and commitment for Sustainability and Responsible Business Conduct (ref. FoA, CB an WR).**
2. **Remediation towards workers should involve worker representation, to identify the means necessary for an acceptable remediation.**
3. **Model for progressing worker representation (see attachment 3)**
 - a. *Recommendations where workers cannot voice their concerns freely and there is no worker representation*, for example CSR forums, suggestion boxes, audit interviews or worker surveys: Initiate conversations with suppliers, promoting the value of worker representation and communicating your requirements, vision and intent.
 - b. *Workers have some recourse to dialogue with employers*, for example worker participation committees, anti-sexual harassment committees, grievance mechanisms or OSH committees: Evaluate the scope and depth of engagement between workers and Managers
 - c. *Workers' needs are represented by trade unions or democratically elected representatives*: Develop an understanding of the site's consultation or negotiating processes, including when wage negotiations take place, the length and scope of collective bargaining agreements, or how workplace disputes are raised and addressed. Document through mapping, the site trade union including sector, national and global affiliations.
4. **Strengthening and enabling women representation in the workplace**
5. **Seek collaboration on country level**

Buying responsibly: harmonizing vision and commitment

In many organisations the challenge would be harmonisation between CSR, ethical or sustainability practitioners and commercial practices and drivers. Raising awareness and sharing of critical information from a due diligence mapping of FOA (assessing where FOA is established or not) to ensure commercial interests don't undermine activity in support of workers' rights and protections.

JETI's [guide to buying responsibility](#) draws on the findings of a collaborative supplier survey run in partnership between the joint ethical trading initiatives and the ILO, with support from SEDEX. The guide includes best practice examples and outlines the five key business practices that influence wages and working conditions.

Identifying opportunities to express your company's vision

Central to communicating effectively is being able to express a mutually beneficial agenda, through multiple dimensions, including both the business and moral case for action. It is important to help suppliers understand that mature industrial relations where workers can collectively raise concerns important to them without fear or intimidation goes hand in hand with boosting productivity, retaining skilled staff, and ultimately, making a profit.

Take every opportunity to express your company's vision and commitment towards upholding worker rights and protections - appropriate opportunities might include:

- **Pre-qualification of suppliers**

- » For example, is there a platform for workers to express their views, or how are workers consulted on pay or terms and conditions of employment?
- » Formal questions on trade union recognition, collective bargaining agreements or free and democratic worker representative elections should also be built into self-assessment questionnaires.





- **Changes to country employment regulations**
 - » Suggest to suppliers how this could be communicated to workers and identify how you could help, by providing education materials, for example.
- **Supplier restructuring or increasing levels of automation**
 - » Understand the implications for workers and ask how workers are involved in any consultation, decision-making or solution-finding processes.
- **Safety, health and wellbeing concerns**
 - » This can range from initiatives to support workers' basic needs (e.g. safe water, hygiene, food) to more advanced programmes to promote health and safety (e.g. training on ergonomics or chemical safety). This is an important way to introduce worker consultation, training and education into a workplace. It also establishes a firm foundation for collective undertakings through committee work.
- **High staff turnover**
 - » This is an indicator that workers are not happy and creates an opportunity to engage in discussions about options such as worker surveys, consultation and social dialogue approaches as positive ways for workers and managers to engage in finding solutions that meet workers' needs and reduce staff turnover rates.
- **Non-compliance reports**
 - » Using the audit process non-compliance reports can be a useful source of information if collated and analysed internally.
 - » Tracking of non-compliance on a site provides an additional benefit of identifying systematic or a culture of denying workers access to rights and protections.
 - » However, experience tells us that typical social audits are not good at identifying workplaces where FOA is being blocked or denied. It does however present distinct challenges as ETI members have shared that the relevant box may ticked or signed off as "all in order", but the reality may be quite different.

Remediation for rightsholders

Wrong doings on human and worker rights require remediation towards the rights holders who had their rights taken away from them. Remediation towards workers should involve worker representation, to identify the means necessary for an acceptable remediation. A set up for worker representation and social dialogue could be means to hinder negative impact in the future.

- Ensure suppliers' ongoing commitment to freedom of association and collective bargaining requires a process of continuous improvement and monitoring. Provide constructive feedback to suppliers on any changes required to managers' attitudes and practices.

Under the United Nations Guiding Principles on Business and Human Rights ([UNGPs](#)), States and businesses have a collective responsibility to ensure that workers have access to effective remedy in relation to rights infringements or abuses of a judicial and non judicial nature. Non-state-based grievance mechanisms, such as those within the workplace, should complement state-based mechanisms. [See Ethical Trading Initiative's guidance on remedy.](#)

Model for progressing worker representation

There are three key entry points to enable mapping of working representation in supply chains, supported by suggested activities to progress independent and effective worker representation.

Developing the strategy and action plan

- 1: Workers cannot voice their concerns freely and there is no worker representation**
 - » Initiate, promote and communicate
- 2: Workers have some recourse to dialogue with employers**
 - » Evaluate, scale and skill up
- 3: Workers' need are represented by trade unions or democratically elected representatives**
 - » Develop, strengthen and mature

Taking into consideration your information on where workers are most at risk of not being able to access their rights and protections, and based on relationships (long-term, if possible), choose two or three factories and seek to understand the level of worker engagement.

See full illustration attachment 3: Entry points to worker representation, mapping and actions

Select factories:

- Where there is no voice or conduit between workers and management. This includes suggestion boxes and apps (one-way forms of communication).
- Where there is some form of worker engagement or dialogue on a regular basis – for example, safety groups, welfare groups, worker surveys, audit or site visit interviews with workers. This could also include production discussions or even types of training on offer. Consider whether the dialogue is formal (notes of meetings, regular discussion) or informal.
- Where there is a platform or committee with greater dialogue and/or an actual process of exchange and feedback – a determining factor is whether workers can raise an issue or whether the meeting agendas are set by managers (or a combination of both).





Contact the factories in writing or perhaps with a questionnaire, framed in a way that is relevant to the factory, e.g. focused on new local regulations, management standards (ISO etc), audit requirements or the business case.

1: Workers cannot voice their concerns freely and there is no worker representation

Action: Initiate, promote and communicate

We recommend initiating conversations with suppliers, promoting the value of worker representation and communicating your requirements, vision and intent. Through your continuous improvement activities, this could include reviewing onboarding processes and codes of conduct, particularly as regards the communication of expectations on valuing workers and worker representation. Requesting specific information on worker representation, as evidence of freedom of association, could be included in self-assessment questionnaires, third-party audits and factory visits.

Through your continuous improvement activities:

- a. Review onboarding processes and codes of conduct with clear communication of expectations on freedom of association, collective bargaining and worker representation.
- b. Request specific information on how workers raise concerns, how this is remediated or fed back to workers; this could be included in self-assessment questionnaires, third party audits and factory visits.
- c. Establish if there is worker participation in decision making or consultation on workplace issues that affect or impact workers.
- d. Invest in education and training for suppliers.

2. Workers have some recourse to negotiating with employers, e.g. through worker committees

Action: Evaluate, scale and skill up

Evaluate the scope and depth of engagement between workers and managers and make recommendations regarding how to overcome managers' resistance to full worker representation or the effectiveness of the worker representative, build trust and begin dialogue.

- i. To scale up and share with other sites in your supply chain, capture site evidence of the positive contributions of workers to the business, including improvements in and to the business (reduced absenteeism, increased production and/or reduced health and safety incidents and accidents).
- ii. Where there are existing forums or committees such as healthy and safety, anti-sexual harassment, welfare or participation committees, this is an excellent opening to invest in worker skills development such as social dialogue techniques, presentation and consultation skills or election processes.
- iii. Where there are active trade unions a) and b) could be developed in conjunction with them.

3. Workers' needs are represented by trade unions or democratically elected representatives.

Action: Manage, strengthen and mature

We recommend developing an understanding of the site's consultation or negotiating processes, including when wage negotiations take place, the length and scope of collective bargaining agreements, or how workplace disputes are raised and addressed. Strengthening and maturing the formal worker and employer relationship could include, for example, investing in skills development, building relationships with sector trade unions, national federations and global union federations. For larger multinational companies where there is a global framework agreement (GFA), invest in educating and promoting the agreement among more sites or countries.

- a. Strengthen the formal worker and employer relationship through investing in skills and knowledge development – for example, global framework agreements (GFA), new or changes to local labour regulation and grievance mechanisms. For larger multinational companies where there is a GFA, invest in educating and promoting the agreement among more sites or countries.
- b. Build relationships with trade unions or labour organisations and participate in industry or country interventions on worker rights, for example the ACT initiative, suppression of worker rights or harassment of trade union or elected representatives.

Enabling women's representation in the workplace

Discrimination is a risk in global supply chains, also when it comes to worker representation. This might be risk of actual representation of the workforce. To enable women's representation in the workforce you could start by reviewing supplier company policies and collective bargaining initiatives to understand how the supplier helps women to engage with their elected representatives or trades union. For example, you could identify whether the policies state a clear position on women's equality and the role of trade unions in advancing gender-sensitive solutions to work-related issues.

- i. Build awareness among suppliers of women workers' rights and protections (eg. Equal pay for equal work and pay reflects the worker's role, experience and skill level, maternity leave and workplace consideration for pregnant women).
- ii. Promote the representation and participation of women through on-site visits and audit interviews.
- iii. Invest in capacity-building of women worker representatives and/or dedicated committees.

See more on gender sensitivity in attachment 1: Background and definitions





Country collaboration

Previous STEPS in this suite of resources on base code clause two focuses on sites and workplaces in your supply chain. It is however important to recognise that acting on FOA and workers' rights at a country level needs a collaborative and collective approach to bring about change.

The international labour standards (ILS) are either conventions, which are legally binding international treaties when ratified by a country, or they are recommendations serving as non-binding guidelines. The eight core standards are conventions, therefore, to implement or raise a standard in a country needs corporate collaboration, advocacy and activity. This could include global and trade unions, industry bodies, international, local and/or sector labour and human right organisations and NGOs. Examples of this activity include:

- **[Blended learning \(Bangladesh\)](#)**
 - » Upskilling workers and managers who are members of factory Participation Committees, both in factories with and without a trade union. In Bangladesh, these committees are required by law, but can often be ineffective. The JETIs have partnered with [QuizRR](#) offers digital training solutions included in the programme.
- **[Cashew nut industry \(Vietnam\)](#)**
 - » The first social dialogue training course to be organized for the sector. The processors decided on key steps to improve their operations in relation to worker-management dialogue, grievance handling and trade union rights.
- **[JETI working group \(Italy\)](#)**
 - » Collaborative working with trade unions, industry bodies and NGO on advocacy with the state to rewrite and improve regulation on migrant workers.
- **[ETI working group \(South Africa\)](#)**
 - » Drawing together workers through local trade unions, labour NGO's, multi-stakeholder-initiatives, Government bodies, academics, producers and industry bodies to progress decent work and social dialogue in the fruit and wine sector.
- **[Sea food task force \(Thailand\)](#)**
 - » Local and global network of Global Union Federations, industry, retailers, government, ILO and addressing worker exploitation fishing fleets and on-shore seafood processing sheds. That includes human trafficking and slave labour. This includes the ILO good labour practices also addressing child labour and forced labour in the Thai fisheries industry.
- **[ACT \(Action, Collaboration and Transformation\)](#)**
 - » Addressing the structural barriers to living wages, ACT is an agreement between global brands and retailers and trade unions to transform garment, textile and footwear industry and achieve living wages for workers through collective bargaining at industry level linked to purchasing practices.



From project to practice

Mature industrial relations on a site with fully engaged workers and managers is good for business and contributes to the long-term sustainability and stability of the business.

Actions that can be taken can could:

- Reviewing project work to evaluate whether it is directly or indirectly pertinent to your supply chain and addresses salient issues and risks to workers you have identified through your due diligence process.
- Identify and invest in partnerships with in-country expertise and experience. The workplace or sector trade union, national or global federation/s are key to success. Included in this could be a range of trade union, legal and cultural partnerships.
- Provide for the independent capacity building of independent worker representatives or trade union representatives through, for example, skills development, in order to enable a level playing field for dialogue or consultation.
- Commit to facilitate initial discussions (with suppliers) establishing ground rules to identify who should be involved and who is paying for the facilitation and training, and to promote the election of independent worker representatives.
- Invest in supplier key performance indicators (KPIs) that include worker representatives or their trade union and foster a mindset of continuous improvement.





Tracking implementation and communication (step 4 & 5)

Tracking implementation and measuring results is key to progress, secondly there need to be communication on actions and results with rights holders and other stakeholders. This step of the roadmap also considers how to prepare a communication strategy on workers' rights and protections.

Recommended actions:

1. Monitor actions and implementations, is it working as expected?

- a. Use statistical and legal indicators, as well as indicators at supplier

2. Review policy statements for setting the vision, expectations and requirements. This is also important:

- a. for public communication if challenged in the media, or
- b. in the event of an industrial dispute in the supply chains

3. Develop communication strategy towards suppliers, agents and other business partners

- a. Identify opportunities to open dialogue or communication with agents, suppliers and producers
- b. Develop a communication approach and strategy based on:
 - i. the benefits of FOA, CB and worker representation
 - ii. identifying risk to workers
 - iii. non-compliance indicators grievance mechanisms, and
 - iv. mapping worker representation

4. Grow your own supply chains evidence base by gathering information on the benefits of worker representatives or a trade union in high-performing workplaces. This can be internal knowledge or through collaborative research or information sharing initiatives

Reporting on FOA, CB and WR

With growing pressure on integrated company reporting a set of internal information or data can be used in multiple ways – equally, reports to Ethical Trade Norway can be used as evidence in other reporting requirements and visa versa. This saves both money and time.

In the case of elected worker representatives, there should be evidence of worker nominations, secret ballots, terms of reference, worker meetings and meetings between workers and managers, through which worker concerns are raised. Legal indicators should also be considered in the context of whether workers can freely choose the trade union or independently elected representation group they join, or whether the state determines the role and activity of the trade union (as is the case in China, for example). Legal indicators typically translate well into and should guide and inform corporate policy, procedures and practice.

Trade union membership or independently elected worker representatives are the measure of how freely workers can express and contribute to their industry or workplace

through formal structures such as collective bargaining. They do however need to be in workplaces without fear of intimidation, harassment or reprisals.

See attachment 2: FOA, CB and worker representation indicators

Communication approach and strategy

Communicating your commitment and requirements clearly with your suppliers on the business and moral case to protect workers' rights is central to progressing FOA, CB and worker representation. Communications around actions and results is equally important. This is especially the case where FOA is restricted and where unions are restricted through either regulation or resources. However, how you choose to communicate will depend on your context and relationship with suppliers. Below follow suggestions and recommendations, particular relevant for direct involvement with supplier.





Setting the vision

Prepare a compelling narrative to share with decision-makers, suppliers, factory owners, highlighting your vision to raise standards and outlining the business case for improvement. This could also be helpful in terms of responding constructively to instances of audit non-compliance on workers' rights, freedoms and protection. It could also extend to communicating in disputes or grievances, where for example:

- Workers are denied the right to freely associate or organise collectively.
- There is interference in establishing a workplace trade union.
- Trade union or elected representatives are threatened or intimidated.
- There is a breach or undermining of a collective bargaining agreement.

We therefore recommend strengthening your communications efforts by researching the cultural context of both the sourcing country and supplier. There is also the case to establish a basis for public communication if challenged in the media.

Transparency also plays an important role in all communications efforts. For example, the Danish Institute for Human Rights' report "[Doing Business in High-Risk Human Rights Environments](#)" suggests that when brands and retailers are transparent about the risk to workers in their supply chains and their policies and procedures for protecting workers' rights, this can help to reduce the risk of legitimising oppressive governments.

Preparing your communication strategy

Build a strong understanding of the political, social and economic context of your sourcing country, drawing on:

- Policy commitments and statements.
- Due diligence mapping to identify risks to workers.
- Non-compliance reports.
- Grievance mechanisms or help line data, and
- Mapping of worker representatives

In particular, understanding the culture of dialogue of a country and gaining an insight into the worker - employer dynamic will help you to frame your communication strategy around the level of progress required to help workers access their rights and protections.

Ensure that your current human rights/ethical trade policy incorporates a worker engagement strategy that is clear on your position on FOA, CB and worker representation. It is also important to state how you will implement and support the policy, for example, through materials, training, supplier inductions or sector-level improvement programmes.

Central to communicating effectively is being able to express a mutually beneficial agenda, through multiple dimensions.

Improved working conditions

Highlight that partnering with workers through any process of change helps to support a more effective transition and reduces the risk of industrial conflict and worker unrest. It allows workers to understand what is at stake and how it will affect them at an earlier stage. Workers and managers may also develop a better understanding of each other's perspectives and a shared sense of responsibility.

An enterprise or sectoral collective bargaining agreement provides:

- A clear, formal and recognised channel for workers to contribute their expertise and experience to inform change.
- A means of reducing short-term unemployment by negotiation adjustments to wages and working time, in order to avoid redundancies thereby retaining needed skills and experience.

Improving employee health, safety and wellbeing delivers proven benefits for both workers and employers, with issues such as mental health rising up the global business agenda - a Warwick University study reveals a 12% increase in productivity among contented employees. At a basic level, adhering to acknowledged health and safety standards is





about saving and protecting life, ensuring supply chain stability and reducing operational, financial and reputational risk.

The TUC's Union Effect research report reveals that there are 50% fewer accidents in unionised workplaces. In the UK, union safety representatives have helped to reduce the time lost to occupational injuries and work-related illnesses by up to 616,000 days per year, while in turn reduces suppliers' costs.

Staff turnover and absenteeism

At a global level, 60% of businesses report a link between improving employee wellbeing and increasing staff retention. Additionally, companies with satisfied, engaged workers experience up to 65% lower employee turnover. Within the supply chain, recruiting and training new employees increases suppliers' costs, reducing profit margins, which are often already slim in competitive markets. There are 8,000-16,000 fewer dismissals every year in the UK thanks to elected union representatives. Unionised workers are also significantly less likely to resign, as they have access to dedicated grievance mechanisms.

In a group of [50 garment factories in Bangladesh](#), having worker representatives in place has reduced labour turnover, and reduced unauthorised absenteeism by 8%. An unexpected result with direct cost benefit, was improved re-work rates, from 4.5% to 0.9%.

As an employer, one of the advantages of dealing with a trade union is that it simplifies the negotiation process and the employer can be assured that they are talking with someone who represents the workforce. Establishing labour contracts enables suppliers to predict future operation costs more accurately for a fixed period, allowing them to manage costs, develop more effective product pricing strategies, plan for expansion and invest in new product development.

Dispute resolution

Investing in skills for elected trade union or worker representatives and managers and creating formal channels of communication with workers helps to achieve more structured, constructive workplace dialogue. ETI members' experience suggest that involving trained, elected worker representatives in early "on the spot" resolutions reduces the need to escalate disputes to formal grievances or even industrial action.

Since 2000, the OECD complaints mechanism has registered more than 400 cases concerning workplace issues in over 100 countries, with the majority (54%) concerning employment and industrial relations. Social dialogue has played a crucial role in resolving these cases, including the [25% of cases filed by trade unions](#).



Grow your own evidence base

As part of your efforts to continuously raise standards and improve suppliers' performance, gather information on the benefits of a trade union worker representation or in high-performing workplaces. Share examples and case studies with your supply base, supported by any data linking constructive workplace dialogue with improved productivity and profit. Request that direct suppliers share these examples with their suppliers, and so on.

Central to communicating effectively is being able to express a mutually beneficial agenda, through multiple dimensions, including both the business and moral case for action. Empowering workers to achieve equal pay in safe, dignified conditions of work is a key tenet of [Sustainable Development Goal 8](#) on sustainable, inclusive economic growth and decent work. It is also central to poverty alleviation and economic prosperity. Encourage suppliers to treat workers with the respect every human deserves, highlighting that improvements in employee wellbeing are linked to improved productivity.



Attachments

1: Background and definitions

2: FOA, CB and worker representation indicators

3: Entry points to worker representation, mapping and actions

4: Beyond audit

See also the tool “Mapping and managing of Freedom of Association (FoA), Collective Bargaining (CB) and Worker Representation (WP)” that you can use throughout the process together with this guidance.





Ethical Trade Norway is a multi-stakeholder initiative and a resource centre and an advocate for ethical trade practices. Our objective is cooperation on trade which promotes human rights, workers' rights, anti-corruption and responsible environmental management.

Our aim is to strengthen members' efforts to promote decent working and environmental conditions in their supply chains. Our members range from some of Norway's largest companies to sole proprietorships, public bodies and organizations. A large part is small and medium-sized companies.

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