European Federation of Building and Woodworkers



MONITORING AND APPLICATION OF LABOUR RULES AND SOCIAL PROTECTION IN THE SUPPLY CHAINS OF CONSTRUCTION COMPANIES

A toolkit to empower Europ<mark>ean Works Council</mark> representatives

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Layout

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Dear EWC Member,

The European Federation of Building and Woodworkers (EFBWW) supports European Works Councils (EWCs) as fora for trade union and worker representatives to organise, express and defend workers' interests across borders in a multinational company (MNC). Our policy is to make use of the unique European legal framework, based on the EWC directive 2009/38/EC, to defend workers' rights. The legal framework is far from perfect, but it gives workers in MNCs the opportunity to enter into company social dialogue on several topics, from health and safety to the monitoring and enforcement of workers' rights in subcontracting chains.

Large construction and construction materials companies, with their tens of thousands of subcontractors and suppliers, outsource their labour force not only to acquire higher degrees of specialisation, but predominantly to save costs. Cost pressure which is handed down the supply and subcontracting chain leads to bad working conditions, exploitation, or the disregard of the right to organise in unions.

EW/Cs, with their right to information and consultation, can be a strategic tool for worker representatives and trade unions to monitor the supply and subcontracting practices in an MNC.

This toolbox is designed to help EWCs in this regard.

The EFBWW, together with its network of EWC coordinators and its affiliated national trade unions, stands ready to give all support possible to monitor and enforce workers' rights in supply chains. We hope that you, as EWC representatives, make good use of this practical toolbox.

I warmly thank all colleagues and partners who have been involved in creating this toolbox, especially the EWC representatives and coordinators at LafargeHolcim, Royal BAM and Vinci, the HR managers of the companies who cooperated, and the researchers of Syndex who drafted the text.

In solidarity,

Tom Deleu General Secretary European Federation of Building and Woodworkers (EFBWW)

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Methodological note

This toolkit has been created at the request of the European Federation of Building and Woodworkers. It has been established on the basis of desktop research and case studies on three multinational companies: Royal BAM (Netherlands), LafargeHolcim (Switzerland) and Vinci (France).



CHAPTER 1 ISSUES FOR WORKERS, GOOD PRACTICES AND TOOLS FOR EUROPEAN WORKS COUNCILS



#1 A RISK OF SOCIAL DUMPING AMONG SUBCONTRACTORS AND SUPPLIERS

The use of subcontracting allows large construction companies to cover a need for specialised skills that they do not have in their workforce or that are not available at the location where a project is being carried out. From this perspective, subcontracting is not necessarily a problem. Subcontracting, and in particular technical subcontracting, is consubstantial to the activity of large companies. Without it, their major achievements would not be possible.

This makes it even more necessary to take account of social and environmental risk throughout the value chain. The challenge for EWCs is to know how to position themselves to prevent these risks, for the benefit of the workers (including subcontractors and suppliers) and, ultimately, of the company and its projects.

Subcontracting sometimes has a negative aspect: the company hires subcontractors in some cases to

secure the cost of a work package and secure it at a low price. The social dumping that can result from this has dramatic consequences: everyone can think of a social or health scandal that illustrates this dumping, involving a major company and its subcontractor or its cascade of subcontractors.

It is difficult to say whether the situation has deteriorated with the development of the poorly regulated European single market (freedom of movement of services and posting of workers) or with the further opening of borders in the absence of a labour inspectorate with appropriate prerogatives. But the ecosystem of the construction sector seems to be a favourable ground for social dumping along the entire value chain.

Suppliers of materials and services could be subject to the same analysis. Some multinational companies identify types of services that are more exposed in terms of non-respect of human rights, labour and workers' health and safety (e.g. subcontracting in mining, in general services, in maintenance, etc.) CF LafargeHolcim).

THE RISKS OF INFRINGEMENT OF WORKERS' RIGHTS IN THE SUBCONTRACTING CHAIN

- > The most frequent evils in the construction value chain: undignified working conditions, long working hours, late payment by subcontractors leading to late payment to employees and other participants in the value chain, degrading housing conditions for posted workers (for example, some abuses take place off the building sites), etc. Entire sectors, far from the core business, are neglected: security or cleaning subcontractors.
- > Risk factors are identified by some companies (Vinci): concealed work or illegal posting, lending of illegal workers, subcontractor default, etc. Vinci
- > It should also be borne in mind that, even when outsourcing services is carried out in accordance with the law, the economic advantages of subcontracting often lead to poorer working conditions. Employees of subcontractors do not always benefit from the most advantageous collective agreements (minimum wages, bonuses, working hours, vacations, etc.) or from the employee savings or profit-sharing schemes negotiated in the largest companies.

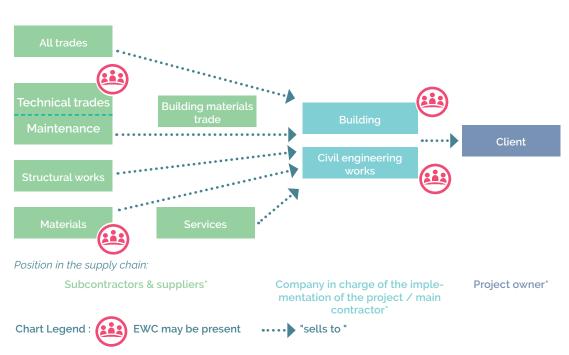
#2 A HIGHLY FRAGMENTED SUPPLY CHAIN

The value chain is made up of all the players involved in the production of a product. In the construction sector, it goes from the client to the material suppliers, via the structural work and all the trades and services to companies (security, cleaning). The project owner is the client, while the project manager is the orchestra on the site and the designer. Depending on the country and sub-sector, the large companies combine the roles of project manager and construction manager, and subcontract materials and services to a greater or lesser extent.

For example, in European general contractors such as Vinci or BAM, subcontracting and purchasing represent more than 50% of turnover. For materials producers such as LafargeHolcim or Saint Gobain, between 30 and 40% of the workforce is outsourced to suppliers and subcontractors; the amount of purchases can represent two thirds of turnover!

The size of suppliers and subcontractors varies (subsidiaries of multinationals are sometimes themselves subcontractors). Their number is very high: think of the 110,000 suppliers of goods and services at LafargeHolcim **C** case study, the 35,000 at Royal BAM **C** case study, the dozens of suppliers on many of Vinci's 290,000 building sites **C** case study

European Works Councils (EWCs) are established in multinational companies, which are present in technical lots, building materials and construction.

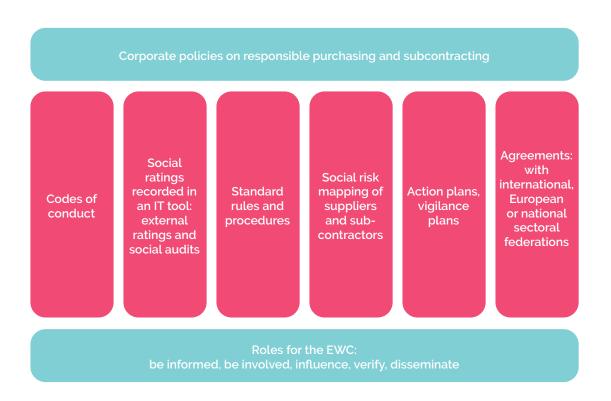


Construction supply value chain

#3 KNOWING AND ACTING ON COMPANIES' PURCHASING POLICIES: A MAJOR CHALLENGE FOR EUROPEAN WORKS COUNCILS

In response to controversies that could tarnish their image, but also under pressure from certain national legislations (UK Modern Slavery Act of 2015, French law on the duty of vigilance of 2017, for example), companies have equipped themselves with tools to take into consideration the fate of employees of subcontractors and suppliers involved in their value chain.





#4 OBSTACLES TO EWC INTERVENTION AND EXISTING TOOLS

It is difficult for European Works Councils to play a role in this issue. It is necessary to highlight the tools available to them.

Barriers to EWC intervention and tools to address them

Understand your role as an EWC member Challenge: To articulate your role as a member of the EWC with your role as an employee representative in the subsidiaries.		
Tools	Stakeholders	Illustration
Know the national trade union guides on the respect of social rights in subcontractors	> National trade union federa- tions and national confedera- tions	German example DGB Guide to Fair Mobility (© "Fair Mobility"). French example CGT guide to demands, CFDT guide to responsible subcontracting "Examples of French trade union toolboxes").

Lack of information on the transnational aspects of the purchasing policy		
Tools	Stakeholders	Illustration
Getting the right information Ask the company's management for the relevant indicators, based on a good analysis of the IT tools of its purchasing policy.	 > The EWC > Works councils of national subsidiaries > On the advice or recommendation of an expert, if any 	Indicators are monitored by the companies without the EWC being informed: number of alerts registered, number of suppliers blacklisted, progress plans signed with subcontractors and sup- pliers, classification of services purchased according to social, environmental and health/safety risks, etc. Potentially, this data can be pre- sented by country. (Cr *A tool to know: purchasing databases, including a supplier evaluation/subcontractors*)

MONITORING AND APPLICATION OF LABOUR RULES AND SOCIAL PROTECTION IN THE SUPPLY CHAINS OF CONSTRUCTION COMPANIES

Lack of knowledge of the company's purchasing policy

Issue 1: Are the principles of these policies sufficient? Issue 2: Are these policies, interesting in theory, really put into practice on a daily basis? Who better than trained employee representatives to ensure that the commitments of purchasing policies are implemented in daily reality? Lack of knowledge of innovative initiatives and/or practices of companies

Tools	Stakeholders	Illustration
Training in purchasing policy, in internal tools of the company, and in its guiding principles and commitments Who is responsible for purchasing? Who ensures that the working conditions of suppliers and subcontractors are respected? How are these evaluated? What compu- ter tools are used to record these assessments?	> The management of your company (CSR department)	Examples from C LafargeHolcim. Royal BAM. Purchasing policy and relations with sup- pliers are centralised, by country or globally, and evaluations of subcontractors and suppliers regarding their impact on health and safety, social and human rights, and the environment are centralised in single IT tools
Analysis of the company's pur- chasing policy Analysis of innovations and best practices	> An external firm like Syndex	 Example at Royal BAM When selecting a subcontractor, in theory, a price that is too low can be seen as a risk factor and the analysis is focused on the subcontractor's cost analysis. Example at Vinci: public/private partnership with the ILO's Qatar office to create responsible hiring conditions in Bangladesh (against the practice of the worker paying the hiring fee).

Lack of knowledge of existing agreements and their implications		
Tools	Stakeholders	Illustration
Training on existing International Framework Agreements (IFAs), signed by the global and Euro- pean trade union federations, in order to verify their application and to improve them. A global agreement on fundamen- tal rights includes, for example, the right to collective expression of interests. This right is under threat in some companies. Training in complaint mechanisms for non-compliance with agree- ments	> EFBWW and BWI	 Although signed by the international trade union federations, international framework agreements may reserve a role for the EWC. For example, before the merger with Holcim, in the Lafarge International Framework Agreement (IFA): presence in the reference group of the secretary of the Lafarge EWC (* BWI International Framework Agreement (IFA) mediation system*). These agreements may include commitments monitored by a reference group. > Lafarge: possibility of suspending the relationship with the subcontractor in the event that violations of health, safety, fundamental social rights of workers or the environment were not corrected after warning. > Vinci: the 2017 Limited Geographic Scope IFA (Qatar) covers commitments on hiring conditions, employee representation in Qatar and a whistleblower mechanism.

Lack of knowledge of the company's legal obligations A body of legislation is being created in several countries (France, the Netherlands, Great Britain, Germany, etc.) and is being developed at the European level

Tools	Stakeholders	Illustration
Duty of vigilance training Employees are not well informed about this legislation imple- mented since 2017 in France, which has an extraterritorial scope and can therefore be used outside France. Other simi- lar laws, and even a European directive, are being drafted.	> An external firm like Syndex	Example 1 When it exists, the vigilance plan is often unknown by workers'representatives. Verbatim from an employee: "The Vinci vigilance plan is not known by anyone in my company. I found out about it during a training session set up by my union on an experimental basis." Example 2 C [™] -Combining the specificities of national legislation and collective agreements. A multinational company that is not head-
Training on Due Diligence OECD Guidelines for preventing, eliminating and mitigating risks of negative impact in supply chains and business rela- tionships.	 TUAC A union from the country where the law was passed 	quartered in France may be subject to the French duty of care law, for its operations in French subsidiaries or those dependent on a French subsidiary. In the transportation sector, XPO Logistics Europe, headquarte- red in France, was forced to implement a vigilance plan following a formal notice from a coalition of interested unions, regardless of the fact that its parent company is based in the United States. Exceeding the 10,000-em- ployee threshold in French subsidiaries and in dependent subsidiaries is one of the conditions for application of the law

Willingness of the company to dismiss the EWC		
Tools	Stakeholders	Illustration
Enforce your rights	> A law firm	
Steering of the	purchasing policy by the ma	anagement of the multinational
Right to information-consulta- tion of the EWC on the com- pany's policy		This right is established by Directive 2009/38/ EC of 6 May, 2009 on the establishment of a European Works Council or a procedure in Community-scale undertakings and Commu- nity-scale groups of undertakings for the pur- poses of informing and consulting employees or the company agreement establishing the European Works Council.
Development and implementation of a due diligence policy without the involvement of employee repre- sentatives, who are often presented with a fait accompli and play the role of auxiliaries, alibis		
The policy, risk analysis, im- plementation procedures, alert system and monitoring must be established in association with employee representatives (as regards the alert and reporting mechanism)		Example of good practice to be achieved: The involvement of the EWC is all the more effective as the EWC is trained in the duty of care'. The vigilance plan is regular- ly presented to the EWC, which can make comments and relay the information back to the countries.

Lack of involvement of the EWC		
Tools	Stakeholders	Illustration
Build a roadmap for the EWC Building demands of European and transnational scope. Follow up on this roadmap. Initiatives, surveys, etc. of the EWC	 > EFBWW > An external firm like Syndex > ETUI 	Initiatives of the Lafarge EWC (An initiative led by the EWC for the impro- vement of safety rules in all European sites of the Lafarge group): the EWC health and safety group has taken the initiative to carry out a survey to check compliance with the health and safety charter at the group's European sites. The shortcomings identified led to improvements in the health and safety reception of subcontractors' employees in 2005.

#5 AN ONGOING ISSUE

Multinational companies in the construction sector are already integrating social aspects into their management system, in the same way as quality, health/ safety and the environment. They are investing in this issue by creating dedicated positions within their head office (Sustainable Development, Sustainability, Purchasing Department), by using service providers (particularly for risk analyses, audits and the setting up of a warning system). Good practices are also being forged.

In the panel of our case studies, we can note the construction of a purchasing policy at the level of the group and no longer at the level of the site, with the creation of a more or less centralised database that is more or less open to internal personnel (and therefore to employee representatives), making it possible to evaluate subcontractors and suppliers from the point of view of respect for employees' rights (their health, safety and the environment). Innovations are emerging.

However, much progress remains to be made, particularly in terms of auditing subcontractors or, more generally, in terms of independent evaluation of company policies. Generally speaking, workers' representatives at national and European level seem to be too little or not at all integrated into the processes set up by companies.

The integration of social risk into the construction industry value chain is in its infancy. Some would say that it is twenty years behind other sectors, such as textiles. What if this delay is an opportunity for the construction sector and its workers?

EWCs need to be proactive to ensure that these approaches deliver concrete results and result in real progress in employment and working conditions for all employees in the value chain. The tools available to EWC members are based on 4 principles.

INNOVATIONS IN RESPONSIBLE PURCHASING POLICIES THAT YOU SHOULD KNOW

- > Social and environmental risks mapping by type of service and by country (LafargeHolcim, Vinci).
- > Taking into account the cost of suppliers as a means of analysing risk factors, such as an unusually low bid that may be based on non-compliance with collective agreements or undeclared work (Royal BAM).
- Providing a toolbox for field workers to control and improve their subcontractors, limiting subcontracting to tier 2, prohibiting the lending of workers between subcontractors, etc. (Vinci Construction France). Limiting subcontracting to tier 1 would be desirable and appears to be the limit to effective control of the subcontractor by the principal company.
- > Seeking a commitment from project owners and clients is key. As well as securing their awareness of the social risks created by unusually low prices.
- > Regular exchanges of views between management and the EWC on action plans (on the vigilance plan at Vinci).

THE EWC TOOLS SUMMARISED IN 4 PRINCIPLES

1

TRAINING ON THEIR RIGHTS

to better enforce their prerogatives; training in their company's initiatives and policies, to mirror them (critically), to make them progress and to disseminate good practices within the company and the sector.

2

MOBILISATION

by creating roadmaps - within the framework of EFBWW guidelines - around objectives such as: respect for trade union rights, prohibition of cascading responsibilities, changing national and European legislation in coordination with European trade union federations such as the EFBWW, making customers accountable, etc.

FEEDBACK

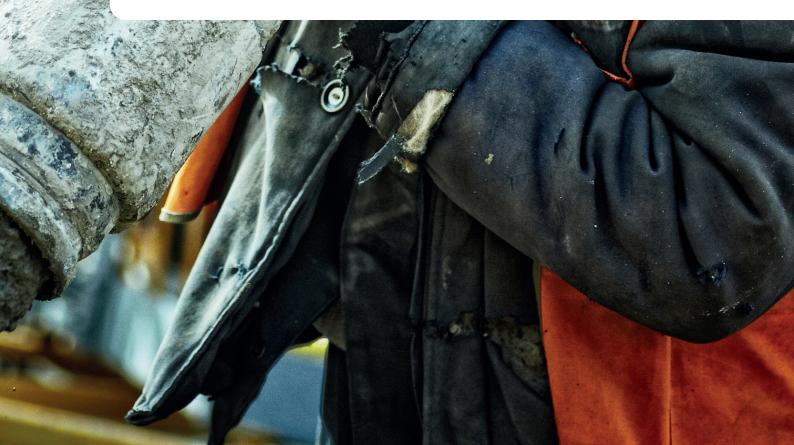
from subsidiaries and knowledge of company policies from EWC members.

4

INFORMATION ON RELEVANT INDICATORS

and perhaps contribution to the co-construction of new indicators, thanks to their knowledge of the reality in the field..

CHAPTER 2 **TOOLS AND THEIR IMPLEMENTATION** ACTION-ORIENTED PART: FOR PEOPLE WHO ARE INFORMED AND WISH TO INITIATE ACTIONS (PRACTICAL ADVICE)



#1 WHAT IS THE BEST STRATEGY FOR TRADE UNIONS AND EWCS?

We want to see tangible results when there is a real or imminent negative impact on the activities of the company and its supply chain trading partners.

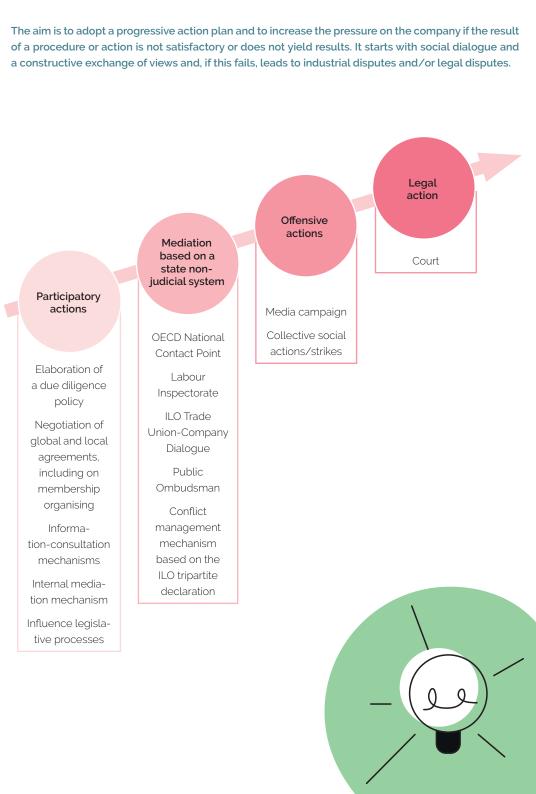
What is the best approach or combination of tools to achieve the best results?

In order to achieve concrete results to improve the social, societal and environmental impact of your company's operations and business partnerships, it is necessary to design a strategy adapted to each situation. The best strategy is one that has been designed to answer the following questions:

- > What are your legal levers: what is your capacity to act?
- > Does your EWC or trade union have internal and external support points?
- > What are your objectives? Prevention, sanction, capacity building?
- > What is the culture of the company in terms of social dialogue?
- > How much time do you have to achieve your objective (e.g. human rights issues, major health and safety or environmental risks, etc.)?

These parameters will help you to develop an effective strategy. Outside of an emergency situation (e.g. violation of fundamental rights), the most common approach is to adopt a gradual escalation strategy to make the best use of each tool at your disposal, although more radical strategies have also proven to be effective.

EXAMPLE OF HOW TO BUILD A STRATEGY We need more reliable information before we can act. E.g.: external expertise E.g.: coordination of works councils and trade unions We have information, we identify objectives and related actions to be launched. E.g.: Annual Roadmap of EWC Activities We influence corporate policies and create relevant tools. E.g.: Working Group on Conditions of Employment in the Supply Chain E.g.: Alert system We monitor compliance with policies and request management adjustments if necessary. E.g.: mediation system E.g.: field surveys 0 0



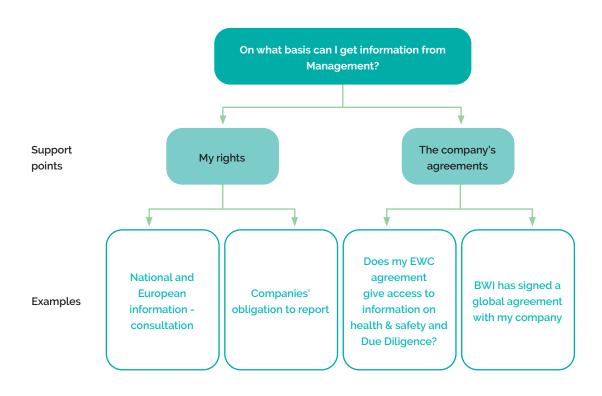
EXAMPLE OF A PROGRESSIVE ESCALATION STRATEGY

/// 19

#2 COMPREHENSIVE INFORMATION IS A STARTING POINT

EWCs often do not receive information or receive irrelevant information from management. EWCs do not need or should not rely solely on information provided by management. They have the capacity to co-ordinate the exchange of information with national employee representative institutions such as works councils and trade unions. EWCs can also appeal to external expertise to analyse the information at their disposal. External expertise can be a trade union expertise (EFBWW) and a technical one (e.g. Syndex or a law firm).

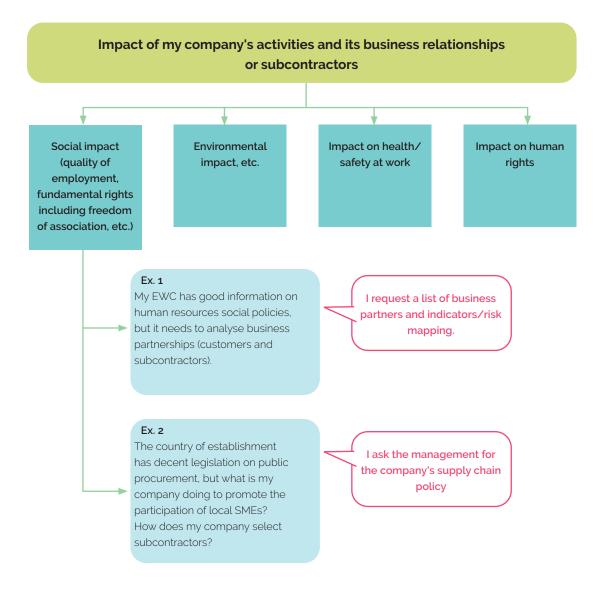
OBTAINING INFORMATION ON A LEGAL OR CONVENTIONAL BASIS



#2.1 WHAT INFORMATION IS NEEDED AND FOR WHAT PURPOSE?



I review my company's policy towards subcontractors and business partners. The EWC must be able to identify the companies concerned and their obligations towards my own company.



#2.2 HOW CAN I UNDERSTAND MY COMPANY'S VALUE CHAIN POLICY AND PERHAPS CHALLENGE IT? SEE MORE ON EUROPEAN LAW



Make your own analysis based on external elements, and collect your own information. employers have a legal obligation to provide relevant information to EWCs.



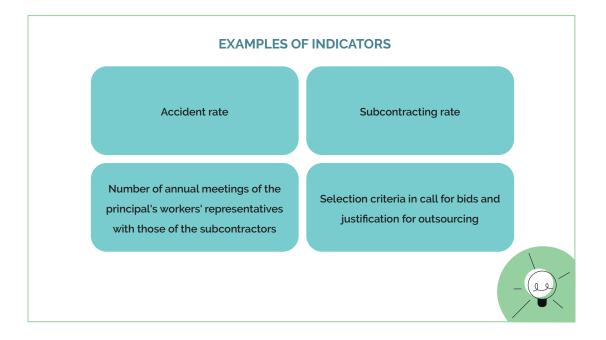
Use national works councils

#2.3 INDICATORS: WHAT LEADS?



What are my company's analysis indicators and are they reliable? Can I influence them or propose alternative and/or complementary indicators?

A European Works Council could supplement its exchanges of information with its management by using indicators other than just the information that is made public. The synthetic indicators that it deems most relevant for its transnational social dialogue could then be based on internal indicators existing within the group, or even on new indicators to be constructed jointly over time. The EWC can thus choose 4 to 8 indicators, group them together in a subcontracting dashboard for the use of social dialogue, and put them on the agenda of a recurring consultation possibly extended to a few employee representatives of key subcontractors. This is a methodological objective that could accompany a best practice on this subject.





#3 « WE HAVE RELIABLE INFORMATION AND WE WANT TO ACT»

FOUR ACTION MECHANISMS FOR EWCS AND TRADE UNIONS TO BE IDENTIFIED BEFORE IMPLEMENTING A STRATEGY

Internal coordination and collective approach	Social dialogue and non-state complaint mechanisms	Non-judicial State mechanisms	State judicial mechanisms
 > EWC annual roadmap > Europe/local coordination 	 Mediation in a global framework agreement Arbitration by the national social partners Company and/or sector collective agreements 	 Public mediation Labour Inspectorate 	> Courts

#3.1 INTERNAL COORDINATION AND COLLECTIVE APPROACH

C Adopting a roadmap for the EWC

A satisfactory EWC is a proactive EWC that is not just reactive to management consultations. A EWC can suggest topics and issues of common interest to its members for discussion with management. To this end, EWC members can jointly identify their common concerns and draft a list of priorities and activities over a period of one or two years.

Ex.1: A one day training/coaching session is often necessary to draft EWC roadmap

Ex.2: A working group may be established to ensure ongoing work.

C Coordination between European and national/local representatives, with EFBWW

Coordination is fundamental because it strengthens workers' representatives by being stronger together and also because it prevents workers' interests from being set against each other.

Here are some tips:

- Exchange of information on the basis of a specific objective adopted by the EWC: decisions to launch general exchanges of information between EWC members rarely produce results. A network becomes effective when its members want to achieve a common and precise objective;
- Involving national works councils: National works councils benefit from different levels of information. They also have different prerogatives. The combination of these bodies can strengthen the level of information of the EWC and its ability to act;

Involving works councils or unions of suppliers or customers: Many national unions have started to develop coherent activities along a supply chain, including in the construction sector. This approach can also be adopted from a European perspective. Workers' representatives and trade unions in SMEs, where they exist, are often isolated and lack the capacity to put pressure on their employers. For them, getting the support of workers' representatives in large partner companies is a real asset in advancing their demands.

Also in Germany, the DGB (German trade union confederation) has established cooperation with trade unions in Eastern European countries to help migrants learn more about their rights in order to better defend themselves against abuse and exploitation.

IN SWEDEN

On the basis of the law on co-determination, trade unions can veto employers. On the basis of its own assessment, the employer draws up a list of contractors to be used in the future. If the trade union does not disagree, the employer is then free to contract the companies on its list. For public contracts, the veto applies only if the company has signed a collective agreement covering the work performed and only to the client and the first contractor.

#3.2 SOCIAL DIALOGUE AND NON-STATE COMPLAINT MECHANISMS

The approach to social dialogue at company level

Some companies have a culture of open dialogue with workers and their representatives. This is the case when, beyond the legal obligations of information-consultation, the management welcomes the opinions of the employee representatives to improve its policies or practices, in the interest of the undertaking and the employees.

Commitments made by companies through sectoral or multi-stakeholder initiatives (codes of conduct, performance standards, global framework agreements between multinational companies and trade unions) should be considered "legitimate" provided that they include mechanisms to ensure that trade unions (or legitimate stakeholders) can raise their concerns when they believe that the company has failed to meet its commitments.

These mechanisms are not a substitute for collective bargaining and should not be used to undermine the role of trade unions in dealing with labour disputes, nor should they be used to prevent access to judicial or non-judicial grievance mechanisms.

EXAMPLES OF TOOLBOXES

See examples of toolkits of French trade unions that propose national strategies linked to global and inter-company solutions:

Gr Sheet #G

- 🕼 « Repères revendicatifs fiche n° 10 : droit des salariés des entreprises sous-traitantes », CGT
- CP <u>« Pour une sous-traitance responsable »</u>, CFDT.

Grman example of a toolkit for national works councils (by IWMP Consult) that illustrates how to involve employee representatives in company policy in the value chain...

Examples of agreements signed between a union and the client and/or the employer: 🎓 <u>"Social considerations in Public Procurement, A political choice!"</u> EFBWW, September 2015.

PROS AND CONS OF NON-STATE COMPLAINT MECHANISMS (CODES OF CONDUCT, GLOBAL FRAMEWORK AGREEMENTS, ETC.)

+	—
Fast access Reduced cost	Lack of internal recourse, appeal system and enforce- ment systems for implementation
Transnational scope Contribution to the "due diligence" approach by provi- ding additional channels for raising concerns, thereby	Need for further mechanisms among state mecha- nisms for binding decisions
avoiding more serious consequences and escalation of the conflict	

Global Framework Agreements

An international (or global) framework agreement is an instrument negotiated between a multinational enterprise and a Global Union Federation (GUF) in order to establish a permanent relationship between the parties and to ensure that the enterprise respects the same standards in all the countries in which it operates.

Today, these agreements tend to move towards greater coverage of workers: negotiators often add clauses on supply chain responsibility and relations with trading partners to comply with international standards.

However, these clauses should not be limited to making companies accountable for their activities. MNCs should not only adopt an effective system of benchmarking and reporting; because trading partners are often small players, MNCs should also consider the type of support they should provide to these trading partners to ensure compliance with national and international standards.

BWI has signed agreements with some 20 multinationals such as Royal Bam, Lafarge and IKEA. Ex.: The EWC can support the BWI by sending unionised participants to the negotiating team.

"The IFA mediation system of BWI"

Examples of companies that have signed a global agreement dedicated to or covering supply chain responsibility with Global Union

USING THE NATIONAL AND EUROPEAN SECTORAL SOCIAL DIALOGUE (top to bottom and bottom to top)

In the majority of EU countries, collective bargaining plays an important role in the regulation of working conditions. Collective labour agreements can be the subject of identification of good practices between countries about which useful exchange can be had in order to make progress.

🕝 About sectoral agreements

The European Sectoral Social Dialogue Committee for the Construction Industry (SSDC Construction) is one of the oldest at EU level. Meetings with the employers' federation (FIEC) have been held since the mid-1980s. From the very beginning, the EFBWW

IN SPAIN

In general, every worker is registered with the administration, but in some cases additional preconditions are imposed on workers and employers in the construction sector.

in Spain, the Professional Construction Card ("TPC, *Tarjeta Profesional de la Construcción*") was introduced by an agreement between the social partners, which includes basic training in occupational risk prevention and also requires specific training for any job in the construction sector in addition to basic skills. The Labour Foundation for the Construction Sector (FLC, *Fundación Laboral de la Construcción*) is the body responsible for issuing the cards..

considered the SSDC Construction as a very important lever to develop a socially sustainable European labour market for the construction industry.

The new social dialogue programme (2020-2023) covers a number of topics relevant to the supply chain issue such as: training in SMEs, greening the sector, developing the representativeness of workers' organisations (capacity building), combating cross-border social fraud, unfair competition and undeclared work.

EWCs have a lot of experience to share in a sectoral discussion to strengthen European social dialogue and thus combat social dumping and promote good practice for all companies, regardless of their size. Conversely, EWCs can also draw inspiration from the good practices identified by the European sectoral social dialogue committee.

- > Example: every year in the electricity sector some EWC representatives (chairperson/secretary) participate in the sectoral social dialogue committee.
- > Using the results of social dialogue. Example: Social partners in the food industry push European Parliament to ban unfair commercial practices (C² Sheet J).
- > Push for industry-specific rather than enterprise-wide. Example: agreeing on evaluation criteria

#3.3 NON-JUDICIAL STATE MECHANISMS

They take the form of labour inspectorates, environmental dispute resolution mechanisms, national consumer protection bodies, government mediation services and complaint mechanisms established under specific or sectoral regulatory schemes (e.g. public health and safety or OECD National Contact Points).

See an example of complaint mechanisms in the construction sector in the UK (Sheet H).

Pros and cons of non-judicial state mechanisms

+	—
An easy access	Lack of budgetary and human resources
No need for legal advice	Lack of strong investigative powers
Quick processes	Limited or unclear mandate of the organisation
Opportunities for preventive and remedial, compensa-	Lack of legal or political "cover" to enter complex in-
tory and punitive actions	vestigations
Nurturing legislative reform	Possible lack of independence, particularly in cases
Appeal is sometimes possible	involving government organisations
A case-law approach favourable towards prevention	Limited geographical scope at the national level (some
and peer learning	exceptions however, such as National Contact Points
	of the OECD)

OECD NATIONAL CONTACT POINTS (NCPS)

The role of NCPs is to assist the parties (usually trade unions and multinational corporations, as well as NGOs and governments in some cases) to resolve an issue raised in the form of a complaint related to a violation of the OECD Guidelines for multinational enterprises. MNCs are not obliged to participate in the process¹, although they cannot hinder it. Several NCPs may be involved simultaneously in a similar case arising in other countries. When the violation of the Guidelines takes place in a country that is a signatory to the Guidelines, the host country NCP will deal with the case but should co-operate with the home country NCP.

By 2016, trade unions had submitted 184 complaints according to the Trade Union Advisory Council (TUAC).

Although the experience of trade unions in using the Guidelines has been mixed, the NCPs provide a forum for problem-solving that has helped to strengthen trade union organisation and collective bargaining.

Some NCPs are more active than others, and some tend to be more supportive of trade union views than others. Wherever possible, trade unions, together with TUAC and the Global Union Federations, can analyse how to activate relevant NCPs depending on the nature of the complaint and the geographical scope of the multinational company, including its supply chain.

1 See "The trade union guide: recommendations for responsible business conduct in a global context", 2016 https://tuac.org/mne-guidelines-complaints/tradeunionguidecompressed/

#3.4 STATE JUDICIAL MECHANISMS

For more information, see the website of the European Trade Union Institute (ETUI), which has created a database of EWC case law and produces analyses useful for EWC members considering legal action¹.

This involves going to court. In many countries EWCs have a legal personality, so they can go to court at the expense of the company. This is not the case in all countries. Similarly, the capacity of trade unions to represent the EWC or workers' representatives is not the same in all countries. It is therefore necessary to analyse the applicable law and case law for each EWC.

Pros and cons of state judicial mechanisms

+	—
Enforceability of decisions	Enforceability limited to the country of jurisdiction
An appeal is possible	Duration of the procedure
Possibility for trade unions to rely on positive case law	Cost of the advice and sometimes also of the proce-
(media coverage, case law, etc.).	dure
	Uncertainty as to the result
	Home affairs only, no extraterritoriality (except for the
	French law of 2017 on due diligence).
	Negative case law may emerge

COMBINE THE SPECIFICITIES OF NATIONAL LEGISLATION AND COLLECTIVE AGREEMENTS

"Hard law" and collective agreements give workers' representatives the ability to defend their collective rights through the judicial system.

The French due diligence legislation of 2017 is a major opportunity for the global trade union movement to influence and monitor companies' supply chain policies. To learn more about the extraterritoriality of French law, CP chapter 4.

For example: the global union federation UNI Global union sent a formal notice to Teleperformance for compliance with French legislation on the duty of care for its global operations (Mexico, India, Philippines, etc.).

For example: the ITF Global Union Federation uses French legislation against XPO on fundamental rights.

^{1.} https://www.worker-participation.eu/European-Works-Councils/EWC-court-cases-jurisprudence

	Binding	Sanction	References
Directive 2009/38/EC on the establishment of a transnational informa- tion-consultation body or European Works Council	Yes	Yes National jurispru- dence is decisive	 > Directive 2009/38/EC of the European Parliament and of the Council of 6 May 2009 on the establishment of a European Works Council or a procedure in Community-scale undertakings and Community-scale groups of undertakings for the purposes of informing and consulting em- ployees (revision) (Text with EEA relevance): https://eur-lex.europa. eu/legal-content/FR/ALL/?u- ri-celex:32000L0038
Agreements setting up an EWC	Yes, they bind the parties who sign them	Yes, in principle. There are many differences between countries, however, in terms of standing and jurispru- dence	> ETUI: <u>https://www.wor-</u> <u>ker-participation.eu/Euro-</u> <u>pean-Works-Councils</u>
The directive on non-fi- nancial information	Yes	No, but the directive is being revised. EU and EEA Member States may provide for sanctions	 Directive 2014/95/EU of the European Parliament and of the Council of 22 October 2014 amending Directive 2013/34/EU as regards disclosure of non-fi- nancial and diversity information by certain large undertakings and groups (Text with EEA relevance): https://eur-lex.europa.eu/le- gal-content/FR/TXT/?uri-CE- LEX%3A32014L0095 Guidelines for their implementa- tion: https://ec.europa.eu/info/ publications/non-financial-repor- ting-guidelines_en

Legal instruments: summary of their binding nature and sanctions

	Binding	Sanction	References
National due diligence laws	Yes, in general	It depends on the country. France (duty of vigilance): yes, but the sanction is not defined and is therefore at the discre- tion of the judge in terms of a ruling. United Kingdom (Modern Slavery Act): no. Netherlands (Due diligence against child labour): yes, but criminal sanctions only.	> See chapter 2 above
The OECD Guidelines for Multinational Enterprises	Yes, for member states of the OECD or those that have adhered to the principles	Sanctions depend on each country: they are rare and weak, such as a government statement condemning a company's attitude. It is more of a mediation, arbitration and conciliation tool	 > OECD: <u>https://mnegui-delines.oecd.org/mne-guidelines/</u> > TUAC: <u>https://tuac.org/mne-guidelines-com-plaints/</u>
The United Nations Guiding Principles on Bu- siness and Human Rights	No	No, but it is an important refe- rence document that clarifies precisely the scope of corpo- rate responsibility	 UN: https://www.ohchr. org/Documents/Pu- blications/GuidingPrin- ciplesBusinessHR_ FR.pdf https://www.ohchr.org/ fr/Issues/Business/ Pages/BusinessIndex. aspx CSI : https://www. ituc-csi.org/IMG/ pdf/12-11-22_ituc-indus- triall-ccc-uni_paper_on_ due_diligence_and_foa_ fr-2.pdf

Legal instruments: summary of their binding nature and sanctions

	Binding	Sanction	References	
Tripartite declaration of	No, but ILO	No. The new 2017 version pro-	> ILO: <u>https://www.ilo.org/</u>	
principles concerning	member states	vides in its annex a conciliation	empent/Publications/ WCMS_124923/lang	
multinational enterprises	have an obliga-	and technical support mecha-	<u>fr/index.htm</u>	
and social policy	tion to promote	nism for conflict resolution		
	them			
The UN Global Compact	No, it is a vo-	No. Companies may simply	> Global Compact: <u>https://</u>	
	luntary instru-	not be listed on the website	<u>www.unglobalcompact.</u> org	
	ment based on	anymore		
	self-declaration			
Collective agreements	Yes, depending	Yes, depending on the country.		
	on the country	Jurisprudence is important.		
Codes of conduct and	No. These	Not in principle. Nevertheless,		
company charters	are voluntary	more and more supplier/		
	instruments,	subcontractor charters indicate		
	often unilateral-	that sanctions (termination of		
	ly adopted by	the commercial relationship,		
	companies	penalties, etc.) are possible.		
International framework	Yes, but they	No, they are voluntary instru-	> BWI: <u>https://www.bwint.</u>	
agreements	only bind those	ments of conciliation, arbitra-	org/fr_FR/cms/cam- pagnes-70/multinatio-	
	who sign them	tion or mediation in general	nales-90	

Legal instruments: summary of their binding nature and sanctions

CHAPTER 3 ILLUSTRATIVE SHEETS: DETAILED PRESENTATION OF TOOLS AND LEGISLATION



SHEET #A MORE ON EUROPEAN LAW: EMPLOYERS HAVE A LEGAL OBLIGATION TO PROVIDE RELEVANT INFORMATION TO EWCS

The EWC Directive

European Works Councils have access to key information on the management strategies and economic situation of the companies within a group. Directive 94/45/EC and the recast directive 2009/38/EC do not, however, provide for a specific obligation of information-consultation concerning the extra-financial impacts of the activity of an undertaking, apart from employment. However, the EWC directive provides the relevant support for employee representatives to investigate business partnerships and management purchasing policies. In addition, one can attempt to negotiate an EWC agreement that goes further than the legislation and thus provide social and environmental policy, human rights and health and safety at work, including with business relations, which are topics covered by transnational information-consultation.

Article 1 a) of the Annex to Directive 2009/38/ EC defines the subjects on which transnational information-consultation must focus: "The information and consultation of the European Works Council shall relate in particular to the situation and probable trend of employment, investments, substantial changes in organization, the introduction of new working methods or production processes, transfers of production, mergers, the reduction in size or closure of undertakings, establishments or important parts thereof, and collective redundancies."

Subcontracting is an integral part of the company's policy with regard to the organization of production, transfers of production and work organization, and may involve downsizing or even closures in the case of outsourcing.

The European directive on nonfinancial information

Directive 2014/95/EU lays down rules on the disclosure of non-financial and diversity information by large companies. EU rules on non-financial reporting apply only to companies with more than 500 employees, but they do not necessarily have to be of "European origin". This concerns around 6,000 large companies and groups across the EU.

According to Article 1 of the 2014 Directive, companies are obliged to publish the following information:

- a. A brief description of the company's business model;
- A description of the company's policies with respect to these issues, including the due diligence procedures implemented;
- c. The results of these policies;
- d. The principal risks associated with these matters in relation to the company's activities, including, where relevant and proportionate, the company's business relationships, products or services, which may have an adverse impact in these areas, and how the company manages these risks;
- e. non-financial key performance indicators for the activities in question.

Where the company does not have a policy with respect to one or more of these issues, the non-financial statement shall include a clear and reasoned explanation of the reasons for this.

Finally, in Article 1.2, the directive requires a diversity policy statement.

Large companies have a legal obligation to publish reports on their policies in this area:

- > environmental protection;
- social responsibility and treatment of employees;
- > respect for human rights;
- > the fight against corruption and bribery;
- > diversity on company boards of directors (in terms of age, gender, education and professional experience).

According to the European Commission, companies can use international, European or national guidelines to produce their statements - for example, they can draw on the United Nations Guiding Principles on Business and Human Rights (UNGP BHR), the International Labour Office Tripartite Declaration of Principles concerning Multinational Corporations and Social Policy (ILO MNE), the Organisation for Economic Co-operation and Development Guidelines for Multinational Corporations and ISO 26000.

COMMUNICATION FROM THE EUROPEAN COMMISSION -GUIDELINES ON NON-FINANCIAL REPORTING

(methodology for presenting non-financial information - 2017/C 215/01)

"Declarations, where relevant and proportionate, should include important information on supply and subcontracting chains. (...)

In these statements, a company can explain the responsibilities and decisions of its management and board of directors, and how the allocation of resources is linked to objectives, risk management and expected results. For example, a company may explain relevant aspects of governance (such as terms and conditions of employment), including board oversight. (...)

A company may consider disclosing the following health and safety information:

- > workplace policies;
- > contractual obligations negotiated with suppliers and subcontractors;
- > resources allocated to risk management, information, training, control, auditing, cooperation with local authorities and social partners*

SHEET #B THE USE OF INDICATORS CONCERNING PURCHASES AND SUBCONTRACTING

The responsible purchasing policy is often designed and monitored jointly by the corporate social responsibility and purchasing departments.

It is generally described at least in reference texts for the attention of buyers on the one hand and suppliers on the other. These texts, often called "charters", may also give rise to mutual commitments by the parties, formalised by their signatures.

Such a policy is described in the company's annual reporting, among non-financial information. It may also sometimes include indicators that make it possible to measure the level of deployment of this policy. Ideally, short-, medium- and long-term objectives should also be set out in the report, along with the figures for previous years.

Such a policy is constantly evolving and needs to be improved through dialogue with stakeholders, in particular with employee representatives and representatives of subcontractors and suppliers.

Consultation at the European level on this subject makes sense in order to assess the relevance of the indicators selected by the company, the level of ambitions pursued and the resources allocated to achieve them.

A European Works Council will also be able to supplement its exchanges of information with its management by using indicators other than just the information made public. The synthetic indicators that it deems most relevant for its transnational social dialogue may then be based on internal indicators existing within the group, or even on new indicators to be constructed jointly over time.

Here are some suggestions for additional indicators that could enrich the social dialogue on the subject of subcontracting:

a. Subcontracting rate index

Annual subcontracting purchases/Annual worksite turnover

b. Homogeneity of the accident rates

Number of days of downtime by subcontractor employees/Number of days of downtime by group employees

c. Employee representation for social dialogue Number of employee representatives participating in at least one social dialogue body/Total workforce at subcontractors

THE EXAMPLE OF THE VINCI GROUP'S PUBLIC REPORTING FOR 2018

In its 2018 annual report (page 223), Vinci takes stock of its responsible purchasing approach through five quantified indicators:

- > The proportion of contracts that include ethical reference commitments;
- > The proportion of contracts explicitly incorporating social, environmental or societal clauses;
- > The proportion of contracts for which a sustainable procurement questionnaire was completed;
- > The proportion of contracts that include a progress plan;
- > The number of responsible purchasing audits carried out over the last 5 years.

This type of subcontractor information may be collected for each new contract. It is interesting to compare it with the same ratio calculated at the client.

d. Formal interfaces of the group with the representation of subcontractors' personnel

Number of works council meetings in the year in which a subcontractor's employee representative was heard/Number of works council meetings in the group in the course of the year. This ratio is undoubtedly very low in most major construction groups, but it might be interesting for a transnational committee to discuss objectives that could push it forward.

Such indicators and the evolution of their performance are likely to structure the social dialogue on the subject of subcontracting. They should not be too numerous and should be chosen according to the subjects that are of the greatest concern to the unions in place and the group's employee representatives. They should help to address this complex subject on a recurring basis within the group. Typically, once a year.

Choosing 4 to 8 indicators, grouping them together in a subcontracting dashboard tailored to social dialogue, putting them on the agenda of a recurring consultation, possibly extended to a few employee representatives of key subcontractors, is a methodological objective that could accompany a best practice on this subject.

SHEET #C INTERNATIONAL FRAMEWORK AGREEMENTS: THE BWI MEDIATION SYSTEM

In the event of a complaint or a breach of the agreement, the following procedure normally applies:

- a. First, the complaint must be brought to the attention of the local management of the site;
- Any breach that cannot be resolved through discussion at the workplace or national level will be dealt with by the BWI coordinator in close cooperation with BWI affiliates in the home country and will be reported to the responsible manager;
- c. If the issue is not resolved, the reference group will address it with a view to providing recommendations to the parties concerned for resolving the dispute.

Reference Group: composed of representatives of the company and BWI-affiliated unions in the country of origin of the company and a BWI coordinator. It is up to the trade unions in the company's home country to designate their representatives, who may also be trade union representatives of the company. The BWI coordinator can be a BWI staff member or a representative of an affiliated trade union in the home country of the company.

According to the BWI/Lafarge agreement signed in 2013 (before the merger with Holcim), the secretary of the European committee will attend the annual meetings of the reference group responsible for monitoring the implementation of this agreement; he has observer status.

SHEET #D EXAMPLES OF COMPANIES THAT HAVE SIGNED A GLOBAL AGREEMENT DEDICATED TO/COVERING SUPPLY CHAIN RESPONSIBILITY WITH GLOBAL UNION FEDERATIONS

In the construction industry

BESIX and BWI have signed a global framework agreement covering fundamental rights. The EWC is responsible for complaints based in Europe. BWI and the EWC will have access to all reports, activities and monitoring of the implementation of the global agreement. All (direct) suppliers must comply with the global agreement. Local trade unions have access to workplaces to monitor implementation.

Dragados, S.A., also promotes and encourages the adoption of an advanced health & safety system/ practices and respect for workers' rights by its suppliers, contractors and collaborating companies in general. Similar commitments have been signed by FCC Construccion, Ferrovial, Skanska, Stabilo, Staedler and Veidekke.

Faber-Castell's objective is to cooperate only with contractors, sub-contractors and suppliers who themselves recognise and apply the standards and recommendations relating to its social charter. The agreement stipulates that "When establishing a contract with a supplier, Faber-Castell shall include in the supplier's rating a self-assessment carried out by the supplier. In addition, the staff responsible for the purchasing department must undergo additional training in this regard". In the long term, the company intends to apply its "multi-step internal control procedure" to suppliers as well.

At Wilkhahn, each company, all suppliers and licensing partners have to fill in a "questionnaire on the disclosure of suppliers' personal data" which covers all points of the global agreement. This declaration of suppliers' personal data must be repeated at least once every three years. In addition, the company commits itself to a transparent process with regard to external audits: 'An audit will be carried out every three years at a Wilkhahn company, licensing partner or supplier. The BWI may allow trade unions at the site concerned to participate in the meetings of the supervisory committee. The participants receive all information necessary for the execution of their mandate. Wilkhahn bears the costs of the external audit.'

Like Salini Impregilo, Royal BAM Group is committed to "working for social justice and sustainable development in its activities and in the commitments it makes with its business partners, subcontractors and suppliers" and will refrain from establishing business relations with them if they do not respect the global agreement.

In other sectors

Access of local trade unions to Inditex suppliers: Inditex undertakes to provide IndustriALL Global with reasonable information on its supply chain in order to facilitate trade union access to workplaces and to be able to verify the respect of employees' rights and the application of the framework agreement. This information on suppliers must include all necessary data contributing to a better knowledge of the characteristics of the factories. IndustriALL Global undertakes to preserve the confidentiality of the information provided by Inditex and will ensure that it is correctly used by the affiliated trade unions.

Umicore is committed to communicating the principles and provisions of the global agreement to all its suppliers and subcontractors and expects them to promote its principles throughout their own supply chain. In addition, "failure to comply with core labour standards and health and safety rules that are not corrected after repeated warnings, observed through objective assessments, will result in the termination of the contract". A chapter of the agreement is devoted to cobalt suppliers in particular.

H&M, aiming to implement and monitor commitments to decent working conditions throughout its supply chain, set up an agreement with a sophisticated system of committees at different levels: 1/ between management and employee representatives at the factory level, 2/ at the national level, management and IndustriAll will appoint representatives to implement national strategies to roll out the agreement, or to support local unions and suppliers in their efforts to improve industrial relations, or to intervene in the event of disputes, 3/ an Industrial Relations Development Committee that will provide oversight at the international level. The first national committees will be set up in Cambodia, Myanmar and Turkey.

SHEET #E EXAMPLES OF AGREEMENTS SIGNED BETWEEN A UNION AND THE CLIENT AND/OR THE EMPLOYER

In the Netherlands, a trade union starts negotiations in the preliminary phase of the project with the aim of concluding agreements on social issues. For example: the city of Rotterdam, an airport, the national railway company. Usually, the employers are involved in the negotiations or in signing the agreement.

Topics covered:

- > Compliance with sectoral collective agreements, including wage provisions throughout the chain of (sub)contracting, and with general labour legislation, including health and safety and other relevant legislation;
- Combating the practices of false self-employment or the use of fake subcontractors;
- > Monitoring and scrutiny of abnormally low bids;
- Restricting the use of temporary agency workers; for example, only through recruitment agencies;

 Greater attention to the inclusion of vulnerable groups within the labour market and a focus on (re)training.

Agreements also lay down control rules in favour of trade union representatives or the TBB (Technisch Bureau Bouwnijverheid, technical building office, set up by the social partners) who have access to contractors' sites.

Similar agreements can be found in Spain, and these are generally tripartite. In Spain, these agreements are signed by trade unions with employers' associations and public authorities, in order to organise joint health and safety monitoring on the building site.

SHEET #F A GERMAN EXAMPLE OF A TOOLKIT FOR NATIONAL WORKS COUNCILS (BY WMP CONSULT)

How can the national works council take action? - 7 areas of action at a glance:

- Area 1: Critical evaluation of service contracts and verification of their legal security;
- Area 2: Support for the creation of joint committees and working groups;
- > Area 3: Economic and risk analysis
- > Area 4: Definition of binding regulations and promotion of voluntary agreements between companies;
- Area 5: Health and safety Analysis of service provider deficits;

- > Area 6: Monitoring contractors' compliance with social and behavioural standards and sanctioning violations;
- > Area 7: Support for contract workers in organising trade union membership, setting up works councils and networking.

<u>https://www.boeckler.de/pdf/p_imu_praxis_2018_19.pdf</u>

SHEET #G EXAMPLES OF TOOLKITS OF FRENCH TRADE UNIONS PROPOSING NATIONAL STRATEGIES LINKED TO GLOBAL AND INTER-COMPANY SOLUTIONS

The tools built by these French trade unions recall the misdeeds of excessive subcontracting (blurring of responsibilities in the cascade of subcontracting) and put forward the notions of extended enterprise or on-site working community between employees of principals and subcontractors. Among the tools provided to employee representatives are the following:

> The need to claim to be associated with the mandatory action plan as part of the duty of care, the importance of committing to responsible subcontracting agreements, international framework agreements and their monitoring and quality of information (amount and number of employees, type of services, etc.);

- > Coordination of the trade union teams of principals and subcontractors on the sites, or even joint staff representation:
 - > on major projects, creation of a social dialogue committee chaired by the customer, as in 2008 on the EPR project,
 - > sometimes this is imposed by law: CISSCT or Collège Interentreprises de Sécurité, de Santé et des Conditions de Travail (Inter-company College for Safety, Health and Working Conditions).

SHEET #H EXAMPLE OF COMPLAINT MECHANISMS IN THE CONSTRUCTION SECTOR IN THE UNITED KINGDOM

In 2012, trade unions and employer representatives concluded the National Agreement for the Engineering Construction Industry (NAECI).

Key points:

- a. the agreement is based on the principle of direct employment;
- b. The establishment of two control mechanisms: On-site union representatives in charge of health/safety can request detailed information

on matters ruled by the agreement and have access to the sites. On this basis, there exists:

- Dispute resolution through a formal and written complaints procedure (internal resolution),
- On-site meeting and dispute arbitration panel (external resolution).

SHEET #I BAN ON SUBCONTRACTING AND TEMPORARY WORK IN THE MEAT INDUSTRY IN GERMANY

In sectors of the meat industry in Germany, serious shortcomings have been observed for many years. On a number of occasions, shortcomings have been noted in the working and housing conditions of employees. In April and May 2020, it was reported that in some slaughterhouses in Germany, many subcontractor employees and temporary workers were infected with COVID-19. Most of the affected workers were from Eastern European countries. The federal government has identified the lack of occupational health and safety measures in these companies as a major cause of the large number of infections.

In order to combat the ongoing abuses in the meat industry, the Federal Cabinet agreed on the cornerstones of a new law in May 2020. The 'Occupational Health and Safety Control Act' was passed by the Bundestag and Bundesrat in December 2020 so that it could come into force on 1 January 2021. It mainly provides for amendments to the Labour Protection Act and the Act to Safeguard Workers' Rights in the Meat Industry (GSA Fleisch):

- > According to these, contracts for work in core areas of the meat industry (slaughtering, cutting, processing) have been prohibited since 1 January 2021, outsourcing and contract services since 1 April 2021 (with the exception of companies in the butcher's trade with fewer than 50 employees, whereby sales staff and trainees in branches are to be excluded).
- > In order to effectively check compliance with the minimum wage regulations, an obligation to digitally record working time applies.
- > The framework for fines for violations of the Working Hours Act is doubled from 15,000 euros to 30,000 euros.

- > Minimum standards are set for accommodation, including off-site. Controls by customs and labour protection authorities as well as municipal supervisory authorities will be expanded through fixed inspection quotas.
- > The legal and financial basis of the DGB's "Fair Mobility" project will be permanently secured. This would enable foreign workers, most of whom are only temporarily in Germany, to be informed in their respective mother tongue about their rights and the regulations applicable in Germany.
- > For the meat processing sector there is the possibility to use temporary agency work up to

a quota of 8%. The prerequisite is a collective agreement. The maximum temporary employment period per temporary worker is four months. Temporary workers must be paid the same wages as permanent employees from the first day, and the same working conditions must apply.

SHEET #J THE "FAIR MOBILITY" PROJECT OF THE GERMAN CONFEDERATION OF TRADE UNIONS (DGB)

Fair Mobility is a project of the German Confederation of Trade Unions (DGB) which supports employees from Central and Eastern European countries in the German labour market to enforce fair wages and working and living conditions. The project is financed by the Federal Ministry of Labour and Social Affairs, the Federal Ministry of Economic Affairs and Energy and the DGB.

The project is based on cooperation with partners from the European Trade Union Confederation (ETUC) and international trade union councils. An international advisory board, which includes delegates from German, Polish and Bulgarian trade unions as well as members of the German and Polish Federal Ministries of Labour and Social Affairs, provides Fair Mobility with professional support and advice.

At the heart of the project, seven advisory centres throughout Germany offer migrant workers advice in their respective mother tongues on social and labour issues and assistance in case of disputes with employers. The counselling centres are part of a national network and cooperate with similar institutions at the local level. Advice is given to employees in all industries. Each advice centre has a specific area of expertise. For example, the advice centre in Frankfurt am Main focuses on the construction industry and plant cleaning.

In addition, Fair Mobility offers training courses, seminars and training materials for workplace representatives to support employees in Central and Eastern Europe and organises international conferences on the free movement of workers. The workshops and conferences are intended to push forward transnational trade union relations and provide a platform for the exchange of knowledge and experience on the social and economic impact of the free movement of workers.

SHEET #K GERMAN GOVERNMENT AGREES ON SUPPLY CHAIN ACT (« LIEFERKETTENGESETZ »)

In February 2021, the German federal government reached agreement on basic points of a law that will oblige German companies to exercise due diligence on human rights and environmental issues in global supply chains from 2023 (after the Covid-19 crisis). A draft law is to be presented to the federal cabinet by mid-March 2021. If the law is then quickly discussed in federal parliament, it could be passed before the end of this legislative period in autumn 2021.

The aim of the law is to prevent or at least reduce forced and child labour, as well as to take action against starvation wages and massive environmental destruction. Companies' responsibility should no longer "stop at the factory gate" but should be extended to the entire supply chain. Experience shows that voluntary commitments by industry have so far not led to the desired result.

Initially, only large companies will be affected by the law. The Supply Chain Act will apply to companies with more than 3,000 employees in Germany, then from 2024 to companies with more than 1,000 employees. So, more than 600 companies will be concerned in the first stage, and almost 2,900 firms in the second stage. Although there will be no extensive civil liability for grievance in the supply chain, companies will have to expect fines for violations of due diligence. In addition, they will be excluded from public tenders for up to three years. The exact details of the fine regulations are still undecided. However, it is clear that larger companies can only be prosecuted if they are aware of grievance.

The DGB and trade unions welcome the planned law. As stated by officials, it is important that the entire value chain is included. It is only in this way that the law could have a deep impact. In the long term, the DGB suggests that companies with more than 500 employees should also be covered by the law.





#1 CONCRETE KNOWLEDGE OF THEIR COMPANY'S RESPONSIBLE PURCHASING POLICY IS AN ESSENTIAL PREREQUISITE FOR THE ACTION OF EWC MEMBERS

#1.1 BE FAMILIAR WITH THE CONCRETE SITUATIONS OF RECOURSE TO SUPPLIERS AND SUBCONTRACTORS IN ORDER TO ACT EFFECTIVELY

Differences in the structure of the value chain between activities in the sector

Company policies aimed at reducing the social risk of subcontracting vary from one activity to another and must be adapted to local specificities.

The sectors covered by the EFBWW are related to the construction sector but they refer to different activities. These activities generally have their own organisation and therefore their relationships with their subcontractors are different: an industrial group producing materials has more stable and regular relationships with its subcontractors than a general building company, which works in 'project mode'; the same is true for a civil engineering company or a trading network, a furniture group or a multi-technical installation/maintenance group.

A fragmented value chain: a myriad of participants for a final product = a lot of subcontracting and purchasing in the turnover of large companies

The use of external suppliers by large companies generally represents more than half of their turnover. However, the degree of outsourcing may differ for two competing companies in the same activity, depending on the region or country to which they belong. The construction value chain is more fragmented in Great Britain than in France, for example. Finally, the degree of outsourcing evolves over time: in construction, some groups outsource more and more. On the other hand, a French window supplier is seeking to re-internalise part of the installation process.

They also use service providers and suppliers of variable sizes; some of their subsidiaries may also be subcontractors for other large groups.

The number of suppliers to large companies is veryhigh. Vinci, for example, works on more than 200,000 sites per year.

- LafargeHolcim: Outsourcing was estimated at 35% of the total workforce (Lafarge CSR Report 2014), especially in production, maintenance and cleaning and transport (to a lesser extent security and guarding, IT and accounting). Even if the services subcontracted are not the same in the three main product lines (cement, aggregates and ready-mix concrete), the relationships with subcontractors are generally long-term ones. This is true for the operation of a subcontracted quarry and for some of the maintenance services provided on industrial sites.
- Vinci: in the Contracting activity (road works, construction of buildings and structures and electrical works), depending on the region, country and division, the weight of subcontracting is different. The group estimates that its purchases represent 55% of its total turnover (2019), with subcontracting accounting for 35%. From one site to another and for the same work package, even in the same business unit, the service provider may differ.
- > Royal BAM: purchasing in the broad sense represents 70% of turnover and subcontracting 60% of these purchases. The spectrum of purchases and subcontracted services ranges from installation work to mechanical and electrical engineering, concrete work, steel construction, facades and roofing, equipment, vehicle fleet, facility services and IT.

#1.2 UNDERSTAND HOW SUBCONTRACTS ARE AWARDED IN ORDER TO KNOW THE POINTS OF INFLUENCE OF THE EWC ON THE COMPANY'S RESPONSIBLE PURCHASING AND SUBCONTRACTING POLICIES

The EWC (and employee representatives): ensure that the social risk at suppliers is truly integrated into daily life

The reality of construction sites (numerous hazards, organisation in project mode) and the decentralisation of decisions in terms of subcontracting and even purchasing, make compliance with the principles and standards of responsible purchasing more complex than in a permanent organisation. It is therefore important to adopt procedures that do not ignore the challenges and to provide mechanisms for monitoring these procedures.

Staff representatives certainly have a key role to play in ensuring that these procedures are followed, as they are independent and protected. To do this, they must be aware of their company's responsible purchasing policy and the concrete procedures that operational managers at all levels must apply in their relations with their suppliers.

The purchasing department plays an important role

Purchasing departments define the responsible purchasing policy in most companies: in industrial companies (LafargeHolcim) and in Construction companies that are moving towards centralisation (Royal BAM).

In all cases, buyers in the purchasing chain negotiate framework contracts, including purchasing conditions (price, etc.) and social conditions. But these framework contracts do not always apply to subcontracts. Some companies want to make it compulsory for a service provider to assess and provide administrative documents proving respect for human and social rights (in particular) before entering into a business relationship with them. This is the case of LafargeHolcim, which aims to assess all its 'high CSR risk' suppliers by 2022.

The site operational manager is an essential element in the consideration of social risk in the value chain

For construction groups, it is the operational staff on the construction sites who sign contracts directly with the subcontractors, possibly outside the framework contracts. These operational staff are not purchasing professionals. In addition, they generally have an engineering background with a technical orientation and less of a legal or social background.

Social risk should also be integrated into the processes of local managers, into the "management system", in the same way as health and safety, for example. The integration of subcontractors into the health and safety management system is in fact fairly well achieved, and is quite mature, according to some of our interviewees.

The implementation of standard procedures (e.g. safety standards) or group rules (e.g. prohibition of subcontracting beyond tier 2) is possible in all cases.

Beyond the company's control procedures, a role for employee representatives

To be consistent, it is necessary to ensure that these standards and rules are respected. This can be done through on-site audits. Their analysis and control are perhaps easier on industrial sites than on building sites.

The role of employee representatives is certainly essential in bringing to light infringements of workers' rights and failure to respect people's health and safety, as the examples of LafargeHolcim and Vinci have shown.

A tool to be aware of: purchasing databases, including an assessment of suppliers/ subcontractors

More and more frequently, the evaluations of subcontractors regarding their respect for workers' rights are centralised in an IT tool, often the purchasing software. In theory, these IT tools can be used to identify subcontractors who have not complied with legislation. This can be done with the aim of pushing them towards better practices or sanctioning them by excluding them from the list of suppliers or even terminating current contracts. If the ordering company considers that it must make them progress, it provides its suppliers with good practices (LafargeHolcim) or commits to a *progress plan* with them. The number of suppliers with whom a progress plan has been initiated is also an indicator that may be of interest (cf. Vinci).

GOOD PRACTICES FROM OUR CASE STUDIES

- > Construction of a centralised database of suppliers and subcontractors that is regularly updated, ranked in terms of their respect for social rights and health and safety (LafargeHolcim, Royal BAM) and made accessible to employee representatives (Royal BAM).
- > It is desirable to *limit the use of subcontracting beyond tier 1*, as there is no serious way for the client to control the social risk.
- > The commitment of the works or project manager is essential; it requires training and tools to help him or her on a daily basis, which means that social risk must be integrated into procedures for relations with his or her suppliers.
- > The role of staff representatives is essential in reporting cases of non-compliance with legislation and deviations from the principles and procedures to the business unit management.
- > The cost of subcontracting must be integrated as a social risk factor, and the study of the structure of wage costs is key to identifying abnormally low offers that do not respect the applicable collective agreements (Royal BAM and certain Vinci subsidiaries).
- > The pressure on prices should not be too strong. The commitment of clients and their awareness of the social risks of abnormally low prices is essential.
- > More generally, a major challenge is the commitment of competitors and professional organisations in the construction sector to combat social risks.

#2 THE RESPONSIBLE PURCHASING POLICY OF MULTINATIONAL COMPANIES

Sustainable procurement should be part of a company's corporate social responsibility (CSR)¹ and sustainable development policy. OECD governments and the European Commission have issued recommendations to multinational companies².

The principles of CSR in general and more specifically in the area of responsible purchasing are, on the one hand, values or objectives to be respected and promoted and, on the other, techniques or management systems to be implemented.

#2.1 VALUES OR OBJECTIVES OF CSR APPLIED TO SUSTAINABLE PROCUREMENT

The main general principles of CSR...

In terms of values, the recommendations of the OECD, the United Nations and the ILO, taken up by the European Commission, consist in respecting the major international texts. The 10 principles of the United Nations Global Compact of 2010 include, for example, respect for human rights in the broadest sense: human rights, freedom of association and the effective recognition of the right to collective bargaining, the elimination of all forms of forced labour, child labour, discrimination, commitments to protect the environment and the fight against corruption are reaffirmed. There is also the idea that multinationals should contribute to "economic, environmental and social progress towards sustainable development" (OECD 2011, Guidelines for Multinational Enterprises). They should refrain from influencing local laws in their favour and they should be concerned about the impact of their activities on the companies with which they do business. Overall, multinational companies are encouraged to use their power to influence their subcontractors or supply chains to make progress.

Decent work has been an objective of the International Labour Organisation (ILO: ILO Tripartite Declaration of Principles concerning Multinational Enterprises and Social Policy) since 1999.

Its respect in the value chain is also central to the sustainable development objectives of several international organisations, including the European Union. Decent work is the opportunity to engage in productive and adequately remunerated work, with safe working conditions and social protection for one's family. Decent work gives people the opportunity to develop and participate in society, as well as the freedom to express their concerns, to join unions and to take part in decisions that will affect their lives. It implies equal opportunities and equal treatment for work agenda are job creation, social protection, rights at work and social dialogue.

... Are complemented by codes of conduct issued by multinational companies

Multinational companies generally reaffirm their adherence to these international references through

¹ The European Commission (3rd Communication on CSR, 25 October 2011) defines CSR as "the responsibility of companies for the effects they have on society" and "a process designed to integrate social, environmental, ethical, human rights and consumer concerns into their business operations and core strategy [conducted] in close cooperation with their stakeholders [while] respecting existing legislation and collective agreements between social partners".

² For the European Commission, the authoritative principles of CSR are derived from five sources: the OECD Guidelines for Multinational Enterprises, the ten principles of the United Nations Global Compact, the ISO 26000 guidance standard on social responsibility, the ILO Tripartite Declaration of Principles concerning Multinational Enterprises and Social Policy, and the UN Guiding Principles on Business and Human Rights.

codes of conduct or charters governing their relations with their suppliers. But what about in practice?

It may be useful for the EWC member to be aware of these international and internal texts in order to take advantage of them if necessary.

#2.2 CSR TECHNIQUES APPLIED TO RESPONSIBLE PURCHASING: IDENTIFICATION AND PRIORITISATION OF SOCIAL RISKS, PUBLICATION OF ACTIONS AND DUTY OF CARE

Identification and prioritisation of social risks in subcontractors and suppliers

According to internationally recognised CSR principles, companies must assess risks and classify them according to their criticality³: this technique is used by large companies (Vinci, LafargeHolcim), particularly in the area of responsible purchasing; the services and goods purchased are classified according to the risk they represent for human and social rights, the environment and health in particular.

The term 'risk mapping' is used to describe the identification and prioritisation of risks.

Accountability: publication of analyses and action plans

The principle of accountability is one of the key principles of CSR (ISO 26000 standard). In terms of purchasing policy, the company must be accountable for its own impacts on society, the economy and the environment, as well as for what happens in its supply chains, taking into account the life cycle of products and services. An accountable company is one that produces and publishes indicators on what it is doing to uphold social rights, but also human rights and the environment in its value chain.

The quality of reporting is a major aspect of a responsible purchasing policy. It allows stakeholders, including the EWC, to monitor and evaluate the action plans implemented by management. There may be a gap between the intentions expressed and their translation into the daily reality of management and relations with suppliers and subcontractors.

Due diligence

Due diligence is a global and proactive approach to risk identification, aimed at avoiding or mitigating real or potential negative social, environmental and economic impacts resulting from the activities of an organisation or its established business relationships (suppliers, subcontractors, joint ventures, etc.). Due diligence is one of the key instruments of the UN, ILO and OECD.

Companies must therefore establish procedures to avoid or mitigate possible negative impacts of their activity or of their business partners. They must also "account for how they respond to such impacts" and repair any damage.

Identification of risks, measures taken to avoid or mitigate accountability: the obligations for large companies in Europe to publish recurrent non-financial information in their annual management report could be an opportunity for them to communicate publicly on this implementation of their duty of care.

³ In particular, according to the ISO 26000 standard of 2010, which is a guide for setting up a CSR risk management system.

#2.3 DUE DILIGENCE: THE EMERGENCE OF CONSTRAINTS FOR MULTINATIONALS IN THEIR RELATIONS WITH SUPPLIERS AND SUBCONTRACTORS

The non-binding nature of CSR is its main weakness

The commitments that a company makes under CSR are not subject to sanctions if they are not respected.

Moreover, the company is both judge and jury - it must itself demonstrate its social "responsibility" and publish a report of its actions. It is the company that decides on the level of information that it makes public or not. This is also the case for certain instruments such as the Global Compact, which is highly criticised by the international trade union movement and is based on self-declaration.

However, many business leaders have understood that the scandals frequently published in the media can really tarnish a company's image in the press and have significant consequences on the behaviour of investors, rating agencies and consumers.

The emergence of legal constraints

Due diligence has been the subject of a law in France since 2017 'on the duty of care of parent companies and ordering companies'. This law, which has an extraterritorial dimension, stipulates that companies subject to it are obliged to establish, publish and effectively implement a due diligence plan covering their activities and those of their subsidiaries, but also those of their subcontractors and suppliers "with whom an established commercial relationship is maintained", i.e. a direct and stable relationship.

This applies to 'any company which, at the end of two consecutive financial years, employs at least five thousand employees in its own company and in its direct or indirect subsidiaries whose registered office is located in France, or at least ten thousand employees in its own company and in its direct or indirect subsidiaries whose registered office is located in France or abroad'.

Companies whose registered office is outside France are only subject to these provisions if, and to the extent that, a French subsidiary meets these criteria in terms of the number of employees within it and in its own subsidiaries.

An assessment study in 2020 estimates the number of companies actually concerned at "around 170 companies".

According to this study, "the French law is often cited as an example to follow internationally". However, one of its shortcomings is that no government department is expressly responsible for promoting it or assisting companies in its implementation, which is not very standardised.

When assessing its sphere of influence and determining its responsibilities, the multinational company must exercise its duty of care to avoid contributing to negative impacts through its relationships.

Failure to do so could even result in accusations of complicity in reprehensible practices. It should be noted that an organisation can also be considered complicit if it is unaware of, or benefits from, acts that have significant negative impacts on society, the economy or the environment.

⁴ General Council on the Economy, Industry, Energy and Technology, "Evaluation of the implementation of Law No. 2017-399 of 27 March, 2017 on the duty of care of parent companies and ordering companies," January 2020.

The 2017 law is a lever for "representative trade union organisations"

It is of interest to employee representatives because it gives an explicit right to representative trade union organisations. The warning and reporting system must be established 'in consultation' with them. This consultation is often done within the European Works Council.

Beyond this point alone, the responsibility of a multinational company with regard to its value chain can now be considered as a subject for consultation that has its place within a European Works Council. This is for example the case within the Vinci group: several meetings of the European Works Council were devoted to the vigilance plan in 2020 and in particular to social rights at subcontractors.

An even stronger legal constraint: ban on subcontracting and temporary work in the meat industry in Germany

In Germany, legislation on working conditions in slaughterhouses has prohibited subcontracting and leasing of workers. From January 2021, slaughtering and processing of meat may only be carried out by employees of the company itself.

This legislation goes much further than CSR, but its scope is restricted to a single industry with abuses exacerbated during the Covid-19 crisis.



CHAPTER 5 CASE STUDIES



#1 VINCI

SUMMARY

Vinci is a very large group which has chosen to remain very decentralised. Its responsible purchasing and subcontracting policy is led by a central department, but it is implemented by the divisions and is not based on centralised IT tools, such as a single database of subcontractors for the group or by country.

The group's risk analysis is based on a detailed and realistic analysis of its influence on its value chain, the reality of the construction business (project-based work) and its decentralisation. Vinci's policy highlights the role of the works manager, the project manager or the works supervisor and the importance of integrating social risk into worksite processes, in the same way as health and safety. Some lessons can be learned from the responsible subcontracting policy that is being developed by the group on the basis of pilot subsidiaries: the difficulties of controlling social risk beyond the first level of subcontracting, and the importance of studying the wage costs of subcontractors.

The group does not have a standardised approach, but relies on the responsibility of each BU and the commitment of operational staff, within the framework of the leadership provided centrally by the HR and SD department. This approach will require a continuous effort to disseminate and maintain the approach.

The practice of social dialogue recognises a role for employee representatives and trade union federations, particularly in combating controversies and image risks (global agreement with a geographical scope following the problems raised in Oatar). The EWC plays a proactive role, relying in particular on an annual roadmap for the past two years, communication tools and a training programme including the issue of its information/consultation rights and the vigilance plan. There are regular exchanges of views on the vigilance plan, in addition to consultation on the alert mechanism and the collection of alerts.

VINCI GROUP'S KEY FIGURES figures from the 2020 annual report

217,000 employees, 3,200 business units, 270,000 construction sites, turnover of €43 billion worldwide. Consumption, temporary work and subcontracting account for just under half of the group's turnover.

Vinci has 3 types of activities:

- > the operation of concessions, mainly toll motorways in France and airports (very long contracts);
- > works activities, until recently divided into three divisions: roadworks (Eurovia), construction of buildings and engineering structures (Vinci Construction) and electrical works (Vinci Energies);
- > Smaller scale of promotional activity mainly in France.

Even if a large part of its clientele is private, the relationship with public authorities is essential for the group's economic model, via concession contracts or infrastructure works or public buildings.

53% of turnover is generated in France, 23% in other Western European countries, 5% in Central and Eastern Europe, 8% in North America, 5% in Asia and Oceania, 3% in Africa and 2% in Latin America.

Head office in France (Rueil-Malmaison).

Vinci has had to deal with several controversies calling into question respect for social and even human rights on its construction sites, due to its subcontractors in particular: the most high-profile of these involve construction sites in Paris (Paris metro) or in Qatar (complaint filed by an NGO with a French court). The group has used the entry into force of the 2017 law on the duty of care to strengthen its policy for managing the risks of human rights, social rights, health and safety and environmental violations in its value chain.

#1.1 THE GROUP'S POLICY FOR MANAGING SOCIAL, ENVIRONMENTAL AND HEALTH AND SAFETY RISKS IN ITS VALUE CHAIN

The principles of the responsible purchasing policy and the means of implementing this policy

The Group has already set out the principles to be respected in several codes of conduct (the Manifesto, the subcontractor relations charter and the ethics charter), which are widely shared on its websites and translated into the languages of its main European sites. A joint declaration on the unavoidable and fundamental actions in the field of occupational health and safety was signed in 2017 by Vinci's Chairman and CEO and the Secretary of the European Works Council. A Vinci guide to human rights was produced in 2017 and a practical guide to responsible purchasing has been available on the Group's intranet since 2019.

Positions were first created within the Human Resources and Sustainable Development Department to lead the approach. The group has also entrusted consulting services to external consultants (BSR, BlueQuest).

Managing social risk in procurement is easier than in subcontracting

A large volume of purchases is made under group framework contracts, which govern the use of around fifteen services (at the beginning of 2020): vehicle purchases (tourism and worksite), temporary work, trading, 'overheads', personal protective equipment, travel, etc. Environmental and social criteria are included in the specifications and framework contracts, along with the principle of 'respect for human rights and international labour standards in its supply chain'.

The purchasing network has been strengthened, without being totally centralised, without a group purchasing department, but it organises cooperation at all levels of the group between divisions and between divisions within countries. A "Purchasing

SOME CONTROVERSIES

On a Paris metro site in 2017: a social conflict was triggered by about 30 workers of a Vinci subcontractor, who were not paid by their employer. Their complaint was taken up by the French union CGT. The conflict resulted in the hiring of workers from this subcontractor by a subsidiary of Vinci.

With regard to Qatar, Vinci has been the subject of human rights accusations by various organisations, including the NGO Sherpa. An initial complaint was filed in 2015 for forced labour and bondage in a French court; a second complaint is currently being investigated after the first one was dismissed. Although no judgement incriminating the group has been pronounced for the time being, the group has invested heavily in the control of its value chain on the occasion of this controversy: recourse to external consultants, creation of posts, identification of risks, a relatively innovative action plan in Qatar (global agreement with limited geographical scope with BWI, appointment of staff representatives, partnership with the ILO for recruitment in India and Nepal, visits by trade union delegations to the site). The outbreak of this affair coincided with the debates on the French law on the duty of vigilance.

coordination team' sets up framework contracts for the referencing of suppliers for local buyers.

In its annual reports (2018, 2019, 2020), Vinci assesses its responsible purchasing approach using quantitative indicators:

- > The proportion of contracts including one or more articles on social, societal or environmental issues (99% in 2019 and 2020);
- > The proportion of contracts covered by a sustainable procurement questionnaire (80% in 2019, 83% in 2020);
- > The proportion of contracts incorporating a sustainable procurement progress plan (50% in 2019, 35% in 2020);
- > The number of face-to-face sustainable procurement audits carried out in the last 6 years (690 in 2019, 690 in 2020).

Purchases represent 22% of the group's turnover, with temporary work at 3%. However, subcontracting, which represents 20% of turnover, is purchased locally by the group's subsidiaries and on the construction sites. Vinci is very decentralised, by choice but also because of the nature of its works activity. Working in 'project mode' on one-off sites does not offer the same regularity of relations with its partners as the industrial organisation of factories. In most of the other major players in the sector, decisions on subcontracting are also decentralised to the subsidiaries or to the projects. Indeed, the group says it has operations on some 270,000 sites...

Central role of site and project managers in addressing social risk in subcontracting

The operational managers of the projects implement the procurement policy. The consideration of social risk depends on their commitment. The staff representatives of the subsidiaries therefore have a role to play in ensuring the effective commitment of their managers. And, of course, to alert them to any deviations observed. Social risk should also be integrated into the processes of local managers, into the "management system", in the same way as health and safety, for example.

The integration of subcontractors into the health and safety management system is in fact fairly well achieved and is considered to be mature. Communication between the Quality, Prevention and Environment managers of the ordering subsidiary and their subcontractor counterparts is considered to be fluid and accepted, based on shared objectives. The challenge is to reach the same consensus on social risk.

The non-financial reporting and the due diligence plan provide data and information on suppliers, subcontractors and temporary workers that can be used by the EWC.

The group publicly discloses its non-financial performance report and compliance plan, which are also included in its annual report.

In 2019, in addition, work was carried out to analyse the group's footprint, describing the socio-economic impact of the group. In particular, it shows that "the supply chain is concentrated on direct tier 1 suppliers. In France, 57% of VINCI's suppliers are tier 1, all types of purchases included, and if we focus on suppliers in the construction sector, this figure rises to 82%."

The non-financial indicators give details of the importance of purchases overall (55% of turnover) and their breakdown between purchases of materials (22%), subcontracting (20%) and temporary work (3%), which can be compared to staff costs (25%).

The vigilance plan was presented to the EWC representatives on an annual basis. In 2020, under the restrictive conditions of the health crisis, it was also the subject of a training session for EWC members. The EWC's Code of Conduct was developed in cooperation with the EWC members present and the management. It was translated into 10 European languages.

THE CONTENT OF THE VIGILANCE PLAN

The vigilance plan provides an analysis of the risks of environmental, health and safety and human rights violations, extended to social rights in the case of Vinci. It lists the actions taken, the main controversies and their resolution. For example, in terms of the charges brought against Vinci in Qatar, the measures taken are detailed: a global agreement with a geographical scope limited to Qatar, external audits, and organisation of staff representation going beyond the rights recognised to staff by Qatar's legislation.

One more challenge to solve: decentralisation of the group

The decentralisation of the group is a challenge to be solved, in order to be able to disseminate the responsible purchasing and subcontracting policies. For example, there is no central database for evaluating subcontractors and suppliers.

For its responsible subcontracting policy, the Group's CSR department has developed and promotes a due diligence approach for each subsidiary, which is detailed below.

Developed in pilot subsidiaries, the approach is intended to be disseminated to all Vinci Construction France subsidiaries and, beyond, to Vinci Immobilier.

#1.2 RESPONSIBLE SUBCONTRACTING: AN INNOVATIVE APPROACH AT VINCI CONSTRUCTION FRANCE (VCF) THAT IS DESTINED TO BE DEVELOPED WITHIN THE GROUP

The responsible subcontracting approach was first developed within the Ile-de-France subsidiaries of the Vinci Construction France division (\bigcirc 5.9 billion in turnover). The pilot business unit is the one involved in the social conflict in the Paris metro region, involving a subcontractor that had neither declared nor

paid its employees and which resulted in the hiring of some of them by Vinci.

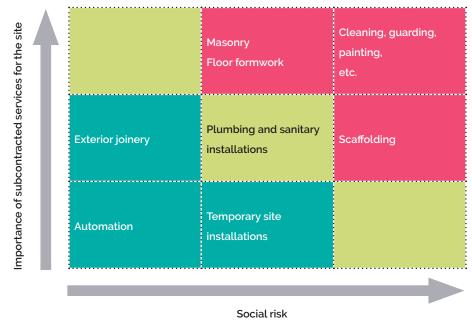
The approach was developed with the support of the group's CSR department and an external service provider (BlueQuest)

It is based on an approach of due diligence, identification and treatment of risks:

- > map the social risk in the relationship with their subcontractors: to target the most critical services. The mapping presented below is provided for illustrative purposes;
- build an action plan, after a critical review of existing procedures.

An action plan has been drawn up, from which the following elements of a responsible subcontracting policy can be retained:

- Regular administrative audit, evaluation, consolidation and dissemination of information;
 - > Different degrees of administrative checks are foreseen, whether in the consultation phase or in the contracting phase with the subcontractor. In addition to administrative documents on employees, specific checks for foreign companies, a payroll/number of employees ratio is calculated to ensure that the subcontractor is not making fraudulent savings on the salaries or social contributions of its employees,
 - Each subcontractor has an information sheet valid for 3 months,
 - > A database is created in the purchasing software (Easypics) to disseminate the evaluation of subcontractors according to a colour code based on their respect for social rights (green, orange, red and black (broken relationship)). This database is extended to all VCF departments,
 - > These documents and this database feed an administrative table for monitoring subcontractors kept by the finance department, which is sent every two months,



Example of social risk mapping

Use of the mapping: the services with the highest risks and importance for the success of the project must be treated as a priority in the short term. The treatment of other risks requires an action plan that goes beyond the division's basic preventive rules.

- Integration of the social risk to compare the scores of the consulted subcontractors up to 30% of the score;
- Evaluation of the subcontractor at the time of the final general account, particularly on the social dimension, to feed the database of subcontractors of any VCF department;
- > Rules: no subcontracting beyond tier 2, zero tolerance for social fraud, establishment of a list of critical non-conformities. Action towards customers on price risk, attempts to deal with professional organisations;
- > Increasing the competence of the organisation:
 - > "Resources are created, but not necessarily posts": a subcontracting "purchasing" correspondent is appointed in the delegated directorate's purchasing department.
 - Participation of the purchasing department in site launch meetings with subcontractors
 - Risk training sessions for teams and managers,
- social controls and audits have been carried out on certain sites in the Paris region on high-risk

services by an independent audit firm, based on VCF regulations and rules, with monitoring by the CSR Department: a series of initial audits in 2019 on six major sites in the Paris region, all of which will be reaudited in 2020 in order to follow up on action plans and expand the panel of audited sub-contractors. Interviews were carried out with the employees of the subcontractors and documentary checks were carried out (on posted work, contracts, payslips, time sheets, compliance with collective agreements, etc.);

- a module to train a team of internal auditors is under development;
- > Strategic thinking :
 - > The aim is to re-internalise certain services directly or by creating joint ventures. This has been implemented in accommodation and security services,
 - Creating a panel of reliable subcontractors to grow and to challenge dominant but not socially responsible subcontractors,
 - Progress plan to help subcontractors reach the required level.

The interest of this approach for the EWC members of this group is to become familiar with the successes and obstacles encountered by this approach, in order to structure its demands and create its roadmap. Staff representatives are only recognised as having a sentinel role, reporting weak signals of non-compliance from the field.

#1.3 SOLUTIONS ADOPTED TO THE SITUATION IN QATAR

Vinci has been accused by an NGO of serious human rights abuses due to alleged practices of its (49% owned) subsidiary in Qatar, Qatari Diar Vinci Construction (QDVC). The group's response included an independent third-party audit, an international framework agreement with the Building and Wood Workers' International (BWI) and a partnership with the ILO to make recruitment practices in Bangladesh. A human rights impact assessment in Qatar was first commissioned by Vinci and conducted by an independent third party, Business for Social Responsibility (BSR), in 2015.

The framework agreement between Vinci, its subsidiary QDVC and BWI in November 2017 established a monitoring, reporting, control, inspection and auditing system under the authority of a reference group composed of representatives of the three signatory parties. The agreement addresses human rights in the workplace, housing, fair hiring conditions, and workers' rights, and includes a whistleblower mechanism for non-compliance with the terms of the agreement. It covers QDVC's workers and includes the due diligence approach promoted by the group for its subcontractors. Regarding its subcontractors, according to the 2019 annual report, QDVC conducted 527 audits of working and housing conditions at its subcontractors in 2018- 2019. The final joint report from the signatories of the agreement, after a joint

SOME USEFUL CONCLUSIONS

Vinci's approach was to tackle the issue of social risks in subcontracting through an operational approach, adapted to the organisation's mode. Rather than dealing with the issue solely from a legal perspective, all levels of the organisation and functions were mobilised in the mapping work, which made it possible to prioritise the purchasing families where measures needed to be strengthened, and in the implementation of action plans.

It is desirable to limit the use of subcontracting beyond tier 1, as there is no serious way for the principal to control the social risk. Another finding, for example from social audits, is the need for greater visibility of temporary employment agencies employed by subcontractors.

The commitment of the works or project manager is essential; it requires training and tools to help him on a daily basis, which means that social risk must be integrated into his procedures for dealing with his suppliers.

The role of employee representatives is essential in that they can report cases of non-compliance with the legislation and deviations from the principles and procedures to the business unit's management.

The pressure on prices should not be too great. The commitment of customers and their awareness of the social risks of abnormally low prices is essential.

More generally, a major issue is the commitment of competitors and professional organisations in the construction sector to combat social risks.

The study of the wage costs of subcontracting companies is key.

The knowledge of certain processes and action plans allows EWC members to know which indicators are relevant to ask for and to monitor their evolution:

- > Subcontractor evaluations are centralised in a purchasing software package for Vinci Construction France (a division of the Vinci Construction business);
- > The entity strives to involve subcontractors by proposing progress plans, in return for visibility on their long-term workload plan.

audit in January 2019 (and in the presence of union representatives from the group), has been completed and is available online.

A staff representative body, the Workers' Welfare Committee, was established in 2014, with inaugural elections in 2016 and then new elections in 2019 and 2021. In addition, an independent complaint mechanism allows employees of QDVC or subcontractors to bring a complaint to the BWI, which then brings the complaint to QDVC or Vinci to facilitate resolution of the dispute.

A strengthening of recruitment procedures was implemented in 2015. A significant proportion of migrant workers in Qatar had to pay their own recruitment fees to intermediaries, despite a strict QDVC policy of no-fee recruitment. In order to pay the debt incurred on this occasion, some immigrant workers could find themselves de facto in debt for several months. QDVC has engaged its local recruitment agencies to analyse their costs and margins, so that the group can ensure that it is paying its regular partners a price that covers all of their costs, including their margins and the cost of contingencies (e.g. resignations). A study by the Stern Center for Business and Human Rights (New York University) gives concrete figures: for a cost ranging from \$440 to \$494 per recruitment, QDVC pays its partners \$687. In addition, the group sent its own employees to verify the compliance of these agencies with its procedures and to communicate directly to the candidates on the principle of no cost to them.

To take the topic of recruitment further, especially within the subcontracting industry, a public/private partnership with the ILO project office in Qatar was formed in 2018, aiming to develop a migration corridor between Qatar and Bangladesh, with no recruitment fees for workers from QDVC's temporary agencies. The actions implemented by the partnership are based on an initial audit, a capacity-building program for recruitment agencies, and an impact study, the results of which show the positive impact of QDVC and the ILO on the practices of the agencies participating in the project: the number of workers who had to pay recruitment fees dropped from 55% before the pilot to 7% after intervention. In addition, the amounts paid were significantly reduced: from an average of over \$3,400 per worker to \$266 after the measures implemented in the pilot.

#1.4 SOCIAL DIALOGUE ON SOCIAL RISK IN THE VALUE CHAIN

The EWC, a relay for the dissemination of the responsible purchasing and subcontracting policy

The vigilance plan and the steps of the responsible subcontracting approach are regularly presented to the EWC.

The method of risk mapping, particularly by country, or the alert and reporting mechanism are presented to the EWC before being implemented.

The EWC can then disseminate this information as widely as possible throughout the subsidiaries.

The more the EWC is trained in the duty of care, the more effective its involvement is

The appropriation of the monitoring plan by EWC members was encouraged by the organisation of a training session devoted to its method and content in 2020. The training session allowed for a collective analysis of the EWC members, which identified the following elements, for example:

- > The Compliance Plan was only available in English and French in the Group's annual report, which is almost 400 pages long;
- > The EWC notes a weakness in the group's tools - there is no centralised database of supplier and subcontractor evaluations, which in turn hinders sharing between business units;

- > The ethical alert mechanism, the Vinci Integrity platform, is little used. It is important to understand why;
- > On health and safety, an initiative by Vinci Construction France called PASI (Passport de Formation à la Sécurité des Temporaires) is of interest to the members of the EWC, which notes, however, that it is not distributed in all Vinci Construction subsidiaries and in the other Vinci divisions (Energies, Eurovia, Concessions);
- > The sustainable procurement policy is not well known by the CSE, which would like to be instructed on how human rights, fundamental freedoms and social rights are integrated into standard clauses, criteria, etc.

Some of the comments were used within a short period of time, as the vigilance plan was translated into 10 languages and made available for free consultation on the group's website.

SOURCES

> Interviews

- Sarah Tesei, Director of Social Innovation at Vinci, within the Human Resources and Sustainable Development Department
- > Ali Tolu and Frantzy Somenzi, trade union delegates and employee representatives in public works subsidiaries in Ile-de-France
- Frédéric Bernadet and Karim Rabhani, Operational Director and Deputy Director, VCF TP IDF
- > Jean-Baptise Andrieu, Managing Director of BSR
- > Toolbox developed by Vinci for its subsidiaries
- > Vigilance plans 2019 and 2020: https://www. vinci.com/vinci.nsf/fr/item/plan-vigilance.htm
- > Manifesto: https://www.vinci.com/vinci.nsf/fr/

manifeste/pages/index.htm ;

 Ethics Charter: https://www.vinci.com/vinci. nsf/fr/item/ethique-et-vigilance-documentation.htm;

- Subcontractor Relations Charter: https://www. vinci.com/publi/manifeste/cst-fr.pdf;
 - > Vinci Human Rights Guide: https://www.vinci. com/publi/manifeste/vinci-guide_on_human_rights-fr.pdf;
 - Annual Reports: https://www.vinci.com/vinci. nsf/fr/finances-documentation-rapports-annuels/pages/index.htm;
 - > Joint declaration on fundamental and essential actions in the field of health and safety at work: https://www.vinci.com/publi/manifeste/sst-2017-06-fr.pdf

#2 LAFARGEHOLCIM

SUMMARY

The initiatives of the group's management in terms of responsible purchasing and due diligence deserve to be known: integration of human rights, social and labour rights and the environmental dimension into the purchasing process, mapping of risks by type of service, action plan, on-site audits, introduction of dedicated governance with the creation of a Chief Sustainability Officer (CSO) position. This policy is supported by IT tools (purchasing platforms, real databases by country on suppliers and subcontractors, assessed as to their compliance with the code of conduct issued by the group); this centralised IT infrastructure allows the production of reports on employees throughout the value chain (relating to accidents and the environment, but also potentially to social rights, etc.).

This dynamic group policy provides the framework for EWC influencing action. Some tools could be activated. The challenge for the EWC is to contribute to the prevention of social risks in the value chain, for the benefit of the company and the employees. For the time being, Lafarge's international framework agreement is no longer applied, the duty of care in France (with possible consultation on the alert and reporting mechanism) is not implemented in the group's reporting, and the monitoring of action plans and their effectiveness is not published.

The EWC's contribution to risk prevention at suppliers and subcontractors can be powerful, as demonstrated by an action initiated on the safety reception of subcontractors on a European scale at Lafarge, mentioned in this case study.

LAFARGEHOLCIM GROUP KEY FIGURES (2019 data)

72,000 employees in over 80 countries worldwide

4 product lines (cement, aggregates, readymixed concrete and products and solutions) with 264 cement plants or grinding stations, 649 aggregates quarries, 1,402 concrete plants.

Turnover of CHF 27 billion: between CHF 6 and 8 billion in Europe, Asia and North America, between CHF 2 and 3 billion in Africa and Latin America.

Head office in Switzerland (Zug).

Value chain: Purchases (goods and services, "third party spend") at CHF 18 billion, i.e. 2/3 of the group's turnover. 110,000 suppliers of goods and services. 90% of suppliers are local or national. Outsourcing was estimated at 35% of total workforce in Lafarge's 2014 CSR report, particularly in production, maintenance and cleaning and transport (to a lesser extent security and guarding, IT and accounting)

CONTROVERSIES

The accusation of financing terrorist organisations in Syria is undoubtedly one of the most serious controversies the group has faced (2013). Other controversies have also made the news, notably on the environment (pollution of the Seine in 2020). A social movement in India, triggered by a complaint of unfair treatment of temporary workers and subcontractors, stalled for several years, was then resolved in 2016, after referral to the OECD's Swiss National Contact Point (NCP) and intervention by international trade union federations. In general, the group is scrutinised by external stakeholders such as NGOs (see Holcim-Report by Greenpeace Switzerland, noting 122 problematic cases in 34 countries, October 2020).

#2.1 INTRODUCTION: PRESENTATION OF THE GROUP AND ITS CONTROVERSIES

Since its foundation in 2015, resulting from the merger of the French and Swiss cement companies Lafarge and Holcim, LafargeHolcim has had to face several controversies. Not all of them were related to social risk and labour law violations allegations, but these events indirectly influenced the group's procurement policy and must have contributed to a better consideration of the group's risks and responsibilities in its value chain.

The purpose of this case study is twofold:

- > to present the group's policy and to offer suggestions for action and demands;
- > to show how EWC initiatives in the past have contributed to improving the working conditions and health and safety of subcontractors.

The key issue for the EWC could be summarised as follows: in view of the controversies that have affected the group, how can the EWC take hold of the risks in the value chain upstream in order to contribute to preventing these controversies for the benefit of the workers of suppliers and subcontractors, the environment and the company?

#2.2 THE GROUP'S POLICY FOR MANAGING SOCIAL, ENVIRONMENTAL AND HEALTH AND SAFETY RISKS IN ITS VALUE CHAIN

The principles of the group's purchasing policy

The Group's relationship with its suppliers is based on the principles of the United Nations Global Compact and the OECD Recommendations on Due Diligence for Responsible Business Conduct. The principles to be respected in the act of purchasing, by the group and its suppliers, are specified in the "Code of Business Conduct for Suppliers".

TWO COMMITMENTS TO BE RESPECTED BY SUPPLIERS

Among the commitments to be respected by suppliers listed in the code of conduct are the following:

- > Health & Safety: « Suppliers identified as being exposed to moderate to high health and safety risks must take the necessary measures and provide evidence of their continuous progress towards the implementation of a recognised health and safety management system. At LafargeHolcim sites, suppliers shall comply with all applicable LafargeHolcim policies and guidelines.»
- Freedom of association and freedom from retaliation: «Employee representatives shall not suffer discrimination or termination of employment for exercising their rights as employees, raising grievances, participating in union activities or reporting activities that may be illegal." (French version)» The English version of the document provides details on working conditions (maximum working hours and rest periods) and on freedom of association and the right to collective bargaining, which are missing from the French version published on the group's French website:
 - "Supplier shall respect working time in accordance with internationally recognised minimum standards of 48 regular hours of work per week, a rest period of at least 24 hours every seven days and maximum of 12 hours of voluntary overtime per week."
 - "Freedom of association and collective bargaining in situations where they are restricted by local law shall be still guaranteed through other mechanisms as described by ILO (e.g. works councils).

Governance

The group's policy has been defined by the executive committee and in particular a Chief Sustainability Officer since 2019 (Magali Anderson, beginning 2021).

The purchasing function is key to the implementation of social rights in the value chain. This function manages the tools that centralise supplier relations, selection and evaluation. In each country, this function ensures that social and environmental commitments are integrated into the purchase of goods and subcontracting.

A supplier evaluation programme is underway until 2022

The risk of non-compliance with social rights is higher for certain services. These services are classified in a CSR risk matrix for responsible purchasing according to three axes: human and labour rights, health and safety and the environment.

These assessments are the subject of annual global and country reviews

The group's objective is that all suppliers identified as potentially 'high CSR risk' should be assessed by 2022 'by a third party'. Globally, potentially "high CSR risk" suppliers account for 59% of total purchases: 39% for subcontractors and 20% for suppliers of materials, energy, equipment and packaging (which are larger players on average than subcontractors).

In Spain, these suppliers represent 35% of the total suppliers but 83% of the amount of purchases. Of the 913 suppliers concerned, 439 had been "qualified" by the end of 2019 (almost half).

In France, according to LH Ciments France's 2019 Sustainable Development Report, "in July 2019, a first phase of pre-qualification of 135 suppliers (i.e. 1/3

CSR RISKS INVOLVING SERVICES PURCHASED IN SPAIN

In the document below provided by the Spanish procurement department, maintenance, engineering and facilities management services present high risks of non-compliance with human rights, labour law and health and safety rules. Purchases of gas, fuel, diesel and lubricants present the same level of risk for these two criteria.

Procurement Cluster	Product/ Service category	Human Rights / Labor	Health & Safety	Environment	Greatest Risk	
Energy	Electricity	E	L	н	н	
	Gas	н	н	н	н	
	Fuels	н	н	н	н	
Equipment and	Mechanical Equipment	M/H	L	M	M/H	
Consumables	Thermal Equipment	M/H	L	м	M/H	
I'll depends on the risk I country of origin of the roduct or service	Electrical Equipment	M/H	L	м	M/H	
Packaging &	Packaging	L	L	н	н	
Diesel	Diesel & Lubricants	н	н	н	н	
Raw material	Chemicals	м	н	н	н	
	Cementitious Materials	м	н	н	н	
	Bulk Goods	м	н	н	н	
lining	Mining Equipment	M/H	L	M	M/H	
	Mining Consumables	E C	н	н	н	
	Mining Subcontracting	н	н	M	н	
roduction	Maintenance Services	н	н	Ľ.	н	
ervices	Engineering Services	н	н	L	н	
ogistics	Logistics	м	н	н	н	
ervices	Trucks [On-Road]	M/H	L	M	M/H	
orporate	Travel and Events	L	L	Ĺ	L	
Services	Finance & Insurance Services	L	L	L	L	
	Company Cars	L	L	м	м	
General	IT: 0.0	L	L	L	L	
Services	Consulting	L	L	L	L	
	Personnel Management	н	н	L	н	
	Marketing	L	L	L	L	
acility Services	Facility Management	н	н	L	н	
ement & Jinker	Cement & Clinker (purchased)	м	н	н	н	

The following "Category SD risks Matrix" illustrates the specific SD risks related to each product and service category (following the Procurement Category Management structure).

SUPPLIER PRIORITIZATION								
Number of active suppliers	2'585	-6%						
High ESG impact suppliers	35 %	36%						
Spend covered by high ESG impact suppliers	83 %	10%						

SUPPLIER QUALIFICATION							
Number of suppliers to be qualified by 2022	913	26 %					
Number of qualified suppliers	439	146 %					
Gap to target	474	-14 %					
Additional suppliers to qualify yearly to reach 2022 target	158						

2019

VS 2018

of total purchases) was conducted in France. These suppliers had to answer our Avetta questionnaire, with more than 50 questions covering a large number of themes: human rights, working conditions, environment or anti-corruption. As a result, 20 suppliers are compliant and around thirty are in the improvement phase."

It should be noted that third-party evaluation refers to a logic of self-evaluation and compilation of administrative documents (fact-findings) via an online platform, Avetta in France, or Metacontratas in Spain (see below).

Action plans are foreseen, but not spelled out

Actions are planned, in particular to "improve" certain suppliers.

For example, the Spanish purchasing manager meets quarterly in Levante (Valencia autonomous region) with transporters to improve the health & safety rules.

Similarly in France, for the thirty or so suppliers in the improvement phase, "LafargeHolcim supports its suppliers in their corrective actions".

A "Guide" of recommendations is available online to enable suppliers to become more aligned with the "Code of Business Conduct for Suppliers".

We did not see a presentation of the action plans, or their effectiveness in improving compliance with the three CSR dimensions of the LH matrix.

A database of all accessible suppliers from all sites and of suppliers and their employees classified as red or green

A supplier can only apply if it undertakes to comply with the code of conduct and follow a so-called "pre-qualification" process during which it self-assesses the compliance of its procedures with the group's CSR rules. The supplier must provide evidence that it complies with labour legislation for its company as a whole and for each of its employees: administrative documents, training certificates, social security certificates, etc. In Spain, the web-based application Metacontratas allows the supplier to upload this data. This application is also a centralised database of all LH suppliers.

Authorised persons in the group - i.e. health and safety managers, industrial operations managers, head office employees, etc. - can check with a simple colour code (green or red) whether or not suppliers and supplier employees are approved and authorised to work with LH Spain. If a supplier or one of its employees appears in red in the database, access to LH sites is impossible..

Once the commercial relationship with a supplier has been established, actions are still carried out: on-site audits by health and safety managers; quarterly meetings between buyers and transporters to improve safety conditions on site, etc.

Suppliers are subject to an annual performance evaluation by their users (industrial operations mana-

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		485	JUAN LUIS		SERVICIO DE LIMPIEZA	45	27	27	0	0	OK	ок	in LH (green)
	FBB	57D	JORGE		SERVICIO UMPIEZAMANTENIMENTO	45	21	21			ок	ок	

(*) Data Protection Black Box

ger), with the participation of the CSR department teams.

Another category of on-site audits seems to be reserved for cases where violations of the code of conduct are suspected during the self-assessment and information-gathering process, in particular for extractive raw materials and for certain risky businesses, listed in an annex (Annex 7 of the Supplier Sustainability Management Standard), which we did not access.

#2.3 SOME REMARKS ON THE GROUP'S POLICY

Reporting that raises questions about accountability

Until recently, the group had a rather restrictive reporting policy.

Since the merger, the amount of subcontracting and the corresponding number of employees is no longer published, as was the case with Lafarge.

The principles and processes of responsible purchasing are presented on the group's websites. But, at least in some countries, the group limits itself to the strictly legal obligations to publish its "due diligence" actions. It does not fully apply the principle of accountability provided for by the CSR doctrine, which encourages companies to disclose their actions and provide indicators.

Recent developments: broadening reporting and strengthening CSR governance

For the first time in 2020 for 2019, LafargeHolcim has published an "Integrated Annual Report", going beyond financial data, with more risk analysis related to the group's activities and strategy; this report integrates, for example, part of the "main non-financial performance indicators"; all of these are published in a separate "non-financial performance report". This is the case for the indicator of the proportion of "high CSR risk" suppliers that have been assessed. Some indicators on the accident rate of the group's employees and its subcontractors are published in the Integrated Report, the others are in the Sustainability Performance Report.

A MINIMUM OF EXTRA-FINANCIAL REPORTING

LafargeHolcim in France complies with its minimum obligations regarding the publication of non-financial indicators. Of its three branches in France, only LafargeHolcim Ciments, which is a public limited company, publishes a non-financial performance statement, in accordance with its legal obligations (Article L. 225-102-1 of the French Commercial Code); LH Granulat and LH Bétons do not publish one as they are not obliged to do so as simplified joint stock companies (société par action simplifiée, SAS). Similarly, the creation of a Chief Sustainability Officer position, reporting to the Executive Committee, coordinating the group's CSR policy, is presented as intended to help the group become a leader in sustainability, namely decarbonisation, circular economy, health and safety and CSR. "Sustainability commitment starts with CO2" (Sustainability Performance Report, 2019). Health and safety risks to workers are subject to standardised procedures ("Health and Safety Management System Standard").

The French law on Duty of Care is not applied by the group in France

The French company Lafarge SA has French subsidiaries with less than 5,000 employees (but several thousand) but also foreign subsidiaries in USA, Singapore, Egypt, Algeria, etc. The net long-term assets of Lafarge SA totalled more than €16bn at the end of 2019. It is likely that Lafarge SA will be subject to the obligations of the 2017 Law on Duty of Care.

However, it must be recognised that the group is already carrying out the risk analysis work and publishing its actions, inherent in the duty of care. The risk analysis matrix for each type of subcontracted service assesses potential violations of human rights/ labour legislation, health and safety and the environment. These are also the three areas covered by the French law.

COMPANIES SUBJECT TO THE 2017 FRENCH LAW ON DUTY OF CARE

The law applies to "any company which, at the end of two consecutive financial years, employs at least five thousand employees in its own company and in its direct or indirect subsidiaries whose registered office is in France, or at least ten thousand employees in its own company and in its direct or indirect subsidiaries whose registered office is in France or abroad".

As regards companies with their registered office outside France, they are only subject to these provisions if, and to the extent that, a French subsidiary meets these criteria in terms of the number of employees within it and in its own subsidiaries. Some aspects of the Law on Duty of Care are not applied: global reporting on due diligence actions, consultation with employee representatives (the EWC in general) on alert and reporting mechanisms, monitoring of measures and evaluation of the effectiveness of action plans.

#2.4 THE EWC AND OTHER EMPLOYEE REPRESENTATIVE BODIES AND THE ISSUE OF SOCIAL RIGHTS IN THE VALUE CHAIN

An EWC-led initiative to improve safety rules at all Lafarge European sites

Regarding the safety induction of all subcontractor employees, the group's procedure was improved after the EWC proposed to extend the system introduced in United Kingdom to all subcontractors in Europe.

« This approach originated in 2005, following a survey by the European Works Council. At the time, French legislation required the receiving company to inform the manager of the subcontracting company of the safety risks, who then had to inform his employees (which was rarely done, if at all).

The EWC then carried out an investigation which revealed non-compliance with the health and safety charter. As a result of this EWC initiative, a safety welcome for all internal and subcontractor employees, with a badge on the helmet for the current year, was adopted.»



An International Framework Agreement at Lafarge

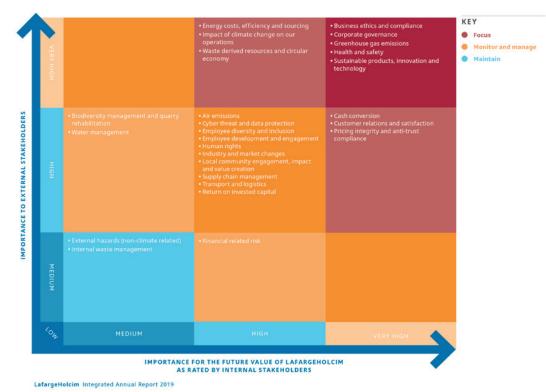
The group finally refused to sign an International Framework Agreement that had already been negotiated and approved in principle by the general meeting of shareholders in 2017. The Building and Wood Workers' International (BWI) was banking on this agreement, hoping to establish it as a global reference for social dialogue in the building materials industry. The content included "the main ILO conventions, the notion of trade union neutrality, a scope that covers all company sites, access to all sites, the LafargeHolcim Annual Conference (CALH) as a global dialogue platform and a dispute resolution procedure" (IndustriALL website: http://www. industriall-union.org/fr/lafargeholcim-derniereetape-en-vue-dun-accord-cadre-mondial).

The previous agreement ("Global Agreement on CSR and Social Relations"), signed in 2013 before the merger by Lafarge, IndustriALL and BWI, contained some progress, including the following two provisions:

- > on relations with subcontractors, it provided for the possibility of suspending this relationship in the event that breaches of health and safety, fundamental social rights of workers or the environment were not remedied after a warning.
- > The reference group responsible for monitoring and reviewing the agreement includes the EWC secretary as an observer alongside its ex officio members, the signatories of the agreement; an annual review is carried out and included in the group's reporting.

The agreement, which was signed for an indefinite period, does not seem to have been implemented since the merger.

Other issues include forced labour, child labour, employment discrimination, promotion of diversity, protection of migrant workers, freedom of association and right to collective bargaining, minimum wages, working time, health and safety, skills development.



A ranking of the group's major issues in association with the stakeholders... but without the EWC

The group ranked the most important issues of concern in the next 3 to 5 years, based on a panel of internal and external stakeholders. Employee representatives were not included in this panel.

Ways to increase the involvement of the LH EWC

One could imagine creating the basis for an exchange of views between management and the EWC on the group's due diligence policy: a summary document presenting the risks, the actions taken, and their evaluation. They could be given a role in raising 'weak signals' of human rights, worker health/safety or environmental violations.

Staff representatives and the EWC could be involved in the group's reflection on the analysis of the group's major challenges in the next 3-5 years.

MAIN SOURCES

- » « Procurement principles and processes Integrating sustainability in procurement and contractors management », April 2020 https://www.lafargeholcim.com/sites/lafargeholcim.com/files/atoms/files/lafargeholcim_sustainable_procurement_principles_and_processes.pdf
- > « Integrated Annual Report » 2019 https://www.lafargeholcim.com/annual-interim-reports
- > « Code de conduite des affaires destiné aux fournisseurs » https://www.lafarge.fr/regles-de-concurrence
- > « Health and Safety Management System Standard » https://www.lafargeholcim.com/sites/lafargeholcim.com/files/atoms/files/lafargeholcim_health_safety_management_system_standard.pdf
- > Interview with the Head of Supply Chain, Spain
- > Working meeting with EWC Members

#3 ROYAL BAM GROUP NV

Note: This case study is drafted on the basis of an analysis of company documents (including annual reports/integrated reports, press releases, presentations, website information, general purchasing terms, Code of Conduct, policy statements, newspaper articles) and interviews with management and EWC representatives.

SUMMARY

BAM uses various elements of a supply chain compliance programme to analyse, manage and monitor social, economic and environmental risks, striving to ensure that all supply chain partners share the company's values. One particularity is the recent shift in procurement towards a management practice called "One Procurement", i.e. procurement is a centralised function within BAM and all procurement teams report to the Chief Procurement Officer. The ambition is that all procurement procedures across the supply chain should be conducted in a consistent way.

The evaluation and selection of vendors is coordinated by procurement teams, collecting all necessary information in exchange with the vendors which are assessed on five different topics (safety, quality, total cost (price), logistics, and engineering and process). BAM requests information on the vendors costs, striving to identify unusually low expenses on social costs that may be linked to cascading outsourcing via sub-subcontractors. So, all vendors are obliged to ensure that their subcontractors also adhere to BAM standards.

The EWC is not directly involved in the evaluation and selection process, but BAM management reveals the procurement policy to the EWC. Its members are informed about all elements of due diligence and framework agreements on human rights are in place.

BAM's policy on accident/ incident reduction, and safety audits and reporting include not only the company's employees but also subcontractors, temporary workers and third parties present on working site of projects.

#3.1 VENDORS AND SUPPLY CHAIN MANAGEMENT

As BAM is involved in various stages of the construction value chain (development, engineering and construction, maintenance and operation), subcontractors, material suppliers and service providers are essential to BAM. More than 70% of the group's turnover is sourced externally, i.e. provided by partners. Subcontractors, which are active on construction sites with their own employees, make up approx. 60% of all vendors.

Overall, BAM has more than 35,000 vendors supporting the various operating companies in 5 countries. The spectrum of supply categories ranges from installation works, mechanical and electrical engineering, concrete works, steel construction, facades and roofing, equipment, fleet, facility services and IT. As stated by the management, most of the categories are sourced locally.

According to BAM management, close cooperation with suppliers and subcontractors during the tendering phase is the key to winning projects, since BAM performance depends directly on the vendors. Thus, BAM appears to be making special efforts to select the "right" partners, and to maintain and improve the relationship with them in the long term. For BAM, it is important that the cooperation is in line with the group's values, principles and goals. Sound supply chain management seems essential, which also means measuring supplier and subcontractor performance. Therefore, thousands of vendor evaluations are carried out every year to choose the most fitting vendors and to help in continuous improvement.

In the form of a pyramid and based on the evaluations, BAM vendors are categorised into three groups. At the top, there are "key vendors" (centralised custom approach focusing on the value of the relationship across BAM), followed by "preferred vendors" (cross-project utilisation, opportunities and engagement cross-project), and "approved vendors" (meeting minimum criteria for onboarding, engagement at project level). The higher a vendor is ranked, the more it meets the specifications of the tender and the required standards of BAM. Depending on the evaluations and the fulfilment of the criteria, vendors can move up the pyramid. Conversely, vendors which don't meet certain criteria or violate standards can also be downgraded. However, on the basis of an improvement plan agreed with BAM, they can also move up again in the pyramid.

The evaluation and selection process is coordinated by the procurement teams, which collect all necessary information in exchange with the vendors (BAM doesn't use platform systems to manage the supply

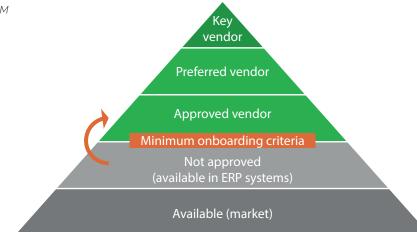
COMPANY PROFILE

- Construction company headquartered in Bunnik (the Netherlands)
- Main business lines: Construction and Property, Civil Engineering and Public-Private Partnership projects
- Ten operating firms in five European countries (the Netherlands, Belgium, the United Kingdom, Ireland and Germany), also delivering projects in Luxembourg, Switzerland and Denmark
- Revenue: €6.8 billion (2020), €7.2 billion (2019)
- Adjusted result before tax: €34.3 million (2020), €74.1 million (2019)
- Employees: about 19,000
- EWC: established in 2004, comprising 12 members (the Netherlands 5, Belgium 2, Germany 2, Ireland 1, United Kingdom 2), meets once a year for several days; the relationship with BAM management is described as professional, information and consultation are considered as satisfactory and open.

RECENT ACTIVITIES

- Cost reduction programme announced in September 2020 and on schedule to reach savings of €100 million annually (the majority of savings should come from headcount reductions, so the part of the programme to be implemented in the first six month included around 1,000 job cuts in all parts of the company)
- New strategy 2021-2023: Restructure portfolio (smaller company), increase of profitability and creation of a sustainable platform for future growth.

Source : BAM



chain such as "Avetta" or "EcoVadis"). Suppliers and subcontractors are assessed on five different topics:

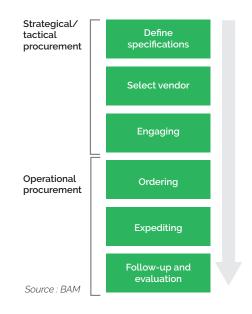
- > safety
- > quality
- > total cost (price)1
- > logistics;
- > and engineering and process.

According to the interviewees, cost (price) seems to be the decisive factor for the selection. If the total score of a supplier or subcontractor is below the required level, BAM starts a dialogue to enhance its performance. If the vendor is not able or not willing to improve, BAM will exclude it from future projects. A concrete example is that BAM in the Netherlands terminated the contract with a scaffolding construction company because, after several warnings, it did not comply with BAM's safety standards.

In the Netherlands, BAM developed a concept for housing construction 10 years ago, whereby the company always works with the same suppliers and subcontractors. The system is called "conceptual housing construction" and has the advantage that the suppliers and subcontractors will help each other to contribute to a better quality and a better profit, while working together on the site. Now the system is used as a basis for a roll-out to other types of buildings.

#3.2 PROCUREMENT STRATEGY AND ORGANISATION – TOWARDS A NEW PRACTICE: "ONE PROCUREMENT"

Due to the high turnover which is sourced externally, BAM procurement across the supply chain is regarded to be a key function in realising projects. The procurement process is divided into six steps:



The steps covering all vendors are applicable to both direct and indirect spend, project agreements, as well as procurement framework agreements.

In recent years, BAM procurement has been in a transition process, pursuing the strategy of "One Procurement". Correspondingly, procurement is a centralised function within BAM, led by the Chief Procurement Officer (CPO). The different procurement teams are working on BAM Group level as well as within the different operating companies. All procurement teams report to the CPO, who is located in the Dutch headquarters. The system provides a European central organisation with local presence, which should be a key in being part of the tender and project teams, where procu-

¹ The price is being replaced by the cost announced by subcontractors, suppliers and providers. It enables BAM to select strategic expenses, however not all vendors accept to provide such level of information.

rement is an essential part. Most of the procurement staff is working within tender and project procurement in the operating companies. Local procurement teams collaborate with the central teams of category management (responsible for framework contracts, vendor management), indirect procurement (procuring all indirect spend, e.g. IT, fleet, travel) and procurement excellence (systems, processes, analytics).

The ambition for all BAM procurement across the supply chain is to be carried out in a consistent way, data-driven and digitally enabled. The aim is to further move away from a project focus towards a stronger process focus. This means, for example, that a general purchaser no longer buys everything exclusively for a project, but procurement positions can be combined roles (e.g. business partners who set the procurement agenda for the business, and shared services and category managers).

By this procurement strategy, BAM pursues different goals: Apart from the enhancement of processes, the company wants to strengthen partnerships with suppliers and subcontractors, increase the early involvement of procurement as well as leverage BAM scale and expertise within the project lifecycle. Proactive management, cooperation and knowledge sharing are intended to drive higher margins and to improve the company's risk management with regard to the supply chain.

In case of disagreement between the central procurement leader and a team leader, the top central management will take responsibility for the final decision. It is important for workers' representatives to have a clear understanding of the decision-making processes and of who is responsible.

The EWC is not directly involved in the evaluation and selection process with regard to suppliers and subcontractors, but the management discloses the entire procurement policy to the EWC. In addition, workers' representatives have access to the relevant tools and systems such as "Bravo".

BRAVO SYSTEM

For the support of procurement activities, BAM Group Procurement uses a system called "Bravo" which acts as a BAM-wide database for spend, control and contract management. Bravo enables the company to have a global overview of all vendors which are categorised in the pyramid system. The main advantage is that all BAM invoices (and hence expenses) and framework agreements are bundled in the same system.

In order to bunch all expenses data, connections from the ERP System (e.g. SAP) to Bravo are made. Monthly, all invoice-related data is automatically sent from those systems to Bravo. The overall data set provides insights from an operational company perspective, as well as from a vendor or a category point of view.

Within Bravo, supplier and subcontractor performance is indicated, based upon questions that are clustered in topics such as quality, sustainability, commercial and future business. Evaluators score on a predefined scale, they can also leave comments. The final result is a score per supplier or subcontractor per project. This score serves as an indicator to figure out if action is needed towards the supplier or subcontractor. A dashboard displays the outcome of the performance assessments. In 2019, a total of about 1,400 supplier and subcontractor performance evaluations were conducted, in 2018 nearly 900.

Bravo is an open system, i.e. all BAM employees have access to the tool and the data (there is only little information that is locked or only accessible to the procurement team, e.g. the price). So, the Bravo system also provides an opportunity for EWC members and other worker representatives to get a general overview of suppliers and subcontractors and their performance and compliance with BAM standards

The EWC was involved in several transnational decision-making processes also regarding BAM procurement in recent years. In 2019, a meeting of EWC and management took place on consultation on the "One BAM governance" decisions for the staff functions HR, IT, Finance and Procurement. According to the interviewees, management provided the EWC with lots of information and EWC recommendations were taken into account in the decision-making. However, the exchange was more about the reorganisation of structures and social consequences for the workforce resulting from the transformation to "One Procurement" and less about the evaluation and selection processes per se.

#3.3 VENDOR CODE OF CONDUCT

The central subject of BAM's Code of Conduct is the ambition "Doing things right", which means that the company intends to operate in a safe, sustainable and ethical way. Similarly, BAM expects their vendors not only to comply with laws and regulations but also to make health and safety, sustainability and integrity a priority. The BAM Vendor Code outlines the behaviours which are expected from all vendors, i.e. BAM requires vendors to adhere to the Vendor Code, which is a fundamental part of the contractual relationship between BAM and a vendor. Suppliers and subcontractors must guarantee that the principles and practices defined in the Vendor Code are communicated to their employees throughout their supply chain.

BAM is entitled to verify a vendor's compliance with the Vendor Code (laws, rules and regulations) in the course of an audit. Vendors are obliged to cooperate and provide relevant information requested by BAM or make it available. Non-compliance with the Vendor Code will result in appropriate corrective action – in the most extreme case, the business relationship will be terminated.

In detail, compliant behaviour is expected in the following areas: providing a safe work environment, respecting and promoting human rights (including not tolerating child, forced, compulsory or slave labour), respecting and providing employees with wages and benefits that at least meet the minimum amount required by applicable local laws/regulations, driving ecological sustainability and helping communities, preventing bribery and corruption, avoiding conflicts of interest (including not providing financial support to political parties to influence transactions), complying with trade controls, protecting assets, property and equipment, as well as protecting (personal) data and privacy.

It is very difficult to check whether sub-subcontractors also comply with the required standards especially beyond "tier 1". This is one of the main reasons why BAM requests information on the vendors costs – it helps identifying abnormally low expenses on social costs that may be linked to cascading outsourcing. BAM's subcontractors are obliged to guarantee the compliance of their own subcontractors. If this is not the case, it can lead to suspension in the extreme case. However, there is a "grey area", where subcontractors may play with rules (e.g. recruitment agencies may pay normal wages but overcharge workers for the service provision such as housing for foreign workers)

The BAM Business Principles, Code of Conduct and Guiding Principles on Business and Human rights are also laid down in BAM's general purchasing terms and conditions (GPTC) which outline a framework for minimum requirements. Accordingly, subcontractors must comply with all labour conditions as stated in the GPTC. For example, subcontractors are held to

FRAMEWORK AGREEMENT WITH BWI ON HUMAN RIGHTS

In 2006, BAM and Building and Wood Worker's International (BWI) signed a framework agreement to promote and protect employee rights. Thus, BAM agreed to respect the fundamental principles of human rights as defined in the Universal Declaration of Human Rights, the ILO Declaration on Fundamental Principles and Rights at Work, the ILO Tripartite Declaration of Principles concerning multinational Enterprises and Social Policy, the ILO Conventions in force, as well as the OECD Guidelines for Multinational Enterprises. By the agreement, BAM confirms the need for fair negotiations with national trade unions and approves that bribery, corruption and anti-competitive behaviour are not to be tolerated.

Since 2006, regular meetings of BAM management and trade union organisations took place to monitor the implementation of the agreement. BAM also enabled BWI in visiting projects to audit local working conditions in terms of human right practices. BAM set itself the goal of carrying out a social audit on an international project every year. In 2019, the discussion on a new framework agreement started.

comply with national employment acts, to lay down all agreements with their employees in writing, to give BAM access to the agreements with employees (upon request), as well as to cooperate with checks, audits, salary validations.

#3.4 VENDOR SUSTAINABILITY REQUIREMENTS

Against the background of the increased importance of sustainable development in society, but also the increased significance of sustainability among shareholders, BAM has been pushing the topic for several years. The company's public intention is to increase sustainability awareness, behaviour and performance of both BAM and its suppliers and subcontractors. Thus, BAM informs about its endeavours to ensure that the partners operate in a safe, resource-efficient and environmentally-conscious way. This primarily takes place through procurement on group and local project level, with regard to tendering and daily operations.

Before working with BAM, the vendors have to agree with various sustainability standards. BAM Construct UK, for example, has compiled an overview for suppliers and subcontractor only focussing on sustainability requirements. Hence, they are required to contribute to BAM's Net positive strategy, which means to have a net positive impact on climate change, resources and people by 2050, for example through energy efficient plant and machinery, zero waste solutions, education support or health/wellbeing/recognition of employees. At any stage of a project, from tender to post construction, suppliers and subcontractors are obliged to provide evidence and information, as required by the project team, to meet defined contract conditions.

#3.5 HEALTH AND SAFETY

A particular starting point for worker representatives who actively want to influence the working conditions of employees of subcontractors is health and safety. Safety regulations apply to all employees – and thus to workers of subcontractors who are active on BAM sites.

BAM considers health and safety to be of top importance for the group – beyond the current Covid-19 protection measures. In line with the Code of Conduct, there is a strong commitment to continual improvement of the company's health and safety performance regarding everyone involved in operational activities, including subcontractor employees. Therefore, it is essential to create a safe working environment throughout BAM's supply chain. This is to be implemented by the following aspects:

- Strengthening the operating companies by conducting safety behaviour audits
- Fostering BAM's safety culture, supported by the communication campaign "Your Safety is My Safety";
- > Increasing safety performance, measured by the company's incident frequency (IF) rate (see more detailed information below).

Safety behaviour audit

It is provided that every operating company has to organise at least one safety behaviour audit (SBA) per year, aiming at evaluating safety programmes and practices. The number of SBA per operating company is due to turnover (one per €350 million) and performance. In 2019, fifteen audits took place across the BAM group.

An SBA consists of the following steps:

- > Assessment (audit)
- Interview, assessment of records and on-site compliance analysis
- Close-out and final score
- > Report
- Improvement plan with actions and issues requiring special attention (including developing leadership and behaviour);
- > Benchmarking and sharing results.

Safety officers from the operating company are responsible to organise the SBA interviews and select

the projects within the overall planning, considering the diversity in areas, business units, as well as type and phase of projects.

By means of the SBAs, BAM intends to make safety excellence count and to reward safety innovations. By disclosing the outcomes via the safety portal, the company wants to stimulate competition between operation companies as regards safety performance. So, safety excellence becomes visible to other operating companies with a focus on continuous improvement within organisations and across the Group. The worse the result on the company's incident frequency (IF) rate as the lagging indicator (see below), the more control is needed and the more SBAs should be planned.

SBA scores concentrate on three areas:

- Safe environment / safety climate (management ambition, leadership and commitment to keeping employees safe is visible through words and actions)
- Management system (safety policies, processes and procedures used to ask specific requirements in order to achieve its safety goals by risk management, supply chain management and continuous improvement, in addition to compliance with law and safety regulations, including the BAM Safety Directive);
- > Site conditions (site setup, site logistics, personal and collective measurements in order to mitigate task specific risks, including safe physical work environment and equipment).

Each section is scored independently, all elements are combined into an overall score. Additional points may be added for innovative safety practices and points may be deducted in areas of concern. The score of the various sections is rated from:

- > 1: No evidence of commitment poor (0 40%)
- > 2: Slight evidence of commitment fair (41 60%)
- 3: Commitment evident, but room for improvement – good (61 - 80%)
- > 4: Good commitment demonstrated very

good (81 - 90%)

> 5: Excellent commitment demonstrated – excellent (91 - 100%)

In 2019, overall SBA performance amounted to 73% as the average of all operating company scores, and was thus roughly at the previous year's level (72%).

According to the interviewees, the score of the operating companies also covers suppliers and subcontractors. If latter have a poor health and safety performance, they must fear consequences, including the removal from the construction site and the loss of the contract. From the EWC's point of view, (threatening) sanctions are an essential lever to press subcontractors to improve their working conditions. However, the interviewees had to witness that it is very difficult to totally and precisely control the compliance of all suppliers and subcontractors with BAM social and health and safety standards, e.g. because of the large number of vendors and the system of sub-subcontracting. An important approach is not to announce site inspections in advance to prevent manipulation of answers.

Safety campaign "Your Safety is My Safety"

BAM communicates on its intention to foster a strong safety (leadership) culture and to improve awareness of safety in general, to further strengthen shared responsibility. Therefore, an ongoing uniform global safety campaign "Your Safety is My Safety" for all employees is running, started in 2018 and aiming at zero accidents. According to management, this goal can only be achieved by a joint approach, supported by uniform safety communication processes, methods and channels. The campaign should stimulate conversations on safety among employees and encourage them to make their own workplace safer.

On all sites there are safety guidelines showing BAM safety rules translated into several languages. However, language is a major problem to get in contact with workers of subcontractors in order to check how they understand the health and safety rules and how they abide by them.

Also aiming at a joint reflection on the importance of a safe working environment and the increase of employee awareness on the topic, BAM yearly organises a worldwide "BAM Safety Day". In 2019, it took place for the tenth time.

Incident frequency (IF) rate and safety reporting

An important measurement for safety performance is the company's incident frequency (IF) rate, defined as the number of BAM employees involved in industrial incidents which lead to absence from work per million hours worked on construction sites. For all operating companies, BAM only takes into account employee-related accidents and hours (expect for BAM International²). Reportable incidents are based on actual occurrences and are never estimated or extrapolated, according to BAM. However, there is always an inherent risk of incomplete accident reporting. One sticking point is that BAM is partly dependent on the information provided by the person who is involved in an accident.

After 4.2 in 2018, BAM IF rate rose to 4.8 in 2019, which is above the target of 3.8 for 2019. In 2020, IF increased to 5.3, which was above the 2020 target of 3.5.

BAM worker representatives are well informed on safety matters. Every month or at least every quarter they have a meeting with the company which reports about all accidents. Worker representatives are not included in the regular communication between project managers and subcontractors on the construction side, however, the safety coordinators share relevant figures on safety and accidents with workers' representatives. This is so in The Netherlands, in Germany and Belgium, while in the UK and Ireland no information could be found.

It is important to note that the absolute number of reported serious accidents includes all BAM employees, subcontractors, hired employees (temporary workers) and third parties on BAM's own projects, as well as BAM employees, subcontractors and directly hired employees on joint ventures.

In order to provide access to the right information, it is essential to have a consistent and uniform safety reporting across all operating companies. According to BAM management, the company is in the process of improving the reporting process for worked hours of subcontractors, which provides an essential basis for assessing subcontractor safety performance. Of course, it is not easy to get the relevant information from the subcontractors. In order to obtain reliable information, BAM is looking into the implementation of automated on-site entry systems, as well as the introduction of tourniquets, fingerprint readers, iris scans and card systems.

² BAM International is active in Africa, Australia, Asia, the Middle East/Gulf States and America in the civil engineering, industry and non-residential construction sectors. The company directly employs 2,000 workers mainly to carrying out civil and marine engineering projects.



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