

SKC

Campagne

Dutch Agreement on Sustainable Garments and Textile

Signatory companies' due diligence reporting comes up short

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Executive Summary

From 1 February to 1 May 2020, the Clean Clothes Campaign the Netherlands / Schone Kleren Campaigne (SKC) and the Centre for Research on Multinational Corporations (SOMO) conducted research on 34 signatory companies of the Dutch Agreement of Sustainable Garments and Textile (AGT). The objective of the research was to study the alignment of these companies' public reporting with the OECD's Guidance regarding the implementation of due diligence for Responsible Business Conduct (RBC).

Although all of the analysed companies engage in due diligence reporting and most of them give insight into their sector risks, crucial shortcomings were identified. In general, the analysis shows that the reporting of AGT members is not fully in accordance with the OECD Guidance. Overall, the due diligence reporting of the companies falls short on 3 essential issues:

- **The level of detail and transparency of companies' risk assessments.** The risk assessments of companies are missing an essential level of depth. Although companies do engage in risk assessment to some extent, in general, no concrete and time-bound plans are presented to tackle these risks. In addition, companies remain on the safe side by sharing only potential risks on the country level. Only one-half of the companies disclose actual adverse impacts on the factory level.
- **Meaningful engagement with rightsholders.** The AGT companies score insufficiently when it comes to involving rightsholders in their due diligence processes. The majority of companies do not involve workers in their due diligence processes. According to the OECD Guidance, this is considered an essential part of the due diligence process.
- **Company mechanisms to remediation and at which steps rightsholders can access them.**

The majority of companies do not communicate clearly while they should be explicit about the steps they are taking that will lead to access to remedy. Being aware of their rights and having access to grievance mechanisms to claim those rights in cases of violations is crucial for workers.

Additionally, the AGT wants to make progress on two important sector topics: union rights and living wages. Although the importance of these issues is widely acknowledged by companies, a lack of concrete actions on these two topics has been noticed. More critically, most companies show a lack of insight regarding actual Freedom of Association (FoA) problems within their value chain. To conclude, few companies supply specific supplier information on their websites, which makes it difficult for workers to claim their rights and for CSOs to check whether companies are adhering to their human rights responsibilities.

Taking the above highlighted areas into account, SKC and SOMO recommend that companies improve their practices and reporting of the identified weaknesses. Furthermore, our recommendation to the AGT secretariat is: pay extra attention to these issues and monitor companies (progress) more strictly.

According to SKC and SOMO, real systemic change in the garment sector cannot be achieved solely through voluntary initiatives. Instead, the Dutch government needs to draft legislation that will require companies to conduct due diligence on their human rights and environmental risks, and take appropriate steps to prevent, stop or mitigate these risks. The legislation should include strong independent supervision and sanctions for companies who fail in their due diligence performance. This will create a level playing field for companies and, more importantly, it will be able to hold companies accountable if human rights violations occur in their value chains and companies do not act on them.

Introduction

Background & aim

In the first half of 2020, SKC and SOMO, conducted research on the publicly available RBC due diligence reports of signatory companies of the AGT. The objective of this research was to evaluate the alignment of AGT signatory companies' RBC due diligence reporting for responsible business conduct with the OECD Due Diligence Guidance for Responsible Supply Chains in the Garment and Footwear Sector. The OECD Due Diligence Guidance establishes a common understanding of due diligence in the sector to help companies meet the due diligence expectations laid out in the OECD Guidelines for Multinational Enterprises.¹

The OECD Guidelines state that enterprises should carry out risk-based due diligence to avoid and address adverse impacts related to their operations, their supply chains and other business relationships. This kind of due diligence concerns the people who are affected or could be affected by a company's activities or activities in its value chain. Following the Guidelines means that communicating information about due diligence is part of the due diligence process itself and that companies should 'communicate externally relevant information on due diligence policies, processes, activities conducted to identify and address actual or potential adverse impacts, including the findings and outcomes of those activities'.² The Guidance describes what information should be disclosed to whom, when and how.³

¹ OECD (2018), OECD Due Diligence Guidance for Responsible Supply Chains in the Garment and Footwear Sector, OECD Publishing, Paris. <http://dx.doi.org/10.1787/9789264290587-en>

² OECD (2018), OECD Due Diligence Guidance for Responsible Business Conduct. <https://mneguidelines.oecd.org/OECD-Due-Diligence-Guidance-for-Responsible-Business-Conduct.pdf>.

³ OECD Watch (2018), <https://mneguidelines.oecd.org/OECDWatch-Due-Diligence-Guidance-Contribution-2018.pdf>.

The AGT

The AGT is a multi-stakeholder initiative backed by the Dutch government, which aims to improve working conditions, prevent pollution, and promote animal welfare in production countries in the garment and textile sector.⁴ In July 2016, it was signed by 55 companies,⁵ Dutch civil society organisations (CSOs) and trade unions, business associations and the Dutch government. The agreement will be in effect for 5 years. Under the terms of the agreement, companies are expected to carry out due diligence aligned with the recommendations in the OECD Due Diligence Guidance for Responsible Supply Chains in the Garment and Footwear Sector. Signatory companies agreed to publicly disclose their RBC policies and all information on due diligence during their third year after signing on.

Methodology & research limitations

The 55 companies that signed the agreement in 2016 were expected to publicly report for the first time in 2019. Within the scope of this research, 34 of the 55 companies have been included. It was decided not to include all of the companies due to capacity limitations. The 34 companies were selected to ensure that a variety of companies were represented in terms of size, type of product (e.g., workwear, basics, fast-fashion), their forerunner roles and sourcing countries. Some of the analysed companies are parts of the same company group, which uses the same due diligence reporting for all of its affiliated companies. This means that, in total, 26 different reports were analysed, representing a total of 34 companies. This report will refer throughout to the 34 companies and not the company groups behind those companies. This corresponds with the way the AGT displays its signatory companies on its website.

⁴ AGT. <https://www.imvoconvenanten.nl/en/garments-textile>.

⁵ In total, 92 companies have thus far signed the agreement.

The analysis was carried out from 1 February 2020 to 1 May 2020. The researchers conducted individual desk research by analysing the public reporting of the 34 signatory companies. The most recent publicly available data for each company has been used for the analysis. RBC information that was updated after the research period did not fall within the scope of the research.

This alignment research is based on the recommendations found in several OECD documents: [The OECD Guidelines for Multinational Enterprises](#), [The OECD Due Diligence Guidance For Responsible Business Conduct](#) and the [OECD Due Diligence Guidance for Responsible Supply Chains in the Garment and Footwear Sector](#). The relationship between these texts is complementary. Because the texts in the documents sometimes vary in the levels of detail regarding recommendations presented, it has

been decided to integrate the most recent and most far-reaching recommendations into this analysis. In addition to the OECD Guidelines, important objectives, recommendations and agreements within the AGT related to living wages, FoA, and supplier transparency are also taken into account.

The OECD Guidelines address a variety of issues and sector risks. SKC and SOMO are committed to improving working conditions and human rights in the clothing industry. Therefore, the focus of this research lies on important social themes within the garment sector, such as freedom of association and living wages. Sectoral risks related to the environment and animal welfare are not the focus of SKC and for this reason have not been included in the study. More technical and less relevant topics for this study, such as due diligence information storage, are also not included.

Table 1. Overview of companies analysed

1	Arrivee (Youngo Europe BV)	13	HaVeP (B.V. Textiel Fabrieken H. van Puijenbroek h/o HaVeP)	25	Studio Anneloes (Studio Anneloes B.V.)
2	C.A.G. B.V. Gerlon (C.A.G. B.V.)	14	HEMA (HEMA B.V.)	26	TC WOW (L. Ten Cate B.V.)
3	Claudia Sträter (FNG Group Nederland B.V.)	15	Hunkemöller (Hunkemöller International B.V.)	27	Ten Cate (L. Ten Cate B.V.)
4	Costes (The Sting House of Brands B.V.)	16	Kings of Indigo (KOI International B.V.)	28	The Sting (The Sting House of Brands B.V.)
5	Culture Centaur (ECC Couture)	17	Ladress (LaDress B.V.)	29	Tumble 'n Dry (Tumble 'n Dry B.V.)
6	De Bijenkorf (Magazijn De Bijenkorf B.V.)	18	L.O.E.S. (Studio Anneloes B.V.)	30	Tweka (L. Ten Cate B.V.)
7	Espresso (FNG Group Nederland B.V.)	19	Meantime (Youngo Europe BV)	31	WE Fashion (We Europe B.V.)
8	G-Star Raw (G-Star Raw C.V.)	20	O'Neill (O'Neill Europe B.V.)	32	Wibra (Wibra Supermarkt B.V.)
9	GCM Henderson (Youngo Europe BV)	21	Okimono (Okimono B.V.)	33	Vanilia (Vanilia C.V.)
10	GCM Originals (Youngo Europe BV)	22	Prénatal (Prénatal Moeder en Kind B.V.)	34	Zeeman (Zeeman textielsupers B.V.)
11	Giovanni Capraro (ECC Couture)	23	PWG (PWG Bedrijfsveilige Kleding B.V.)		
12	Groenendijk Bedrijfskleding (Groenendijk Bedrijfskleding B.V.)	24	Schijvens (Schijvens Confectie-fabriek Hilvarenbeek B.V. / Schijvens Corporate Fashion)		

Results

We can begin on a positive note. Of the 34 companies analysed, almost all of them publish their own RBC policies on their websites. To some extent, companies also report on their due diligence risk assessments. Furthermore, in general, companies are reporting on their capacity development and on projects that relate to the AGT's main topics.

At the same time, the research results expose serious flaws in the due diligence reporting of these same companies. The analysed RBC reports mostly lacked sufficient depth. Overall, the companies' due diligence procedures fall short on three important issues, namely:

- Level of detail and transparency of their risk assessments;
- Meaningful engagement with rightsholders;
- The companies' mechanisms to remediation and the steps that rightsholders can take to access them.

In addition, this analysis shows that AGT members fail to ensure that two important AGT objectives – the fulfilment of trade union rights and the payment of living wages – are being realised in their supply chains. Furthermore, few companies disclose any specific information on their suppliers. The main areas where shortcomings were identified are discussed in more detail below. The following sections will describe how the analysed RBC reports fail to align with important OECD Guidance recommendations and with the above mentioned objectives set by the AGT.

RESULT 1 /

Companies' due diligence risk assessments lack depth, detail and transparency

— As described in the OECD Guidelines for Multinational Enterprises, identifying risks within the value chain is a crucial part of the due diligence process of companies. Risk identification provides insight into the actual or potential adverse impacts as a result of the companies' activities or activities in its supply chain. The next step in this process is to prevent, mitigate or stop these adverse impacts with the aim of conducting responsible business. Therefore, as described in the guidelines, companies should publicly disclose:

- The enterprise's identified areas of significant risks;
- the significant adverse impacts or risks identified, prioritised and assessed, as well as the prioritisation criteria;
- the actions taken to prevent or mitigate those risks, including where possible estimated timelines and benchmarks for improvement and their outcomes;
- measures to track implementation and results;
- and the enterprise's provision of or co-operation in any remediation.

The analysis shows that almost all of the companies⁶ report on risks within their supply chains, with the

exception of 4 companies that do not provide information about any actual or potential adverse impacts. While this is a positive first step, when we take a closer look, we see that the risk assessments in general display a lack of depth and a necessary level of detail and transparency are also missing. In many instances, the prioritisation of risks is not justified based on severity and likelihood and many companies fall short in communicating about their plans to tackle risks, including timelines and benchmarks. When plans are published, most companies seem to rely solely on social audits to track the implementation and accompanied results. Over the past decade, social compliance audits have failed as a system to detect and address labour rights

⁶ This statement links to companies assessed during the research period (January 2020–May 2020). We noticed that 1 company group (representing 3 companies in total) updated its RBC information after the research period to reveal that its risk assessment had been performed after all. But because the company analysis had already concluded, we were unable to include this updated information.

violations.⁷ And finally, when companies do engage in the mitigation or ceasing of adverse impacts, they provide very little information on remediation.

According to the OECD Guidelines, when companies engage in a prioritisation of risks, this process needs to be justified based on the severity and likelihood of the risk. Only 2 of the 34 companies explain their prioritisation in line with the recommendations of the OECD Guidelines. One of these 2 companies justifies the prioritisation process by, for example, explaining that they focus on the child labour risk because much of their production takes place in Turkey, a country in which child labour has increased in recent years, partly due to the arrival of (mainly Syrian) refugees. There are 24 companies that mention that they have prioritised risks, but the process has not been justified at all or at least has not been (fully) justified on the basis of likelihood and severance. For example, one company explains its prioritisation process in terms of its social values: 'We strive for a world where children can be children and grow up in healthy and safe conditions. For this reason, we have chosen to make child labour and the environment the top priority within our organization.'. The remaining 8 companies do not mention prioritisation at all.

⁷ Clean Clothes Campaign, (2019). Figleaf for Fashion. How social auditing protects companies and fails workers. <https://cleanclothes.org/file-repository/figleaf-for-fashion.pdf/view>.

In their reporting on significant adverse impacts, companies mainly report on the potential adverse impacts. Only one-half of the companies report on the actual adverse impacts, which means that the rest avoid reporting risks that are not directly linked to their own activities or activities in their value chains. When companies limit themselves to reporting only the potential risks on the country level rather than also including actual risks at the factory level, it makes it impossible for stakeholders to gain sufficient insight into the companies' actual adverse impacts.

When companies do disclose their actual adverse impacts at the factory level, these insights mainly emerge during social audits. Most companies are members of Amfori BSCI and arrange their audits via this initiative or make use of audit companies with similar standards. A smaller group of the AGT companies are members of the Fair Wear Foundation (FWF). Some companies share their audit result details, which often paints a positive performance picture of the inspected factories, because few issues emerge in the course of the audits.

While violations of labour rights such as the lack of union freedom are best raised via consultations with local stakeholders, the vast majority of companies continue to depend on social audits to monitor their suppliers on the agreed-upon code of conduct. Using social auditing means that human rights issues are of-

Table 2. Reporting by companies on actual adverse impacts

Topic	No. of companies reporting on adverse impacts (exposed via social audits / factory visits)	Instances reported via complaints / local stakeholder engagement
Safety & Health	11	3 complaints
Excessive working hours	10	1 complaint
(Living) Wage related issues	6	0
Discrimination & Gender	4	1 complaint
Freedom of Association	5	1 complaint
Forced Labour	0	0
Child Labour	0	0
Sexual Harassment & Violence	0	0
Other	-	1 complaint about repression of workers 1 complaint about labour dispute regarding dismissal at a factory 1 complaint via stakeholder engagement with a union (topic unknown)

ten approached via a compliance checklist that merely results in a 'tick-the-box exercise'. This is how the less visible issues such as discrimination, child labour and forced labour, FoA and sexual harassment, continue to go unexposed. This can also be seen when companies report on actual adverse impacts. The table above reveals that companies mostly provide insight into issues related to safety and health in the workplace and excessive working time, which have mainly emerged via social audits. There was not one single report that addressed sexual harassment and violence, forced labour or child labour. Companies, in a few instances, have reported on issues such as discrimination and gender, living wages and freedom of association.

Companies, in a few instances, have reported on issues such as discrimination and gender, living wages and freedom of association. However, if we take into account that the 34 analysed companies are currently working with over a thousand factories and that the OECD qualifies the above issues as common sector risks, it is remarkable that there has been so little to no reporting on these issues.

Finally, when companies do report on potential risks or actual adverse impacts, few of them supply any details on the components of their plans – including estimated timelines and benchmarks – to prevent, mitigate or remediate the (potential) harm. There are a few companies that do provide clear plans, however. For example, some companies have signed the Bangladesh Accord that addresses safety and health issues in Bangladesh's garment factories. Another company has detailed the steps it has taken to tackle the issue of

discrimination in one of its factories. The company received a complaint in 2019 and took steps to engage in a dialogue with all of the relevant actors – factory management and the worker who had been discriminated against. After the company received another complaint in that same year, a meeting with all of the involved actors – including the union – was arranged. During a late-2019 verification audit, workers corroborated that the working conditions had improved somewhat, but that they weren't expecting any major structural change. Thus, the company decided at the end of 2019 to 'further support the factory by paying for an interim manager-consultant to support the factory in changing its organizational structure, lines of communication, general working conditions and overall efficiency'.

The majority of the studied companies do report some information on their plans, but this is usually quite limited and these plans do not seem to lead to any actual addressing of the risk. For example, one company sent out self-assessments to its factories to check whether they were acting in accordance with its code of conduct. One supplier gave a very positive assessment of itself regarding FoA. The company declared that it was going to verify the assessment by asking the suppliers some follow-up questions because it believed that there was still a risk of lingering FoA issues. The plan in this example does not seem to lead to actual addressing the risk as it shows no sign of actual external verification methods, for example rightsholder engagement. The company also failed to present a time-bound plan. Meanwhile, 8 companies never communicate any of their plans regarding the tackling of potential risks and adverse impacts.

RESULT 2 /

Companies fall short in reporting on Freedom of Association issues

— Freedom of Association is an essential topic in the garment sector because, via unions, workers can improve their conditions and negotiate with their factory management. FoA is defined as a significant sector risk within the OECD guidelines. In the agreement of the AGT, FoA is put central. The AGT parties state that progress and improvement in the area of FoA, together with the topic of Living Wage has a positive effect on all other social issues. One of the agreement's expectations towards companies is for them to ascertain whether freedom of association has been allowed at all stages of the enterprise's chain.⁸

A large share of the AGT companies source their products from countries known for their poor working conditions and human rights violations. Violations of trade union rights are rife in the garment and textile sector. The top two countries that companies are buying from, respectively China and Bangladesh, are known for their problematic situations regarding FoA. In fact, FoA simply does not exist in China. There

⁸ AGT, (2016). Agreement on Sustainable Garment and Textile. <https://www.imvoconvenanten.nl/en/garments-textile/agreement/publicaties>.

is only one legally recognised trade union and that is the government-controlled union, the All China Federation of Trade Unions (ACFTU). When a new union wants to establish itself, it needs the prior approval of the ACFTU. Workers who start a union themselves can be arrested and jailed.⁹ It is also extremely difficult to form and register a union in Bangladesh. For example, factory owners often express their hostility towards the workers through intimidation, violence, discrimination, dismissal and even arrest, all to prevent workers from joining a union. Unions and union members have been repressed with impunity by employers for years in Bangladesh. The government has thus far refused to bring union laws and practices in line with international standards.¹⁰

What is noticeable from the analysis, is that most companies offer clear descriptions of the right to Freedom of Association in their code of conduct. They often implore their suppliers to respect the rights of all workers to form and join trade unions and to bargain collectively. Only 14 companies seem to be aware of the significant risk that FoA issues present in production countries because they have acknowledged these problems in their country risk assessments where they describe FoA issues as

a potentially significant risk. At the same time, the analysis also reveals that little reporting of actual adverse impacts exists on the factory level: only 6 companies have reported on FoA issues and 5 of these companies discovered these issues via social audits or factory visits, with only 1 company learning via a complaint. Another company has declared that there may be an FoA issue in one of its affiliated factories, but it has failed to report on how this issue came to light. All of the companies except one have discovered FoA issue(s) in 1 and only 1 factory. This creates the false notion that FoA issues are just incidental rather than related to more serious structural issues.

However, the remaining 27 companies, appear to have no red flags when it comes to actual adverse FoA issues. For example, one company, also an Amfori BSCI member, produces garments in 202 factories worldwide, of which 66 are based in China, 32 in Italy, 25 in Turkey, 15 in Bangladesh, 13 in India and 12 in Cambodia. In its annual corporate social responsibility report for 2018, the company recognised the importance of FoA and thus established a dialogue with a local union in Cambodia. This is a good start. However, when we look closer at the BSCI audit results on FoA compliance, the performance of 99% of the audited factories are described as 'very good' and 1% as 'good'. This rating seems highly unlikely because this company is producing in China, Turkey, Bangladesh and India: all countries known for FoA violations. So, to not discover any FoA incidents or only 1 incident seems highly improbable.

⁹ SKC. <https://www.schonekieren.nl/thema/china/>.

¹⁰ SKC. <https://www.schonekieren.nl/thema/bangladesh/>.

RESULT 3 /

Not a single company has succeeded in proving that workers in its supply chain are paid a living wage

— The UN Universal Declaration of Human Rights states that a living wage is a human right. The OECD Guidelines require companies to respect in their due diligence on wages to be compliant with national law, but also to make sure wages meet the basic needs of workers and their families. One of the objectives of the AGT has been to achieve a living wage in signatory companies' supply chains in 2020. Member companies are expected to participate in AGT's living wage project and to collaborate with other companies or relevant trade unions and civil-society organisations to obtain greater leverage and to ensure a living wage is paid for the enterprise's part of the purchase.

When we look at company reporting, we notice that the gap between the living wage objective and actual

implementation remains wide. While the vast majority of companies recognise its importance and have made it an essential component of their codes of conduct, none of the participating companies can show that a living wage¹¹ is actually being paid in all of the entities in their supply chains. Overall, companies' activities related to a living wage continues to rely mainly on awareness raising and capacity development at the company and supplier levels.

¹¹ According to the CCC a living wage is achieved when a garment worker can support himself and her / his family with this wage. This concerns a net average wage for a working week of 48 hours. For more information, see the CCC's publication on [tailored wages](#).

Only 6 companies have developed concrete time-bound targets of which few of them can prove that they have taken concrete, time-bound steps to achieve actual living wages on a structural level. For example, one company's target is to 'collaborate with other industry peers to improve the production location wages [by] 50% (based on 2018 [wage rates]) before 2024 to achieve living wages'. Although this company shares a time-bound living wage target, it remains unclear what this collaboration entails, who is involved when, and what steps are being taken to achieve this living wage. Meanwhile, 17 companies have provided no information in their reports regarding their living wage plans.

There were 8 companies that indicated that they have introduced wage increases for workers at the factory level or claim they already pay a living wage (in some factories) in their supply chains. However, in most instances, it remains unclear how much is being paid, on what the calculations are based and

how many employees are actually receiving this living wage. Sometimes this is also supplemented with conflicting information. For example, one company has indicated that some of the employees in its value chain earn a living wage (without providing any supporting evidence), and, at the same time, also states that excessive working hours play a role in the factories. As long as it remains unclear on what these living wage calculations are based, it is impossible for external stakeholders to verify the veracity of their claims. No more than 2 companies report on clear targets and plans and have succeeded in increasing wages in at least 1 of their factories. This has also been verified by the FWF. The information necessary to verify whether these wages are actual living wages has not been publicly made available by the involved companies and therefore is impossible for external stakeholders to verify. Nevertheless, these examples represent positive first steps.

RESULT 4 /

Companies do not consult local rightsholders as part of their stakeholder engagement

— The OECD Guidelines are explicit that companies should directly involve and engage with rightsholders in their due diligence processes. The guidelines define rightsholders as people whose human rights have been harmed or whose rights are at risk of harm. For the garment sector this includes i.a. garment workers, trade unions and workers' representatives. Following the guidelines, rightsholders are the most crucial stakeholders in the event of potential or actual adverse human rights impacts. Therefore, workers or their representatives should e.g. feed into the identification of actual or potential impacts, on-site assessments and ongoing monitoring, which is particularly relevant for labour and human rights impacts. Even more critically, in the OECD Due Diligence Guidance For Responsible Conduct it is recognized that stakeholder engagement or consultation is in certain circumstances a right in and of itself. This means that if a company fails to involve stakeholders, it not only neglects its due diligence responsibilities but could also mean a violation of human rights.¹²

In their reporting on stakeholder engagement, companies often mention customers and the multistakeholder initiatives (MSIs) or the industry associations they are members of, as their most important stakeholders. Dutch and international CSOs are also mentioned by most of the companies, but this mostly means one-way information consultation or engagement in projects with affiliated parties of the AGT.

Companies, in general, tend to report only very minimally on structural engagement with its rightsholders. Only 5 of the 34 companies provide clear reporting on their structural engagement with garment workers. These 5 companies are all FWF members and the engagement mainly entails involving workers in FWF factory assessments. One company describes its engagement with workers in terms of identifying hidden forced labour issues in their factories: 'Our factories have a policy against forced labour. Thus far we did not experience this to be a problem occurring at our factories, however unfortunately it does occur in the general clothing industry. This is also checked during audits, and also during off-site interviews, in order that employees feel safe to discuss these matters'.

¹² Amnesty International and OECD Watch, (2018). The OECD Due Diligence Guidance for Responsible Business Conduct: A briefing for civil society organisations on the strongest elements for use in advocacy. <https://www.oecdwatch.org/2018/06/01/the-oecd-due-diligence-guidance-for-responsible-business-conduct/>

There are also some good examples of companies providing information on incidental rightsholder engagement with workers and local or international trade unions. One company reports: 'In 2016 and 2018 the Sustainability Manager visited the majority of factories in Cambodia and sat down with the independent Cambodian union CLC, and discussed the topic of Freedom of Association. In the coming years we will work on further improvements together with our Cambodian suppliers and their factories'.

Also, 2 other companies have mentioned something about engaging with trade unions, but the information they have thus far provided remains vague. For example, one company has reported that some of its stakeholders are NGOs and trade unions: 'Their knowledge is very valuable for us as it gives us another perspective on possible problems in the supply chain'. It remains unclear here whether the company actually engages with local NGOs and unions and what that engagement entails.

Meanwhile, 15 companies make no mention at all of rightsholder engagement. Because rightsholders are the most important stakeholder when it comes to human rights violations, one would expect that all of the AGT companies would be involved in this issue. Our information shows that companies seldom report initiating structural engagement with their rightsholders. This is troublesome, as rightsholder involvement is a key component in the identification, prevention and remediation of human rights violations. In other words, it concerns the people who experience the harmful consequences of activities in a company's supply chain who are not being listened to in this whole process. In our view, the extent to which a company takes stakeholder, and especially rightsholder, engagement seriously, demonstrates the level of a company's willingness to improve and sense of responsibility.

RESULT 5 /

Companies are not transparent enough in disclosing information on their supply chain and grievance mechanisms

— According to the OECD Guidelines, companies must provide for or cooperate with legitimate remedy mechanisms to make it possible for rightsholders to file complaints of adverse impacts due to the company's own operations or in the supply chain. They should publicly share the mechanisms they use for access to remedy, including the steps to be taken. Companies are also encouraged to disclose cases filed against the company and how they were resolved.

Although not a hard recommendation in the OECD Guidelines, it is encouraged that companies publish a list of their direct suppliers. Within the agreement of the AGT, companies do need to share their supply chain information with the secretariat of the AGT. This information is published on the aggregate level in the Open Apparel Registry. Furthermore, companies are encouraged by the AGT parties to publish a list of their own direct suppliers in accordance with the requirements of the Transparency Pledge [see box 1].

The research shows that only one-third of the involved companies share information related to access to remedy and specifically describes the steps a complainant

needs to take. Only 6 of these companies publicly communicate that the process is explained in local languages in their affiliated factories. The lion's share depend on the grievance mechanism(s) developed by the MSIs they are members of. Most companies do share some information about their complaints mechanism, but in ways that leaves much of the information unclear, basically making it inaccessible for stakeholders interested in filing a complaint. For example, one company provides some information that seems to be linked to the AGT grievance mechanism, but the interactive link leads to general website information about the AGT and not to information about its grievance mechanism. One company has indicated that a complaint mechanism is being drawn up, but does not refer to an alternative mechanism complainants can use in the meantime. Of all 34 companies, 7 are currently not sharing any information about their complaint mechanisms.

Moreover, many of the companies aren't particularly transparent regarding the complaints they receive from stakeholders and how they deal with these complaints. Only one-fifth of the companies provide any insight on this issue.

BOX 1

The Transparency Pledge

SKC, together with 8 other partners, have developed the Transparency Pledge. It represents a minimum standard for supply chain disclosure. Companies are invited to sign the Pledge, which commit them to publicly disclosing in English, the names, addresses and parent companies of the businesses at a particular site, the types of garments produced and the number of workers in these garment factories. The AGT agreement recommends, but does not require, signatory companies to sign the Pledge.

The OECD Guidance states that companies have a responsibility to prevent, mitigate or resolve human rights issues that their workers encounter in the factories in their supply chains. This is especially relevant since poverty wages, union busting activities and unsafe factories remain important issues in this sector. It is essential that workers and worker representatives have accurate information of the production locations of companies and where they can go when rights violations go unresolved. While greater transparency does not automatically lead to improved working conditions or higher wages, transparency is necessary for workers and their legitimate representatives to be able to claim their rights. Moreover, this allows CSOs to obtain the information necessary to verify whether companies are respecting human rights in their value chains.

Although most companies publicly report the countries they source their products from, few companies disclose specific supplier information on their websites. This means, for example, that they do not provide any detailed information on their suppliers regarding the specific factories they source from in each country (including addresses) and how many workers these factories employ. Some companies have indicated that the AGT secretariat is aware of their supply chain information, while others share interactive maps on their website, showing the countries in which they produce and what they produce there. Only 7 of the 34 companies properly publish their production locations as stipulated in the Transparency Pledge.

Conclusion & Recommendations

Conclusion

AGT signatory companies are expected to carry out due diligence based on the recommendations found in the OECD Due Diligence Guidance for Responsible Supply Chains in the Garment and Footwear Sector. However, our analysis reveals that not a single company is practicing proper due diligence in accordance with the OECD's sector-specific Guidelines for the garment industry.

This report concludes that companies are not complying with crucial aspects of the due diligence process:

- The AGT companies score poorly regarding the involvement of rightsholders in their due diligence processes. The majority of companies fail to involve workers in their due diligence processes. According to the OECD Guidance, this is supposed to be an essential part of all due diligence steps.
- Companies are missing an essential level of depth in their risk assessments. Although companies are engaging in some risk assessment, in general, they have not presented concrete and time-bound plans to tackle these risks. Moreover, companies play it safe by only sharing significant potential risks on the country level. Only one-half of the companies report on the actual adverse impacts on the factory level.
- The majority of companies remain unclear about the steps they have employed to facilitate remedy. It is crucial for workers to be made aware of their rights and gaining access to grievance mechanisms to claim those rights when there are violations.

Furthermore, the AGT is seeking to make progress on two important sector topics: union rights and living wages. Although companies generally acknowledge the importance of these issues, a lack of concrete ac-

tions on these two issues is noticeable. More critically, however, most of the studied companies display a lack of insight when it comes to identifying and resolving actual FoA problems within their value chain. To conclude, few companies are currently providing specific supplier information on their websites which makes it difficult for workers to claim their rights and for CSOs to check whether companies are really living up to their human rights responsibilities.

Recommendations for companies and the AGT secretariat

In order to address the identified weaknesses as detailed in this report, we recommend that the involved companies improve their practices in the highlighted areas. First and foremost, companies need to engage more diligently with relevant stakeholder groups, especially rightsholders, who should be placed at the center of the due diligence process. It is essential to involve rightsholders in the identification of human rights risks related to complex issues such as the violation of trade union rights, discrimination, child labour and forced labour. What is equally important is the engagement of rightsholders in the development and verification of approaches to prevent, mitigate and remediate such risks and violations.

Furthermore, companies need to improve how they inform stakeholders about the grievance mechanisms they use and the steps workers or their representatives can take to access remedy. Companies should also disclose the complaints that have been brought against them and supply information on how they were resolved.

With regard to adding depth to their risk assessments, we recommend that companies not limit themselves to only reporting potential risks. Companies must also report actual adverse impacts and they should also develop and provide concrete, time-bound plans for the prevention, mitigation and remediation of both potential and actual adverse impacts. Companies should consult [The OECD Due Diligence Guidance For Responsible Business Conduct](#) for further recommendations on this issue.

We also highly recommend that companies disclose all relevant and detailed supplier information in conjunction with the requirements as stated in the Transparency Pledge.

Recommendations for the secretariat of the AGT, include paying extra attention to the strict monitoring of the (progress) companies make regarding the identified weaknesses. Moreover, the secretariat should facilitate capacity-building activities on the identified areas of concern (rightsholder engagement, access to remedy, freedom of association and living wages).

SKC and SOMO's views on voluntary initiatives

When it comes to building joint business leverage and guiding companies in their capacity development, SKC and SOMO see added value in MSIs like the AGT. However, we also notice that most of current MSIs do not offer sufficiently strong incentives to achieve lasting improvements in respect for labour rights. Some MSIs effectively manage to motivate part of their corporate membership to take concrete steps towards responsible business conduct, but generally speaking companies fail to achieve meaningful and lasting changes for workers in their supply chain. This is again demonstrated by the analysis of due diligence reports offered in this SKC-SOMO report. Clearly, there is a need for strengthening MSIs. For one, MSIs should hold their corporate members to more stringent requirements. While it is up to a company to join an improvement initiative, or not; once in, the agreements made in the context of the MSI should have an enforceable character.

System change in the garment sector through legislation

The underlying industrial business model in the garment industry has left workers in supply chains vulnerable. The current COVID-19 crisis has made this even more apparent, with companies and retailers cancelling orders, delaying the placement of new orders or forcing discounts on goods already produced. They are passing on the costs of the crisis to their workers, many of whom have lost their jobs, are insufficiently covered by social security and face severe health and safety risks. The crisis further reveals how companies and retailers are able to ignore their responsibilities with regard to preventing and mitigating adverse human rights impacts in their supply chains, and providing for or cooperating in the remediation of harm that they have caused or contributed to.

Time has shown that the garment industry's structural problems cannot be solved by voluntary initiatives alone. To achieve systemic change, the Dutch government should introduce binding legal instruments that will ensure corporate accountability and access to remediation for victims of human rights violations. This kind of legislation should require companies to conduct due diligence on human rights and environmental risks, and take appropriate steps to prevent and mitigate those risks. This addresses the 'free-riders' problem (companies that get away with not complying) by creating a level playing field through the independent monitoring and imposing of sanctions on companies that fail to perform due diligence.

Binding laws and regulations regarding human rights due diligence should amend the inherent limitations of voluntary initiatives by introducing measures to hold companies legally accountable if they fail to act against human rights abuses in their supply chains.

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