

ENABLING WORKER REPRESENTATION

Act to embed

Managing Freedom of Association (FOA), collective bargaining (CB) and worker representation through specific indicators international management standards, codes, principles and frameworks.

Introduction

The commitment to support and promote FoA and collective bargaining to workers in your supply chain ultimately is mapped and managed through management standards, codes of practice, principles, key performance indicators and a range of frameworks. Equally, many also rely on audit reports to assess and measure activity in the field.

Within due diligence mapping, FoA is a critical factor in assessing risk to workers, especially in sourcing countries where worker voice and trade union activity is suppressed and where the legal framework underpinning protection of worker rights is weak or not enforced.

Despite company concerns over its complexity as an issue, FoA is central to the ETI Base Code. It is an enabling clause, unlocking CB and other effective mechanisms for worker representation. It encompasses worker awareness, worker voice and how disputes and grievances are handled in the workplace.

This document aims to:

- Help members report to ETI on how they support FoA through mapping and how FoA is reflected in non-ETI international management standards. 'Standards' here is taken to include codes, principles, frameworks and management systems as well as formal standards.
- Outline a set of FoA and CB indicators
- Demonstrate how the ILO Fundamental Principles and Rights at work are woven into many standards, principles, codes of conduct and frameworks
- Reflect the scope and scale of instruments available to members to manage labour rights

- Show how adherence to international management standards can deliver adherence to ETI Base Code on FoA and Collective Bargaining

FoA is widely supported in almost all standards concerned with social issues, but often in different ways. This guide can therefore be used by companies to highlight where adherence to one international management standard already fulfils the requirements for ETI reporting in respect of FoA. However, companies should note that it does not make a judgement on how well each of the standards deals with FoA.

FoA indicators

At the global/national level the indicators may be categorised into two main groups, namely:

Statistical indicators such as trade union density rate, collective bargaining coverage, days not worked due to strike action or lock out and where there is labour court provision, number and type of cases and appeals. It is also useful to underpin the core indicators with others such as types of employment (permanent, casual, seasonal and both internal and external migrants), industrial, agricultural or service workforce and informal to formal economy ration.

Legal indicators, for example, ratification of the conventions, labour rights provision in local law such as the right to organise and bargain collectively. Is there a national law guaranteeing the right to join and form organisations for the protection of workplace interests and that sets out trade union and agreement processes. This is reflected in:

- Is authorisation needed to establish and organisation?
- Is there a minimum number of workers required to establish such? and
- Which workers are excluded from the law?

The legal indicators should also be seen in context of the scope of whether workers are free to choose or whether worker representation parameters

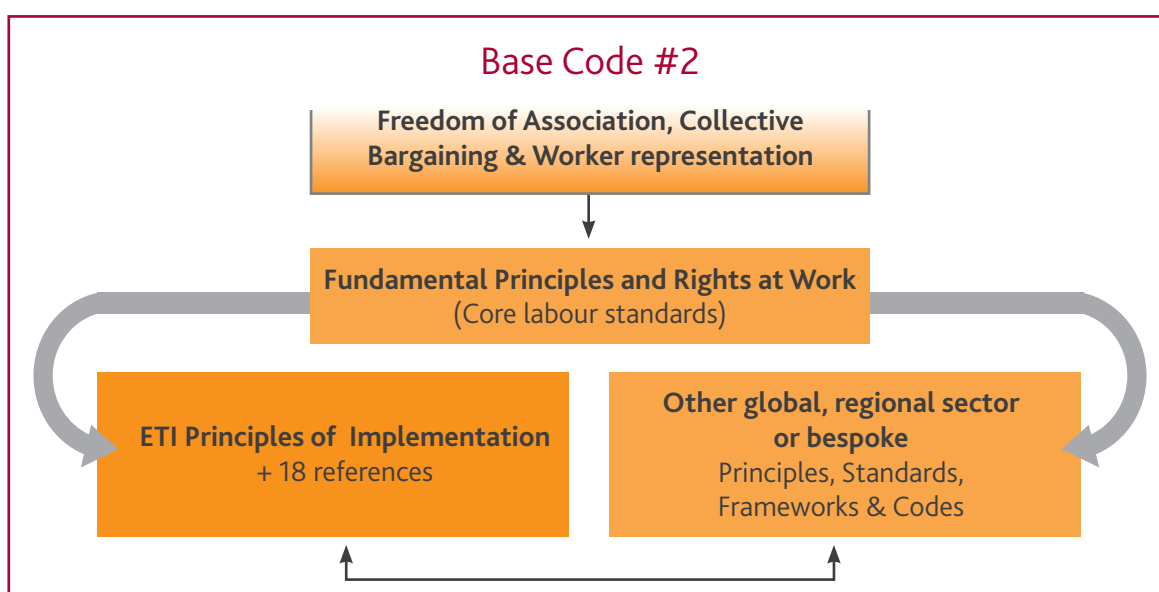
*Freedom of
association is at
the heart of any
effective and
mature system of
industrial relations*

are imposed, for example, China, where the state determines the role and activity of the trade union. Legal indicators will typically translate into company policy, procedures and practice.

The statistical indicators can also be applied at a Company (factory & farm) level to manage labour standards in the supply chain.

Intersectionality of FoA and CB

The ETI base code clause two is based on ILO core labour standards, including Freedom of Association and Collective Bargaining. The labour standards are replicated or are articulated in various ways. At a global level they are found in Sustainable Development Goals as the Decent Work agenda, the Just Transition principles in the climate change section and are the basis for the Social Dialogue narrative.



There are a very large number of standards that impact FoA in some way. This short guide, researched and designed by Professor Adrian Henriques, therefore addresses:

- Key multi-stakeholder standards typically led by NGOs
- A few sector specific standards, to illustrate how these can also be helpful
- A number of relevant industry association standards

- Two corporate standards, amongst the many available, to illustrate the extent to which corporate standards or codes can also be useful.

How this tool assists you (show and tell)

This guide looks at how various international management standards deal with key aspects of the management of FoA. Key aspects are set out in ETI's principles of implementation (Pol).

ETI PRINCIPLES OF IMPLEMENTATION	
Policy commitment	Grievance mechanisms
Strategy	Supplier relationships
Governance	Worker awareness
Risk assessment	Worker representation
Ongoing monitoring	Capacity building, remedy, tracking

In the table (second below), each of the standards is reviewed against each Pol with respect to FoA. Most of the standards contain several recommendations or requirements on some aspect of FoA. For example, a standard may require that a company should disclose or 'tell' the public what it is doing in relation to policy, strategy or one of the Pol in relation to FoA – perhaps simply to say whether it has a due diligence process in place.

Alternatively (or in addition) the standard may recommend or require the company to 'do' something, for example, specifying a level of performance on risk assessment or providing remedy or one of the Pol – perhaps that it must have a due diligence process in place. The standard may also require that either the disclosures, or the performance (or both) should be audited. The Key (immediately below) shows how each of these possibilities is indicated in the table.



Requirement/
recommendation
to disclose

Requirement/
recommendation
to audit disclosure

Requirement/
recommendation
to achieve specific
performance

Requirement/
recommendation to
audit performance

Relevant, but
with no specific
recommendations

ETI PRINCIPLES OF IMPLEMENTATION										
Standard	Policy commitment	Strategy	Governance	Risk assessment	Ongoing monitoring	Grievance mechanisms	Supplier relationships	Worker awareness	Worker representation	Capacity, remedy, tracking
INTER-GOVERNMENTAL STANDARDS										
ILO Declaration ⁱ	Requirement to disclose		Requirement to disclose	Requirement to disclose		Requirement to disclose	Requirement to disclose		Requirement to disclose	Requirement to disclose
SDGs ⁱⁱ									Relevant, but with no specific recommendations	
Global Compact ⁱⁱⁱ	Requirement to achieve specific performance		Requirement to achieve specific performance	Requirement to achieve specific performance	Requirement to achieve specific performance	Requirement to achieve specific performance			Requirement to achieve specific performance	Requirement to achieve specific performance
Guiding Principles ^{iv}	Requirement to achieve specific performance			Requirement to achieve specific performance	Requirement to achieve specific performance	Requirement to achieve specific performance	Requirement to achieve specific performance			Requirement to achieve specific performance
OECD ^v									Requirement to achieve specific performance	
OECD Garment Sector ^{vi}	Requirement to achieve specific performance			Requirement to achieve specific performance	Requirement to achieve specific performance	Requirement to achieve specific performance	Requirement to achieve specific performance		Requirement to achieve specific performance	Requirement to achieve specific performance
MULTI-STAKEHOLDER STANDARDS										
ISO 26000 ^{vii}	Requirement to achieve specific performance	Requirement to achieve specific performance	Requirement to achieve specific performance	Requirement to achieve specific performance	Requirement to achieve specific performance	Requirement to achieve specific performance	Requirement to achieve specific performance	Requirement to achieve specific performance	Requirement to achieve specific performance	Requirement to achieve specific performance
GRI ^{viii}	Requirement to achieve specific performance	Requirement to achieve specific performance	Requirement to achieve specific performance	Requirement to achieve specific performance	Requirement to achieve specific performance	Requirement to achieve specific performance	Requirement to achieve specific performance	Requirement to achieve specific performance	Requirement to achieve specific performance	
Fairtrade ^{ix}									Requirement to achieve specific performance	
SMETA ^x	Requirement to achieve specific performance				Requirement to achieve specific performance	Requirement to achieve specific performance		Requirement to achieve specific performance	Requirement to achieve specific performance	
SA8000 ^{xi}	Requirement to achieve specific performance	Requirement to achieve specific performance	Requirement to achieve specific performance	Requirement to achieve specific performance	Requirement to achieve specific performance	Requirement to achieve specific performance	Requirement to achieve specific performance	Requirement to achieve specific performance	Requirement to achieve specific performance	Requirement to achieve specific performance
SECTOR-SPECIFIC STANDARDS										
FSC ^{xii}			Requirement to achieve specific performance			Requirement to achieve specific performance				
MSC ^{xiii}										
Clean Clothes Campaign ^{xiv}	Requirement to achieve specific performance	Requirement to achieve specific performance	Requirement to achieve specific performance		Requirement to achieve specific performance	Requirement to achieve specific performance	Requirement to achieve specific performance	Requirement to achieve specific performance	Requirement to achieve specific performance	Requirement to achieve specific performance
SIZA ^{xv}	Requirement to achieve specific performance		Requirement to achieve specific performance		Requirement to achieve specific performance	Requirement to achieve specific performance	Requirement to achieve specific performance	Requirement to achieve specific performance	Requirement to achieve specific performance	Requirement to achieve specific performance
ELS										
RBA ^{xvi}	Requirement to achieve specific performance		Requirement to achieve specific performance	Requirement to achieve specific performance	Requirement to achieve specific performance	Requirement to achieve specific performance	Requirement to achieve specific performance	Requirement to achieve specific performance	Requirement to achieve specific performance	
Global G.A.P. ^{xvii}										
FWF ^{xviii}									Requirement to achieve specific performance	



Requirement/
recommendation
to disclose

Requirement/
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to audit disclosure

Requirement/
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Requirement/
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Relevant, but
with no specific
recommendations

ETI PRINCIPLES OF IMPLEMENTATION										
Standard	Policy commitment	Strategy	Governance	Risk assessment	Ongoing monitoring	Grievance mechanisms	Supplier relationships	Worker awareness	Worker representation	Capacity, remedy, tracking
INDUSTRY ASSOCIATION STANDARDS										
BSCI ^{ix}	Requirement to disclose			Requirement to achieve specific performance	Requirement to audit disclosure	Requirement to audit disclosure	Requirement to audit disclosure	Requirement to audit disclosure	Requirement to audit disclosure	Requirement to audit disclosure
WRAP ^{xx}	Requirement to disclose					Requirement to achieve specific performance		Requirement to achieve specific performance	Requirement to achieve specific performance	
ICTI ^{xxi}	Requirement to audit disclosure					Requirement to achieve specific performance		Requirement to achieve specific performance	Requirement to achieve specific performance	
GSCP ^{xxii}							Requirement to audit disclosure		Requirement to audit disclosure	
FLA ^{xxiii}									Requirement to achieve specific performance	
ELS ^{xxiv}	Requirement to audit performance		Requirement to achieve specific performance	Requirement to achieve specific performance	Requirement to audit disclosure	Requirement to achieve specific performance	Requirement to audit disclosure	Requirement to audit disclosure	Requirement to audit disclosure	Requirement to audit disclosure
CORPORATE STANDARDS										
Disney ^{xxv}	Requirement to audit disclosure								Requirement to achieve specific performance	
M&S ^{xxvi}	Requirement to audit disclosure			Requirement to achieve specific performance	Requirement to audit disclosure	Requirement to achieve specific performance	Requirement to audit disclosure		Requirement to achieve specific performance	Requirement to audit disclosure

- i. Tripartite Declaration of Principles concerning Multinational Enterprises and Social Policy (2017).
- ii. Transforming our world: the 2030 Agenda for Sustainable Development, A/RES/70/1 (2015). The SDGs are directed at nations, rather than companies.
- iii. Global Compact Principles, <https://www.unglobalcompact.org/what-is-gc/mission/principles>
- iv. Guiding Principles on Business and Human Rights, A/HRC/17/31, (2011). The Guiding Principles does not mention freedom of association explicitly, but it does emphasize the universal applicability of the principles to all human rights, including labour rights.
- v. OECD Guidelines for Multinational Enterprises (2008).
- vi. OECD Due Diligence Guidance for Responsible Supply Chains in the Garment and Footwear Sector (2017)
- vii. ISO 26000 Guidance on social responsibility (2010). ISO 26000 also makes a general recommendation that public reports should be verified.
- viii. GRI Standards (2016). The analysis assumes that Freedom of Association, including in the supply chain, is treated as a material topic and disclosed in a 'comprehensive' report.
- ix. Fairtrade Trader Standard (2017)
- x. Sedex Members Ethical Trade Audit (SMETA) Measurement Criteria (2017). SMETA provides for site-specific audits.
- xi. Social Accountability 8000 (2014)
- xii. FSC-US Forest Management Standard (v1.0)
- xiii. MSC Fisheries Certification Requirements and Guidance v2.0 (2014). Note that this standard does not address Freedom of Association.
- xiv. Code of Labour Practices for The Apparel Industry Including Sportswear (1998).
- xv. SIZA Standard (2016). SIZA uses the Global Social Compliance Programme (GSCP, a Global Compact Initiative) reference code as the platform for the development of its standard that is aligned to local legislation and international requirements.
- xvi. Responsible Business Alliance Code of Conduct, v6 (2018). The RBA was formerly the Electronic Industry Citizenship Coalition. The code encourages self-assessment by the company.
- xvii. Global G.A.P. All Farm Base – Crops Base – Fruit and Vegetables, v5.1 (2017). Note that this standard does not address Freedom of Association.
- xviii. Fair Wear Foundation Code of Labour Practices, undated
- xix. amfori BSCI Code of Conduct version 1/2014. Suppliers may be asked to report on lower tier suppliers' adherence to the code.

- xx. Worldwide Responsible Accredited Production Principles; <http://www.wrapcompliance.org/en/12-principles>.
- xxi. Industry Council of Toy Industries Code of Business Practices, 2013 (2018 revision in progress). The code requires internal audit of compliance and requires suppliers to audit lower tier suppliers' compliance.
- xxii. Global Social Compliance Programme Reference Code, v2 (2010).
- xxiii. Fair Labor Association Workplace code of Conduct, 2011.
- xxiv. Building Research Establishment, (BRE) Environmental and Sustainability Standard, Ethical Labour Sourcing Standard, BES 6002, v1 (2017). BES 6002 does not mention freedom of association explicitly, but it does base its recommendations on the ILO Core Labour Standards.
- xxv. Disney Code of Conduct for Manufacturers (2007). The code requires suppliers to allow Disney itself to audit their compliance with the code.
- xxvi. M&S Global Sourcing Principles (2018).

The Ethical Trading Initiative (ETI) is a leading alliance of companies, trade unions and NGOs that promotes respect for workers' rights around the globe. Our vision is a world where all workers are free from exploitation and discrimination, and enjoy conditions of freedom, security and equity.

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