Louvain School of Management

How can the B Corp certification process be strengthened in relation to human rights?

The case of supply chains in the clothing industry

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Glossary

B Corps = Certified B Corporations

BIA = B Impact Assessment

DQ = Disclosure Questionnaire

Due Diligence Directive = Directive on Corporate Sustainability Due Diligence

EEA = European Economic Area

E.U. = European Union

GOTS = Global Organic Textile Standard

HRIA = Human Rights Impact Assessment

ICESCR = International Covenant on Economic Social and Cultural Rights

ICCPR = International Covenant on Civil and Political Rights

ILO = International Labour Organization

ILO Declaration = ILO Declaration on Fundamental Principles and Rights at Work

OECD = Organisation for Economic Co-operation and Development

OECD Guidelines = OECD Guidelines for Multinational Enterprises

OECD Guidance = OECD Guidance for Responsible Business Conduct

OECD sectoral Guidance = OECD Due Diligence Guidance for Responsible Supply Chains in the Garment and Footwear Sector

RSAG = Regional Standards Advisory Groups

SAC = Standards Advisory Council

SDGs = UN Sustainable Development Goals

UDHR = Universal Declaration of Human Rights

UN = United Nations

UNGC = United Nations Global Compact

UNGPs = UN Guiding Principles on Business and Human Rights

Introduction

With the aim of supporting positive impact creation by companies, three college friends launched the B Movement in 2006. They were convinced companies could use their benefits and influence to lead the way to a more prosperous economy. One of the initiatives of the B Movement is the B Corp certification which is a certification intended to companies meeting high standards of verified performance in various sustainability areas. Since its inception in 2007, the number of certified B Corporations[1] continuously increased, currently reaching about 5000 companies worldwide. Literature and various stakeholders have however highlighted the shortcomings of the certification from a human rights perspective. The aim of this thesis is to address those shortcomings and provide recommendations on how the certification process could be strengthened in this regard. The scope of the research is limited to the clothing industry and human rights of workers in the supply chain. Those choices have been driven by the severe human rights risks they are associated with. The research question is therefore the following:

How can the B Corp certification process be strengthened in relation to human rights?

The case of supply chains in the clothing industry

This thesis is divided in two distinct parts, the theoretical part and the empirical part. The first lays the foundations for the empirical part. A first chapter covering the clothing industry depicts the trends affecting the industry and its supply chain. It particularly sheds a light on the various negative impacts suffered by the workers along the supply chain. A second chapter relates to human rights. It first describes the international human rights instruments, focusing particularly on human rights in the workplace. It also addresses the international frameworks surrounding the responsibility of businesses in relation to human rights. Lastly, it describes the main human rights risks in the clothing industry and the associated international labour standards as well as initiatives launched in the industry in relation to human rights. A last chapter within the theoretical part covers the B Corp certification. It depicts the B Movement which encompasses, among other initiatives, the B Corp certification. The certification process is in addition thoroughly explained. This chapter ends by highlighting the shortcomings of the B Corp

[1] B Corporations is the name given to companies that have been granted the B Corp certification

certification process in relation to human rights as identified by the literature. This marks the starting point of the empirical part.

The empirical part starts with an in-depth analysis of the B Corp certification process which enables to identify its shortcomings in relation to human rights in the supply chain. To find ways to remediate to the identified issues, the main labels in the clothing industry are investigated, particularly on how they integrate human rights in their respective assessments. Those labels are the Global Organic Textile Standard, OEKO-TEX Made in Green, the Fairtrade Textile Standard and Fair Wear. A comparative analysis based on the outcomes of a framework applied to each label is carried out. Recommendations are then developed based on leading practices observed in other labels' certification processes. Those recommendations were elaborated to provide assurance to the stakeholders of B Lab[2] that B Corps are upholding their responsibility towards human rights in their supply chain while remaining aligned with the B Movement's philosophy. Subsequently, the feasibility and operationalisation of the recommendations are discussed with the input of Bernard Gouw, Senior Manager Social Standards at B Lab Global. To conclude this thesis, we summarise the main points of its empirical part, and we highlight the relevance of the underlying research. We also acknowledge its limitations and suggest avenues for future research.

[2] B Lab is the non-profit organization managing the B Corp certification and the other B Movement initiatives

Part 1: Theoretical part

Chapter 1: The clothing industry

1.1. Introduction

This first chapter of the theoretical part covers the clothing industry. The aim of this chapter is to give an overview of the trends in the clothing industry and its supply chain. The economic and employment trends of the industry, its evolution, the fast fashion phenomenon as well as the characteristics of its supply chain are presented. This chapter also seeks to highlight the adverse social impacts experienced by the workers in the supply chain and the underlying driving forces. Such impacts help us to understand why the clothing industry is a sensitive industry from a human rights perspective. The environmental impact of the clothing industry as well as the impact the COVID-19 has had on the industry are briefly outlined.

1.2. The clothing industry

1.2.1. Definition

The clothing industry is part of the textile and clothing industry. The latter "covers a range of activities from the transformation of natural (cotton, flax, wool, etc.) or synthetic (polyester, polyamide, etc.) fibres into yarns and fabrics, to the production of a wide variety of products such as hi-tech synthetic yarns, bed-linens, industrial filters and clothing" (European Commission, n.d.). The textile and clothing industries are often associated together as sixty percent of the textiles manufactured are destined to produce clothes (Ellen MacArthur Foundation, 2017). The clothing industry covers the activities downstream of the textile and clothing industry, namely the activities linked to the manufacturing and lifecycle of apparels. The industry is also referred to as the garment or apparel industry (European Commission, 2017). The latter should not be confused with the fashion industry, of which the clothing industry is part, but which encompasses a larger range of products (Hines, 2007).

1.2.2. Economic and employment trends

The clothing industry is one of the largest industries worldwide (Anguelov, 2015). It is worth USD 1.3 trillion). The clothing production has furthermore significantly increased the last years. It doubled between 2002 and 2017 (Ellen MacArthur Foundation, 2017).

The industry is characterised by its labour-intensive nature (Gardetti & Torres, 2017). It is a source of employment for more than 300 million workers over the world (Ellen MacArthur

Foundation, 2017). Three quarters of the clothing are currently exported from developing countries (Gardetti & Torres, 2017). The textile and clothing industry has become an increasingly important part of the economies of those exporting countries thanks to the employment opportunities it provides (Anguelov, 2015; Majumdar, Shaw & Sinha, 2020). Their economies have become reliant on the industry to thrive. The development of the industry in developing countries has been enabled by the low entry barriers, the fact that the technology is easy to handle and that the necessary skills can be rapidly learnt (Majumdar et al., 2020). Countries employing the most people working in clothing industry are China, India, Vietnam, Brazil and Indonesia (International Labour Organization [ILO], 2014).

People working in the textile and clothing industry supply chain are mostly women living in low-income countries. It is in fact estimated that women account on average for 68 percent of the labour force in the clothing industry. Most of them are young and low skilled. It is also important to note that working in this industry is one of the rare accepted contractual labour alternatives offered to women in emerging countries (ILO, 2014). The men working in the textile and clothing supply chain are mostly supervisors, technicians and machine handlers (Gardetti & Torres, 2017).

1.2.3. Evolution of the industry

The clothing industry experienced a turning point beginning of the 1990s. Until then, retailers commercialized mass-produced standardized clothing. The production was located near end consumers and the supplier base was regional and rather stable. Clothing retailers launched two collections per year, one for spring and summer and one for fall and winter. Besides, the supply chain was supply driven (ILO, 2014). In fact, retailers had to anticipate the demand and fashion trends long before the clothing would reach the end consumers due to important lead times (Bhardwaj & Fairhurst, 2010).

From the 1990s onwards, clothing retailers grew their product range and developed distinct brands. They integrated more fashionable and less standardised designs. To drive down costs, retailers started outsourcing the production to developing countries where labour costs are low while still carrying out design and marketing activities in developed countries. The import of oversees supplies significantly increased following the termination in 2005 of the Multifibre Arrangement which is a quota system that regulated global trade. It enhanced global competition in the clothing industry (ILO, 2014). Next, the supply chain evolved from a supply-driven to a buyer-driven supply chain. The clothing market became more and more dynamic, and consumers started to continuously request refreshing products. Retailers started to integrate the fashion trends observed at fashion shows and runways as well as consumer preferences in the design process. The lead time was considerably reduced for items to reach stores within a few weeks' time (Bhardwaj & Fairhurst, 2010). The number of collections per year subsequently increased strongly (ILO, 2014). The competition between retailers became also based on responsiveness of retailers, in addition to being price-based (Anguelov, 2015).

The beginning of the twenty-first century marks the emergence of the fast fashion phenomenon (Greenpeace, 2016). It consists of the production and promotion of fashionable, cheap and readily disposable clothes (Anguelov, 2015) in a very short time (Barnes & Lea-Greenwood, 2006).

The fast fashion is first characterised by the real-time adaptation of retailers to consumer demand and fashion trends. The retailers are required to constantly provide new items based on those trends to remain competitive (Barnes & Lea-Greenwood, 2006). The quick turnaround of items pushes consumers to visit the stores more often and leads the suppliers to produce smaller batches than they used to (Bhardwaj & Fairhurst, 2010). As consumer demand and trends change rapidly, items must reach the stores in a very short time. It has a significant impact on the supply chain in the industry. First, the product development and quality control stages were removed to reduce the lead time (Barnes & Lea-Greenwood, 2006). Then, suppliers are under considerable pressure to meet the lead time constraints (Bhardwaj & Fairhurst, 2010). Besides, retailers innovate on the shipping to diminish the time to market by resorting to air freighting for instance. Lastly, the sourcing mix evolved. Retailers outsource the most popular items during the season to suppliers closer to end consumers. They also appeal to those suppliers for items they want to test before ordering larger volumes to Asian suppliers (Barnes & Lea-Greenwood, 2006).

Another important characteristic of fast fashion is the affordability of clothes achieved by retailers striving to minimize their production costs to the largest extent. Consumers now have access to high-end fashionable clothing whereas it used to be limited to the few who could afford it (Anguelov, 2015). The affordability of clothing has however resulted in the purchase of a larger volume of clothes. As trends change quickly, the overconsumption is coupled with clothes rapidly being old-fashioned (Greenpeace, 2016).

Some retailers are now said to have moved from fast fashion to ultra-fast fashion. The latter business strategy is first characterised by a further reduced time span between the design of a product and its launch on the market (from a few days to four weeks). Most of the production is consequently made near the end market. These brands produce even less quantity of a certain product and have an even higher product turnover. Ultra-fast fashion companies furthermore significantly rely on data from social networks to develop trendy items and to identify the preferred items that will need to be restocked quickly. They are predominantly present online and have few physical stores. The five major retailers embodying the ultra-fast fashion strategy are ASOS, Boohoo, Missguided, Choosy and Fashion Nova (Camargo, Pereira & Scarpin, 2020).

1.3.Supply chain dynamics in the clothing industry

1.3.1. Supply chain stages

The clothing production process requires a large number of steps and raw materials. The first step of the process is the production of fibres. The latter can either be natural, such as cotton and wool, or man-made, such as viscose, cellulose-based fibres, polyester, nylon and acrylique. The process differs according to the nature of the fibres needed. In the case of natural fibres, they are first cut off from the seeds and other unnecessary materials. Thereafter, they go through the spinning process to be transformed into yarn. Regarding man-made fibres, they are initially in a solid state. They must therefore be liquefied and then go through a spinneret to reach a fibre form. It is then suitable to form a yarn. Next, the yarns are mostly woven but they can also go through processes such as knitting or lace making. At this point, fabrics are created. The next stage of the production is the finishing step. It consists of various treatments performed on a fabric to modify the way it looks, its touch or its performance. Fabrics undergo processes including chemical, treatments, dyeing, printing, washing and ironing. The last stage is the production of garments. There is a distinction between two types of processes. First, the cut-make-trim processes which enable to assemble fabrics together, by sewing or with other techniques. Then, there are support processes which are the other processes through which a garment is created, such as embroidery, ironing and packing (Fair Wear Foundation, 2021a). After the production, finished garments are distributed to the clothing retailers first before being offered to end consumers (Gardetti & Torres, 2017).

The supply chain in the textile and clothing industry is characterised by vertical disintegration (Morris, Koep & Damert, 2021). The different production tasks are performed by a large number of highly specialised small and medium firms (Bullon Pérez, González Arrieta, Hernández Encinas & Queiruga-Dios, 2017). The latter are located in various geographical areas as each task is performed where it can add the most value to the end product (Bullon Pérez et al., 2017). South-East Asia is responsible for most of the supplies as it combines low labour costs with expertise and superior quality textile equipment (Stengg, 2001). While the production entities are mostly in developing countries, retailers are mostly located in Western Europe, Japan and the United States (Morris et al., 2021). With the rising phenomenon of fast fashion, there is however a trend towards vertical integration in the supply chain (Gardetti & Torres, 2017). Suppliers are integrating upstream and downstream activities to deal with demand volatility (Abecassis-Moedas, 2006), and the shorter lead times required by fast fashion retailers (Gardetti & Torres, 2017).

1.3.2. Power asymmetry between brands and suppliers

Brands are in a dominant position in relation to their suppliers (Majumdar et al., 2020). They decide the garments they want the suppliers to produce, by which suppliers, the quantity, the price (ILO, 2014), and the lead time (Majumdar et al., 2020). Brands can enjoy this position as they are important in size and powerful while suppliers are numerous but limited in size and power (Gardetti & Torres, 2017). The dominance of retailers is also exacerbated by their ability to change suppliers without penalty, enabling them to choose the one which asks the lowest price (European Union [E.U.], 2020). This causes a strong cost competitiveness between suppliers, leading them to decrease their costs to the largest extent. Moreover, suppliers bear almost all business risk as brands pay them after the orders have been delivered. Suppliers therefore have to cover the expenses for raw materials, labour and overhead upfront (Majumdar et al., 2020).

Within the context of fast fashion, suppliers are subject to an increasing pressure in relation to lead time. Brands want to increase their responsiveness to the largest extent and this constraint is partly transferred to their suppliers. The latter are encouraged to enhance their product development process to reduce the production time. They are also asked to take on new responsibilities such as quality control or packaging. Suppliers therefore incur additional costs as they need capital investments and updated working practices to achieve those changes. The pressure endured by the suppliers is also likely to trigger unethical conduct (Barnes & Lea-Greenwood, 2006).

1.3.3. Lack of transparency about the supply chain

Textile and clothing supply chains are opaque. Brands often communicate about their first-tier suppliers which are their direct suppliers and mostly responsible for the last stages of the production. Nevertheless, they rarely report about the tiers two, three, four and five which are production sites and processing facilities more upstream in the supply chain (Fashion Revolution C.I.C., 2020). It is estimated that solely 11 percent of main fashion brands disclose about their raw material suppliers (Fashion Revolution, n.d.). One of the reasons is they rarely have full control over the production process. They place orders to suppliers which in turn rely on subcontractors and this in a recurring way (ILO, 2014).

1.4. Negative impacts of the clothing industry

1.4.1. Negative social impacts

The next subsections cover the negative social impacts experienced by workers involved in the manufacturing of clothing. They occur at all stages of the supply chain, in different magnitudes (Gardetti & Torres, 2017).

1.4.1.1. Remuneration-related issues

A first social issue which is often reported in the clothing industry is related to wages. Few suppliers comply with the national legal minimum wage legislation (ILO, 2014). In addition, the legal minimum wage does not always equal the living wage, which is the wage enabling a worker to provide food, housing and other necessities to a small family. In Bangladesh and India, the minimum wage is respectively five and three times smaller than the living wage (E.U., 2020).

Another common practice in relation to wages in the industry is the remuneration at the piece rate or task performed. It can be likened to unpaid overtime as workers often need to work longer than if they would receive an hourly remuneration to achieve the minimum wage (ILO, 2014).

In addition, salary payments are regularly delayed, and overtime is underpaid (ILO, 2014). It is also common that suppliers do not pay for social security (ILO, 2014), or do not provide paid leave for maternity or illness (Human Rights Watch [HRW], 2015).

1.4.1.2. Working time-related issues

A second social issue is that factory workers in the clothing industry work too many hours and that they are rarely offered a weekly rest or an annual paid leave. On average, they are working more than 60 hours a week and for the vast majority, more than 6 days without interruption. Besides, as the demand is fluctuating, they are required to perform exaggerated overtime during peak periods. This has an important negative impact on their health, well-being, and safety (ILO, 2014).

1.4.1.3. Unsafe and unhealthy working conditions

The garment industry has been under scrutiny the last decade because of unfamous incidents which occurred in clothing factories. The most striking event is the collapse of the Rana Plaza factory in Bangladesh in 2013. The factory was supplying major fashion brands worldwide. The day before the tragedy, a government inspector required the closure of the factory because signs of a near collapse were visible, but the plant manager forced the workers to continue to work. More than 1100 deaths and 2000 injured were recorded. This event followed several factory fires which happened in the country (HRW, 2015). Fire exits and fire alarms were found to be missing in the vast majority of factories in Bangladesh. A large portion of factories did not report on building extensions either (E.U., 2020).

In addition to the factory incidents, workers are often injured because they are not provided protective equipment and training to use the machines in garment factories. In tanneries and dye houses, workers are in contact with dangerous chemicals that are detrimental to their health and can cause cancer (Fashion Revolution C.I.C., 2020). Sandblasting, which consists of applying pressurised air and sand on a denim to make it look distressed, is also detrimental to workers' health as it causes respiratory diseases (Clean Clothes Campaign [CCC], n.d.). Sandblasting has been replaced in some factories by other techniques, but these remain hazardous (European Union, 2020). In addition, some workers perform their work in an unhealthy working environment; in high temperatures and noise, without an adequate ventilation. Sewers also suffer from repetitive gestures (CCC, n.d.-d). Lastly, factory workers in Bangladesh often report a lack of drinking water (HRW, 2015).

1.4.1.4. Poor freedom of association and collective bargaining

Few workers in the clothing industry enjoy their right to freedom of association and collective bargaining. Major producing countries such as China or Vietnam restrict the rights of workers to create their own union. In other countries, this right is subject to excessive constraints or can be denied by employers (CCC, n.d.-c).

Furthermore, in Bangladesh, workers organizing unions experience physical attacks, harassment of various nature and layoff. This situation is a barrier to workers expressing the poor working conditions or the abuses they undergo (HRW, 2015).

1.4.1.5. Gender discrimination and harassment

Women, who make up a large part of the workforce in the clothing industry, suffer from discrimination. They are mostly in subordinate position and their remuneration is smaller than the one of men occupying same positions (European Union, 2020). In Asia, gender pay gap is estimated to be about 18 percent (ILO, 2019b). Women are moreover prone to sexual harassment (European Union, 2020). Besides, few women benefit from maternity leave, childcare or a safe commute to work (CCC, n.d.-b).

1.4.1.6. Forced labour

Cases of forced labour have been reported in the leather and cotton industry as well as in the rubber production in several countries such as Brazil, Paraguay, Vietnam, Indonesia, Liberia, Myanmar, Uzbekistan and Turkmenistan (Fashion Revolution C.I.C., 2020).

In recent years, growing concerns regarding forced labour are arising from the cotton industry in Xinjiang province in China (Fashion Revolution C.I.C., 2020). The Chinese government detains and 're-educates' a significant part of the population belonging to Muslim ethnic and religious minorities, among which the Uyghurs. The aim is to detach them from their culture and religion and to increase their loyalty to the Communist Party because they are said to represent a risk of religious extremism. These detainees are forced to work in Xinjiang's factories as part of their 're-education' and the effort of the government to alleviate poverty in the region. Rural minorities who are not part of the program are forced into labour too, under the threat that if they refuse to do so, they will be detained (Center for Strategic & International Studies [CSIS], 2019). The conditions in which the workers live are coercive: they must stay in dormitories, they are supervised 24 hours a day and they cannot return to their families (Fashion Revolution C.I.C., 2020). Companies having factories in Xinjiang agree to hire those workers because they can pay them a lower wage than other workers and they receive benefits from the government (CSIS, 2019). The textile and clothing industry is predominantly involved as more than 20 percent of the cotton produced worldwide originates from the Xinjiang province. Part of it is locally processed into yarn, textile and in rare case apparel. It is then sent to other parts of China or neighbouring countries (Lehr, 2020). It is therefore likely that the orders received by clothing brands do not originate directly from Xinjiang but contain cotton harvested by forced labour from the province (CSIS, 2019). Zara, H&M, Adidas, Nike and IKEA, among others, were found to sell products containing Xinjiang's cotton. The situation is expected to worsen as the Chinese government has developed a significant infrastructure expansion plan aimed at enhancing the cotton harvesting and the textile and clothing manufacturing in the region (Fashion Revolution C.I.C., 2020).

1.4.1.7. Child labour

As far as child labour is concerned, it is a common practice in the industry in several countries (Ellen MacArthur Foundation, 2017; Fashion Revolution C.I.C., 2020). In India, children are employed to do picky tasks as their hands are smaller and agiler than adults. Child labour is rarely visible as it is often conducted through subcontracting so that the tasks can be performed at home rather than in formal workplaces (Fashion Revolution C.I.C., 2020).

1.4.1.8. Unstable employment relationships

The employment relationships between a supplier and its workers are often deemed precarious. Workers receive short term contracts without knowing if they will be renewed. Employers also recourse to contractors to hire workers. It enables them to avoid paying for social security and pension contributions. Workers therefore face job insecurity (CCC, n.d.-a). Informalisation is also a common practice in major producing countries (ILO, 2014).

1.4.1.9. Migrant workers

Migrant workers represent an increasingly significant portion of workers in the clothing industry. They work in factories all over the world, including in developed countries. Compared to other workers in the industry, these are more prone to exploitation, receive a smaller remuneration, and face greater difficulties in exercising their right to freedom of association (CCC, 2009).

1.4.1.10. Driving forces behind the negative social impacts

A first driving force that can be highlighted is that standards regulating labour are set and enforced at a national level. In producing countries, they are rather weak, and, in addition, the enforcement of those standards is inadequate. Fearing that it will decrease the attractiveness of investments by brands, those countries refrain from developing standards effectively protecting workers (CCC, 2019). Because of the high competition between producing countries, the ones wishing to improve their labour standards are held back by countries which fail to do so (ILO, 2014).

Next, informalisation and subcontracting are two trends further exposing workers to the violations outlined in the previous subsections. Suppliers resort to informalisation to deal with the fluctuating demand from retailers and have a formal workforce base which is supplemented by informal workers during peak periods (ILO, 2014). As these work from home, they are not visible nor subject to the national legislation (Fashion Revolution C.I.C., 2020). Some suppliers also subcontract orders to sub-contracting factories when they are not able to complete the received orders on time, even when it is explicitly forbidden by brands (Majumdar et al., 2020). Since the subcontracting factories are not in a direct relationship with the retailers and are therefore not inspected, they pay much less attention to working conditions and wages. They moreover have fewer financial resources to devote to these aspects (HRW, 2015).

Poor purchasing practices are also an important driving force behind adverse social impacts in the supply chain which result from the power imbalance between retailers and suppliers. First, purchase prices provided by retailers are often low. They do not even cover production costs for more than half of suppliers in the clothing industry. The latter are therefore forced to significantly cut their costs. Second, lead times suppliers are asked to comply with are still shorter. On top of that, forecasting is sometimes inadequately conducted by retailers. It happens that suppliers experience changes in order volumes or delays in receiving information or authorisations related to orders. Suppliers are then unable to forecast regular and overtime work for their workers. Lastly, wrongful penalties incurred by suppliers and late payments further put pressure on the financial situation of suppliers. Those poor purchasing practices increase the risk of labour violations at the suppliers' factory level. Workers are likely to be negatively affected, especially with regards to their remuneration, working hours, contracts and occupational health and safety. Inadequate purchasing practices also tend to push suppliers to rely on subcontractors (HRW, 2019).

Aside from purchasing practices, as retailers are able to easily switch from one supplier to another, the competition between suppliers is intense (CCC, 2019). This competitiveness is mostly based on costs. Suppliers therefore strive to cut their costs to the largest extent. It leads to a negative impact on labour conditions (Fashion Revolution C.I.C., 2020).

Then, the opaque nature of supply chains in the clothing industry allows these social negative impacts to persist (Fashion Revolution, n.d.). It also exposes workers upstream in the supply chain more to labour violation risks (Fashion Revolution C.I.C., 2020). Those lower tier suppliers are often overlooked by brands' verification efforts and are generally not even aware of their responsibilities in relation to working conditions (Fashion Revolution C.I.C., 2020).

Lastly, social audits which would enable to detect the adverse impacts workers suffer from has proven to have significant limitations, as highlighted in a Clean Clothes Campaign report. First, fraud is present at several levels: auditors are bribed by factory managers, the workers are manipulated on what they should say during interviews, the records are falsified and there is even sometimes the establishment of safety installations solely during the period of the audit. Second, auditors are not adequately trained to assess the occupational health and safety which leads them to sometimes wrongfully assure that workers' rights on that matter are respected. Third, auditors are not always aware of the meaning and scope of freedom of association. The latter is also hard to actually measure. It makes it difficult for auditors to assess this human right and it leads them to report misleading information. Fourth, the report highlights that workers and workers' representatives are not engaged in a meaningful way in the social auditing process. Off-site interviews, which would enable to have a more truthful output from workers, are not a standard practice. This is partly due to the short period of time during which the audits are carried out to drag down the costs. Significant risks and violations of workers' rights on matters which are more difficult to identify such as freedom of association, sexual harassment and discrimination related to gender are therefore overlooked by most social audits. Fifth, lack of transparency is another significant issue regarding social audits. The outcomes of the audit are exclusively shared with the brand or factory which asked for the audit and workers are thus not kept informed. As a result, they cannot comment on potential shortcomings and/or remedial measures that are considered to mitigate risks and violations detected during the audit. Sixth, as mentioned hereabove, to limit the costs to the largest extent, the audits are carried out on a very limited timing (usually one day), which is considered insufficient to have an in-depth social audit. The report highlights that social audits are mostly carried out by audit firms controlled by brands. They therefore conduct audits in a way to be favourable to brands rather than to guarantee workers' welfare (CCC, 2019).

1.4.2. Negative environmental impact

Next to the social impact, the textile and clothing industry has a significant negative impact on the environment. It is indeed considered one of the most polluting industries (Greenpeace, 2016). The impact on the environment can be separated into three distinct phases: the production, the use and the end-of-life (Ellen MacArthur Foundation, 2017).

First, the production requires a large quantity of non-renewable resources such as oil. Water use is also important, and the production is often located in water-scarce regions. Besides, the production releases a significant amount of greenhouse gas emissions (Ellen MacArthur Foundation, 2017). It moreover discharges a large quantity of wastewater which contains hazardous chemicals in the environment near factories during the dyeing and finishing operations. It is nowadays one of the major sources of pollution. The dyes in the wastewater harm the aquatic environment, create oxygen deficiency and limit the potential use of that water (e.g. irrigation, drinking water). It can also represent a significant negative impact on human health as some dyes can cause cancer or genetic mutations. A further aggravating issue is that dyes stay in the environment for a long time because they are intended to stand biodegradation (Majumdar et al., 2020). Lastly, the transport between the different stages of the supply chain causes important greenhouse gas emissions (Gardetti & Torres, 2017).

Second, the use has also a considerable negative impact on the environment. During the washing of clothes, plastic microfibres are released into water and eventually end up in the ocean. Water use is again a concern as it represents 20 billion cubic metres of water worldwide annually. Another finding is that clothes are underutilized, putting additional pressure on the environment (Ellen MacArthur Foundation, 2017).

Lastly, few clothes are recycled or reused. The overwhelming majority ends up as waste and is incinerated or disposed at landfills. When clothes are collected, they are likely to be exported to developing countries where only a small part is reused, and the rest eventually ends up as waste. It adds emissions of greenhouse gases and hazardous chemicals to the ones released during the production phase (Greenpeace, 2016).

Besides, a trend which is negatively impacting the environment is the increasing use of polyester in the production of clothes because of its cheap price. On the one hand, it emits three times more CO2 than cotton and it is not easily degradable, harming the surrounding environment. On the other hand, it makes clothes of lower quality and therefore decreases the potential for reuse (Greenpeace, 2016).

1.5. COVID-19 crisis impact on the clothing industry

The clothing industry was one of the most affected industries by the COVID-19 crisis (Majumdar et al., 2020). The latter has demonstrated the vulnerability to which workers in the supply chain are exposed (Fashion Revolution, 2021; Majumdar et al., 2020; Seier, 2020).

As stores were closing around the world, the demand for clothing declined. Some retailers reacted by cancelling the orders placed to suppliers or delaying payments, even when the garments were already produced, and sometimes in shipment (Fashion Revolution C.I.C., 2020). The affected suppliers were left in a dire financial situation as they paid upfront for the raw materials and the workforce. As a result, they were forced to fire workers and destroy the garments for which the orders were cancelled. In Bangladesh only, it is estimated that USD$1.5 billion worth orders were cancelled (Seier, 2020). At some point, producing countries entered a lockdown causing the closing of factories and bringing the industry to a standstill (Majumdar et al., 2020). Factory workers lacked social protection. Most of them did not receive any financial compensation. As they had no or little savings and were not covered by social security, they struggled to pay for food and other necessities (Seier, 2020). Those workers have therefore indebted themselves (Fashion Revolution C.I.C., 2020). It also appears that subcontracted workers who were working at home during the period of closing of factories have received no salary for their work in Southern India (Fashion Revolution C.I.C., 2020).

After a few months, most factories re-opened, and retailers placed orders again (Fashion Revolution, 2021). However, the demand remained lower than in the pre-pandemic period (Fashion Revolution C.I.C., 2020), and some factories had to close permanently (Majumdar et al., 2020). As a result, factory workers were having trouble finding work (Fashion Revolution C.I.C., 2020). In the garment factories, salary theft and unfair termination continued to be reported (Fashion Revolution, 2021). The industry has noticed signs of a recovery mid-2021, when demand for clothing started to rise again, especially in regions where the percentage of vaccinated people is high (McKinsey & Company, 2021).

1.6. Conclusion

The clothing industry is one of the largest industries worldwide. Since the beginning of the twenty first century, the industry is shaped by the fast fashion phenomenon which consists of providing consumers with continuously new, fashionable and cheap clothes. The production of clothing is mostly done in developing countries whose economies rely on the sector to prosper. Workers involved in the production of garments are predominantly young low-skilled women. The different production operations are performed by highly specialised small- and medium-size suppliers located in different geographical areas, including South-East Asia. Besides, brands have a dominant position towards their suppliers as the latter are small and numerous. The competition between suppliers is therefore intense. To be able to provide cheap clothes and be responsive to consumers' demand, brands strive to decrease costs and lead time to the largest extent. Those constraints of time and costs are partly transferred to suppliers which undergo an important pressure.

Next, workers in the supply chain experience a handful of adverse social impacts, namely low wages, long working hours, unsafe and unhealthy working conditions, poor freedom of association and collective bargaining, gender discrimination and violence, forced labour, child labour and unstable employment relationships. Underlying driving forces are the low labour standards in producing countries, the poor purchasing practices of brands, the intense competition on cost between suppliers and the opaque nature of the supply chain. Furthermore, subcontracting and informalisation are two industry trends which further expose workers to the negative impacts mentioned hereabove. A last driving force is the social audits which are performed in a way that they do not enable to uncover the adverse social impacts suffered by workers. Furthermore, the clothing industry has a significant negative impact on the environment during the production, use and end-of-life lifecycle stages. Lastly, the COVID-19 had an aggravating effect on the negative social impacts suffered by workers.

This chapter shows that the clothing industry is sensitive from a human rights perspective, which is a topic we will explore in greater depth in the next chapter. It also supports the choice of this specific industry as a case study in the empirical part.

Chapter 2: Human rights

2.1. Introduction

The second chapter of this thesis covers the human rights topic from various perspectives. The aim of this chapter is first to get an overview of the international instruments surrounding human rights, with a specific focus on human rights in the workplace. Besides, it provides insights on the international instruments used as reference when it comes to the responsibility of business with regards to human rights. Then, this chapter enables to grasp the key human rights risks in the clothing industry and associated international labour standards. The latter are used as reference for the requirements developed by the labels studied in the empirical part. Finally, several industry initiatives related to human rights are outlined.

2.2. Human rights definition

According to the United Nations (n.d.-a) (UN), human rights are

> Rights inherent to all human beings, regardless of race, sex, nationality, ethnicity, language, religion, or any other status. Human rights include the right to life and liberty, freedom from slavery and torture, freedom of opinion and expression, the right to work and education, and many more. Everyone is entitled to these rights, without discrimination (United Nations [UN], n.d.-a).

2.3. International human rights instruments

International human rights law is defined by the UN Charter, the International Bill of Human Rights and other UN Human Rights Conventions. International human rights in the workplace are outlined in the ILO labour standards and the ILO Declaration on Fundamental Principles and Rights at Work.

2.3.1. UN Charter

The United Nations developed the UN Charter in 1945, as the founding document of the organization. This document embeds the mission, work and power of the UN (UN, n.d.-c). The Charter lays the foundations of the human rights body of laws developed by the UN, along with the Universal Declaration of Human Rights (UN, n.d.-a). The UN Charter is binding for all Member States (UN, n.d.-c).

2.3.2. International Bill of Human Rights

The International Bill of Human Rights consists of the Universal Declaration of Human Rights (UDHR), the International Covenant on Economic Social and Cultural Rights (ICESCR) and the International Covenant on Civil and Political Rights (ICCPR) (Office of the High Commissioner for Human Rights [OHCHR], 2022). The UDHR lays out the fundamental human rights that must be respected globally (UN, n.d.-d). It was adopted by the United Nations General Assembly in 1948. It is considered a momentous document in the establishment of international human rights law (OHCHR, 2022). The Declaration is at the origin of above seventy human rights treaties enforced at global and regional levels (UN, n.d.-d). In 1996, the two international treaties, the ICESCR and the ICCPR, were adopted by the United Nations General Assembly. They were meant to supplement the UDHR in the establishment of international human rights laws (OHCHR, 2022). The two Covenants are legally binding for Member States which ratified them (UN, n.d.-b).

2.3.3. Human Rights Conventions

Additional human rights treaties and instruments were adopted by the UN after the UDHR and the two Covenants mentioned hereabove. They are more focused and specific with regards to issues addressed and groups concerned. The Conventions relate to issues such as racial discrimination, rights of children, migrants, women etc. Conventions are legally binding for Member States ratifying them and must be translated into national legislation (UN, n.d.-b).

2.3.4. ILO Declaration on Fundamental Principles and Rights at Work and International Labour Standards

Standards related to human rights in the workplace are established by the International Labour Organization (ILO) at the international level. The ILO is a United Nations' agency devoted to the working world. It was created in the frame of the Treaty of Versailles (1919) with the idea that social justice is crucial to establishing global and durable peace. It accounts 187 Member States. The agency "sets international labour standards, promotes rights at work and encourages decent employment opportunities, the enhancement of social protection and the strengthening of dialogue on work-related issues" (ILO, 2019a, p.2). The ILO has a tripartite structure which enables it to consider the interests of workers, employers and governments equally in the creation of labour standards, policies and programmes (ILO, n.d.-a).

The International Labour Standards of the ILO are of two different natures. They can either be Conventions (or Protocols) which are international treaties governments must enforce or

Recommendations which are non-legally binding guidelines. The latter represent mainly guidance on how the Conventions can be implemented. Those Conventions are passed once a year at the International Labour Conference. They are meant to be integrated into the national legislation of the Member States ratifying them (O).

In 1998, the ILO passed the Declaration on Fundamental Principles and Rights at Work (ILO Declaration). The Declaration states that Member States should respect and foster the fundamental rights embedded in eight Conventions related to freedom of association and collective bargaining, forced and compulsory labour, child labour and discrimination with regards to employment and occupation. The latter are said to be the ILO fundamental Conventions (cf. Appendix 1) (ILO, n.d.-b).

2.4. Business and human rights

There are three main instruments relating to the responsibility of businesses with regards to human rights at the international level, namely the Ten Principles of the UN Global Compact, the UN Guiding Principles on Business and Human Rights and the OECD Guidelines for Multinational Enterprises. This section also tackles the Due Diligence Directive proposal on Corporate Sustainability Due Diligence which was adopted by the European Commission in February 2022.

2.4.1. The Ten principles of the UN Global Compact

The Ten principles of the UN Global Compact (UNGC) were developed for businesses to know what fundamental responsibilities with regards to the people and the planet they must assume, at the minimum, to be responsible businesses. Those Ten principles are destined to be integrated into companies' strategies, policies and procedures. They are divided into four areas: Human Rights, Labour, Environment and Anti-Corruption. With regards to human rights, companies must respect human rights adopted globally and support their protection. They must in addition ensure that they are not a party to negative human rights misconduct. When it comes to labour, companies should support the freedom of association and collective bargaining and the abolition of all types of forced and compulsory labour, child labour and employment or education related discrimination. The Ten principles of the UNGC draw on different UN initiatives such as the UDHR and the ILO Declaration (United Nations Global Compact [UNGC], n.d.-b).

To join the UNGC companies must, among other things, write a Letter of Commitment expressing the company's commitment to the Ten principles. This letter is intended to the Secretary General of the United Nations and must signed by the highest-level executive of the company (UNGC, n.d.-b).

2.4.2. The UN Guiding Principles on Business and Human Rights

2.4.2.1. Overview

The UN Guiding Principles on Business and Human Rights (UNGPs) is a framework consisting of three pillars that details the duties of States and companies in relation to business impact on human rights. UNGPs were developed by John Ruggie who was at the time the UN Special Representative of the UN Secretary General on Human Rights and Transnational Corporations and Other Business Enterprise. The UNGPs were adopted by the UN Human Rights Council[3] in 2011. Since their adoption, they act as a global standard for preventing and mitigating the risk of negative impacts of business operations on human rights (Wood, 2016). The UNGPs are not legally binding (UN, 2011).

The UNGPs are destined to supplement a framework developed by the United Nations in 2008, the U.N. Protect, Respect, and Remedy Framework. The aim of the UNGPs is to operationalise its principles as well as to better characterise the responsibilities of States and companies with regards to human rights (OHCHR, n.d.).

The three pillars of the UNGPs framework are the responsibility of States to protect against human rights violations, the responsibility of businesses to respect human rights and better access to efficient remedy for people victims of human rights violations. Each pillar is composed of foundational and operational principles which elaborate on the duties of States and companies (UN, 2011).

2.4.2.2. The corporate responsibility to respect human rights

The foundational and operational principles of the UNGPs can be found in Appendix 2. The corporate pillar of the UNGPs first states that companies should – at the minimum - respect human rights as articulated in the International Bill of Human Rights and the ILO Declaration (cf. Sections 2.3.2, 2.3.4). This duty to respect human rights applies regardless of the "size, sector, operational context, ownership and structure" (UN, 2011, p.15) of the company.

[3] The UN Human Rights Council is a group of 47 State representatives which responds to human rights violation cases worldwide and develops recommendations on them (UN, n.d.-a).

The UNGPs state that companies should implement policies and processes proportionate to their size and context meant to enable them to meet their duty to respect human rights. Companies should first develop a policy embodying their commitment to meet their corporate responsibility to respect human rights. Then, they should carry out due diligence. It is the process through which companies identify, prevent, mitigate and report on how they deal with actual and potential adverse human rights impacts. It should cover negative impacts companies have caused or contributed to or to which it is directly linked by means of its operations, products, services or business liaisons. The due diligence process should be a continuous process. The identification of actual or potential adverse human rights impacts should rely on human right expertise and involve dialogue with people affected as well as other relevant stakeholders. The findings of the human rights impact assessment (HRIA) must be integrated in the relevant functions and processes within the company. The findings of the HRIA should also be acted upon. The follow-up actions should depend on the relationship of the company to the impact and its leverage in handling the impact. After that, the firm must check on the effectiveness of its response to the HRIA through relevant indicators and the feedback of internal and external sources, including affected groups. Companies are in addition expected to communicate externally about their due diligence process on a regular basis (UN, 2011).

Lastly, firms should remediate or cooperate in the remediation of adverse impacts they caused or contributed to. Operational-level grievance mechanisms are an effective way to allow for remediation. These are mechanisms through which stakeholders can raise concern when they consider they have been negatively impacted by a company’s operations. They also enable early remediation of the identified grievances directly by the company concerned. Affected groups should be involved in the process. The operational-level grievance mechanisms nevertheless do not replace judicial or other non-judicial grievance mechanism. The core criteria they should meet are the following: legitimacy, accessibility, predictability, equitability, transparency, rights compatibility and continuous learning (UN, 2011).

2.4.3. OECD Guidelines for Multinational Enterprises

The Organisation for Economic Co-operation and Development (OECD) is an international organisation which sets international standards in response to a set of social, economic and environmental issues. Those standards are aimed at promoting “prosperity, equality, opportunity and well-being for all” (Organisation for Economic Co-operation and Development [OECD], n.d.). They emerge from a collaboration between governments, policy makers and civilians (OECD, n.d.).

The OECD developed human rights guidelines for large businesses, the OECD Guidelines for Multinational Enterprises (OECD Guidelines). The latter are recommendations directed towards multinational enterprises on how to lead a responsible business. The initial version of the OECD Guidelines dates back from 2001, but it was updated in 2011 to expand on, among other things, the issues of human rights, due diligence and supply chain responsibility (OECD Watch, n.d.). On the one hand, the OECD established a set of standards covering the following topics: Human Rights; Employment and Industrial Relations; Environment; Combating Bribery, Bribe Solicitation and Extortion; Consumer Interests; Science and Technology; Competition; Taxation (OECD, 2011). On the other hand, the OECD developed an international grievance mechanism outlining how governments should manage complaints directed towards multinational companies. Signatory governments are responsible for the enforcement of the Guidelines by multinational companies (OECD Watch, n.d.).

The two chapters of interest within the frame of this thesis are the Human Rights and Employment and Industrial Relations chapters. The Human Rights chapter is aligned with the corporate responsibility to respect human rights pillar of the UNGPs. The Employment and Industrial Relations chapter expands on labour rights as defined in international labour standards, especially on the right of workers to form and join trade unions and to collectively bargain (OECD, 2011).

2.4.4. OECD Guidance for Responsible Business Conduct

To help companies implement the due diligence requirements of the OECD Guidelines, the OECD developed the OECD Guidance for Responsible Business Conduct (OECD Guidance). The latter consists of a set of practical actions that can be adopted by a company in order to carry out the different steps of the due diligence as presented in the OECD Guidelines. The OECD Guidance draws on the UNGPs and the ILO Declaration. The OECD also developed Guidance for specific sectors (OECD, 2018a).

In 2018, the OECD Due Diligence Guidance for Responsible Supply Chains in the Garment and Footwear Sector (OECD sectoral Guidance) was issued. It provides recommendations on how due diligence on the supply chain can be carried out in the light of specificities of the sector. Companies should first have a risk-based approach when conducting due diligence on their suppliers. The due diligence requirements apply to all companies, irrespective of size and operating context. However, the extent of the due diligence should be determined by the severity and probability of harm. Factors coming into play are the sourcing models (either direct or indirect sourcing), size of the enterprise and nature of the business (i.e. retailer, manufacturer etc.). Next, stakeholders should be involved in a meaningful way in the due diligence process in the clothing industry. More specifically, stakeholders should be included in "On-site supplier assessments; Development of corrective action plans; Verification, validation and monitoring of impacts; Design of operational-level grievance mechanisms" (OECD, 2018b, p.27). Stakeholders include, among others, suppliers' workers and workers' representatives and trade unions when it comes to labour risks. Then, collaboration, being either through a partnership with trade union or through initiatives involving various stakeholders, is encouraged in the frame of the due diligence. Finally, a gender lens should be applied at every stage of the due diligence process as risks of harm are different according to gender in the industry. Besides, the OECD sectoral Guidance expands on the due diligence approach that companies may adopt when facing specific sectoral risks, including specific human rights risks (OECD, 2018b).

2.4.5. Directive on Corporate Sustainability Due Diligence proposal

On the 23rd of February 2022, the European Commission adopted a proposal for a Directive on Corporate Sustainability Due Diligence (Due Diligence Directive). It encompasses human rights and environmental due diligence (Business & Human Rights Resource Center, n.d.). The European Commission observed the difficulty for large companies with complex and global supply chains to identify and manage risks linked to human rights and the environment. The Due Diligence Directive would enable to enhance corporate accountability towards adverse impacts and to provide affected groups with a better access to remedy. Furthermore, several Member States developed their own due diligence national laws on those topics. However, they differ in several points, making the legislation landscape fragmented. The aim of the European Commission with this Directive would therefore also be to provide a harmonised legislation for all Member States regarding due diligence. The Due Diligence Directive proposal was also created in the context of the EU Green Deal and the 2030 UN Sustainable Development Goals (SGDs) (European Commission, 2022). The Due Diligence Directive proposal is currently being examined by the European Parliament (European Parliament, n.d.).

The due diligence process outlined in the Directive proposal is aligned with the OECD Due Diligence Guidance for Responsible Business Conduct (cf. Section 2.4.4). Human rights due diligence would cover the entire supply chain, including the procurement of raw materials. It would in addition consider direct as well as indirect business relationships (European Commission, 2022). Besides, the oversight, implementation and integration in the corporate strategy of the due diligence would be part of the directors' duties (Business & Human Rights Resource Center, n.d.). Due to its nature in the European legal framework, the Due Diligence Directive will be legally-binding for States in the European Economic Area (EEA) when it is adopted by the European institutions. It will be translated into the legislation of those states which will then be responsible to ensure that the due diligence requirements are respected by the companies concerned (European Commission, 2022).

It would apply to three categories of companies: (i) companies headquartered in Member States with more than 500 employees and a net global annual turnover of more than EUR 150 million in the last financial year; (ii) companies headquartered in Member States with more than 250 employees and a net global annual turnover of EUR 40 million in the last financial year if more than half of this turnover was generated in sectors classified as 'high impact' (including the textile and clothing industry); (iii) companies in a third country which either had more than EUR 150 million net turnover in the European Union (E.U.) in the last financial year or had more than EUR 40 million net turnover in the E.U. in the last financial year if more than half of their worldwide turnover is generated in 'high impact' sectors (European Commission, 2022).

2.5.The clothing industry and human rights

2.5.1. Key international human rights standards in the clothing industry supply chain

The OECD sectoral Guidance acknowledges that labour and human rights abuses are taking place at all stages of the supply chain. The key labour and human rights risks in the sector identified by the OECD are child labour, forced labour, discrimination, occupational health and safety, violations of the right of freedom of association and collective bargaining, no legal minimum wage or living wage provided, long working hours and sexual harassment and sexual and gender-based violence in the workplace (OECD, 2018b). Those risks resonate with the negative social impact detailed in the previous chapter (cf. Section 1.4.1.). This section outlines the content of the major ILO Conventions addressing the human rights risks discussed hereabove.

Regarding child labour, ILO Conventions (C138, C182) state that children should not work before the end of compulsory schooling, and in any case before they reach the age of fifteen (or fourteen in some specific cases)[4] and that their work cannot undermine their health, safety or morality[5].

Next, Convention 29 states that forced and compulsory labour shall be forbidden. Any work performed under the threat of a sanction or to which the worker did not apply on a voluntary basis falls within the notion of forced and compulsory labour[6]. Convention 105 further expands on uses of forced labour which shall be banned, such as the use of forced labour as a way to discriminate or for contribution to the economic development[7].

Several ILO Conventions relate to discrimination. Convention 111 declares that workers should be provided equal opportunity and treatment in recruitment and occupation, regardless of their race, colour, sex or any other distinction criteria[8]. Equal remuneration is the subject of another ILO Convention which states that men and women should receive an equal pay for a work of equal value (C100)[9]. Moreover, a Convention adopted in 2019 requires governments to take the necessary steps to prohibit and prevent (gender-based) violence and harassment in the workplace (C190)[10].

Regarding freedom of association and collective bargaining, the two key ILO Conventions are Conventions 87 and 98. The first emphasises the right every worker or employer has to form or join organizations of their choice, without prior authorisation. Those organisations shall operate in full freedom, and without interference from public authorities. Organisations shall also be allowed to form or join federations and confederations of organisations, including international organisations of workers and employers[11]. The second declares that workers shall not be discriminated because of their union membership. The Convention also makes clear that collective bargaining between employers' organizations and workers' organizations to establish the terms and conditions of employment should be encouraged and promoted[12].

[4] International Labour Organization C138 – Minimum Age Convention, 1973 (No. 138)
[5] International Labour Organization C182 - Worst Forms of Child Labour Convention, 1999 (No. 182)
[6] International Labour Organization C029 - Forced Labour Convention, 1930 (No. 29)
[7] International Labour Organization C105 - Abolition of Forced Labour Convention, 1957 (No. 105)
[8] International Labour Organization C111 - Discrimination (Employment and Occupation) Convention, 1958 (No. 111)
[9] International Labour Organization C100 - Equal Remuneration Convention, 1951 (No. 100)
[10] International Labour Organization C190 - Violence and Harassment Convention, 2019 (No. 190)
[11] International Labour Organization C087 - Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87)
[12] International Labour Organization C098 - Right to Organise and Collective Bargaining Convention, 1949 (No. 98)

As far as occupational health and safety is concerned, employers should ensure safe and harmless to health places of work, machines, equipment and processes. They should in addition provide the necessary protective equipment and apparel to workers to prevent the risks of incidents or detrimental effects on their health. Employers should also make sure that substances and agents of chemical, physical and biological nature workers are in contact with are harmless to health when protective measures are taken. Lastly, adequate measures to face emergencies and incidents need to be provided by employers (C155)[13].

Furthermore, two major Conventions related to wages are the Protection of Wages Convention (C95) and the Minimum Wage Fixing Convention (C131). The first one states that wages should be paid at a regular frequency and that workers shall use the money as they see fit. When payments are partially provided in kind, the value of what is provided in kind should be determined in a reasonable and fair way. The second one requires Member States to implement a minimum wage fixing machinery enabling them to determine, review on a regular basis and adapt the legal minimum wage rates (ILO, n.d.-c).

Finally, a handful of conventions relate to working time. Workers should first not work more than eight hours per day and forty hours per week (with some exceptions) (C1)[14]. The limitation to forty hours of work per week should not decrease the standard of living of workers (C47)[15]. Workers should in addition be provided with a rest time of at least twenty-four hours in a row in every seven days period (C14)[16]. They should also benefit from a paid leave, the duration of which is established by the country's government, but which must be at least three days for a year of work (C132)[17]. Two other Conventions regulate night work and part-time work (C171 and C175) (ILO, n.d.-d).

2.5.2. Initiatives in relation to human rights in the clothing industry

Several initiatives are taken in the clothing industry to strive for the respect of human rights of workers along the supply chain. They are taken by various actors, including international organizations, brands and governments. The initiatives presented in this section are not exhaustive, but they provide an overview of the measures taken in the sector.

[13] International Labour Organization C155 - Occupational Safety and Health Convention, 1981 (No. 155)
[14] International Labour Organization C001 - Hours of Work (Industry) Convention, 1919 (No. 1)
[15] International Labour Organization C047 - Forty-Hour Week Convention, 1935 (No. 47)
[16] International Labour Organization C014 - Weekly Rest (Industry) Convention, 1921 (No. 14)
[17] International Labour Organization C132 - Holidays with Pay Convention (Revised), 1970 (No. 132)

One of them is the Transparency Pledge which establishes a minimum level of supply chain disclosure companies in the clothing industry should comply to with regards to their suppliers responsible for manufacturing (cut-make-trim and support processes). Beyond increasing transparency, the goal is to achieve consistency in disclosure. The minimum required information about producing factories is full name, address, parent company, products type and number of workers. It should be published on the website of the company and updated regularly. The Transparency Pledge was developed by various international labour rights organisations, among which Human Rights Watch and Clean Clothes Campaign, and unions. The Pledge has already been signed and implemented by several apparel companies (HRW, 2017). Regarding transparency as well, Fashion Revolution developed the Fashion Transparency Index which is an index ranking the largest fashion brands based on their level of transparency with regards to their policies, practices, impacts, operations in the supply chain from a social and environmental perspective. Its aim is to incentivise retail companies to further disclose supply chain information (Fashion Revolution, n.d.).

Next, Better Work is a programme conducted by the ILO and the International Finance Corporation (IFC). It works with factories to improve the working conditions of workers. It strives for the compliance of production locations with the labour rights of workers, especially the ILO core labour standards. Governments and companies are also actively involved in the programme (Better Work, n.d.).

Human rights initiatives are also taken at a national level, including as a response to dramatic events such as the Rana Plaza collapse in 2013 (ILO, 2014). The same year, the Accord on Fire and Building Safety in Bangladesh (Accord) was created. It is a legally binding agreement involving international retail brands and ten Bangladeshi unions. It aims at implementing measures enabling workers to perform their work in safe and healthy conditions. The Accord was renewed in 2018. It is now called the Transition Accord on Fire Building Safety in Bangladesh and it is signed by over 190 retailers (Accord on Fire and Building Safety In Bangladesh, n.d.). The Accord was considered a milestone in the industry due to its legally binding nature as well as the involvement of various actors (ILO, 2014). A similar initiative called Alliance for Bangladesh Worker Safety was launched by North American retailers. The latter committed to improve safety in clothing factories in Bangladesh within five years. Finally, the Bangladeshi government issued the National Tripartite Plan of Action on Fire Safety and Structural Integrity in the Ready-Made Garment Sector of Bangladesh also with the aim to improve working conditions through various measures. It was also developed and signed by representatives of workers and employers in the industry (ILO, 2014).

Lastly, labels are also ways through which organisations strive for enhanced sustainability, including social sustainability, in the clothing supply chain (Morris et al., 2021). The major labels in the clothing industry will be discussed further in the empirical part (cf. Chapter 5).

2.6. Conclusion

The legal framework surrounding international human rights is defined by UN Human Rights Conventions, in addition to the UN Charter and the International Bill of Human Rights. The international labour standards are determined by the ILO, a UN Agency. The latter also developed a Declaration comprising the key ILO Conventions which relate to child labour, forced labour, freedom of association and collective bargaining and discrimination.

The international reference for the responsibility of businesses to respect human rights are the UN Guiding Principles for Business and Human Rights, which are non-legally binding guidelines. Furthermore, the OECD developed Guidelines for Multinational Enterprises aligned with the UNGPs as well as guidance on how to conduct due diligence in the supply chain of various industries, including the clothing industry. Besides, the E.U. Commission adopted a Due Diligence Directive proposal aimed at enforcing environmental and human rights due diligence in the supply chain for companies in the EEA having a net global turnover over a certain turnover level or third country companies having a net turnover in the E.U. exceeding the same turnover level, which is different according to the fact that they operate in a high-risk industry or not. The Due Diligence Directive proposal is derived from the OECD Guidance. It would be the first mandatory guidelines on due diligence at the supranational level for companies which are not multinational companies.

As far as the clothing industry is concerned, the key sectoral human rights risks are highlighted by the OECD sectoral Guidance. They are aligned with the negative social impacts identified in the previous chapter. Those human rights risks are the subject of several ILO Conventions. The latter serve as a reference for the assessments of labels discussed in chapter 5. Lastly, we observe that several initiatives are taken by international organizations, brands and governments to strive for the respect of human rights along the clothing industry supply chain.

Chapter 3: The B Corp certification

3.1. Introduction

The last chapter of the theoretical part covers the B Corp certification, which is one of the initiatives of the B Movement. This chapter first enables to grasp the philosophy and mission of the B Movement. It also gives an overview of the different components of the certification process. Some insights about the B Corps in the clothing industry are also provided. A last section exposes the challenges the B Corp certification process faces with regards to human rights. These findings mark the starting point of the empirical part.

3.2. The B Movement

3.2.1. Foundations and mission of the B Movement

The B Corp movement was founded in 2006 by Jay Cohen Gilbert, Bart Houlahan and Andrew Kassoy, three American friends who met at Stanford University as undergraduates (Marquis, 2020a).

The B Movement emerged in a context of scepticism about the capitalistic system. The founders observed the lack of consideration of negative externalities by businesses, which they attributed to the traditional idea that businesses should above all maximize profit and the value of a company's shares. The founders believed for-profit companies could use their influence and benefits to create a positive impact on society. They however considered the existing legal framework supporting businesses as being a barrier to this positive impact creation. To address this issue and to assist companies in creating positive impact, they launched different initiatives, encompassed in the B Movement (Marquis, 2020a). Those initiatives aim to gather actors striving for the use of business as a force for good to lead the way to a more prosperous economy, integrating the environment and people living in it (B Lab, n.d.-n).

3.2.2. B Lab and its regional partners

B Lab is the non-profit organization behind all the initiatives taken by the B Movement (B Lab, n.d.-b). B Lab is headquartered in Berwyn (Pennsylvania) and has other offices in New York, San Francisco, and Denver (Cao, Gehman & Grimes, 2017). It was founded in 2006 and began certifying companies in 2007 (Chen & Kelly, 2015). Throughout the years, B Lab has developed a network of regional and national organizations. B Lab Global manages the B Movement at a global level while those organizations help implementing the B Movement initiatives at a regional or national level (B Lab, n.d.-o).

3.2.3. B Movement initiatives

To broaden the impact of the B Movement, B Lab launched different initiatives in addition to the B Corp certification, involving a larger number of companies and significant societal actors (e.g. policy makers, academics) (B Lab, n.d.-n). Collaboration is also at the heart of the B Movement. B Lab indeed fosters collaboration and knowledge sharing between the actors of the Movement (Marquis, 2020a). It also collaborates on various initiatives with international actors such as the UN and Fairtrade International (B Lab, n.d.-f).

The initiatives of the B Movement aside from the B Corp certification, briefly described below, are free impact assessment tools for companies and investors as well as a legal framework enabling companies to pursue a social mission (B Lab, n.d.-n).

3.2.3.1. Impact assessments

The B Movement first (co-)developed two free online impact assessment tools. The first is the 'B Impact Assessment' (BIA). It reviews the impact of the operations and business model of for-profit companies in relation to five areas: workers, environment, community, governance and customers (B Lab, n.d.-e). It is further explained in section 3.3.1.1. as it is part of the B Corp certification process. An associated tool is the 'B Analytics Platform' which displays aggregated data about the outcomes of the BIA (Marquis, 2020a). It enables a firm to track its own performance, identify improvement areas and benchmark its performance with the performance of other companies in same the industry (Villela, Bulgacov & Morgan, 2019). The tool can also be used by investors seeking to track the impact creation of firms within their portfolio and compare it with the overall or industry trend (Marquis, 2020a).

The second impact assessment tool, the 'SDG Action Manager', was developed together with the UN Global Compact (Marquis, 2020a). It relies on the BIA, the Ten Principles of the UNGC and the SGDs. It enables companies to assess their sustainability performance relative to the SDGs and allows for benchmarking (UNGC, n.d.-a).

3.2.3.2. Benefit corporation governance

A second ambition of the founders of the B Movement was to develop a legal framework that would formalize sustainability into the governance of companies. In parallel of the certification process, B Lab worked on creating a new corporate form in the United States, together with lawyers and government officials. It is called the benefit corporation. As of early 2020, thirty-five U.S. states passed this legislation. Benefit corporations are required to consider the interests of all stakeholders in their decision-making, and not only shareholders. The benefit corporation governance enables companies to fully embrace their social mission in a competitive way over time. A similar legislation has also been adopted in Italy, Colombia, Ecuador, and British Columbia, while several other countries are currently working on it (Marquis, 2020a).

3.3. The B Corp certification

The B Corp certification demonstrates that a company "is meeting the highest standards of verified performance, accountability and transparency on factors from employee benefits and charitable giving to supply chain practices and input materials" (B Lab, n.d.-a). Transparency and accountability are in fact two core values of the B Corp certification (Marquis, 2020a). The B Corp certification applies to an organization as a whole. Organizations of all natures (e.g. start-ups, publicly traded companies, independent firms) can be certified, provided that they are for-profit organizations (Marquis, 2020a), and that they have at least one year of operations (B Lab, n.d.-i). Companies from any country and any sector can certify (Marquis, 2020a). In July 2022, there were 5024 certified B Corps worldwide (B Lab, n.d.-d). The vast majority of B Corps (95 percent) are small- and medium-size organisations with less than 250 employees (Marquis, 2020b).

The B Corp certification process is overseen by the Standards Advisory Council (SAC), an independent multi-stakeholder group. Two subcommittees form the SAC, the Main Standards Advisory Council and the Multinational Company Standards Advisory Council. The second oversees the certification process for large companies (cf. Section 3.3.2.) (B Lab, n.d.-l).

The first subsection lays out the B Corp certification process. The next elaborates on additional requirements for larger companies.

3.3.1. Certification process

3.3.1.1. Complete the B Impact Assessment

A first step for companies aiming to certify is to undertake the B Impact Assessment (BIA). The latter comprehensively assesses a firm's impact by reviewing both its operations and business model. The metrics are classified according to five dimensions, called impact areas; workers, environment, community, governance and customers (B Lab, n.d.-e). The workers impact area relates to the way the company treats its workers (e.g. career development opportunities, formation, compensation and wage, benefits, ownership opportunities) and the work environment they are provided with (e.g. safe and healthy workplace, corporate culture, working conditions adapted to the worker's lifestyle) (Cao et al., 2017; Del Baldo, 2019; Poponi, Colantoni, Cividino & Mosconi, 2019). The environment impact area assesses the environmental performance of a company by reviewing its installations, materials, resources, and energy consumption and emissions (Del Baldo, 2019). It also reviews the sustainability of the supply chain where it is relevant and considers whether the products or services the company sell were developed in order to solve an environmental issue (Del Baldo, 2019). Another impact area focuses on governance. It covers the accountability a company shows towards its stakeholders, the company's mission, and the transparency it demonstrates with regards to its practices and policies (Cao et al., 2017; Del Baldo, 2019). A fourth impact area is 'Community'. It measures the involvement of the company towards the community in which it is operating (Del Baldo, 2019; Poponi et al., 2019). Lastly, the 'Customer' impact area assesses the effect of a company's actions on its customers by determining whether the company creates public benefit by selling its products or services (Cao et al., 2017; Del Baldo, 2019; Poponi et al., 2019) and whether these were designed for underserved populations (Del Baldo, 2019).

The BIA consists of approximately 200 questions and the set of questions a company will have to answer to depends on the size of the company (in number of full-time employees), and the sector and market (either emerging, developed or global-developed) in which it operates (B Lab, n.d.-i). The questions are not equally weighted. Indeed, questions related to progressive issues or that require a major commitment are given a greater weight (Sharma, Beveridge, Alim & Haigh, 2018). In the same logic, questions about outcomes are more heavily weighted than those about policies and practices (Marquis, 2020a). An impact area where a company achieves more than 60 percent of the available points is considered to be an 'Area of Excellence' (Hiller, 2013). Based on the answers provided by the company, the latter is assigned a numerical score out of 200 points. To certify, a company must attain a minimum score of 80 to the whole assessment (B Lab, n.d.-i). According to Cohen Gilbert, one of the cofounders of the B Movement, it requires the company to demonstrate excellence in at least one impact area and proficiency in all the others (Marquis, 2020a).

The BIA is updated every two years to integrate new industries, perspectives and ideas (Marquis, 2020a). Input from various stakeholders, including from the SAC and the Regional Standards Advisory Groups (RSAG), is used in the review process (B Lab, n.d.-m). The RSAG's aim is to provide insights on the standards in the light of specific geographical contexts

(B Lab, n.d.-k). After approval by the SAC, the new standards are tested, and the public is provided a comment period before their implementation (B Lab, n.d.-m).

3.3.1.2. Verification and transparency

After its submission, the BIA undergoes multiple reviews to verify the truthfulness, consistency and accuracy of the answers provided by the company (Marquis, 2020a). Firstly, the organization is asked to provide information and/or documentation related to six to fifteen questions regarding its operations. Then, it goes through an Assessment Review call with one of B Lab’s Standards Analysts. Together, they go over the questions where there was a doubt about the understanding or accuracy of the answers. This call often leads to a modification of the score. If the latter drops below 80, the company will have to improve on some aspects before aiming for certification. If not, the company can take on the next steps. After that, the company must answer questions on its business model and additional documentation has to be provided for one to six questions (B Lab, n.d.-i).

Subsequently, background checks are made by the B Lab staff. They cover the review of the public records about the company, its brands and its executives and founders (B Lab, n.d.-i). The company must also answer a Disclosure Questionnaire. The aim for B Lab is to identify material negative impacts the firm might have such as sensitive practices, fines, and sanctions. The answers to that questionnaire will not affect the score the company will get to the BIA. However, B Lab could ask a company where significant negative impact has been identified in the Disclosure Questionnaire to disclose it or even in some cases to take action to address it. It is noteworthy that often the negative impacts are minor, and therefore do not require any further action (B Lab, n.d.-e).

Finally, for the sake of public transparency, the company needs to share its B Impact Report on the online portal of the B Corp certification, bcorporation.net. This report includes the company’s global score and score in each impact area. B Lab could also require a certifying company to add information relating to material items or background check (B Lab, n.d.-i).

Each year, 10 percent of certified B Corps are randomly selected for an on-site in-depth audit (B Lab, n.d.-i).

3.3.1.3. Legal Requirement

Certified B Corporations (B Corps) must adopt the benefit corporation legal framework if it exists in the country or state where they are located (Marquis, 2020a). If not, they must amend their articles of incorporation to expand their fiduciary duties to all stakeholders. By doing so, they are required to consider the interests of all stakeholders in the decision-making, not just shareholders (Marquis, 2020a). However, there are still some countries and states where there are no corporate forms for directors to consider the interests of all stakeholders. In that case, this requirement is added to the agreement between B Lab and the company, and the firm will be obliged to adopt the benefit corporation form when it passes in the state or country where it is headquartered (Hiller, 2013). The Legal Requirement must be met prior to certification for companies with less than 50 employees whereas companies with more than 50 employees have two years to comply with that requirement (B Lab, n.d.-a).

3.3.1.4. Declaration of Interdependence, B Corp Agreement and annual certification fees

In order to become certified, companies must also sign the Declaration of Interdependence, which summarizes the values and ambitions of the B Movement. It has undergone minor changes since its initial writing (Marquis, 2020a). The most recent version is the following:

> We envision a global economy that uses business as a force for good. This economy is comprised of a new type of corporation – the B Corporation – which is purpose-driven and creates benefit for all stakeholders, not just shareholders.
>
> As Certified B Corporations and leaders of this emerging economy, we believe:
>
> - That we must be the change we seek in the world.
> - That all business ought to be conducted as if people mattered.
> - That, through their products, practices, and profits, businesses should aspire to do no harm and benefit all.
> - To do so requires that we act with the understanding that we are each dependent upon another and thus responsible for each other and future generations
>
> (B Lab, n.d.-a).

Additionally, a B Corp Agreement stating the terms of the contract between the future B Corp and B Lab must be signed. It contains, among other things, the Legal Requirement (if it was not met before certification) and the transparency requirements (B Lab, n.d.-e).

Lastly, the organization must pay annual certification fees, allowing it to use B Lab’s intellectual property such as the Certified B Corp logo. The fees depend on the region and the revenues of the company, starting at USD 1.000 (B Lab, n.d.-e).

3.3.1.5. Recertification

To remain certified, a B Corp must take the BIA every three years. It must once more provide the required additional information, get the BIA answers verified, and ultimately obtain a minimum of 80 points (B Lab, n.d.-i). As the BIA is updated regularly, it ensures that the recertifying company's performances are in line with the new standards (Villela et al., 2019).

3.3.1.6. B Corp formal complaints process

B Lab has established a formal complaints process which enables stakeholders to raise concerns against a B Corp. The non-profit organisation will only examine claims which are material, trustworthy and specific, related to the non-respect of the values outlined in the Declaration of Interdependence or misstatements in the certification process about outcomes, practices and policies (B Lab, n.d.-g).

3.3.2. Specificities of the certification process for large companies

3.3.2.1. Additional requirements for large companies

The companies subject to the additional following steps are private or public companies with more than USD$1 B. in annual revenue or USD$100 M. in yearly revenue, with at least ten subsidiaries in several countries (B Lab, 2021a).

Those large companies must undergo a Preliminary Risk Review prior to taking the BIA. It consists of the review of factors that would lead to ineligibility for the B Corp certification. Companies should not have a material involvement in controversial industries. There should in addition not be credible concerns or allegations against the company in relation to material topics or non-compliance with laws (B Lab, 2021a).

Next, the BIA must be taken by the full group and subsidiaries. Which subsidiaries are required to take the BIA will depend on the corporate structure and financial and reporting lines. Some subsidiaries might also have to meet the Legal Requirement (cf. Section 3.3.1.3.) (B Lab, 2021a).

The verification for large companies and their subsidiaries consists of provision of supporting documentation to the BIA questions. All certifying large companies are also subject to an audit (on-site or virtual) during which about 50 questions are reviewed. Large companies must moreover meet additional transparency requirements, including the public disclosure of the outcomes of the BIA of the full group and potentially of some subsidiaries on their online B Corp profile (B Lab, 2021a).

3.3.2.2. Additional requirements for multinational companies

Companies with more than USD$5 B. in annual revenue must meet Baseline Requirements, in addition to the requirements for large companies, to be able to certify. They must first show that they carry out a materiality assessment and a stakeholder engagement process regularly. Then, the firms must have defined management strategies expressed as specific and aspirational performance goals to overcome the identified materiality issues and show progress towards those goals. Next, they must issue a public document describing their approach to government affairs and their tax philosophy. In addition, they must commit to a human rights policy being either a key human rights covenant or address self-identified human rights issues identified through a human rights impact assessment. All previous baseline requirements must be overseen by the Board of Directors of the company. Finally, they must issue annually a public impact report following a third-party standard's guidelines. The eligibility of a multinational company for B Corp certification is determined by the Multinational Standards Advisory Council based on compliance with the Baseline Requirements (B Lab, 2021b).

The subsidiaries of multinational companies must moreover undergo the certification process for large companies regardless of their size (B Lab, 2021b).

The certifying multinational companies are also required to join the B Movement Builders program before completing the B Corp certification (B Lab, 2021b). It is a group of companies having at least USD$1B. in annual revenue. B Movement Builders companies must commit to the principles of the B Movement as well as undertake individual and collective actions to support those principles. They must in addition show progress with regards to social and environmental performance as well as go through a Risk Review. The B Movement Builders program also involves companies which do not intend to certify (B Lab, n.d.-d).

3.3.3. Motivations to certify

B Lab describes the benefits of the B Corp certification for companies as the following: being part of a community with other business leaders and create relationships with them, leading a movement, attracting and hiring mission-aligned talents, finding ways to create positive social and environmental impact and protecting the company's mission (B Lab, n.d.-e).

Literature has highlighted the drivers that lead entrepreneurs on the path of certification. First, entrepreneurs go through the certification process because their values align with the B Movement values (Roth & Winkler, 2018; Stubbs, 2016). Second, they believe it will allow them to build their identity through the B Movement and to communicate about it with stakeholders (Grimes, Gehman & Cao, 2018; Stubbs, 2016; Villela et al., 2019). They are moreover convinced this particular identity will help them differentiating from other companies in the industry (Cao et al., 2017; Del Baldo, 2019; Kim, Karlesky, Myers & Schifeling, 2016; Roth & Winkler, 2018; Villela et al., 2019). In addition, they value the fact the certification acts like a badge that will show society that the company is truly doing good, and not only claiming so like it can be the case for other firms (Cao et al., 2017; Grimes et al., 2018; Kim et al., 2016; Stubbs, 2016; Villela et al., 2019). They also sometimes claim that they are willing to lead a broader systemic change by convincing others to act alike (Del Baldo, 2019; Roth & Winkler, 2018; Stubbs, 2016; Stubbs, 2017). Furthermore, they appreciate the relationship and business opportunities with other like-minded businesses the B Corp certification will bring them (Del Baldo, 2019; Roth & Winkler, 2018; Stubbs, 2016; Villela et al., 2019). They also think certification will help them attract and engage talents (Chen & Kelly, 2015; Del Baldo, 2019) as well as capture and retain more customers (Chen & Kelly, 2015). Additionally, they are confident the certification will help them better evaluate and benchmark their corporate social responsibility performance to undertake the necessary changes to improve (Del Baldo, 2019; Villela et al., 2019). Another motivation is to have their mission protected as a result of the legal changes required by B Lab (Del Baldo, 2019). What is more, they are convinced that being certified will help attract impact investors (Chen & Kelly, 2015; Del Baldo, 2019). Lastly, they believe the certification will generate free press (Del Baldo, 2019).

It is also noteworthy that it is often executives who are motivated by the certification and take on the necessary steps to achieve it (Kim et al., 2016).

3.3.4. B Corps in the clothing industry

On July 31, 2022, there were 199 certified B Corps operating in the apparel industry. Among them, 157 are companies with 49 or less full-time employees. 27 B Corps have between 50 and 249 full-time employees and 9 B Corps have between 250 and 999 full-time employees. Only 6 B Corps have 1000 or more full-time employees. About 85 percent of the B Corps in the apparel industry are wholesalers or retailers while the rest are manufacturing companies. Next, about 40 percent of B Corps in the clothing industry are headquartered in North America, and mainly in the United States. The second continent where the largest portion of B Corps in the industry are headquartered is Europe, with a high concentration in the United Kingdom. The three other continents with a significant percentage of B Corps in the clothing industry are Oceania (11.56%), Latin America (11.06%) and Asia (7.04%). Lastly, from 2015 onwards, the number of certified B Corps in the apparel industry increased every year, with 38 B Corps certified in 2021 (B Lab, n.d.-h). A list of the B Corps in the clothing industry with their number of employees, business type, headquarters' country and continent and year of certification as well as graphs on trends related to these aspects can be found in Appendix 3 and 4 respectively.

Patagonia Works is a company in the clothing industry considered to be a frontrunner of the B Movement (Marquis, 2020a). It is a company headquartered in the United States founded by surfers and climbers. Patagonia Works aims to provide consumers with functional, easily reparable and durable clothes while having the smallest possible impact on the planet through all its operations. The company is certified since 2011 and has achieved a score of 151.4 to its last BIA. The company has in addition been awarded several times for its score to the 'Environment' and 'Community' impact areas (B Lab, n.d.-j).

3.3.5. Human rights shortcomings

Some researchers have examined the challenges of the B Corp certification, particularly from a human rights perspective. According to Wood (2016), the certification process does not integrate all aspects of the corporate responsibility to respect human rights as determined by the UNGPs (Wood, 2016). It would in addition not enable to adequately grasp human rights impacts, including because of the focus of the assessment on processes and policies (Bauer & Umlas, 2017).

Both scientific articles highlight that a positive score of only forty percent to the assessment must be achieved for a company to certify. A company could therefore answer negatively to part or all the BIA assessment questions linked to human rights (Bauer & Umlas, 2017; Wood, 2016).

Wood (2016) adds that the human rights addressed during the certification process are limited to labour and environmental rights, ignoring other key human rights. Above this, the author indicates that there exist no instruments requiring companies to achieve a better score when they recertify.

Another limitation according to Bauer & Umlas (2017) is that the Disclosure Questionnaire is not weighted whereas they consider it is the only part of the assessment where B Lab could identify human rights violations. Finally, they conclude by mentioning that the shortcomings on the integration of human rights impact in the B Corp certification process may be linked to the positive approach of B Lab which contradicts with the negative perception linked with human rights impacts. B Lab would, according to them, rather acknowledge the positive human rights impact of B Corps instead of assessing their compliance with international human rights instruments such as the UNGPs (Bauer & Umlas, 2017).

Both articles nevertheless acknowledge that some aspects of the certification are outstanding from a human rights point of view (Bauer & Umlas, 2017; Wood, 2016).

3.4. Conclusion

The B Movement's mission is to gather companies and other actors around initiatives that enable to use the power of businesses to create a positive impact on the society and drive change towards a more prosperous economy. The B Corp certification is one of those initiatives. B Corps are companies meeting high standards of verified performance in various areas, namely environment, employees, community, governance and customers. Accountability and transparency are also at the heart of the certification. The certification applies to organizations, which can be of any size, sector and countries provided that they are for-profit companies. An important component of the certification process is the completion of the B Impact Assessment which is a self-assessment of the impact of a company's operations and business model on the five areas mentioned hereabove. A company must achieve a score of at least 80 out of 200 to certify. Larger companies are required to complete more steps, including a risk screening, before starting the certification process. Next, the B Corps in the clothing industry are mostly small-size wholesalers or retailers, following the general trend of B Corp profiles. Finally, researchers highlight that the B Corp certification process shows shortcomings in the way it integrates human rights. This last aspect is the subject of the following empirical part.

Part 2: Empirical part

Chapter 4: Analysis of the B Corp certification process from a human rights perspective

4.1. Introduction and methodology

The aim of this chapter is to identify the shortcomings of the B Corp certification process with regards to its integration of human rights for companies in the clothing industry. To carry out this analysis, we only considered brands and retailers subcontracting at least part of their production and excluded manufacturing companies. Brands and retailers indeed represent about 85 percent of current B Corps in the clothing industry (cf. Appendix 4). As seen in chapter 1, the adverse human rights impacts predominantly happen during the manufacturing phase in the clothing industry. With that in mind, we decided to focus our analysis on the human rights responsibility of companies in their supply chain. This does not imply that no adverse human rights impacts occur at the retailer level, but they are deemed out of the scope of this thesis. Lastly, the human rights tackled in the empirical part are the human rights of workers. Human rights of other potentially affected stakeholders will not be considered here.

The two articles discussed in chapter 3 (cf. Section 3.3.5.) address the issue of human rights in the B Corp certification process in a generic way, without focusing on any particular industry or stakeholder. Our analysis complements the findings of those articles in two ways. It provides a more in-depth analysis of a particular industry (clothing industry) and stakeholder (workers in the supply chain); and it is based on the most recent version of the BIA, whereas the authors of the articles above relied on earlier versions of the BIA.

The analysis mostly assesses the integration of the UN Guiding Principles on Business and Human Rights (UNGPs) which is the globally recognised standard when it comes to the responsibility of businesses towards human rights (cf. Section 2.4.2.). According to the UNGPs, this responsibility extends to the business relationships of a company, and therefore to its suppliers. A company should first aim to identify adverse human rights impacts it may be involved with in several ways. It should then strive to prevent or mitigate negative impacts they caused or contributed to. When a company is solely linked to the adverse human rights impacts identified, it should try to increase its leverage to enable adequate prevention and mitigation of impacts. Regarding remediation, when a company caused or contributed to negative human rights impact, it should engage actively in remediation, by itself or in collaboration with other actors. This responsibility does not apply when a company is solely linked to the impacts (UN, 2011).

The components of the B Impact Assessment which are studied in the frame of this chapter are the B Impact Assessment (BIA), the Disclosure Questionnaire (DQ) and the Preliminary Risk Review (cf. Section 3.3.1.1., 3.3.1.2. & 3.3.2.1.). The BIA and the DQ are accessible on the B Impact Assessment website after signing in (B Lab, n.d.-c).

4.2. B Impact Assessment (BIA)

As our analysis is limited to the human rights responsibility of companies in their supply chain, the relevant section to analyse in the BIA is the ‘Supply Chain Management’ subsection of the ‘Community’ impact area.

The set of questions a company will have to answer is different according to three elements: its industry, its headquarters location (divided in developed-global, global and emerging market), and its size measured by its number of full-time employees (B Lab, n.d.-c). We selected ‘Retail’ as industry category and ‘Apparel’ as industry. We did various simulations by changing the country and size to have the different sets of questions that can apply in the subsection ‘Supply Chain Management’. The questions applying for each category of companies can be found in Appendix 6. For each of the studied configurations, B Lab asks which category of suppliers make up eighty percent of the purchases of the company in currency terms jointly (B Lab, n.d.-c). Considering that the company subcontracts at least part of its production, and to have the largest picture on the BIA questions, we selected the categories ‘Product Manufacturers’, ‘Independent Contractors’ and ‘Raw materials’.

We separated our analysis in two parts according to the fact that a company has less or more than 1000 full-time employees because it is the factor which causes the greatest difference related the set of questions a company will be subject to in the ‘Supply Chain Management’ subsection.

4.2.1. Companies with less than 1000 full-time employees

First, in the frame of the policy commitment requirement of the UNGPs, companies should publicly express their human rights responsibilities, commitments and expectations towards their personnel and business relationships. There is no question which relates to such policy commitment in the BIA.

Then, the human rights due diligence process on the supply chain is poorly reflected in the assessment questions. First, some questions aim to know whether the certifying company conducts social and/or environmental impact assessments, on which topics and with which evaluation methods. As highlighted by the UNGPs, a human rights impact assessment (HRIA) is different from a social impact assessment. Even if the HRIA can be integrated in a social impact assessment, it should necessarily refer to all internationally recognised human rights (UN, 2011). We cannot consider here that a human rights impact assessment would be part of a social impact assessment as ‘human rights’ is not included in the tick-box options of the topics included in the potential social impact assessment. The tick-box options of the question with the evaluation methods include internal and external expertise (including own or third-party audits). The company nevertheless does not have to report on stakeholder consultation in the impact assessment process (cf. Appendix 5; Q4-Q6).

Another shortcoming in this section of the BIA is that the impact assessment is limited to the direct suppliers and not further tier suppliers, or even the original producers of raw materials, as it is the case in the BIA for companies with more than 1000 employees. As seen in chapter 1, supply chains in the clothing industry are complex and involve many actors. Human rights violations can happen at every stage of the supply chain and, by only considering the direct suppliers, the impact assessment of suppliers as presented by the BIA could potentially overlook the identification by B Corps of major human rights violations.

Regarding prevention and mitigation actions, there is a question on how the company strives to improve the impact of its suppliers. Propositions include the development of improvement plans by the B Corp for its suppliers in case of non-compliance with a potential code of conduct. Another proposition aims to find out whether the B Corp has established a duration for remediation before deciding to end the contract with a non-compliant supplier. Other mitigation and/or prevention actions included in the propositions are the provision of training or other resources to suppliers and the provision of incentives through contract terms and buying prices for example. At the brand level, possible actions are the participation in collaborative initiatives with other firms and the provision of training to own staff on purchasing behaviour and supplier relationship (cf. Appendix 5; Q27). Nevertheless, those prevention and mitigation actions are not presented as subsequent actions to an impact assessment.

There is no mention in any other question of the other guidelines regarding human rights due diligence, namely the integration of the findings of the assessments in the functions and processes of the company, the tracking of the effectiveness of the response to the identified impacts and the external communication about the due diligence process. There is no question which enables to assess at which frequency the impact assessments are carried out either, and if it is on a regular basis and at key moments in the supplier relationship, as suggested by the UNGPs (UN, 2011).

The last component of the UNGPs is remediation. In the BIA, remediation only appears in the question which aims to find out if a grievance mechanism has been implemented by the B Corp to hear and handle complaints directed towards its small-scale or needy suppliers. It is therefore limited to this specific category of suppliers (cf. Appendix 5; Q32).

4.2.2. Companies with more than 1000 full-time employees

First, the policy commitment of the UNGPs is not embedded in the BIA questions for companies with more than 1000 full-time employees either.

The integration of the due diligence requirements of the UNGPs is already more comprehensive than for companies with less than 1000 full-time employees. One question first aims to assess whether the company conducted a risk assessment and risk mapping. Propositions include the country, product and size of purchase (cf. Appendix 5; Q2). A risk assessment is not a UNGPs requirement as such, but it is recommended by the OECD sectoral Guidance (OECD, 2018b).

Several questions relate to a potential social and/or environmental impact assessments conducted by a B Corp on its suppliers (tier 1, tier 2 and producers of raw materials). As for companies with less than 1000 full-time employees, human rights are not explicitly said to be part of the social impact assessment (cf. Appendix 5; Q17, Q19, Q21). However, a further question aims to know whether the company has verified, among other things, "compliance with international human rights and labour standards" (B Lab, n.d.-c), the "payment of a living wage" (B Lab, n.d.-c), and "no forced/modern slavery" (B Lab, n.d.-c) for all entities of its supply chain by means that can be accurately confirmed. This aligns with the human rights impact assessment guidelines of the UNGPs. Yet what is confusing is that this question is labelled "Verification of Positive Outcomes in Supply Chain" (B Lab, n.d.-c), as if the respect of international human right and labour standards by the suppliers is not a baseline requirement but a positive outcome (cf. Appendix 5; Q30). What is however notable here is that the scope of the impact assessments extends to the producers of raw materials.

As for companies with less than 1000 full-time employees, there is a question on the evaluation methods for environmental and/or social impact assessments and the propositions include internal and external expertise (including own or third-party audits) but again no question relate to the involvement of stakeholders in the process (cf. Appendix 5; Q8, Q20, Q22). Regarding mitigation and prevention actions, the same question and corresponding propositions apply (cf. Appendix 5; Q27). Here also, there is also no tracking of the effectiveness of the potential prevention or mitigation plans.

The integration of the findings of the impact assessments in the processes of the company is included in a question on the management of supply chain impact. One proposition relates to the consolidation of the outcomes of social and/or environmental impact assessments to identify and internally report on supply chain performance and breaches. Another one assesses whether trends in supply chain performance are drawn on to identify and remediate the underlying causes of supply chain performance issues (cf. Appendix 5; Q29).

Next, the external communication requirement is addressed by a question on the reporting on the supply chain impact. This question aims at knowing the extent of the reporting by the company, from consolidated outcomes of impact assessments and root causes of supply chain performance and breaches to reporting about specific entities along the supply chain (cf. Appendix 5; Q23).

Moreover, regarding remediation, the same comments as for companies with less than 1000 full-time employees apply.

Finally, a question asks for which portion of the materials in its supply chain that are considered at risk the company has a mechanism that enables it to track in an accurate way the origin of all its elements and ingredients (cf. Appendix 5; Q3). As indicated by the OECD sectoral Guidance, traceability can represent a first important step for companies to get information about the entities operating upstream in their supply chain, even though a proper due diligence process should be conducted to align with the corporate responsibility with regards to human rights (OECD, 2018b). The traceability here goes up to the raw materials, which is notable considering the opaque nature of supply chains in the clothing industry (cf. Section 1.3.3.).

4.2.3. General comments

For both categories of companies, questions with regards to human rights in the ‘Supply Chain Management’ section can be highlighted as they reward B Corps for showing best practices in their purchasing practices and supplier relationships. There is first a question on how the company rewards its suppliers for enhanced environmental and social performance. Propositions include the provision of incentives, resources and the setting of specific goals.

This question is only part of the assessment of companies having 50 to 999 employees (cf. Appendix 5; Q26). Another question aims to know the average duration of relationship between the company and its suppliers, to which answering five years or more gives the best score (cf. Appendix 5; Q31). A further question for companies with more than 50 employees aims to know if companies support small-scale or other needy suppliers by assessing training needs, providing educational resources and/or favourable contract terms (cf. Appendix 5; Q32). Lastly, a question aims to know the portion of a company's suppliers which have a social and/or environmental third-party certification (Appendix 5; Q34). The two last questions apply for companies with more than 1000 employees exclusively if these are headquartered in a market qualified as emerging by B Lab (B Lab, n.d.-c).

Another observation that can be made is that, depending to the market and the size of the company, for companies having at least one full-time employee, the supply chain management section only accounts for between 10.9 or 11.5 points out of 200. This represents only about 5 percent of the total assessment (cf. Appendix 7). Given that the assessment does not include binding requirements and that the company has to achieve a score of 40 percent minimum, it could totally overlook the questions of the 'Supply Chain Management' subsection of the BIA and still certify.

Finally, there are few references to the ILO Conventions or other internationally recognised human rights instruments in the additional information provided for each question (B Lab, n.d.-c). Companies might therefore not understand the full scope of human rights referred to in the questions where a statement is about compliance with international human rights and labour standards (cf. Appendix 5; Q8, Q15, Q30) without further explanation or reference to international instruments and standards. Nevertheless, on precise matters such as forced and child labour, guidance developed by the UN Global Compact is provided.

4.3. Disclosure Questionnaire (DQ)

Besides the BIA, we decided to have a look into the Disclosure Questionnaire also to assess the integration of the human rights responsibility of companies regarding their supply chain. The Disclosure Questionnaire is a list of statements to which the company is expected to answer 'yes', 'no' or 'don't know' in some cases. The answers of the company will not affect its score. However, in the case of an affirmative response, the company will most likely have to disclose the material elements on its B Corp Public Profile or undertake remediation. In exceptional scenarios, it could lead to ineligibility (B Lab, n.d.-c).

The statements are classified in four categories: ‘Disclosure Industries’, ‘Disclosure Practices’, ‘Disclosure Outcomes & Penalties’ and ‘Supply Chain Disclosure’. The last one is the only section where human rights risks linked to the supply chain appear. Four statements are included in that category. The first statement aims to identify whether the company is aware that its suppliers resort to child labour, prison labour or forced labour. The ILO Conventions on forced labour are referred to here. Supplies covered by a Withhold Release Order are to be considered in the scope of forced labour. Those supplies are banned to enter the U.S. because of forced labour suspicions. Another statement asks whether the suppliers of the company have operations in conflict zones. The next one addresses “Practices or outcomes that produced substantial negative impacts regarding human rights, labour conditions, or local communities” (B Lab, n.d.-c). Human rights of workers in the supply chain are therefore tackled here. There is however no reference to ILO Conventions or other international human rights standards. A last statement concerns negative environmental impact in the supply chain (cf. Appendix 8).

Even if human rights violations happening at the suppliers’ level could be detected by B Lab through the DQ, the latter does not support the effective implementation of the UNGPs which would enable the prevention and mitigation of adverse human rights risks in the supply chain.

4.4. Additional requirements for larger companies

4.4.1. Preliminary Risk Review

Before completing the BIA and DQ, large companies are required to go through a Preliminary Risk Review. It consists of criteria enabling to determine their eligibility for the B Corp certification. The companies concerned by this additional step are public or private firms having either between USD$100 M. and USD$999 M. in annual revenue and ten or more subsidiaries in several countries or more than $1B. in annual revenue (B Lab, 2021a).

Companies should first not have a material implication with a series of controversial industries. Then, “no credible concerns of systematic complicity” (B Lab, 2021a, p.6) should be alleged to the firm in the last two years with regards to “fraud; human rights abuses; or violations of national or international laws, regulations, and conventions” (B Lab, 2021a, p.6). Lastly, there should be no “other high risk systemic concerns or allegations” (B Lab, 2021a, p.6) against the firm with regards to material topics related to its stakeholders’ interests (B Lab, 2021a). Human rights violations at the supplier level could therefore be detected at that stage and prevent the company for certifying. It, however, does not enable to assess the proper implementation of the UNGPs either.

4.4.2. Baseline requirements

Multinational companies with more than USD$5 B. in annual revenue must moreover show compliance with additional requirements to be eligible for certification (cf. Section3.3.2.2.). The one of interest in the frame of this analysis is the human rights policy requirement. The companies concerned must adopt a public, specific human rights policy. This policy should express the commitment of the company towards the respect of human rights, including in its supply chain. In the context of this policy, the company must either explicitly commit to key human rights instruments including the UDHR, the UNGPs and the ILO Declaration or report on how it conducts human rights due diligence. In the latter case, it should disclose which human rights risks were identified, how the company manages or plans to manage those risks including monitoring mechanisms to track progress. Lastly, the policy should also contain information on how the company deals with breaches and remediation, the involvement of relevant stakeholders in the process as well as the governance and accountability related to the policy. Besides, in the frame of the baseline requirements, the certifying multinational company must implement a grievance mechanism available to all stakeholders (B Lab, 2021b).

The policy commitment as well as the remediation requirements of the UNGP are therefore met for certified multinational B Corps. However, in the case the company chooses to commit to key human rights covenants, there is no assessment of proper compliance with the latter. The due diligence process could therefore be inadequately conducted.

4.5. Conclusion

The analysis hereabove first shows an inadequate integration of the UNGPs requirements related to the supply chain in the various aspects of the B Corp certification process studied. Regarding the BIA, for companies with less than 1000 employees, questions cover a very limited part of the UNGPs. The scope is in addition limited to direct suppliers. For companies with more than 1000 employees, the questions include more aspects of the UNGPs. The scope is moreover extended to producers of raw materials. However, the section in which those questions are included in worth about 5 percent of the whole assessment only. As companies need to have a score of 40 percent minimum, they could totally overlook those questions. As far as the DQ and Preliminary Risk Review are concerned, they would enable B Lab to identify human rights violations which occur at a supplier level, but they do not assess a proper human rights due diligence process on the supply chain either. All in all, certified B Corps are not required by the certification to identify, mitigate or remediate to the actual or potential human rights impacts in their supply chain. There is however an exception for multinational companies for which the baseline requirements include policy commitment, remediation and commitment to conduct due diligence or reporting on the due diligence process according to UNGPs guidelines.

It is important to note that there are several best practices related to purchasing behaviour and supplier relationships included in the studied section of the BIA such as the average duration of supplier relationship and incentives provided to suppliers for enhanced social and environmental performance. Besides, the traceability for companies with more than 1000 employees covers the providers of raw materials. Even though it is not a binding requirement, it can be considered a leading practice in the light of the opaque nature of supply chains in the clothing industry.

A last observation in the various aspects of the certification process studied is that there are very few references to international standards and instruments B Corps could use as guidance in completing the certification process.

Chapter 5: Benchmarking with leading labels in the clothing industry

5.1. Introduction

In the previous chapter, we conducted an in-depth analysis of the different aspects of the B Corp certification process to assess the integration of the responsibility a company has towards human rights in its supply chain for companies in the clothing industry. It was found that B Corps are not required by the B Corp certification to meet their human rights responsibility towards their supply chain, except for multinational companies.

To find ways to remediate to the findings highlighted in the previous chapter, we analyse how leading labels in the clothing industry are able to integrate the respect of human rights in the supply chain in their respective assessments. These leading labels are the Global Organic Textile Standard (GOTS), OEKO-TEX Made in Green, the Fairtrade Textile Standard and Fair Wear. The analysis is carried out through a framework assessing the scope, issuer and reliability of a label as well as how its assessment integrates human rights based on various criteria. First, the criteria which make up the framework are outlined. Then, the four labels are briefly introduced. After that, a comparative analysis based the framework applied to the different labels is undertaken. The latter part will lay the ground for the recommendations presented in the next chapter.

5.2. Framework criteria

The framework used in the frame of this thesis was adapted from the differentiation criteria developed by Morris et al. (2021) in the article ‘Labels in the Textile and Fashion Industry: Communicating Sustainability to Effect Sustainable Consumption’. The factors enable to differentiate the labels on their scope and issuers, and to assess their trustworthiness based on additional criteria (Morris et al., 2021).

A first criterion is about the topics covered by the label. They can either encompass environmental, social, health and safety considerations or a combination of them. Environmental labels require compliance with environmental standards whereas social standards assess the enforcement of social standards which cover matters including human rights and labour conditions. The labels covering health and safety attest to the harmless nature of a product for consumers (Morris et al., 2021).

The following criteria address the scope of the label on several aspects. A first criterion relates to the mandatory or voluntary nature of the label. Another criterion distinguishes between the applicability of a label being either global, supranational or national. Then, the framework also draws a distinction between labels which apply to products and labels which apply to a whole organization. Another criterion refers to lifecycle stages are covered by the label. A last criterion within the scope category distinguishes single-attributes or multi-attributes labels. Multi-attributes labels use different indicators to assess the socially and/or environmentally responsible nature of a product or organization while single-attribute labels use only one (Morris et al., 2021).

Then, a criterion regards the issuer of the label. It could either be a company, an independent institution or a government. It also draws a distinction based on the underlying organisational structure of the certification body (profit or non-profit organisation, public-private partnership or industry initiative) (Morris et al., 2021).

Morris et al. (2021) furthermore develop a set of criteria which would enable to assess the reliability of the label on four aspects. A first aspect is the rigour of the certification which would be determined by looking at if the company is required to improve its practices to reach certain goals or if it must abide by certain standards. Examining the ambition of the standards and which practices are included in the assessment as well as if the standards evolve over time would also be necessary to assess the rigour. A last component within this aspect is the way the compliance with the standards is verified and by who (first, second or third party). A second aspect to assess the reliability of the label is the validity duration of the label and the time to certification. A third one consists of assessing the transparency of the certification process and the opportunity given to stakeholders to engage in the process. A fourth aspect is the financing model which could be either licensing, application or membership fees.

Besides assessing the way the labels function and are managed as well as their reliability, we are interested in knowing how these labels integrate human rights in their assessments. The first criterion relates to which human rights are covered in the assessment of the label. The second evaluates the integration of the UNGPs in the assessment. The UNGPs were selected because they are the internationally recognised instrument regarding the responsibility companies have in relation to human rights, including in their supply chain. The third criterion relates to the best practices embodied in the requirements of the label. They include requirements which go beyond internationally recognised standards on human rights and the guidelines of the UNGPs. Those were investigated because, as seen in chapter 3, B Lab aims to develop standards rewarding companies for demonstrating leading practices in various areas. The last criterion assesses the references made to international human rights standards and instruments in the assessment and potential associated guidance.

5.3. Benchmarking labels

The following benchmarking labels were selected because they show the highest adoption rate (Morris et al., 2021). Those labels apply to products and companies from the textile and clothing industry exclusively.

5.3.1. Global Organic Textile Standard (GOTS)

The GOTS label is managed by the Global Standard, a non-profit organisation which was founded in 2008 (Global Standard, n.d.-d). It was created by four organizations, active in the food and agriculture and textile industries (Global Standard, n.d.-a). Those organisations started certifying companies in 2002, before founding the Global Standard (Global Standard, n.d.-d). The latter sought to harmonise the various industry labels existing at the time into one label providing assurance of compliance with internationally recognised social and environmental standards (Global Standard, n.d.-a; Global Standard, n.d.-e). It applies to products made of organic fibres exclusively (Global Standard, n.d.-e).

5.3.2. OEKO-TEX Made in Green

The OEKO-TEX Made in Green label is managed by the OEKO-TEX Association (OEKO-TEX, 2021), which was founded in 1992 (OEKO-TEX, n.d.-e). It is a private partnership of 17 independent research and test institutes (OEKO-TEX, n.d.-c). The OEKO-TEX Association manages other labels in the textile and clothing industry, namely Standard 100, the Leather Standard, STeP, Detox to Zero and the Eco Passport (OEKO-TEX, n.d.-d). The Made in Green label applies to products and is a combination of the Standard 100 or Leather Standard and the STeP labels (OEKO-TEX, 2021). The Made in Green label was launched in 2015 (OEKO-TEX, n.d.-e). It was selected for the research as it is the sole label applying to products and assessing the social responsibility in the supply chain (OEKO-TEX, n.d.-d). It aims to provide end consumers with full transparency over the supply chain through a QR code and the assurance of a socially and environmentally sustainable production (OEKO-TEX, n.d.-b).

5.3.3. *The Fairtrade Textile Standard*

The Fairtrade Textile Standard is managed by Fairtrade International, a non-profit organization founded in 1997. The organisation strives for a more equitable distribution of the benefits of trade, through various initiatives including standards, certifications and support to producers (Fairtrade International, n.d.-a). The Fairtrade Textile Standard is part of the Fairtrade Textile Programme which strives for the empowerment of workers and better working conditions in the textile and clothing industry supply chain (Fairtrade International, n.d.-f). Fairtrade International issued the first version of the Fairtrade Textile Standard in 2016. It applies to products made of social and environmental responsible fibres exclusively (Fairtrade International, n.d.-e).

5.3.4. *Fair Wear*

The Fair Wear certification is managed by the Fair Wear Foundation, a non-profit organisation founded in 1999. The certification applies to the organization as a whole and to brands exclusively. The Fair Wear Foundation seeks to improve the working conditions in the clothing industry by supporting and assessing brands as well as closely collaborating with other actors in the industry. There are currently 140 brands certified Fair Wear (Fair Wear Foundation, n.d.-d).

5.4. Comparative analysis

The following subsections outline the outcomes of the comparative analysis conducted based on the framework applied to each of the studied labels and the B Corp certification. The latter can be found in Appendices 9, 10, 11, 12 and 13. The frameworks refer directly to parts of the different assessments of the studied labels which are presented in Appendices 14 to 20.

5.4.1. *Topic*

From a topics point of view, Fair Wear is the only label covering solely the social dimension. GOTS, OEKO-TEX Made in Green and the Fairtrade Textile Standard also include criteria with regards to the environment. Moreover, only OEKO-TEX Made in Green addresses the health and safety of consumers. Out of the three topics, the B Corp certification tackles social and environmental dimensions.

5.4.2. *Scope*

Labels can further be divided according to the fact that they apply to specific products or the organization as a whole. The GOTS, OEKO-TEX Made in Green and the Fairtrade Textile

Standard labels apply to specific products. For GOTS and the Fairtrade Textile Standard, textiles and clothing can be certified solely if they are made organic fibres for the first and socially and environmentally responsible fibres for the second. For a product to be certified from the three labels applying to products, all the entities along the supply chain must undergo certification. There are two exceptions in the scope of supply chain entities which must certify. First, the farm level is assessed only by GOTS. Second, for GOTS and OEKO-TEX Made in Green, entities not involved in the production of textiles or clothing such as brands or retailers are exempt from certification (with a limit of EUR 20.000 in annual revenue for GOTS). For the Fairtrade Textile Standard, this exception only applies to brand owners.

Besides, the only label applied to organizations is Fair Wear. Only brand owners with a minimum annual turnover of EUR 10 million can apply for the label. The supply chain stages covered by the assessment are the production assembly stages which are the production stages after a fabric is produced. The B Corp certification applies to organizations as well. All types of organizations can apply, including retailers, wholesalers and manufacturers. The assessment for B Corps is mostly limited to the organization's own operations. The part of the assessment related to supply chain management however covers direct suppliers for companies with less than 1000 full-time employees and tier 1 and tier 2 suppliers and original producers of raw materials for companies with more than 1000 full-time employees.

5.4.3. Nature of requirements

Regarding the nature of requirements, labels use different approaches. GOTS consists of only binding requirements. OEKO-TEX Made in Green's, the Fairtrade Textile Standard's and Fair Wear's assessments present both binding and non-binding requirements. Certifying organisations must comply with at least a specific portion of non-binding requirements in addition to complying with the binding requirements. OEKO-TEX Made in Green and Fair Wear have moreover developed a multi-level scoring system which enables to classify the certified companies according to their performance with regards to the fulfilment of non-binding criteria. Regarding improvement after certification, the minimum score to achieve to the non-binding requirements is higher every year for the first three years of Fair Wear membership. After that time lapse, a Fair Wear company is expected to continue to show improvement between each annual assessment. For OEKO-TEX Made in Green, certified companies are assumed to continue to show progress by developing improvement plans with targets and a corresponding approach.

In contrast, the BIA consists only of non-binding requirements against which a company must achieve a certain score. There is in addition no obligation for a company to show improvement over time. Lastly, it is interesting to note that, unlike the BIA, the requirements of all labels apply similarly to all organisations, regardless of their size or headquarters' country.

5.4.4. Verification

The verification of compliance is carried out through verification audits for the four labels studied. For GOTS, OEKO-TEX Made in Green and the Fairtrade Textile Standard, all entities along the supply chain which must certify are subject to an on-site audit. They happen every year for GOTS and the Fairtrade Textile Standard (for which part of the requirements are audited at a lower frequency) and every year and a half for OEKO-TEX Made in Green. Regarding Fair Wear, no audits take place at the brand level but a portion of Fair Wear companies' suppliers are audited on-site every year for Fair Wear to assess if the brands are complying with the duties they have towards their suppliers. Over three years at least 10 percent of a brand's suppliers (expressed in production volume) are audited. To carry out those verification audits, all labels have recourse to accredited independent auditors. Workers are involved in the audit process for almost all labels. OEKO-TEX Made in Green does not communicate on the way audits are conducted. Besides, organisations certified GOTS and OEKO-TEX Made in Green and Fair Wear companies' suppliers may be subject to unannounced audits. Next to audits, organisations certifying OEKO-TEX Made in Green and Fair Wear must provide supporting documentation to show compliance with the various requirements.

For B Corps, the verification consists of a self-assessment with additional documentation to be provided to a few questions randomly. Verification audits are not systematic, they are conducted by B Lab on 10 percent of B Corps every year, except for large companies for which the audits are systematic. They are carried out on-site at the certifying entity exclusively.

5.4.5. Ambition

Standards show different levels of ambition. OEKO-TEX Made in Green's standards aim to provide full transparency over the supply chain and assurance of the socially and environmentally responsible nature of the production to customers. The ambition of GOTS' standards was to harmonise industry labels and to be a set of recognised environmental and social standards. The two other labels' standards rather aim to drive change in the industry, the Fairtrade Textile Standard by empowering workers and reducing poverty and Fair Wear also by empowering workers and by striving for shared accountability between brands and suppliers on the respect of human rights along the supply chain. This is closer to the philosophy of the BIA standards which aim to support businesses in creating a positive impact on society to eventually drive change in the economy.

5.4.6. Social practices covered

Social practices covered by GOTS, OEKO-TEX Made in Green and the Fairtrade Textile Standard are mainly labour conditions, quality management and worker empowerment. For Fair Wear, the social practices covered are mostly about sourcing strategy, purchasing behaviour and supplier relationships, as for the B Corp certification. Working conditions are also tackled by Fair Wear in the frame of the Code of Labour Practices which is a code of conduct applying to the suppliers of Fair Wear companies.

5.4.7. Validity period and financing

All labels can be assumed to have a validity period of one year. For some, the duration of validity is not explicitly expressed but a yearly verification of compliance puts the certification at stake every year. This contrasts with the three years validity of the B Corp certification.

In relation to financing, all the labels' issuers ask a certification fee to certifying organisations, as for the B Corp certification. GOTS and OEKO-TEX Made in Green require in addition the payment of a fee for verification audits whose amount depends on the extent of the verification which is necessary.

5.4.8. Transparency of certification process and stakeholder engagement

Next, the certification process for Fair Wear and GOTS is fairly transparent, as for the B Corp certification process. However, regarding OEKO-TEX Made in Green, only binding requirements are known (our request to access non-binding requirements was denied). For the Fairtrade Textile Standard, no information is available concerning the weighting of the different non-binding requirements or the minimum score to achieve to the latter. Fair Wear distinguishes itself in terms of transparency by publishing the assessment reports of companies on its website. Meanwhile, B Lab publishes the final score and the score to the different impact areas of B Corps on its website. For larger companies, the outcomes of the BIA are also publicly disclosed.

As far as the stakeholder engagement is concerned, similarly to the B Corp certification, there is a stakeholder consultation in the frame of the development and revision of standards for all labels. There is also a complaints mechanism enabling stakeholders to raise concerns for all labels except the Fairtrade Textile Standard.

5.4.9. Human rights addressed by the label

Concerning the human rights related topics in the assessments, requirements for GOTS, OEKO-TEX Made in Green and the Fairtrade Textile Standard cover all the key human rights issues identified by the OECD sectoral Guidance, namely forced labour, child labour, discrimination, freedom of association and collective bargaining, working hours, remuneration, safe and healthy working conditions and harassment and abuse in addition to employment relationships. GOTS also tackles migrant work issues. For Fair Wear, the same human rights issues are addressed in the Code of Labour Practices which must be respected by the suppliers of certified companies. In the B Corp certification process, only forced and child labour are tackled when it comes to the supply chain.

5.4.10. Integration of the UNGPs

Regarding the integration of UNGPs in the assessment, Fair Wear is the sole label tackling the UNGPs from the perspective of the business relationships of a company. The scope of the UNGPs for the other labels studied is indeed rather focused on the organisation’s own operations. The integration of the UNGPs varies greatly among the four studied labels. It is outstanding for Fair Wear as the guidelines are materialized in the different requirements and the latter are mostly aligned with the OECD sectoral Guidance. For GOTS and OEKO-TEX Made in Green, we can consider that the integration is sound. GOTS requires the adoption of the OECD Guidelines for Multinational Enterprises which is consistent with the UNGPs on the human rights topic. Some other specific requirements also relate to the UNGPs. Certified OEKO-TEX Made in Green companies must adopt a social policy and conduct a social risk assessment mostly aligned with the UNGPs Guidelines. There is no mention of human rights in the social policy requirement which is a shortcoming. However, for the risk assessment, as it should cover all the topics of the social responsibility module which integrates all sectoral key human rights, we can consider that the risk assessment covers human rights issues. With regards to the Fairtrade Textile Standard, the embedding of the UNGPs guidelines in the requirements is insufficient. There are indeed no proper policy commitment requirement and solely a social risk assessment must be conducted, without assessment of the compliance with the other human rights due diligence requirements. Besides, it is interesting to note that all labels, except GOTS, cover the implementation of an operational-level grievance mechanism in their requirements. For Fair Wear certified companies, it covers the support of the implementation of the grievance mechanism at their suppliers.

Lastly, requirements linked to human rights due diligence on the supply chain that stand out in the frame of this analysis are Fair Wear's requirements on mitigation and prevention actions taken at the brand level. They include fair contract terms, the mitigation of root causes of overtime and remuneration issues at the supplier level, the collaboration between the brand and the suppliers on the establishment, monitoring and assessment of the production planning, the collaboration on prevention and mitigation actions with other brands, the calculation of the labour costs component in the purchasing price and the prevention of unauthorised subcontracting.

5.4.11. Best practice standards with regards to human rights

Finally, it is interesting to investigate the best practices with regards to human rights in the supply chain embodied in the assessments of the different studied labels. They were selected because they go beyond the sole respect of key human rights conventions and the UNGPs guidelines. This framework criterion is analysed in two parts, the first one covers best practices of labels applying to operators along the supply chain (GOTS, OEKO-TEX Made in Green and the Fairtrade Textile Standard) and the second one covers best practices of labels applying to retailers (Fair Wear, B Corp).

First, OEKO-TEX Made in Green and the Fairtrade Textile Standard include a criterion on collaboration with companies and other stakeholders in the frame of industry initiatives. Second, OEKO-TEX Made in Green and GOTS require the implementation of policies, on the major sectoral human rights risks for OEKO-TEX Made in Green and on abuse and harassment only for GOTS. To deal with the same issue, both labels also require the implementation of an anonymous complaints mechanism for harassment and abuse, and the records should be available to current and potential workers for GOTS organisations. In addition, OEKO-TEX Made in Green requires that surveys are conducted to identify cases of discrimination. Then, the living wage is also the subject of several best practices. GOTS requires that organisations calculate the wage gap to reach the living wage. OEKO-TEX Made in Green requires companies to establish a roadmap which would enable them to provide a living wage to workers in three to five years. Organisations certified Fairtrade Textile Standard must achieve living wage within 6 years. Regarding training, OEKO-TEX Made in Green requirements include training for workers of certified organisations on most sectoral human rights issues. The assessment also presents extensive requirements on occupational health and safety. Besides, OEKO-TEX Made in Green requires a social insurance for workers as well as an accident insurance or compensation payments in case of an occupational accident. Lastly, the label requires the issuance of a sustainability report. All the next best practice criteria are from the Fairtrade Textile Standard's assessment. With regards to subcontractors, the label requires reporting on all the subcontractors of certifying organisations. On top of that, it requires entities to ensure the compliance of their subcontractors with the labour conditions requirements established by the label. It also encourages operators to reduce reliance on subcontractors through improved production planning. The Fairtrade Textile Standard furthermore requires a significant involvement of workers in the compliance with the label's requirements and empowerment of workers through training and capacity building. Other criteria of the Fairtrade Textile Standard include fair trade terms with cotton producers, care and/or compensation after injury or death linked to work, increased paid, sick and maternity leave and social security for all workers. In this first category, few best practices are attributable to GOTS because, as explained hereabove, its assessment consists of only binding requirements.

Regarding best practice requirements of certifying retailers, Fair Wear first requires member brands to publicly disclose at least 90 percent of their production locations (expressed in production volume). Fair Wear also assesses advanced reporting practices of a brand consisting of disclosing further information about its production locations and/or its time-bound improvement programmes. There are in addition explicit requirements linked to the gender consideration in the due diligence process. Furthermore, long-term supplier relationships (more than five years) are fostered. Regarding living wage, Fair Wear assesses whether brands participate in wage increases for suppliers' workers' pay to reach the living wage. Finally, with regards to unauthorised subcontractors, Fair Wear member brands are required to adopt a policy on that matter. Regarding the B Corp certification, as far as the 'Supply Chain Management' section of the BIA is concerned, best practice questions mostly relate to supplier relationships and purchasing behaviour, namely the rewards provided to suppliers with enhanced social and environmental performance, the support provided to small-scale or needy suppliers and the portion of suppliers with a social and/or environmental third-party certification. As in Fair Wear's assessment, the BIA aims to assess the average duration of supplier relationships, with five years or more giving the best score.

5.4.12. References to international human rights instruments

Furthermore, when completing the assessment, companies certifying with the four studied labels are provided with references to international standards, instruments and tools on human rights. First, they all refer explicitly to ILO Conventions. Some mention in addition the UDHR, the ILO Declaration, the UNGPs, the OECD Guidelines and the OECD sectoral Guidance. Besides, GOTS, OEKO-TEX Made in Green and Fair Wear make references to initiatives and instruments related to human rights such as the Global Living Wage Coalition and its Anker method, the Asia Floor Wage Alliance, the SIA's social fingerprint and the Fashion Transparency Index. In contrast, B Corp does not make references to ILO Conventions, except when mentioning forced labour. Regarding instruments, it refers to several UN Global Compact resources and the SDGs.

5.5. Conclusion

A table summarising the main points of the comparative analysis can be found in the two next pages (cf. Table 1). We observe that the greatest difference in the approach of the four labels studied is between the three labels applying to products and Fair Wear which applies to brands. The first category of labels requires the certification of all organisations along the supply chain for a product to be certified. The requirements in the frame of the certification are therefore directed towards all those organisations. Fair Wear's assessment is designed for brands only and contains requirements mostly linked to supply chain management. The supply chain entities do not have to achieve a certification.

We also note that the B Corp certification distinguishes itself from the studied labels on several aspects such as the nature of requirements, the verification of compliance, the validity duration of the certification and the human rights topics tackled. It is most probably due to the fact that, even if the assessment is adapted to the industry in which the certifying company operates, the B Corp certification can apply to organisations from all industries which limits the extent of tailoring. Looking at the integration of human rights in the assessments of other labels in the clothing industry, we note that there is room for improvement in the B Corp certification process. It leads us to the next chapter in which we provide recommendations on how to strengthen the B Corp certification process with regards to human rights of workers in the supply chain derived from the outcomes of the comparative analysis conducted in this chapter.

	GOTS	OEKO-TEX Made in Green	The Fairtrade Textile Standard	Fair Wear	B Corp
Topics	Social and environment	Social, environment and health and safety	Social and environment	Social	Social and environment
Applies to	Product	Product	Product	Organisation	Organisation
Lifecycle stages	Whole supply chain (including farm level, excluding non-producing entities)	Whole supply chain (excluding non-producing entities)	Whole supply chain (excluding brand owners)	Product assembly stages	First tier suppliers (and second tier and producers of raw materials for companies with +1000 employees)
Nature of requirements	Binding requirements	Binding and non-binding requirements (with multi-level scoring system)	Binding and non-binding requirements	Binding and non-binding requirements (with multi-level scoring system)	Non-binding requirements (with scoring system)
Improvement required	No	Yes	No	Yes	No
Type of verification	On-site audit (every year), unannounced audits	Documentation, on-site audit (every year and a half), unannounced audits	On-site audit (every year)	Documentation, on-site audit (on a portion of suppliers every year), unannounced audits	Documentation, on-site audit (on a portion of retailers every year except for multinationals for which the audit is systematic)
Verification conducted by	Accredited independent auditors	Accredited independent auditors	Accredited independent auditors	Accredited independent auditors	Issuer (B Lab)
Ambition	Harmonise standards	Provide transparency to consumers	Drive change industry	Drive change industry	Support positive impact creation by companies
Social practices	Labour conditions, ethical business conduct and quality management	Labour conditions and quality management	Labour conditions and social development of workers	Labour conditions, sourcing strategy, purchasing behaviour, supplier relationships and quality management	Sourcing strategy, purchasing behaviour, supplier relationships and quality management
Validity	1 year	1 year	1 year	1 year	3 years

Financing	Certification fees and audit fees	Certification fees and audit fees	Certification fees	Certification fees	Certification fees
Transparency	Full transparency over certification process	No full transparency over certification process	No full transparency over certification process	Full transparency over certification process and outcomes	Full transparency over certification process and score
Stakeholder engagement	Yes	Yes	Yes	Yes	Yes
Human rights topics	All sectoral risks, employment relationships and migrant work	All sectoral risks and employment relationships	All sectoral risks and employment relationships	All sectoral risks and employment relationships	Forced labour and child labour
Integration of UNGPs	Sound	Sound	Inadequate	Outstanding	Inadequate (except for multinational companies)
Reference to international human rights instruments	ILO Conventions, UDHR, OECD Guidelines and OECD sectoral Guidance	ILO Conventions, ILO Declaration, UDHR and OECD sectoral Guidance	ILO Conventions	ILO Conventions, UNGPs, OECD Guidelines and OECD sectoral Guidance	ILO Conventions on forced labour

TABLE 1: Summary of the comparative analysis between the main clothing industry labels and the B Corp certification

Chapter 6: Recommendations and discussion

6.1. Introduction

Drawing on the outcomes of the comparative analysis carried out in the previous chapter, we develop a set of recommendations which would help B Lab better integrate the responsibility of companies towards human rights of workers in their supply chain in the B Corp certification process for firms in the clothing industry. They were elaborated with the aim that B Lab could provide assurance to its stakeholders that B Corps are meeting their responsibility towards human rights in the supply chain. They were also developed to remain aligned to the B Movement’s philosophy.

In this chapter, the recommendations are first outlined. They are divided in five sections, namely binding requirements, non-binding requirements, references and guidance, verification and Disclosure Questionnaire and Preliminary Risk Review. Then, we discuss the applicability of our recommendations from different perspectives. This part integrates the input of Bernard Gouw, Senior Manager Social Standards at B Lab Global, with whom we had the opportunity to exchange on the feasibility and operationalisation of our recommendations.

Those recommendations are mostly derived from Fair Wear’s certification process, which is aimed at brands exclusively, in contrast to other labels which certify all the operators along the supply chain. Besides, Fair Wear’s assessment tackles the UNGPs guidelines covering the business relationships of a company. Fair Wear’s assessment fits our approach as we decided consider retailers exclusively in the frame of the research. On top of that, the two certification issuers have a similar philosophy, both aiming to drive change, for the clothing industry to be a force for good for the Fair Wear Foundation and for positive societal impact creation by companies in all industries for B Lab.

6.2. Recommendations

6.2.1. Binding requirements

In alignment with most label studied, we would recommend B Lab to require compliance with binding requirements. Certifying companies should meet those requirements, otherwise they would be denied the possibility to be certified, regardless of the score obtained to the different categories of the B Impact Assessment. As a reminder, there are currently no binding requirements in the BIA. Companies have a flexibility in the way they achieve the minimum score across impact areas. Three components composes those binding requirements: code of conduct, compliance with UNGPs and traceability.

6.2.1.1. Code of conduct

A first subsection of the core requirements would relate to a code of conduct destined to the suppliers of a B Corp. The code should lay out the obligations of suppliers' employers towards respecting the human rights of all workers. It should cover all human rights issues specific to the clothing industry and tackled in the assessments of the studied labels, namely child labour, forced labour, discrimination related to employment, freedom of association and collective bargaining, remuneration, working hours, (gender-related) harassment and abuse, safe and healthy working conditions and employment relationships. The code should be based on internationally recognised human rights standards such as the ILO Conventions and make explicit reference to those standards. In addition, drawing on a Fairtrade Textile Standard's requirement, the code of conduct should express the obligation of suppliers to report on any subcontractor they may have. It should furthermore be clearly stated that subcontractors are bound by the same obligations as the supplier and that suppliers are responsible for communicating those duties.

B Corps should be responsible for the enforcement of such code of conduct by their suppliers. The code of conduct would besides be the basis for the human rights due diligence process explained hereunder. This approach is inspired by Fair Wear which has developed a Code of Labour Practices brands should enforce to their suppliers (cf. Appendix 18). B Lab could also undertake the development of such code of conduct which would be similar to all B Corps' suppliers in the clothing industry. In order to do so, B Lab could build on the Code of Labour Practices of Fair Wear as well as the requirements of GOTS, OEKO-TEX Made in Green and the Fairtrade Textile Standard regarding working conditions. OEKO-TEX Made in Green's assessment could be an interesting reference for the occupational health and safety topic as it includes extensive requirements in this regard (cf. Appendix 15, 4.6).

6.2.1.2. Compliance with UN Guiding Principles on Business and Human Rights

A second component of the binding requirement would be related to the compliance of the B Corps with the UNGPs and the three components of the corporate pillar: policy commitment, human rights due diligence and remediation (UN, 2011), with a focus on the guidelines tackling business relationships. The following recommendations are drawn from Fair Wear's requirements embodying the UNGPs.

B Corps should first adopt a policy in which they commit to respect human rights. It should specify the expectations of the company towards its suppliers (materialised in the code of conduct) and other business relationships, in addition to meeting the other UNGPs guidelines for policy commitment (UN, 2011).

The B Corps should then conduct human rights due diligence on their suppliers. As highlighted by the UNGPs, all companies are required to conduct due diligence on their supply chain regardless of their size. However, it should be carried out in the light a company's size, operating context and resources (UN, 2011). B Lab should therefore be considerate of those three elements in evaluating the adequacy of the due diligence efforts of a company on its supply chain.

In conducting due diligence on its supply chain, a B Corp should adopt a risk-based approach. In order to do so, the company should carry out a risk scoping prior to the assessment of adverse human rights risks. This step consists of evaluating the risk profile of suppliers based on a set of factors. Risk factors are country, sector, business model, sourcing model, and product level. The risk profile should be determined according to the probability of risk and severity of harm. By doing so, the firm can identify the most prevalent human rights risks in certain contexts. This process should be informed and conducted regularly.

A B Corp should also be expected to assess human rights risks at its suppliers' level to detect actual and potential human rights adverse impact. The code of conduct addressed hereabove should serve as a basis to conduct those risk assessments. The risk assessment should be carried out through a continuous monitoring process. It consists of gathering information, assessing the risks and communicating about the outcomes of the assessment with the suppliers. The information can be collected through audits but also through information collected from local stakeholders, worker consultations and reports from monitoring visits. The risk scoping outcomes can also be used as input for the human rights risk assessment. It should be conducted on a regular basis, and at least once a year and involve workers. The scope of the risk assessment extends to all suppliers, even those considered in the risk scoping as low risk. Lastly, the outcomes of the risk assessment should be integrated in functions and process related to sourcing.

Before engaging with a new supplier, the certified company should also be expected to gather the relevant information with regards to its human rights performance and to base the sourcing decision on this information. To the extent possible, the information should come from various sources.

When a potential or actual adverse human rights impact is identified, harm should be ceased or prevented. In order to do so, the company should develop time-bound improvement or prevention plans. Involvement of several stakeholders, including workers and workers' representatives and the factory management, in developing those mitigation plans should be required. The prioritization of mitigation actions should be carried out according to the risk profile established in the frame of the risk scoping. Besides, terminating a relationship with a supplier should only be considered if the supplier shows a consistent uncooperative behaviour in the prevention and mitigation of adverse impacts. Progress achieved in the frame of prevention and improvement plans should be tracked. Workers and suppliers should also be involved the tracking and validation of progress. Lastly, B Corps should communicate externally about the most serious human rights risks at their suppliers, the prioritisation in tackling those risks and the established mitigations and prevention programmes.

For the sake of feasibility and in alignment with Fair Wear, the scope of the due diligence should at first be limited to the suppliers responsible for the product assembly stages, that is, the stages after a fabric is produced (cut-make-trim and support processes) (cf. Section 1.3.1.). As those stages are more downstream in the supply chain, these are the stages where the company will likely have the largest leverage on its suppliers (OECD, 2018b). However, as discussed in chapter 2, a Directive on human rights and environmental due diligence will likely apply to certain companies. In the clothing industry, companies concerned are companies in the EEA having more than 250 employees and a global annual net turnover of more than EUR 40 million or companies headquartered outside the EEA and having operations in the E.U. representing an annual net turnover of more than EUR 40 million (if more than half of the turnover was generated in a high impact sector, including the textile and clothing industry). The scope of the due diligence in the frame of the Due Diligence Directive proposal is the entire supply chain, including raw materials (European Commission, 2022). That is why, from when the Due Diligence Directive passes, I would recommend that B Lab extends the due diligence requirements to the whole supply chain for all B Corps having more than 250 employees and a turnover beyond the Due Diligence Directive proposal turnover level. It would enable harmony in due diligence requirements, aside from the headquarters' country and countries of operations as well as the potential delay in implementation of the Directive which could vary among Member States. There are currently 15 B Corps with more than 250 employees operating in the clothing industry (cf. Appendix 4). These will have to comply with the due diligence requirements exposed above, but extending the scope to all their suppliers, when the Directive passes if they have a net annual global turnover of more than EUR 40 million.

The last component of the corporate pillar of the UNGPs is remediation. A B Corp should support the development of an operational-level internal grievance mechanism (in-house or third-party) at its suppliers for workers to raise concern about the adverse impacts suffered. B Corps should be aware of how it is established, what the outcomes are and track its effectiveness. Compliance with the core criteria should furthermore be met (cf. Section 2.4.2.2). Besides, if a B Corp caused or contributed to an adverse impact, it should provide remediation.

6.2.1.3. Traceability

A third subsection is linked to traceability. Traceability has been identified as an important component of the assessment of the studied labels as supply chains of products certified GOTS, OEKO-TEX Made in Green and the Fairtrade Textile Standard must be fully disclosed. Regarding the supply chain of Fair Wear brands, at least 90 of suppliers (expressed in production volume) at product assembly stages should be disclosed. In alignment with the latter, we would recommend that B Corps report on at least 90 percent of their suppliers (expressed in production volume) operating at product assembly stages. The traceability requirement covers the subcontractors reported by the suppliers (cf. Section 6.2.1.1.). Drawing from OEKO-TEX Made in Green's transparency requirements, the minimum information to report on suppliers should include the name of the supplier, the country it operates in, and the processing stage it is responsible for.

6.2.2. Non-binding requirements

The next requirements should be embedded in the BIA questions in the 'Supply Chain Management' subsection of the community impact area. If a company answers positively to those requirements, it will gain points for the final B Impact Assessment score. If some of these are not met, it will not prevent a company from certifying.

The following non-binding requirements are mostly linked to the sourcing strategy, purchasing behaviour and supplier relationships. It is currently also the case in the 'Supply Chain

Management' section of the BIA. Drawing on Fair Wear's requirements on the same matters as well as other best practices, I would recommend that B Lab considers having the following non-binding requirements integrated in its BIA. The requirements tackled here are measures taken at the brand level that can prevent or mitigate adverse human rights impacts but that can also have a positive impact on human rights of workers in the supply chain. Those requirements were defined as non-binding to give an overview of the wide range of measures B Corps can take to enhance human rights impact in their supply chain. Moreover, non-binding requirements give some flexibility to B Corps in adopting the measures corresponding best to their specific context and rewards companies adopting a significant portion of them. It also acknowledges the positive impact brands can have on workers' human rights in the supply chain, besides the mitigation and prevention of negative impact at the supplier level embodied by the binding requirements. This remains therefore aligned with the way the BIA currently works and the B Movement's philosophy.

The four questions which are considered as best practice in the 'Supply Chain Management' section of the BIA should be kept as they embody leading practices in purchasing behaviour and supplier relationships. First, there is a question on the average duration of supplier relationship which also appears in Fair Wear's assessment. It is an important indicator as it helps companies support their suppliers in developing improvement plans (OECD, 2018b). Three other questions are related to the rewards granted to suppliers for enhanced social and environmental performance, the support provided to needy and/or small-scale suppliers and the portion of suppliers with a social and/or environmental certification. For guidance on which practices and processes implemented by suppliers can be considered as enhanced social performance, B Lab could refer to the best practices in GOTS', OEKO-TEX Made in Green's and the Fairtrade Textile Standard's assessments highlighted in the previous chapter (cf. Section 5.4.11.).

The following practices or processes drawn from Fair Wear's requirements should be embodied in new questions in the 'Supply Chain Management' section of the BIA. The BIA should first assess if a company establishes fair contract terms with its suppliers. B Lab should assess the following aspects: payment terms, discounts asked after an order has been placed, penalties, the invocation of force majeure and late payments. Then, a question should be related to the mitigation of root causes of human rights adverse impacts occurring in the retailers' supply chain. Fair Wear limits the scope for this criterion to wages and overtime, but it could be extended to other sectoral human rights issues. Another question should assess the collaboration of the company with its suppliers on the establishment of a production planning process. Advanced efforts in this regard should be the involvement of the company in the monitoring and evaluation of the production process. With regards to remuneration, B Lab should aim to find out whether companies clearly identify the labour costs component in their purchasing prices and whether the B Corp participates in wage increases for suppliers' workers to benefit from a living wage. This section of the BIA should also tackle the issue of unauthorised subcontracting and encourage B Corps to develop a specific policy in that regard, as well as to actively strive to prevent it. Two questions on transparency should also be added. One should relate to the public disclosure by the B Corp of a significant portion of its suppliers. The other would tackle advanced reporting practices, including additional information on production locations (compared to the information required in the traceability component of the binding requirements) and the disclosure of time-bound improvement programmes. A last question should concern the potential gender lens applied to the various due diligence steps. It is also recommended by the OECD sectoral Guidance in the light of the gender discrimination in the industry (OECD, 2018b).

As discussed in chapter 4, the subsection on supply chain management currently only accounts for about five percent of the whole assessment. Sourcing strategy, purchasing behaviour and the management of supplier relationship make up a large part of the non-binding requirements. As seen in chapter 1, the latter can have an important impact on workers along the supply chain. B Lab should find a way to enable a certain degree of flexibility on which practices or processes the retailers in the clothing industry adopt while making sure that they are not able to completely overlook this section of the BIA. Two possibilities would be to give more weight to this section in the whole assessment or to determine a certain score threshold that should be achieved by the B Corps to this specific section. To materialise the difference in resources between companies of different sizes, B Lab should give more credit to a smaller company for adopting the same processes or practices as a larger one.

6.2.3. References and guidance

Another shortcoming identified in chapter 4 we aim to address in the frame of these recommendations are the references to internationally recognised human rights standards, instruments and tools. When tackling human rights in the assessment, B Lab should make explicit reference to ILO Conventions, just as the other labels do, including when addressing the binding requirement related to the code of conduct (cf. Section 6.2.1.1.). Where relevant, B Lab should also refer to the UDHR, the ILO Declaration, the UNGPs and the OECD

Guidelines. The OECD sectoral Guidance should also be included as guidance in the part of the assessment tackling the due diligence on suppliers presented hereabove. It would enable B Corps to have internationally recognised standards and instruments to refer to when completing the assessment. Human rights or social tools referred to in the assessment of the four labels studied and mentioned in the previous chapter could also be included as additional guidance to several questions (cf. Section 5.4.12.).

6.2.4. Verification

The verification process should be different for binding and non-binding requirements. Regarding the binding requirements, companies should provide supporting documentation on the code of conduct and due diligence requirements as well as the required disclosure information on suppliers in the frame of the traceability requirement. An update and evaluation of these documents should be conducted every year by B Lab. This frequency was chosen to align with the duration of certification and/or verification frequency of the studied labels. Drawing on Fair Wear's verification, a portion of B Corps' suppliers should in addition be audited to verify compliance with the different binding requirements. Taking the same label as reference, B Lab should audit about 10 percent of the suppliers (expressed in production volume) of B Corps in the clothing industry over three years. Regarding non-binding requirements, they should be evaluated every three years, in the same way as the other questions of the BIA. B Corps could therefore be asked to provide additional documentation to one or several questions randomly selected in the 'Supply Chain Management' section.

6.2.5. Disclosure Questionnaire and Preliminary Risk Review

The Disclosure Questionnaire and Preliminary Risk Review should remain in the certification process as they supplement the requirements presented hereabove. The first enables the identification material issues such as human rights violations in the supply chain and potentially triggers public disclosure on those material issues. The statements tackling human rights should however explicitly refer to relevant human rights for certifying companies to know the scope of human rights which applies. Besides, the Preliminary Risk Review should also be kept as it enables to prevent a company that would be associated with concerns or allegations of human rights violations to certify.

6.3. Discussion on the recommendations

Two important dimensions were considered in drawing the recommendations presented in the previous section.

On the one hand, they were designed in a way that B Lab can provide assurance to its stakeholders that all B Corps are meeting the human rights responsibility they have towards workers in their supply chain according to the leading framework in this field at the international level. Even if adverse human rights impacts were to occur, B Lab could demonstrate that the company made every reasonable effort to prevent it from happening (UN, 2011). If a B Corp in the clothing industry is involved in a scandal due to human rights violations in its supply chain, and if the B Corp certification is found unable to assess how a company meets its responsibility towards human rights in its supply chain, the credibility of the B Corp certification could be put at risk. Indeed, such a finding would be considered inconsistent with B Lab's assertion that the B Corp certification demonstrates that companies meet high standards of social responsibility.

On the other hand, the recommendations were designed to provide a certain degree of flexibility to companies and to take into account their operating context, size and resources and to align with B Lab’s current approach to the BIA.

In this last section, we want to take a step back and look at the operationalisation and feasibility associated with those requirements. The next reflections were developed using the input of Bernard Gouw, Senior Manager Social Standards at B Lab Global. The transcript of our interview with Bernard Gouw can be found in Appendix 21.

6.3.1. Verification

Verification by the B Corp of the compliance of its suppliers with the code of conduct in the recommendations is done through continuous monitoring in the frame of the due diligence. Audits are one of the different ways through which monitoring can be carried out, though not mandatory. Other recommendations could have been that all entities in the supply chain of B Corps should certify against a more limited certification, focused on the items of the code of conduct or that B Corps should necessarily conduct a yearly on-site assessment at its suppliers on the different aspects of the code of conduct. This is how the three labels certifying products studied function. All entities involved in the production of a clothing item must complete a certification covering all human rights sectoral issues and those entities are subject to an on-site audit every year or year and a half to verify compliance. This approach was not chosen for two reasons. First, audits are costly, from 2000 to 3000 euros for each supplier. As highlighted by Bernard Gouw (personal communication, July 20, 2022), Small and Medium Enterprises would not be able to afford such cost. Second, monitoring is also the approach put forward by the OECD sectoral Guidance as it gives a broader view on human rights than audits which are assessments of the human rights situation at a supplier at a specific point in time (OECD, 2018b).

Regarding verification by B Lab, recommendations state that B Lab should audit a portion of B Corps' suppliers every year. Bernard Gouw (personal communication, July 20, 2022) pointed out two limitations. There would first be issues regarding the resources which are needed to conduct those audits. Audits are costly as explained hereabove. Besides, the whole process takes a lot of time, especially considering the large number of audits which would need to be carried out. Then, conducting audits requires specific skills, including knowledge of the language and local context. B Lab does not have that in-house expertise. To address those two issues, B Lab could contract with third-party auditors in the countries where B Corps' suppliers are located. Selected auditors should try to address the issues of social audits identified in section 1.4.1.10. to the largest extent and be familiar with the local language and context. This would match the approach of all labels studied that have recourse to external auditors. The issues of cost and time required for follow-up would nevertheless remain. Bernard Gouw suggested a risk-based approach to verification which would better fit in terms of feasibility for B Lab. The latter could in that case conduct an audit on a portion of the suppliers of one B Corp that would be selected in the frame of a risk analysis carried out every year. According to Bernard Gouw, B Lab should focus on the largest B Corps in the risk analysis and have recourse to third-party auditors. Lastly, Bernard Gouw pointed out the limitations of traditional social audits and the importance to actively involve workers in the audit process to counter these limitations. He also said that there currently does not exist a mainstream alternative to social audits.

6.3.2. Code of conduct

Another important consideration relates to the code of conduct. As suppliers are likely to supply different brands, they may be required to comply to several code of conducts which vary on a certain number of points. In developing a common code of conduct to all B Corps' suppliers as suggested in section 6.2.1.1., B Lab should strive to collaborate with other certification bodies and companies in the industry for suppliers to be required to comply with a harmonised set of requirements.

Besides, according to Bernard Gouw (personal communication, July 20, 2022), the code of conduct should be adapted to the context of the suppliers as internationally recognised standards such as the ILO Conventions are not all internationally accepted. For example, freedom of association is not allowed in China. Also, in most Asian countries, international standards on overtime are too stringent compared to the reality of the situation in the field. Bernard Gouw suggested the adoption of a layered approach with more or less strict criteria suppliers should comply to depending on their specific context (Bernard Gouw, personal communication, July 20, 2022).

Conclusion

Final conclusion

The starting point of our empirical research is the outcomes of two scientific articles highlighting the shortcomings of the B Corp certification in relation to human rights. They triggered our interest in finding ways to address those shortcomings. The aim of our research was therefore to provide recommendations on how to strengthen the B Corp certification process in relation to human rights. The scope of our research was limited to the clothing industry and workers in the supply chain because of the severity of human rights risks these two are associated with.

After an in-depth analysis of the B Corp certification process, we observed that B Corps are not required by the certification to meet their responsibility towards human rights in the supply chain as determined by the UN Guiding Principles on Business and Human Rights (UNGPs). In addition, the section of the B Impact Assessment (BIA) which is related to supply chain management represents a tiny part of the whole assessment. B Corps could therefore totally overlook this part of the assessment and still certify as the assessment only comprises non-binding requirements against which the company must achieve a minimum score. Lastly, when human rights are tackled in the assessment, there are few if any references to international human rights instruments.

To identify how those shortcomings could be addressed by B Lab, we examined how other certifications in the clothing industry work and particularly how their assessments integrate requirements on human rights in the supply chain. These are GOTS, OEKO-TEX Made in Green, the Fairtrade Textile Standard and Fair Wear. A comparative analysis was carried out based on a framework applied to each label individually.

Thanks to the outcomes of the comparative analysis, we were able to develop recommendations. The latter were developed for B Lab to be able to provide assurance to its stakeholders that all B Corps are meeting their human rights responsibility in the supply chain. They were also designed to provide a certain degree of flexibility to B Corps and to take into account the operating context, size and resources of a B Corp. Lastly, we strived to remain aligned with the B Movement’s positive approach which is reflected in the B Corp certification process. Most of the recommendations are drawn from Fair Wear which is intended for clothing brands exclusively and aims to drive change in the industry, especially in terms of working conditions and power balance between brands and suppliers.

In order to certify, B Corps should first comply with a set of binding requirements. They encompass a code of conduct covering all human rights sectoral risks enforced by B Corps on their suppliers. They also include compliance with UNGPs regarding due diligence on suppliers. A last component of the binding requirements relates to traceability and requires the disclosure by B Corps of ninety percent of their suppliers operating at product assembly stages (expressed in production volume). Verification of compliance with those requirements should be carried out every year. It should be based on supporting documentation provided by the B Corp to demonstrate compliance and verification audits performed by B Lab on a portion of B Corps' suppliers.

Then, non-binding requirements should also apply with regards to human rights in the supply chain. They should relate to B Corps' sourcing strategy, purchasing behaviour and supplier relationships. Those processes and policies taken at the retailer level embody ways through which companies can have a positive impact or prevent and mitigate negative impacts on human rights of workers in the supply chain. Those requirements would be part of the 'Supply Chain Management' section of the BIA. To prevent B Corps from overlooking a significant part of the questions in this section, the latter should be given a higher weight in the whole assessment or a target score to achieve to the section should be determined. Furthermore, the weighting of points would be tailored to consider a B Corp's size. Besides, verification of compliance should be done in the same way as for other BIA questions, namely self-assessment and provision of supporting documentation to part of the questions.

Lastly, the feasibility of the recommendations presented hereabove was discussed, integrating input from Bernard Gouw, Senior Manager Social Standards at B Lab Global. We noted that B Lab probably does not have the necessary resources (in terms of time and money) and skills to conduct verification audits on B Corps' suppliers. B Lab could therefore adopt a risk-based approach and audit the suppliers of one B Corp with a high-risk profile every year. The non-profit organisation could in addition rely on external auditors to conduct audits. Regarding the code of conduct, B Lab should strive to collaborate with other industry companies and certification bodies to provide a harmonised set of requirements to B Corps' suppliers. It should also consider adapting the code of conduct to the context of B Corps' suppliers' countries.

Relevance of the research topic

B Lab is currently reflecting on how human rights, among other material topics, should be integrated in the assessment to better ensure that B Corps are companies using business as a force for good (B Lab, 2022b). Following public and stakeholder critique, the organisation is undergoing its first large scale revision since its inception in 2007 (Bernard Gouw, personal communication, July 20, 2022). It plans to develop a set of performance requirements, which are mandatory requirements, on ten material issues (B Lab, 2022b). Those mandatory requirements will enable alignment of B Corps in terms of performance on the material issues (B Lab, 2022a). They will also be developed to be more specific and clearer for B Corps, while keeping a certain degree of contextualization to size, sector and region (B Lab, 2022b). As far as social sustainability is concerned, the material issues are human rights, living wages, worker empowerment and justice, equity, diversity, and inclusion (B Lab, 2022b). With regards to human rights, performance requirements will mostly relate to the UN Guiding Principles on Business and Human Rights. Those performance requirements represent a major change as companies are currently given some flexibility in completing the assessment. Indeed, they solely need to achieve a target score without having to comply with any specific binding requirement. B Lab is currently reflecting on how to include both the BIA and the performance requirements in the B Corp certification process (Bernard Gouw, personal communication, July 20, 2022). This thesis could serve as input to the ongoing reflection on the revision of the B Corp certification process.

Human rights due diligence in the supply chain is also matter on the E.U. political agenda with the Directive proposal on Corporate Sustainability Due Diligence which would enforce human rights and environmental due diligence on the supply chain for some categories of EEA companies or companies having operations in the E.U. By classifying the textile and clothing industry as a ‘high impact’ sector, the E.U. acknowledges the significative adverse impacts that exist in its supply chain from a human rights and environmental impact perspective (European Commission, 2022). This Due Diligence Directive would represent the first legally binding guidelines on due diligence at the supranational level for companies which are not multinational companies.

Limitations

This thesis presents certain limitations.

First, the scope of our thesis is somehow limited. The recommendations were developed for B Corps in the clothing industry. The focus was further put on the rights of workers in the supply chain, although it was acknowledged that other groups' human rights could also be impacted negatively. It would therefore have been interesting to investigate how the human rights responsibility of businesses towards a wider group of stakeholders is integrated in the certification process and if the latter could have been strengthened in that sense as well.

Second, the recommendations were drawn from other labels in the industry. Even though they involve a wide range of industry stakeholders, they could present limitations in the way they integrate human rights in their assessments. In addition, some data related to the assessments of two of the labels are not publicly available and requests to access them were denied. The breadth of the analysis could therefore be affected to some extent.

Third, we have only received feedback on our recommendations from a person working at B Lab. Even though this person was qualified to give us thorough inputs, exchanging with other stakeholders such as B Corps operating in the clothing industry on the feasibility and operationalisation of our recommendations could have added valuable insights to our work. However, such interactions were hardly feasible for practical reasons.

Avenues for future research

The recommendations provided in the frame of this thesis were meant to be applied to the B Corp certification process of companies in the clothing industry. They could, to a certain extent, be applied to other industries where human rights risks are prevalent in the supply chain. The recommendations should however be tailored to the specific human rights risks and the other dynamics in those industries affecting human rights along the supply chain. The E.U. established a list of high impact sectors in the frame of the proposal for a Directive on Corporate Sustainability Due Diligence. They include agriculture, the manufacturing and trade of food products and the extraction and trade of mineral resources (European Commission, 2022). Those would be sectors for which B Lab could apply similar requirements to those developed in this thesis for the clothing industry.

Lastly, the focus of our research is on human rights. However, as seen in chapter 1, the clothing industry has a significant negative impact on the environment. It could be interesting to investigate if the B Corp certification process assesses whether companies identify, prevent and mitigate adverse environmental impact in their supply chain. If not, it could be relevant to consider additional binding requirements of similar nature than the ones developed in this thesis.

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Abstract

This thesis aims to develop recommendations on how the B Corp certification process could be strengthened from a human rights perspective, considering the case of human rights of workers in the supply chain in the clothing industry. The shortcomings of the certification process in relation to human rights in the supply chain are first identified. To find ways to address those shortcomings a comparative analysis with leading labels in the clothing industry is carried out. The analysis is primarily focused on how the latter integrate human rights in their assessments. The outcomes of the comparative analysis enable to develop recommendations aimed at strengthening the B Corp certification process from the perspective of human rights in the supply chain. The recommendations include binding requirements companies would have to comply to in order to be eligible for certification.

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