Navigating corporate responsibility in global supply chains using codes of conduct

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"My friends, the simple fact of the matter is this:
If we cannot make globalization work for all,
in the end it will work for none."

Kofi Annan
29 January 2001
Secretary General of the United Nations 1997 – 2006

Table of Contents

Figures, Tables & Conceptual models

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List of Abbreviations

BHR	Business and Human Rights
CSDDD	Corporate Sustainability Due Diligence Directive
CSR	Corporate Social Responsibility
ILO	International Labor Organization
MNE	Multinational Enterprise
SCC	Supplier code of conduct
UNGP	United Nations Guiding Principles on Business and Human Rights

1 Introduction

In the interconnected world of global commerce, the clothes we wear, the gadgets we use, and the products we consume often conceal a darker reality—the exploitation of vulnerable workers in global supply chains. From the rubble of the Rana Plaza disaster to the cobalt mines of the Democratic Republic of Congo, human rights violations continue to plague the very systems that fuel our modern lives. These tragedies underscore a pressing question: Who should bear the responsibility for safeguarding the rights and dignity of workers in the complex web of global trade?

Examples of labor rights tragedies in global supply chains

- The Rana Plaza disaster, Bangladesh, 2013. A structural building failure led to the collapse 1134 dead and 2500 injured garment workers. The complex housed five garment factories supplying western brands.
- Pakistan factory fires, 2012. Fires in a textile industry kill 289 workers and injure more than 600. The factory exports its garment to Europe and the US.
- Uyghur forced labor, 2017 – present. A detained religious minority in China undergoes forced labor in supply chains of international brands, notably for the production of cotton.
- COVID-19 supply chain disruptions and impact on workers, 2020. The pandemic disproportionately affects most vulnerable workers, and especially women, as multinationals cancel contracts with suppliers without paying compensations.[1]
- Cobalt mining, Democratic Republic of Congo, 2016-present. There is no such thing as a clean supply chain of cobalt, as child labor and modern slavery is rampant in artisanal mines of the DRC for the production of cellphone batteries.

1.1 Setting The Stage: The governance of human rights in a globalized world

The instances of human and labor rights tragedies described in the box above have several elements in common: victims are workers in global supply chains, working for multinational brands, in large part for products aimed at western consumers. Seeking responsibility in this complex web of

1 ILO Research Brief, The supply chain ripple effect: How COVID-19 is affecting garment workers and factories in Asia and the Pacific, October 2020

intertwined actors operating transnationally drives us to the question raised by Robert Dahl in 1961: Who governs? In other words, who are the actors of governance of global supply chains? While the term *governance* is traditionally associated with the institutions of national government, this association does not hold for activities transcending national borders (Detomasi, 2007). Private actors' transnational activities are currently largely unregulated by a public '*government*' at the international level, even in the era of global economy and interconnectedness across borders. With globalization, global governance – referring to policy making and policy implementation on a global scale – is no longer a task managed by the State alone (Scherer et al., 2006). Instead, private actors have progressively become instrumental players of international governance. With this expanded role comes increased expectations for businesses to act in the common good and uphold social responsibility. As developed in Young's theories on *shared responsibility*, individuals and institutions bear collective responsibility for addressing social injustices and structural inequalities, even if they are not directly responsible for causing them. This responsibility is particularly significant within multinationals' supply chains, as Krause et al. (2009) assert that '*a company is no more sustainable than its supply chain*'. Consequently, the social responsibility for global production within supply chains increasingly falls to multinationals. Expectations are now placed on these businesses to protect and promote workers' rights throughout their supply chains (Dahan et al., 2021).

Embracing these trends, this dissertation relies on the premise that businesses have a role towards society beyond their economic purpose, and especially in their global supply chains. To conform to societal expectations, businesses have adopted Corporate Social Responsibility (CSR) policies such as codes of conduct, setting ethical expectations and labor standards applicable to their external business partners. This corporate reaction shows proof – at least on paper – that companies accept to some extent a social responsibility in global supply chains. But what are companies really saying, and what happens beyond the ethical standards set in codes? This dissertation tries to answer these questions. In this introduction, I set the context, problematic, and justify the specific choices made for the present investigation. I then present the intended contributions of my research, and finally present the outline of this dissertation.

1.1.1 The global supply chain: Landscape of modern production

As underlined by Gereffi et al. (2005), the world economy has changed in significant ways during the past several decades, especially in the areas of international trade and industrial organization. In his theoretical framework capturing what he calls the global value chains, Gereffi underlines the two main features of the contemporary economy: The globalization of production and trade, and the vertical disintegration of transnational corporations – meaning the reduction of the direct ownership over a large part of their production and services. These two shifts laid the groundwork for the creation of new forms of governance: the global value chains.

Supply chains are defined as vertically coordinated networks of firms engaging in activities associated with the production and distribution of an end product (Boyd et. al, 2007). In the context of this dissertation, the term *global supply chain* is selected to refer to the sequence of activities involved in the production and distribution of goods or services from raw material extraction to final consumption, dispersed across different countries.[2] Their complexity – highlighted by Gereffi and many other scholars attempting to theorize this network form of governance [3]- underscores the multifaceted nature of modern commerce, and the intricate relationships between various stakeholders. Supply chains encompass diverse industries and involve a myriad of actors, from multinational corporations to local suppliers and subcontractors, thus dispersed across multiple tiers and forming levels, with a closer or longer distance between buyers and suppliers. The transnational component of the definition makes it a particularly complex issue for the management, governance, and regulation of environmental and social outcomes.

Liberal economists, most famously Thomas Friedman, have advocated for a supply chain form of global production, arguing that the economic pattern of the global supply chain is beneficial for all. In this 'win-win' scenario, Northern countries profit from cheaper labor while Southern countries gain in employment possibilities and foreign investments (Friedman, 2005). To some extent, supply chains have indeed allowed developing countries to acquire competitiveness on the global market. However, another trend is observed as inherent to the interconnected world and the large base of suppliers that MNEs may choose from: the so called 'race to the bottom'. Corporations constantly move their manufacturing to areas with lower labor costs and fewer labor regulations (Backer, 2008). Supply chains thus become a critical part of the competitive landscape, by drastically improving firms' capabilities of lowering production and transaction costs while accelerating the development of new products. This dynamic calls for a multi-faceted governance of global production, as companies have different organization and ownership over their supply chains: multinationals either own their production site; are the only buyer from a production site (thus have dominance over it); or work with formally independent suppliers (Barrientos & Smith, 2007).

The social and environmental consequences of this economic produc-

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2 Despite this choice of terminology adopted for coherence and harmonization of the dissertation, I did not have the primary intention of excluding *value chains* from the analysis or adopt a narrower approach than value chains.

3 Among them one can cite for instance Timothy Sturgeon on the evolution and governance of global production networks, Susan Christopherson on the geographical dynamics of global supply chains, and Jennifer Bair investigating governance of global production networks with a practical emphasis on the role of multinational corporations.

tion pattern have provoked significant controversies over the role of global brands and their local suppliers. Multinationals are often seen as exploiting developing countries' low wages and weak social and environmental regulation to produce low-cost goods at the expense of local workers' welfare (Locke, 2013). This contributes to the global North-South divide of wealth, with a systemic reproduction of mechanisms of domination, named by some as 'post-colonialism' (Hoogvelt, 2001). In fact, the enduring power differentials between multinational corporations based in the Global North and local suppliers in the Global South reflect historical colonial dynamics, perpetuating inequalities and reinforcing patterns of dependence. The legacy of colonialism has left many developing countries with economic structures that prioritize the extraction of resources and the exploitation of labor to serve the interests of former colonial powers. These concerns and the fight against global inequalities and inhumane treatment underscore the necessity to examine global supply chains beyond a mere economic perspective.

1.1.2 The global governance gap of transnational production

Despite the growing interconnectedness of global commerce, private actors operating transnationally widely operate without a direct and overarching obligation to respect human rights within their global supply chain. While state governments legislate corporate practices within their national borders, the regulation of labor issues occurring in other countries, particularly at the supplier level, remains largely unaddressed. The absence of a cohesive international legal framework has created what international organizations refer to as a 'regulatory gap' in governing the conduct of businesses within global supply chain.[4] Attempts to fill this gap have included initiatives for an international legally binding treaty to regulate the activities of transnational corporations in international human rights law.[5] However, consensus on such measures has been elusive, leaving gaps in accountability and enforcement. Some national courts have attempted to bring forward responses, by opening the possibility for foreign victims to come claim their rights in the headquarter country of the multinational. In the absence of an international legal basis, this extraterritorial judicial-based system has limits: it is reserved to most privileged victims, and often, courts

4 The UNGP notably recognizes this gap in pillar I, principle 3 on the general State regulatory functions. In the commentary, the principle mentions that the failure to enforce existing laws that directly or indirectly regulate business respect for human rights is often a significant legal gap in State practice.

5 The open-ended intergovernmental working group on transnational corporations and other business enterprises with respect to human rights is in charge of elaborating this international legally binding instrument to regulate, in international human rights law, the activities of transnational corporations and other business enterprises. However, negotiations are ongoing since 2014, and the seventh session of October 2021 was not conclusive.

consider themselves incompetent to rule (such as in Kiobel v. Royal Dutch Petroleum co[6]).

Beyond this *regulatory* gap, business and human rights scholars also claim that we are evolving in a global *governance* gap, meaning the absence of robust mechanisms at the international level to ensure that corporations uphold human rights standards in their operations worldwide (Ruggie, 2008). Despite increasing awareness of the significance of corporate responsibility in respecting human rights, there remains a disconnect between the principles and the practices of businesses and the ability of states and international entities to hold them accountable for any violations. The publication of the "protect, respect and remedy" framework by John Ruggie in 2011, also known as the UN Guiding Principles on Business and Human Rights (UNGPs), was the first global attempt at addressing this gap. The second pillar of the UNGP defines the responsibility of businesses to respect human rights and outlines how businesses should adopt adequate policies and procedures to address human rights impact, by conducting due diligence. It played a pivotal role in shaping corporate behavior, by promoting the idea of corporate self-regulation. The Rana Plaza Disasters in 2013 pushed further this agenda at the international level, as civil society increasingly advocate for a stronger corporate accountability of businesses. Since 2011, the UNGPs have significantly affected business attitudes to human rights despite their voluntary nature, as businesses now accept, in principle, responsibilities to avoid, mitigate, and remedy human rights violations caused by their own operations (Muchlinski, 2021). The supporting guidance to the Guiding Principles indicates that 'public commitments' to respect human rights "*may take the form of a single, stand-alone public policy regarding respect for human rights, or be included in a broader document, such as a code of ethics*".[7] As a result, codes of conduct have become popular, with a trend towards the standardization of supplier codes (Schleper & Busse, 2013).

For a long time, business practices have been regulated by a soft law approach covering voluntary frameworks and standards. These international standards have been criticized to 'lack teeth' (Van der Sangen & Lafarre, 2021), considering the absence of binding outcomes for companies,

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6 Kiobel v. Royal Dutch Petroleum Co., 569 U.S. 108 (2013). In this case, Nigerian plaintiffs sued Royal Dutch Petroleum Co. (Shell) for alleged human rights violations committed by Nigerian government forces protecting the company's operations. The U.S. Supreme Court ultimately ruled in 2013 that the Alien Tort Statute did not apply extraterritorially to conduct occurring outside the United States, effectively limiting the ability of foreign plaintiffs to sue corporations in U.S. courts for human rights abuses committed abroad. This decision reflected the court's reluctance to assert jurisdiction over cases involving multinational corporations operating overseas

7 UN Guiding Principles Reporting Framework with implementation guidance, Shift Project, 2015. Accessible at: https://www.ungpreporting.org/wp-content/uploads/2015/02/UNGuidingPrinciplesReportingFramework_withimplementation-guidance_Feb2015.pdf (last accessed June 2024).

or sanctions in case of violations of these standards. Today, the voluntary soft law framework, mainly developed by private actors with codes of conduct, is deemed insufficient, as highlighted by Jägers, who underlines: "*Transnational private regulation is also not THE answer*" (2013, p. 327). The past few years mark a paradigm shift in this soft law approach, as the legal framework significantly evolves to increase corporate accountability and as governments attempt to regain leverage to promote social and sustainability concern.

1.1.3 The paradigm shift towards binding corporate social responsibility

Recently, regulatory institutions have recognized the gaps in the current approach and the need to regulate transnational business actions concerning social and environmental impacts. In its Resolution on sustainable corporate governance,[8] the European Parliament concluded that soft law instruments and voluntary international initiatives promoting sustainable corporate governance are ineffective in changing corporate behavior towards sustainability. This conclusion, also shared by national parliaments and governments, explains the progressive shift from voluntary CSR standards to an increasingly mandatory framework, referred to as the "legalization of CSR" at the EU level (Berger-Walliser & Scott, 2018, p. 169). Several recent developments highlight this shift, such as the Shareholder Rights Directive II of 2019 requiring institutional investors to develop and disclose their engagement policies, including ESG factors ; The Non-Financial Reporting Directive (2014) requiring certain large companies to disclose information on the way they operate and manage social and environmental challenges ; and the Corporate Sustainability Reporting Directive (2021) amending and significantly expanding the scope of the Non-Financial Reporting Directive. These Directives promote access to transparency and include obligations of information disclosure. Most recently, the EU went one step further in this direction, with the adoption of the Corporate Sustainability Due Diligence Directive (CSDDD) in June 2024.[9] This Directive mandates companies to conduct due diligence to identify, prevent, mitigate, and account for actual and potential adverse impacts on human rights and the environment – thus going beyond a transparency obligation. The shift towards the legalization of CSR also occurs at the national level, and especially in Europe. For instance, mandatory human rights due diligence laws are adopted in differ-

8 European Parliament resolution of 17 December 2020 on sustainable corporate governance (2020/2137(INI), accessible at: https://www.europarl.europa.eu/doceo/document/TA-9-2020-0372_EN.html

9 European Parliament legislative resolution of 24 April 2024 on the proposal for a directive of the European Parliament and of the Council on Corporate Sustainability Due Diligence and amending Directive (EU) 2019/1937

ent countries. France was the first to adopt due diligence laws on the *"devoir de vigilance"*[10] in 2017, later followed by Norway, and Germany.

Among these recent steps, the Corporate Sustainability Due Diligence Directive (CSDDD) constitutes the most prevalent proof of the shift towards binding corporate social responsibility. Following the Directive, companies must integrate due diligence within their corporate policies, notably via the adoption of a code of conduct to be complied with by the company and its subsidiaries (Article 7 of the Directive). This article marks the transition from the voluntary to the mandatory adoption of supplier codes of conduct. Yet, the EU legislator leaves companies in charge of defining the standards applying in their supply chains, as there are no obligations nor recommendations regarding the content of codes in the CSDDD. The Directive is a good example of a legislation mixing public and private policymaking, as public authority is activated to solidify self-regulatory arrangements across the different stages of the policy process (Porter & Ronit, 2006). As a result, transnational private regulation will continue to play an important role in the upcoming years with the implementation of the CSDDD, which heightens the relevance of research on private regulation and codes of conduct.

Coincidentally, this doctoral research began in March 2020, and a few months later the European Parliament submitted its first legislative-initiative resolution on due diligence, asking the Commission to introduce mandatory due diligence legislation to avoid fragmentation and to give businesses and citizens legal certainty.[11] Four years later, in April 2024, the European Parliament adopts the due diligence Directive, as I complete my dissertation in June 2024. Considering the groundbreaking changes promised by the Directive on the integration of human rights concerns within corporate policies, this thesis could not be timelier. This research is not investigating the specificities of due diligence laws but focusses on supplier codes of conduct – a central component recognized by the CSDDD.

1.2 Exploring Gaps in Understanding Supplier Codes of Conduct

While SCCs gain traction as tools to address the global governance gap, scholars have highlighted both their potential and limitations. Some view SCCs as promising mechanisms for enhancing worker rights (Pearson & Seyfang, 2001; Ruggie, 2004), others express concerns about the legitimacy and efficacy of private regulation (Amengual & Bartley, 2022). Despite ongoing efforts to assess SCC effectiveness, several key gaps in the literature persist, shaping the focus of this research.

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10 *Loi sur le plan de vigilance* Law 2017-399 of March 27, 2017 relating to the duty of vigilance of parent companies and supply companies.

11 European Parliament Draft Report with recommendations to the Commission on corporate due diligence and corporate accountability (2020/2129(INL), accessible at: https://www.europarl.europa.eu/doceo/document/JURI-PR-657191_EN.pdf

Firstly, there remains ambiguity regarding the intended scope and content of SCCs. While the overarching goal is to establish minimum labor standards, comprehensive information about the specific labor rights addressed in these codes remains elusive. Béthoux et al. (2007) offer an initial examination of SCC content, albeit with a focus on internal business codes that apply to a company's own employees. However, there are still unanswered questions regarding the inclusion of specific labor rights in SCC and whether these rights are derived from internationally recognized standards, such as those set by the International Labour Organization. As highlighted by Paiement and Melchers (2020), reference to international law can give legitimacy to codes of conduct – but may also create '*an aura of labor rights protections*', one that refers to instruments that are not specifically addressed to private actors and thus not directly transposable to the private context. This would mean that these instruments set inherently uncertain requirements for private actors, thus failing to systematically protect rights and create safe working conditions. The authors explained how codes engage with international instruments, based on an analysis of thirty-eight codes (Paiement & Melchers, 2020). Pursuing this research on a larger scale and including comparative elements for SCC content is highly relevant to understand multinationals' objectives.

Secondly, while there exists a substantial body of literature on corporate codes of conduct, the focus has been predominantly centered on internal standards for corporations' employees, as observed in the literature review of Babri et al. (2019). Only recently has attention shifted towards examining the effectiveness of SCCs applied to external stakeholders, such as suppliers (Jedynak, 2018). Despite this emerging scholarship, there remains a lack of systematic approaches to comprehensively understand and evaluate the implementation and impact of SCCs on supplier practices (Babri et al., 2019). A systematic approach in this context would entail the creation of a research design including methodologies that systematically gather and analyze data on SCCs' implementation, outcomes and factors across different contexts and industries. For instance, a theoretical model was developed by Kaptein & Schwartz (2007), allowing to understand the relevant factors influencing the effectiveness of a code of conduct. This study offers a benchmark for companies to assess their codes against other corporate codes and the items they address. Such systematic approaches allow researchers to move beyond anecdotal evidence or case studies and instead provide robust and generalizable insights into the role and effectiveness of SCCs in promoting ethical labor practices within global supply chains. In the investigation of SCC effectiveness and implementation, the scholarship is missing such systematic approach, thus rendering the literature scattered and focusing on different factors yet without a comprehensive global overview of the problematic. To address this gap, it is necessary to establish a list of influencing factors to take into account when assessing SCC effectiveness, to identify key variables and indicators, and to employ rigorous and coherent research methods to gather empirical evidence on the impact of corporate policies in global supply chains.

Thirdly, scholars have emphasized the challenges associated with SCCs, especially concerning their implementation and diffusion throughout global supply chains suppliers and cascading down to all suppliers. As codes respond to global societal expectations, there is a risk of window dressing (Esbenshade 2004), wherein codes are adopted primarily to create a façade of ethical supply chain practices without substantive implementation. Some characterize this phenomenon as the "*symbolic adoption*" of SCCs (Bromley & Powell, 2012, p.15), while others go as far as to call it "*organized hypocrisy*" (Lim & Tsutsui, 2012, p.81). Empirical research has long documented empirical evidence of the inconsistent or weak implementation of labor codes (Cao and Jayasinghe, 2023). This notably highlights the necessity for a deeper understanding of the factors influencing implementation practices.

Finally, the effectiveness of SCCs in addressing the power imbalances within global supply chains remains underexplored. While SCCs aim to promote ethical practices and protect workers' rights, they often operate within complex power dynamics characterized by unequal relationships between buyers and suppliers. Understanding how these 'internal power dynamics' – as referred to by Tilcsik (2010) influence the adoption, implementation, and enforcement of SCCs is essential for designing more effective governance mechanisms within supply chains.

1.3 Research question: An interdisciplinary socio-legal approach

Given the global context of corporate responsibility in supply chains and the existing gaps in the literature on corporate self-regulation, this research is both timely and relevant, especially amidst significant regulatory changes worldwide. The aim of this research is to address the following question:

> *To what extent are multinationals addressing labor risks in their global supply chains when adopting and implementing supplier codes of conduct, and what are the factors influencing this process?*

This central research question is further divided into the following sub-research questions, addressed subsequently in each chapter:

- What are the legal obligations associated with SCCs, and what legal effects do they entail for multinationals?
- What do we know about SCC effectiveness to improve labor standards in global supply chains?
- What promises are formulated by MNEs when adopting their codes?
- Do companies walk the talk between their commitments and their actions?

- How do human rights experts working with multinationals perceive the adoption and implementation of their SCCs, and what is their take on the upcoming legislative framework on mandatory due diligence?

To address the urgent need for mitigating global inequalities and ensuring sustainable production methods, I adopt a socio-legal approach. This topic necessitates an interdisciplinary perspective: an economic lens alone does not adequately address the urgency of global inequalities; a purely legal perspective is too limited to understand corporate practices; and a sociological angle lacks the investigations and possibilities for legal solutions to increase corporate accountability, where necessary. The interdisciplinary nature of this study is essential, as the topic lies at the intersection of various academic disciplines (Rasche & Waddock, 2021).

As the formulation of the research question indicates, this investigation is focused on the corporate perspective. Historically, efforts to regulate economic activities for the protection of fundamental rights originated from private actors, as underlined in the context-setting and for lack of an overarching global framework regulating transnational activities of private actors. This underscores the importance of a company-centered approach, as businesses have mainly operated outside of the traditional legal framework. While there is a shift towards greater intervention of public actors in the governance of supply chains, legislation must align with practices established by private entities. This context also highlights the necessity of adopting an empirical perspective. Critical exploration of methodologies is rare within traditional legal scholarship (Brems, 2009, pp. 83-84). To gain knowledge from business practice, an empirical investigation is required, allowing to understand the practical consequences of self-regulation and SCCs.

Understanding these dynamics from a socio-legal perspective allows for the formulation of legal proposals *if* gaps and challenges are identified that require legislative attention. By ensuring that law and practice are not viewed in isolation, particularly given that much regulation in this area is ‘soft law’ and that practice has been central to developments thus far, this approach is critical. To answer the research question, I will utilize methodologies from various disciplines. This combined approach will integrate quantitative and qualitative methods, providing both a broad overview of self-regulation instruments and a practical understanding of the specific challenges encountered by businesses on a case-by-case basis.

1.4 Theoretical building blocks and contributions

1.4.1 Foundations of corporate responsibility

By questioning multinationals’ responsibility in their global supply chains, this dissertation delves into two pivotal fields addressing thoroughly this question: Corporate Social Responsibility (CSR) and Business and Human Rights (BHR). Each field come with their own theories and marking authors.

CSR, as conceptualized by scholars like Bowen and Carroll, poses fundamental questions about the ethical obligations of businesses towards society. Bowen's seminal inquiry, dating back to 1953 and resonating today, raised the question: "*what responsibilities to society may businessmen reasonably be expected to assume?*" (Bowen 1953, p. xi). Three main CSR theories may be relevant to study corporate responsibility in global supply chains: The Caroll Theory, The Triple Bottom Line Theory, and the Stakeholder Theories (Brin & Nehme, 2019). Carroll made a specific theory for the way that corporation interact with its surrounding community and the whole world, this theory is known nowadays as Carroll's Pyramid of CSR. Carroll's influential framework delineates CSR by defining CSR as a four-level concept: "*Corporate social responsibility encompasses the economic, legal, ethical, and discretionary (philanthropic) expectations that society has of organizations at a given point in time*" (Carroll 1979, 1991). The Triple Bottom Line theory was found by John Elkington in his book "Cannibals with Forks: The Triple Bottom Line of 21st Century Business". This theory can be considered as a CSR framework that incorporates three dimensions of performance: economic, social and environmental. The stakeholder theory proposes that objectives of a corporation can be only achieved by protecting and balancing the interests of different groups of stakeholders. This theory has been subject to critical risks being underlined, the risk being that corporate directors would share the interest of stakeholders who are only interested in maximizing profits, across the spectrum of other stakeholders as people in the surrounding area, those whose lives are touched by the business operations (Brin & Nehme, 2019).

Given the above-mentioned definition and developments of CSR theories, there is no doubt that CSR theories have similar objectives, which is innovating approaches that contribute to the economic stability, environmental sustainability and social development with all stakeholders. These theories are highly business-centered, meaning, they represent visions and directions for businesses in their everyday action. For example, many talk about the 'business case' for respecting human rights, which is contested by scholars to have companies respect human rights only when it suits them (Avery, 2006). In parallel to CSR, the scholarship of *business and human rights* has developed, representing a paradigm shift, focusing explicitly on the intersection between business activities and human rights principles. Business and human rights is centered on *rights* and are less so integrated by business but more developed by international policy-makers and policy-thinkers to articulate human rights responsibility of businesses. Yet, some companies are starting to adopt human rights as the framework for their CSR approach. The work by Professor John Ruggie with the development of the UNGPs incentivizes this trend of discussing *human rights* in business, by seeing CSR beyond an economic approach. Following Ruggie's conceptualization, BHR not only seeks to prevent human rights abuses but also endeavors to ensure that corporate conduct aligns with principles of sustainability and social justice. BHR is characterized by its dynamic nature, continuously evolving to develop norms, standards, and best practices for integrating human rights considerations into corporate decision-making processes. Tamvada (2023) demonstrates that a new wave in the literature is exploring the relationships between these two fields, notably to bridge the corporate accountability gap. Their CSR-BHR integration framework considers that BHR is a mandatory and essential aspect of CSR. Therefore, this dissertation sets itself in the business and human rights scholarship by adopting a framework centered on human rights to corporate actions, but analyzes and describes all the CSR policies and practice, notably to underscore the tensions or value conflict faced by businesses between the logic of corporate profit-seeking in a globalized market economy and the normative aspiration of human rights as universalistic norms of moral justice and human dignity (Gregg, 2021).

Building on the foundations of corporate responsibility, this dissertation anchors its reflections within Iris Marion Young's theory of shared responsibility. Young argues that individuals and institutions are interconnected within broader social structures, and therefore bear collective responsibility for addressing social injustices and structural inequalities. By developing her *social connection model of responsibility*, she provides a compelling foundation for analyzing the complex dynamics of corporate responsibility within global supply chains. Young considers that the responsibility for addressing social injustices holds also for 'corporate agents' (2011, p. 144), and that this responsibility is political. Seeing the responsibility as *shared,* Young argues that this collective responsibility pends on actors even if they are not *directly* responsible for causing injustices, hence applying to labor conditions in global supply chains. Her vision of ascribing responsibility goes beyond the liability model used in legal proceedings, where agents are held responsible for a specific outcome based on their direct causal contribution to it. Instead, Young adopts a forward-looking approach to responsibility, focusing on how actors can work together to create a more equitable society. The political theorist takes the example of the anti-sweatshop movement to claim that people in affluent countries should assume a responsibility for ensuring decent working conditions for the people who produce their clothes and other goods in other parts of the world (Köning, 2023).

Stemming from this theoretical framework, this research departs from the idea that corporations hold a political responsibility for injustices occurring in global supply chains. Where companies wield economic, political, or influential power and leverage, they must contribute to addressing violations of decent labor rights. The dissertation, therefore, builds on a business and human rights approach, specifically Young's model of shared responsibility, to address social inequalities.

1.4.2 Institutional and organizational theories on policy adoption and implementation

Beyond theories of responsibility, the dissertation relies on institutional and organizational theories, which are particularly useful in offering insights into the dynamics of corporate behavior and regulatory governance. The concept of decoupling, first mentioned by Meyer and Rowan (1977), is a fundamental concept used within institutional theory to explain organizational behavior and responses to external pressure. It refers to the disconnection or misalignment between organizational policies and practices. Decoupling is therefore a useful concept to investigate SCC implementation challenges. Institutional theorists have extensively studied decoupling as a process that organizations may undergo due to various pressures, such as societal expectations. To respond to various stakeholder demands, organizations draft symbolic policies and make symbolic decisions, but both remain unimplemented (Brunsson, 1989). Applied to CSR, decoupling highlights the gap between organizational rhetoric and actual practices shedding light on issues of organizational hypocrisy, symbolic compliance, and the challenges of achieving meaningful change (Egels-Zanden, 2014). Field opacity, such as the difficulty to access reliable data, contributes greatly to decoupling policy from practice (Kuruvilla, 2021). The use of the concept of decoupling is only recently being used to refer to SCCs and improvement of labor standards, but a few authors have successfully set the theoretical stage to use institutional theories in this context (among which, Kuruvilla, 2021; Egels-zanden, 2014). Yet, many questions are left unanswered, and a full overview of the process and how to address it is lacking in the scholarship. Empirical approaches notably are missing to assess business practices tendencies of decoupling.

Linked to decoupling is the goal displacement phenomenon, defined by Michels in 1911, where the original and often radical or idealistic goals of an organization are displaced by the inferior goals required to maintain the organization and keep its leadership in power (Huizinga & de Bree, 2021). The risk of goal displacement in SCCs and supply chain governance of multinationals may be especially high, as companies respond to external pressures to mitigate human rights risks, while operating in a profit-driven capitalist system pushing them to choose cheaper labor options. Vogel (2005) for instance suggests that CSR can become a tool for managing reputation rather than effecting change. For SCCs, goal displacement may undermine their effectiveness by shifting the focus from substantive improvements to procedural compliance and superficial achievements.

The reverse concept of decoupling is *recoupling*. Recoupling as defined by Hallett (2010) is the process of "creating tight couplings where loose couplings were once in place" (p. 54). In essence, recoupling involves bridging the gap between what organizations profess to do (in their SCC policies) and what they actually do in practice. Given the obvious importance of decoupling, it is surprising to find that only a few scholars have investigated recoupling (De Bree & Stoopendal, 2020). Only Egels-Zanden (2014) has adapted this concept to CSR policies and codes of conduct.

Still within institutional theories, there is a prominent perspective within sociology and organizational studies that examines how organizations are influenced by their broader institutional environments. DiMaggio and Powell (1983) introduced the concept of organizational isomorphism, to refer to the process through which organizations within the same institutional environment tend to become structurally similar over time. SCC are interesting to study under this lens, to assess whether multinationals are indeed mirroring each others' CSR standards and actions, and whether that is the reason why most companies adopt codes. Institutional theory suggests that organizations strive for legitimacy and survival within their institutional environments, leading them to adopt structures and practices that align with prevailing institutional expectations (Meyer and Rowan, 1977). This can result in homogenization and standardization across organizations within a particular industry or sector. Understanding institutional isomorphism is crucial for analyzing organizational behavior, change processes, and responses to external pressures. This theory thus lends itself very well to the investigation of a policy adoption and implementation within multinationals, such as supplier codes of conduct.

1.4.3 Intended contributions to theory and literature

This empirical dissertation's strengths do not primarily lie in making novel theoretical contributions or normative assertions on *what ought to be* regarding the global governance of SCCs. Instead, the research question focuses on a descriptive and analytical investigation of business practices related to SCCs. The institutional and organizational theories previously discussed provide a framework for understanding how SCCs are integrated into business practices, forming the basis for a structural analysis of these practices. Consequently, the theoretical contributions of this dissertation will center on providing empirical data supporting and validating existing theories (or not), and testing specific factors that contribute to the policy-practice decoupling observed in SCC implementation. It bridges the realms of business practice with institutional theories.

Institutional theory emphasizes the importance of analyzing social structures and institutions to understand how they shape individual and collective actions. This research integrates into this theoretical framework by offering empirical data on SCC practices, which is currently sparse, as highlighted in section 1.2. By embedding this research within institutional theory, the dissertation aims to provide a comprehensive overview of how SCCs are implemented and the challenges faced in this process. As Iris Marion Young (2004) underscores, analyzing social structures and institutions is crucial for understanding their impact on corporate behavior and responsibility.

A gap identified in the institutional theory literature is the failure to examine whether the link between CSR symbolism and substantive conditions can be strengthened, meaning, whether a *recoupling* process is possible (Egels-Zanden, 2014). This dissertation intends to give empirical elements to fill that gap, by investigating the factors that influence the process of implementation of SCCs and providing recommendations on the steps to take to lead to recoupling. I thus explore ways to align symbolic commitments with substantive practices. This contribution is vital for developing more effective private governance mechanisms that ensure SCCs lead to meaningful improvements in labor standards.

Finally, this dissertation intends to highlight whether the theory of institutional isomorphism can be applied to SCCs. By providing empirical evidence on this topic, the dissertation aims to enhance our understanding of how institutional pressures shape SCC practices and their outcomes.

1.5 Intended contribution to practice

Beyond theoretical contribution, this research is targeted towards the practice, both for corporations, and for policy makers.

For corporations, this dissertation offers several practical insights. By describing the current landscape of SCC business perspectives, as well as its gaps and challenges, it intends to highlight actionable strategies and mechanisms for implementing policies within global supply chains. The ambition is to collect a large sample of empirical data analysis on codes of conduct. This will draw a landscape of SCC content, identify implementation challenges, and assess the practices effective in promoting better labor standards. In turn, I hope that this will help building effective mechanisms as companies mirror the best practice examples that will be discussed.

For policymakers, this dissertation addresses several critical gaps. Policymakers at national, regional, and international levels are increasingly crafting legal frameworks to heighten corporate accountability regarding social issues, notably with the development of the mandatory human rights due diligence framework. This (re)engagement of public actors in a field until now primarily regulated by the private actor reflects the recognition that the path of corporate voluntarism has proven inadequate, or at least insufficient, in addressing the complexities of modern globalized contexts. Despite the limitations of voluntarism, businesses have developed responsible practices within global supply chains. For an effective regulation, it is crucial that the public actor adopts a legal framework aligning with these practices. Therefore, it is essential to understand the shortcomings of self-regulation and voluntarism. By illuminating these gaps, this research can help bridge the divide between current business practices and emerging legal requirements. This approach is supported by de Bree and Stoopendaal's assertion (2020) that public attempts to achieve improvements often result in a one-dimensional debate on whether more legislation is needed. Instead, regulation should be situationally tailored to address issues that business practices alone cannot solve.

By synthesizing empirical findings with theoretical insights, this research aims to inform evidence-based policymaking, both supporting better practices of the private and the public regulator. The socio-legal approach adopted, as highlighted in section 1.3, is crucial for developing regulatory frameworks that promote corporate accountability. This dissertation seeks to offer policymakers a nuanced understanding of how to craft regulations that not only set standards but also encourage meaningful compliance and improvement in corporate practices. This approach helps avoid the risk of regulations becoming mere tick-box exercises, ensuring that legal frameworks effectively address the real-world challenges faced in global supply chains.

1.6 Methodology: a PHD in socio-legal studies

this interdisciplinary dissertation, situated at the intersection of law and business studies, sets itself in socio-legal studies to investigate various aspects of corporate responsibility and corporate self-regulation within global supply chains. As part of the Dutch sectorplan funding for Empirical Legal Studies (ELS), this research uses empirical research methods, primarily drawn from the social sciences, to scrutinize policies and legislative norms, providing a robust framework for analysis and interpretation. The ELS approach employed in this dissertation contrasts with the traditional doctrinal legal research typically used by lawyers, as articulated by Leeuw and Schmeets (2016,): "*Empirical legal research is not primarily or only interested in laws in the books, but in law(s) in action*". The conception of 'law in action' is associated with legal realism, which examines the role of law, not just as it exists in the statutes and cases, but as it is actually applied in society. ELS emerged in opposition to legal formalism, where the construction of a 'heaven of legal concepts' is far removed from social reality and disregards the ways in which law is produced by and operates within society (Cohen, 1935). While ELS is only recently gaining popularity in Europe, with much less development compared to the US, communities of empirical legal researchers are growing. The Netherlands, among others, has become a leader in this new interest for data collection and analysis in law (van Dijk et al., 2018).

The specificity of this dissertation and its differentiation with traditional legal dissertation also lies in the norm at the heart of the research. Codes of conduct, as private regulation belonging to the soft law sphere, make it challenging to adopt the traditional doctrinal approach, as their regulation nor enforcement are typically a task of public institutions. In fact, scholars who investigate the impact of codes of conduct are generally social scientists, familiar with empirical methods.[12] Lawyers studying codes generally focus on their legal standing in courts or the potentiality to be incorporated

12 Among them can be cited Egels-Zanden, Bartley, Jiang, Locke…

in the existing legal frameworks and 'harden' these soft law mechanisms.[13] While these questions are relevant, and the focus of Chapter 2 of this dissertation providing the legal framework of codes, they do not constitute the central focus of this dissertation.

Given the remaining uncertainties surrounding the impact of SCC on actual practice (see section 1.2. above), it is relevant to deploy methodologies to assess SCCs' effectiveness and compliance. Scholars attempting this endeavor have encountered several challenges, such as attributing labor standards improvements to the existence of a code of conduct ; or accessing transparent and reliable data (e.g., Bartley & Egels-Zanden, 2015; Toffel et al., 2015). The assessment of codes of conduct compliance using social audits, for instance, is an attractive way forward used by many scholars (e.g. Bird et al., 2019), as they provide quantifiable data measuring the compliance with each labor standard. However, they are often criticized for their flawed rating (Jiang 2009a), as suppliers are easily able to cover up violations of codes' provisions while passing audits. As a result, while compliance with codes may appear to positively evolve through time due to progressing audit reports, suppliers may in fact learn to match their buyer's expectations, without fundamentally altering their behavior (Egels-Zanden 2007).

To address this issue, scholars developed innovative research designs to measure SCC effectiveness, such as the comparative designs (Bartley & Egels-Zanden 2015), or longitudinal studies (Sethi et al., 2011 ; Yu, 2008). In many cases, empiricists must triangulate their methods, and use different forms of data collection to ensure their reliability. Following an analysis of methods used by empirical scholars to assess SCC effectiveness and compliance, I developed my own method to assess the gap between the *fact* and the *norm*, using both quantitative and qualitative methods. The research methodologies intend to ensure comprehensive exploration and analysis, and include:

1. A textual approach of codes, providing an analysis of the content of codes of conduct to understand the language and commitments made by companies,
2. A comparative approach of the linguistic analysis with an NGO evaluation of supply chain CSR activities by multinationals (KnowtheChain),
3. A qualitative study gathering internal corporate insights through interviews to provide contextual understanding.

Central to this dissertation, and a significant contribution for empirical legal scholars, is the development of the Database of Business Ethics, which serves as a structured repository for collecting supplier codes of conduct and other pertinent corporate data. This open-access database facilitates quantitative text analysis of human rights policies and codes of

13 The most famous lawyer performing these studies is Anna Beckers.

conduct from a large sample of companies worldwide and across industries, offering valuable insights into corporate practices. In addition to leveraging the Database of Business Ethics, the research plan triangulates this data with another database developed by KnowtheChain, enhancing the validity and reliability of the findings. Finally, the qualitative study conducts interviews to complement the quantitative analyses by providing rich contextual insights into the complexities of corporate practices and the underlying mechanisms shaping ethical decision-making within multinational corporations. By adopting a multi-methods interdisciplinary approach, this dissertation seeks to contribute to the ongoing discourse on corporate responsibility and legal governance within global supply chains. As underlined by (Epstein & Martin, 2014), "*well-executed research with a data component is likely to make more important, influential, and frankly, better contributions to policy and law because the study's authors can accurately gauge the uncertainty of their conclusions*."

Finally, it is important to acknowledge my positionality. As a French legal and social scientist mostly educated in the Netherlands, I bring a specific vision on global supply chains and biases that I strive to recognize in my quantitative and qualitative data collection and analysis. My western approach gives me good insights on the functioning of multinationals and the legal framework surrounding them in headquarter countries, but may also entail biases on supplier working conditions and lack of awareness on specific supplier-level legal frameworks. Through my years of research, I attempted to educate myself to become a more neutral scientist and adopt unbiased hypotheses before analyzing the data. My strength lies in my multi-disciplinarity, and capacity to employ empirical methods to legal questions, by trying to englobe these reflections in a political and economic context. As Eisenberg (2004) states, "*Legally trained social scientists have unique opportunities to enhance the description and understanding of the legal system*."

1.7 Chapter structure and overview

In these introductory words, it should be underlined that I chose to write a dissertation based on articles, the so-called 'compilation dissertation'. Unlike the traditional monograph commonly adopted by legal scholars, which presents a single, cohesive narrative, this dissertation comprises four stand-alone studies that are either published, under review, or prepared for submission in peer-reviewed journals. Each article addresses a specific aspect of the broader research question, which together explore SCCs, examining specifically the corporate commitments to labor standards in global supply chains and the internal processes in place to implement them. At the date of the last changes made to this dissertation,[14] chapters 3, 4 and

14 This dissertation was last amended in December 2024.

5 have been published in international peer-reviewed journals, and Chapter 6 is under review. It is also worth noting that chapters 4 and 5 are published in collaboration with my thesis supervisors, as well as with the kind help of Dr. Jarowslaw Kantorowicz who supported me on statistics and text analysis methodologies. However, I remained the first author and main contributor in both articles, as supervisors only provided written support in the last checks before publications.

Chapter 2 introduces the legal framework surrounding corporate responsibility, focusing on the state of the law regarding this soft law policy. It aims to answer the questions: What are the legal obligations associated with SCCs, and what legal effects do they entail for multinationals? This chapter provides a descriptive overview of the legal obligations and enforcement of SCCs. Understanding these legal effects is crucial to defining the policy, but it does not necessarily indicate that SCCs have a practical impact. Therefore, the chapter merely sets the stage for further exploration into the effectiveness of SCCs in improving labor standards, using doctrinal research methodology.

Chapter 3 delves into the question of SCC effectiveness by conducting a systematic literature review. This chapter gathers all results obtained from empirical studies, to answer the question: What do we know about SCC effectiveness to improve labor standards in global supply chains? The systematic review aims to synthesize existing knowledge and highlight gaps that need further investigation. The findings from this chapter provide a critical foundation for the empirical analysis conducted in the subsequent chapters.

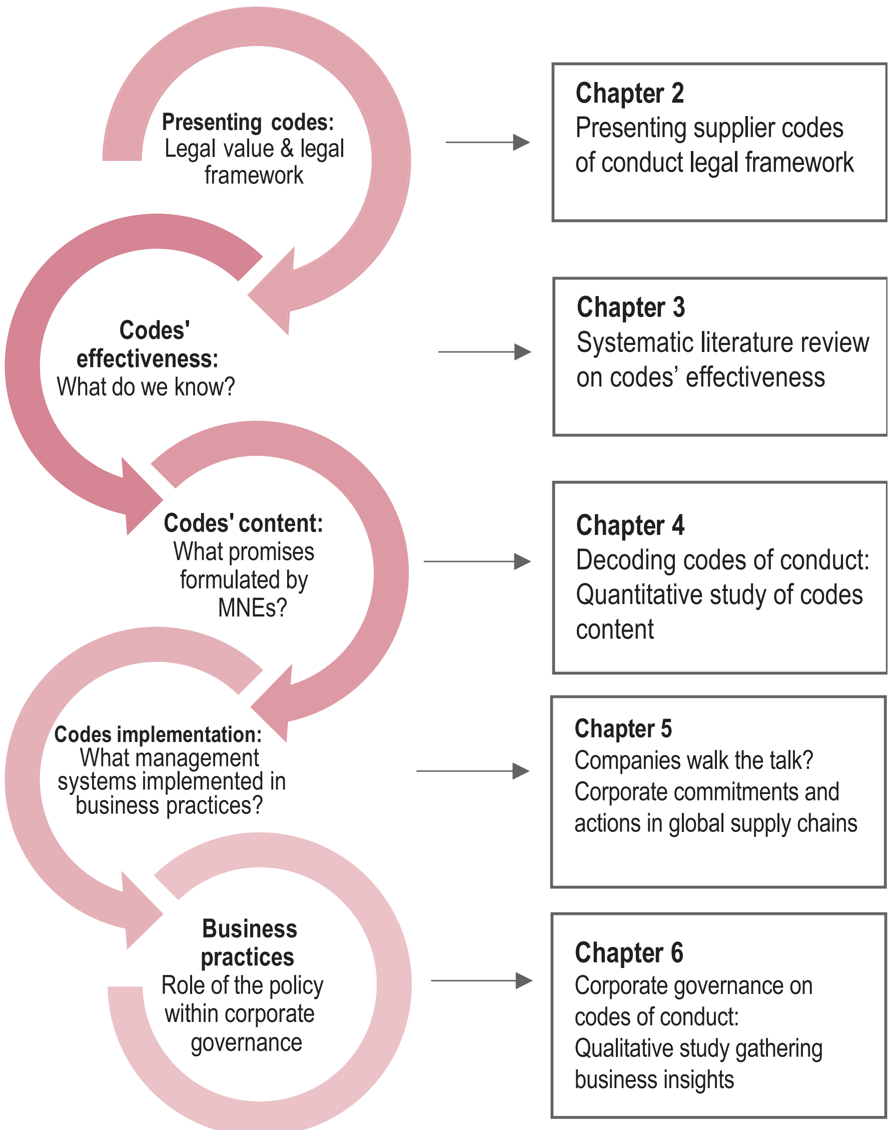
Chapter 4 maps the content of SCCs to provide an overarching picture of the labor standards included in these codes. This chapter aims to uncover the priorities and commitments formulated by multinationals in their written SCCs, and raises the question: What promises are formulated by MNEs when adopting their codes? This chapter offers insights into the initial intentions and expectations of multinationals regarding labor standards. This analysis is conducted using quantitative methods, by collecting data for the Database of Business Ethics and analyzing textual content of SCCs.

Chapter 5 shifts the focus onto the implementation efforts of SCCs, investigating the internal management systems that companies establish to ensure the effective dissemination of SCCs within the company and towards their suppliers. SCC paragraphs related to enforcement or implementation are specifically targeted, using the same Database than the one developed for Chapter 4. By comparing the textual implementation data with a Database developed by the NGO KnowtheChain, this chapter compares the commitment to establishing management systems, and companies' efforts to effectively address labor standards in global supply chains. I address the question: Do companies walk the talk between their commitments and their actions? This analysis provides a critical examination of the alignment between corporate promises and actual practices.

Chapter 6 examines the entire process from the adoption to the implementation of SCCs from the multinational's perspective. This qualitative study is based on interviews with human rights experts within multinationals, aiming to assess the role of SCCs within companies and the challenges faced during implementation. Additionally, this chapter links the efforts of multinationals back to the evolving legal framework on mandatory human rights due diligence. It assesses the anticipated changes that multinationals expect with the adoption of the due diligence directive, answering the question: How do multinationals perceive the adoption and implementation of their SCCs, and what is their take on the upcoming legislative framework on mandatory due diligence?

Each chapter thus builds upon the previous one, providing a comprehensive and nuanced understanding of SCCs in the context of global supply chains. By combining legal, empirical, and qualitative analyses, this research aims to offer a multi-faceted perspective on the content of SCCs and the efforts of multinationals in promoting labor standards globally. The conceptual model below visually represents how each chapter is complementary to the next. Chapter 7 brings together the key findings and closes the dissertation with a discussion on the contributions and impact of the research.

Conceptual model: Lay out of the structure of this dissertation



2 Legal framework of supplier codes of conduct

2.1 Introduction

At the outset of this research, an important terminology disclaimer must be made. It is essential to differentiate *supplier* codes of conduct from *corporate* codes of conduct, or '*internal*' codes. Internal codes of conduct primarily address the behavior and responsibilities of a company's direct employees within national borders. In contrast, *Supplier Codes of Conduct* (SCCs) as I call them, extend their reach to external parties, managing and regulating the actions of subcontractors and external partners within global supply chains. This distinction highlights the broader implications and challenges in enforcing these codes across diverse and fragmented supply chains. In this chapter and the whole dissertation, I focus exclusively on supplier codes of conduct, which can take various forms and terminologies, such as "purchasing policies" or "human rights statements." These codes are typically unilaterally drafted by companies, setting out expectations and standards for suppliers.

2.1.1 Defining supplier codes of conduct as soft law

In 2001, the OECD defined codes of conduct as "*commitments voluntarily made by companies, associations or other entities, which put forward standards and principles for the conduct of business activities in the market place*".[1] Supplier codes of conduct, as a form of corporate self-regulation, are viewed as soft law, given that they are policies voluntarily drafted by private entities. Given Abbott and Snidal's definition of hard and soft law instruments (2000), which considers central the component of 'obligation' of the norm central to its definition, codes of conduct traditionally belong to the category of soft instruments of transnational regulation. Codes of conduct are also qualified as instruments of the 'transnational new governance' (Abbott and Snidal, 2010),[2] which is characterized by a modification of the traditional role of the state. In transnational new governance, the public

1 OECD (2001), "Codes of Corporate Conduct: Expanded Review of their Contents", OECD Working Papers on International Investment, 2001/06, OECD Publishing. http://dx.doi.org/10.1787/206157234626

2 Abbott and Snidal (2010) consider that there is a development of the 'Transnational New Governance', which they define as a new kind of international regulatory system spontaneously arising out of the failure of international "Old Governance" (i.e., treaties and intergovernmental organizations) to adequately regulate international business.

actor relies more heavily on decentralized actors for self-regulation, notably corporations, and utilizes soft law to complement or substitute for mandatory hard law.

Following this basic definition of codes of conduct, it appears unconventional to assess the legal implications – or draft a 'legal framework' – of an instrument that is, by nature, not legally binding. Following a legal positivist approach such as Hart's *'Concept of Law'* (1961) or Raz's *'Practical Reason and Norms'* (1975), a legal instrument is a formal document or tool that establishes rights, duties or other legal effects within a legal system, and are strictly created by a legitimate institution giving them authoritative validity. Codes of conduct, as a private policy drafted *'by and for'* a corporation, usually do not fit within this definition.[3] Yet, in a context of a governance gap in globalisation, codes of conduct come to fill a void of the regulation of transnational actors and global supply chains.[4] Therefore, some lawyers focussing on globalisation and the rise of transnational corporations,[5] have been eager to study the legality of these private policies to interpret them as having a legal impact. This line of thought reflects the gradual blurring of public and private law, contributing to a 'hybrid' governance system blending private authority with public regulatory goals,[6] shifting from a centralized state-centered regulation to a mix forms of regulation.[7]

2.1.2 The choice of soft law in transnational governance

In the realm of global supply chain governance, soft law orchestrated by private entities has been chosen for several reasons throughout the years. Firstly, it provides a flexible framework that can be easily adapted to the diverse and dynamic nature of global supply chains. Secondly, it rose from regulatory gaps, where existing national and international laws did not adequately address the complex issues arising in global supply chains (Prakash & Potoski, 2006). The difficult inter-States negotiation and geopolitical tensions challenged the adoption of binding international regulation on corporate accountability, thus leaving soft law as the most efficient governance model. Thirdly, soft law promotes voluntary compliance and encourages companies to 'self-responsibilize' and demonstrate their commitments to ethical practices. Fourthly, companies themselves have shown goodwill in developing self-regulation, insisting on their capacity to self-regulate. Vogel (2005) argues that this strategy allowed them to preempt

3 The exception arises where codes of conduct are drafted as a contract between the buyer and the supplier. This is studied in section 2.2.1. of this Chapter.

4 See Chapter 1 of this dissertation, section 1.2

5 Anna Beckers is probably the front-runner of this movement in Europe, with her book: Beckers, A. (2015). *Enforcing Corporate Social Responsibility Codes: On Global Self-Regulation and National Private Law*. Hart Publishing. '

6 Backer, L. C. (2011). *Private Actors and Public Governance Beyond the State: The Multinational Corporation, the Financial Stability Board, and the Global Governance Order*.

7 Cafaggi, F., & Renda, A. (2012). *Public and Private Regulation*.

or avoid more stringent mandatory regulation. Consequently, non-binding agreements have been seen as holding potential for an effective arrangement of international relations and global exchanges.

The use of self-regulation to govern supply chains was consecrated by John Ruggie in 2011, with the adoption of the non-binding United Nations Guiding Principles (UNGPs). These UN-adopted non-binding principles emphasized the importance of corporate responsibility in supply chains, and developed the concept of *due diligence*. With due diligence, the UN incentivizes companies to identify, assess, mitigate, and monitor risks associated with their suppliers and third-party partners, and do each of these steps in autonomy, hence self-regulate applicable norms and self-monitor their compliance. The public incentivization of soft law and self-regulation exemplifies Abbott and Snidal's (2010) analysis of transnational new governance: by developing due diligence, the international public actor relies here mostly on businesses to act diligently.

While codes of conduct are seen as a potential catalyst in guiding corporate behavior, and a solution to international gaps, some scholars argue that the full potential of private regulation can only be achieved by bringing the State back into transnational regulation (Abbott and Snidal, 2010). For instance, Deva (2012) argued that the UNGPs should eventually be translated into binding international legal standards to ensure stronger accountability and enforcement mechanisms. Nolan (2018) considers that an emerging legal framework provides opportunities to entrench codes of conduct within standards and ensure compliance from a legal perspective. This would mean that the *mandatory* and *binding* elements of soft law instruments are expected to harden over time, slowly moving the cursor of CSR and self-regulation towards the harder end of the spectrum. Indeed, theorists of international law consider that 'soft' and 'hard' policies cannot be classified in two independent boxes, but instead form a *continuum* from soft to hard law. Over time, policies can 'harden' as they become institutionalized (Abbott and Snidal, 2000). This 'hardening' of SCC is already debated amongst legal scholars, as Sobczak's famous article of 2015 raises the question: "*Are Codes of Conduct in Global Supply Chains Really Voluntary?*".

2.1.3 Objective of the chapter and research question

This chapter aims to determine where SCCs currently fall within the soft-to-hard law continuum. Specifically, it seeks to provide an overview of the legal framework governing SCCs and to clarify the obligations multinational corporations face concerning these codes. A critical distinction is made here between the concepts of "mandatory" and "binding" as they pertain to SCCs, given their differing legal implications.

- Mandatory SCCs: This term would imply that companies are legally required to adopt these codes, meaning they are no longer voluntary.
- Binding SCCs: This term would indicate that companies are legally obligated to enforce these codes and may face consequences for violations.

These two elements—mandatory and binding—are not inherently linked, which necessitates separate discussions of their implications.

The central research question addressed in this chapter is: *What are the legal obligations associated with SCCs, and what are their legal effects for multinational corporations?* The approach taken in this chapter may seem unconventional for lawyers, as it does not follow a traditional doctrinal approach. Instead of subsequently or comparatively analyzing national and regional legal frameworks, this chapter examines multiple legal fields to explore the mandatory and binding dimensions of SCCs. To answer the research question, I first explore the legal landscape that governs the adoption of SCCs. The primary sub question is: Are these codes mandatory? This section outlines the varying requirements across different jurisdictions and highlights the pressures—both market-driven and regulatory—that compel companies to adopt SCCs. Next, I assess the potential for legal enforcement of these codes. I raise the second sub question: Are codes of conduct binding? While SCCs are typically viewed as non-binding commitments, this chapter investigates the conditions under which they may become binding. I limit myself to the study of contract law, consumer law, and mandatory human rights due diligence, without covering them exhaustively. Setting this legal framework serves as a backbone of the pursuant empirical reflections on SCCs developed in following chapters.

2.1 Adopting codes of conduct: An evolving legal framework

First, let's see how they are defined and whether they are fully voluntary. Second, I show how the recent legal framework makes a shift in this element of 'voluntary', rendering the adoption of codes mandatory.

2.1.1 Questioning the voluntariness of SCCs

Traditionally, SCCs are viewed as voluntary ethical commitments made by companies, which may encompass areas such as the environment, human rights, labor standards, consumer protection, and taxation. Authors Kaptein and Schwartz (2007) describe codes as formal document containing a set of prescriptions developed by and for a company to guide present and future behavior.[8] From their definition, corporate codes of conduct are typically seen as voluntary ethical commitments. The OECD indeed qualifies codes as voluntary policies,[9] and Vytopil (2015) pursues that the primary characteristic of codes of conduct is their "voluntariness".

8 In the exact words « *A business code is a distinct and formal document containing a set of prescriptions developed by and for a company to guide present and future behavior on multiple issues of at least its managers and employees toward one another, the company, external stakeholders and/or society in general.* » Kaptein and Schwartz, 2007.

9 OECD (2001), "Codes of Corporate Conduct: Expanded Review of their Contents", OECD Working Papers on International Investment, 2001/06, OECD Publishing. http://dx.doi.org/10.1787/206157234626

While SCCs are originally characterized by their voluntary nature, this element of ‘voluntariness’ is increasingly nuanced by public incentives and evolving regulations. According to Sobczak (2006), codes are not purely voluntary: market and societal pressures compel companies to draft codes of conduct. This trend can be identified at national, regional, and international levels. For example, in the United States, both the New York Stock Exchange and Nasdaq have required listed companies to adopt and disclose a code of conduct since 2004. Additionally, federal guidelines recommend judges to consider whether a company convicted of a crime had an effective ethics and compliance program, including a code of conduct, when determining fines. Various other entities, such as Hong Kong’s Independent Commission Against Corruption, South Africa’s King Committee on Corporate Governance, the Brazilian Institute of Corporate Governance, and Japan’s Prime Minister’s 2002 advisory panel on the quality of life, have also advised companies to develop codes. The European Union has recently made steps to integrate SCCs into European legislation. In the field of data protection for instance, the General Data Protection Regulation[10] strongly recommends drawing up codes of conduct, with Article 40 specifying that public entities should “*encourage the drawing up of codes of conduct intended to contribute to the proper application of this Regulation*.”

Principle 15 of the UNGPs constitutes the most overarching global encouragement for businesses to adopt codes of conduct. The UNGPs do not explicitly refer to ‘codes of conduct’, but more generally to a ‘policy commitment’ that businesses should have in place to ‘meet their responsibility to respect human rights’. While non-binding, the UNGPs have gained significant global acceptance and have influenced binding legislation, leading some countries to integrate due diligence requirements. This was the case particularly in Europe, with the adoption of a due diligence law in France,[11] in Germany,[12] and in Norway[13]. In an effort to harmonize these frameworks and adopt their own definition of due diligence, the EU legislator has since adopted the Corporate Sustainability Due Diligence Directive (CSDDD), currently being transposed. Until the adoption of the CSDDD, it is safe to say that codes of conduct were largely voluntary, albeit strongly encouraged by international norms and, in some cases, regional or local policies.

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10 Article 40 Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data https://eur-lex.europa.eu/legal-content/en/TXT/?uri=CELEX%3A32016R0679

11 *Loi n° 2017-399 du 27 mars 2017 relative au devoir de vigilance des sociétés mères et des entreprises donneuses d’ordre*[Law No. 2017-399 of March 27, 2017, on the Duty of Vigilance of Parent Companies and Ordering Companies], Journal Officiel de la République Française [Official Gazette of France], Mar. 28, 2017.

12 *Lieferkettensorgfaltspflichtengesetz [Supply Chain Due Diligence Act]*, Bundesgesetzblatt [Federal Law Gazette], Teil I [Part I], July 22, 2021, at 2959.

13 *Lov om virksomheters åpenhet og arbeid med grunnleggende menneskerettigheter og anstendige arbeidsforhold* [Transparency Act], LOV-2021-06-18-99, Lovdata [Norwegian Law Data], June 18, 2021.

2.1.2 The shift towards mandated codes in the EU with the due diligence framework

In April 2024, the EU officialized the shift towards the mandatory adoption of SCCs, with the adoption of the CSDDD. This Directive includes an obligation for multinationals to adopt codes of conduct, and to take measures to verify compliance with the code of conduct.[14] The EU Commission submitted the proposal in February 2022, and after extensive negotiations, the EU Council reached a final compromise text on the CSDDD on March 14th, 2024. After the publication in the Official Journal of the European Union planned for June 2024, Member States will have two years to transpose CSDDD's requirements into national law. The companies entering the scope of the CSDDD[15] will be subjected to due diligence obligations – including the mandatory adoption of codes – within the prescribed three years of the Directive entering into force.

By transforming the voluntary business practice of adopting codes of conduct into a mandatory requirement, the EU legislator recognizes the private actor as a regulator of global corporate governance and gives companies a responsibility in regulating their supply chains. This role is granted with a large autonomy, as the CSDDD does not include specific requirements on the content of codes of conduct, merely mentioning that the code of conduct must describe 'rules and principles to be followed throughout the company and its subsidiaries, and the company's direct or indirect business partners'.[16] Despite the absence of authoritative obligations on what codes of conduct should contain, companies can turn to the UNGPs, the UN Global Compact, the OECD Guidelines for Multinational Enterprises, and the ILO Conventions for guidance, as these internationally-recognized text provide a solid legal background for the content of codes. The working documents of the European Commission on the Directive considers that companies should adhere at least to the Fundamental ILO Conventions and the OECD Guidelines,[17] but this reference never integrated the text of the CSDDD. However, the Directive includes a public supervision, by establishing national supervisory authorities[18] in charge of supervising companies' compliance with the CSDDD's requirements, including the examination of the content of codes of conduct. In practice, the definition of standards

14 Article 7 CSDDD

15 Pursuant to Article 2 CSDDD, targeted companies are EU multinationals with at least 1,000 employees and an annual turnover over €450 million ; or non-EU multinationals generating at least €450 million net turnover within the Union.

16 Article 7(b) CSDDD

17 E.g. COMMISSION STAFF WORKING DOCUMENT Corporate Social Responsibility, Responsible Business Conduct, and Business & Human Rights: Overview of Progress, SWD(2019) 143 final of March 2019

18 Pursuant to Article 24 of the CSDDD, Member States must set supervisory authorities to supervise compliance with the obligations laid down in Articles 7 to 16.

applying throughout the supply chain are thus left at the discretion of companies, with some public supervision.

With this formulation, the CSDDD assigns companies a significant role in shaping global corporate governance by effectively entrusting them with policy-making functions. Some scholars see this as inviting multinationals to act as 'quasi-legislators'[19] because the legislator not only shifts responsibility to private actors, but also elevates them to a position of influence traditionally reserved for public authorities. In this setting, supply chains are viewed as a hierarchical model, where market power is concentrated exclusively or primarily at the level of the company. The company is, in essence, the chain leader, and retains a significant discretion in defining the standards that apply to their operations and those of their suppliers. This hierarchy might be problematic as the reality of global supply chain networks may also be quite different.[20] Yet, this move of the EU legislator reflects a broader trend in global governance, where non-state actors are increasingly recognized as key players in regulating transnational economic activities – characterizing the 'blur' between the public and the private actors.[21]

2.2 Enforcing codes of conduct: The legal implications of SCCs

After examining the legal framework surrounding the adoption of SCCs, it is essential to explore their enforceability and the extent to which they are binding once adopted by multinationals. According to the OECD, "*voluntary codes do not have the status of law or regulation*"[22], indicating that the provisions of codes do not inherently constitute legal obligations, thus are not binding.

As a result, reputational retaliation and threats constituted, for a long time, the primary pathway to ensure that companies act upon their SCCs and enforce them, as a strong non-legal motivation. King and Toffel (2007) notably highlight the importance of reputational concerns as a key driver for companies to adopt and comply with these standards. While public exposure of non-compliance, often by NGOs or the media, is a powerful motivator, it has its limitations. Companies may engage in "window dressing," where they superficially adopt codes of conduct without genuinely implementing or enforcing them. For instance, Wells (2007) underline NGOs' compliance

19 Alex Geert Castermans & Cornelis J. W. Baaij, *The Potential of Contractual Assurances to Advance Supply Chain Due Diligence*, EUI, RSC, Working Paper, 2023/28, (2023)

20 Ibid.

21 On how serious structural issues provided the conditions for the emergence of Regulatory Standard-schemes, out of the traditional State-approach to address the adverse consequences of production: Kenneth W. Abbott & Duncan Snidal, *The Governance Triangle: Regulatory Standards Institutions and the Shadow of the State*, in *The Politics of Global Regulation* 44, 44-88 (Walter Mattli & Ngaire Woods eds., 2009).

22 OECD (2015), G20/OECD Principles of Corporate Governance, OECD Publishing, Paris. http://dx.doi.org/10.1787/9789264236882-en

monitoring deficiencies, due to organizational weaknesses of NGOS, their dependence on multinationals for whom they monitor, the limits imposed on NGO effectiveness by corporate restructuring and market competitiveness, and the inadequate pressures from anti-sweatshop movements. These constraints suggest that the NGO-centered soft law policies are 'too weak for the job' (Wells, 2007), undermining the credibility of SCCs.

Beyond reputational threats, efforts are made by different actors to enhance the enforceability of these codes by using the existing legal framework. In this section, three legal pathways are investigated, to provide a comprehensive understanding of the potential legal enforceability of SCCs as well as the existing gaps, ultimately addressing the question: are codes binding? Firstly, the legal framework on contractual private law may apply when SCCs are incorporated into contractual agreements between the supplier and the buyer. In this case, they gain legal significance by becoming enforceable terms within those contracts. This contractual integration transforms voluntary commitments into binding obligations, providing a legal basis for accountability (section 2.2.1). Secondly, various consumer protection law may apply. Under specific circumstances, consumers may invoke corporate responsibility if violations of SCCs are perceived as misleading practices. This enforcement avenue is grounded in consumer protection laws, which can give SCCs a binding effect by holding companies accountable for deceptive or unfair practices (section 2.2.2). Finally, the mandatory human rights due diligence legal framework may also provide a legal basis to enhance corporate accountability in case of SCC violation (section 2.2.3).

2.2.1 Supplier Codes of Conduct enforceability with contract law

When entering the contractual relationship with their suppliers, the two parties decide on a number of terms and conditions forming the contractual obligations. Within those, it is possible to include non-financial requirements, such as the conditions under which the goods and services should be performed. The integration of SCCs into contractual agreements is a critical mechanism for enforcing codes, and ensuring that suppliers adhere to the labor standards that the buying company mandates. However, the corporate practices vary widely, each company deciding on different ways forward, raising different challenges. Several examples of key practices can be underlined here, substantiated by extracts of SCCs part of the Database of Business Ethics.[23] These practices underline the different levels to which SCCs may be integrated within contractual obligations.

A first corporate practice consists of explicitly incorporating SCCs

23 To access the full text of the codes of conduct referenced in this Chapter, I include in footnote a link to the website from archive.org. This version of the code corresponds to the version collected between June 2020 and January 2021, and included in the analysis of subsequent chapters. It is worth nothing that most of the companies of the Database of Business Ethics have altered their supplier codes of conduct by the end of my research (June 2024). Yet, for consistency, I used the same codes of conduct throughout the research.

within contracts with suppliers (or 'purchasing contracts') by including specific clauses that reference the SCC. These clauses stipulate that compliance with the SCC is a condition of the contract, thereby making the obligations outlined in the SCC legally binding for the supplier. For instance, the companies Orkla and British American Tabacco are both adopting this approach. Within their SCCs, they specify that the provisions and standards consist of contractual agreements to be respected by the supplier.

> *"When this CoC has been communicated to a specific supplier,*
> *it shall be regarded as a contract document and as an integral part of any contract entered into between the Orkla company and the supplier in question."*
>
> Orkla Supplier Code of Conduct, May 2018[24]

> *"This requirement is incorporated into our contractual arrangements with suppliers."*
>
> British American Tabacco, Group Supplier Code of Conduct, 2018.[25]

In some cases, such as in Amphenol's code, the provisions even specifies that labor standards are above the purchasing contract itself:

> *"Supplier agreements are governed by contractual terms and conditions,*
> *however in the event of conflict between this SCOC and the terms and conditions of any contract, the obligations set forth in the SCOC will govern unless explicitly stated otherwise in the contract."*
>
> Amphenol Supplier Code of Conduct, October 2019.[26]

A second practice lies in ensuring that suppliers acknowledge and certify their compliance with the SCC, even though it is not explicitly part of the contract. This acknowledgment can take the form of a signed document or a formal certification process that the supplier must complete and update regularly. This practice raises questions as to whether it constitutes a binding agreement, as it is not part of the purchasing contract.

> *"The Code of Ethics/Business Partner Commitment is a separate commitment*
> *that all Business Partners have to sign and commit to comply with."*
>
> Hennes & Mauritz code of Ethics for Business Partners, January 2016.[27]

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24 Access Orkla's SCC version of May 2018 at: https://web.archive.org/web/20200923124133/https://www.orkla.com/sustainability/procedures-and-policies/supplier-code-conduct/

25 Access British American Tabacco's SCC, version of 2018, at: https://web.archive.org/web/20200228081521/https://www.bat.com/group/sites/uk__9d9kcy.nsf/vwPagesWebLive/DO9EAMHQ/$FILE/medMDB4GDSF.pdf?openelement

26 Access Amphenol's SCC, version of October 2019, at: https://web.archive.org/web/20211129090155/https://amphenol.com/docs/supplier-code-of-conduct-en

27 Access H&M's code of Ethics for Business Partners, version of January 2016, at: https://web.archive.org/web/20211006083445/https://hmgroup.com/wp-content/uploads/2020/10/Business-Partner-Sustainability-Commitment_en.pdf

Finally, some companies may choose the ‘silent’ approach, by not mentioning the SCC in the contract itself, but merely publish their codes on webpages dedicated to their supplier relationships, thus not integrating it in the contract *per se*. [28] This can also be the case when companies are drafting public statements addressed to their suppliers.[29] Here, scholars have questioned whether public statements could constitute a proof that the SCC holds value in the contractual relationship (Beckers, 2015). Going one step further in this direction, many companies decide to explicitly reject the contractual force of SCCs, by including a disclaimer. Below are a few examples of such disclaimers.

> *“This Supplier Code of Conduct is in no way intended to conflict with or modify the terms and conditions of any existing contract. Unless otherwise stated in such contract, in the event of a conflict, suppliers shall adhere to the contract terms.”*
>
> Airbus’ General Disclaimer within their Supplier Code of Conduct, June 2018.[30]

> *“This Code is not a contract, is not intended to be all inclusive,*
> *and does not supersede any contractual rights or obligations of you or Progressive.”*
>
> Progressive Supplier Code of Conduct, January 2021.[31]

This diversity of practices related to the integration of codes within purchasing contracts is possible due to the large margin of discretion of companies to draft their SCCs. While this is inherent to the definition of a *voluntary* self-regulatory policy, it brings a number of legal challenges that have yet to be addressed.

One issue arises because the formulation of codes is often unilaterally drafted by corporations, while the contractual relationship is undertaken between two parties. This creates a unilateral duty within this contractual relationship for the supplier to make efforts towards compliance labor standards, while the company does not bear part of the weight. For instance, in Henkel’s code below, it is explicitly formulated that the code is not a basis for contractual rights against their own companies.

> *“This “Responsible Sourcing Policy” represents fundamental principles to which Henkel is committed. However, this document should not be misinterpreted as providing an independent basis for assertion of contractual rights against Henkel.”*
>
> Henkel Responsible Sourcing Policy, October 2018.[32]

28 Vytopil 2015, p. 123, 124, 129 and 135-138.
29 Beckers 2015, p. 50-71.
30 Access Airbus’s SCC, version of June 2018, at: https://web.archive.org/web/20200306140847/https://www.airbus.com/be-an-airbus-supplier.html
31 Access Progressive SCC, version of January 2021, at: https://web.archive.org/web/20170706094821/http://investors.progressive.com/phoenix.zhtml?c=81824&p=irol-govConduct
32 Access Henkel’s Responsible Sourcing Policy, version of October 2018, at: https://web.archive.org/web/20211102070357/https://www.henkel.com/resource/blob/638576/0cd55ea135913dbe1e5a7f5d58b8081f/data/responsible-sourcing-policy.pdf

As a result of this disbalanced bearing of duty of implementing the code, the multinationals' legal accountability can hardly be found. The contract law pathway also raises another crucial issue: the absence of supply chain workers of a right to compensation in case of violation of the contract. The supply chain workers, in this buyer-supplier contractual relationship, are third party to the contract. The principle of relativity of contracts posits that contracts are only binding and enforceable between the parties who have entered into the agreement (van der Heijden, 2011). It means that the rights and obligations arising from a contract do not extend to third parties who are not signatories to the contract. Exceptions to this principle exist, and have been developed differently by national courts, who generally consider that third parties may acquire rights or obligations under a contract if they are 'beneficiary' to this contract. In contract law, a third-party beneficiary is someone who benefits from a contract between two other parties but is not a party to the contract itself. The rights of third-party beneficiaries to claim their rights based on the violation of the contract depend on various factors, including the intention of the contracting parties and the specific terms of the contract. If the contracting parties clearly intend for the contract to confer benefits on a third party, that third party may have enforceable rights under the contract.

Considering that SCCs explicitly refer to fundamental labor standards of supply chain workers, it could be interpreted that they have legal standing in case of SCC violation. However, this has not been the jurisprudential interpretation, until now. In the case Doe v. Wal-Mart Stores of 2009,[33] Wal-Mart is sued by workers from its suppliers' factories in China, Bangladesh, Indonesia, Swaziland and Nicaragua. These workers claimed that the code of conduct set forth in Wal-Mart's contracts with its foreign suppliers was violated, and that Wal-Mart should be held accountable for a breach of a contractual duty to inspect its suppliers' foreign factories. As a result of the breach of this contractual duty, it was claimed that the employees (acting as third-party beneficiaries) were harmed. To some extent, it was recognized that multinationals have a "*duty of care*" towards their suppliers as well as monitoring of the codes of conduct provisions. However, the court considered that supplier workers did not have sufficient legal standing, as the relationship between Walmart and the plaintiffs was too remote to support a claim for breach of contract.[34] This case underscores the legal challenges faced by third-party beneficiaries seeking to enforce the terms of supplier codes of conduct against multinational corporations like Walmart. According to the argumentation of Beckers however, the debate on third party beneficiary to the code of conduct provisions is still ongoing and will widely depend on national interpretation. Until now, no supply chain worker has been granted a right of action as a third-party beneficiary to a contract including a supplier code of conduct. Considering the legal uncertainty and the open-ended debate, some companies have specified

33 Jane Doe I, et al v. Wal-Mart Stores, Inc, No. 08-55706 (9th Cir. 2009)

34 Opinion by Judge Gould in Jane Doe I, et al v. Wal-Mart Stores

within codes the absence of third-party beneficiary to these contracts. Two examples are noteworthy:

> *"The Third Party places reliance on Novartis Guidance at its own risk and any consequences of decisions relating to, or the implementation of, such Guidance are the sole responsibility of the Third Party. Novartis does not warrant and makes no representations as to the accuracy or completeness of such Guidance and will not be held responsible by any person, including the Third Party, in any manner whatsoever, for any consequences of the Third Party's reliance on or implementation of such Guidance."*
>
> Novartis, Third Party Code of November 2020.[35]

> *"This Code is not intended to create new or additional rights for any third party."*
>
> Apple, Supplier code of conduct of January 2020.[36]

From this non-exhaustive list of examples regarding SCC formulation on the contractual arrangements, I describe the diversity of the practices across companies. This joins the analysis of Beckers (2015), that codes' legal dimension significantly relies on corporate willingness to make their code binding. Ultimately, private law respects the expressed intention of the speaker, who has the freedom to determine whether or not to create a legal obligation. In the end, "*Contract law is, from an orthodox understanding, primarily concerned with the enforcement of the promises that parties make*" (Beckers, 2015, p.266). The judge, in the few existing cases on SCCs, have also shown reluctance to accept third parties to the contract to claim rights upon it, until now. Therefore, it is completely up to the company to decide on the binding effect of codes. In the following two sections, I investigate whether consumer protection laws and the due diligence legal framework give SCCs a legal value to activate corporate accountability.

2.2.2 Supplier codes of conduct enforceability with consumer protection laws

Consumer protection laws present an alternative route to seek accountability for violations of labor standards in global supply chains. Here, I explore how consumer protection laws can be leveraged to ensure that companies adhere to their SCCs, and highlights the remaining gaps.

Consumer protection laws are designed to prevent businesses from engaging in unfair or deceptive practices that could harm consumers and limit the practices of window dressing or greenwashing. When a company

35 Access Novartis's Third Party Code of Conduct, version of November 2020, at: https://web.archive.org/web/20241009010024/https://www.novartis.com/sites/novartis_com/files/novartis-third-party-code-v-2.pdf

36 Access Apple's SCC, version of January 2020, at: https://web.archive.org/web/20200831040318/https://www.apple.com/au/supplier-responsibility/pdf/Apple-Supplier-Code-of-Conduct-January.pdf

promotes its commitment to ethical, environmental, and social standards through its SCCs, it creates certain expectations among consumers. If the company fails to uphold these standards, it could be seen as engaging in misleading or deceptive practices. This is where consumer protection laws can come into play, as they can be used to address discrepancies between a company's public commitments and its actual practices.

The legal framework around deceptive advertising has, to some extent, been used to ensure that companies do not make false promises in their codes. The *Kasky v. Nike*[37] case is a good example of judges' interpretation of codes – or generally public statements on supply chain labor practices – in light of consumer protection. In 1998, Nike faced widespread criticism for the labor practices in its overseas factories. In response, Nike engaged in a public relations campaign, issuing press releases, writing letters to newspaper editors, and sending direct mail to customers defending its labor practices. Nike asserted that it was providing fair wages and good working conditions. Mark Kasky, a US citizen, filed a lawsuit against Nike under California's unfair competition and false advertising laws. He argued that Nike's statements were false and misleading, constituting deceptive advertising intended to promote sales of Nike products. Among the contested statements was Nike's code of conduct, which Kasky alleged did not align with the actual labor practices in its subcontracting factories. The case was settled in 2003, with Nike agreeing to adopt a more transparent approach to its workers and subcontractors — and making a payment of $1.5 million to the Fair Labor Association. The California Supreme Court held that Nike's statements were indeed commercial speech, intended to promote the sale of its product, and subject to false advertising. While no clear jurisprudential outcome was given regarding consumer rights as per codes of conduct, the judges' interpretation of codes of conduct as a commercial speech underscored the legal risks associated with making public statements on ethical practices in codes of conduct without substantiating them by action.[38]

The French Samsung case deals with similar facts. On 26 February 2013, three claimants submitted a complaint against Samsung France and X. The organizations allege misleading advertising practices, based on the incompatibility between Samsung's public ethical commitment to being a "socially responsible" company and a report from China Labor Watch which alleges frequent unpaid overtime, the absence of adequate safety measures, and compulsory work practices in Samsung's subcontractors' factories in China. However, the complaint was dismissed, as investigations did not find sufficient proof for workplace malpractices in Samsung supplier factories. Although the lawsuit was dismissed, Samsung suffered from bad publicity and consumer retaliation.

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37 Kasky v. Nike, Inc., 27 Cal. 4th 939, 45 P.3d 243 (2002).

38 For lengthy development on Kasky V. Nike case, see : Mayer, Kasky V. Nike case and the Quarrelsome Question of Corporate Free Speech, Business Ethics Quarterly , Jan., 2007, Vol. 17, No. 1 (Jan., 2007), pp. 65-96

Another example here could be the German Volkswagen Emissions Scandal,[39] while not directly related to SCCs. In this case, Volkswagen falsely advertised its vehicles as environmentally friendly, violating consumer protection laws. The company faced substantial fines and legal actions for misleading consumers. This case underscores the potential for consumer protection laws to address discrepancies between corporate claims and actual practices and set a precedent for holding corporations accountable for environmental fraud and consumer deception.

Outside of these cases, the EU has been particularly active in protecting consumers from unfair commercial practices, notably with the adoption of Directive 2005/29/EC on unfair commercial practices (UCP Directive). The Directive foresees that, in case of a dispute, a judge can take a code of conduct into account when assessing business practices (Article 10). The noncompliance with a code of conduct and the absence of verifiable commitment from the company is considered as one of the misleading actions under Article 6 of the Directive. As a result, it is now easier for consumers to seek redress to expose a trader that is allegedly contravening the claims in its code of conduct. It can also be noted that falsely claiming to be a signatory to a code of conduct is also a misleading practice, as highlighted in Annex I (1) UCP Directive.[40]

It is also the consumer protection pathway that the due diligence obligation appears to take in Norway. In June 2021, Norway adopted the Business Transparency and Fundamental Rights Act (*Åpenhetsloven*)[41], according to which Norwegian consumers can request, at any time, information on the company's management of its due diligence.[42] Companies are required to report on their due diligence policy and provide information in the following three weeks. The execution of the law is placed under the control of the Norwegian Consumer Authority, which can impose financial penalties in the event of non-compliance but which mainly plays an advisory and recommendation role on the obligation of due diligence. Arguably, this law will put societal pressure on companies' corporate social policies by putting the responsibility to ask questions in the hands of the consumers.

The legal avenue of using consumer protection laws to enhance corporate responsibility is promising and offers a possibility for SCCs' enforceability even when these codes are not integrated into supplier contracts. Holding companies accountable through consumer protection laws can significantly influence corporate behavior, compelling companies to adhere to their

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39 United States v. Volkswagen AG, Case No. 2:16-cr-20394 (E.D. Mich. 2017).

40 Willem H. van Boom, Unfair Commercial Practices, in: Christian Twigg-Flesner (ed.), Research Handbook on EU Consumer and Contract Law (Research Handbooks in European Law series), Cheltenham: Edward Elgar 2016, p. 388-405

41 *Åpenhetsloven* of 14 June 2021 establishing a transparency obligation for companies on fundamental human rights and decent working conditions (Transparency Act).

42 Ibid Section 6 of the Act

commitments out of fear of consumer backlash and reputational damage. However, this approach has a critical shortcoming: it does not allow victims of corporate misconduct in supply chains to seek damages. The focus on consumer entitlements overlooks the intended beneficiaries of these codes—the workers and communities affected by corporate practices. Estlund (2012) offers a more nuanced view, suggesting that remedies obtained through consumer protection laws would benefit workers as well, reflecting the price premium paid for ethically produced goods, rather than directly addressing or prohibiting the wrongful practices. In the Western context, it is understandable that litigation would focus on CSR strategies driven by consumer demand. In fact, scholars show that, historically, CSR obligations have been integrated into commercial law rather than labor law. As Sobczak (2006) argues, multinational obligations to uphold minimum labor standards are rarely addressed within labor law but are part of commercial codes. For example, non-financial reporting obligations are incorporated into the commercial code (Code du commerce) in French law. In a global context of inequalities and injustices of wealth distribution and labor exploitation, this approach shows its limits. While consumer protection laws offer a potential pathway for enforcing SCCs, they are limited in addressing the broader issues of corporate accountability and justice for affected workers.

2.2.3 Supplier codes of conduct enforceability with the CSDDD

As described in section 2.1. above, the adoption of the CSDDD operates a shift from a voluntary to a mandatory adoption of SCCs. The follow-up question thus entails: how will companies have to enforce their SCCs pursuant to the Directive? To ensure compliance with their codes of conduct, companies must obtain contractual assurances from business partners,[43] and take measures to verify their compliance.[44] Later, the text explains that "*For the purposes of verifying compliance, the company may refer to independent third-party verification*". This appears to call for third party external auditing as sufficient and legitimate tool to verify compliance with codes. In theory, this could mean that companies are exempt from further actions once they have adopted a SCC and conducted audits. The clear priority on contractual codes of conduct and third-party verification, in misalignment to the UNGPs is, to some, a matter of concern (Patz, 2022). Several risks can be underlined here.

One primary risk emerges from the potential interpretation of codes as self-sufficient, implying that mere adoption serves as evidence of diligent behavior. On top of the SCC adoption and compliance verification, Article 10(2)(a) of the Directive mandates companies to formulate an "*action plan*" only "*where necessary due to the nature or complexity of the measures required for prevention*." This allows for companies to select themselves the risks to

43 Article 10.2.(b) CSDDD
44 Article 7(c) CSDDD

tackle in supply chains, potentially diminishing the effectiveness of due diligence efforts outside of these formalities that might entail window dressing and not drive further efforts.

Another critical concern lies in the Directive's top-down approach, as it does not include the necessity for companies to consult with stakeholders on the development of their codes, and generally on their due diligence plans. This is even more transparent from the new Directive text adopted by the Council on March 15th. Previously, the proposal stipulated that "*Companies shall, where relevant, carry out consultations with potentially affected groups including workers*" (Article 6 Commission proposal 2022), thus explicitly referring to workers as a group of interest. The new text of the Directive changes this formulation, reinforcing the interpretation of a top-down governance lacking collaboration: "*Where information necessary for the assessment (…) can be obtained from business partners (…), the company shall prioritize requesting such information, where reasonable, directly from business partners*". This shows a major shift in stakeholder consultation, away from a collaborative engagement and exacerbating misalignment with the UNGPs, which prioritize horizontal human rights policy integration and stakeholder engagement as opposed to verification and compliance needs.

Moreover, the legislative emphasis on 'contractual assurances' from suppliers underscores the perception that many responsibilities outlined in the CSDDD are not primarily on the multinational itself but rather on imposing obligations for suppliers to comply with the code, while positioning the company as the quasi-regulator in this dynamic. Article 10 mandates companies to obtain "*contractual assurances from a business partner (…) that it will ensure compliance with the company's code of conduct*," effectively making the code a legally binding obligation for both parties of the contract. In this contractual relationship, one party sets the standards unilaterally, and the other oversees compliance. This comes to reinforce the pre-existing power disbalance in many buyer-supplier relationship. Alternatively, other due diligence laws focus on emphasizing the role of companies to integrate human rights within their own corporate practices. For example, the German due diligence law mandates companies to establish a human rights committee internally. This internal shift would ultimately lead to putting importance on human rights concerns in their supplier relationships, and that would likely trickle down the supply chain, if that is a priority for the buyer. A promising aspect of the Directive in this direction is found in Article 10(2)(d), which mandates companies to "*make necessary modifications or improvements to the company's own business plan, overall strategies, and operations, including purchasing practices, design, and distribution practices*." This provision demonstrates a focus on internal company actions. However, the whole Directive does not go in this direction. Indeed, the European Parliament initially proposed an obligation for companies to avoid contributing to harm through their purchasing practices, but this provision was later abandoned.[45] Finally, Article 12 of the Directive addresses the "*Remediation of actual adverse impacts*," but does not include a direct obligations pending on companies, but an indirect one, passing by the Member States: "*Member States shall ensure that, where a company has caused or jointly caused an actual adverse impact, the company provides remediation*."

From this interpretation of the Directive's text, the major risks concern the shift of the compliance burden onto suppliers, while allowing multinationals to unilaterally set standards and monitor compliance. This apparent top-down governance model prioritizes economic interests over human rights considerations and fails to promote innovative solutions towards a multi-stakeholder governance of global supply chains. To mitigate these risks, it will be essential for the legislator to emphasize stakeholder consultation, internal implementation costs within companies, and the horizontal and vertical integration of human rights policies. Pursuant to the risks highlighted, it is still unclear what the effect of the Directive will be, and whether the CSDDD will effectively provide for a legal pathway imposing a shift of responsibility onto the multinational.

2.3 Conclusion

This Chapter had the intention on setting the legal framework surrounding SCCs, notably addressing whether codes are mandatory, and whether they are binding. The answer is not straightforward, as the legal landscape around SCCs is evolving, changing across country, and there is no universal jurisprudence determining the legal value of corporate self-regulation (Van der Heijden, 2011; Beckers, 2015). I observe that, while codes are not mandatory yet, public and private actors are increasingly incentivizing companies to adopt them. The EU will soon shift the voluntary adoption of codes to a legal obligation, with the entry in force of the CSDDD in 2026. The Directive will mandate in-scope multinationals and operating in the EU to adopt codes, yet leaving them in charge of choosing their content.

Concerning the legal enforcement of codes, I investigate three legal pathways giving codes a legal value. First, codes become binding when they are part of the contractual terms and conditions of the buyer-supplier purchasing contract. While this avenue has been explored by legal scholars, it contained a major flaw, as corporate accountability is very limited, and suppliers are the main actors accountable in case of SCC violation. This is due to the formulation of SCC standards, mainly phrasing obligations

45 Article 4 of the European Resolution states: "*Undertakings shall ensure that their purchase polices do not cause or contribute to potential or actual adverse impacts on human rights, the environment or good governance*." European Parliament resolution of 10 March 2021 with recommendations to the Commission on corporate due diligence and corporate accountability (2020/2129(INL). This was abandoned in the European Commission Proposal of 2022. https://www.europarl.europa.eu/doceo/document/TA-92021-0073_EN.html

pending on suppliers. Second, SCCs may activate corporate responsibility towards their consumers, notably using consumer misleading or deceptive legal protection. While this pathway may be a strong incentive for multinationals to act ethically and to conform to their set standards as it affects their reputation, it excludes supply chain workers from claiming their rights, given the absence of grievance mechanism for victims. Finally, I foresee how the upcoming due diligence legal framework could activate corporate accountability in the future, once the CSDDD enters in force. Due diligence legislation is a promising pathway and partially aims to fill the gap of the contract law and consumer protection laws. Yet, it remains uncertain what the effect of the CSDDD will be in practice, and many risks can be highlighted that would limit codes' enforceability. All in all, SCCs were, until recently, in the 'soft law' part of the soft-hard law continuum, as also interpreted by the judges in the few cases ruling on SCCs. However, the evolving legal framework seeking to increase corporate accountability for human rights violations in global supply chain operates a progression towards the harder end of the continuum.

While SCCs are increasingly surrounded by a legal framework, significant gaps remain in their enforceability. The primary outcome of the legal analysis is that companies ultimately retain a large discretion to determine whether their codes become binding instruments and who can claim rights based on them. The diversity in the formulation of SCCs, as demonstrated in Section 2.2.1, indicates that there is no consistent practice in this regard. Consequently, for SCCs to have legal value, multinationals must draft their codes with a clear intent to be binding. Proponents of the view that SCCs are not binding argue that since multinational enterprises often create these codes as aspirational and non-binding guidelines, they do not intend to be legally bound by them. Beckers (2016) considers that traditional contract law puts the notion of *intent* as paramount in determining the legal consequences of an SCC, and to interpret commitments from multinationals. Therefore, the clearer the formulation and the more binding the provisions, the greater the chance it will fulfill its intended purpose, because it shows intentions on the company to act upon the code (Lynn et al., 2005). This conclusion calls for further investigation on companies' *intentions* when drafting supplier codes, more specifically whether companies intend to create obligations or merely recommend vague principles of good labor practices. The next two steps of this research are now clear:

- **Step 1**: Measuring the extent of companies' social commitments and their intentions, by assessing whether they adopt codes and how they formulate the standards and obligations laid in codes. This is the objective of Chapter 4 and 5.
- **Step 2**: Assessing whether actions are practically taken to fulfill these social commitments. This will be investigated in Chapters 3, 5, and 6.

While the analysis of the legal framework surrounding of codes of conduct highlights that MNEs have significant discretion in determining whether codes create binding obligations, courts may occasionally intervene to establish corporate responsibility for supply chain impacts through alternative legal routes. A landmark example is the 2021 ruling in *Milieudefensie et al. v. Royal Dutch Shell* by the Dutch District Court in The Hague.[46] In this case, the court did not take into account Shell's code of conduct, choosing instead to base its judgment on an unwritten standard of care,[47] which it interpreted as requiring Shell to reduce its CO^2 emissions by 45% by 2030. This decision demonstrates that, in certain cases, courts may impose responsibilities on companies that go beyond the commitments outlined in their codes of conduct. However, this judgement has not been upheld on appeal on 12 November 2024, demonstrating how exceptional this initial ruling was.[48]

Pursuant to the analysis of the legal framework, one observes that the *voluntary* and *non-binding* characteristics that defined SCCs until recently are evolving, especially considering the recent adoption of the European Corporate Sustainability Due Diligence Directive. When reading this dissertation, it is crucial to note that this research was conducted *prior* to the shift towards a mandatory adoption of SCCs. While the Commission's proposal for the Directive was published mid-research (in 2022), the adoption of this text was uncertain until the last month of the doctoral research (June 2024). With this shift, the European legislator's approach positions companies as *quasi-legislators* of supply chains, an arrangement that delegates the responsibility of defining codes' content to multinational corporations. In other words, companies are expected to act as 'chain leaders', seeing supply chains as a hierarchical structure with the buying company at the top. This approach raises concerns about its alignment with the complex realities of supply chains, as noted by Baaij and Castermans (2023), but enhances the relevance of this research. Indeed, the study of SCCs' content will be even more relevant as this self-regulatory policy gains in legal value. Therefore, a comparative study examining the period *before* and *after* the Directive's implementation will be instrumental in understanding corporate responses to the new legal framework within their self-regulatory policies. The data provided in this dissertation may serve as a baseline, or the 'before,' for such future studies, offering a valuable foundation for analyzing the impact of the Directive on corporate behavior and compliance within supply chains.

46 The Hague District Court, *Milieudefensie and Others v. Royal Dutch Shell PLC and Others*, case number C/09/571932, Judgment of 26 May 2021.

47 Book 6, Section 162 of the Dutch Civil Code proscribes acts that conflict with what is generally accepted according to unwritten law

48 Gerechtshof Den Haag. (2024). *Judgment of 12 November 2024* (Case No. 200.302.332/01). ECLI:NL:GHDHA:2024:2100.

3 Literature review on the effectiveness of supplier codes of conduct[1]

ABSTRACT

Even though workplace conditions worldwide are subject to local and international laws, labor conditions in global supply chains have continuously raised human rights concerns. In response to societal pressure, multinationals have taken on a certain degree of responsibility regarding workplace conditions in supplier factories, notably by adopting codes of conduct. Investigating the impact of this self-regulatory policy, scholars have examined whether and how codes shape labor conditions at the production level, but the results of their empirical studies diverge and sometimes contradict. To bring clarity to the field and gain an overarching understanding of the impact of codes, this literature review analyzes the question of their effectiveness as examined in 33 scientific papers gathered via a systematic selection of empirical studies. What do we know about SCC effectiveness to improve labor standards in global supply chains? The review shows that supplier codes are not deemed unanimously and evenly effective by scholars and often fail to improve labor conditions. However, a range of factors are identified that facilitate the implementation of codes and ensure its effectiveness. This article develops a taxonomy of these factors and intends to contribute to understanding codes' decoupling and recoupling processes by investigating the gap between codes provisions and their intended outcome: the improvement of labor practices in global supply chains.

Key words: Code of conduct; Labor conditions; Supply chain; Systematic review

1 This chapter is based on the single-authored paper published in the Journal Regulation & Governance: Vandenbroucke, S. (2024), The portrayal of effectiveness of supplier codes of conduct in improving labor conditions in global supply chains: A systematic review of the literature. Regulation & Governance, 18: 307-327. https://doi.org/10.1111/rego.12514

3.1 Introduction

The repetitive social and human rights scandals[2] on the conditions of workers in global supply chains expose the weaknesses of the current global production and the gaps in the international regulatory system on labor conditions. Globalization is said to leave a 'governance gap' or regulatory vacuum, where nation-state powers are diminished while impactful private actors such as multinationals (MNEs) bear no legal accountability for practices along their supply chains.[3] Pressured to act responsibly by consumers and civil society, many corporations have taken on a certain degree of responsibility for workplace conditions in supplier factories, notably by adopting supplier codes of conduct (hereunder "supplier codes of conduct" or "SCCs"). In these documents, MNEs pledge efforts to ensure that supply chain workers are no longer subjected to abusive and unethical labor conditions. As defined by Kaptein and Schwartz (2007), codes of conduct are a form of self-regulation containing a set of prescriptions developed by and for a company to guide present and future behavior issues. SCs most often include a set of requirements containing minimum labor standards and environmental obligations to be complied with at the supplier level. This private regulatory tool has attracted implementation criticisms as many instances of non-compliance arise, leading to a *decoupling* process between the text of SC and reality of supply chain working conditions. To redress this malpractice, it is salient to investigate *recoupling* to reduce the gap between SC principles and field reality. Although studies focusing on supplier compliance are scarce (Jedynak 2018; Ruwanpura & Wrigley 2011), an increasing number of scholars examine the extent to which SCs' adoption impacts labor conditions or suffers from decoupling (Babri et al. 2019). This systematic literature review aims to collect and compare the empirical results on the impact of SCs, to identify which conditions were demonstrated to reduce the policy-outcome gap, and which circumstances can lead to recoupling according to these studies. To the best of my knowledge, no review has documented how researchers measure the effect of SCs on labor conditions, although authors have already highlighted that the empirical results on SC impact are inconsistent and require further analysis (Kaptein and Schwartz 2007). The papers selected for this review all answer, in one way or another, the question: to what extent are SCs creating a change of behavior towards the improvement of labor conditions in global supply chains? Reviewing all studies evaluating SCs' impact will contribute to the field in three ways: explain inconsistent results in the literature, propose a

2 While many can be mentioned, these contemporary exploitative practices undergoing in MNEs' supply chain are noteworthy: forced labor of Uyghur Muslims in detention camps in China ; Abuses of workers manufacturing rubber gloves in Malaysia ; last minute order cancellation from multinational buyers due to COVID-19 in the textile industry, leaving garment workers unpaid for work done.

3 An extensive analysis on the global governance gap is provided by Eberlein (2019)

theoretical framework to help academics in their future research to measure SCs' impact, and give indication on what factors were identified that lead to decoupling and promote recoupling of SCs with practice. As a promising yet contested regulatory instrument to global labor rights issues, studying SCs' impact is salient in preventing supply chain labor risks and establishing their effective governance. This paper is divided in four main sections. The first one lays down the methodology of the systematic literature review and the papers selected. The second investigates the research designs adopted to measure compliance and effectiveness with SCs, a fundamental challenge for empirical scholars (Rorie & van Rooij 2022). The third section gives an overview of the results on SCs' impact, and the last section develops a taxonomy of factors influencing SCs' compliance and effectiveness.

3.1.1 Theoretical framework

Compliance issues call for SCs' analysis under institutional theory and goal displacement theory. The concept of decoupling has been discussed in institutional theories initially by Meyer and Rowan (1977), developed by Bromley and Powell (2012), and later adapted to the specific policy of SC (Bird et al. 2019; 5& Egels Zanden, 2016). Decoupling occurs when there is gap between the formal policy and the actual practices, where a policy is formally introduced but not actually implemented in daily practice (de Bree & Stoopendaal 2020). SCs are particularly prone to decoupling, as they provide an appearance of conformity to external expectations on paper, while making it easy for the parent company to insulate from those expectations, who may easily avoid their enforcement (Weaver et al. 1999). To ensure SCCs' implementation, MNEs monitor supplier labor conditions to identify occurrences of non-compliance by using audits. In 1994, Power talks about the "explosion of audits", where he argues that audits are used to legitimize corporate actions and institutionalize the implementation process. In fact, even when implementation mechanisms are adopted, they can be ineffective in achieving the outcome intended, auditing becoming a "symbolic implementation" as per the formulation of Bromley and Powell (2012), hence unable to improve labor practices.[4] This is referred to as the two stages of the decoupling process: the policy-practice decoupling and the means-end decoupling.

Goal displacement theory explains how idealistic goals of an organization are displaced by the inferior goals required to maintain the organization and keep its leadership in power (Michels 1949). It is another useful theory to interpret SCC decoupling: by adopting performance criteria in the audit, actors lose sight of the final policy outcome as they strive to maximize their performance rating (Boht & Meier 2000). It suggests that suppliers attempt to improve their compliance ratings in audits at the expense of

4 Symbolic implementation and symbolic adoption: Bromley and Powell develop that the decoupling process can occur at different stages.

working towards the improvement of labor conditions. These theories shed light on areas of conflict limiting SCC impact, explaining why some studies identify little to no impact on labor conditions (e.g. Yu 2008). However, Egels-Zanden's study (2007) shows us that, even when suppliers initially respond with symbolic actions and attempt to deceive auditors, SCCs can lead to actual improvement of workers' rights over time and under certain circumstances (Egels Zanden 2007), thus giving us indications on the road to recoupling.

This review intends to feed these two theories by gathering results on SCCs' impact on labor conditions and creating a taxonomy of factors influencing the decoupling and recoupling processes.

3.2 Method of the systematic literature review

3.2.1 The selection process

A systematic literature review uses scientific methods of identification, evaluation, and synthesis of sources on a chosen research problem (Petticrew & Roberts 2006), to analyze existing theoretical concepts or empirical studies in a given field, in this case to assess the impact of SCC in improving labor conditions in global supply chains. This review followed Noort et al. (2019) steps for the systematic review, using the PRISMA three-phase flow diagram as detailed in figure 1.

Identification English peer-reviewed articles were identified using EBSCOhost database and selected based on 12 key words, clustered in three categories (Table 1). Studies assessing SCCs' impact on supply chain labor condition must fulfill three combining conditions, namely: the targeted subject must be suppliers or generally global supply chains (category 1), using the tool of codes of conduct (category two) and measuring the codes' impact via the assessment of its compliance or effectiveness (category 3).[5] For each of these categories, an extensive list of synonyms were developed to avoid excluding studies. To ensure that no papers were excluded, a sample of 9 papers was pre-selected from a primary literature research. The inclusive vocabulary highlighted in Table 1 successfully englobed all 9 papers pre-selected.

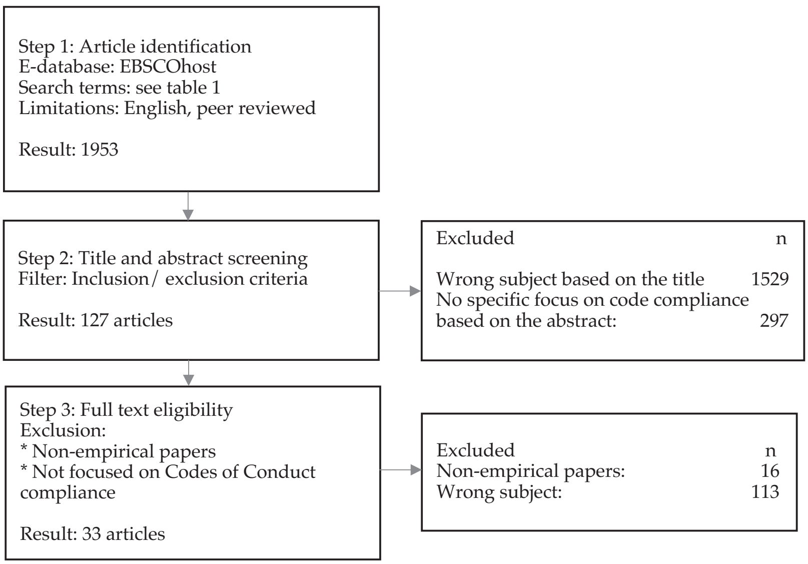
Screening and eligibility After the initial identification by EBSCOhost resulting in 1953 papers, the title and abstract of the articles were screened based on the inclusion criteria. Finally, full text articles were retrieved and checked for their eligibility.

5 The specifications concerning labor conditions were not included at this first selection stage, to avoid the exclusion of papers measuring compliance with environmental standards, as they are often dealt with jointly.

Table 1: Key words for paper selection

Category 1: supplier level	Suppl* Value chain*
Category 2: codes of conduct	Private regulat* Self-regulat* code* of conduct Code* of ethics lab*r code
Category 3: Measurement of SCC impact	Complian* Effectiv* Enforce* Implement* Coupl*

Figure 1: Flow diagram of the systematic literature review on supplier codes of conduct impact



3.2.2 Overview of the selected papers

A total of 33 papers met the inclusion criteria, as presented in Table 2. Columns 5, 6 and 7 give a first snapshot of the threefold focus of this study: empirical method used to study SCCs' compliance, labor rights impacted, factors affecting code compliance. The last column depicts the results on SCC's impact reached by the study. The papers were published in journals relating the legal and business management field and were all published after 2000. This was not a pre-required criterion but attests of the novelty of the discussion in those terms. Some authors used several times the same dataset (Jiang) or conducted more than one study on the topic (Egels Zanden, Locke, Yu). All studies investigated supply chain labor conditions in developing countries, most of them located in Southeast Asia or Latin America.

	Author(s)	Year	Sample characteristics	Methods	Labor rights	Factors of compliance and effectiveness	Results regarding effectiveness of SCC
1	Barrientos S; Smith S. 2007	2007	11 Ethical Trade Initiative member companies, 23 supplier site, 418 workers	Survey, comparative case study, interviews	Overall	2 – Compliance approach focused on technical outcome standards – Lack of awareness of workers on the existence of a code – Close relationship with suppliers – Serious commitment to ethical trade	Uneven impact
2	Bartley, T; Egels-Zanden, N	2015	192 Indonesian factories producing apparel, textiles, electronics or footwear in Indonesia.	Interviews, survey	Trade union rights Employment discrimination OHS Employment practices	2 – Labor regulation – Labor inspection	Uneven impact Unclear if differences can be attributed to SCC
3	Bird, YH; Short, JL; Toffel, MW	2019	8,323 audits of 3,276 suppliers in 55 countries on behalf of 102 buyers between 2012 and 2015.	Audit analysis	Maximum working hours Minimum wages OHS	2 – Presence of trade unions – Factory payment policies (piece rate basis) and high-power productivity incentives	Comparatively more effective under certain conditions
4	Coslovsky, SV; Locke, R	2013	116 audits and 80 interviews conducted between 2002 and 2008 at Coca Cola suppliers in Brazil, in the sugarcane industry.	Audit analysis, interviews, field observation	All rights included	0	Identified improvement
5	Distelhorst, G; Locke, RM; Pal, T; Samel, H	2015	484 audits conducted in 261 Hewlett-Packard production facilities in 14 countries between 2004 and 2009.	Audit analysis, interviews, field observation	All rights included	2 – Salience of local regulatory institutions – Civil society freedoms and free transparent press	Uneven impact
6	Egels-Zanden, N	2007	9 Chinese Toy suppliers from 3 Swedish toy retailers. Over 100 interviews with workers conducted in 2004.	Interviews, field observation	All rights included	0	No proven substantial improvement or only marginally
7	Egels-Zanden, N	2014	9 Chinese Toy suppliers from 3 Swedish toy retailers. Over 100 interviews with workers conducted in 2004 and then 2009 (follow up study).	Interviews, field observation	All rights included	3 – Number of audits and buyer company surveillance – Trusting relationship between supplier and buyer – External factors	Identified improvement

	Author(s)	Year	Sample characteristics	Methods	Labor rights	Factors of compliance and effectiveness	Results regarding effectiveness of SCC
8	Egels-Zanden, N; Lindholm, H	2015	288 audits conducted in 43 garment factories by Fair Wear Foundation between 2004 and 2012. The majority of suppliers are located in China, Tunisia, Turkey, Macedonia.	Audit analysis	All rights included	0	No proven substantial improvement or only marginally
9	Frenkel, SJ	2001	4 factories in the athletic shoes industry in South China, from 2 different buyers. 80 interviews were conducted between 1998 and 1999.	Interviews, field observation	Management Employment relations Worker organization	1 – Local regulatory and institutional context	Uneven impact
10	Frenkel, SJ; Scott, D	2002	2 supplier factories of Adidas (footwear sector) in China owned by a Taiwanese contractor in 2001.	Interviews, field observation	labor practices workplace performance OSH	2 – Supplier-buyer collaborative relationship – Supplier commitment to high labor standards	Identified improvement, especially under certain conditions
11	Hoang, D	2019	40 interviews with managers, union representative and workers at a garment factory in Vietnam in 2016.	Interviews, field observation	All rights included	1 – Supply workers dishonesty on labor conditions	Uneven impact
12	Hoang, D; Jones, B	2012	20 interviews of female senior managers, union representative, production workers in three supplier factories in the apparel industry in Vietnam between 2008 and 2010.	Interviews, field observation	All rights included	3 – Direct supplier-buyer relationship – Short term contracts with vendors at second or third tier of the supply chain – Strong independent trade unions	Uneven impact
13	Jayasinghe, M; Hunter, LW	2020	32 interviews with plan owners and managers, trade association and audit executive in the Sri Lankan apparel industry. Survey on 122 Sri Lanka apparel plans.	Interviews, field observation, survey	Wages OSH	0	Uneven impact
14	Jiang, B	2009a	197 Chinese apparel and textile suppliers, 2006.	Survey	NA	3 – Mediating efforts from the buyer – Peer to peer governance – Price pressure	No proven substantial improvement or only marginally
15	Jiang, B	2009b	197 Chinese apparel and textile suppliers, 2006.	Survey	NA	3 – Cost pressure – Production complexity – Contract duration	Identified likelihood of compliance under certain boundary conditions

	Author(s)	Year	Sample characteristics	Methods	Labor rights	Factors of compliance and effectiveness	Results regarding effectiveness of SCC
16	Lindholm, H; Egels-Zanden, N; Ruden, C	2016	288 Audits from 229 garment factories conducted by Fair Wear Foundation between 2004 and 2012.	Audit analysis	OSH	1 Number of audits conducted	No proven substantial improvement or only marginally
17	Locke, R; Amengual, M; Mangla, A	2009	300 interviews conducted between 2006 and 2007 in 210 supplier factories of an apparel company (confidential), located in China, India, Bangladesh, Dominican Republic, Honduras.	Audit analysis, interviews, field observation	OSH Trade union Working time Wages	3 – Joint problem solving with supplier – information exchange – Diffusion of best practices	Uneven impact, but overall no substantial improvement
18	Locke, RM; Samel, H	2018	500 audit reports and 27 interviews from 276 suppliers of Hewlett-Packard between 2004 and 2009.	Audit analysis, interviews, field observation	OSH, nondiscrimination, wages, working hours, employment status	2 – Type of products manufactured – relational governance systems VS transactional	Uneven impact
19	Locke, RM; Qin, F; Brause, A	2007	800 of Nike's suppliers in 51 countries between 1998 and 2005.	Audit analysis	All rights included	2 – Allowing suppliers to better schedule their work – Monitoring efforts combined with root cause tackling	No proven substantial improvement or only marginally
20	Locke, R; Romis, M	2010	2 Mexican suppliers of Nike, 90 interviews conducted in 2005 in the US and in Mexico.	Audit analysis, interviews, field observation	Wages Working time Trade union Employee representation Satisfaction Workers' voice	4 – Supplier factory size – Foreign ownership of supplier factory compared with domestic ownership – Complexity of products manufactured – Supplier/Buyer relationship	No proven substantial improvement or only marginally
21	Loo, SK; Nasruddin, E	2015	16 purchasing managers interviewed from two facilities in Northern Malaysia in the electronics industry in 2014.	Interviews	All rights included	1 – Country where buying company is located	Comparatively more likely to improve under certain circumstances
22	Lund-Thomsen, P; Nadvi, K; Chan, A; Khara, N; Xue, H	2012	127 interviews with football-stitchers in Pakistan, India and China 9 (home-based, centre-based and factory based workers), carried out in 2009-2010.	Interviews, field observation	All rights included	2 – Factory's technology – Supply chain governance	No proven substantial improvement or only marginally

	Author(s)	Year	Sample characteristics	Methods	Labor rights	Factors of compliance and effectiveness	Results regarding effectiveness of SCC
23	Mejias, AM; Bellas, R; Pardo, JE; Paz, E	2019	4 sustainability reports (Inditex, H&M, Fr and Gap) of 2016 on their supply chain performance / compliance with code.	Audit analysis	All rights included	4 – Control and monitoring beyond first tier suppliers – Suppliers' independence to develop own strategies and solutions – Commitment and recognition to maintain buyer-supplier relationship	High levels of compliance with SCC identified
24	Oka, C	2016	579 Cambodian exporting garment from 2006 to 2013. 61 field-based interviews with factory managers, union federation leaders, buyer representatives, government officials, labor activists, industry consultants and foreign donors.	Audit analysis, interviews, field observation	All rights included	1 – Union presence (but the number of unions is irrelevant)	Uneven impact, but identified Improvement under certain conditions
25	Oka, C	2010	344 Cambodian exporting garment factories, from 2006 to 2008.	Audit analysis, interviews, field observation	All rights included	5 – Reputation-Conscious buyers – Size of supplier factory – Age of the factory – Union presence – Domestic ownership	Identified improvement under certain conditions
26	Ruwanpura, KN	2013	2 Sri Lankan factories in the apparel sector, 60 interviews with factory workers in 2009-2010.	Interviews, field observation	OSH (gender component)	4 – Location of supplier – Stringency of labor laws on OSH	Uneven impact
27	SCChuster, M; Maertens, M	2016	592 interviews in 78 villages in the horticultural sector in Peru between 2013 and 2014. Collection of characteristics from 171 companies export companies.	Survey	All rights included	5 – Supplier legal status – Presence of unions – Production diversity – Production size – Piece rate payment	Uneven impact, but overall, no substantial improvement

	Author(s)	Year	Sample characteristics	Methods	Labor rights	Factors of compliance and effectiveness	Results regarding effectiveness of SCC
28	Sethi, SP; Veral, EA; Shapiro, HJ; Emelianova, O	2011	Observation on the implementation of the Mattel code of conduct between 1997 and 2006.	Audit analysis	Focus on specific working conditions and components.	1 – Costs spent on compliance from the buying company	Universal progress on compliance levels
29	Short, JL; Toffel, MW; Hugill, AR	2020	8,677 audits conducted at 4,940 suppliers spanning 13 industries in 66 countries. Audits conducted between 2004 to 2009.	Audit analysis	All rights included	3 – Institutional pressure – Reputation sensitive buyers – trained auditors	Identified improvement under certain conditions
30	Sinkovics, N; Hoque, SF; Sinkovics, RR	2016	3 Bangladeshi garment manufacturing firms among which 27 interviews were conducted in 2014.	Interviews, field observation	All rights included	0	Uneven impact. SCC deteriorate certain labor conditions.
31	Toffel, MW; Short, JL; Ouellet, M	2015	44,383 audits of 21,836 supplier establishments in 47 supplier countries on behalf of 511 buyers in 12 countries from 2004 to 2009.	Audit analysis	All rights included	3 – Supplier location depending on country characteristics – Adherence to ILO standards – Market pressures on MNEs	Identified improvement of compliance rate under certain conditions
32	Yu, XM	2008	34 interviews conducted at Fortune Sports, Reebok's second largest footwear supplier factory in China in 2002.	Interviews, field observation, documentary reviews	Wages Working hours Trade union	3 – Purchasing practices – Labor regime at local level – Buyer's investment in costs of compliance	No proven substantial improvement of labor standards
33	Yu, XM	2015	34 interviews conducted at Fortune Sports, Reebok's second largest footwear supplier factory in China in 2002.	Interviews, field observation	OSH Employee representation Wages	1 – Commercial (reputation-driven) CSR agenda	No proven substantial improvement of labor standards

Table 2: Overview of the paper selected[1]

1 The sample characteristics column includes information on the country of location of the study, the industry, the years data were collected, in some cases the specific company studied, and indications on the sample size.

3.3 Research designs to measure compliance and effectiveness

Assessing compliance of a norm is a process that comes with many uncertainties (Rorie & van Rooij 2022), yet compliance with a policy does not ensure its impact. To accurately reflect SCCs' effectiveness, it is relevant to distinguish it from their compliance (1), before assessing the methods adopted by empirical scholars to measure SCCs' effectiveness (2). These components arguably impact study result and partly explain discrepancies among studies.

3.3.1 The difference between compliance and effectiveness

Compliance refers to a state of conformity between an actor's behavior and a specified rule (Raustiala 2000). While measuring or evaluating compliance is conceptually straightforward, ascertaining why compliance or noncompliance occurs is more challenging. In fact, the mere fact of compliance with a given commitment tells us little about the utility and impact of that commitment, while effectiveness of a policy indicates the degree to which a rule induces changes in behavior and improves the state of the underlying problem. According to this definition, SCCs' effectiveness means that there is an observable, desired change of behavior in supplier factories towards the improvement of labor conditions. In the sample of papers, most studies attempt to measure effectiveness apart from four studies (papers 6, 11, 12, 26). Studies measuring effectiveness create complex designs to identify whether decent labor conditions can be attributed to the presence of a SCC. This is a challenging task, as there are typically multiple factors underlying labor practices, such as the regulatory framework in which suppliers operate. To make sure that an identified change of labor practice can be attributable to SCCs' presence and not stem from other causes (Barrientos & Smith, 2007), the studies attempt to "tune out" other factors likely to affect labor conditions, also called confounding variables or what I call "compliance factors". Compliance factors are opposed to "effectiveness factors",[6] as the latter relate to conditions affecting the good implementation of codes and impactful factors in the way suppliers translate SCCs into practice. In light of these considerations, it should be observed that SCC compliance does not amount to SCC effectiveness, and alternatively non-compliance does not signify that SCC have no impact. By extension, a decoupled SCC does not imply its ineffectiveness and a tightly coupled SCC does not indicate its effectiveness, as compliance with labor standards may not stem from the code's adoption.

6 This distinction is used later in section 4 in the development of a taxonomy of factors.

3.3.2 Designs used to measure effectiveness

Three key learnings are taken from the assessment of methods used to measure SCCs' effectiveness: 1. studies elaborate two types of designs to measure SCCs' impact, 2. which often involve a flawed measurement of labor conditions at supplier level, 3. including perception biases.

Two types of designs are frequently used to assess codes' impact: the comparative design and the longitudinal design. Comparative designs have proven helpful to identify factors affecting codes' impact. Bartley and Egels-Zanden (2015) evaluate the working conditions of factories located in the same country (Indonesia) by comparing supplier factories governed by a code and those that are not. Using a control group of factories not exposed to codes is a convincing way to draw conclusions on codes' impact (Bartley & Egels-Zanden 2015). Jiang (2009a & 2009b) compares labor conditions of suppliers considered "compliant" with suppliers considered "non-compliant" to highlight conditions under which suppliers commit to implement SCC. Similarly, some studies compare the working conditions of different factories collaborating with the same buyer to understand the underlying reasons behind compliance of certain suppliers and non-compliance of others (Locke et al. 2009; Locke & Romis 2010). The longitudinal design involves measuring the evolution of labor conditions over time within the same supplier factories. Sethi et al. (2011) analyze the 9 years process of code implementation at the supplier factories of one single company. With the same intentions, Yu (2008) evaluated labor practices *before* and *after* the adoption of a code, to see whether a significant behavioral shift could be identified.

Both the comparative and the longitudinal design entail the evaluation of labor conditions at supplier level. 16 studies use the quantitative analysis of audit reports to assess SCC compliance, as they provide for quantifiable data measuring the compliance with each labor standard. Audit reports are useful tools for companies to verify suppliers' claim of compliance but are often criticized for their flawed rating (Jiang 2009a), as suppliers are easily able to cover up violations of codes' provisions while passing audits. While compliance with codes may appear to positively evolve through time due to progressing audit reports, suppliers may in fact learn to match their buyer's expectations, without fundamentally altering their behavior (Egels-Zanden 2007). Under some conditions however, audits have proven to be more transparent and have increased reliability. Compliance data collected by public bodies such as the Better Factory Cambodia (ILO monitoring program), or those controlled by NGOs such as Fair Wear Foundation (Egels-Zanden & Lindholm 2015) are superior in quality to those compiled by private auditors, as they are externally financed and thus less likely to be biased by MNEs' interests (Oka 2016). Short et al. (2020) also demonstrate that trained auditors generally conduct more neutral and informed audits. Aside from the compliance assessment, another method to assess labor conditions and measure behavioral changes is to use perception methods relying on insights and perceptions on labor conditions of different actors, by conducting surveys or interviews (used in 25 studies). Different sample of respondents were interrogated, which can be classified in different groups (see Table 3): workers or worker's representatives, managers at supplier level, and the MNE itself (e.g. the compliance officer). In some studies, specific groups of workers were targeted, such as female workers, who face specific challenges of labor conditions in their working environment.

When using perception methods, many authors refer to the difficulties to access transparent and reliable data, and present solutions or methodologies partially addressing this issue (e.g. Bartley & Egels-Zanden 2015; Toffel et al. 2015). Perception data are potentially biased, as respondent groups are likely to have different insights on labor conditions and be influenced by individual interests or organizational agendas. To lessen the bias effect of the perception method, twelve studies have collected and compared answers from different group of actors (i.e. data triangulation), and twenty-one studies adopted a mixed-method approach to triangulate ways of data collection. These mixed approaches give the most complete overview. Studies relying on workers or workers' representatives' answers to assess SCC effectiveness are also reliable, especially when the researcher has gained the trust of workers over a long course of time or is culturally and linguistically close and accessible by workers, as promoted in the designs of Barrientos and Smith (2007) or Hoang (2019). Similarly, Bartley and Egels-Zanden (2015) underline that relying on union representatives' opinions better reflects working conditions than auditors. They however acknowledge that even seemingly objective measurements of compliance are the result of imperfect judgements. Hoang (2019) considers that workers themselves can provide biased answers to support their managers in the hopes of compensation, or in fear of retaliation (Ruwanpura 2013, Hoang 2019). Egels-Zanden (2014) acknowledges this difficulty and try to counter this potential bias by performing unannounced interviews with workers outside of the factories and after working hours. This allows anonymized workers to speak freely about their views on working conditions (Egels-Zanden 2014; Hoang 2019).

Table 3: Overview of respondents in studies using perception data

Type of respondents	Papers
Multi-stakeholder (n=15)	1, 4, 5, 9, 10, 13, 17, 18, 20, 24, 25, 28, 30, 32, 33
Buying company or purchasing managers (n=2)	21, 23
Managers at supplier level (n=2)	14, 15
(predominantly) Workers and/or worker's representatives (n=5)	2, 6, 7, 22, 27
(predominantly) Female workers (n=3)	11, 12, 26

3.4 Uneven impact of codes on labor conditions

After observing studies' methodological differences, we can provide an overview of the result on SCCs impact. SCCs' effectiveness to improve labor conditions is highly contested: most studies consider that SCCs have limited to no impact on labor conditions as ten studies have not identified any improvement or only marginally so[7]. It is commonly agreed upon that the mere existence of a code does not activate ethical behavior of companies, and even studies observing a significant positive impact of SCCs are nuancing their conclusion by acknowledging the limitations and conditional effect (e.g. Distelhorst et al. 2015). Sinkovics et al. (2016) and Yu (2015) even observed a negative impact of SCCs on labor conditions, showing that compliance initiatives have, in some cases, torn down existing social values and led to the impairment of certain social, economic and cultural rights. Scholars are particularly vocal about SCCs' inability to promote collective bargaining and freedom of association and facilitate worker agency (e.g. papers 2, 9, 17 and 22). Many reasons are brought forward to explain this unfortunate result. First of all, SCCs are more likely to focus on technocratic issues that are easily measurable but do not allow to challenge embedded labor relations or social norms underlying the production process (Bartley & Egels-Zanden 2015; Barrientos & Smith 2007). Secondly, freedom of association may be restricted by national law, such as in China where collective bargaining is prohibited or in Vietnam where only one trade union is recognized and active (Hoang 2019). Suppliers cannot over-ride the national legal framework in which they operate. Finally, it appears that companies marginalize issues related to workers' freedom of association and bargaining power, as workers' voice are considered as less important in the monitoring process (Egels-Zanden 2007).

Five papers however evaluate that SCCs are effective in improving labor conditions, although nuanced, and eight studies have convincingly proven a positive impact specifically on occupational health and safety (OHS). That being said, classifying SCCs impact as "effective" or "ineffective" in Table 4 proved to be challenging, as authors mainly identify a conditional effectiveness of codes, only found under specific circumstances. One repetitive conclusion in several papers is that SCCs do not profoundly challenge the existing labor governance and thus root-causes issues for labor violations, as substantial issues remain untouched in supply chains. However, codes may have a positive effect on technocratic issues of OHS, mainly when the buyer and the supplier have a direct relationship (Hoang 2019). In the same line of thoughts, some authors distinguish *process rights* from *outcome standards* to explain the uneven impact of codes (papers 1, 2, 7, 8, 16, 25). Process rights are those providing a route to negotiation and access to other entitlements,

7 In this context, a *marginal impact* refers to studies identifying slight changes of labor conditions with the presence of a SC. Those were not considered sufficiently significant for authors to be able to attribute the change

such as freedom of association and prevention of discrimination. Those are seldom impacted by SCC presence. Alternatively, outcome standards refer to specific conditions of employment, such as health and safety, living wage and working hours, which are found to improve with SCC presence.

Table 4: Overview of SCC impact findings per labor right

	All labor rights	OHS	Wages	Freedom of Association	Working Hours	Employment relationship
No impact	6, 11, 14, 15, 17, 19, 20, 32, 33	13, 16[8], 26[9]	13, 2	2, 8, 9,17, 22	18, 30[10]	/
Positive impact	5, 7, 8, 23, 28	2, 4, 11, 12, 17, 18, 30	1, 27[11], 18	/	/	8, 13
Negative impact	/		30, 33	/	30, 33	30, 33

3.5 Factors affecting compliance and effectiveness

From the literature, codes appear to be more effective under certain circumstances, their impact being dependent on the presence of a set of factors. Drawing inspiration from the paper by Asif (2020) in which a taxonomy of factors of compliance with socio-environmental standards is adopted, I propose a classification of compliance and effectiveness factors with SCCs according to the institutional and managerial levels at which they play a role. Four categories of factors are identified from the analysis of the sample: external contextual factors, supplier level, buyer level and buyer-supplier level, laid down in Table 5. Antecedents of compliance affect labor condition regardless of the presence of a code (Asif, 2020), while effectiveness factors focus on SCCs' impact and ways to improve their implementation. This dichotomy is not strict and contains overlaps, but the distinction of compliance factors from effectiveness factors is helpful to understand which factors lead to compliance with labor standards regardless of the presence of codes; and which factors facilitate or hamper the impact of codes.

8 Study focusing on chemical safety in the garment industry
9 Study focusing on the working conditions of pregnant workers
10 This study argues that codes of conduct have *decreased* labor conditions on the sample identified, the code creating unintended consequences leaving workers worse-off.
11 This study observed that codes of conduct improve the likelihood of receiving minimum wages, but not increase wages in general.

Table 5: Overview of factors impacting SCC compliance and SCC effectiveness

	Papers	SCC compliance	SCC effectiveness
External contextual factors	2,5,7,9,26,29, 31,32	Institutional legislative framework (supplier level) Presence of civil society and press freedom (supplier level) Economic context (supplier level)	None
Buyer level factors	3,6,7,14,15,16, 19,21,22,23,25, 27,28,29,31,32, 33	Companies' purchasing practices and price pressure Companies' characteristics (sector, size, location)	Monitoring and supervising suppliers' compliance and costs spent on compliance programs Internal drive for social commitment Reputation conscious buyers
Buyer-supplier level factors	1,7,10,12,14, 17,18,19,20, 22,23	Supply chain governance and transparency, contract duration, complexity of supply chain	Cooperation between suppliers and buyers Long term; trusting and direct supplier-buyer relationships Compliance approach compared to peer-to-peer governance Supplier independence to develop own strategies
Supplier level factors	1,3,10,11,12, 18,20,22,24, 25,27,26,33	Employment practices and management Supplier characteristics (size, ownership) Production characteristics	Presence and independence of trade unions Supplier commitment to high labor standards

In the below sections, not every factor is lengthily discussed, but only the ones requiring developments and explanation. Factors identified for each paper are laid down in column 7 of Table 2.

3.5.1 External contextual factors

Two main external compliance factors are identified: the institutional legislative framework and the presence of civil society and press freedom.

Firstly, eight studies observe that the supplier-level institutional framework is a central factor of SCCs compliance. The legal and institutional framework, especially regarding suppliers' domestic labor laws, plays an important role in compliance with labor codes (papers 2,5,9,26,29,31,32). As well articulated by Yu (2015), codes' impact on labor conditions can be undermined by the existing regulatory environment, as governments in developing countries may not support the enforcement of labor standards or in fact adopt labor regulation contrary to SCC provisions. In these circumstances and despite best implementation efforts, SCCs are unlikely to be complied with in countries with low protection of labor standards, while SCC coupling is more present in countries with strong regulatory institutions enforcing labor rights effectively (Distelhorst et al. 2015; Locke et al. 2007; Toffel et al. 2012), including labor inspectorates (Bartley & Egels-Zanden 2015). Toffel et al. (2012) go further in this analysis, by demonstrating how developing countries can create domestic legal environments that promote adherence to the global standards embodied in SCCs. They found that countries with substantial connections to the international community and most compliant with international labor standards host supplier factories more likely to comply with SCCs. They demonstrate that code compliance rates are higher for suppliers in countries that have ratified many ILO conventions, that have highly protective labor regulation, and high levels of press freedom (Toffel et al. 2012). In this regard, international governance seems to interact with private regulation of supply chain, as international treaties amplify codes' effect.

Secondly, apart from the legislative framework, scholars also observe that press freedom and the presence of civil society are predictors of code compliance (Toffel et al. 2012; Distelhorst et al. 2015). In a study on HP suppliers, Distelhorst et al. (2015) showed that factories in countries with weak regulatory institutions, but decent civil society freedoms outperformed factories surrounded by weaker presence of civil society. When both regulatory enforcement and local civil society were weak, SCCs lack outside resources to incentivize and support improvements of labor conditions (Distelhorst et al. 2015). In fact, civil society actors can provide monitoring functions and expose wrongdoing in lieu of weak governmental inspection regimes in suppliers' countries. They can also significantly contribute to putting pressure on businesses to adopt codes of conduct and monitoring their compliance. However, it is only the presence of local NGOs close to workers that increases compliance with codes of conduct, by playing symbiotic roles of transnational advocacy networks (Short et al. 2020). These local NGOs bear a catalytic role in voicing workers' issues and create open information channels by deconstructing the opacity of labor rights' violations at the production level and information sharing on this topic is more likely to echo internationally and attract consumer and multinationals' attention.

3.5.2 Buyer level factors

At the buyer level, implementation and monitoring programs put in place by companies constitute factors of SCCs effectiveness (1), while compliance factors relate to the characteristics of the company and their purchasing practices (2). Ultimately, a codes' impact is highly dependent on a company's intrinsic social commitment (3).

Firstly, the type of SCCs' implementation programs established by companies, including monitoring and surveillance mechanisms of supplier labor conditions, affects SCCs' effectiveness as those programs are often flawed, unable to promote better labor standards. Locke et al. (2009) observe that most companies adopt the "traditional compliance model", a model of supplier governance based on unilateral surveillance of labor standards using factory audits. It is generally characterized by asymmetric power relations between global buyers and their suppliers, where the buyer scrutinizes suppliers' action with the ultimate threat of cutting ties and shift to another supplier (Jiang 2009b). To avoid retaliation and sanctions, suppliers develop opportunistic behavior and learn tricks to hide SCC violations without fundamentally altering their behavior (Egels-Zanden 2007; Jiang 2009a). It is demonstrated that audits can drive dishonesty, lack of openness, and even fraud, when suppliers feel forced to provide the "right" answer or face serious business implications (e.g., the threat of substitution) (Jiang 2009). With their study on Nike suppliers worldwide, Locke et al. (2009) show that the traditional compliance model is ineffective in practice: even though Nike conducted consistent monitoring of suppliers throughout the years and performed thorough audits, 80% of supplier factories failed to improve compliance over time, and some even experienced a decline in their compliance rating. In fact, unilateral monitoring regimes are argued to be designed *not* to protect labor rights or improve working conditions, but instead to limit the legal liability of global brands and satisfy institutional legitimacy demands (Bird et al. 2019). Far from protecting workers, these monitoring schemes eviscerate state regulation and undermine union power without replacing them with a viable alternative regime (Locke et al. 2007). However, good examples of effective monitoring system were also highlighted in some of the empirical studies, especially concerning audit methodology. For instance, Short et al. (2020) and Oka (2016) show that auditors, if properly trained to the local and sectorial labor issues, can have a pedagogical role when instructing factory managers how to remedy the violations and identify root causes to develop compliance solutions. Moreover, audits are most effective in improving labor conditions when controlled or supervised by certified external parties, such as NGOs or public bodies. Good examples include Fair Wear Foundation in the studies of Egels-Zanden and Lindholm (2015) and Lindholm et al. (2016), as well as Better Factory Cambodia (ILO monitoring program) in Oka's study (2016). Monitoring efforts appear beneficial when combined with supplier empowerment (Locke et al. 2007), or when companies enter a multi-stakeholder initiative involving NGOs, trade union, and government representatives to facilitate cross-sector learning (Lund-Thomsen et al. 2012). Finally, enforcement mechanisms should be included in SCCs (Bird et al. 2019).

Secondly, supplier opportunistic behavior may be caused by the purchasing practices of buyers, whose economic incentives drive them to choose cost-efficient suppliers and put important price pressure on their subcontractors. Unreasonably high and increasing production demands or "high-powered productivity incentives" also impact SCC compliance (Asif 2020; Bird et al. 2019), as incentives to cut corners to produce more and quicker are associated with inferior labor practices and are likely to hinder workers' engagement in SCC implementation. As accurately underlined by Jiang (2009b), profit-based market governance alone is not sufficient to drive positive change of suppliers' commitment to SCC implementation.

Finally, these above-mentioned factors challenging SCC compliance can be moderated by a condition of the MNE characteristic: their internally driven social commitment. The study of Sethi et al. (2011) analyzing the 9 years implementation process of Mattel Inc.'s SCC exemplifies well this condition. Initially, Mattel's code was effectively implemented and triggered a drastic improvement of labor conditions in supplier factories, notably due to a proactive attitude from the company involving sharing the economic burden of code's implementation. After 3 years, the company's commitment to code compliance started declining, as costs for the SCC implementation were significant compared to the companies' competitors (Sethi et al. 2011). This tells us that, not only must MNEs be socially committed to their SCC implementation, but their commitment must also take the form of an economic participation to compliance costs on the long term. Observing a similar pattern, Oka (2010) observes that reputation-conscious buyers, by fear of consumer retaliation, show greater investment of time and resources in implementation programs and therefore opt for direct relationship with suppliers. In contrast, cost-conscious buyers prefer market-based transactions for efficiency reasons, which are less likely to trigger SCC compliance (Oka 2010). In most companies, there seems to be an unspoken accord that labor standards do not have the same weight and value than other contractual terms like price, quantity and quality of services (Bird et al. 2019). From its field observation, Locke (2013) observes that most compliance officers investigating labor conditions have less influence than their purchasing or sourcing colleague when deciding to place an order in a supplier factory. This relates to the work of Tilcsik (2010), who explains that an organization needs individuals with both *motivation* and *power* to carry out the policy in every day practice, and implement it substantively. To counter decoupling, organizations must appoint compliance officers with strong incentives or ideological motivation to do so.

Ultimately, buyers' intrinsic and genuine interest in producing ethically and put ethical commitment as a priority, notably by granting compliance officers with sufficient action power, and financial means, is the silver lining of all monitoring and implementation mechanism put in place.

3.5.3 Buyer-supplier level: the relational factor

As underlined by Oka (2010) and Egels-Zanden (2014), supplier-buyer relationship is the most important variable affecting code's impact. Their cooperation (1), long term and trusting relationship (2), and suppliers' independence to develop their own strategies (3) constitute factors shown to increase SCCs' effectiveness.

Firstly, the theory that a collaborative buyer-supplier relationship has a positive impact on compliance is referred to as the cooperation theory or peer-to-peer governance, opposing the buyer-to-supplier governance. Instead of relying on threats of sanction to comply with codes, this idea relies on social mutual adaptation in which idiosyncratic investments must be made on the buyer's side, in cooperation with the supplier (Jiang, 2009). Others referred to the "joint problem solving" or "commitment-oriented" approach (Locke et al 2009), where both buyers and suppliers' responsibilities are "*highly intertwined and mutually reinforcing*" (Jiang, 2009). These approaches involve the incorporation of voices of suppliers, workers and communities in the design of compliance mechanisms and monitoring. They aim to lead to policy recoupling, by ensuring that priorities of local actors are the ones shaping private regulation, instead of being driven by what western companies consider priorities. Unfortunately, the use of private regulation was criticized for its risks of neo colonial ethno-centrism risk, as it insufficiently includes voices of suppliers in the talk (Lund-Thomsen, 2012).

Secondly, linked to the importance of supplier and buyer cooperation, is the type of relationship they maintain. Trusting buyer-supplier relationships is key to improve working conditions in global production networks (Frenkel 2001; Locke et al. 2009; Oka 2010; Egels-Zanden 2014). In these studies, trust was measured by the length of the relationship, the collaboration between the buyer and the supplier, the frequency of visits, and their open communication. Locke and Romis (2009) for instance have compared two Mexican Nike factories, referred to as "plant A" and "plant B", to explain the compliance differences between those two factories. Plant A had more frequent visits and more open communication with Nike's regional staff and management, which led to the development of greater trust and a better working relationship between these two actors, compared to Plant B. According to the authors, this relational difference is partly responsible for the more acute compliance in Plant A. In that sense, SCCs are more impactful in direct buyer-supplier relationships (Hoang & Jones, 2012), underlying the importance for companies to extend their relationship with suppliers beyond the first-tier level (Meijas et al. 2019).

Finally, instead of implementing SCCs in a top-down fashion via the imposition of sanctions and monitoring mechanisms, the alignment of buyers' interests and suppliers' working conditions will establish actual commitment by all parties of the supply chain. After all, it was demonstrated that suppliers are more compliant when given more schedule flexibility in their production schedule (Locke, 2007), which demonstrate the importance of leaving a margin of action and flexibility to suppliers.

3.5.4 Supplier level factors

At the local level, suppliers' organizational structures and employment practices impact SCCs' compliance (1). Effectiveness factors include the supplier internal commitment to labor standards (2), and the presence of trade unions at factory level (3).

Firstly, supplier characteristics and employment practices play a role in SCC compliance. The study by Bird et al. (2019) focusses on suppliers' structural specificities and demonstrate that factories paying workers on a piece-rate basis are less likely to see an improvement of labor conditions. In the same way that high-powered productivity incentives stemming from the buyer deteriorate labor conditions, factories favoring short term productivity by paying workers by the piece produced instead of structurally are unlikely to invest substantial resources to improve labor practices. Other employment practices impact the likelihood of code compliance, such as the level of workers' autonomy on the workplace, the multi-tasking of workers as opposed to single tasking and the production diversity (Schuster & Maertens 2016), and workers' regular trainings (Locke et al. 2007). In fact, the work organizations and human resources management of suppliers predicts their capacity to adapt to the labor standards included in codes. Certification to management system standards, such as the ISO norms, are a good way to identify suppliers ensuring sustainable production practices (Bird et al. 2019), and in turn are associated with greater coupling of labor codes and labor practices. Two studies assess the impact of foreign ownership on supplier labor conditions but reach different results: Oka (2010) observes that Western ownership of supplier factories increases compliance with codes' labor provisions in Cambodia, while Locke and Romis (2010) claim that foreign ownership and management negatively impacts labor conditions in supply chain factories in Mexico. The former considers that Cambodian-owned factories lack managerial know-how and financial means to comply with labor conditions, and the latter explains that linguistic barriers and the lack of incentives to improve labor standards explained lower rates of compliance in foreign-owned supplier factories.

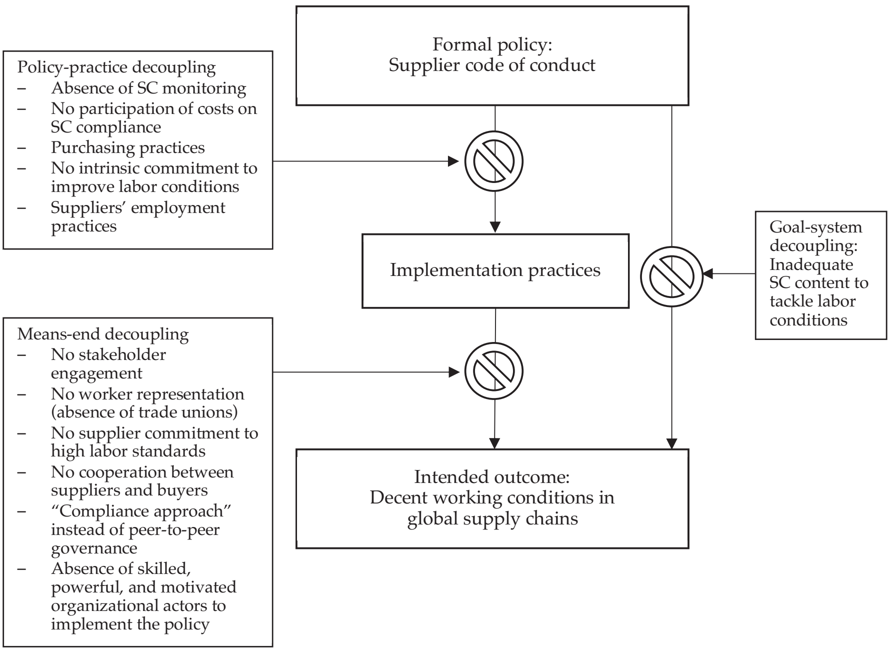
Secondly, suppliers' continuous commitment to employee welfare and well-being, and their internal motivation to provide decent labor conditions is an important factor of code recoupling (Frenkel & Scott 2002; Locke & Romis 2010). In some regions, it was shown that workers were partially or completely unaware of the existence of codes and lacked access to information and communication with their management, which hampered the improvement of working conditions (Barrientos & Smith 2007). To tackle this miscommunication, suppliers need to appoint managers with an incentive or an ideological motivation to implement SCCs at factory level and to carry out the policy in everyday practice (Tilcsik, 2010).

Thirdly, the presence of trade unions at supplier factory level is proven to positively relate to enhanced code effectiveness (Bird et al. 2010; Oka 2016). In Bird et al.'s research, unionized suppliers improved their labor practice score 20% faster than nonunionized suppliers, based on factory audits. Similarly, Oka (2016) conducted an empirical study on the impact of trade unions in the garment sector in Cambodia. Results show that union presence improves factories' compliance with regard to wages, hours, and leave standards, but less so vis-a-vis safety and health issues. The possibility and facilitation of collective bargaining at supplier level have also proven useful to empower workers and claim their rights.

3.6 Discussion

This review develops a systematic investigation of previous research on the relationship between supplier codes of conduct and the improvement of labor conditions in global supply chains. It can be safely concluded that the mere presence of SCCs is not a direct predictor of ethical behavior or even of a change of behavior, both at the buyer and supplier level. Institutional theory and goal displacement theory may shed light on the decoupling and recoupling process. The conceptual model below merges Bromley and Powel (2012) and De Bree and Stoopendaal's (2020) models of stages of decoupling and adapts it the specific policy of supplier codes. The process leading from the formulation of goals in SCCs to the improvement of labor practices, e.g. the intended outcome, can be interrupted at three stages: there can be a goal-system decoupling, policy-practice decoupling, and a means-end decoupling.

Conceptual model: Process of supplier code decoupling



Note: Conceptual model adapted from the theory by Bromley and Powell and De Bree and Stoopendale

A goal-system decoupling occurs when the objective of insuring decent working conditions cannot be reached using SCCs, as the policy itself is inadequate to solve the underlying goal (de Bree & Stoopendaal 2020). For instance, if the goals are vaguely formulated, as often in SCCs, this can easily lead to goal displacement (Abramson 2009). Here, the study of SCC content is paramount in understanding whether the goal of ensuring decent labor conditions is in line with the management system (the code). The policy-practice decoupling stage arises when SCCs are not substantiated by daily practices such as monitoring or compliance mechanisms from the company's end, hence when the policy is adopted symbolically but not substantially implemented (Bromley & Powell 2012). Finally, the means-end decoupling occurs where organizations develop substantial resources to implement policies, but those have a remote link to core goals or fail to reach the intended outcome, also called the "symbolic implementation" (Bromley & Powell 2012). Many empirical papers in this review identify this phenomenon, the auditing process being largely criticized to satisfy institutional legitimacy demands without fundamentally addressing the root problems of labor right violations (Bird et. al. 2019). This relates to Power's criticisms on the audit society (1999) and Strathern's audit culture (2000), as scholars notice that auditing and other monitoring activities to assess SCC compliance can serve to limit MNEs' legal liability instead of improving working conditions. Ultimately, excessive focus on compliance leads to goal displacement, compliance becoming the new goal (De Bree & Stoopendael 2020). As Paiement (2021) underlines, the system of transnational auditing labor conditions in global supply chains authorizes the auditors to make decisions on factories' compliance regarding specific legal requirements, but disregards other instrumental aspects of workers' protection such as buildings structural safety. This gap between the *real outcome* measured in audits and the *intended outcome* to improve labor practices can also occur due to supplier dishonesty in the auditing process and despite a motivated implementation process established by the buyer company. With the threat of substitution, especially in highly competitive sectors, suppliers may feel pressured to cheat on their compliance ratings and hide incidents of non-compliance (Locke 2007). At this stage, some labor conditions seem to be decoupled more than others, as the auditing system favors the implementation of visible aspects of codes such as health and safety provisions and wages, but is less able to identify less visible and more deeply embedded aspects relating to workers' rights and discrimination. Empirical studies in this review measured higher impact results for OHS provisions than for collective bargaining rights (see section 3, Table 4). In fact, technical aspects of labor right violations are easily flagged in audits and can be addressed relatively quickly, whereas systemic issues of unfair treatment of workers deeply rooted in management and cultural systems is unlikely to be affected by companies' implementation programs based on compliance rating. This is the difference identified between the *outcome rights* as compared to *process right (*Barrientos & Smith 2012), a relevant distinction when studying supplier code's impact on labor conditions.

Taking into account all factors of effectiveness identified by empirical scholars and classified in table 5, a road to recoupling supplier code and global practice can be proposed. It was demonstrated that an initially decoupled SCC may trigger behavioral changes and lead to the improvement of workers' rights (Egels-Zanden 2007). Indeed, a policy's symbolic adoption can provoke a dynamic evolving phenomenon of recoupling if continuous pressure is exerted at different organizational levels (Tilcsik, 2010), hence gradually aligning human rights practices with policies after increased reporting and monitoring (Cole 2005). At the institutional level, pressure to adopt a comprehensive SCC may help aligning the goals and the system, by making sure that SCC content includes the objective of improving labor standards. This institutional pressure can, in time, lead companies to transform their organizational structures, if new members such as quality managers and compliance officers enter the organization to implement the formal policy. Internal power dynamics where new committed professionals are appointed leads to the creation of new policies, if those are motivated both intrinsically and ideologically (Tilcsik, 2010). To recouple policy and practice, committed compliance officers should be given sufficient power to carry the policy in every day practice, put in place intensive and long-term surveillance with many audits improve their labor conditions over time (Lindholm et. al. 2016), and make sure that the buyer company financially participates in implementation costs that may arise. Finally, to recouple the means-end gap, it is necessary for corporations to transform global supply chain management systems and depart from the traditional compliance model to tackle root causes of workers' rights violations. This new type of governance proposed by empirical scholars is called the *peer-to-peer governance* (Jiang 2009) or the commitment approach (Locke et. al. 2009), and necessitates the establishment of long term and trusting buyer-supplier relationships involving stakeholder engagement in the implementation process, notably by granting a seat at the table to workers' representatives.

Another contribution is important to bear in mind for empirical scholars. Assessing a causal relationship between the existence of SCCs and a change in labor practices will never lead to certain results, as too many factors impact labor conditions. Here, importance to the methodological framework and its limitations should be highlighted in studies. When research designs rely predominantly on audits to measure the improvement of labor conditions, they in fact assess the improvement of *compliance* with labor conditions. This measurement may undermine the means-end decoupling possibility, thus giving incomplete results on SCCs' impact. Observing compliance ratings improvement is insufficient to draw conclusions of SCC effectiveness, instead measuring SCCs' impact requires the evaluation of working conditions over the period of SCCs' implementation, and the elimination of factors affecting labor conditions unrelated to SCC presence, to the extent possible. Studying decoupling in motion by developing longitudinal studies allows to explore how responses to institutional pressures are formulated over time and are evolving, rather than studying responses at a single point in time, a recommended path for researchers (Tilcsik 2010).

Finally, this literature review also highlights that the institutional legal and social context in which both suppliers and buyers evolve highly impacts SCC compliance and the quality of labor conditions, which private actors are often unable to affect. Private regulation and supplier codes therefore have undeniable limits to improve labor conditions worldwide, thus are not stand-alone policies and need to be supplemented by public regulation. However, when raising the question of whether SCCs are positively affecting labor conditions within their capacity of action, I conclude that it highly depends on the efforts developed both by buyers and suppliers in the code implementation and their intrinsic ethical commitments to prevail decent labor conditions, in line with previous studies investigating decoupling processes and the discrepancy of ideological beliefs between the policy and the decision makers (Tilcsik, 2010). Many pathways are recommended to increase SCC impact, but all relate to one common criteria: ensure that both parties are committed to the code implementation on the long term, notably by establishing a collaborative relationship between the buyer and the supplier.

3.6.1 Limitations of the review

This review is limited by the key terms selected to be included in the review and the scope of its research question. The selection process after the key-word selection was done manually by a single researcher reviewing the papers. Moreover, non-empirical studies were not included, thus potentially limiting factors identified by other means. Additionally, papers not included in the EBSCOhost database are not considered. Finally, and more importantly, it is beyond the scope of this paper to identify how public institutions should regulate the complex labor challenges of global supply chains. The impact of institutional pressures pending on corporations to adopt and implement SCCs was not studied in depth but is a necessary next step for research.

3.6.2 Suggestions for future research & practice

While 33 papers have tested SCC compliance and effectiveness in different contexts and using varied methods, the field remains limited and further research is necessary to assess SCC impact. As Hoang (2019) highlighted, research is especially scarce on SCC impact on the "bottom" end of the supply chains, hence those that do not have a direct link with the MNE. At prima facie, SCCs are mainly ineffective when there is no direct relationship with the supplier, which is concerning as most human rights violations occur at the bottom of the supply chain as they have little to gain from improving their labor standards (Hoang, 2019). Studies should indicate how companies could use their leverage and support code implementation among these suppliers. Moreover, further empirical studies should focus on factors of effectiveness rather than factors of compliance, notably by presenting best practices scenarios and identifying what works in practice to improve suppliers' labor standards. It would be particularly relevant to study stakeholder engagement and workers' empowerment in the implementation of SCC, as it is an important factor of recoupling. As of today, few studies present good practice mechanisms to engage with different stakeholders in global supply chains, which is an important challenge for MNEs to overcome.

Short et al.'s study already considers the impact of planned and unplanned audits and highlight the pros and cons of unplanned audits as compared to the announced audits. Since this aspect is somewhat lacking in the other studies yet is highly discussed in the theoretical literature (Power, 1999), it would be good to further explore how monitoring approaches can be deployed and combined to leverage their comparative advantages (Short et. al. 2020). It would be especially relevant to identify the best auditing techniques, which are first investigated by practitioners and then integrated in scientific work.

Finally, it is clear that SCCs have a limited impact on labor conditions worldwide and are not self-sufficient. Global regulation of labor standards cannot be abandoned to private forms of governance. States must insure a "level playing field" and fair competition obliging decent labor standards for all industries. On their end, companies can continue to adopt SCCs to create cooperative relationships with their suppliers on social and labor matters, as this approach is proven to impact positively labor conditions in global supply chains. It is necessary to pursue research on how this relationship overlaps, and how can public power positively influence supplier-buyer relationship and global supply chain governance, notably to ensure the flow of information, pushing MNEs to be reputation conscious and fear consumer retaliation.

4 Decoding codes: the content of codes of conduct[1]

ABSTRACT

This study analyzes supplier codes of conduct of multinational firms, with two main research objectives: (1) providing a description of supplier codes' content provisions, specifically focusing on the labor standards provisions included in these self-regulatory policies and (2) comparing code content across regions and sectors. What promises are formulated by MNEs when adopting their codes? To answer this question, the study uses hand-coding and novel text-as-data techniques for content analysis of a large sample of 880 codes of conduct. Results show that a standardized list of labor rights is included in up to 90% of codes regardless of their location or sector, drafted with a clear influence from internationally recognized standards, even though a minority of codes literally refer to international texts. However, codes' similarity is limited as they differ in length and extent to which they elaborate certain topics. This latter aspect is correlated with firms' location and the sector they operate in. The research demonstrates that European companies refer to the legal framework and international standards extensively, while American companies more often develop their corporate ethical values or focus on governance and their relationship with suppliers. It also empirically shows that companies evolving in reputation-sensitive sectors are developing more specific codes including more detailed labor provisions.

Key words: supplier codes of conduct; international labor rights; global supply chains; corporate self-regulation

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1 This chapter is based on the published article: Vandenbroucke, S., Kantorowicz, J., & Erkens, Y. (2024). Decoding supplier codes of conduct with content and text as data approaches. Corporate Social Responsibility and Environmental Management, 31(1), 472–492. https://doi.org/10.1002/csr.2580

4.1 Introduction

The growing popularity of corporate self-regulation to address supply-chain issues puts Corporate Social Responsibility (CSR) and specifically codes of conduct at the center of attention when discussing the governance and regulation of global production networks. Studies from 2013 report that 95% of both Fortune US 100 and Fortune Global 100 companies have adopted or adhered to a code of ethics (Sharbatoghlie et al., 2013).[2] As per their definition, supplier codes of conduct (SCCs) include a set of prescriptions developed by the company intending to guide the behavior of their suppliers (Kaptein & Schwartz, 2007). Researchers investigating businesses' motivations to voluntarily adopt codes of conduct and commit to respecting a set of labor rights have identified multi-faceted reasons. These are: enhancing firms' reputation (Fombrun, 2001) preempting legal sanctions and responding to institutional demands (Parker, 2002), responding to civil society pressures (Spar & La Mure, 2003), managing their supply chain risk (Husted, 2005) and generating consumer loyalty and satisfaction (Bhattacharya and Sen 2001, 2004). Cruz (2013) considers that companies develop SCCs to mitigate their global supply chain network risks, including social risks. These relate to societal and environmental impacts of suppliers' activities, including the human and labor rights violations that may occur in global production networks. From these prior studies, we can conclude that SCCs are developed for multiple reasons and addressing different stakeholders, but few studies provide further insight on the distribution of companies' commitments. This paper focuses on how SCCs mitigate supply chains social risks, and more specifically investigates the commitments made by companies in their labor-related provisions. Considering the global regulatory gap of labor conditions in transnational activities, it is especially relevant to discuss whether corporate self-regulation aims to protect labor rights, or whether codes have the primary objective of enhancing firms' reputation, thus likely to constitute "window dressing".

When seeking the extent of companies' social commitments and their intentions in drafting SCCs, the "corpus" of the codes, as called by Béthoux et al. (2007), represents an important source of data. Since codes are drafted voluntarily by and for the company, the lexicon adopted in the codes and the content of the provisions included give us an insight on the social commitment of multinationals.[3] Previous text analysis studies have partially explored codes of conduct content, as highlighted by the review of Babri et al (2019). Among the content-oriented studies of codes of conduct, they identify the development of different approaches and methods,

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2 A code of ethics, as opposed to a supplier code of conduct, aims to regulate the behavior of a company's direct employees.

3 Drawing conclusions on corporate social commitments from the written codes of conduct statements is a method that was notably adopted by Chun (2017), who studied corporate ethical values as written in the codes.

for instance with the use of lexical software analysis (Béthoux et al., 2007). Studies specifically focusing on SCC labor conditions provisions are less frequent, a good example being the OECD report on 233 codes of conduct in 2001 which gave a decent overview of labor and environmental issues addressed, as well as a comparative analysis of codes' content across sector and country of origin. Béthoux et al. (2007) conducted a lexical software analysis to identify eight thematic categories discussed in the codes, the first and most prevalent topic being the regulation of working conditions. These two studies investigate both corporate codes of conduct and supplier code of conduct without making a clear distinction. The analysis conducted by Stohl et al. (2010) shows that codes' content is similar and corporate values and behaviors tend to converge as a result of globalization and the institutionalization of standards. Based on institutional theories (DiMaggio & Powell, 1991), some have argued that corporate behavior will align over time, coming together with a standardization of codes of conduct content (Schleper et al., 2013). It remains untested to what extent SCCs' content converges and is standardized, notably regarding references to labor rights.

The present research intends to "decode" codes of conduct using text analysis, notably to test their standardization levels, with three main additional values. First, this study deals exclusively with *supplier* codes of conduct, which regulate the activities of companies' external parties. Second, it uses the largest collection of SCCs to date and created for the purpose of this study, from companies located in 30 countries worldwide and operating in all sectors. Finally, this research employs a mix of traditional hand-coding and novel text-as-data techniques for content analysis, examining the synergies and complementarity of these methods. In addition to these differences with previous studies, it is worth noting that the current study focuses on SCCs' labor-related provisions, to reveal the extent to which companies commit to ensure proper working conditions throughout their global supply chains. Our goal is thus to perform the first global scale manual and computational analysis of supplier codes content stemming from the largest database of supplier codes developed, to answer the following over-arching question: to what extent are companies committed to protecting minimum labor standards when adopting codes of conduct and how do these commitments vary per regions and sectors?

This paper raises five specific research questions, systematically answered using four different text analysis methods, and is structured as follows. In section 2, we present the database and the sample of codes developed for this research. The third section analyzes the content of SCCs globally, with three research questions investigating code standardization, labor-related SCC content, and reference to international standards. The fourth section captures the differences in codes' contents per geographical locations of companies and their economic sector, answering the last two research questions. Lastly, section 5 interprets the results in context and gives an outlook on the future steps to be taken.

4.2 Database of codes of conduct: the sample studied

We aimed to provide conclusions which could generalize to the world's largest multinational global firms conducting business transnationally, thus decided to focus on some of the most economically powerful corporations. This was done for three main reasons. Firstly, large companies operate in many countries, hence have the need and intentions to adopt SCCs and publicize efforts taken towards the regulation of supply chain labor conditions. Secondly, those companies are likely to experience the pressures and challenges of globalization (Stohl et al., 2009), thus are relevant to study when discussing global governance and the regulation of global production networks. Thirdly, these companies have an important influence on how business is operated across global supply chains, which makes them major actors in setting standards of corporate governance. For this purpose, we construct the target sample based on the company lists published by "Standard & Poor's (S&P) Global", a company gathering financial information and analytics on the largest companies worldwide. The S&P financial market indices provide a list of companies representing the largest publicly traded companies in the world disaggregated per regions and sector in which they operate.[4] S&P Global includes six regional indices: S&P Europe 350, S&P TOPIX 150 (Japan), S&P / TSX 60 (Canada), S&P ASX All Australian 50, S&P Asia 50 and S&P Latin America 40. This sample selection explains a disproportionate number of companies located in the USA (502 companies, thus 40%) and in Europe (348 companies, thus 28%). At the time of the data collection, between September 2020 and June 2021, this index counted 1,241 companies and captured approximately 70% of the world market capitalization, covering 30 countries.

From the target sample of 1,241 companies included in the S&P Global, we have collected 880 SCCs between September 2020 and June 2021, directly from companies' website,[5] following the recommendations of Babri et al (2019).[6] This final sample of 880 excludes any document that was not available in English (5 codes identified),[7] or codes that appeared to exist but were not publicly accessible during the time of the data collection (12 codes). The major source of missing documents and data lies in the inability to retrieve the codes from companies' website. Aside from those exceptions,

4 More information on the selection and classification process operated by S&P Global can be found on their website: https://www.spglobal.com/spdji/en/indices/equity/sp-global-1200/#overview, accessed October 10th 2022

5 This collection of supplier codes of conduct will soon be found in the Database of Business Ethics (db-business-ethics.org) *(alter status at the time of publication)*

6 Babri et al. (2019) consider that collecting codes of conduct directly on companies' websites reflects greater transparency than requesting copies from company personnel or ask question via a survey questionnaire.

7 English was chosen as a language for the analysis as the dominant language in transnational business operations, and most SCC were available in English. A similar choice was taken in other textual analysis studies, such as by Stohl et al. (2009). Two or more languages could not have been included in this research, as multilanguage corpora are difficult to process with the text-as-data approaches applied in the present paper.

all SCCs or similar ethical policies adopted or adhered to by companies are included in our final sample of 880 documents. This means that documents such as companies' human rights policies, sustainability principles, ethical charters, sustainable procurement policies and others were also included in the sample, to the extent that these policies would include expectations and values to be complied with by suppliers, thus would have the same objective and effect than documents named "supplier codes of conduct". For each company, we selected only one document as a SCC. In this paper, we refer to these documents under the umbrella term "supplier codes of conduct" abbreviated by "SCC" to facilitate the reading.

Figure 1: Companies included in the sample per index

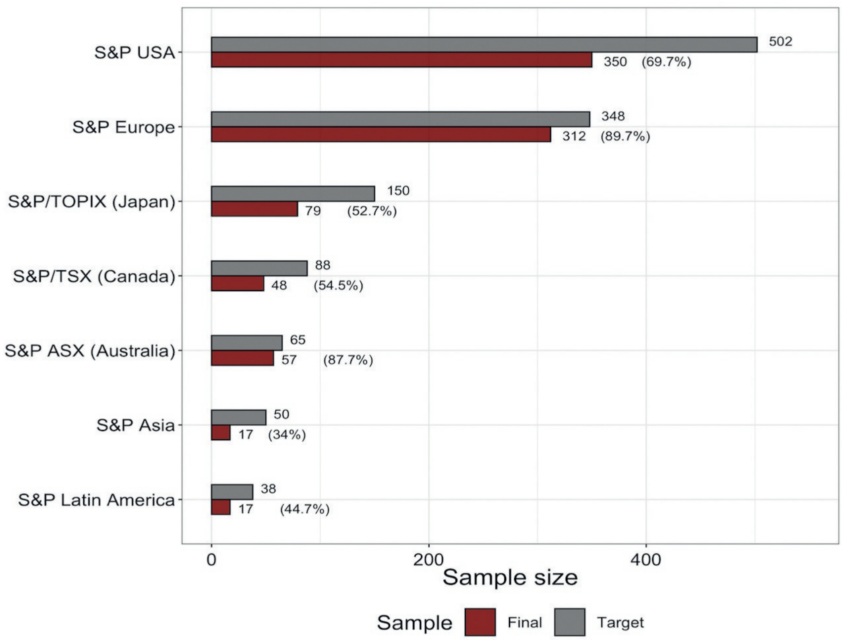


Figure 1 gives an overview of SCCs included in our sample and highlights the deviation between the target sample of companies and the final sample of codes. The under-representation of some geographical markets, such as the Asian and Latin American markets, should be kept in mind for all interpretations made in the result section. A glance at this graph gives first insight on the extent to which SCCs are popular and widely adopted. In our target group of companies, we can see that European and Australian companies score high, as nearly 90% of European and Australian companies have adopted a SCC as opposed to 70% of the American ones, and only 34% of the companies in our Asian sample. The results concerning American companies departs from the statistics obtained from previous studied, such as the one conducted by Erwin (2013) who noted that 95% of American companies had adopted a code. This discrepancy is explained by the different target sample: while this study investigated *corporate* codes of conduct, we only considered *supplier* codes in this research.

4.3 What is the content of supplier codes of conduct?

This section investigates SCCs content and answers three sub-questions to explore the extent of corporate commitment regarding supply chain labor conditions. The research design using mixed-method text analysis provides for a comprehensive descriptive overview of codes' content.

4.3.1 Literature review

Firstly, the literature generally agrees on the trend of 'standardization' or isomorphism of codes' content, according to which codes progressively converge as multinationals set similar standards to be implemented by their suppliers (Holder-Webb & Cohen, 2012). Within institutional theory, DiMaggio and Powell (1991) refer to this as the process of institutional isomorphism to explain the homogeneity in behaviors among organizations over time: to face competitive pressures, organizations tend to imitate behavioral norms of other actors in the field. According to Kostova et al. (2008), this alignment of behavior is essential to organizational survival. This isomorphism is confirmed by empirical scholars who identify a large overlap of codes' content globally (e.g., Schleper et al., 2013). For Stohl et al. (2010), the similarity of 157 codes from the Global 500 and/or Fortune 500 lists suggests that companies experience pressures to "think globally" regarding aspects of sustainability and corporate social responsibility among companies, and that SCCs reflect the dynamic of globalization. Similarly, Holder-Webb and Cohen (2011) observe that, instead of varying from one firm to another based on internal issues for each firm, the structure, content and language of codes of conduct is consistent with a widespread response to isomorphic pressures. They even argue that some companies appear to have copy-pasted their codes, thus largely adopting legalistic terms unlikely to constrain actions and difficult to enforce. Indeed, guidelines formulated by the International Labor Organization (ILO) and the OECD contribute to the standardization of codes, as corporations are likely to adopt the standards drafted by legitimate public entities. Finally, the proliferation of multi-stakeholder codes of conduct that multinationals may adhere to as-is plays a part in the convergence of SCC. The Responsible Business Alliance (RBA) is noteworthy in this regard, as over 200 large companies have agreed to commit to and implement the RBA code of conduct.[8] Considering the trend of research confirming organizational isomorphism, it is relevant to test the levels to which SCCs are alike, which leads us to our first research question:

8 More information on the RBA scope of action and requirements for membership to be found at: https://www.responsiblebusiness.org/about/members/

RQ1: To what extent is the linguistic content of SCCs similar (standardized)?

Secondly, we find it especially crucial to study SCCs from the angle of labor-related provisions. Béthoux et al. (2007) and Oehmen et al. (2010) previously underlined that labor conditions constitute an important part of SCCs and are "*by far the best covered issue in the codes*". Béthoux et al. highlighted that the category on working conditions and labor standards represents roughly 12% of the corporate codes' corpus according to their selected keywords. 15 years later, it is interesting to observe the evolution of reference to labor and work in SCC and see whether it remains a prevalent topic. We anticipate that most companies having adopted a supplier code will include the four core ILO labor standards laid down in the 1998 Declaration on Fundamental Principles and Rights at Work, namely prohibition of forced labor and child labor, freedom of association and prohibition of discrimination.[9] Previous studies indeed showed that these standards are most often present in codes of conduct.[10] Based on Oehmen et al. (2010), we expect that freedom of association is less referred to than other labor standards, contrary to forced and child labor which will frequently be addressed. Apart from these core labor standards, it can also be expected that multinationals include references to minimum standards on occupational health and safety (OSH), maximum working time, overtime and compensation, and wages. Although it is difficult to estimate the extent to which these rights are mentioned in SCCs, some studies showed that the presence of a code positively impacts OSH standards at the supply chain level (Bartley and Egels-Zanden, 2015; Locke et al., 2016), which could mean that codes often refer to OSH. Considering the remaining uncertainties on the content of SCCs regarding labor standards, we pose the following question:

RQ2: To what extent are labor-related provisions an inherent part of SCC?

International institutions have set common standards to be respected by multinationals in their global production networks, especially in the field of environmental and social topics. Those consist of soft law such as declarations, resolutions, guidelines, principles, drafted by the United Nations, the ILO and the OECD in particular. Earlier reviews of codes content notice that multinationals often refer to these standards, to legitimize the standards included in these self-regulatory documents and to give it a legal basis (Oehmen et al., 2010, OECD-report 2001). The lexical analysis conducted by Béthoux et al. (2007) confirms the strong influence of ILO norms on the writ-

9 The data collection and initial research were conducted before the 2022 amendment of the ILO Declaration on Fundamental Principles and Rights at Work adding the right to a safe and healthy working environment, which explains why we did not include it.

10 OECD 2001; ILO, 1999; World Bank, 2003; Kolk and Van Tulder, 2002; Oehmen et al., 2010; O'Dwyer and Madden, 2006 discuss the presence of these labor standards in SCC and lead us to believe that they are integrate parts of most supplier codes. The literature review conducted by Schleper and Busse (2013) gives a good overview of these studies.

ing of codes of conduct. Among the international standards referred to, we expect to see some reference to the Universal Declaration of Human Rights (1948), the Conventions of the International Labour Organization and especially the Declaration on Fundamental Principles and Rights at Work (1998), the UN Guiding Principles on Business and Human Rights, the UN Global Compact, and the OECD Guidelines for Multinational Enterprises. Our final research questions in this section is thus:

RQ3: To what extent do companies refer to internationally recognized labor rights as the minimum standards in their SCCs?

4.3.2 Research design

To give an accurate representation of SCCs' content and answer the three questions above, four different content analysis techniques are used, including manual coding techniques and text-as-data approaches, notably similarity scores, dictionary methods and topic models. These methods are meant to be complementary but also intend to provide concurring evidence of our descriptive conjectures. If different methods provide the same results, the validity of these results increases.

The first method used tests the overall standardization levels of all SCC, using the cosine and Jaccard similarity measures (scores). Both methods are the bag of words techniques and allow us to measure the similarity levels between all the SCCs, alas with different set of assumptions. While the cosine similarity takes into account a mere occurrence of terms, the Jaccard similarity goes beyond it and also capture the frequency of terms' occurrence. If the SCCs differ greatly in their lengths, we should thus expect that Jaccard similarity measures, which also capture the term frequencies, will provide lower scores. To obtain the similarity scores, we employ the Quanteda package for R. It is of note that these methods give a sense of lexical similarity (language and terms employed) across the SCCs. They measure if the terms which are employed in the SCCs are the same (cosine) and their frequencies are similar (Jaccard). Therefore, calculating similarity metrics allows us to partially address our first descriptive RQ on the similarity and standardization of SCC, without dealing specifically with labor standards.

The second method used is the Structural Topic Model (STM) approach, an unsupervised machine learning method developed by Roberts et al. (2014).[11] Topic modelling aims to uncover topics prevalent within a corpus of documents and estimate their relationship to document metadata (covariates). Similar to other unsupervised topic models, the STM examines the pattern of co-occurrence of terms. If terms tend to cluster together it

11 The first application of the STM method was published by Roberts et al., 2014. The book "Text as Data" (2022) provides a succinct introduction into the STM approach.

suggests that they constitute a distinctive topic. A topic is thus defined as a mixture of words where each word has a probability of belonging to a topic, and where one document can be composed of multiple topics (Roberts et al., 2022). This last feature presents a clear advantage over simple clustering methods for text, which enable the classification of documents into exclusive categories, instead of allowing the documents to be composed of a mix of categories (topics). The STM is estimated with an R package (Roberts et al., 2019). For our sample of SCCs, the optimal number of topics was set to 25: this number was chosen based on the trade-off between the linguistic coherence of topics and exclusivity (see appendix 1 for all measures guiding the choice of the optimal model). By identifying the prevalence of topics present in our SCCs, the STM brings elements of response to the second and third descriptive RQ on the content of SCCs.

The third method consists of a manual coding of the 880 collected SCCs, identifying five different items:
1. The acceptance of internationally recognized labor rights as laid down in international conventions or recommendations. Therefore, reference to texts such as the 1998 ILO Declaration or other ILO Conventions, the International Charter of Human Rights, the Modern Slavery Act, the OECD Guidelines or the UN Guiding principles on Business and Human Rights was important for this variable.
2. A reference to the prohibition of forced labor or any related term such as bonded labor, slavery, exploitation, or the insurance to freely chosen employment.
3. A reference to the prohibition of child labor or setting a minimum age for suppliers' employers.
4. A reference to the prohibition of discrimination and harassment.
5. A reference to the protection of freedom of association, collective bargaining or trade union rights.

This coding was performed independently by two different researchers, then merged and checked for discrepancy.[12] This process was specifically relevant for the coding of the first variable, because it involved an interpretative element: the variable was only considered as "present" where international standards were a pillar for the SCC drafting, in the sense of being decisional in setting the minimum labor standards to be complied with by suppliers. On the contrary, sporadic reference to international text, for instance only mentioned for one labor right but not constituting the foundation of the labor standard setting, was not sufficiently contributing to this variable. The coding of variables 2 to 5 was more straightforward and coded whenever the SCC refers to the labor standards in question. These standards were chosen as they are the most internationally recognized labor

12 The intercoder reliability was close to 100%, only a few cases of uncertainty arose.

rights or "Fundamental Principles", as defined by the ILO 1998 Declaration. Subsequent to the finalization of manual coding, the ILO added the principle of safe and healthy working environment to this Declaration in 2022, which is therefore missing in this list. This hand-coded method was time consuming and required many resources. In parallel with methods 2 and 4, it answers RQ2 on the overall presence of four labor rights (items 2 – 5); and RQ3 by providing data on the reference to internationally recognized standards (item 1).

The fourth method is a dictionary method, which enables to capture a frequency of reference to selected terms (see appendix 2). With the dictionary method, we intended to investigate the presence of the reference to the following topics:
1. Prohibition of forced labor
2. Prohibition of child labor
3. Prohibition of discrimination
4. Freedom of association and collective bargaining rights
5. Reference to international documents and standards.
6. Occupational health and safety (OHS)
7. Working hours
8. Wages and compensation

This method is an automated adaptation of the manual method 3 above. It allows us to compare the results of the manual variables collected, and adds three labor rights: OHS, working hours, and wages and compensation. This study thus assesses how more exploratory automated methods can provide similar results to those which are manual and more labor intensive. This method provides further insight on other labor rights referred to in SCC and addresses RQ2 and RQ3.

Table 1: Research design overview

	RQ1 **Similarity levels of SCC provisions**	**RQ2** **Prevalence and reference to labor-related provisions**	**RQ3** **Reference to international labor standards**
Method 1 **Calculating similarity metrics of SCC**	Similarity levels of SCC corpus	/	/
Method 2 **Structural Topic Modelling of SCC prevalent topics**	/	Prevalence of labor-related provisions as a topic of SCC	Prevalence of international labor standards as a topic of SCC
Method 3 **Manual coding of SCC reference to labor standards**	/	Reference to 4 labor rights	Reference to international conventions and recommendations
Method 4 **Dictionary method of SCC reference to labor standards**	/	Reference to 8 labor rights	Reference to a set of pre-determined international conventions and recommendations

Table 1 summaries methods applied along with the corresponding research questions they aim to target.

4.3.3 Results

4.3.3.1 Similarity levels of SCC provisions

Figure 2 below lay down the results of the Jaccard and cosine similarity scores, which should be interpreted in parallel with the variation in length and word count of the codes (Figure 3).

Figure 2: Similarity levels

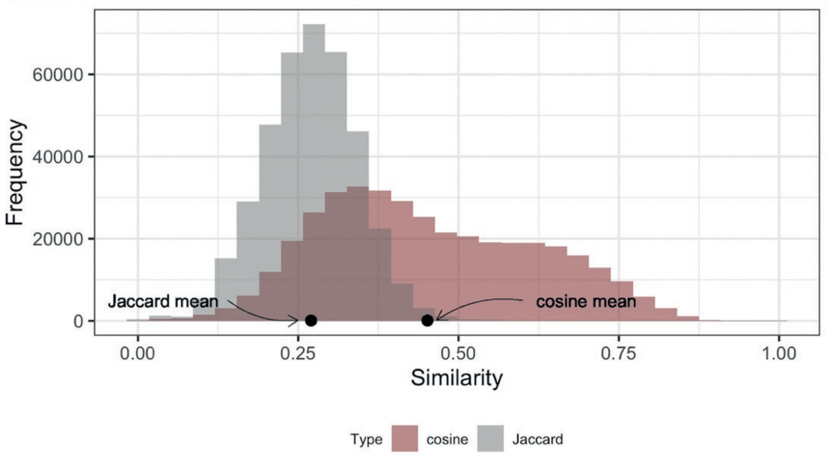
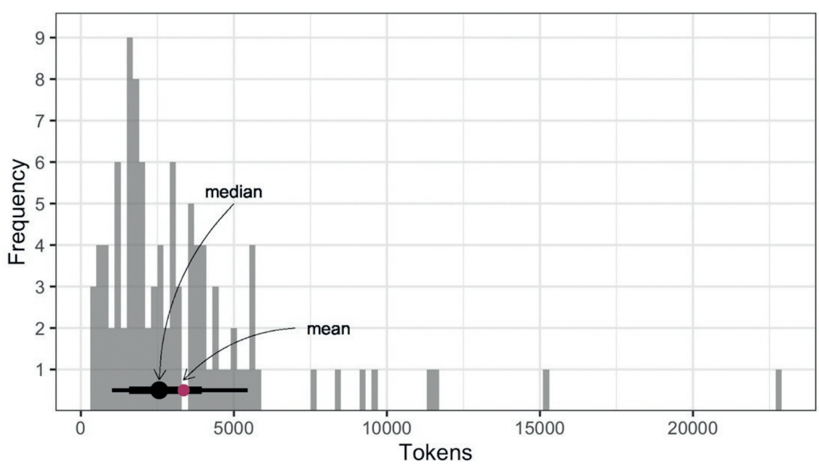


Figure 3: Length variation of SCC

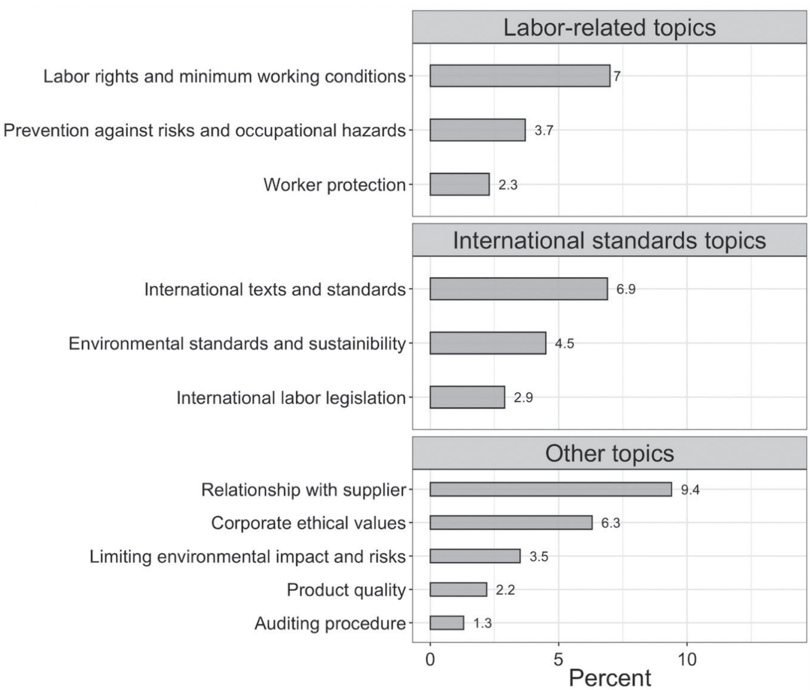


The Jaccard similarity scores show, on average, only low to moderate lexical similarity. This approach considers the frequency of the terms to assess document similarity, thus should be interpreted in combination with the length variation of SCCs. The cosine metrics tells a different story, with a mean closer to 0.5, indicating higher levels of similarity. This means that, although codes vary in their length and development of important keywords, they use somewhat similar terms overall. These measurements allow us to answer RQ1 as we identify that the linguistic content of SCCs is moderately similar, but the extent to which codes develop and extensively refer to the same terms, both in length and in specification, varies widely.

4.3.3.2 Prevalence and reference to labor-related provisions and international standards

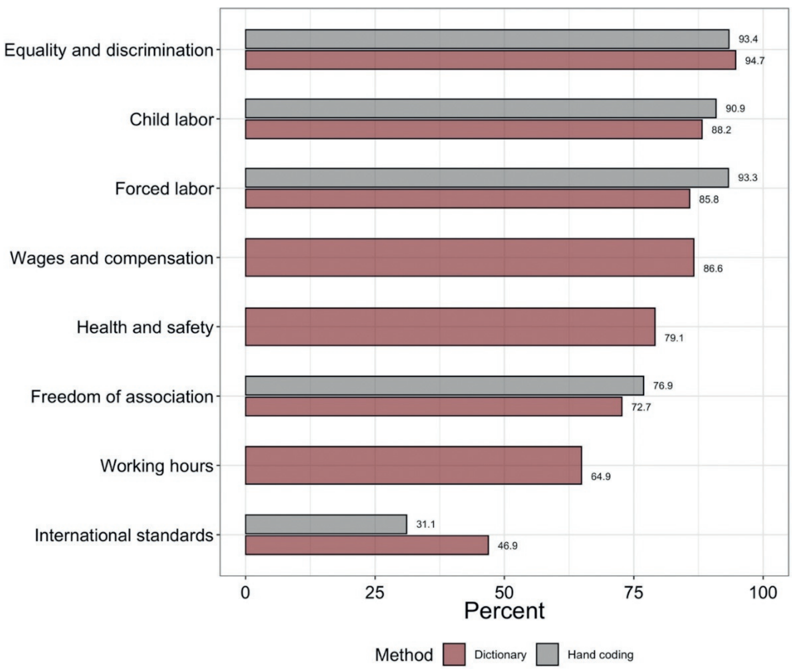
Among the 25 topics identified by the STM, eleven of them were straightforward and appeared to belong to a specific category and clear topic. We labelled these eleven topics on the basis of the 20 key words, by figuring out the common theme raising in this list of words. For instance, the category "International text and standards" was chosen based on the keywords "declar*" "principl*" "nation*" "guid*" "global*" "fundament*" "intern*" "univers*" "convent*". The list of keywords defining our label categories can be found in appendix 7. This labelling process allowed us to highlight the most prevalent topics appearing in SCCs, as highlighted in Figure 4. The percentages included in this Figure represent the ratio to which SCCs' database text as a whole discusses each topic.

Figure 4: Percentage of most prevalent topics identified in the text of all codes of the sample



Altogether, specific labor references and workers' protection provisions constitute 13% of the SCCs' content, making it an important overarching topic addressed among all SCCs. These include the topics "labor rights and minimum working conditions", "prevention against risks and occupational hazards" and "worker protection". Reference to international texts and standards constitutes 14.3% of SCCs' text when including the reference to environmental standards and sustainability. Apart from labor-related provisions, we notice that the relationship with supplier is the most prevalent topic (9.4%), which indicates that organizational governance of the global production network is a central objective in drafting codes of conduct. A surprisingly lacking topic in this sample, or at least unidentified by the software, are provisions related to SCC implementation and monitoring processes. The topic on auditing procedures only constitute 1,3% of SCCs' text.

Figure 5: Percentage of SCCs referring to labor standards



Besides the international standards category, Figure 5 shows that the manually retrieved data and the computational dictionary method give us similar result for the variables coded through both methods (see for further visual insights the scatter plot in appendix 3). This allows us to assume that the results obtained for the data gathered using exclusively the dictionary method are reliable. References to forced labor, child labor and discrimination are observed overall in around 90% of SCCs. Freedom of association is somewhat less present and appears in 77% of the codes according to the manual method, nearly as often as references to health and safety. Outside of these five core ILO standards, reference to wages and compensation is also heavily represented in SCCs (86.6% of the codes), while working hours are somewhat less present (65%). According to these results, multinationals consistently refer to a standard list of labor rights in their codes. When analyzing these results in parallel with the STM approach, we notice that it is likely that many SCCs only refer to these rights concisely and with a simple reference, as these themes only constitute 13% of the overall documents. The combination of these methods allows us to answer RQ2 with the following: While labor-related provisions only constitute some 13% of SCCs' content, most labor rights are referred to in up to 90% of SCCs. Labor-related provisions are therefore an inherent part of SCCs, and a list of labor references has mainstreamed to be included in most codes.

Results on reference to international standards vary across the manual coding and the dictionary method, with 31% and 47% respectively of companies including international texts within their SCCs. This gap is explained by the interpretative element of the manual coding: international standards were only coded when they were the legal basis of the determination of all labor standards, hence when they were referred to as the minimum standards. Where international conventions were only referred briefly only for one of the labor rights, which was often the case concerning child labor, we did not consider the standards as overarching throughout the SCC. Since the dictionary method uses key words, this differentiation is not possible. The STM approach tells us that references to international (labor) standards and texts constitutes 9.8% of SCCs' content. This combination allows to answer RQ3: Whereas about half of SCCs refer to internationally recognized labor rights with specific references to texts, conventions, and guidelines, only 30% of them include them as benchmarks for labor conditions throughout the text.

4.4 How do supplier codes of conduct differ across sectors and regions?

In this section we compare SCCs' content based on two variables: the sector in which companies and their supply chain evolve, and the geographical location of the company's headquarters. Capturing the differences is performed using the same methods as those described in section 3.2.

4.4.1 Literature review and hypotheses

In her systematic literature review on SCC, Jedynak (2018) has underlined research needs concerning the roles and functions attributed to supplier code of conduct taking into account regional, sectoral and individual specifics. The descriptive section above proved that codes differ in length and extent to which topics are elaborated. While some scholars advocate for a standardization of SCC content,[13] others consider that codes should be adapted to supply chain needs (Svensson and Wood 2007; Garegnani et al. 2015). It is thus relevant to research divergences across sectors, to analyze the extent to which sector-specific supply chain risks are taken into account in SCCs' content.

In their review, the OECD (2001) observes that the apparel industry shows a strong focus on labor standards. This is confirmed by other scholars (Locke, 2013), who explain that the comparatively higher quality of codes of conduct content in the textile sector stems from the anti-sweatshop activism and civil society focus on the conditions of work in the clothing industry. In this sector, prohibition of child labor is the most protected labor standards, while freedom of association is less referred to (OECD report, 2001. p. 20). Comparatively, in the extractive industries[14] the right to safe work environment and occupational health and safety standards is prominent in codes' provisions, while the concern for child or forced labor is very low (OECD report, 2001. p. 22). Oehmen et al. (2010) demonstrate that health and safety references in SCC are less present in the electronics industry than elsewhere. The analysis by Lugli et al. (2009) compares the content of 29 Italian codes across three different sectors (finance, service, industry), and observed higher percentage of provisions related to human and environmental protection in the service and industry categories. However, these results contrast with the study conducted by Stohl et al. (2009), who did not identify divergences in codes' content across eight industrial sectors, contrary to their expectations. Overall, it is noticeable that the research on sectorial differences in SCCs content is scattered and often covers only one industry (e.g., Oehmen et al. 2010), or compares industry across a small sample of SCCs (Lugli et al. 2009). There are gaps and uncertainties remaining on the extent to which SCCs' content diverges. Consequently, our next research question goes as follows:

RQ4: Does SCC content differ across sectors?

Studies identifying divergences on codes' content across global regions are numerous, and many have identified differences in codes across regions. For instance, the study by Scholtens and Dam (2007) show significant differences in codes' policies between countries, including on the dimension of human rights policy (which includes labor-related provisions). In their sample, firms scoring the highest on the human rights policies category were located in Europe, while American companies scored lower and Asian

13 For instance, Schleper and Busse (2013) in their paper "*Towards a Standardized supplier code of ethics: Development of a Design Concept Based on Diffusion of Innovation Theory*" consider that a standard SCC would increase stakeholders' trust in sustainability-oriented supplier governance and help firms to save costs.

14 In our research design and sector classification, the extractive industry is included under the sector group "Manufacturing".

companies (Japan, Hong Kong and Singapore) were rated poorly. They justify these divergences on the cultural and social differences in which companies evolved when they draft their codes. Similarly, the study by Stohl et al. (2009) shows that corporations located in the European Union demonstrate a greater recognition and commitment to the values of globalization and the expectations of the communities in which they are embedded. Regarding the reference to international labor standards, it can be expected that American and European companies will refer to international conventions on labor standards, given that they have participated in many international organizations and exposed to many global institutional and convergence pressures.

Chun (2017) also identifies visible differences at continental levels, where a group of countries resemble countries that are geographically and culturally close. Codes from American and British companies differ distinctly in organizational values included in the codes, even when operating in the same industry. Asian companies appear to have a strong focus on the organizational value "empathy", which is explained by Chun as the collectivist culture on that continent, which differs to the individualism most present on the American continent. This result indicates that codes are affected by the culture of their regions, and in the case of the labor standards, codes' references will most certainly be affected by the legal framework. We can therefore expect that in countries where freedom of association and collective bargaining is seldom protected by the labor standards, companies will refer less to it in their SCC. Based on this literature, we expect the content of SCC to vary across regions: In Europe and the US, codes contain more labor rights than in the rest of the world. Our last question can thus be formulated as follows:

RQ5: Does SCC content differ across different geographical location?

4.4.2 Research design

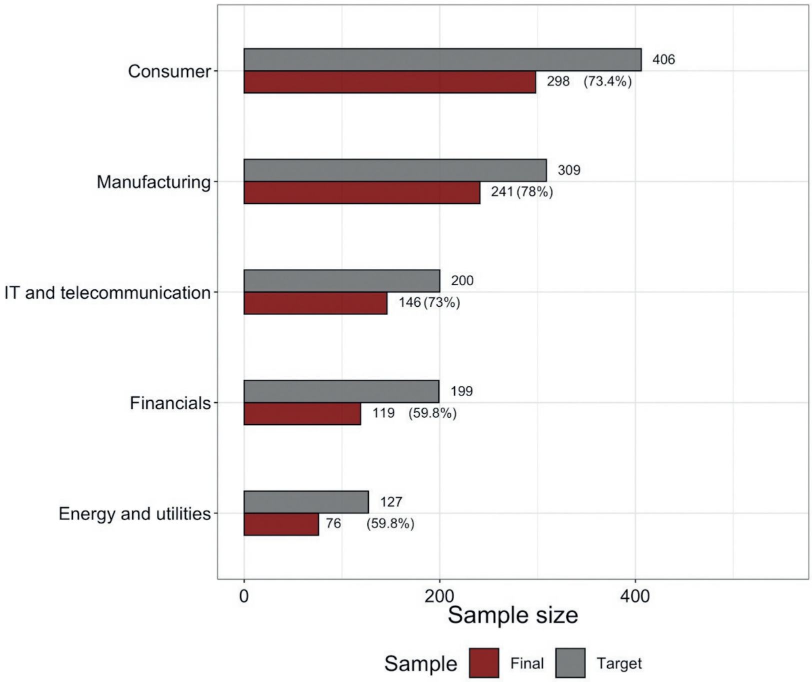
For this section, methods 2, 3 and 4 as described under section 3.2. are used to answer RQ 4 and 5. We compare the contents of SCCs across two variables: the industry and geographical location, which we have clustered in groups for a comparative analysis.

Companies included in our sample are classified among 11 sectors, according to the Global Industry Classification Standard (GICS)[15], namely: Communication, Consumer discretionary, Consumer staples, Energy, Health care, Industrials, Information, Technology Materials, Real Estate, Utilities. As some of the sectors were represented by a handful of companies (e.g., Real Estate and Energy), to avoid statistically noisy results, we decided to

15 More information on the GICS and the industry division can be found at: https://www.msci.com/our-solutions/indexes/gics

create higher-level clusters of sectors (see appendix 4 for industry division). Drawing on the taxonomy adopted by Garegnani et al. (2015), the companies were grouped into five sector groups: consumer (335), energy and utilities (76), financial (119), manufacturing (241), and IT and telecommunications (146). An overview of sample proportions can be seen in Figure 6.

Figure 6: Representation of sectors



Regarding the geographical location, the choice was more straightforward to cluster the companies into three large groups: North American companies from the US and Canada (398 codes), companies from Europe (312 codes), and a cluster "rest of the world" (170 codes). Although we had the specificities of country location in our database, the disproportionate presence of American and European companies[16] led us to compare the results in three groups. Moreover, it is important to note that, due to the smaller sample for some geographical locations, the results presented are limited to these regions.

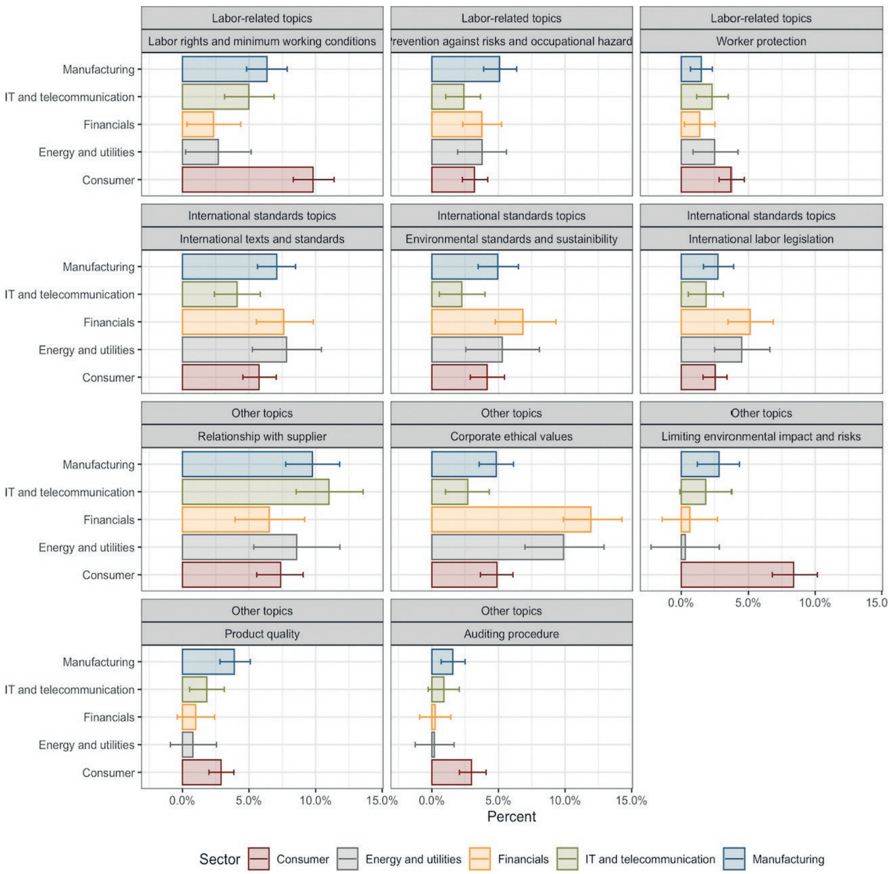
16 The reasons for this disbalanced sample are explained in Section 2

4.4.3 Results

4.4.3.1 Variation of SCC content across sectors

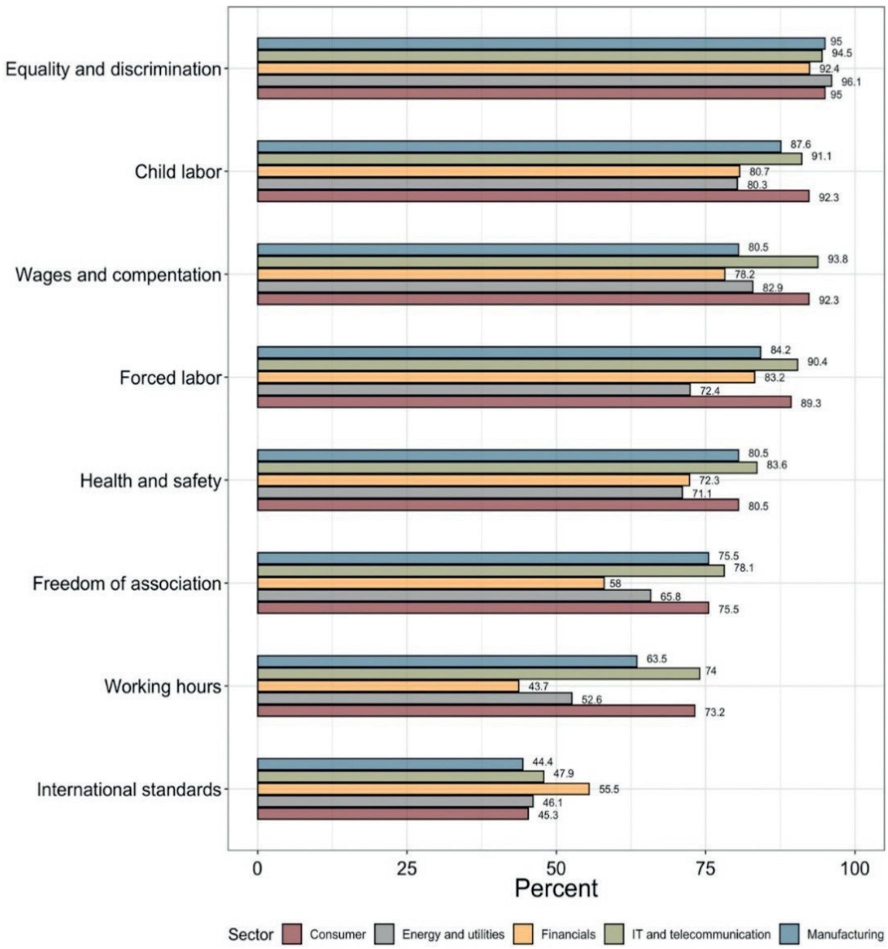
The analysis of the variation of SCC content shows that contents significantly differ across five sector groups. Figure 7 gives an overview of the topics addressed, as generated by the STM, in the codes disaggregated by sector.

Figure 7: Variation of the prevalence of labor-related provisions across sector groups in percentage of SCCs' text



From this overview, four key results can be underlined. Firstly, labor-related topics are predominant in the consumer sector, as well as the references to an auditing procedure, and provisions aiming to limit environmental impact and risks. Secondly, the sectors most referring to international standards is the financial sector, concerning both labor and environmental standards. However, the financial sector is scoring less high in the developments of labor-specific provisions and worker protections, and instead promotes references to corporate ethical values. Thirdly, the manufacturing sector, which includes the extractive industry includes provisions, aims at preventing risks and occupational hazards to a higher extent than other industries. Finally, the relationship with suppliers appears to be an important topic across all sectors.

Figure 8: Variation of labor-related provisions across sector groups



The manual coding (see in appendix 5)[17] and dictionary methods provided similar results regarding the reference to specific labor-related provisions. As identified in the STM, the financial sector is more extensively referring

17 For a purpose of clarity, the manual coding bar chart is not included in-text but can be found in appendix 5. The relevance of including both bar charts was limited, since the results are very similar.

to international standards yet does not develop labor provisions as much as in other sectors, especially regarding references to hands-on and practical standards such as working hours. The consumer sector scores well on all labor rights. Apart from these differences, there appears to exist an overarching reference to labor standards in all sector groups.

The combination of these methods gives us an insight into RQ4: SCCs in the consumer sector develop more thoroughly the content of labor-related provisions, include references to the auditing procedure and environmental impact of supplier production. The financial sector most often includes references to international standards, including labor and environmental international benchmarks. All in all, it appears that a set of labor standards is commonly referred to in all sectors.

4.4.3.2 *Variation of SCC content across geographical locations*

The three clusters of geographical locations give us understanding of cultural and organizational differences reflecting in SCCs' content. Figure 9 gives an overview of the topics addressed in the codes disaggregated by location.

Figure 9: Variation of the prevalence of labor-related provisions across location groups

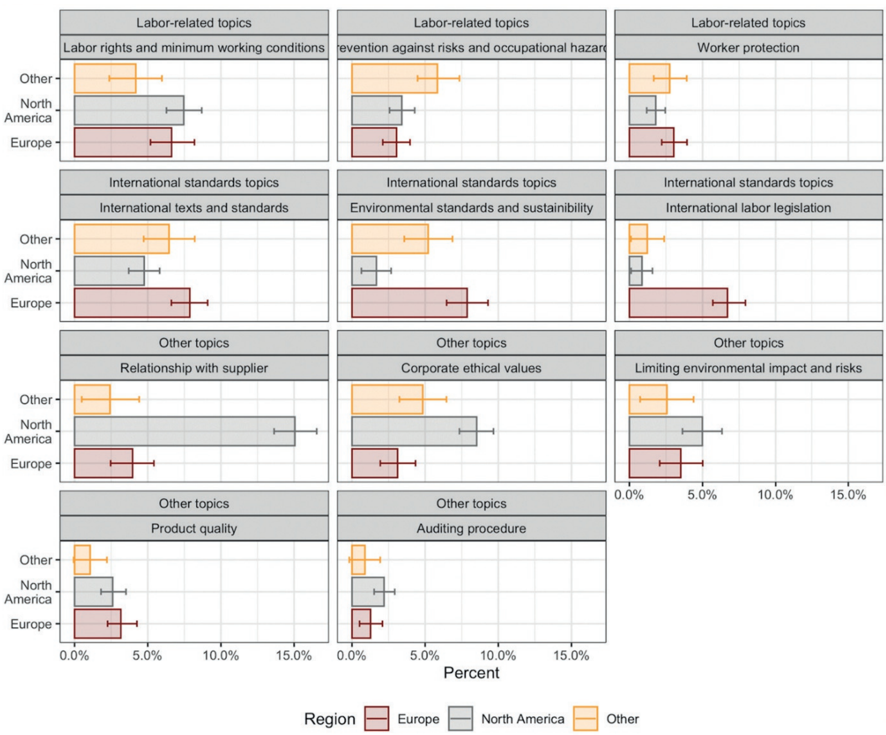
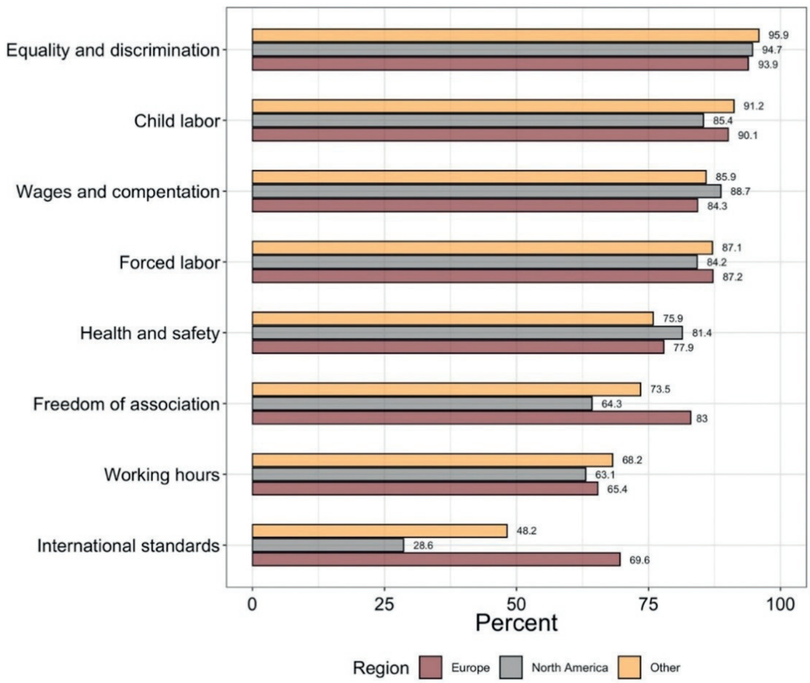


Figure 9 shows that the reference to international standards, including environmental and labor-related international legislation, are significantly more present in SCCs drafted by European companies. American companies on the other hand most often include corporate ethical values and relationship with suppliers as core topics within their SCCs. Interestingly, the group "Other" most often refers to prevention against risk and occupational hazards in their SCCs.

Figure 10: Variation of labor-related provisions across geographical locations according to the dictionary method



The manual coding (see appendix 6) [18] and dictionary method results (Figure 10) on labor rights references are consistent with the STM figure. Firstly, they show that European companies most often mention international texts as a basis for their codes. They also score higher on the reference to freedom of association and collective bargaining. For the rest, as noticed for the sector differences, all location groups seem to have widely adopted a common list of labor standards. Combining these results, RQ5 can be answered with the following: There are noticeable differences across geographical locations in the topics addressed in SCCs. While American companies thoroughly

18 For a purpose of clarity, the manual coding bar chart is not included in-text but can be found in appendix 6. The relevance of including both bar charts was limited, since the results are very similar.

elaborate on corporate values and relationship with their suppliers in their SCCs, European companies focus to a greater extent on references to international standards, both regarding labor and the environment. Despite these differences, a common set of labor standards seemed to have been adopted globally, as all corporations include the core ILO standards to a large extent, except for freedom of association.

4.5 Discussion

4.5.1 Contributions

This paper aimed to "decode" supplier codes of conduct and give insight on the commitments made to protect minimum labor standards by multinationals, while highlighting their differences across sectors and locations. From the four different text analysis methods used, the most evident result is that SCCs lack similarity in their formulation and are elaborated to different extent and lengths, although analogous topics and terms are addressed. Despite these differences, a standardized list of labor-related provisions is largely adhered to by multinationals, transcending all economic sectors and regions. This list of labor references is drafted with a clear influence from internationally recognized standards, but a minority of companies mention international texts, conventions, and guidelines literally in their SCCs.

The five sub-research questions drafted throughout this paper can be answered with the following:

- Organizations draft SCCs that use similar terms but vary significantly in length and extent to which they elaborate and develop their provisions. (RQ1)
- While labor-related provisions only constitute around 13% of SCCs' content, most internationally recognized labor rights are referred to in up to 90% of SCCs. Labor-related provisions are therefore an inherent part of SCCs, and a list of labor references has standardized to be included in most codes. (RQ2)
- Whereas about half of SCCs refer to internationally recognized labor rights with specific references to texts, conventions, and guidelines, only 30% of them include them as benchmarks for labor conditions throughout the code. (RQ3)
- There are differences in SCCs' content across sectors. In the consumer sector, companies show more commitment to the inclusion and development of labor-related provisions, as well as references to the auditing procedure and the environmental impact of supplier production. The financial sector most often includes references to international standards, including labor and environmental international benchmarks. Despite these differences, a set of labor standards is commonly referred to in all sectors. (RQ4)

- There are noticeable differences across geographical locations in the topics addressed in SCCs. While American companies thoroughly elaborate on corporate values and relationship with their suppliers in their SCCs, European companies focus to a greater extent on references to international standards, both regarding labor and the environment. As for the sectoral standardization, a common set of labor standards seemed to have been adopted globally. (RQ5)

Despite an overall difference in vocabulary used in SCCs purely based on a lexical analysis, a common list of labor references is mainstreamed in organizational governance. The discussions on corporate isomorphisms developed by institutional theories (DiMaggio and Powell, 1991) are partly confirmed in this paper: there is certainly a similarity of SCC content in the labor rights referred to and included, especially on forced and child labor, prohibition of discrimination, provisions relating to wages and compensation and to a lesser extent freedom of association. However, the extent to which these topics are developed and discussed in depth, both in length and specificity, varies greatly, including across sectors and locations. While some SCCs may only briefly refer to the labor right, others will extensively develop their meaning and how it should be implemented at supplier level. This causes problems, as the simple inclusion of the terms is not sufficient to ensure the implementation of ILO core standards in global supply chains (Pearson et al., 2002).

SCCs' standardization is particularly noticeable within close geographical locations, which is in line with previous studies on this topic analyzing convergence of corporate behaviors in locations sharing similar culture (Scholtens and Dam, 2013). Our research shows that the topics "corporate ethical values" and "relationship with suppliers" are central in American SCCs, but less so in the rest of the world. In Europe, reference to international standards is much more present than elsewhere, which shows the influence of the institutional and legal framework. European companies are indeed more regulated and prone to governmental pressures to draft SCCs, while American companies originally adopted codes to strengthen their internal values and governance mechanisms. This tells us that institutional and legal framework in which firms evolves is an important factor of SCCs' content. In the rest of the world, the prevention of occupational risks and hazards appears to be a more central topic, which can be explained by the sectorial distribution, as companies in the manufacturing sector (where this topic is also central to SCCs) are mainly based in developing countries.

We attribute the seemingly higher quality of SCCs in the consumer sector partly to pressures stemming from consumer associations, civil societies, and the press. The textile industry for instance has been under high public scrutiny, notably since the Rana Plaza disaster in 2013. A substantial literature suggests that non-governmental organizations can act as diffusers, monitors, and even enforcers of global norms, with the power to impose reputational penalties on firms that violate them (Barrientos, 2013). Given these external pressures, it is possible to hypothesize that SCCs' content is affected by threats of negative publicity that might damage their brand reputation with consumers, the public, and government regulators (Toffel et al., 2015), especially for sectors highly dependent on firms' reputations.

4.5.2 Methodological contributions

By using a mixed method approach, we were able to answer the RQs from different angles and provide insight on the pros and cons of each method. Firstly, the hand-coding and the dictionary method (methods 3 and 4) reached similar results for the straightforward variables, measuring a reference to a specific labor right. This demonstrates that exploratory computational methods are reliable and can provide similar results to those which are manual and more labor intensive. They should be promoted over the hand-coding method, at least for a large sample of data. However, the discrepancy of result for the first variable (reference to international standards), which demanded a level of interpretation, tells us that the manual method still has added value where the simple reference to a variable is not sufficient for the coding.

Secondly, the novel STM approach proves to bring forward results that are not identifiable otherwise. This approach is useful for inductive research: without preconceived idea on the results expected, the model informs us about the prevalence of topics in general and specifically across the levels of covariates (here sectors and geographical locations). It should be kept in mind that unsupervised machine learning models, such as topic models, uncover ex ante unknown topics, instead of covering a set of pre-determined topics. This might be drawback if an expected topic goes undetected by the topic model.

Finally, the similarity cosine and Jaccard approaches gave us results limited to the measurement of similarity of the whole text and not specific to labor-related provisions, which was a limitation. Paragraph or sentence-specific similarity measurements could not be obtained. This is related to the format of data we were working with, which allowed for a bag-of-words techniques at the level of full texts. Similarity measures would show more specific results on standardized legal documents such as court judgements.

4.5.3 Limits of this paper and opportunities for future research

This research is limited in three important ways. Firstly, the specific choice of sample limits our results to multinationals and large firms and might thus be not applicable to small and medium enterprises. The under-representation of firms located in developing countries should also be kept in mind in the interpretation of the results. Secondly, the results presented only allow for a descriptive analysis of SCCs' content and does not provide as to "why" some differences exist, although hypotheses and logic-based explanations can be emitted based on previous literature. Finally, it must be underlined that SCCs' content does not allow to draw conclusions on the *actual* and *practical* commitment of MNEs to labor standards as there is a *de jure – de facto* gap. SCCs only informs corporate written statements, which may have no effect in practice. However, one can legitimately assume that, where companies do not adopt SCCs or draft SCCs in a poorly fashion, it is unlikely that respect for labor standards is considered a priority.

Related to these limits, a relevant follow-up step would be to dive into the reasons behind SCCs' content and understand the drivers of SCCs content development. Qualitative studies here could answer the questions: what pushes MNEs to draft their codes a certain way? To what extent is it influenced by institutional demands, civil society, or internal values? Although many studies have demonstrated that corporate codes are primarily drafted to satisfy institutional pressures (Holder-Webb and Cohen, 2012), it is relevant to adapt the research to the specificity of SCCs and identify the stakeholders playing a role in the drafting of firms' codes.

Moreover, a riveting result in this study shows that implementation or compliance mechanisms do not constitute one of the most prevalent topics in SCCs. The auditing process, for instance, only concerns roughly 1% of the text of our sample of SCCs and is predominantly present in the consumer sector. Considering the disputed effect of SCCs, it is relevant to pursue the question: what are companies doing to implement their codes? Answering this would require a comparison of text analysis and qualitative methods such as interviews to put in parallel the content of codes with corporate actions to promote labor standards within their supply chains.

Having an overview of SCCs' content is a modest, yet important, steppingstone in the reflections around the improvement of labor conditions in global production networks and sharing the responsibility. This lexical analysis merely shows that most companies inevitably include a set of labor rights in their SCCs, meaning that international institutions have succeeded in putting these standards in the list of corporate commitments towards supply chain workers. The legal value and effect of these provisions remains however ambiguous. As advocated by Beckers (2016), these codes provide an opportunity for lawyers to address a legal gap on corporate legal accountability of multinationals for their transnational activities. Future research could attempt to translate the practical business vocabulary included in SCCs into implementable legal lingo to be used by courts.

5 Do companies walk the talk? Commitments and actions in global supply chain labor standards[1]

Abstract

this article examines the efforts towards implementing minimum labor standards in global supply chains through the lens of corporate social responsibility. The adoption of supplier codes of conduct has driven efforts to monitor and enforce standards within these chains. Nonetheless, challenges persist in translating commitment into action, giving rise to gaps in implementation. We address two critical phenomena: corporations' varying internalization of responsibility to implement labor standards, and the translation of these written commitments into actions. Through two distinct studies, we explore how companies navigate the gaps between corporate recognition of responsibility and the establishment of management systems to implement labor standards. Do companies walk the talk between their commitments and their actions? The first study demonstrates that a minority of companies are diligent in committing to implement their codes. Only 17% accept a shared responsibility to implement the code, and most companies only refer to audit visits or the termination of supplier contract as mechanisms put in place. The second study does not find conclusive evidence of a correlation between corporate commitments and positive evaluation of their corporate sustainability practices in supply chains as rated by *KnowtheChain*. However, results suggest that companies do better when they promote the collaborative approach with suppliers in their implementation efforts.

Keywords: Global supply chain ; Codes of conduct ; Labor rights ; Corporate responsibility

1 This chapter is based on the published article: Vandenbroucke, S., Pluut, H., Erkens, Y. et al. Do companies walk the talk? Commitments and actions in global supply chain labor standards. Int J Corporate Soc Responsibility 9, 17 (2024). https://doi.org/10.1186/s40991-024-00103-0

5.1 Introduction

Private regulatory efforts to address labor and environmental risks in global supply chains led to the widespread adoption of supplier codes of conduct (SCCs), most of them including minimum labor standards applicable to supply chain workers. As highlighted in the previous Chapter, over 80% of codes refer to child labor, forced labor, collective bargaining and freedom of association, and discrimination. These commitments mark the growing concern of private actors for non-financial matters. Awareness on human rights and environmental issues in global supply chains increasingly translates into corporations' strategies and policies, forming the so-called corporate self-regulation and a private governance around these issues.[2] However, the narrative of the 'sustainable' or 'ethical' company is controverted, and many question the actions undertaken by companies, beyond their words and policy standards proudly published for the world – especially the consumer – to see.

According to international soft law, it is expected that firms act upon their standards dictated in their codes and ensure implementation. For instance, the United Nations Guiding Principles on Business and Human Rights (UNGP) principles #19 and #20 emphasize the importance of tracking the effectiveness of actions taken to prevent and mitigate adverse human rights impacts. The OECD Guidelines for Multinationals Enterprises suggest several measures that companies should take to ensure minimum labor standards protection, including supplier assessment and conducting due diligence to ensure compliance with codes, collaborating and engaging with suppliers to address challenges, and establishing procedures for addressing non-compliance, amongst other things.

Despite these international recommendations, previous studies assessing implementation efforts of corporate self-regulation highlight the challenges of turning words into actions (i.e., policy standards into decent labor conditions) in the global supply chain. Mamic's research in 2005 reported the emergence of implementation programs within corporations, including audit practices, reporting procedures, training initiatives, remediation mechanisms, and the pivotal role of stakeholder dialogue (Mamic, 2005). Subsequent scholarly discussions on compliance programs point out the ineffectiveness of these implementation programs, their inherent challenges, or the issues in how they are executed (e.g., Paiement, 2021; Locke & Samel, 2018; Coslovsky & Locke, 2013).

Today, the empirical literature gives us insights into which implementation mechanisms are the most effective to improve labor standards in the global supply chain, and which instruments should be included in supplier codes of conduct (see the literature review in Chapter 3). However, we are

2 In this paper, supplier codes of conduct, (corporate) self-regulation and private governance describe the phenomenon of corporate regulation of labor standards in global supply chains and are thus used interchangeably.

missing data from corporate practices to fully understand the extent to which they internalize these expectations by integrating implementation provisions in SCCs; and put in place implementation programs in practice. Given the voluntary and largely unregulated nature of private governance of labor standards within the global supply chain, the development of implementation programs essentially relies on corporate willingness to embrace a sense of responsibility for their impacts, as demonstrated in Chapter 2. This article aims to provide quantitative data on implementation provisions and programs adopted by multinationals, shedding light on how companies currently ensure the effectiveness of their codes and contribute to the implementation process itself. We pose the following question: Which role do implementation programs as set up by multinationals play in limiting social risks in the global supply chain? This paper presents one of the first empirical studies that (1) provides descriptive data on the content of supplier codes of conduct regarding implementation provisions, (2) analyzes the quality of implementation provisions, and (3) compares written commitments with independent benchmark reports among a subset of companies in the database.

The first section reviews the literature to map conceptual approaches on corporate responsibility to limit social risks in the global supply chain. The second and third section present empirical results from two studies that we conducted. The first study (section 2) investigates implementation provisions laid down in SCCs by assessing the textual content of codes. The second study investigates the gap between the written provisions in supplier codes of conduct and the existence of programs in practice. We do so by comparing our own database of SCCs with the database built by KnowtheChain. We offer insights into how SCC textual content corresponds with corporate actions implementing their standards, thus how companies 'walk the talk'.[3]

5.1.1 Conceptual framework: multinational responsibility to implement labor standards

Within the field of global governance, theoretical discussions on corporate responsibility are developed from different angles. Political philosophy theorists discuss the notion of *shared responsibility*, to understand the role of multinationals in their global supply chains beyond a liability model. From the perspective of corporations, stakeholder theories help us understand the shift from the profit-driven firm to the social enterprise that society expects, and how companies embrace this responsibility. In practice, institutional theories tell us how decoupling can occur between the words and actions of corporate social responsibility (CSR) strategies. Conceptualizing the terms

3 This phrasing is inspired by Bromley and Powell's article "From Smoke and Mirrors to Walking the Talk: Decoupling in the Contemporary World." (2012)

'implementation provisions' and 'implementation programs' is necessary to assess how corporate commitments translate into practice.

5.1.1.1 Theorizing shared responsibility beyond the liability model

The common way of ascribing responsibility in legal proceedings uses the *liability model*, when agents are held responsible for a specific outcome based on their direct causal contribution to it. Based on the liability model, blame and guilt are attributed to agents by taking into account the "fairly direct interaction between the wrongdoer and the wronged party" (Young, 2006a, p. 118). The concept of liability is central to legal reasoning, as it aims to attribute responsibility in a cause-effect relationship that is logic and relatively measurable. Political philosophy theorists have argued that this model of responsibility cannot be applied to global supply chain structures and injustices; interactions in the global market are too complex to reconstruct causal chains, the responsibility for human and environmental risks is shared among different actors, and global supply chains are difficult to trace (Hahn, 2009). As a result, these structural injustices are the outcome of multiple actions and processes carried out by diverse agents, where a direct causal effect is hardly ever evident, and attribution of blame is not a mathematical formula.

As an alternative to the liability model, political theorists – with Iris Marion Young as their pioneer – propose the notion of shared responsibility, with the development of the social connection model of responsibility. This model argues that all individuals connected to structural injustice share a responsibility to collectively struggle against it, even when they are not directly responsible for causing them. She calls this a political responsibility (Young, 2004). The social connection model has two main added value compared to the liability model, particularly relevant in the global supply chain context. Firstly, it emphasizes forward-looking responsibility, while the liability model which is backward looking and seeks responsibility for past actions. Secondly, in this model, actors jointly bear responsibility for the elimination of structural injustices, with the idea that the structure that creates injustices can only be changed if many agents engage in cooperative efforts. Applying Young's theory, Zwolinski (2012) and Phillips (2022) conclude that responsibility does not only occur in case of *wrongful* participation in unjust structures. Even actors "minding their own businesses" and acting within accepted norms and rules participate in reproducing structural injustices.

Young's social connection model forms a good theoretical basis for a delegation of responsibility for global justice to transnational private actors, beyond legal obligations and even when companies act within accepted norms and rules. While companies are not (yet) legally liable for their transnational social impact, they have a clear role as powerful actors in the global supply chains production systems. Based on these theories, many scholars focusing on corporate responsibilities toward wider society have been vocal about firms' responsibility towards global society. For instance, Loosemore and Phua (2010) mention that contemporary business demands encompass addressing broader societal challenges, and that products and services are required to fulfill wider needs than before. Berkey (2021) contends that firms have extensive positive duties to the global poor, meaning they have an active role in preventing exploitation of employment and use the resources at their disposal to provide decent labor conditions.

Aßländer (2020) explores the concept of subsidiarity to allocate responsibility to the actors in global supply chain. As a governance principle, subsidiarity constitutes a priority rule that gives smaller entities precedence over higher instances. Only in cases where individual actors are unable to solve problems themselves, higher instances have a responsibility to assist. Aßländer considers that, as secondary actors in society, corporations bear moral obligations to ameliorate social and environmental conditions. Drawing inspiration from the Kantian perspective, the theorist argues that the abilities of the lower instances in society create a moral right for assistance for the lower – level instances in society and simultaneously a perfect duty of assistance for higher – order instances. In this 'layered' society of actors, he suggests that corporations can be seen as the 'higher-order' instance within the buyer-supplier top-down relationship. While this notion has faced criticism, Aßländer's subsidiarity principle provides for an interesting perspective on the degree of corporate responsibility. When suppliers and workers struggle to implement labor standards, multinational enterprises (MNEs) have a moral obligation to step up and fulfill a role of assistantship towards the disadvantaged group of persons. In this sense, corporations bear duties to collaborate with others to overcome the problems at hand. To cite Aßländer's (2020, p. 729) view: "*based on the principle of subsidiarity,* [we see this responsibility] *as a responsibility which follows a hierarchical order shifting from primary actors to secondary actors in society if the respective tasks cannot be accomplished at the lower level*".

Theories on shared responsibility and subsidiarity explain why company are responsible for their global supply chains labor standards, even though they are not the direct perpetrator of wrongful labor conditions. Now, one may question whether companies accept this role and consider itself responsible. We investigate this in Study 1.

5.1.1.2 Embracing the paradigm of corporate responsibility

From the economic perspective, theories of capitalism and profit-driven enterprises have long guided the principles of business conduct. Milton Friedman's (1980) assertion that globalization is a 'win-win' scenario has echoed through boardrooms, advocating for the pursuit of profits as the primary goal of corporations. To integrate human rights into their business practices requires a shift redefining the *raison d'être* of corporations, from the singular profit-driven objective to the internalization of sustainability duties and responsibilities. The rising concept of "Creating Shared Value," as put forth by Porter and Kramer (2011), underscores the idea that societal needs and economic value are interconnected.

From the business perspective, stakeholder theory posits that companies should not merely mitigate harm but have positive impacts, fostering economic growth while addressing pressing global challenges. As underlined by Dmytriyev et al. (2021), stakeholder theory argues in favor of building stakeholder relationships and creating value for all stakeholders, thus including financial and non-financial elements. Stakeholder theory thus argue that the corporate landscape must embrace a new paradigm. A growing realization of the interconnectedness between business operations, the environment, and social well-being is reshaping the way companies perceive their roles and responsibilities. The popular adoption of SCCs by multinationals is one of the steps forward taken by corporations to signal to their stakeholders their awareness and attention towards issues beyond financial aspects. The CSR literature underlines an acknowledgement of businesses' responsibility towards society, as CSR is considered good corporate behavior going beyond the core duties of a company through voluntary perspectives (Kolk, 2010). Yet, as Tamvada (2023) explains, there is a lack of understanding and convergence on why, to what, and how corporates are responsible to society.

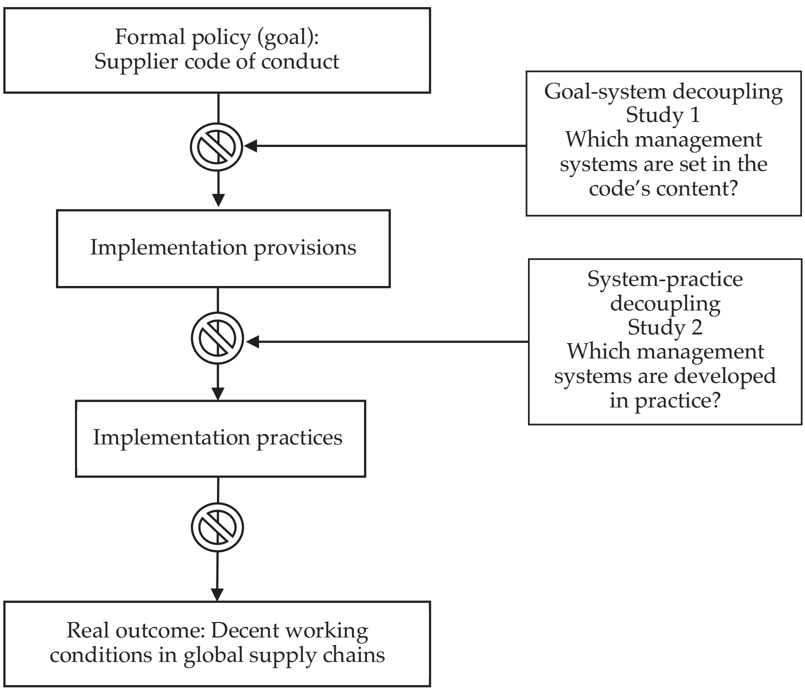
While the literature underlines that there is a shift, transforming corporations' *raison d'être*, it is uncertain how (and if) this new role translates into practice at business level. Study 2 of this paper aims to give some elements of response to fill this gap.

5.1.2 Risks of decoupling: from policy to outcome

One of the risks of corporate self-regulation highlighted by scholars is to fall in the 'window dressing' trend, where standards formulated do not match the reality of business practices (Cerchia & Piccolo, 2019). This leads to the decoupling between the formal policy and the actual practices, where a policy is formally introduced but not actually implemented in daily practice. This concept stems from institutional theories, developed by Bromley and Powell (2012) and later adapted to corporate practices in global supply chains, to explain the gaps between SCCs and their compliance (Bartley & Egels-Zandén, 2015; Bird et al., 2019). As detailed in the literature review in chapter 3, from the adoption of a supplier code of conduct to reaching its intended outcome, the process can be interrupted (decoupled) at three stages: there can be a goal-system decoupling, policy-practice decoupling, and a means-end decoupling.

In this paper, we investigate in two subsequent studies two decoupling stages: the goal-system decoupling and the policy-practice decoupling. Jointly, our studies examine whether corporations commit to taking an active role in addressing labor risks in their global supply chain, thus accepting their shared responsibility in reforming unjust structures. To this end, we delve into the complexities surrounding the implementation of labor standards in global supply chain and seek to assess the gaps between words and actions in global supply chains and understand corporate actions beyond the mere standard-setting goal of SCCs. As highlighted in the conceptual model (see Figure 1), Study 1 investigates the goal-system decoupling by analyzing how corporations set goals as well as management systems to reach those goals in their corporate policies. A central point of focus here is to assess whether companies commit to participate in the implementation of labor standards when setting their management systems. Study 2 looks into the policy-practice decoupling by investigating whether internalization and recognition of responsibility for implementation by companies leads to effective actions and implementation programs.

Figure 1. Conceptual model: Intentions of studies 1 and 2 to assess SCC decoupling process



Note. Conceptual model adapted to codes of conduct, from the theory by Bromley and Powell (2012) and readjusted by De Bree and Stoopendale (2020).

5.1.3 Conceptualizing implementation provisions and implementation programs

In line with the decoupling stages, we distinguish two concepts, implementation provisions and implementation practices. Implementation provisions are the written commitments laid down in the SCC, relevant at the goal-system decoupling phase. Implementation practices are the actions effectively undertaken by MNEs, appearing at the policy-practice decoupling stage. To implement labor standards, companies establish management systems. As defined by De Bree and Stoopendale (2020), management systems include all the kinds of intended organizational measures and procedures to achieve the goals set by the policy. This article studies the management systems designed to assess, facilitate and ensure compliance with labor standards stipulated in those codes, investigating those systems both as described in implementation provisions and as established in implementation practices.

International soft law and guidelines have previously indicated what type of management systems are recommended for an effective compliance with labor standards. According to the UNGPs, the ILO Tripartite Declaration of Principles Concerning Multinational Enterprises and Social Policy and the OECD Guidelines for Multinational Enterprises, business enterprises should carry out human rights due diligence. This process includes assessing actual and potential human rights impacts, integrating and acting upon the findings, tracking responses, and communicating how impacts are addressed. These texts also point out the importance of collaborating and consulting stakeholders to address systemic challenges and promote responsible business conduct. In case of SCC violation, the UNGPs detail the process to guarantee access to remedy for victims of labor rights violations in global supply chains. Moreover, these soft law instruments consider that multinationals' responsibility to apply minimum labor standards extends beyond simply creating a policy document; it involves ongoing efforts to assess, address, and mitigate potential adverse impacts in supply chains. In our terms, management systems integrated in implementation should thus match implementation practices.

5.2 Study 1. Written commitments in implementation provisions

In this first study, we unravel the content of SCCs' implementation provisions. Using two methods of analysis of implementation provisions, we measure the extent to which MNEs are invested not only in the standard setting of their self-regulatory policies, but more precisely in the establishment of implementation mechanisms. The methods employed in this study to analyze SCC content allow us to gain insights into MNEs' investment to implement their codes – beyond the mere citing of labor standards.

5.2.1 Methods for Study 1

Phase 1: Collecting supplier codes of conduct

The collection of supplier codes of conduct analyzed in this study was performed between September 2020 and June 2021 and contributed to the Database of Business Ethics (DBBE). The paper "*Decoding supplier codes of conduct with content and text as data approaches*" (Vandenbroucke et al., 2023), namely the publication of chapter 4 of this dissertation, was the first published paper using the data from the DBBE. More information on the process of the data collection and the description of the methodology can be found there. This database gathers SCCs from a target sample of 1241 companies in 30 countries and counts 880 codes of conduct applying to suppliers. For this study, we have reduced this sample to 810 SCCs, by excluding all codes that applied both to employees of the company and the suppliers. It was important to focus on codes applying exclusively to suppliers, to avoid misunderstandings on the actors targeted by implementation mechanisms.

Phase 2: Measuring implementation provisions

To operationalize implementation provisions, we extracted paragraphs of SCCs pertaining to implementation and coded them to obtain measurable and quantifiable data. All content of the code fitting in the above-mentioned definition of implementation provisions (i.e., all management systems designed to assess, facilitate and ensure compliance with codes' requirements) was extracted. This data extraction was performed manually between December 2022 and February 2023.

Phase 3: Text analysis using keywords method

We proceeded to analyze the extracted content with two different types of text analysis approaches (phases 3 and 4, respectively). Firstly, we used the dictionary method to capture the frequency of reference to selected terms (keywords). With this method, we intended to investigate corporate commitments to setting management systems. To identify the relevant keywords, we began by analyzing the Responsible Business Alliance (RBA)[4] SCC, as this code represents a looked-up practice in business conduct for the drafting of SCCs. Within our database, over 80 companies have adopted the RBA code. Moreover, the RBA code includes a section dedicated to "Management Systems", insisting on the following actions to ensure implementation: company commitment; management accountability and responsibility; legal and customer requirements; risk assessment and risk management, improvement objectives, training, communication, worker feedback, participation and grievance, audit assessments, corrective action process, documentation, and records, and finally supplier responsibility. Among these practices, we identified five categories of management systems, namely: transparency of the supply chain, risk and assessment monitoring, training programs, corrective action process, and reporting mechanisms. After a trial-and-error pilot of codes, we selected a list of keywords for each of these categories, laid down in Table 1. Presence of these keywords in SCC implementation paragraphs manifest a high likelihood

4 The RBA was chosen in this context as it represents a looked-up practice in business conduct for the drafting of SCC. Within our database, over 80 companies have adopted the RBA code.

that the SCC included this management system in their SCCs, meaning that they intend to establish this practice. For this method, the variable "*implementation categories score*" referred to the number of categories referred to in a SCC, regardless of the frequency of the appearing keywords. Regarding category 5, namely the corrective action process, it is noteworthy that we include "termina*" among the keywords, meaning that we consider the termination of the supplier-buyer contract as one of the management systems established to ensure SCC compliance.

Table 1: Definition and keywords of management system categories

	Category	**Definition**	**Keywords searched**	**Number of codes (and percentage of total) including this category in implementation provisions**
1	Transparency of the Supply Chain	The code discusses information and documentation that suppliers need to be in possession of, in order to increase transparency of their labor practices, and the requirements of record keeping on compliance processes. This includes the communication obligation from suppliers towards workers, consumers, and their own suppliers down the supply chain.	• document* • transparen* • traceability / trace*	296 (36.5%)
2	Risk assessment and monitoring	The code discusses risk assessment and risk management of supply chain practices and includes any monitoring mechanism in place to assess code compliance (e.g. with audits; field visits).	• audit* • visit*	387 (47.7%)
3	Training programs	The code includes provisions related to the training of managers, workers, either at company or supplier levels, on code compliance or management programs	• train*	189 (23.3%)
4	Corrective action process	The code includes processes for correction of deficiencies in case of code non-compliance, such as improvement steps, penalties, and ultimately the termination of supplier-buyer relationship.	• corrective • terminat*	383 (47.3%)
5	Reporting procedures and grievance mechanisms	The code includes any formal mechanism put in place to report a grievance regarding labor conditions in the company's supply chain. The code includes opportunities to report violation or potential violations, such as the establishment of whistleblowing practices. The code might include an email, a phone number or a hotline available to stakeholders, including workers themselves.	• whistleblow* • griev* • hotline	262 (32.3%)

Phase 4: Text analysis by expert assessment

Our second way of analyzing implementation provisions in SCCs was to ask experts to provide for a quality assessment of companies' commitments to implementation provisions based on a group classification ranging from 0 (companies have no SCC) to 5 (best-case scenario of implementation provisions). This expert assessment was performed manually, with three different researchers doing the coding to ensure reliability of our classification and avoid biases. This classification is not only based on keywords, but the global meaning of the implementation provisions paragraph extracted, including its grammar. This research design was notably built on the findings by Crilly et al. (2016), according to whom the focus on the *content* or the *grammar* of how social actors explain and rationalize their conduct leads to different outcomes. While corporate actors may persuade stakeholders of their ethical behavior based on the content of discourse, its grammar reveals information on the intention of the company (Crilly et al. 2016). This manual method of text assessment aims to analyze the text beyond its content or mechanisms listed and look at *how* and *why* the provisions are phrased to understand the level of corporate commitment.

After reading more than 100 implementation provisions in SCCs, the experts discussed which categories would be an appropriate operationalization of the quality of implementation provisions. The five categories represent different levels of responsibility, imposed on suppliers (recommendation or obligation), and/or on the multinational itself. As we are trying to assess "*To what extent are multinationals taking an active role in limiting social risks in their global supply chain via the establishment of implementation programs?*", the distribution of responsibility for implementation is relevant. Categories 3 and 4 mark the difference between the responsibility solely relying on suppliers to comply with the standards, and a sense of responsibility shared with the buyer itself present in category 4.

0. The company has not drafted a supplier code of conduct (this applies to 431 companies out of our initial database of 1241 companies, thus leaving us with a sample of 810 SCCs)
1. The SCC does not have any implementation provision, or not noteworthy.
2. Recommendation and encouragement to suppliers**:** Implementation provisions are formulated to suppliers, but simply as guidance and recommendations, thus using grammar such as "*suppliers should…*".
3. Obligations/concrete expectations to supplier**:** The implementation process is formulated in an authoritative way, implying an obligation.
4. Obligations/concrete expectations to both supplier and company itself**:** The implementation process also formulates steps to be taken by the company itself, and a level of responsibility for non-compliance.
5. Corrective action plan**:** On top of the previous requirements, the implementation provision puts in place a procedure to follow in case of non-compliance. Attention: A simple termination of the contract is sufficient to be included in group 5.

For groups 3, 4 and 5, the conditions are cumulative, meaning that for instance a code's implementation will only be rated 5 if conditions of group 4 are present. After a pilot ran by three experts on 80 companies (roughly 10% of the 810 SCCs constituting our dataset) based on an initial classification in five groups,[5] two experts independently coded the remainder of the dataset. A total of 70 discrepancies in coding were identified between the two coders. This amounts to a .872 inter-reliability score according to the Cohen's Kappa calculation, suggesting a good level of agreement between the two coders. The cases of discrepancies were discussed and resolved. Most related to some vagueness or incoherency of vocabulary used.

5.2.2 Results of Study 1

Table 2 provides an overview of the number of management system categories included in supplier codes of conduct. As noted earlier, we distinguish between five categories of management systems to implement SCC (i.e., transparency of the supply chain, risk assessment and monitoring, training programs, corrective action processes, and reporting procedures and grievance mechanisms). Our results demonstrate that few SCCs refer to implementation mechanisms or do so superficially. Out of the 1241 companies in our sample, 810 have a SCC, of which 101 (12.5%) codes do not have any implementation provisions according to our definition. A relatively high number of 179 codes (22.1%) does not refer to any of the categories of implementation provisions. Only 46 codes (5.7%) refer to all five categories.

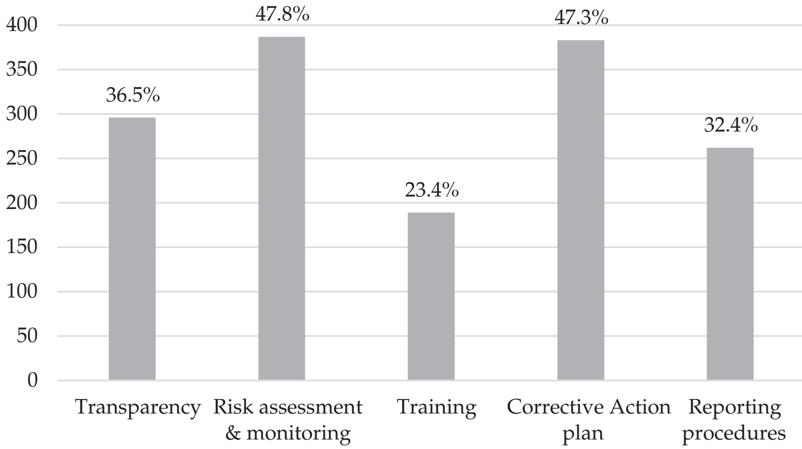
Table 2: Number of management system categories included in supplier codes

	Frequency	**Percent**	**Cumulative Percent**
0 categories	179	22.1%	22.1%
1 category	168	20.7%	42.8%
2 categories	207	25.6%	68.4%
3 categories	141	17.4%	85.8%
4 categories	69	8.5%	94.3%
5 categories	46	5.7%	100%
Total	810	100%	

Figure 2 shows the percentage of codes referring to particular implementation provision categories. Risk assessment and monitoring is referred to most often (47.8% of codes), followed by corrective action plans (47.3% of codes). Few supplier codes included the importance of training in their implementation provisions (n =189, 23.3%).

5 This pilot led to a redefinition of our five categories, as we figured out our initial ranking did not work as we expected.

Figure 2: Reference to management systems to implement supplier codes



A comparison of these results across different sectors and regions demonstrates that reference to specific management system categories is not affected by country or sector. Annex 1 provides for detailed tables comparing sector and regions.

Therefore, to answer the first research question, it can be concluded that few specific management systems are included in SCCs to ensure their implementation. From our sample of 1241 companies, only 46 of them drafted a SCC that includes reference to all five relevant management system categories, namely transparency, risk assessment and monitoring, training programs on implementation, corrective action process, as well as reporting procedures and grievance mechanisms. Companies refer more often to risk assessments and monitoring or to corrective action plans than they refer to reporting procedures or trainings. Only 30% of the SCCs referred to three or more categories.

Table 3 provides an overview of the classification conducted by our expert assessment, following the analysis of the quality of SCC implementation provisions. Our findings indicate that most companies draft supplier codes of conduct to influence the behavior of their suppliers without committing themselves to taking an active role in the implementation programs. That is, 60% of companies fall in category 3, meaning that they do have implementation provisions, but those only enunciate obligations to be respected by suppliers themselves, without including a conduct to be adopted by the multinational itself. 83% of companies with a code of conduct do not include any provision that would bind themselves to implementing their programs (only reflected in categories 4 and 5).

Table 3: Quality assessment of implementation provisions in supplier codes of conduct

Expert assessment	Frequency	Percent	Cumulative Percent
1: No provisions	101	12.5%	12.5%
2: Recommendations to suppliers	81	10.0%	22.5%
3: Obligations to suppliers	492	60.7%	83.2%
4: Responsibility for multinationals	111	13.7%	96.9%
5: Corrective action plans	25	3.1%	100%
Total	810	100%	

Table 4 highlights the geographical differences in SCC ratings. It appears that Australian companies are slightly more inclined than companies located in other regions to commit to implementing their standards, shortly followed by European companies. Lack of any implementation provisions is most common in Asia.

Table 4: Quality of implementation provisions across geographical regions

	1. No provisions	2 Recommendations to suppliers	3. Obligations to suppliers	4. Obligations to the multinational	5. Corrective Action Plan	Total
Asia	33.7%	6.5%	46.7%	13.0%	0%	100%
Europe	10.1%	10.1%	56.2%	19.6%	4%	100%
Latin America	20%	50%	20%	10%	0%	100%
North America	9.5%	9.5%	69.7%	8.7%	2.6%	100%
Australia	7.5%	11.3%	52.8%	20.7%	7.5%	100%

Note: The percentages were calculated based on absolute values within the geographical region. Percentages are summed up to 100% across columns, not rows, since companies are unequally distributed across regions. In total, N=1241

Table 5 reflects the sectorial differences of our expert ratings. Sectors particularly influenced by consumer retaliation, such as consumer discretionary and consumer staples, are more often classified as having a higher quality of codes. Annex 1 provides for detailed tables comparing sector and regions.

Table 5: Quality of implementation provisions across sector

	1. No provisions	2 Recommendations to suppliers	3. Obligations to suppliers	4. Obligations to the multinational	5. Corrective Action Plan	Total
Communication	12.8%	7.7%	61.5%	17.9%	0%	100%
Consumer Discretionary	10.4%	8.3%	57.3%	18.7%	5.2%	100%
Consumer Staples	6.9%	8.3%	61.1%	16.7%	6.9%	100%
Energy	35%	0%	55%	10%	0%	100%
Financials	17.7%	15.9%	47.8%	17.7%	0.9%	100%
Health Care	10.5%	6.6%	77.6%	2.6%	2.6%	100%
Industrials	13.7%	10.8%	56.8%	15.8%	2.9%	100%
Information Technology	7.4%	7.4%	75.5%	8.5%	1.1%	100%
Materials	6.1%	9.8%	67.1%	12.2%	4.9%	100%
Real Estate	25%	11.1%	47.2%	13.9%	2.8%	100%
Utilities	13.9%	16.3%	53.5%	11.6%	4.6%	100%

Note: Percentages were calculated based on absolute values within the geographical region. Percentages are summed up to 100% across columns, not rows, since companies are unequally distributed across sectors. In total, N=1241.

Our quality assessment of implementation provisions in SCCs leads us to conclude that companies are reluctant to formulate their implementation mechanisms as instruments that would bind them to act a certain way. In most cases, codes are formulated as "*companies reserve the right to…*". Suppliers are at the receiving end of these codes, where clear expectations of compliance with labor standards are included, but the steps to be taken and tasks to be done by the companies themselves are limited. This tells us that SCCs are primarily a top-down policy, where companies seldomly accept to be bound by its effect. To answer the second research question, it is evident that codes' implementation provisions put little responsibility on multinationals, especially considering that only 5% classify as what we rated the best practice scenario.

As we employed two methods to analyze the implementation provision in SCCs, we also wanted to investigate the correlation between the number of management system categories (method 1 based on text analysis) and the quality assessment of implementation provisions (method 2 based on expert assessment). We indeed found a positive and strong ($r = .818$, $p < .001$). Table 6 provides the results of the cross-tabulation of these two variables, and includes the variables related to the frequency of the keywords for each of the management system categories. This allows us to understand specifically which management system correlates the most with our assessment of SCC quality.

Table 6: Means, standard deviations and correlations between expert assessment and frequency of management system keywords

	Mean	SD	1	2	3	4	5	6	7
1. Expert assessment	1.86	1.54	1						
2. Number of management systems categories	.87[6]	1.80	.82**	1					
3. Frequency of 'Transparency' keywords	.70	1.11	.22**	.58**	1				
4. Frequency of 'Risk assessment' keywords	1.20	3.55	.27**	.28**	.15**	1			
5. Frequency of 'Training' keywords	.43	.99	.19**	.50**	.37**	.42**	1		
6. Frequency of 'Corrective action process' keywords	.82	1.33	.33**	.47**	.19**	.57**	.25**	1	
7. Frequency of 'Reporting procedures' keywords	.74	1.41	.18**	.39**	.07	.02	.08*	.07*	1

Note: Means (M) and standard deviations (SD) are descriptive statistics for each of the variables. The Pearson correlation coefficients laid down in the table are between expert assessment and frequency of the keywords, calculated based on the number of keywords appearing in each category in SCCs (N=810).
* $p < .05$.
** $p < .01$.

This tells us that companies referring to most implementation tools as "key words", such as those recommended by international organizations, are most likely the same companies having a higher assessment of code implementation provisions' quality, according to the expert classification. This correlation also confirms that two different measurement of SCCs' implementation provisions appear to lead to similar conclusions. The high correlation between these two variables could also be interpreted as a validity test of their coding. However, this correlation does not indicate that those programs are reflected in practice, nor effectively implemented. The next section will give us more insights on the actual existence of implementation programs, when included in SCCs.

5.3 Study 2. From commitment to actions in implementation mechanisms

In this second study, we compare the content of SCC implementation provisions with the scoring of multinationals' implementation programs by KnowtheChain. This allows us to investigate the gap between the written provisions in supplier codes of conduct and the actual existence of programs in practice. KnowtheChain is a nonprofit organization evaluating the policies and practices that companies have in place to tackle forced labor in their global supply chains. Their database consists of general and specific

6 For this variable only, companies without a SCC were rated "-1".

scores for multinationals' global supply chain behavior, which is updated every year and publicly available on their website.[7]

5.3.1 Methods for study 2

5.3.1.1 KnowtheChain sample of companies

KnowtheChain includes companies based on a strict selection process, using three primary inclusion criteria: exposure to forced labor risk, market cap, and sectors under high exposure to forced labor risks. Regarding this last element, three sectors were identified, namely the information and communications technology, food and beverage, and apparel and footwear. For 2020-2021, 129 companies from all over the world were selected. From the sample of companies evaluated by KnowtheChain in year 2020-2021, we found an overlap of 94 companies with our database. From those 94 companies, only 77 had a supplier code of conduct on their website according to our database. Considering this relatively small overlap and hence small sample size for Study 2, the results presented herein should be considered preliminary insights and therefore definite conclusions are not warranted.

5.3.1.2 KnowtheChain scoring

KnowtheChain produces benchmarks to evaluate the efforts of companies in addressing forced labor in their supply chains. Based on the UN Guiding Principles on Business and Human rights, KnowtheChain evaluates corporate policy commitments, due diligence practices and remedy. Seven thematic indicators are studied: commitment and governance, traceability and risk assessment, purchasing practices, monitoring and verification, recruitment, worker voice, and remediation. The scores for each of these categories are obtained following a strict benchmark methodology, developed through consultation with stakeholders. These benchmarks are applied similarly to each company evaluated and published online.[8] The data for the benchmarks are collected via document analysis and website scrapping for any English language disclosure by companies, additional disclosure provided by companies upon interaction, publicly available forced labor allegations from third parties sources, and companies responses to allegations and third party verification with third parties, such as the Responsible Business Alliance and the Fair Labour Association.[9]

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7 KtC database and results are published every year on their website, to be requested at: https://mailchi.mp/knowthechain.org/ktc-access-data We made a specific request for access to the data from 2020-2021, which KnowTheChain granted us.

8 The most recent benchmark methodologies can be found at: https://knowthechain.org/benchmark-methodology/ (last accessed October 17, 2023).

9 Those two multi-stakeholder associations are working to improve labor practices and protect workers' rights, by collaborating with companies to develop, implement and monitor companies' businesses responsible sourcing practices.

Each company evaluated by KnowtheChain is given an overall average score from 0 to 100, as well as a score from 0 to 100 attributed to each of the above-mentioned seven categories. KnowtheChain benchmark methodologies are updated and improved every year, to fine-tune the evaluation to the latest expectations and best practices examples on companies' policies and practices to prevent labor rights in global supply chains. For this study, we used KnowtheChain scoring and benchmark methodology from 2020-2021, considering that the SCCs in our own dataset stem from this period. Moreover, it is important to note that KnowtheChain goes beyond scoring companies simply based on the existence of CSR programs, but also assesses the quality and implementation. For instance, on the companies' risk assessment on supply chains, KnowtheChain distinguishes between companies carrying out risk assessment (64% in 2021) and companies including workers in risk assessments (only 9%). The results of KnowtheChain analysis for 2020-2021 are detailed in the report "*Closing the gap, evidence for effective human rights due diligence from five years measuring company efforts to address forced labour*"[10]. The data show slow progress in companies' human rights due diligence efforts to tackle labor rights and may be indicative of a lack of preparedness for upcoming legislation. An interview with KnowtheChain in March 2023 allowed us to fully understand their benchmark methodology and confirm the relevance of this research with the organization.

5.3.1.3 Comparing KnowtheChain results with our Database

KnowtheChain scoring provides details and information about companies' implementation programs that complements the findings of Study 1. While our own dataset provides for textual content analysis of codes, KnowtheChain explores actual corporate actions to prevent and mitigate labor risks in global supply chains. It is relevant to compare and analyze these two sources of data, to assess whether SCC content correlates with corporate actions. We formulate the following three hypotheses:

Hypothesis 1: KnowtheChain scores will be higher for companies which have adopted a SCC compared to companies who have not adopted a SCC.

While SCC presence has not been identified as a clear predictor of better behavior on corporate global supply chain labor performance in the literature,[11] we expect that setting standards for labor conditions is a first step towards implementation programs and acknowledgement of responsibility for labor conditions in the global supply chain. In turn, we would expect these companies to score better in terms of efforts deployed to tackle forced labor, as assessed by KnowtheChain.

10 This report is available at: https://knowthechain.org/wp-content/uploads/2022-KTC-mHREDD-brief.pdf, last accessed October 18, 2023.

11 See the literature review, Chapter " of this dissertation

Hypothesis 2: The quality of implementation provisions in SCCs is positively associated with KnowtheChain scores.

We expect that the quality of SCC implementation provisions, as evaluated by our experts in Study 1, is associated with the quality of actual implementation programs in place, as evaluated by KnowtheChain, because the expert assessment focused on the level of responsibility that companies commit to.

Hypothesis 3: KnowtheChain scores will be higher for those companies who commit to establish management systems than for companies who do not.

We expect that implementation provisions will reflect implementation actions, as we accept the hypothesis that companies 'walk the talk'. Therefore, we foresee that companies committing to set management systems to implement their codes will score higher in their efforts to tackle forced labor, as assessed by KnowtheChain.

5.3.2 Results of Study 2

To test Hypothesis 1, we compared companies with (n = 77) and without (n = 17) a supplier code of conduct. An independent samples t-test revealed that the average KnowtheChain score between these two groups was not significantly different (p = .349): companies without a code reach an average global score of 32/100, while companies with a code reach an average of 34/100. Thus, although the difference is in the expected direction, there is no statistical evidence that the presence of a code indicates a better approach to preventing labor risks in global supply chains following the KnowtheChain methodology. The first hypothesis is not supported. We also did not find significant correlation with any of the subcategories rated by KnowtheChain.

The second hypothesis proposes that the quality of implementation provisions in SCCs is positively associated with KnowtheChain scores. We assessed the correlation values of our expert assessment with both the overall KnowtheChain score and the KnowtheChain scores per category, as can be seen in Table 7. None of the coefficients are significant, although positive. Given the small sample size and hence low statistical power, we find it important to highlight some of the positive correlation coefficients. For instance, the 'management and accountability' indicator evaluated by KnowtheChain is the category that is most strongly associated with the overall quality of the SCC. Therefore, the more companies commit to sharing responsibility to implement codes as per their written implementation provisions (evaluated by us), the better their 'management and accountability' indicators (evaluated by KnowtheChain). When looking at KnowtheChain benchmarks, a good management and accountability score means that companies have established clear responsibilities and accountability for the implementation of their supply chain policy.[12] This result thus suggests that our assessment of implementation provisions – assessing the level to which companies accept a level of responsibility in codes' content – matches a clearer responsibility and accountability in action in global supply chains. When accepting responsibility in-text, companies appear to act upon this responsibility in action, translating in better management systems, and a better division of responsibilities.

The sub-category 'Remedy' evaluated by KnowtheChain is also positively associated with our quality assessment variable. KnowtheChain rates companies higher on remedy when the company has a process to provide remedy to workers in its supply chains in case of forced labor and human trafficking. Seeing a positive correlation with our quality assessment of codes confirms that companies taking a higher level of responsibility in their written statements matches a collaboration with workers, by giving them an avenue of discussion with the company itself.

Table 7: Correlation matrix between expert assessment and KnowtheChain scores

	Mean	**SD**	**Expert assessment**
Expert assessment	1.86	1.55	1
KTC global score KtC	33.77	19.86	.109
KTC management and accountability KtC	49.94	31.97	.195
KTC Training	39.41	24.52	.047
KTC Stakeholder engagement	36.83	32.46	.134
KTC Traceability	34.94	28.82	.075
KTC Risk assessment	42.74	36.59	.173
KTC Purchasing practices	25.13	19.97	.136
KTC Worker Engagement	21.37	25.84	.099
KTC Freedom of association	9.812	20.92	.037
KTC Grievance mechanisms	26.88	24.75	.121
KTC Monitoring	35.43	27.79	.042
KTC Corrective action plans	54.57	35.20	.154
KTC Remedy	32.87	23.12	.176

Note. Means (M) and standard deviations (SD) are descriptive statistics for each of the variables. The Pearson correlation coefficients show the relationship between the expert assessment rating (from 0 to 5, see Study 1) and the KnowtheChain scoring for each of the categories and overall. N = 93. KTC = KnowtheChain score.

Hypothesis 3 contends that reference to management systems in a SCC is positively correlated with KnowtheChain scores. We observe a positive correlation between the general KnowtheChain scores and the number of

12 This definition stems from KnowtheChain benchmarks 2020.

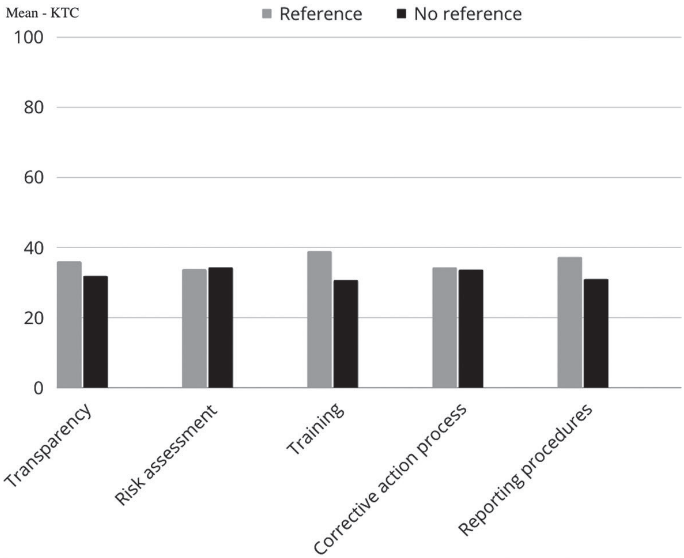
management systems, yet without statistical significance. Figure 4 visually depicts the difference of KnowtheChain scores when there is and there is no reference to each management system. The detail of all correlations, broken down per category of KnowtheChain scores, can be found in Table 8. The full correlation matrix can be found in Annex 2.

Table 8: Correlation matrix of the frequency of management systems and KnowtheChain scores

	Implementation keywords: Number of categories referred to	**Frequency of 'Transparency' keywords**	**Frequency of 'Risk assessment' keywords**	**Frequency of 'Training' keywords**	**Frequency of 'Corrective action process' keywords**	**Frequency of 'Reporting procedures' keywords**
KTC Global score	.119	.098	0.022	.214	-.052	.245*
KTC Management and accountability	.149	-.029	.039	.108	.060	.203
KTC Training	.033	-.010	-.002	.012	-.047	.184
KTC Stakeholder engagement	.155	.101	.150	.166	.063	.117
KTC Traceability	.189	.241*	-.082	.306**	-.013	.237*
KTC Risk assessment	.107	-.058	.023	.206	-.040	.209
KTC Purchasing practices	.111	.090	-.033	.054	-.111	-.018
KTC Worker Engagement	.081	.068	.003	.165	-.049	.187
KTC Freedom of association	-.087	-.100	-.079	-.092	-.175	.057
KTC Grievance mechanisms	.092	-.010	.158	.265*	.063	.174
KTC Monitoring	.043	.097	-.042	.164	-.147	.223
KTC Corrective action plans	.110	.085	.103	.144	.025	.200
KTC Remedy	.137	.101	.075	.134	.055	.170

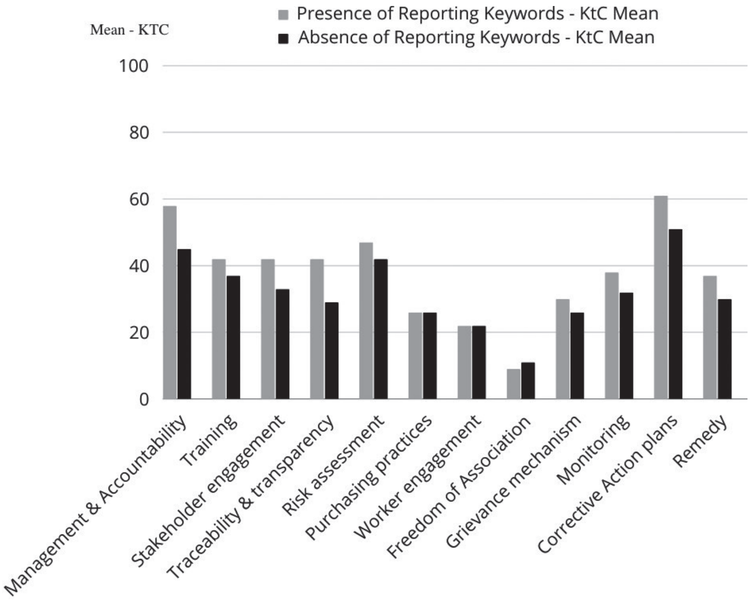
Note. The Pearson correlation values observe the relationship between the frequency of keywords appearing in SCC (see Study 1) and the KTC scoring for each of the categories. (N=93). In this table, KnowtheChain is abbreviated with "KtC".
* p < .05.
** p < .01.

Figure 3. KnowtheChain global scoring when there is and when there is no reference to management systems.



In relation to Hypothesis 3, it stands out that the presence of reporting procedure keywords is significantly and positively related to Knowthe-Chain scores: The more companies commit to setting whistleblowing and grievance mechanisms in their SCC, the better implementation efforts are identified by KnowtheChain. Allowing supply chain workers to report on labor standards issues is thus a factor of better corporate practices in their supply chain governance. Figure 4 gives a visual representation of the differences in KnowtheChain scoring between companies including reporting mechanisms in their implementation provisions and those who do not. We notice the presence of reporting keywords almost always indicate higher KnowtheChain means, in some cases more significantly so.

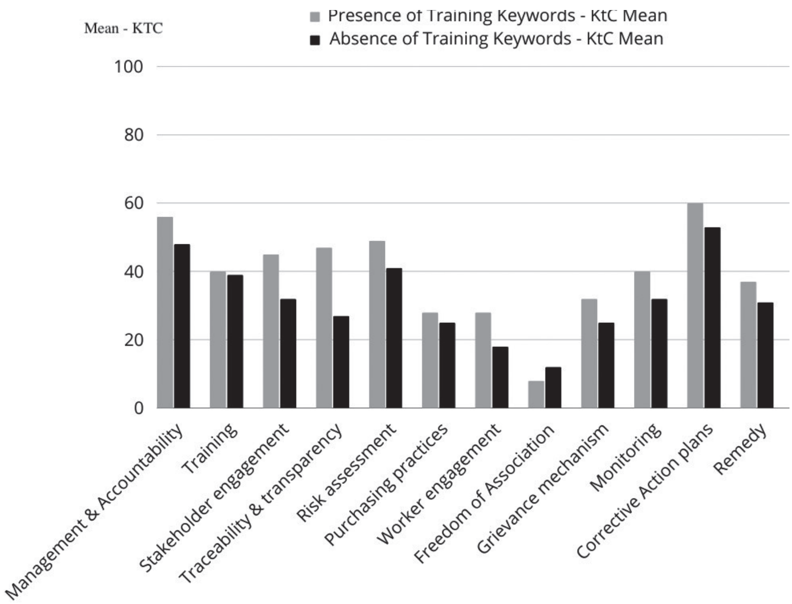
Figure 4. Mean of KnowtheChain scoring in the presence or absence of keywords on Reporting



Note. Mean of KnowtheChain's scores on each of these categories, depending on whether or not they include reporting keywords in their SCC.

The frequency of keywords relating to training, meaning training of supplier regarding their minimum labor standards, is also positively associated with KnowtheChain ratings. This correlation is especially significant regarding KnowtheChain's evaluation of supply chain traceability, i.e. the extent to which the company demonstrates an understanding of their supply chain risks and composition. Training suppliers also leads companies to be more aware of their supply chain issues. A visual representation of the mean of KnowtheChain results is given in Figure 6.

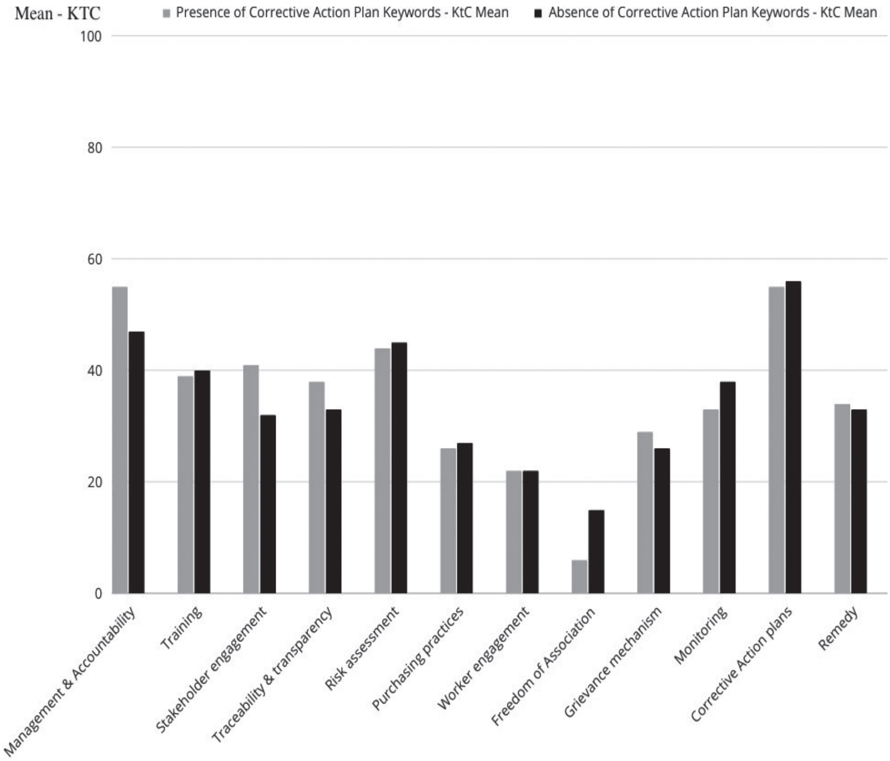
Figure 5. Mean of KnowtheChain scoring in the presence or absence of keywords on Training



Note. Mean of Know the Chain's scores on each of these categories, depending on whether or not they include training keywords in their SCC.

In the case of the frequency of corrective action process keywords, we however notice a negative correlation with most of the KnowtheChain scores. For this method, corrective action process keywords included the termination of contract of suppliers in case of non-compliance. This means that when companies threaten their suppliers to end the relationship, KnowtheChain observes worse-off implementation efforts and practices on CSR in global supply chains. A similar negative correlation is identified regarding the frequency of risk assessments keywords: where companies often refer to supply chain audits and factory visits, KnowtheChain results are more likely to be inferior. Figure 6 gives a visual representation of the difference of KnowtheChain mean between companies including Corrective Action Plan keywords in their SCC, and those who do not. As opposed to the previous similar figures, the two lines are much more equal, and absence of the corrective action plan keywords sometimes exceeds its presence.

Figure 6. Mean of KnowtheChain scoring in the presence or absence of keywords on Corrective Action Plan



Note. Mean of Know the Chain's scores on each of these categories, depending on whether or not they include corrective action plans keywords in their SCC.

Therefore, our third hypothesis is partially supported. There is evidence that, when companies refer to management systems to implement their SCC, KnowtheChain scores are higher, but this relationship is not statistically significant. A significant correlation between KnowtheChain scoring and specific management systems referred in codes is identified: higher frequency of reporting procedure keywords and training keywords in SCC is correlated with better KnowtheChain scores. In contrast, higher frequency of risk assessment and corrective action plan keywords are negatively correlated with KnowtheChain scores, yet this relationship in not statistically significant.

5.4 Discussion

We began this paper by reflecting on the growing expectations towards companies to accept a responsibility to prevent and mitigate labor risks in their global supply chain, and how this led to the development of voluntary governance notably with the adoption of SCCs. The two studies conducted here contribute to our understanding of the level in which companies commit to their policy implementation.

5.4.1 Implementation provisions in SCC: How companies 'talk'

While our results show that SCCs are widely adopted, they also indicate that companies include implementation provisions in their supplier codes only to a limited extent. 34.6% of codes in our sample either have *no* implementation provisions or have provisions that do not refer to any of the implementation mechanisms recommended by international texts. Only 5.7% of codes have implementation provisions that discuss all core mechanisms recommended by international standards – namely reference to transparency, risk assessment and monitoring, training programs, corrective action processes, and reporting procedures or grievance mechanisms.

Among management systems referred to in codes' implementation provisions, companies most often include risk assessment and monitoring practices such as audits and factory visits, as well as corrective action plans in case of non-compliance with codes' standards. Nearly half of the codes in our dataset include these systems. As underlined by Mamic (2005), MNEs' auditing and monitoring programs generally involve the development of corrective action plans with supplier factories, which explains why monitoring and risk assessment often go hand in hand. However, most often codes only refer to these two implementation mechanisms – nearly 70% of codes include not more than two categories of management systems. Reference to the training of suppliers to implement labor standards, and reference to reporting procedures (e.g. whistleblowing or grievance mechanisms) are less often included in codes.

These results build on the previous chapter, that showed that nearly 90% of SCCs referred to most core ILO standards (namely prohibition of child labor, forced labor, discrimination, occupational health and safety, and to a lesser extent trade union rights). Companies are eager to set labor standards, but less so to take responsibility to implement them. This result confirms the notion of policy-practice decoupling (Bromley & Powell, 2023) and suggests the existence of window dressing: while companies make promises, their actions may not reflect these commitments.

5.4.2 A shared responsibility and collaborative approach with suppliers: Necessary to 'walk the talk'

Young's model of shared responsibility calls for a collaborative approach to address supply chain issues. The premise is that actors are all connected to structural injustice and should collectively struggle against it (Young, 2004). Our studies unfortunately show that it is not the approach adopted by most companies when they draft supplier codes of conduct. By analyzing the language adopted in codes of conduct, we observe that SCCs most often articulate expectations for suppliers, but rarely phrase implementation provisions as a responsibility pending (also) on themselves. Only 17% of SCCs appear to bind the multinationals to actions of implementation, reflecting a shared responsibility.[13]

Moreover, we observe that SCCs more often include references to management systems favoring the 'compliance' approach and are less incline to adopt the *peer-to-peer* governance (Jiang, 2009) favoring stakeholder involvement and workers' voices. For instance, audits and supplier monitoring are the most common management system referred to, while they are criticized in the literature for reproducing dynamics of dominance and hierarchy between the buyer and the supplier. Corrective action plans, where buyers have the leverage to "drop" the supplier in case of noncompliance, provoke a similar effect – and yet are the second most common instrument mentioned in SCC. This develops a top-down governance by multinationals (Lindholm et al., 2016). In fact, our results show that referring to suppliers' surveillance via audits, or the termination of contract, seem to deteriorate implementation programs in practice, as rated by KnowtheChain. In contrast, grievance mechanisms are less referred to in codes – while they have proven effective in ensuring a discussion at different organizational levels, if workers are protected when speaking out (Singh, 2011). When SCC refer to grievance mechanisms, such as whistleblowing procedures and hotlines, KnowtheChain scores are also higher, proving better efforts and programs developed in practice.

No evidence could be found that SCC adoption ensures good corporate social behavior in global supply chains, whether the code includes labor standards and implementation mechanisms or not. This result corroborates previous empirical findings (Paiment, 2016; Distelhorst et al., 2015; Barrientos & Smith, 2007), this time using KnowtheChain data. Companies with a code do not score significantly better on preventing and mitigating forced labor risks in their supply chains, compared to companies without a code.

Therefore, while our findings should be interpreted carefully in light of our methods' limitation, they contribute to a small but growing empirical literature and confirm the necessity for companies to adopt the collaborative approach with their suppliers. To prevent policy decoupling and to 'walk

13 The remaining 12% of codes do not have any implementation provisions.

the talk', it is not sufficient to adopt a code and commit to implementing it. Code's implementation should integrate workers' voices, ensure supplier engagement, and accept a share of responsibility in its non-compliance. A top-down approach of suppliers' surveillance has not proven fruitful in preventing forced labor down the supply chain.

5.4.3 Limitations and opportunities for future research

These studies are pioneering in the combination of the methods and databases, and aim at answering a recurring question in CSR: Do companies walk the talk, accept a level of responsibility, and act upon their words? Since this debate requires data for better regulation of corporate responsibility in global supply chains, our empirical studies make a timely contribution to this field. However, our results should be interpreted in light of their limitations, both in terms of the sample studied and the methods employed.

Firstly, SCCs are only one of the CSR policies developed by multinationals. Other documents, such as purchasing contracts with suppliers, ethical charters, press releases, and meeting notes, may reflect corporate efforts to implement labor standards. The object of our study limits corporate "talk" to their supplier codes provisions, which arguably are not the most reliable source of information on corporate practice. In the future, a thorough study of companies' commitments in and outside of their SCCs would provide a more comprehensive approach of investigating companies' private governance on labor issues.

Secondly, the expert assessment, although cross-checked with different experts to ensure reliability, is a subjective method for classifying codes of conduct that we developed ourselves. Although allowing us to assess a specific variable – e.g. corporate responsibility commitment – this limits the reproducibility of this study. Future research could base their quality assessment on existing benchmarks, or in collaboration with international institutions likely to reproduce the study over time.

Thirdly, an important limitation of the results of Study 2 is related to the small sample size. Not only did our correlational analyses suffer from low statistical power, but we also do not know how representative the companies selected by KnowTheChain for that year were for our bigger dataset (of 1241 companies). Moreover, the bivariate character of the analysis does not warrant causal claims and does not exclude the possibility that other factors have a confounding effect. That being said, given that KnowtheChain benchmarks contain a wide array of information and variables, we encourage future research in this field to draw on these data to gain understanding of companies' efforts to tackle forced labor in global supply chains.

Finally, it is important to note that SCC content analysis may not reflect the reality of implementation programs in place, but only give an indication on how companies communicate with their external stakeholders on their implementation provisions. To fill this gap, an interesting next step to this study would be to conduct qualitative research on what business practices are effectively in place on the basis of companies' codes. Here, it is relevant to interview supply chain human rights advisor of multinationals, to gain in-depth understanding on the translation from policy to practice and its challenges.

5.4.4 Practical implications

Our results offer insights to policy makers regulating corporations in their global supply chain approach, as well as to corporations. They suggest that, while companies set labor standards, their implementation is sub-optimal and companies unlikely 'walk the talk' with implementation programs effectively improving workers' conditions. This supports the claims advocating for the development of a legal framework binding companies to act upon their SCC, and invest in the implementation of their labor standards down the supply chain. The mandatory human rights due diligence laws are a hopeful step towards a better share of responsibility among the supply chain actors to protect workers' rights. Based on our results, to make a difference, policy makers should guide multinationals towards a collaborative approach with their suppliers, notably by promoting management systems ensuring stakeholder engagement and drifting away from a top-down approach of corporate self-regulation. On their end, to apply actions to their commitments, companies should accept a level of responsibility, including in the content of their policies. To effectively 'walk the talk', companies should not only surveille and monitor their suppliers, but more importantly invest costs, discussions, and training with their suppliers. We recommend that, instead of supplier audits, companies favor whistleblowing hotlines and trainings and that, instead of relying on the threat of corrective action plans ultimately terminating supplier contracts, they engage with their suppliers and participate in the costs of implementation.

It remains to be seen whether the due diligence legislations developing, such as the European corporate sustainability due diligence Directive, will promote the shared responsibility and collaborative approach, to address the pitfalls of the current corporate practices and bridge the gaps between the standards setting and the actions.

6 Corporate insights on supplier codes of conduct and human rights due diligence legislation[1]

ABSTRACT

The evolving landscape of global human rights protection increasingly places responsibility on multinational corporations to act in the public interest beyond their economic roles. Despite international soft law guidelines and regulatory advancements, companies still operate transnationally with limited accountability for human rights risks in their supply chains. To address this gap, many companies have adopted private voluntary policies such as supplier codes of conduct (SCC) to set minimum labor standards for their suppliers. This chapter investigates how internally employed human rights experts perceive corporate social responsibility (CSR) policies, SCC, and the emerging human rights due diligence framework within their companies. It aims to understand the role of SCC and human rights in corporate practices, describe the evolution of human rights concerns within companies, and gather expert insights on mandatory human rights due diligence. How do multinationals perceive the adoption and implementation of their SCCs, and what is their take on the upcoming legislative framework on mandatory due diligence?

The research objectives center on qualitative analysis of corporate governance on and the perceptions of human rights experts regarding SCC implementation and the impending legal framework on mandatory due diligence. Through a systematic presentation of 14 interviews conducted with human rights experts, the chapter sheds light on the adoption, challenges, and potential impacts of SCC and due diligence measures within multinational corporations. This study contributes valuable insights for practitioners conducting due diligence, and policymakers regulating corporate due diligence.

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1 This Chapter has been submitted for publication under the title: Corporate Insights on Supplier Codes of Conduct and Human Rights Due Diligence Legislation: A Qualitative Study. It is not yet published on the date of submission of the dissertation.

6.1 Introduction

The landscape of global actors responsible for respecting human rights is undergoing a profound transformation, marked by an increasing expectation for private entities, particularly multinational corporations, to demonstrate ethical conduct and social responsibility. In the era of globalization, companies are increasingly called upon to assume a broader role in safeguarding public interests, beyond their economic role towards society (Scherer & Palazzo, 2011). This paradigm shift is propelled by a combination of incentives from different actors, international soft law norms, and emerging regulatory frameworks at both national and regional levels. Notably, the concept of human rights due diligence, articulated in the United Nations Guiding Principles on Business and Human Rights in 2011 by John Ruggie, has gained prominence, emphasizing the corporate responsibility to identify, prevent, and mitigate human rights risks across their global operations.

Despite these advancements in regulatory discourse, multinational corporations operate across borders with limited accountability for human rights abuses within their supply chains. To address this accountability gap, most companies adopt SCCs (Chapter 4) setting minimum labor standards and ethical principles for their suppliers. Codes of conduct are sometimes accompanied by the implementation of management systems and organizational adaptations aimed at integrating human rights considerations into business practices, but these management systems are not always accompanied by actions in practice aimed at limiting labor violations in global supply chains (Chapter 5).

While the adoption of SCCs has historically been voluntary, the adoption of the Corporate Sustainability Due Diligence Directive (CSDDD) at the European level signals a notable shift toward mandatory regulation of SCC adoption for multinationals (Chapter 2). This regulatory evolution underscores the urgency of examining the challenges and implications associated with SCCs, both in their current voluntary capacity and within the context of anticipated mandatory due diligence legislation. Consequently, this study seeks to explore the role of SCCs in enhancing labor practices within global supply chains from the perspective of internally employed human rights experts. How do human rights experts of multinationals perceive the adoption and implementation of the SCC, and what is their take on the upcoming legislative framework on mandatory due diligence?

By investigating how multinational corporations perceive the adoption and implementation of SCCs, as well as their perspectives on the forthcoming legislative framework mandating due diligence, this research aims to provide insights into the efficacy and implications of SCCs as mechanisms for promoting ethical supply chain management. Through an exploration of corporate perceptions and experiences, this study seeks to contribute to a nuanced understanding of the evolving landscape of corporate responsibility and regulatory compliance in the realm of human rights.

6.1.1 Legal and regulatory framework

The concept of human rights due diligence originates from the United Nations Guiding Principles (UNGPs), which are structured around three pillars: a State's duty to protect against human rights abuses by business enterprises; the corporate responsibility to respect human rights; and the right of access to effective remedy for victims of human rights abuses. This study falls within the ambit of the second pillar of the UNGPs, focusing on corporate responsibility, which extends to the supply chain wherever the enterprise has a leverage over the entity concerned. According to Principle 17,[2] business enterprises should carry out human rights due diligence, by taking four main actions: 1) Identify and assess human rights impacts through its own activities or as a result of its business relationships; 2) Integrate the findings from this assessment into the enterprise's decision-making processes, 3) Take appropriate action to prevent and mitigate adverse human rights impacts, and 4) Track responses to ensure their effectiveness and Communicate how impacts are addressed. Since their adoption in 2011, the Guiding Principles have gained wide relevance, especially within business practices, as they currently constitute the highest standards and benchmarks to reach.

As the UNGPs are non-binding, human rights due diligence thus started as a soft law framework, relying on corporate willingness to implement them. As a result, companies made steps to adopt policy documents setting minimum labor rights to be respected by their suppliers (Rasche & Waddock, 2021). Yet, as the EU Commission study shows, only 37% of businesses currently conduct environmental and human rights due diligence, and only 16% cover the entire supply chain.[3] CSR is thus facing criticisms by civil society, arguing that corporate actions fall short of expectations, and more accountability is necessary. This led to the progressive integration of due diligence processes into national legal frameworks,[4] first with the French *Loi sur le devoir de vigilance* in 2017,[5] then in Germany in 2019[6] and in Norway in 2022.[7]

It is in this era of national legal development that the EU has decided

2 Principles 11 to 24 are part of the second pillar of the UNGPs and detail the process of due diligence that should be conducted by businesses and provide guidance on their responsibility to respect human rights throughout their operations.

3 See the report *Study on due diligence requirements through the supply chain* of the European Commission (2020), accessible at: https://op.europa.eu/en/publication-detail/-/publication/8ba0a8fd-4c83-11ea-b8b7-01aa75ed71a1/language-en

4 In 2019, the Dutch Government also announced a Child Labor Due Diligence Act (*Wet zorgplicht kinderarbeid)*. However, following the discussions on the European Due Diligence Directive, this law never entered into force.

5 French Law on the Duty of Vigilance (*Loi relative au devoir de vigilance*), 2017 entered into force in 2019.

6 German Due Diligence Act (*Sorgfaltspflichtengesetz*), 2021

7 Norwegian Transparency Act (*Gjennomsiktighetsloven*), entered into force in 2022.

to regulate corporate accountability and adopt the Corporate Sustainability Due Diligence Directive (CSDDD).[8] Following weeks of uncertainties, negotiations, and legislative turmoil, an agreement was reached by the EU Council on 14th March 2024. This opens the door to the adoption of the first binding supra-national mandatory human rights due diligence law. Inspired by the UNGPs, the EU establishes a legal framework requiring companies to conduct due diligence throughout their supply chains to identify, prevent, mitigate, and account for human rights abuses and environmental harm. The CSDDD focuses on large companies and applies obligation to companies with at least 1 000 employees and a net worldwide turnover of at least €450 million.[9] The EU conceptualizes due diligence as a *"legal standard of care"*[10], which relates to the conduct which can reasonably be expected from the company under the relevant circumstances. Yet, specific tools attest of a corporate effort in behaving *diligently*. Crucial for this study is Article 5 of the Directive, which requires multinationals to adopt SCCs, as well as processes to verify their compliance. This shift – from a voluntary to a compulsory approach of codes of conduct applying to companies' supply chain – will likely change internal business practices in many companies. Aside from the CSDDD, the EU has also regulated corporate supply chain accountability in other legal texts, such as the Corporate Sustainability Reporting Directive (CSRD).[11] Other international legal developments on human rights due diligence occurred elsewhere but will not be developed here as this study focusses mostly on European companies.[12]

Contrary to the EU Directive, the UNGPs do not consider supplier codes of conduct so central to the due diligence obligations companies should undertake and, in fact, do not refer to *codes* explicitly. Commentaries of Principle 19 consider that human rights prevention should be integrated horizontally across the business, meaning that human rights policy commitments have been embedded into all relevant business functions. While this underlines the crucial role of *human rights policies*, Principle 19 insists more

8 Proposal for a DIRECTIVE OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL on Corporate Sustainability Due Diligence and amending Directive (EU) 2019/1937 COM/2022/71 final

9 The scope of application of the Directive is detailed in Article 2 of the CSDDD

10 For more information on this standard, see the Study on due diligence requirements through the supply chain, p.261 - 262 "Regulators cannot realistically list every single circumstance, or combination of circumstances, which could possibly apply to companies on a daily basis in different parts of their global operations. Instead, regulators use due diligence as a legal standard of care to expect the company to assess its own risks and address them in accordance with the standard of care. If the company exercises reasonable or adequate due diligence, it meets the standard. If it does not, for example because it overlooked certain risk factors which it should have taken into account, then it does not meet the standard."

11 Directive (EU) 2022/2464 of the European Parliament and of the Council of 14 December 2022 as regards corporate sustainability reporting

12 Examples include the Australian Modern Slavery Act of 2018, the California Transparency in Supply Chains Act of 2010, insofar as they require reporting on due diligence, steps taken for modern slavery and forced labour in relevant companies' supply chains.

on their integration throughout the company than on its adoption and the *verification of code's compliance* as phrased in Article 5 of the CSDDD.

Considering this discrepancy with the UNGP, one may question the approach adopted by the EU. Putting codes central to the Directive calls for an assessment of the efficiency of supplier codes of conduct as a tool, and its compliance assessment mechanisms. Going beyond the Directive and on to the UNGP, it is also relevant to question how companies implement their codes of conduct and show efforts internally to integrate codes throughout their company.

6.1.2 State of the art of the research on supplier codes of conduct

As we delve into the realm of corporate responsibility within global supply chains, it is essential to examine the existing literature on the implementation of SCCs. We already know that 70% of multinationals globally have adopted a SCC, including 89,7% of European companies (Chapter 4). We also know which management systems are put in place to implement SCC, and that companies often place the burden of compliance on their suppliers while assuming limited accountability themselves in the textual interpretation of SCCs (Chapter 5). The systematic literature review underscored several factors that influence SCC compliance and effectiveness (Chapter 3). Among the *internal* factors – meaning the ones occurring within the multinational itself – are the following: the existence of implementation and monitoring programs, corporate governance around supplier codes within companies, corporate purchasing practices with supplier and companies' intrinsic social commitment. These results point to the importance for companies themselves not only to adopt the codes, but to commit to implementing them, and to develop programs accordingly. In this Chapter, I focus specifically on the internal processes leading to the implementation of codes. Jedynak (2019) recommends focusing on such internal mechanisms of implementation, considering that more analysis on the roles and functions attributed to SCC at the organizational level is necessary to understand the gaps in their implementation.

On SCC implementation, scholars have time and time again repeated the necessity to go beyond a *traditional compliance* approach of supplier codes, involving a top-down approach where suppliers are required to the specified standards as a condition of doing business with the company. This model of CSR comes together with the practice of compliance *verification*, performed by social audits and other monitoring and surveillance mechanisms.[13] While this traditional compliance model has been widely used, it has faced criticism for its limitations in driving meaningful change throughout the supply chain. Critics argue that it often focuses solely on ensuring that minimum legal requirements are met rather than fostering genuine

13 Social auditing is a process by which a company verifies supplier compliance with human rights standards (McCorquodale *et al.*, 2017).

improvements in social and environmental performance (McCorquodale & Nolan, 2021). In lieu of this approach, researchers call for the use of the *collaborative*, or *partnership-based* model to implement human rights policies (Gimenez et al., 2012). This model insists on the importance of the buyer-supplier relationship.

Beyond how companies act to implement SCC with their suppliers, human rights standards must first be integrated within the company, to ensure that all staff – especially the one in direct contact with suppliers – are knowledgeable on SCCs. Within organizations, the team in contact with suppliers is called the *procurement* team, which are responsible for managing the sourcing, purchasing, and acquisition of goods, services and materials. They are in charge of supplier management, thus must evaluate suppliers' capabilities to deliver the contractual obligations. The procurement team's awareness of SCC standards is essential to adopt an effective approach on human rights prevention with suppliers. Unfortunately, some scholars point to the lack of skills to address sustainability issues within procurement, impeding successful collaboration between suppliers and buyers in achieving sustainability goals (Touboulic & Walker, 2015).

Exploring the literature on internal integration of SCC and human rights standards, revealed a notable scarcity of research in this area. Quarshie et al. (2016) attribute this gap to the historical focus of the field on sustainability issues rather than human rights. McVey (2022) stands out as a rare contributor who delves into the implementation of effective management systems within corporations. McVey's research underscores the pivotal role played by human rights experts in driving corporate efforts to uphold human rights standards. Her focus is placed on *external* experts, for which she emphasizes the role of guidance, overseeing and advising businesses in aligning their practices with human rights principles. Moreover, McVey emphasizes the function of these experts as guardians of accountability and integrity within corporate settings, naming them 'governance authority' in business and human rights (McVey, 2022). In essence, they serve as a critical bridge between business objectives and human rights imperatives, facilitating the integration of ethical considerations into corporate strategies and operations.

Given the apparent pivotal role of *external* human rights experts, one may question whether *internal* human rights experts – meaning those directly employed by the company, also serve as guides and 'governance authorities' internally. This makes it especially relevant to engage with them, as their insights are likely to provide valuable perspectives on the internal mechanisms and challenges associated with integrating supplier codes within business relationships.

6.1.3 Objectives and research questions

Building on this literature, and intending to fill the highlighted gaps, this study aims to conduct a qualitative analysis of corporate governance practices related to SCCs. The research seeks to explore how SCC are integrated and disseminated within companies, ultimately leading to influencing supplier behavior. Given the pivotal role played by human rights experts in guiding corporate actions and ensuring adherence to ethical standards, their perspectives are deemed crucial for understanding the complexities of SCC implementation. McVey even refers to these experts as “knowledge providers” (McVey, 2023), making it relevant to interrogate them in this study.

The primary objective is to gather comprehensive insights into corporate practices surrounding SCC implementation and their alignment with emerging due diligence legal frameworks. To achieve this, two main research questions are posed. First, how do human rights experts perceive their companies’ supplier codes of conduct and management systems to address supply chain social issues? Second, how do they perceive the upcoming legislative framework on mandatory human rights due diligence?

Following an overview of the qualitative methodology employed (section 6.2), I present my results in five sub-sections: the adoption of SCC, the evolution on human rights concerns within companies, the challenges around the implementation of SCC, the potential impact of the due diligence legal framework, and a final paragraph on where companies stand regarding due diligence. The chapter concludes with a comprehensive discussion of the research findings, highlighting key insights, implications, and potential avenues for future research in the field of corporate governance and human rights compliance.

6.2 Methodology: A qualitative study

6.2.1 Sample and procedure

In this qualitative study, I aim to gather insight on SCC implementation management systems within companies, as well as opinions on the upcoming due diligence legislative framework. Since the literature on human rights expertise in multinationals is sparse, gathering perspectives from human rights advisors, managers, or internal consultants is relevant. These are the respondents that were reached out for our sample. Each company has different terms for job position on human rights expertise, such as ‘ESG manager’ or ‘compliance officer’. They may also be hired in different teams within the company, depending on the organizational structure. In some cases, this specific position does not exist per se, but these tasks were part of the legal affairs team.

Semi-structured interviews were chosen as the primary method of data collection to facilitate in-depth exploration of participants’ perspectives on SCC implementation management systems and the impending due diligence legislative framework. Semi-structured interviews offer the flexibility to probe for rich insights while allowing participants to express their views freely. Prior to participation, all interviewees provided informed consent, acknowledging their voluntary participation and the confidentiality of their responses. To safeguard participant anonymity and mitigate potential backlash, respondents were given the option to withhold their company names from publication. Three companies accepted to share their companies' names publicly. For those requesting anonymity, I noticed that this option sometimes allowed the respondent to speak freely during the interview, opening the discussion to address the challenges, malpractices and frustrations within their companies.

Fourteen participants were interviewed, from twelve multinational companies representing various sectors. In a first phase, participant recruitment involved personally reaching out to multinational companies listed in the Database of Business Ethics. Facing lack of responses, I turned to my personal networks and reached out to the non-profit organization Shift.[14] The entry point in this organization was Dutch, which explained why most participating companies are Dutch based. Out of twelve companies represented, seven are Dutch. All participating companies operate transnationally with global supply chains. A descriptive list of participants is provided in Table 1 below, keeping participating companies anonymous. Considering this process, the sampling strategy was first a purposive sampling as it was relevant to have respondents from the Database of Business Ethics, then a snowball sampling involving Shift and the subsequent referral to companies through their networks. Efforts were made to recruit participants until saturation was reached on many points, whereby no new information or themes emerged from subsequent interviews (Guest et al., 2006).

A pilot interview conducted in December 2022 allowed to define the topic list (See Annex 1). During this first interview, I tested the topic list and changed it according to what was doable, what terminology and vocabulary to use, and identifying flaws in my questions. It helped me refine the research objectives and understand how to go about future interviews. Moreover, it allowed me to assess whether an online interview was sufficiently natural or presented any disadvantages to collect data. No major challenges excluded this online method of data collection. Following this pilot, all interviews were conducted in English and lasted between 30 minutes to an hour, either online or in person where possible.

14 Shift is the leading center of expertise on the UN Guiding Principles on business and human rights. More details on their mission and scope on their website, accessible at: https://shiftproject.org/who-we-are/

Table 1: Descriptive list of participants

Participant	Occupation	Company sector	Country of headquarters	Gender	Interview set-up
Participant 1	Human rights advisor	Financial	The Netherlands	M	Online
Participant 2	Human rights and sustainability manager	Health technology	The Netherlands	M	Online
Participant 3	Human rights manager	Food and beverages	Belgium	F	Online
Participant 4	Human rights manager	Chemicals	The Netherlands	F	Online
Participant 5	Compliance and integrity manager	Human Resources	The Netherlands	F	Online
Participant 6	Human rights manager	Food and beverages	USA	M	Online
Participant 7	ESG manager	Transport	Denmark	F	Online
Participant 8	Human rights manager	Industrial manufacturing	The Netherlands	F	In person
Participant 9	Human rights advisor	Textile	Germany	M	Online
Participant 10	Human rights advisor	Textile	Germany	F	Online
Participant 11	Human rights manager	Beauty	France	F	Online
Participant 12	Legal affairs counsel	Food and beverages	The Netherlands	F	In person
Participant 13	Sustainability manager	Financial	The Netherlands	F	In person
Participant 14	Human rights manager	Financial	The Netherlands	F	Online

6.2.2 Qualitative analysis process

Data analysis commenced with systematic coding using Atlas.ti software. The coding process followed a rigorous approach, beginning with open coding to break down interview transcripts into meaningful units of analysis (Charmaz, 2014). Constant comparison methodology was employed to ensure consistent coding and identify emergent themes (Glaser & Strauss, 1967). A total of 59 initial codes were generated, capturing a wide range of perspectives on SCC implementation and the due diligence legislative framework.

Subsequently, codes were organized into overarching themes and sub-themes, allowing for a structured analysis of the data (Braun & Clarke, 2006). Themes were derived deductively from the initial codes to provide a comprehensive framework for understanding participants' views. The coding process was iterative, with codes refined and revised as new insights emerged from the data. Five code groups were identified: Development of SCC, Evolution & restructuring, Implementation challenges, Implementation good practices and Legal framework potential impact. The full codebook can be found in Annex 2.

6.3 Results

The results are organized in five sections, in line with the code groups, each representing a recurring theme discussed during the interview. Table 2 below presents an overview of the main findings, classified by themes and sub-themes. These constitute the structure of this result section, that consecutively discusses each theme. The classification adopted below is the result of an inductive coding process.

Table 2: Overview of the results classified by themes and sub-themes

Themes identified	Subthemes	Main findings
1. Adoption and role of SCC within MNE	Adoption of a SCC	– SCC should be seen as a tool, as a starting point in the conversation. – Code development within companies often involves internal consultation, but few external stakeholder consultations. – Legal incentives and investors' requirements influence the adoption and content of codes.
	Supplier codes and contracts with suppliers	– Codes rarely constitute an integral part of supplier contracts. – Adherence with codes depends on supplier size.
2. Evolution of human rights concerns within corporations		– There is an identified progression of interest for human rights concerns withing companies. – Half of the companies represented in the sample have a new supplier code of conduct in the past two years, and some companies even set human rights committees internally.
3. Challenges in implementing supplier codes	Buyer level challenges	Factors challenging SCC implementation at buyer level: – Internal governance structures and lack of cross-functional collaboration. – Shortage of human rights experts. – Shortage of awareness and knowledge on human rights, especially in teams working directly with suppliers. – Human rights not considered a priority, especially when costs of implementation must be balanced with profit interests.
	Buyer-supplier level challenges	Factors challenging SCC implementation at buyer-supplier level: – Leverage on suppliers. – Mapping supply chain. – Companies should "lead by example". – Difficulties in measuring SCC compliance.
	External level challenges	Factors challenging SCC implementation at the external level: – Economic competition. – Absence of a level playing field. – Absence of support or expertise from public institutions.
4. Potential impact of the developing legal framework	Opportunities	Respondents were generally in favor of the CSDDD, because: – It puts priority on human rights as a mandatory topic. – It compels companies to integrate human rights policies into their practices, for instance by establishing human rights committees. – Facilitates gaining information and transparency on supply chain issues.
	Threats & Concerns	Respondents were concerned that: – Companies prioritize legal compliance over genuine human rights action by applying a tick-the box approach. – It creates a disproportionate administrative burden on companies. – The CSDDD lacks harmonization and places undue burden on suppliers.
5. Where do companies stand on due diligence?		– Companies generally support the CSDDD. – Human rights expert advocate for the adoption of the directive to align with the UNGP. – Gaps remain regarding companies' readiness to implement due diligence, particularly in stakeholder engagement and assessment tools.

6.3.1 Context: The place of codes within corporations

6.3.1.1 Adoption of a SCC

Within the respondents' companies, SCCs have been part of their internal policies for many years, and all human rights advisors interviewed considered it to be an important benchmark policy relevant for their daily activities. In addition to their codes, most companies had a human rights policy. When asked about the difference between those two documents, one of the respondents mentioned that their human rights statements were tailored to the specific risks of the supply chain of their specific sector, while the code of conduct could be almost copy pasted from another company's code, so more generic. Supplier codes appear to be policies of benchmark for companies, yet, three human rights experts insisted that those policies should be seen as a "tool" and not an end in itself. They underline that it is sometimes the case, but that drifts away from the purpose. In this light, a respondent mentioned: "*I don't think that supplier codes of conduct should be a central piece of legislation. But it should be the initial starting point of a discussion with suppliers about ESG related risks*."

Codes are most often developed at the corporate leadership level, so the global headquarters. In some cases, it was mentioned that the governance board appointed a human rights advisor to develop the code or be consulted on its content. In recent years, it seems that this process is formalizing and concerns more people within the company. When discussing the recently adopted codes or the ones in development, respondents explained that, while leadership is at the initiative of the launch, different internal stakeholders are consulted for input, such as procurement, sourcing, legal, the sustainability and human rights team, etc. However, external stakeholders are rarely included in this process, nor suppliers themselves. A company mentioned that they based their supplier content on a risk and impact assessment performed the previous year, hence showing some consideration for supplier risks. Good practice example thus shows that a committee involving different internal stakeholders is gathered to discuss the most salient human rights risks, and how to integrate them both in policy setting and practice. Other respondents deplored the absence of a governance structure, such as a human rights committee, established to address those issues. They underlined the need for a cross-functional working group involving employees from teams for an effective spread of awareness and expertise throughout the company. As mentioned by one of the respondents: *"We lack the governance structure, and previously there was no clear governance on the topic. (…) Honestly, it was never clearly high on the agenda to really get someone full time working on it."*.

Regarding their reasons for SCC adoption, a common factor underlined is the influence of the developing legal framework, and legal incentives to adopt and develop codes. As legal makers start to integrate the concepts of due diligence and progressively place companies as regulators of social matters in global supply chains, expectations change. However, other respondents also mentioned that "*we also believe regulation comes later than the market movement. Replication is the bare minimum, and we always aim higher in the sustainability domain*." Another recurring reason for SCC was the corporate internal drive to adopt SCC and 'make a positive impact on society'. This is especially the case for family-owned business, or those having developed their corporate image around their ethical reputation. Public perception was only mentioned in rare cases. Moreover, it seems that SCC is not adopted due to consumer pressure. One company mentioned that consumers are not necessarily looking into these types of policies, but investors are more of a driving force. Finally, codes are created as a policy facilitating the discussion with their suppliers on human rights and sustainability topics. As mentioned by one company "*Because if we have a proper supplier Code of Conduct, we will be able to sort of create that accountability and full disclosure around these topics. It will help us to communicate more clearly to our suppliers, what we expect from them.(…) it's your baseline*."

It also seems that new and better SCC are adopted within a company if they are supported and pushed forward by an expert. For instance, one respondent had recently taken up their position within the company and decide that the standards within the company are not sufficiently high. The code was then updated, and management systems were in in place. In that sense, we can say that the drive for better self-regulation very much depends on the internal dynamics: one person can be the driver of better practice and push the agenda, if they are granted sufficient power and internal leverage.

6.3.1.2 Supplier codes and contracts with suppliers

During the interview, I questioned whether SCC were integrated in supplier contracts, and the extent to which they constitute an important requirement of the contract. Three respondents answered that the code is part of the contract, hence part of the obligatory commitments of suppliers. Two respondents mentioned that the code is integrated under the sustainable procurement clauses, but do not require a specific signature for the code. One of them notably mentioned: "*We currently have what is called a 'sustainable procurement clause' in the contract, which has a link to the supplier code of conduct. And I would be quite willing to bet my head on that a significant proportion, if not a majority, of our suppliers have never clicked on that link*.". Three respondents mentioned that the code is not automatically included in all contracts, but they were working on having a contract template including a clause linking it to the supplier code. Other respondents were not sure on the extent to which SCC were part of their supplier contracts, as they were not part of the procurement team in charge of supplier relationships.

In fact, it was mentioned in several cases that adherence to codes and the prevalence of SCC in supplier relationship differed depending on the supplier. With short terms or one-shot suppliers, companies are less diligent about including SCC in their contracts. When suppliers are big firms, it also seems more complicated for the buyer to negotiate adherence to their SCC, as they might themselves have a supplier code of conduct. As underlined by a respondent: "*I mean- we do business with Google, as a supplier- no way Google is going to accept our terms and conditions, at all! We'll have to accept their terms and conditions*.". In this case, the respondent affirmed that its company looks at whether the standards are comparable and it makes sense to enter in business together, from a value perspective. The human right advisor continued: "*I always hate it when we start slapping each other in the face with policies and procedures, where we each have similar policies and procedures, and uphold the same principles.*".

6.3.2 Evolution of human rights concerns within corporations

All respondents mentioned a progression of interest within their companies on human rights concerns. This evolution is characterized by the employment of human rights experts within companies; the establishment of human-right focused work groups or committees, the development of new policies, new tools to measure compliance with supplier codes of conduct and monitor suppliers, and a raising awareness internally of the importance of human rights throughout all the supply chain.

Indeed, from our sample, six respondents mentioned that a new supplier code of conduct was either in process of adoption or has been adopted in the past two years within their company. Changes in new codes often relate to the reference and alignment with the United Nations Guiding Principles (UNGP), and the OECD Guidelines, considered as better practice, implying that companies follow the due diligence process. One respondent underlined "*It all starts with the general strategy that we have, we want to make an impact, so improving quality of life by making social impact. Based on that, two years ago, they came up with the human rights policy, which is fully based on the UNGPs. So, it's a very ambitious policy*.". Moreover, it seems that new policies dedicate more importance to human rights, while previously, sustainability and environmental concerns were the central focus. "*When I started here, the supplier code of conduct and the person working on it was very much looking at it from a sustainability perspective. And of course, the environmental part of sustainability has been a focus area at (***) for a long period of time. Human rights came into discussion more recently*."

In three companies interviewed, a specific human right council, or working group on human rights, was created recently to discuss the standards set in internal policies and make sure they are implemented throughout the supply chain. Employees participating in these committees represent different functions within the company, including procurement (or sourcing), legal affairs, the sustainability team, and corporate leadership strategy. Referring to the period before the existence of the human rights committee, one respondent mentioned "*It was not centralized, with a dedicated human rights department with dedicated expertise with a roadmap, with KPIs*."[15] Later,

15 KPI refers to Key Performance Indicator

in the same interview, the respondent underlined the importance of having a mixed group, with different expertise, and explained "*Human rights is very broad and cross cutting. It's good to gather everyone to explain what we are doing, what is the strategy, what is the roadmap. (…) it's good to have this intelligence collective to have cross-cutting decisions.*" For the German company, the human rights council was created in response to the German supply chain due diligence act, requiring companies to appoint a human rights officer.

Finally, interviewees notice a professionalization of human rights experts within their companies. Four of our interview respondents have been appointed to the position human rights manager or advisor, while this position did not previously exist. This is considered instrumental in the development of better policies, better internal awareness rising within the company, and improved impact of codes due to a better understanding on how to tackle salient problematics with suppliers.

6.3.3 Challenges in implementing supplier codes

"There is a gap in organization itself between the adoption of the policy and its implementation".

This assertion encapsulates a recurring theme echoed throughout the interviews conducted. A gap between the policy and the practice was highlighted, as respondents presented challenges to the integration of the SCC within corporate practice. To avoid that the code becomes "*just a piece of paper*", respondents highlighted the necessity for company to act upon the codes. This section describes the challenges raised in the interviews, creating a gap between the adoption of the policy and its implementation. I categorize these challenges in three levels: buyer level, buyer-supplier level (relationship), and external level challenges, presented in Table 3 below.

Table 3. Overview of factors challenging SCC implementation

Buyer level challenges	**Buyer-supplier level challenges**	**External level challenges**
– Internal governance structures and lack of cross-functional collaboration – Shortage of human rights experts – Shortage of awareness and knowledge on human rights, especially in teams working directly with suppliers – Human rights not considered a priority, especially when costs of implementation must be balanced with profit interests	– Leverage on suppliers – Mapping supply chain – Companies should "lead by example" – Difficulties in measuring SCC compliance	– Economic competition – Absence of a level playing field – Absence of support or expertise from public institutions

Note. This table is similar to the one Chapter 1 Table 5: Overview of factors impacting SC compliance and SC effectiveness. The comparison between these tables will be made in Chapter 7.

6.3.3.1 Buyer level challenges

A central difficulty within companies is to ensure the integration of human rights at the different levels of the company and ensure the spread of awareness on the standards set in the codes throughout the company. One human rights expert noted that there is a lack of awareness on human rights concerns: "*ESG is still considered something sort of separate of the core business, it's a bit of a philosophical discussion we're having internally within the company*". Different reasons are underlined for this phenomenon.

Internal governance structures of the company influence human rights concerns integration throughout the company. Human rights advisors, managers or experts are most often located in teams separated from the procurement teams, in charge of relationship with suppliers. Despite companies' efforts to facilitate collaboration across teams by setting cross-cutting human rights committees (see section 6.3.2. Evolution), some respondents still noticed a lack of awareness of procurement teams for human rights risks. When discussing about integrating human rights fully into the business model, the human rights manager continued "*I have regular conversations with our executive committee and with the board on all of these topics. With our other teams (enumerates), they fully vetted the content of our human rights reports so… It's integrated enough that they all know this is important. Is it fully integrated in the business model? I think that's the next frontier*.". According to one respondent "as *long as ESG (…) is considered a separate topic from everything else that is supplier management, it is (the supplier code) going to remain a nice thing to have*".

Related to the governance structure, is the crucial role of human rights experts within companies to address human rights risks effectively. The experts – hence, the respondents of this study – consider their position as pivotal, yet ambivalent and sometimes problematic. They describe their role as *trainers* or *enablers* of human rights risks for the rest of the company, especially towards the procurement team working with suppliers: "*Essentially, our task it to create the processes and the activities to be embedded in the wider community (…) to facilitate the inclusion of ESG in our supplier management* ". In fact, it is not possible for these experts to check every supplier contract, or support individually each procurement manager in their daily tasks. For human rights concerns to be embedded, each employee must be aware and competent to integrate them in their daily activities. As underlined by a respondent, their role is thus to capacitate operational teams to take those considerations on board when dealing with suppliers. This is occurring well in some companies, as respondents underlined the organization of workshops and trainings internally for procurements teams. However, in most cases, it still seemed to be lacking. Referring to the management systems to implement SCC, on expert mentioned: "*So we have the policy commitments. And, of course, we ask questions. But I think there lacks a lot of asking those questions, both in terms of the substance of those questions, and in having skilled people or knowledgeable people in ESG fields working on those. The people working with* *suppliers, these are more business… business-oriented people*". Another respondent mentioned: "*So far it's, it's still lacking. Again, it's an expertise very unique, human rights. There are not that many experts. (…) when we are willing to go on the ground and do assessments and do human rights impact assessment, there are very limited, real real experts. So expertise is still very rare. So it's also an issue*.".

This expertise is necessary for different aspects of the SCC implementation. For instance, the mapping of the supply chain, notably to highlight the at-risk suppliers and increase transparency, calls for specific knowledge and ressources to draw gather. When developing appropriate tools of risk assessment and compliance, human rights experts are also necessary to ensure that the questionnaire does not fall in a box-ticking exercise. Moreover, as underlined in the subsequent section (6.2.6.2. buyer-supplier relationship), a collaboration must be engaged with stakeholders. Human rights expertise is necessary for effective stakeholder engagement.

Some respondents consider that human rights or labor standards included in codes are 'too new', and not yet integrated into management systems. One respondent mentioned "*Indeed, it's not as integrated because, for the financial side, you have systems that are built for things like this. But for the non-financial risks sides, the system is also new. Not non-existing, you have to document in Excel sheets or Words. But it is messier.".* Thus, while human rights are acknowledged as part of the business strategy, there are struggles in embedding them into everyday corporate practices. This was well underlined with the following: "*I think codes of conduct are a good starting point. But we still have to establish a lot of systems, with colleagues and teams within procurement, working on the assessment phase at first. (…) There should be like an organized mechanism within procurements to enforce the supplier code of conduct*.". In fact, when discussing "non-financial risks" with interviewees, some referred to fraud and anti-bribery. That was especially mentioned by financial institution, who are very aware of those topics. Labor or human rights were less integrated into existing management systems. To counter this problematic, participants underline the necessity to train people within the company:

> *"So of course, for financial issues, people are more familiar, because it's the core of the business. But when it comes to non-financial issues, you'd also need a very intensive training before the policy can really translate into practice…*
> *For non-financial risk, is getting there, but slower."*

Finally, and maybe the most important limit identified by human rights experts, human rights are not prioritized in business strategies and in their relationships with suppliers. While it is evident that human rights must be part of business activities, they do not enter the "core of the business". This is especially evident when it comes to balancing the costs of implementing human rights standards with profit. Where human rights 'cost' too much, experts are facing challenges in getting their voices heard.

6.3.3.2 Buyer-supplier relationship challenges

Human rights experts also underline difficulties in making sure that suppliers integrate the standards set by corporate and consider them as a priority. With supplier codes, companies attempt to cascade the standards down the supply chain. In the food sector for instance, this is being done relatively well, with an increased traceability on specific 'critical commodities', such as coffee, tea, cacao. In these cases, the multinational may check SCC compliance all the way to the farmer. Yet, they mention the difficulty for the supplier at the end of the supply chain to incorporate the labor standards in their practices. "*You work with suppliers in probably rural areas, or areas that potentially have never heard about international standards. Simply signing codes of conduct is not a sufficient way to make business.*" The expert concluded this statement by insisting on the necessity to engage with the supplier and collaborate with them towards an agreement. In other industries, mapping the supply chain and the high-risk suppliers is a 'massive undertaking' for companies, where human rights experts deplore the lack of visibility on the priorities. One respondent asserted *"we need to prioritize; we cannot do everything everywhere at the same time. That's just not going to work, so we really need an effective way to prioritize*.".

The difficulty of this relationship also relates to the scarcity of stakeholder engagement performed by some multinationals, as highlighted by some experts. While they consider stakeholder engagement as crucial in the development and implementation of SCC, they admit that only in rare cases are external stakeholders consulted. One expert explained "*We focus on so many things at the moment, it's not the thing that is a priority now.".*

Implementing and monitoring SCC also depends on the leverage the multinational can have on the supplier. In the same way that inclusion of SCC within the contract depends on the size of the supplier (see section 6.3.1.2. Supplier codes and contracts with suppliers), the implementation of standards depends on the leverage of the buyer over the supplier. In the extractive industry specifically, suppliers may challenge their buyer, and even challenge the content. In this case, the buyer may negotiate, and there are minimum requirements without which they don't start business. For instance, the respondent mentioned that they allow no room of discussion on child labor. But their leverage is small, as they need the resources. In that sense, companies' relationship with their suppliers, the size of the supplier, the commodity traded, or the type of contract negotiated (sort or long term) determines the leverage that the buyer has to place human rights standards at the core of the relationship. One of the respondents mentioned that, in that case, they try to follow the UNGP by trying to gain leverage. Negotiations are harder with bigger suppliers who have more economic and political influence and have their own robust policies. While smaller suppliers are more willing to change and adapt, they also have less capacity and miss resources to do so. A good practice example here is one expert mentioning they are organizing training with their suppliers to raise awareness.

Three respondents identified a challenge related to the passage of the SCC from the MNE to the suppliers. They note that companies sometimes have double standards regarding their suppliers. While they expect standards to be respected by their suppliers, they do not obey to it themselves. According to experts, companies should make sure that human and social benchmarks are well integrated and complied with within their own operations in order to set standards for their external business parties. Companies should lead by example, as highlighted by one respondent: "*I feel like we first should have our acts together internally, before we can expect it from suppliers (…) I think there's some areas where we could further advance before we can expect suppliers to act*". Another expert added "*the other thing is, due diligence is of course not limited to supply chains, it should also apply to our own operations*."

Finally, human rights experts point out the difficulty to measure compliance with codes and improvement of labor standards. In the textile industry, one of the respondent underlined their awareness for the audit fatigue, and the necessity to shift the monitoring practices as compliance checks are not helpful. To address this, the company has taken part in the SLCP, that is allowing a grouping of audits, facilitating suppliers' burdens and gathering findings across the industry. While this is a good practice scenario, many respondents underlined the difficulty to find creative and effective ways to measure social impact and risks in global supply chains. One noted that other non-financial risks (among those mentioned: the environmental impact and anti-bribery) were conceptually easier to measure. Human and social risks, on the contrary, need longer time a different measurement tools.

6.3.3.3 External challenges

Another level of challenges identified by human rights experts in implementing codes concerned external constraints and pressures. By external, I refer to all factors outside of the two main actors in charge of implementing SCC: the buyer and the supplier. In an economic-driven globalization, profit and competitiveness are central objectives for multinationals. Some respondents underlined the economic pressure as a reason for human rights not being at the center of leadership concerns, such as: "*it puts a burden on the company that most competitors don't have*". Internally, this pressure appears to be coming mostly from procurement and sourcing teams, who are aware of the financial competition with other companies. In one company particularly progressive on their CSR policies and management systems, implementation costs and systems were previously paid by the multinational. Due to economic backlash and competition, the company underwent a restructuring, with a new repartition of costs of compliance and implementation between the supplier and the buyer. The third party will now have to bear the costs for the monitoring of compliance with SCC. There is a shift of the economic burden from the buyer to the supplier. The expert underlined "*you can maybe guess that the sustainability department is not too happy with the direction that is considered*". According to them, this is a shift that has been done by other competitors as well over the course of the last year. The costs of implementation are thus a challenge that has a repercussion both at the buyer level (see section 3.3.1.) and comes from the external competition level.

Respondents also underline another problematic stemming from external factors, namely the scarcity of expertise, guidance, or support from public institutions on business and human rights in practice. When asked whether public institutions are of help in setting effective due diligence plans, or provide helpful guideline, a respondent answered: "*So, governments, they don't have so far, the expertise really*". To address this gap, the expert considers that it would be necessary to involve academics and external parties in the public strategies of guidance of enterprises towards due diligence.

6.3.4 Potential impact of the developing legal framework

During the interviews conducted, we discussed the developing legal framework aiming to increase corporate responsibility and accountability for their actions in global supply chains with human rights experts in multinationals. The Proposal for the Corporate Sustainability Due Diligence Directive (CSDDD) was specifically mentioned, but many respondents also mentioned the Corporate Sustainability Reporting Directive (CSRD), as multinationals are in the process of complying to its obligations.[16] When asked about the potential impact of these laws on companies' ESG and CSR policies and systems, experts highlighted both opportunities and potential benefits of the legislation, as well as threats or unwanted consequences.

6.3.4.1 Opportunities

The main point on which human rights experts seemed to agree on, is that a mandatory obligation to conduct due diligence will help companies to see human and social rights as a priority and put the topic on top of the corporate governance agenda. Simply put by one of the respondents: "*I mean. If we have to do it, we do it. Obviously.*", or more lengthily explained in another interview "*I'm completely in favor of all these legislations coming, because it's putting the topic on the agenda. If it's mandatory, then you can't skip it*". These quotes are showing that companies are awaiting orders from the legislators. Human rights experts see the CSDDD as a good step forward, giving them "ammunition" or leverage, both towards leadership to invest costs in the topic, and towards suppliers who would also see this as part of the contractual requirements. In fact, legislating due diligence "*helps people get on board*", and hopefully will ensure human and social rights stand as important as other elements of supplier contracts. However, this statement was tempered by one of the respondents, who underlined the necessity for

16 The CSRD entered into force on 5 January 2023. The first companies will have to apply the new rules for the first time in the 2024 financial year, for reports published in 2025.

the law to put in place sufficiently dissuasive fine – otherwise, human rights might again be a subjacent element.

Companies generally doing well in their CSR strategies are also enthusiastic about the legal framework converging towards human rights, as it will create a level playing field and hopefully fair competition with companies operating in the same branch. *"But I think the whole reporting around it- I think there was never really, completely, a level playing field. And that's- that, I think, is shifting. I think- the other thing that's shifting, is more the integration of all these different topics. So the understanding between... we've always sort of viewed social as something separate, and environment as something separate."*

This leads us to the next positive potential impact of the CSDDD: the structural changes. The German due diligence Act obliges multinationals to appoint a human rights officer. As a result, the German company in our sample – going beyond legal expectations – has recently established a cross-functional committee on human rights, so called the human rights governance council. This team is dedicated to human rights. *"So also in legal... the good news is, we now have- and for example, our work on due diligence, we're doing that with a working group, and we have... this public affairs person, we have somebody from legal, we have people from finance in the group, the sustainability team, from HR... and all of these teams are really- the skills and the knowledge base internally is pretty phenomenal, because- yeah, we've got ten people around the table, all of whom are experts in some of these- in all of these areas. Which is great..."*. In fact, beyond the structural shift, the laws on due diligence, including on reporting on non-financial issues, seem to incentivize companies to appoint more human rights experts. *"so some of this legislation that's coming is definitely accelerating certain developments. It's expanding on- let's say, the number of people involved in working on it, which I think is a really fascinating development, so- if I now see the scope and the expansion within our finance team with people who are- really have specific expertise on reporting, and on the ESG... those type of question, it- those type of questions, that's- really accelerating."*

Finally, reporting on human rights and conducting due diligence allows, for human rights experts, to gain knowledge and strategy on human and social risks. *"We are engaging internal and external stakeholders also, on this due diligence process, to really get a better picture of where our impacts really are, and where the big priorities are. So that's currently happening."*. This helps mapping high risk suppliers, an issue that experts noticed to be central for many companies and not consistently dealt with. Moreover, it allows to deal with risks preventively, instead of reactively. One respondent noticed that, before, companies were more attentive to high reputational risks. The laws allow make sure that companies *"updated on compliance issues on a regular basis, whereas reputational issues only inflect you once it's... once it hits the public."*.

6.3.4.2 Threats and concerns

Although due diligence laws constitute a conversation starter to steer in the right direction, experts also underlined that they still have to put it in action "*we have to make it work and align everyone in our op-cos (operating companies) make sure it happens.*". One respondent mentioned "*I mean, for us… the good thing is that there is never any discussion on: do we have to do this? The question is on: How we are going to do this? How are we going to see that this is getting done?*". And this brings several concerns for human rights experts.

The first worry is that, with a legislation, companies may shift to a legal compliance view on human rights. This might be for costs and complexity levels: "*So there's also a kind of why do more if others... you know, just focus on legal compliance?*". The shift to human rights concerns to legal departments may mean that the prevention and action will occur to avoid legal accountability and lawsuits. "*Once you put a certain responsibility, a topic within the legal department, it may imply it's indeed a legal exercise or ticking the box. You need to be compliant, period*." In fact, legal departments are not competent to address those issues. "*We didn't have a human rights lawyer, actually. We didn't have anyone on the legal team looking after human rights as such*".

A second concern raised by experts relate to the administrative burdens that such legislation will provoke. This was especially mentioned for the CSRD. Experts point out to the long list of things required for them to report on and worry about who is going to undergo these tasks. What was mentioned is that, if human rights experts are in charge of this, this leaves them less time to focus on tackling human rights issue in practice. In turn, this may go 'beyond the purpose' and lead to unintended consequences. One respondent mentioned that the requirements of the CSRD put an extremely important administrative burden on companies: "*you have to formalize everything. And I perfectly understand the rationale behind it. I really see the value. But man*". The experts mentioned that it is important to make sure that these Directives are used in the right purpose and not loose sense of the objective: "*we need to make sure that we focus on really doing what needs to be done, to really work with these suppliers and- make thing better in the supply chain*.".

Companies also point out to the lack of harmony of these reporting requirements. As multinationals operate globally, each region has their own reporting legislation. For these companies, the system is not sufficiently harmonized. The American company was especially vocal about this: "*my only worry- and that's a little bit from the perspective of our company- we have, of course, a structure with- two thirds of our business is in the US- is that also- that this- it's a very much European development, at the moment. And I really hope that ISSB- the International Reporting Standards set are also something on social and human rights, so that it all- becomes more of a global playing field, and not just a European level playing field.*"

The lack of harmony was also underlined as a threat pending on suppliers. They will need to answer the questionnaires from their different buyers. Human rights experts call for a centralized place to share all this information: "*It feels like a lot of these things can be centralized in some way*". In this case, the expert was referring to a public institution being the gatherer of all these information. In this sense, businesses are hoping that the legislator understands the level of complication, and potentially will act as a support for those companies with complex supply chains. "*I hope… there's some sense of reality, also with the legislators and then also with the authorities that need to enforce these regulations and direction. (…) I don't always think that people really understand how global supply chains work*". Experts highlighted that they were especially worried for small and medium enterprises, and their lack of resources and expertise.

A final risk underlined from the CSDDD was the structural change that would go in an undesirable direction. There is a risk that due diligence laws will lead to bigger finance teams working on reporting the human rights steps performed. One expert feared that bigger finance teams on will mean be "*more people in the finance team working on this, ticking the box, and doing all the reporting- than we actually have people working on the impact and really doing the work and making a difference*".

6.3.5 Where do companies stand on due diligence?

Human rights experts overall have a positive opinion about this legislation and agree that it is a necessity to adopt this law to make human rights a central concern within their companies. Businesses seem to understand the rationale and objectives of the legislation. They think it might have a positive impact yet express their reserves: "*I don't think laws will be a magic solution, unfortunately. And sometimes, it can be even worse, even if I'm in favor of that. If you go through a completely tick the box and legal approach – that's not the point of human rights"*. Most critical human rights experts considered that the Directive should be adopted as it was initially formulated. Before the negotiations of the text among the three institutions, the text was more in line with the UNGP. One expert considered that the restrictions of the text, on the size of companies or the sectors concerned downgrade the quality of the due diligence obligation as initially thought by John Ruggie.

When asked about the gaps between their companies' practices and due diligence legislation, most experts mentioned that, while it is still too early to assess a gap considering the absence of a legal text, some considered themselves well in advance regarding their due diligence activities. This was the case especially when the company was a frontrunner on CSR concerns in their fields.

Some gaps were specified by some experts. A recurring element was stakeholder engagement. "I think the area where we still have some improvements to make, is how do we really engage stakeholders in it- we've done overall stakeholder engagement. (…) Yes, we did consult representatives of affected stakeholders, but we didn't consult the workers themselves". Another area where human rights experts acknowledged being behind concerned the assessment tool and the inclusion of human and social rights in questionnaires and check with suppliers. "We have a risk tool, but it's not perfect yet".

6.4 Discussion

The findings from this study provide valuable insights into the perceptions of human rights experts within companies on the implementation of supplier codes of conduct internally. The research question inquired: How do human rights experts perceive the adoption and implementation of SCC, and what is their take on the upcoming legislative framework on mandatory due diligence? From this study, human rights experts see opportunities from the development of codes of conduct and an increased interest for human rights concerns in their companies, yet are aware and often vocal about the challenges in implementing them and giving them (and human rights) a central place in their companies' activities. Four key elements of answers emerge from the interviews' analysis, highlighting the main challenges and opportunities raised by respondents.

1. *Role of SCCs and management systems within companies:* The study revealed that while SCCs serve as a foundational framework for initiating discussions on ethical supply chain management, they are only a starting point for discussion. Their effectiveness is dependent on their integration within company operations. Human rights experts emphasized the importance of disseminating SCC policies throughout the organization to stimulate action among operational team – especially procurement. This necessitates the development of robust management systems and specialized training programs to ensure a comprehensive understanding of human rights standards and effective implementation mechanisms. At the moment, multinationals are developing human rights committees and working groups to ensure this cross-functional discussion. National legal frameworks, such as the German due diligence Act, are notably helping in accelerating these internal structural changes. However, we are only at the beginning of this reflection; such structures are still lacking or ineffective in many companies.
2. *Crucial need for expertise on human rights to implement SCC:* A notable finding was the widespread recognition of the critical role of human rights expertise in shaping corporate approaches to social issues. Such expertise is necessary notably for the mapping of global supply chains and the identification of at-risk sectors, the engagement with stakeholders, the development of verification tools, and setting human rights standards. Most importantly, human rights experts must act as *enablers*, by training the rest of employees to incorporate human rights concerns in daily activities. Despite its importance, respondents highlighted a significant deficit in human rights' expertise, both within companies and in supporting organizations, such as within public institutions. This underscores the importance of collaborative efforts between internal experts and external stakeholders to bridge knowledge gaps and improve due diligence processes.

3. *Support for Mandatory Human Rights Due Diligence Legislation:* Respondents expressed their support for forthcoming legislative frameworks mandating human rights due diligence, citing potential benefits such as leveling the playing field for businesses and putting human rights as a priority on corporate agendas. Such legislation is viewed as a catalyst for integrating human rights considerations into all aspects of corporate decision-making and fostering a culture of accountability. However, much is still unknown about the obligations that will fall under the due diligence framework, and human rights experts formulate doubts and fears as to the outcomes of the laws. Experts were vocal about the burdens this will put on companies, and the lack of harmonization of expectations pending on businesses at the global level.
4. *Enhanced management systems mitigate tick-box compliance:* According to human rights experts, companies with robust management systems already in place are less likely to approach due diligence as a mere tick-box exercise. Instead, these organizations view the impending regulatory framework as an opportunity to reinforce existing practices and deepen their commitment to responsible business conduct.

6.4.1 Implications for corporate governance

These results show an attempt at integrating human rights concerns in corporate strategies, notably through policy adoption, with a steep growth for these concerns recently. As underlined in the first element answering the research question, policies need to be disseminated throughout the organization, and although steps in this direction are being made in best practice examples, policy integration is still lacking. When analyzing the results, I observe that the dissemination and integration of the policy is lacking in two distinct ways:

- *Vertical Integration*

Vertical integration entails that companies' governing board adopt a far-reaching, ambitious and binding SCC, as well as establish effective implementation management systems. The tools developed to implement SCC should be suited to reaching their objective. In practice, this would mean that leadership sets governance structures conducive to collaborate on human rights issues, such as a human rights committee; empowers human rights experts with actionable authority, and sets human rights as a priority even when balanced with costs of implementation and profit interests. While this is being considered by governance boards, human rights experts interviewed still highlight that there is a long way to go for a vertical integration of human rights concerns within companies.

- *Horizontal Integration*

Horizontal integration means that there is an effective collaboration internally to foster awareness and skills on human rights in all functions. For this to occur, discussions on human rights concerns should be embedded within cross-functional teams to ensure comprehensive engagement throughout the organization. As highlighted in the second element of answer of the research question, human rights experts play an enabling and educational roles within the company, especially within procurement teams, which are often the first point of contact with suppliers. While the respondents mentioned that this was their ultimate objective, some expressed their frustration with internal dialogues that seemed resistant to change, highlighting the importance of human rights experts in driving cultural shifts within companies. Horizontal integration is thus not achieved, and is to some extent dependent on the internal corporate culture.

In the expected outcome of the study, I did not foresee how central the presence of human rights expertise would be in integrating supplier codes of conduct within the company. While this is an important contribution, the professionalization of human rights expertise must be carefully monitored in future research, as it can also contain some risk. One respondent indeed observed that some people claim to be experts because there is a 'market' for it – meaning that products sell better if they are 'human rights approved'. This relates to Deva's theory that the interface between human rights and business has been changing over the years, from the business *or* human rights ; to business *and* human rights, and now entering the new era of the "business *of* human rights" (Deva, 2020). One cannot measure, monetize, or systematize human rights as other elements of a supplier contract. This, as Deva underlines, goes hand in hand with the concept of a "business case for human rights". An over-emphasis on the business case for human rights is problematic. This, in essence, makes corporate compliance with human rights norms dependent on economic gains, thus monetizing human rights. As underlined by an expert during an interview, human rights cannot become another element of the purchasing contract.

Furthermore, stakeholder engagement emerges as a critical aspect in the development of due diligence plans, and is relevant both for the vertical and the horizontal integration of human rights concerns within companies. External human rights experts emphasized the importance of meaningful stakeholder engagement, noting instances where they were not included in the drafting of supplier codes of conduct. However, the implementation of regulations such as the Corporate Sustainability Reporting Directive (CSRD), which mandates stakeholder consultation, offers optimism for improved engagement practices moving forward.

6.4.2 Implications for policy makers

While this study focusses on corporate insights on their own self-regulation, results and challenges faced to implement those codes internally point also to external reasons, beyond the internal governance structure of companies. Capitalist economic constraints and the absence of global norms appear as instrumental factors impacting corporate actions and preventing human rights to be a central preoccupation within business activities. Results are clear: a push from the legislator – not only national, but regional, and even better, global – is a necessary next step in putting corporate actors as responsible players on the global scene and effectively integrate human rights within business practices.

In this context, the CSDDD appears as a hopeful direction to set a level playing field for all corporations to ensure minimum labor standards in global supply chains, a responsible action of corporations, and a legal accountability in case of wrongdoings. From the interviews conducted, I observe that multinationals are in favor of this regulatory shift. This finding aligns with the public support shown by some companies for the CSDDD during the adoption process. For instance, a business statement gathering more than 80 companies published on the 16th April to express their broad support for the CSDDD and urging the EU decision makers to take their responsibility by making due diligence mandatory.[17] Yet, the corporate support for the due diligence is mixed, with strong lobby pressures in Brussels and member states to reduce the scope and obligations of the Directive.[18] This points to a potential selection biased, as companies responding to the call for interviews are likely to be 'best practice' actors willing to engage with researchers on this topic.

However, going further than a mandatory due diligence, I argue that it is necessary that corporations embrace a new purpose, one social and beyond economic profits. Indeed, discussion with human rights experts showed that the *raison d'être* of companies must change to put human rights concerns at the center of business strategies. This redefinition of purpose calls for a push in the right direction from public actors. Even though companies are seemingly evolving and integrating human and social concerns within their corporate strategies, we need to avoid a monetization of human rights concerns. Legal strategies beyond due diligence were identified by Palombo (2016) in her work *The future of corporation.* Only the redefinition of the global system of production where profits are not the sole objective of corporations can systematically address human rights risks in global supply chains. For this shift to occur, it is necessary that public actors – original protectors of the public interest – become a driver of this new system.

This analysis was shared by some of the human rights experts interviewed. One specifically had some ideas about how to integrate human rights into all business actions, and said:

17 The business statement *A fair a sustainable future for people and planet* of the 16th April 2024 is accessible at: https://media.business-humanrights.org/media/documents/CSDDD_Business_Statement_2024.pdf

18 As expressed on their own website, the French employer federation MEDEF (Mouvement des Entreprises de France) have actively stood against the adoption of the CSDDD and brought forward its concerns. This played an important role in the political position of Emmanuel Macron during the negotiations at the Council.

> *"Ultimately, the whole system needs to change. Also, the economic system. Because we're financial- we're a listed company, on the stock exchange. We have investors with certain requirements."*

Optimistic about this change, another respondent considered that, while these legislations seem impossible to implement and to match the business practice, it is only a matter of time before businesses shift their practices to integrate human rights concers. The interviewee phrased it in those terms:

> *"There is an intrinsic motivation of a lot of companies, they do want to do good. Yet, all these regulations really fast forward in the reporting. It' a huge effort for these companies. But in the long run, it will settle down a bit. Next to the financials, they will have their systems in place and know what to do."*

Finally, an area that received less attention from the companies themselves but holds significant importance is the role of civil society and non-governmental organizations (NGOs). In fact, civil society has been the primary driver of change, raising awareness, leading investigations on labor violations, and most importantly at the heart of litigation against multinationals. During an interview with two external consultants specializing in CSR and human rights issues,[19] they underlined the pivotal role of NGOs in holding multinational enterprises accountable. In countries with existing national legislation, progress on due diligence plans has already been observed, largely attributable to the efforts of civil society actors. For instance, the French *devoir de vigilance* law has catalyzed forward-looking litigation cases, such as the BNP Paribas case. In the Netherlands, even in the absence of a comprehensive legal framework, the Shell case had a positive outcome increasing corporate accountability yet relying on international soft law principles. *"Let's imagine what will happen with an actual act!"*, said the consultant. Indeed, even though much improvement is desired from current national legal framework, NGOs are doing their part in ensuring that MNEs act upon their societal duties. In this sense, it is desirable that the legislative framework recognizes and empowers civil society in this important role. The CSDDD is acknowledging the importance of these parties by mandating stakeholder engagement in the due diligence process. In the upcoming years, it is recommended that national decision makers when transposing due diligence consider these parties as central.

6.4.3 Limitations and suggestions for future research

While qualitative research has provided valuable insights into the internal dynamics of multinational corporations, it is important to acknowledge

19 This interview was conducted with an external consultant, expert on giving business advice regarding CSR. This interview is thus outside of the scope of the 14 participants previously mentioned for this study.

several limitations that may impact the interpretation of the study's results and suggest directions for future research.

The sample of companies: Due to the scarcity and difficulty in obtaining respondents, some new points were raised even in the final interviews, thus saturation was not found in all aspects covered. This limitation underscores the challenges inherent in qualitative research and highlights the need for caution in generalizing findings. Moreover, the sample of companies included in this study may be biased towards best practices. The companies contacted were primarily those willing to engage and affiliated with Shift, all had adopted a SCC, potentially skewing the results towards more favorable scenarios. To address this limitation, future research could aim to diversify the sample by including a broader range of companies from different geographical locations and industries, thereby enhancing the generalizability of the findings. Notably, adopting a probability sampling strategy based on randomization would minimize bias and increase the generalizability of the study. Moreover, including companies not having adopted a SCC would add relevant insights to these preliminary findings.

Influence of Participant Roles: The interviews focused on the perceptions of human rights experts within companies, who may have a vested interest in portraying their organizations in a positive light. While these experts offer valuable insights into corporate practices, their perspectives may be influenced by their roles within the organization. Future research could seek to explore the perspectives of stakeholders outside the realm of human rights experts, such as supply chain managers or legal advisors, to provide complementary insights and mitigate potential biases.

Single-Researcher Approach: All interviews and transcript coding were conducted by a single researcher, which may have introduced biases and limited the diversity of perspectives considered in the analysis. Collaborative analysis involving multiple researchers could offer diverse insights and enhance the robustness of the findings. Additionally, employing methods such as member checking or peer debriefing could help validate the interpretations and enhance the credibility of the study.

Geographic Representation: The predominance of Dutch-based companies in the sample may limit the generalizability of the findings to multinational corporations operating in other regions. Future research could aim to include companies from a more diverse range of geographical locations to provide a broader understanding of global corporate practices regarding human rights policies and management systems.

Ultimately, the study calls for further empirical studies on the evolving role of corporations in society, particularly in relation to their responsibility towards human and social rights. The business and human rights field has mostly investigated this question from a normative standpoint, looking at: How can we regulate markets to incentivize private actors in making them responsible. By investigating corporate practices, I shift the reflection to: How do businesses approach their responsibility towards social and human rights concerns? From these results can sprout legal recommendations. These two approaches are not exclusive but should be combined. This reflection contributes to bridging the underexplored intersection between business operations and regulatory frameworks, in a context where the legislation is developing.

7 Discussion

Amidst the complexities of global production and transnational supply chains, supplier codes of conduct offer hope for fair treatment of workers and ethical corporate practices. However, the path to implementation of minimum labor standards reveals a convoluted journey filled with challenges. This dissertation helps to lift the veil by providing empirical data on the challenges surrounding codes' adoption and implementation. By doing so, it exposes the delicate balance between the corporate rhetoric and the reality of corporate actions, constrained in the rules of economic competition. In this closing chapter, I bring together the findings of chapters 2 to 6, to answer the question raised at the beginning of this research journey: To what extent are multinationals addressing labor risks in their global supply chains when adopting and implementing supplier codes of conduct, and what are the factors influencing this process?

I begin by providing an overview of the findings regarding multinationals' action when *adopting* codes of conduct, then when *implementing* them. Subsequently, I delve into the implications of these findings for the literature and the theoretical contributions. The results advance knowledge on the process from a policy adoption, via its implementation, to an outcome – applied to the specific case of voluntary self-regulation. In addition, I present implications for policymakers and corporations, offering insights to guide future initiatives aimed at promoting ethical practices within global supply chains. Finally, I present the limitations and lessons learned of these empirical studies, to offer avenues for relevant future research.

7.1 Summary and integration of the key findings

This dissertation provides a comprehensive investigation into the complexities surrounding the dynamics of SCCs and their implications for labor standards within global supply chains. To initiate this research, Chapter 2 explored the legal dimensions of SCCs, unraveling the legal obligations surrounding codes' adoption and implementation. From this legal analysis, I observe that SCCs are not obligatory, and do not have a recognized legal value in courts (yet), thus are unlikely to lead to corporate accountability. However, they may constitute evidence of corporate commitment towards labor standards, which, if not respected, could be interpreted as misleading consumer practices and therefore lead to corporate liability. This interpretation is however uncertain and on a case-by-case basis, as it depends entirely on what codes say, hence, on what companies commit to do. With no overarching legal obligations dictating their adoption or content, multinationals retain discretion in determining the extent of their commitment to upholding minimum labor standards within their supply chains. This is the reason why codes are referred to as *voluntary self-regulation*, and widely rely on self-responsibility.

Building upon this legal analysis, the subsequent chapters 3 to 6 assessed whether companies have embraced this responsibility by adopting ambitious SCCs regarding labor standards, by accepting responsibility in the formulation of their codes, by adhering to their self-regulatory commitments embodied in SCCs and by taking actions to implement them. This section provides key findings regarding SCC adoption and implementation, emphasizing the need for a nuanced understanding of the operational realities shaping corporate behavior within global supply chains.

7.1.1 Adopting codes: A step towards addressing supply chain labor risks?

The wide adoption of SCCs is evident from the empirical results presented. In the sample studied, 71% of multinationals have adopted a non-financial policy targeted to the supply chain.[1] Most of ILO core labor standards (e.g. child labor, forced labor, discrimination) are referred to in up to 90% of those policies, and 70% of codes refer to freedom of association or collective bargaining. Yet, only 30% of codes explicitly refer to specific legal texts or international Conventions.[2] There is a standardization and homogenization of labor standards integrated in codes, but a wide discrepancy on how extensively these standards are developed or refer to similar legal bases.

On the acceptation of responsibility, results suggest that while companies show willingness to set minimum labor standards applicable throughout their global supply chain, they have not fully accepted a role to actively prevent social rights beyond their economic value. This lack of responsibility shows in the content and formulation of the policy, investigated in chapters 4 and 5. SCCs most often articulate expectations for suppliers, but rarely phrase implementation provisions as a responsibility pending (also) on themselves. Only 17% of SCCs appear to bind the multinational to actions of implementation, reflecting a shared responsibility. Instead, most codes seem to put the responsibility of compliance on suppliers, either through a directive language engaging a responsibility, or via recommendations for behavior.[3]

1 Result presented in section 4.2.
2 Results stemming from section 4.3.3.2.
3 This analysis is provided in section 5.2.2., which performs a quality assessment of provisions related to codes' implementation provisions. Table 3 of Chapter 5, in this section, specifically details the classification of SCCs in five 'quality' categories. Only categories 4 and 5 demonstrate a level of shared responsibility accepted by the company in the formulation of the provisions. Only 17% of codes entered these categories. Rather, codes classified in categories 1, 2, and 3 only included obligations pending on their suppliers.

The lack of responsibility also shows by the marginal development of implementation mechanisms in-text, to ensure codes' compliance. Nearly 35% of codes do not contain any implementation provision, and only 6% of codes include all core mechanisms recommended by international standards – namely reference to transparency, risk assessment and monitoring, training programs, corrective action processes, and reporting procedures or grievance mechanisms.[4] Setting standards but no actionable means to implement them raises questions on the extent of the responsibility accepted by multinationals.

There are noticeable differences across geographical locations and across sectors in the topics addressed in SCCs. While American companies thoroughly elaborate on corporate values and relationship with their suppliers in their SCCs, European companies focus to a greater extent on references to international standards, both regarding labor and the environment. This can be attributed to the differences in the corporate and legal culture differences. In the consumer sector, companies show more commitment to the inclusion and development of labor-related provisions, as well as references to the auditing procedure and the environmental impact of supplier production. The financial sector most often includes references to international standards, including labor and environmental international benchmarks.[5] To explain these sectorial differences, I hypothesize that multinationals are sensitive to negative publicity that might damage their brand reputation with consumers, the public, and government regulators (Toffel et al., 2015), especially for sectors highly dependent on firms' reputations.

Finally, in the comparison of my own Database of Business Ethics with the KnowtheChain Database, I did not find any evidence in support of the claim that the adoption of a SCC – whether it includes labor standards and implementation mechanisms or not – ensures good corporate social behavior in global supply chains.[6] This result also corroborates previous empirical findings (Paiment, 2016; Distelhorst et al., 2015; Barrientos & Smith, 2007).

Therefore, to answer the first part of the research question, these results indicate that codes' adoption is only partially showing a commitment by multinationals to address labor standards in global supply chains. The adoption of a SCC in itself does not ensure that any actions are effectively taken to address labor rights in global supply chains. While codes set policy benchmarks for labor standards to be complied with at supplier level some elements of our data hint at limited responsibility of multinationals, which instead seem to rely heavily on suppliers.

4 Results are available in section 5.2.2. Figure 2 specifically visually depicts statistics on the reference to each management system in codes.

5 These results are presented in Chapter 4, specifically sections 4.4.3.1. and 4.4.3.2., where specific regional and sectorial differences in SCC content are depicted.

6 Section 5.3.2. in Chapter 5 discuss and detail these results.

7.1.2 Implementing codes: a multi-level challenge

As revealed throughout the dissertation, codes merely represent policy setting benchmarks. Without actions to implement them, a code is *"just a piece of paper"* as formulated by one of the respondents in the interviews conducted with human rights experts for Chapter 6. The analysis of SCC implementation reveals a gap between the breadth of standards set (the extent to which they pledge minimum labor standards worldwide), and the activities or systems put in place to enforce them. Findings highlighted in Chapter 5 reveal a lack of evidence that increased commitments articulated in SCCs equate to improved management practices.[7] This supports the interpretation of a disparity between the formulation of policies and their practical executions, observed by other empirical scholars as highlighted in the systematic review (chapter 3). In other words, codes do not seem to automatically lead to actions. The interview study revealed that some human rights experts within multinationals also acknowledge the lack of appropriate tools to ensure codes' impact and the overall lack of awareness of SCCs and human rights standards within the company.[8] This lack of awareness likely extends to the supplier level as well.

Despite these generally disappointing results when it comes to the implementation of codes, some factors influencing code implementation are identified. From the analysis of the literature (chapter 3), I developed a taxonomy of factors influencing SCC implementation, classified in four levels, involving different actors. These are (1) Implementation of codes within companies (thus: buyer level), (2) Integration of the codes' standards within the buyer-supplier relationship, (3) Implementation at supplier level, and (4) External influences on code implementation. In this dissertation, the implementation at supplier level was not investigated, as the research question focused exclusively on companies' perspectives and possibilities of action in this implementation process. Therefore, the internal corporate level (buyer level) constitutes the central focus of this analysis. Some elements of the buyer-supplier relationship could also be identified from the data,[9] but it needs to be kept in mind that data is only provided for the buyer side in this relationship. Moreover, some external factors influencing this process were highlighted, again, as pressures experienced by the corporations (hence, perceptual). External contextual factors are relevant for future policy recommendations, as they constitute factors that companies cannot address on their own but call for a multipartite action, including

7 This analysis is conducted in section 5.3.2.

8 In section 6.3.3.1, I bring together interviewees' responses related to the challenges of implementation of SCCs within companies. Here, it was demonstrated that human rights experts face difficulties in integrating human rights concerns through the different levels of the company, especially within procurement teams.

9 For instance, in section 6.3.3.2., specific challenges were discussed in the buyer-supplier relationship, raised by internal human rights experts.

governments. Sections below detail the factors for each level, and table 1 gives an overview of all factors.

7.1.2.1 Integration of human rights concerns within corporate policies: The buyer level

The assessment of the buyer level factors of implementation dials down to the analysis of the efforts made by corporations to ensure that human rights concerns are integrated within all their business activities, internally and with their external partners. For this to happen, human rights standards set in codes must be disseminated throughout the company to ensure awareness, internal tools must be developed to ensure their implementation, and consequent actions must be taken to prioritize human rights. In Chapter 6 particularly, I assessed the capacity of companies to spread interest for human rights concerns within their own companies and the systems in place to ensure human rights integration in all activities. I observe that this integration needs to happen in two ways: vertical integration and horizontal integration.[10]

Vertical integration necessitates the adoption of ambitious and binding SCCs by governing boards, along with the establishment of effective implementation management systems. In all companies interviewed, codes of conduct were in place and an attempt was made at developing tools to implement them. In best case scenarios, governing boards also developed specific structures within their companies to integrate social concerns, such as human rights committees. However, human rights experts highlighted major challenges in considering supply chain risks holistically, notably because human rights risks are not considered a priority by leadership boards, especially when balanced with other objectives related to the core business, such as product quality or – most importantly – price competitivity. Human rights experts stress the need for leadership to prioritize human rights, even when balanced with cost considerations.

Horizontal integration involves fostering internal collaboration to promote awareness and skills regarding human rights across all functions within the organization. Discussions on human rights should be embedded within cross-functional teams to ensure comprehensive engagement. To foster horizontal integration, human rights experts play a crucial role in educating and enabling teams, particularly within procurement, yet obstacles to change persist within internal dialogues, reflecting an internal resistance to cultural shifts. The difficulty of dissemination of the policy internally and specifically with operational teams in charge of supplier relations and contracts (procurement) prevents the policy from cascading to suppliers.

10 Section 6.4.1., namely the discussion section of chapter 6, develops the vertical and horizontal integration necessary of human rights within companies, necessary to ensure SCC implementation.

7.1.2.2 Relational factors of SCC implementation: The buyer-supplier level

Aside from the relevance of internal spread of the policy, empirical results point to the evidence that the way SCCs are integrated in the supplier-buyer relationship is crucial to ensure their effectiveness. As highlighted by the literature review, successful SCC implementation depends on the extent to which both parties (suppliers and buyers) are committed to the code implementation,[11] and some argue that the relationship they develop is the most important variable affecting code's impact (Oka, 2010 ; Egels-Zanden, 2014). The buyer-supplier cooperation (1), long term and trusting relationship (2), and suppliers' independence to develop their own strategies (3) constitute factors shown to increase SCCs' effectiveness. From the literature, I distinguish two types of supplier-buyer relationship: the collaborative approach, also referred to as the cooperation theory or peer-to-peer governance, and the compliance approach, relying on a top-down monitoring of the buyer on the supplier, often relying on threats of sanction to enforce codes. The collaborative approach is said to be more effective, allowing a "joint problem solving" or "commitment-oriented" approach (Locke et al 2009), where both buyers and suppliers' responsibilities are "highly intertwined and mutually reinforcing" (Jiang, 2009).[12] The type of relationship entertained by the buyer with their suppliers is also showing in the type of management systems chosen to implement codes. Social audits, for instance, relate in general to a top-down monitoring, while grievance and reporting mechanisms (where workers may voice their concerns) manifests an approach based on communication and joint-problem solving. Notably, critics were formulated on the *audit society* and *audit culture* (Power, 1999 ; Strathern, 2000), where scholars notice that monitoring activities to assess SCC compliance – such as audits – can serve to limit MNEs' legal liability instead of improving working conditions.

The empirical results gathered from my own data analysis appear to confirm the trends identified in the literature. Management systems[13] favoring the 'compliance' approach were found less incline to integrate stakeholder involvement and workers' voices in the process of codes' implementation. Where companies promoted such management systems in their codes, I could not find a correlation with better implementation efforts

11 This assertion stems from Chapter 3 Discussion (section 3.6.), where I conclude that both parties' commitment to code implementation is only successful when the buyer and the supplier establish a collaborative relationship on the long term.

12 In the literature chapter 3, section 3.5.3. on buyer-supplier relationship expands on the three factors affecting SCC effectiveness related to the relationship.

13 Chapter 5 studied management systems as mechanisms designed to assess, facilitate and ensure compliance with labor standards stipulated in those codes, investigating those systems both as described in implementation provisions and as established in implementation practices. It relied on the definition by De Bree and Stoopendale (2020), considering that management systems include all the kinds of intended organizational measures and procedures to achieve the goals set by the policy.

to address forced labor (evaluated by an NGO, namely KnowtheChain, assessing companies' actual practices in their supply chains and with their suppliers). On the contrary, management systems favoring a buyer-supplier collaborative approach were more correlated with better implementation efforts ratings in supply chains. Here, I noticed that the more companies commit to setting whistleblowing and grievance mechanisms in their SCC, the better implementation efforts were identified.

Given the crucial need for a collaborative approach between suppliers and buyers, I raise the question: which are the management systems most popularly adopted within multinationals to ensure SCC implementation? The answer, provided in study 1 of Chapter 5, does not follow the logic of the effectiveness, by choosing the collaborative approach in majority. In fact, audits and supplier monitoring are the most common management system referred to, included in 47,8% of codes. Corrective action plans, where buyers have the leverage to "drop" the supplier in case of noncompliance, provoke a similar effect – and yet are the second most common instrument mentioned in 47,3% of SCCs. Comparatively, reporting procedures such as whistleblowing avenues and hotlines for workers and workers' representatives are somewhat less referred to, in 32,4% of codes. Training of suppliers on SCCs is also an important component of collaboration between buyers and suppliers, but only included in 23,4% of codes. The management systems chosen in majority by companies thus seem to establish a top-down governance by multinationals slightly more often, instead of the more functional collaborative approach.[14]

During interviews with human rights experts, the topic of companies' relationship with their supplier was also central. Respondents mentioned the difficulty to transfer labor standards to suppliers down the supply chains, as well as the necessity to engage and collaborate with the supplier towards an agreement.[15] One of the human rights experts insisted on the necessity to collaborate and engage with suppliers, as "*Simply signing codes of conduct is not a sufficient way to make business*". Yet, when looking at the existing 'collaborative' practices, so to say, experts also question their effectiveness. For instance, some interviewees mention the existence of grievance hotlines available to the worker, but nuanced their impact, as few workers actually use this mechanism. Therefore, while a collaborative approach between buyers and suppliers is essential for effective implementation, favored notably by supplier engagement and stakeholder involvement, I consider that this collaborative approach is only marginally adopted to implement codes, as management systems promote a top-down supervision of codes' compliance and external stakeholder engagement is occurring less often.

14 These results stem from Study 1 of Chapter 5, detailed in section 5.2.2.

15 Section 6.3.3.2. of Chapter 6 brings together respondents' reflections regarding the buyer-supplier challenges of implementation.

7.1.2.3 External factors influencing SCC implementation

Even though this dissertation intended to highlight the role of the company in adopting and implementing SCCs, the findings inevitably lead to the limits of corporate action to address labor issues in global supply chains. From the literature review, I observed that scholars highlight supplier-level institutional frameworks as a central factor of SCC compliance. For instance, suppliers' domestic labor laws affect SCC compliance, as SCC are better complied with in countries with strong regulatory institutions enforcing labor rights effectively (Distelhorst et al. 2015; Locke et al. 2007; Toffel et al. 2012), including labor inspectorates (Bartley & Egels-Zanden 2015).[16] However, my own empirical data, particularly present on this topic in Chapter 6, points to external factors experienced by buyers in their economic context. This can be explained by the pool of respondents interviewed: human rights experts within companies were more sensitive to the external factors influence SCC implementation in their own institutional framework. In the interview chapter, I observe that multinationals underscore the absence of a level playing field and lack of governmental support in implementing SCCs as a factor impeding best practices and the development of appropriate tools to implement SCCs.[17] The human rights experts interviewed generally asserted that their company was in favor of a legislation increasing the normative framework on corporate obligations in global supply chains, although this could be the result of a selection bias.[18] Overall, human rights experts are of the opinion that the shift towards a due diligence law is a positive push towards corporate accountability and will give them leverage in putting human rights considerations on top of the leadership agenda. Yet, concerns remain regarding the practical implications of the law, the potential compliance approach leading to a box-ticking exercise, or the challenging of harmonizing requirements globally.

Therefore, to answer the second part of the research question, my analysis concludes that SCCs' implementation is generally weak, as I point to disparities between the formulation of policies and their practical executions. The challenges faced by companies of *'walking the talk'* are influenced by a range of factors, that can be addressed by different actors. This is why I consider SCC implementation to be a multi-level endeavor. The classification of these factors is detailed in Table 1 below, with on the left column the

16 Results on external factors gathered from the literature review are detailed in section 3.5.1.
17 The external challenges to SCC implementation are specifically detailed in section 6.3.3.3.
18 This selection bias is twofold: 1. The companies accepting to contribute to this research are most likely to be 'best actors', and already include due diligence in their business practice and 2. Respondents were human rights experts within these multinationals, in charge of pushing the company's agenda towards better practice.

list of factors highlighted in the literature review (chapter 3) and in the right column factors identified by my own empirical data (chapters 4, 5 and 6).

Table 1. Factors influencing SCC implementation

	Literature	Own data
Buyer level	– Companies' purchasing practices and price pressure – Companies' characteristics (sector, size, location) – Monitoring and supervising suppliers' compliance and costs spent on compliance programs – Internal drive for social commitment – Reputation conscious buyers	– Internal dissemination of human rights standards, especially in teams working directly with suppliers – Corporate governance structures facilitating cross-functional collaboration – Human rights experts acting as enablers and trainers on human rights risks. – Human rights not considered a priority, especially when costs of implementation are balanced with profit interests
Buyer-supplier level	– Supply chain governance and transparency, contract duration, complexity of supply chain – Cooperation between suppliers and buyers – Long term; trusting and direct supplier-buyer relationships – Compliance approach compared to peer-to-peer governance – Supplier independence to develop own strategies	– Establishment of collaborative (instead of compliance-based) management systems – Companies having leverage on suppliers – Successful map of supply chain – Companies "leading by example" – Effective tools to measure SCC compliance beyond audits – External stakeholder engagement
Supplier level	– Employment practices and management – Supplier characteristics (size, ownership) – Production characteristics – Presence and independence of trade unions – Supplier commitment to high labor standards	NO DATA
External level	– Institutional legislative framework (supplier level) – Presence of civil society and press freedom (supplier level) – Economic context (supplier level)	– Economic competition – Absence of a legal level playing field – Absence of support or expertise from public institutions

7.2 Theoretical contributions: The Path to successful implementation

As follows from the presentation of the findings, I can generalize the answer to the research question by saying that, although companies adopt codes, their commitments to implementing them are limited and corporate actions do not seem to match the objectives set to guarantee labor standards in global supply chains. This limited implementation and the necessity of improving codes' impact forms the basis of the theoretical contribution detailed in this section: the presentation of a model called the *path to success* (section 7.2.1.), and the potential in *derailing* from the path (section 7.2.2). In this model, I contribute to organizational and institutional theories, regarding the ongoing processes from a policy adoption to their implementation – and ultimately their effectiveness in reaching the set objective. The model, in turn, helps me formulate recommendations for the business practice (private) and the policy maker (public) to avoid derailing from the path, on the basis of my empirical findings (section 7.3.).

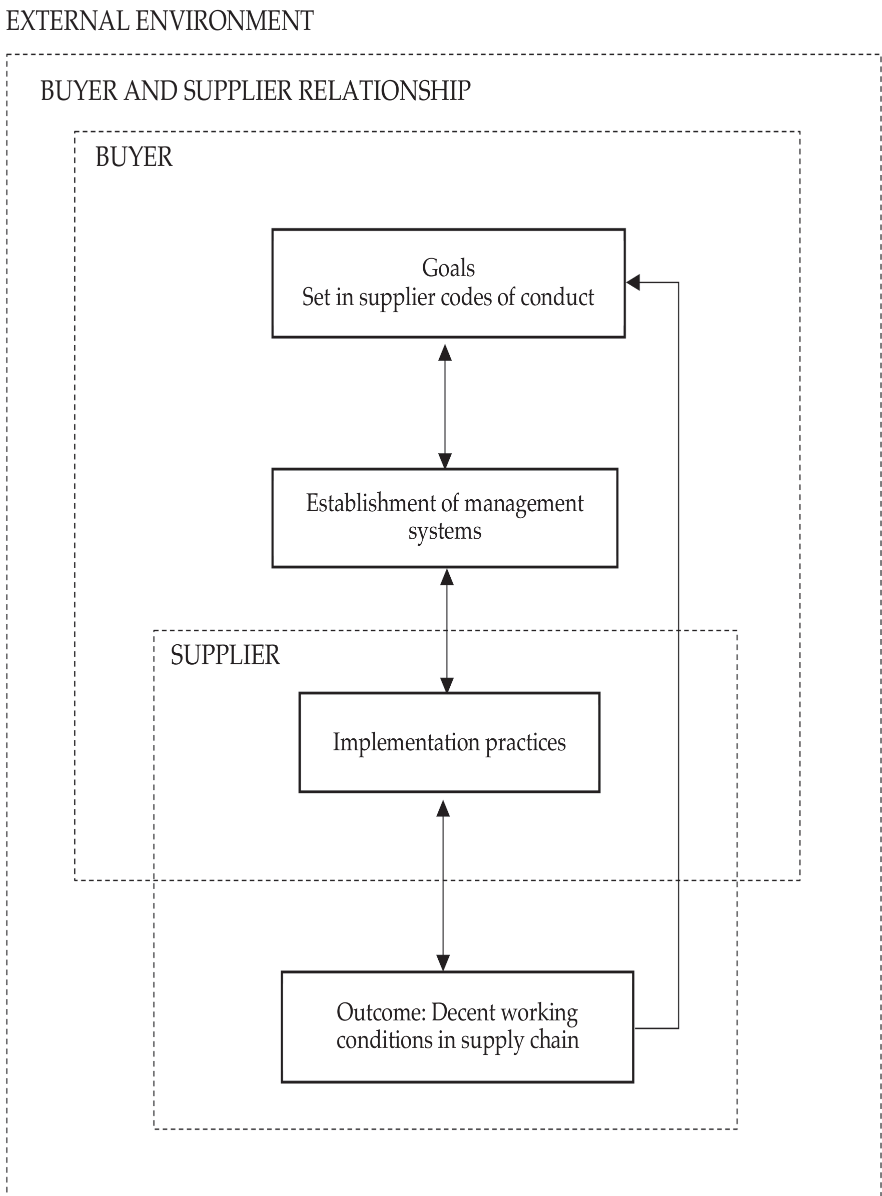
7.2.1 Presenting the path to success

The *path to success* is a comprehensive conceptual model bringing together the results of my thought process and data analysis, outlining the recommended steps for achieving decent labor standards in global supply chains. It details the challenges and factors affecting the process from the adoption of the policy to its objective of addressing labor risks. I would not go as far as arguing that this model is entirely new, or that it develops a new theory. Instead, the model is a combination of several theoretical models drawn from different scholars, integrated in one model and adapted to SCCs. The model is largely based on new institutional theories of Bromley and Powell (2012), adapted by de Bree and Stoopendal (2020), and inspired by the integrated research model by Kaptein & Shwartz (2007). This model was explained and used in different ways throughout the dissertation and is even visually represented in chapters 3 and 5. Initially developed as a result of the literature review, I observed that it constituted a relevant framework to integrate and visualize my empirical findings. Therefore, it has evolved, justifying why the model is different every time it is presented in this dissertation – ultimately leading to the overarching depiction of model 1 below.

With the development of the *path to success*, I hope to contribute to the existing theories in two ways. Firstly, the model delineates four sequential steps crucial for achieving the desired outcome. While Bromley and Powell's (2012) original model featured three steps – Formal policies, Daily practices, and Intended outcome – recent scholarship by de Bree and Stoopendaal (2020) identified an additional step: the relevance of management systems in bridging policy and practice. I contend that these four steps are particularly pertinent to the implementation of SCCs and elaborate on their application in this context. Secondly, the model incorporates four distinct levels of analysis (featured by the boxes in model 1), each corresponding to actors (or groups of actors) exerting influence over (parts of) the implementation process. This is notably inspired by the theoretical framework developed by Kaptein and Schwartz (2007), who designed an integrated model to assess business code's effectiveness. Their model only includes two levels, as codes discussed by Kaptein and Schwartz are internal codes, thus only applying to companies' employees. In the case of supplier codes, more levels of actors are relevant. At the buyer level, multinational corporations play a pivotal role in driving the adoption of SCCs, establishing labor standards, and designing management systems to ensure compliance. Both buyers and suppliers play a role in implementation practices, as the two parties to this formal or unformal ‘contract’. The ultimate outcome—namely, working conditions—is discernible only at the supplier level. A third level of actors identified is the relationship between the buyer and the supplier, precisely the collaboration between these two parties to ensure minimum labor standards. This level, I argue, affects all parts of the implementation process. Finally, this implementation process takes place in a specific legal, economic and cultural context that I refer to as the *external environment*, the fourth level of analysis. This environment is characterized by specific pressures and constraints imposed by civil society and consumer organizations, national and international policymakers, judicial bodies, but also economic actors such as shareholders.

Overall, the *path to success* model emphasizes the collaborative efforts of multiple actors and the contextual factors that shape SCC effectiveness. Below, I delineate the steps and levels of analysis involved in the implementation process, providing a comprehensive framework for understanding and addressing challenges in promoting decent labor standards in global supply chains.

Model 1: The path to success from SCC adoption to decent labor standards



The first step of the *path to success* is setting a goal, in this case, the labor standards laid down in supplier codes of conduct upon their adoption. From my empirical data, the goal of SCCs is clear: ensuring that multinationals' supply chain ensure minimum labor standards. Observing that 70% of multinationals adopt a code, and that most codes include a standard content, allows to reflect on institutional theory of organizational isomorphism. Organizational isomorphism describes the tendency for organizations to become more similar over time (DiMaggio & Powell, 1983). Interviews with human rights experts confirm that multinationals mimic other companies in developing their CSR policies. Companies also mirror collective initiatives such as the Responsible Business Alliance and is influenced by the policies of other companies. Additionally, there is an undergoing normative isomorphism occurring, where organizations tend to conform to cultural norms, values, or expectations. This was also very present and a central motivation for SCC adoption raised during interviews, as companies mention the pressure experienced by external stakeholders to address labor rights in their supply chains. This conformity is particularly evident in geographically proximate locations, reflecting the convergence of corporate behaviors in culturally similar contexts (confirmed by Scholtens & Dam, 2007). These findings shed light on the complex interplay between institutional pressures, cultural norms, and corporate behavior, underscoring the nuanced dynamics shaping the formulation of SCCs towards a sense of standardization. In a context of a global regulatory gap, isomorphism is welcome, and provides for an international benchmark setting. Codes therefore allow seem to allow a form of institutionalization of human rights in global supply chains. This assertion aligns with George's research (2022), which argues that global human rights have evolved to form an integral component of the 'social license to operate' for prominent transnational corporations. This phenomenon, characterized by the institutionalization of human rights, entails their incorporation into corporate practices, encompassing considerations within business models, supply chains, and operational strategies. It is important to note, however, that the findings presented on codes' standardization are confined to the examination of the content of codes, rather than their practical implementation.

Within this context, several notable aspects of standardization emerge. Firstly, the role of international soft law or indirect norms is pivotal in fostering alignment of labor standards across global supply chains. Despite explicit references to international texts being present in only 30% of codes, a consensus appears to exist regarding core ILO standards. Secondly, it is crucial to keep in mind that isomorphism does not equate to efficiency of business practices (DiMaggio & Powell, 1983), which, in our case, means that it will not necessarily improve labor conditions in global supply chains. On the contrary, the absence of tailored approaches to addressing labor risks within global supply chains may impede effective interventions. Moreover, while sector-specific variations exist, they offer potential avenues for positive change. Kolk (2008), for instance, explores how companies adopt carbon disclosure practices, often influenced by mimetic isomorphism within their respective industries. However, our findings suggest that the primary impetus for change lies more in mitigating reputational risks than addressing labor standards directly, considering that better formulation of codes content is identifiable in sectors specifically driven by consumer reputation. Furthermore, my research indicates that the scope of standardization predominantly encompasses broad terms of labor law, such as child labor, forced labor, and discrimination, rather than delving into more nuanced aspects. This suggests a need for further examination and refinement of corporate practices to ensure comprehensive adherence to human rights principles within global supply chains.

The second step of the model involves the establishment of management systems, designed by the multinational itself. As defined by de Bree and Stoopendale (2020), management systems include all the kinds of intended organizational measures and procedures to achieve the goals set by the policy. At this stage, my analysis revealed that multinationals' management systems are predominantly focused on risk assessment and monitoring practices, such as audits and factory visits, along with corrective action plans for addressing non-compliance with standards. Findings indicate a notable disparity in the inclusion of other critical management mechanisms. For instance, references to supplier training programs aimed at facilitating the implementation of labor standards, as well as reporting procedures like whistleblowing or grievance mechanisms, are comparatively less frequent in the codes we examined. Overall, the second step of the model underscores the importance of adopting a holistic approach to management system design, one that goes beyond a surveillance and monitoring of supplier practices.

The third step of the model focuses on the practical implementation of management systems and strategies designed to uphold labor standards within global supply chains, meaning the practices effectively in place to integrate codes in companies' and suppliers' everyday activities. Insights gleaned from interviews revealed a diverse array of implementation practices employed by multinational corporations. Two main types of practices are identified. Firstly, internal practices aimed at raising awareness and understanding of SCCs within the company are crucial. This remains in the internal buyer-level of action. Here, workshops and training sessions can be used to educate internal teams, particularly those in direct contact with suppliers, about the importance and requirements of SCCs. Additionally, efforts to enhance transparency by mapping the supply chain and identifying "most at-risk" suppliers are underway, albeit in early stages of development. Secondly, practices involving collaboration with suppliers or monitoring the implementation of codes play a vital role. Here, it relates to the buyer-supplier level of action. For instance, multinationals are developing prequalification questionnaires to assess suppliers' adherence to standards, while also exploring advanced technologies such as AI and web scraping to identify potential risks through media monitoring. However, collaborative implementation practices are overall lacking and weak, even in best practices scenarios. Most companies are only beginning to implement basic verification measures to ensure supplier compliance. Human rights experts are increasingly acknowledging the limitations of traditional auditing practices and are seeking alternative approaches. They underline the necessity of including participation in collaborative initiatives aimed at conducting joint audits at the branch level. Additionally, they warn about the dangers of suppliers' termination of contracts in case of noncompliance (a practice often referred to as the "cut and run" philosophy). Yet, between the known theory by experts and practical action, there is a gap. This third step highlights the importance of implementing a range of practices that encompass both internal awareness-building efforts and collaborative approaches with suppliers.

The last step of the process concerns the outcome sought, in this case, decency of working conditions at supplier level. While a comprehensive examination of what constitutes 'decent' working conditions could warrant a separate research endeavor, this dissertation relies on internationally adopted labor standards provided by the ILO as a robust framework for this purpose. At this step of the process, empirical data were not collected. As we can see from the model, an arrow relates the outcomes back to the standard setting in codes. This intends to show that the outcomes, including specific problematics identified, theoretically affects the goal setting. This emphasizes the dynamic nature of the process, wherein outcomes serve as valuable inputs for revising and updating policies and practices to better address the evolving needs and challenges faced by multinational corporations and their suppliers.

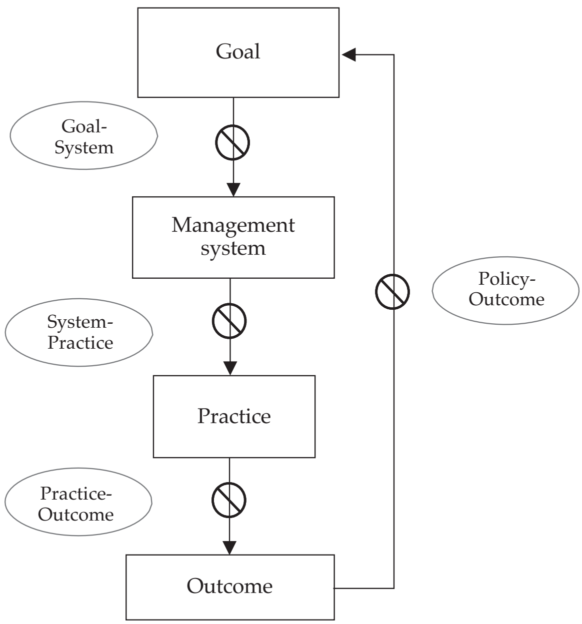
7.2.2 Derailing from the path: Decoupling

Drawing from the literature, scholars have demonstrated that organizational responses to external pressures often led to buffering of internal practices, creating a *decoupling* of formal policies from daily practices in an organization's internal technical core (Meyer and Rowan, 1977). Following a presentation of the steps of the *path to success*, the concept of decoupling focusses on the arrows of model 1, meaning the process going from one step to the next allowing to align the policy and the practice. This process, as observed by the theorists designing other versions of this model, is likely to be interrupted at each stage, especially for policies such as supplier codes of conduct (Bird et al, 2019). In organizational studies, and particularly new institutional theory, decoupling is defined by the creation and maintenance of gaps between formal policies and actual organizational practices (de Bree & Stoopendaal, 2020). This concept of *decoupling* has been previously used by scholars to refer to the gap between supplier codes of conduct standards, and actions (or lack thereof) in global supply chains (Bartley and Egels-Zandén, 2015). In chapter 5, I also referred to this gap as the discrepancy between the "talk" and the "walk". Applying decoupling to the *path to suc-*

cess, I consider that the multi-level actors involved may *derail* from the path, preventing the implementation of codes and thus not reaching the set goal of decent labor standards at supplier level.

De Bree and Stoopendaal (2020) consider that decoupling can occur at each phase of the implementation process, leading to four phases at risk of decoupling: the goal-system decoupling, system-practice decoupling, practice-outcome decoupling, and policy-outcome decoupling. Each of these decoupling possibilities are visually depicted in model 2 below and explained further.

Model 2. Derailing for the path: the decoupling phases



First, goal-system decoupling occurs when there is a misalignment between an organization's publicly stated goals and the organizational arrangements established when designing management systems (de Bree and Stoopendaal, 2020). In essence, goal-system decoupling occurs when organizations publicly express certain goals or values but fail to set a formal organization with appropriate tools and internal structures on the basis of this policy.

Second, system-practice decoupling refers to the phenomenon where organizations formally adopt certain management systems but struggle to effectively implement them in practice. This concept suggests a disconnect between the intended goals or standards set by an organization and the actual behaviors within the organization. System-practice decoupling can be attributed to a multitude of factors, including organizational inertia, conflicting priorities, lack of resources, or inadequate monitoring and enforcement mechanisms. Here, Meyer and Rowan (1977) draw a connection with organizational isomorphism, to show the negative sides of growing similarity across organization. The link between organizational isomorphism and decoupling lies in the tension between external pressures for conformity (isomorphism) and the practical challenges of implementation. Organizations may face pressure to adopt certain structures or practices to appear legitimate or conform to industry norms (isomorphism), but they may struggle to fully implement these practices due to internal constraints or conflicting priorities. As a result, organizations may engage in decoupling, where they maintain the appearance of conformity without fully embracing the practices in practice.

Thirdly, the practice-outcome decoupling refers to a phenomenon where organizations implement certain practices or procedures (practices), without achieving the intended outcomes. Practice-outcome decoupling is particularly relevant in the context of assessing the effectiveness of organizational interventions or initiatives. It highlights the importance of not only implementing practices or procedures but also ensuring that they lead to the intended results or outcomes. DiMaggio and Powell (1983) discuss how organizations may adopt external structures or practices to appear legitimate without necessarily internalizing them or achieving the intended outcomes. Bromley and Powell (2012) also call this the means-end decoupling, meaning that 'policies are thoroughly implemented but have a weak relationship to the core tasks of an organization'. This form of decoupling concerns situations in which the practices implemented have an unclear relationship to outcomes. Means-end decoupling arises from embracing wishful social narratives about control in which the pressure to conduct evaluation is stronger than the pressure to conduct good evaluation. As underlined by Power notably (1997), this form of decoupling applies well to social audits for instance. Power's work on organizational control and accountability highlights the potential for audits to create symbolic assurance without driving substantive changes in behavior or outcomes.

The last decoupling phase concerns the policy-outcome decoupling, related to the disconnect between policy intentions or goals and the actual outcomes or results achieve.

7.2.1 Avoiding derailing from the path: Recoupling

Despite the numerous possibilities that policies can decouple when looking in organizational theories, decoupling is not an irreversible state. Scholars have argued and show paths to the process of *re*-coupling, meaning that a policy initially decoupled may trigger behavioral changes over time and provoke a dynamically evolving phenomenon of gradually aligning human rights practices with policies (Egels Zanden, 2007; Cole, 2005). Indeed, over time, even symbolic policies can become integrated into organizations in unexpected ways, driven by moral obligations and evolving institutional norms (Sauder & Espeland, 2009). Tilcsik (2010) particularly studied the processes of recoupling and mentions that recoupling can be achieved through a series of strategic interventions. According to Tilcsik, this recoupling process involves five key steps: symbolic adoption of the formal policy, integration of new organizational members with the necessary skills, dissemination of a new vision of organizational rationality, triumph of this new vision, and ultimately, the coupling of formal policy with actual practice (Tilcsik, 2010). This means that it *can* be achieved through several steps, that a policy that is originally symbolic and lacks effect can progressively integrate organizational culture.

Following these explanations on the decoupling and recoupling, it is relevant to understand what my empirical studies have contributed when it comes to the factors affecting this process – and most importantly the factors leading to a more successful implementation – hence, what can change. The following section is dedicated to seeing how the multi-level factors underlined in the key findings integrate this model and formulate recommendations for policymakers and companies – proposing an effective path to success avoiding the obstacles. Considering my lack of data on outcomes, I was not able to empirically test two of these phases: the practice-outcome decoupling and the policy-outcome decoupling. The following section provides insights for corporate practice and policy makers to lead to recoupling.

7.3 Practical implications: Recommendations on the path to success

In this section, I aim to bridge the gap from factual observations to normative recommendations. This transition involves translating empirical findings into actionable suggestions for companies and policymakers to develop norms that mitigate human rights risks within global supply chains. Through the application of concepts such as de- and re-coupling to empirical data, conceptual models 3, 4, and 5 offer insights into addressing goal-system decoupling (model 3) and system-practice decoupling (model 4), while model 5 outlines actionable strategies for policymakers to contribute to re-coupling across all levels. The empirical findings brought on these three levels of analysis and the recommendations made on this basis hope to improve SCCs' effectiveness in practice.

It is important to acknowledge the limitations of this analysis. While the steps to code implementation were empirically tested, data collection did not extend to the supplier level, where the outcomes of labor conditions manifest. Consequently, two potential phases of decoupling—practice-outcome and policy-outcome—were not explored. Moreover, empirical results on SCC implementation primarily reflect the corporate perspective (buyer level). Despite these limitations, the path to success model provides a holistic understanding of potential gaps in SCC implementation, offering explanations for why outcomes may not be achieved and recommendations for improvement.

7.3.1 Preventing derailing from the path: Recommendations for corporate practice

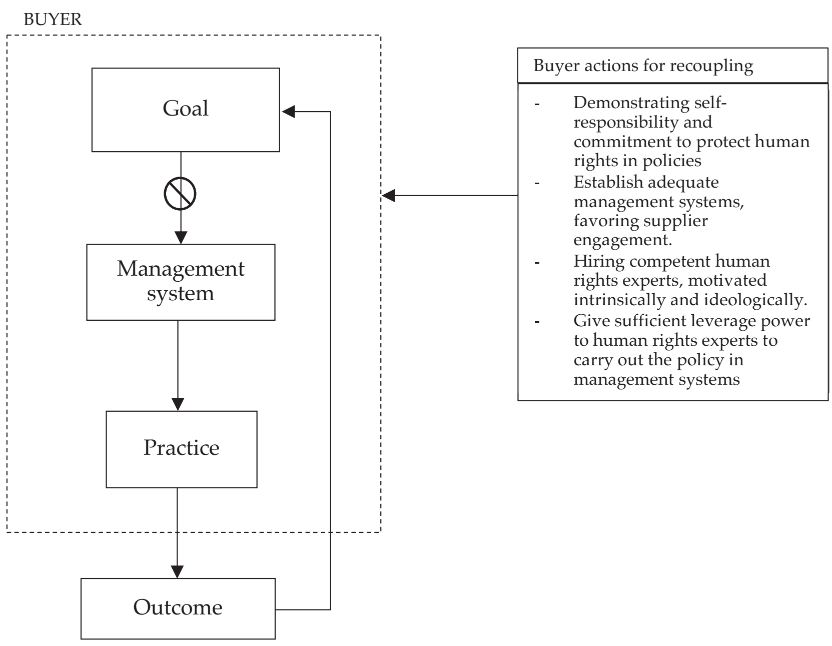
Companies are central in implementing codes of conduct, or in preventing their decoupling. From the path to success model, they are especially important actors at the goal-system decoupling phase, and the system-practice decoupling. For each of those steps, I aim to formulate recommendation on companies' best behavior to implement codes.

As visually represented in model 3 below, companies can adopt behavior to avoid a gap between the goal set in codes of conduct and the management systems developed. From the content analysis, it is apparent that companies do not fully accept a high level of responsibility, notably in the formulation of their policies. Intentions and actions were oriented towards the supplier, and less so towards the actions underwent by the company itself to address the risks. This lack of self-responsibility phrased in codes has repercussions on the legal value of the codes, as explained in the second chapter. Lack of explicitly binding provisions in codes impedes the recognition of a legal value and enforcement by the judicial actor and does not guarantee a genuine commitment from multinationals to human rights beyond mere window dressing. To prevent this, it is desirable that the language adopted in SCCs reflects actionable steps that companies themselves are willing to undertake. This not only provides for more actionable management systems to establish, but also ensures transparency of commitments towards external stakeholders. This relates to the factor 'Demonstrating self-responsibility and commitment', in model 3. Therefore, when drafting codes, governing boards of companies should adopt policies that are binding themselves to conduct action.

Additionally, the choice of management systems to implement codes is crucial for ensuring policy impact. Certain management systems are more effective than others. Empirical scholars and the literature are clear on this point: Social audits and supplier surveillance are ineffective in improving labor conditions, while management systems favoring collaborative practices are better practices. Yet, when looking at what companies do, the findings presented in this dissertation indicate that fewer companies set management systems engaging with suppliers, workers, and adopting the collaborative approach. Among the 'adequate' management systems recommended to implement the policy, I therefore promote setting whistleblowing systems for workers within supply chains in case of violation of labor standards and setting internal grievance mechanisms to ensure access to remedy, developing training programs of suppliers to increase awareness and skills to identify and prevent labor rights violations, and ensuring buyer-supplier communication on addressing labor risks at supplier level.

To promote the establishment of adequate management systems, I also recommend that companies recruit human rights experts within their companies. The interviews conducted for this dissertation showed that these experts can serve as catalysts for bridging the gap between stated goals and practice, notably by leveraging their expertise to design and implement effective management systems. Moreover, providing sufficient leverage and authority to human rights experts is imperative for the successful implementation of policies. During the interviews, experts underlined that companies' structures were not always suited to ensure the development of adequate management systems, considering that operational teams in contact with suppliers lacked expertise to address human and social risks. Empowered experts can navigate organizational hierarchies, enact necessary changes, and ensure that policies are embedded within management systems effectively. To enhance their power, specific structures such as human rights committee can be set up to facilitate horizontal integration of human rights concerns.

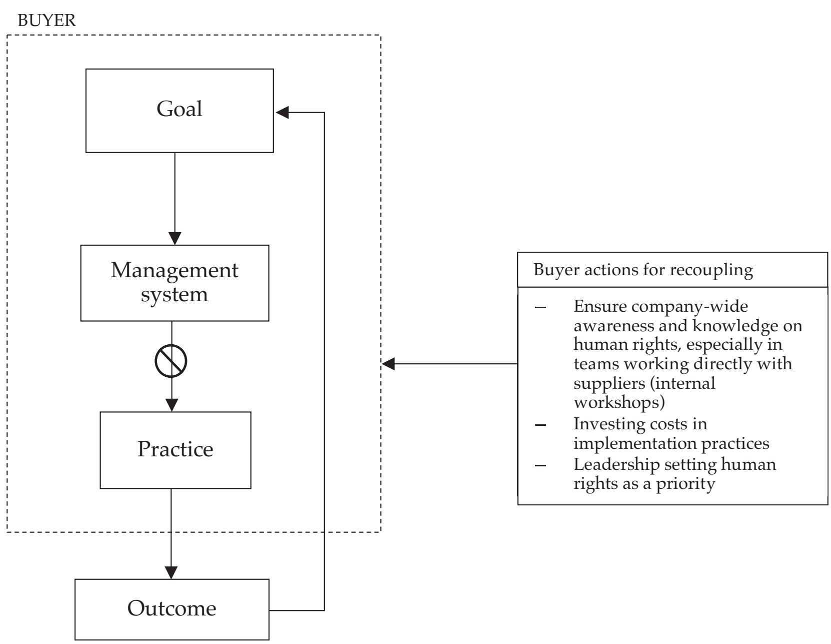
Model 3: Multinationals' capacity to address the goal-system decoupling



Beyond the code formulation, empirical findings underscore that the adoption and content of SCCs represent only a small part of the solution to addressing labor rights in global supply chains. The primary focus should be on how companies act to implement these policies and ensure their impact. Indeed, even in 'best case scenario' of management systems set in codes, my findings reveal that these may still prove ineffective to ensure minimum labor rights. This points to the following: it is instrumental that companies *walk the talk* and substantiate their commitments with a strong decision making in favor of human rights protection. From interviews with human rights experts, I identified that the dissemination of the policy *within* the company is a necessary first step of action to ultimately reach the supplier level. I argue that the dissemination of the policy within the organization should occur on two fronts: vertical and horizontal integration. Vertically, leadership must emphasize the centrality of human rights to the corporation's objectives and establish a governance structure conducive to collaboration on human rights issues, such as the formation of a human rights committee. Horizontally, collaboration within the company is essential. Here again, human rights experts play a pivotal role in training operational and procurement teams in direct contact with suppliers, ensuring a holistic approach to human rights integration throughout the organization. For this purpose, I recommend a company-wide awareness on human rights issues, to foster knowledge on human rights, particularly among teams directly engaged with suppliers. This may instill a culture of human rights consciousness within the organization thus linking the policy with actions in all activities. Internal workshops and training sessions serve as an effective platform to disseminate this information.

Moreover, interviews revealed that the budgetary elements were central when discussing *actions* towards human rights protection. In fact, human rights risks come after considerations towards financial profits and economic competition within companies. To address this problematic, I recommend that the budget invested in management systems and in discussing with suppliers on human rights concerns be re-evaluated, to figure as a priority within organizational agendas. In addition, consequent allocation of resources towards the implementation of management systems would reinforce the organization's commitment to bridge the policy and practice.

Model 4: Multinationals' capacity to address the system-practice decoupling



7.3.2 Preventing derailing from the path: Recommendations for policy makers

Pursuant to my empirical results and my theoretical insights, I want to express my general positive stance towards the introduction of laws aimed at enhancing corporate accountability within global supply chains. Simply relying on corporate willingness is insufficient, and the "regulatory gorilla in the closet" should intervene to create the necessary preconditions to strengthen private regulatory enforcement (Verbruggen, 2013). Given that business models primarily seek economic viability and profit in a capitalist economy, attempts from public actors to set a level playing field on human rights and environmental issues are necessary. In the *path to success* model, the external box (external environment) shows how implementation processes are dependent on a context, which can be influenced by external stakeholders, and especially the public actor. In fact, decoupling can occur because the demands of external stakeholders conflict with the operational realities of companies striving to remain competitive in the market (Bromley & Powell, 2012). In such cases, companies may resort to superficial measures, such as drafting symbolic policies or making token gestures, without making substantial changes to their practices – resulting in window dressing.

Therefore, public actors and policymakers can help rebalance power dynamics and provide the necessary incentives for companies to genuinely adhere to labor standards in their supply chains. Recoupling can occur by policy adoption. One general direction has been mandatory human rights due diligence law, and first and foremost the adoption of the CSDDD. However, I argue that other transformative policy-making pathways may be even more effective.

7.3.2.1 Re-coupling with the CSDDD

As I write these concluding words, the Corporate Sustainability Due Diligence Directive is being adopted at the European level.[19] This Directive marks a major reform in the legal approach to transnational corporate responsibility for global supply chain human rights and environmental risks, as argued throughout the dissertation. Pursuant to Article 5 of the Directive, multinationals will be obligated to adopt codes of conduct outlining rules and principles to be followed by the company and its subsidiaries, and to take measures to '*verify compliance with the codes of conduct'*. By integrating codes and compliance systems into hard law, the legislator creates a system of accountability that aims to ensure companies adopt and act upon

19 This dissertation was finalized in April 2024. On March 15th, the Council of the EU reached and adopted a compromise, after weeks of uncertainties and political negotiations. On April 24th, the European Parliament adopted this new version of the Directive. Formal adoption of the Directive should occur by June 2024.

their self-regulatory policies. This will likely impact corporate efforts in the *path to success*, as the Directive relies heavily on businesses to self-regulate and to integrate human rights within their practices as they deem relevant. The control of the integration of due diligence in corporate practice will, in large part, be performed *ex ante*, where the judge or the administrative supervisory authority will assess whether the companies have taken *appropriate* measures *where relevant*. The legislator, with this text, intends to give a central role to businesses in protecting human rights, without dictating exactly how this role should be performed, and leaving a margin of appreciation. As underlined in the Preamble (7) "*All businesses have a responsibility to respect human rights, which are universal, indivisible, interdependent and interrelated*". This interpretation of the Directive is in line with the plethora of academics identifying an increasingly blurred division between the public and the private roles, as private power must increasingly be directed towards public goals interests (Deva, 2013 ; Schouter & Miklian, 2018). Therefore, the objective of mandatory human rights due diligence is not only to increase corporate accountability, but also to internalize negative impacts on human rights. This is a promising direction, as the result of my empirical studies consider *internalization* and *corporate intrinsic motivation* as factors of SCC effectiveness.

In this light, Lafarre (2023) contends that the CSDDD can indeed provide appropriate incentives to avoid adverse impacts, but selecting the right enforcement mechanisms is key for effective enforcement of these obligations. My results point to the same direction. Only *some* corporate management systems appear to ensure codes' effectiveness, while others point to no effect, or even, negative effects (chapter 5). The CSDDD does not refer explicitly mandate the use of specific management systems, nor limits companies in their 'verification of compliance' to be put in place. Yet, some elements allow us to foresee which management systems will be considered 'good enough' by the judge or the supervisory authorities. First, Article 10 (5) considers that "*For the purposes of verifying compliance, the company may refer to independent third-party verification*", thus acknowledging external audit as a legitimate tool. This is a matter of concern, considering the lack of effect and negative impact of auditing highlighted in the dissertation. As derived from chapter 6, this compliance approach based on the auditing system also raises the risk of entering a box-ticking exercise. Second, results show that grievance mechanisms or reporting mechanisms empowering workers in supply chains were the most effective in positively impacting labor conditions. On this point, Article 12 (2) of the Directive considers that "*Member States shall ensure that, where a company has caused or jointly caused an actual adverse impact, the company provides remediation*." While this does not dictate a direct obligation for companies to put in place private grievance mechanisms ensuring access to remedy, it gives Member States the supervisory role to promote these mechanisms. Thirdly, internal dissemination and human rights expertise was assessed as a large factor of codes' implementation. To promote this, the German Supply Chain Act include the obligation to appoint a 'human rights officer', responsible for monitoring the risk management within their supply chains. The Directive does not formulate such immediate obligation, which will leave a margin of appreciation to Member States' transposition laws. Finally, Lafarre (2023) demonstrates that public enforcement with the involvement of public authorities that have strong monitoring and sanctioning powers is key to effectively enforce substantive due diligence obligations. In her article, she demonstrates that the factors of effective enforcement are missing in the CSDDD. While my results do not allow me to draw conclusions on the authorities and powers necessary to effectively enforce due diligence, interviews showed that there is a necessity for public expertise and support of companies to ensure a coherent and harmonized due diligence framework. The supervisory authorities (Article 24 CSDDD) form a good hope for the development of public expertise, even though number of scholars and civil society are wary of their independency, legitimacy, and expertise.[20]

Despite these opportunities and hopes for the CSDDD to recouple SCCs with decent labor standards in global supply chains, the emphasis on corporate self-regulation is a matter of concern to some scholars (Patz, 2022). In fact, explicitly mandating codes of conduct diverges from the UNGPs approach. Instead of referring explicitly to the adoption of SCCs, the UNGPs only insert a short reference to 'human rights policy' under commentaries of Principle 19. This Principle insists more on the *integration* of the human rights policy throughout the company, than on their adoption.[21] The reference to third party audit for verification of compliance is also worrisome. Ultimately, to prevent the CSDDD to turn into a box-ticking exercise voiced by human rights experts in chapter 6, the case-by-case assessment by the judge of due diligent conduct should favor corporate efforts in stakeholder participation, grievance mechanisms, and attempts to transform supplier relationship towards more centrality to the social aspects. For this purpose, a re-evaluation of purchasing costs should also be conducted by companies. This approach aligns with the UNGPs and the OECD Guidelines, a necessary factor to ensure CSDDD effectiveness to recouple the *path to success*.

7.3.2.2 Re-coupling beyond the CSDDD

While the CSDDD has the objective of ensuring due diligence in all companies' activities, Western due diligence laws do not appear to have the ambition of reforming existing governance of supply chains or operate a

20 The French NGO Sherpa has been the most vocal on this topic. Already in 2021, Sherpa wrote an assessment of this potential authority: "*Creating a Public Authority to Enforce the Duty of Vigilance Law: A Step Backward?*", accessible at: https://www.asso-sherpa.org/wp-content/uploads/2021/05/2021.05-Position-Paper-DV-Public-Enforcement.pdf (last accessed June 2024).

21 Commentaries to Principle 19 mentions that: "*Human rights prevention should be integrated horizontally across the business, meaning that human rights policy commitments have been embedded into all relevant business functions.*"

shift away towards a redefinition of corporate purpose or a systemic change of global production systems. By placing SCC and compliance verification (third party audits) central to due diligence obligations, the legislation comes from a neoliberal perspective, meaning that companies must integrate human rights concerns in their agendas, but are not incentivized to redefine their orders of priorities and purpose. When assessing due diligence laws, Leite (2023) in fact considers that States' actions to increase multinationals' accountability in supply chains is following a (capitalist) market logic, instead of ensuring a "rights-based economy". This neoliberal view of the global market is detrimental to setting global minimum standards. To achieve the objective set in the preamble of the Directive to "*advance respect for human rights and environmental protection*", States should push for more transformative macroeconomic policies to fundamentally change business models.

In this light, I advocate for a comprehensive and overarching transition in national, regional and international policies and governance, for a long-term prevention and mitigation of human rights risks in global supply chains. As one of the intrinsically motivated human rights experts mentioned, *"Ultimately, the whole system needs to change. Also, the economic system."* This 'shift', in my opinion, should be systemic, towards new models of global production, that prioritize multi-stakeholder governance and embed human rights concerns within corporate practices. Central to this transition is the elevation of workers' voices to the forefront of supply chain decision-making processes, thereby reframing policy agendas to prioritize social welfare over economic interests. Concretely, this could entail:

A) Promoting collective bargaining and protecting trade union rights in transnational settings. This is a challenge in global supply chains, considering that trade unions are traditionally focused on improving labor conditions at the national level (Frege & Kelly, 2020). Yet, global trade unions such as the International Trade Union Confederation (ITUC) and initiatives such as the Global Unions Group are good examples of undergoing internationalization of trade unions.[22]
B) Empowering workers by giving them a place in policy setting and an effective access to remedy notably favors a more horizontal governance of global supply chains. Mandating the involvement of civil society organizations and workers' representatives in the global policy making at corporate level, as well as in the verification tools developed to implement them.
C) Ensuring easily, effective, and protected access to remedy to victims of labor violations, both internally in the company and externally.

The objective of this transition should be to favor the redistribution of

22 For more information, see the briefing of the British Trades Union Congress (TUC) of December 2021, *The role of trade unions in international development cooperation*, accessible at: https://www.tuc.org.uk/sites/default/files/2021-12/Trade%20Unions%20and%20International%20Development.pdf

wealth and address wide inequalities, ensuring that cheap labor does not lead to disproportionate and unfair enrichment of multinationals, instead promoting fair costs of production. This transition should represent a fundamental shift away from neo-colonialist practices and towards a fairer, more equitable model of production that respects the dignity and rights of all individuals involved in global supply chains. For this purpose, I bring forward the thoughts of some progressive minds who advocate for a redefinition of corporate purpose or '*raison d'être*', moving beyond mere profit gains to encompass broader social responsibilities.[23] In lieu of a foundational principle like shareholder primacy or stakeholder fairness, Mayer (2018) proposes "purpose primacy". The public actor can incentivize this change of purpose, by shaping policies encouraging corporations to adopt a more socially conscious approach (Porter & Kramer, 2011). For instance, policy making could mandate corporations to clearly outline their societal contributions, thereby holding them accountable for their social impact. This was argued and developed by Palombo (2022), who underscores the necessity for businesses to rediscover their original function to serve the needs of society – and what legal avenues are promoting this. In France, the *PACTE* legislation of 2019[24] makes a first step in this direction, by introducing the concept of *raison d'être* and establishing the status of *entreprise à mission* (mission-drive company). The law allows companies to specify a *raison d'être* in their establish description. This is a statement that defines the company's purpose and the principles it aims to adhere to in conducting its business. At the European level, there is not yet a specific law governing mission-driven companies as there is in France with the PACTE law. Legislations requiring their actions based on their societal contributions would allow a shift in fostering a different vision of corporations and will have repercussion on exploitative supply chain practices.

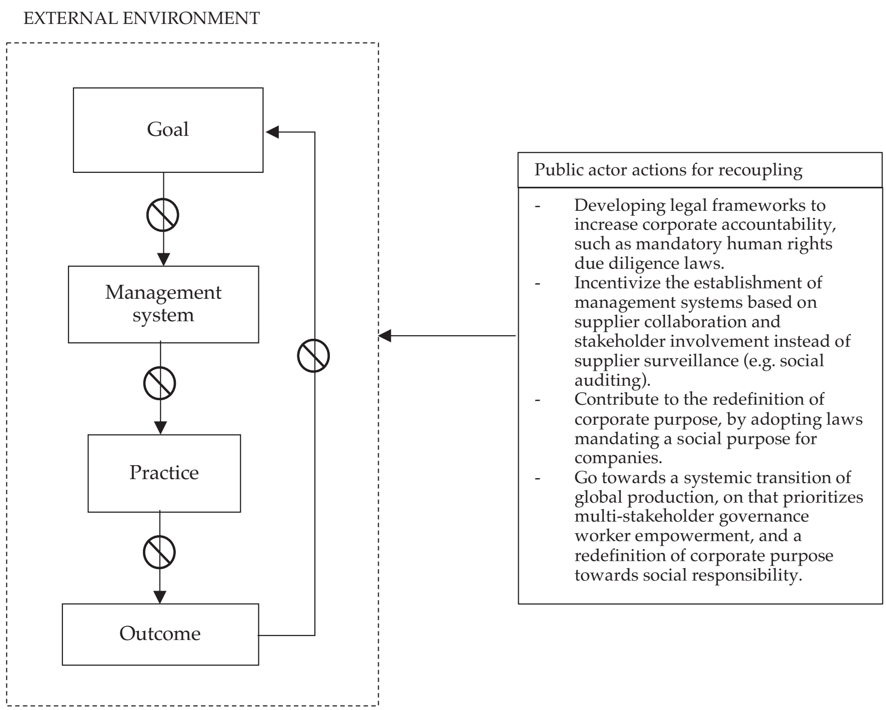
The transition from a neoliberal capitalist model must tackle many different fields of law for an overarching approach. On top of the legal changes regarding corporate governance, due diligence, and corporate accountability, policies must also affect economic and fiscal systems. Among those discussing the necessary shift for sustainable and economic global produc-

23 Among them are Mayer with his book 'Prosperity. Better Business Makes the Greater Good', 2018, who argues for a redefinition of the corporation's purpose, advocating for businesses to focus on creating long-term value for society rather than solely prioritizing shareholder profits. He emphasizes the role of public policy in encouraging this shift. Additionally, John Elkington, known for the term "Triple Bottom Line", has been a strong proponent of integrating social and environmental considerations into the core purpose of corporations. Porter and Kramer in their influential article "Creating Shared Value" (2011) argue for a redefinition of corporate purpose to include creating economic value in a way that also creates value for society.

24 The PACTE law stands for Plan d'Action pour la Croissance et la Transformation des Entreprises (Action plan for the Growth and Transformation of Companies). French Government. (2019). *Loi n° 2019-486 du 22 mai 2019 relative à la croissance et la transformation des entreprises (PACTE).* Retrieved from Legifrance

tion, Stiglitz (2010 addresses the necessity for government intervention in correcting market failures. In his various works, he discusses how subsidies and tax incentives can be used to encourage businesses to adopt sustainable practices. Stern (2007) highlights the importance of carbon pricing to internalize the environmental costs of business activities and promote investment in greener technologies. Nordhaus supports this view, advocating for carbon taxes as a critical tool to reduce emissions and address climate change (Nordhaus, 2015). Finally, and in a more radical approach, a growing body of scholars are developing the concept of *degrowth* (among them: Hickel, 2020; Kallis et al, 2018), originally coming from climate activists in the early 2000s. It advocates for a deliberate downscaling of production and consumption requiring a radical reorganization of society. While it is beyond the scope of this dissertation to dive into the benefits and challenges of degrowth, the voices of authors arguing that *degrowth* is the only long-term solution to align human rights protection and business activities should be heard. It allows to present another model of global production and consumption, other than the growth-based developments characterizing our contemporary capitalism.

Model 5: Public actors' capacity to address the decoupling stages



7.4 Limitations and direction for future research

This dissertation raised the question: to what extent are multinationals addressing labor risks in their global supply chains. The findings reveal that while many multinationals adopt SCCs and acknowledge labor rights within their supply chains, substantive adequate action to implement these codes and establish effective programs is lacking. While this dissertation provides empirical data and an analytical framework to study SCC (the *path to success*), it has undeniable substantial limits. After all, the field of business and human rights is at its debuts, and the call for corporate responsibility towards their supply chain is only recently integrating corporate practices beyond standard setting. Throughout the research journey, I learned and developed various empirical challenges. Here, I reflect on the lessons learned and highlight the limitations of my study before suggesting avenues for further research.

7.4.1 Empirical limitations and lessons learnt

Navigating the landscape of CSR poses a significant challenge in gathering reliable data on corporate actions. The intricate web of global supply chain networks, coupled with the lack of transparency surrounding supply chain mapping and the presence of window dressing practices make it difficult to collect trustworthy data on labor standards in global supply chains. Moreover, the sensitivity surrounding CSR efforts raises doubt on data provided directly by companies themselves, as they can be biased by reputational motivations. Recognizing these complexities, my research initially aimed to gather data at the supplier level, and not from multinationals themselves. By examining labor conditions within supplier factories, I would have been able to uncover critical insights into the gaps in implementing labor standards and study the outcomes of corporate self-regulation. This strategy would have allowed for a comprehensive assessment of policy implementation in the *path to success* model.

Unfortunately, several obstacles impeded the pursuit of supplier-level data. Firstly, the beginning of the global COVID-19 pandemic severely restricted travel, preventing data collection in supplier locations during the initial two years of my research. Secondly, as I delved deeper into the literature, I realized the complexity of developing a research design capable of unraveling labor violations at the supplier level (as explained by Bartley & Egels-Zandén, 2015; Toffel et al., 2015).[25] Thirdly, my linguistic limitations and Western cultural background posed challenges in evaluating labor standards in regions with vastly different norms and practices. As a result, I decided to limit my analysis to corporations' actions and initiatives aimed at promoting human rights throughout their production chains. While the

25 See Chapter 3 for an in-depth analysis of supply chain data collection methods and difficulties.

absence of supplier-level data represents a significant limitation, the focus on corporate policies enabled other meaningful contributions.

Indeed, the work conducted around the Database of Business Ethics represents a valuable contribution to the field of CSR and to ELS, by enhancing accessibility and comparability of supplier codes of conduct, as a public-open source. Yet, as argued, SCCs themselves are susceptible of advertising corporate practices, being adopted for reputation purposes or only symbolically. To overcome the limitations of simple textual analysis, I employed a diverse range of methodological approaches. In Chapter 4, I utilized various techniques, including exploratory computational methods, manual coding of text, and Structural Topic Modelling, to scrutinize the textual content of codes and unveil the true intentions of multinationals. Additionally, in Chapter 5, I categorized the codes into five different quality groups based on a detailed analysis of grammar and content, enabling a deeper understanding beyond simplistic keyword methods.

These varied textual analysis methods were however limited in understanding the reality of business practices. Consequently, the last study intends to complement this quantitative analysis with qualitative data, and triangulate research methods. This involved semi-structured confidential interviews with human rights experts employed by multinational corporations. Through these interviews, I delved deeper into corporate practices and gained insights into the perception of their codes of conduct. While this method is not novel in ELS, my sample of respondents brings an interesting observation. My initial assumptions were that respondents would prioritize protecting the interests and reputation of their respective companies, considering the literature around social desirability bias in organizational settings (e.g. Bergen & Labonté, 2019). While some respondents adopted this expected behavior and reacted somewhat defensively when asked about challenges or gaps in improving human rights, others diverged from this pattern. They expressed criticisms of their companies' actions, acknowledged significant difficulties in addressing human rights issues in global supply chains, and highlighted systemic failures to integrate human rights into everyday operations with suppliers. In some cases, their frustration towards leadership boards and procurement teams for slow processes and lack of consideration for human rights issues was palpable. Non-coincidentally, these respondents were also highly qualified in their human rights expertise, which corresponds to previous findings suggesting that employees with deep domain knowledge are more inclined to critique existing practices and advocate for meaningful change (Johns, 2006). While these interviews yielded the most enlightening insights, they were also conditional to anonymity. This confirms the sensitivity of the topic.

The variety of methods employed therefore had one central objective: seeking information going beyond window dressing and bring forward empirical evidence on corporate practice more neutral and reflecting the reality of codes' implementation. While this sensitive field makes it challenging to be confident in the reliability of the data collected, the triangulation of data and the diversity of sources, may help to ensure results' accuracy. From my experience, ensuring anonymity helped in having open conversations, but they also reduce transparency and reproducibility of research.

7.4.2 Avenues for future research

In light of the limitations identified in my dissertation, I propose avenues for future research, which fall into two categories: 1. Strategies to complement this study and address its gaps, and 2. Directions for research aligned with the evolving legal framework.

To address the gaps identified in this research, two key propositions emerge. Firstly, there is a need to bridge the gap of data collected at the supplier level. This dissertation primarily focused on the internal mechanisms of policy implementation within multinational corporations, without providing data on the labor conditions and human rights risks at the supplier level.[26] Future research should aim to bridge this gap by investigating the actual conditions faced by workers in the lower tiers of the supply chain. As highlighted in the literature review, data is still missing on this front, especially at the bottom end of supply chains. By centering the debate around the victims and assessing human rights risks at the supply chain level, researchers can gain a more comprehensive understanding of the effectiveness of SCCs in addressing labor rights violations. Useful research here should notably underline the possible pathways to link workers and suppliers into the policy making of multinationals, to imagine ways that supplier at different levels could have a voice in supply chain governance. Considering the place of external stakeholder consultation in the due diligence process, it is relevant to study how workers can be one of the stakeholders.

Secondly, this research calls for studies investigating CSR beyond the specific instrument of SCC. While this study provides insights into the limitations of SCCs as a self-regulatory tool, it is crucial to recognize that SCCs are just one element within the broader landscape of CSR. Future research should explore alternative CSR mechanisms and their efficacy in promoting ethical supply chain practices. By examining other corporate approaches, researchers can identify complementary strategies to address the gaps highlighted in this study. Outside of the private sphere, it is relevant to investigate how external stakeholders' initiatives can influence corporate behavior, as well as the interplay between the different interventions. In fact, this research focused exclusively on the multinational, while the *path to success* was highlighted as a multi-level process. As argued by Knudsen and Moon (2017), existing research on CSR regulation fails to address the growing role of the state in initiating changes in corporations' practices. I therefore insist on investigating other instruments from other actors, and their effects on private regulation.

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26 For explanation on this limit, see section 7.2.2.

Given the current legislative developments, it is also worth highlighting pathways for future research in an evolving context. In fact, the recent introduction of legislative initiatives such as the CSDDD presents an opportune moment for scholarly inquiry. Considering what was said in this dissertation regarding the external influences on the implementation process, it will be relevant to assess how the CSDDD is shaping the renewed sense of corporate responsibility towards supply chain labor conditions. As the preliminary research on the French due diligence shows, mandatory human rights due diligence laws are not instinctively effective and require academic reflections to ensure an impact on global supply chains beyond a box-ticking exercise. Schilling-Vacaflor (2021) indeed demonstrates that the inclusion of environmental and human rights standards in legal norms is not sufficient to ensure policy integration, and that institutionalization of policy integration on paper is not sufficient. Following, it is relevant that future research investigates public actors' capacities to motivate multinationals to integrate human rights concerns within corporate activities. It is my observation that effective implementation must goes through integration of external stakeholders into the policy making and the mechanisms in place to implement them. It would be relevant to present best practices on how to invest supply chain workers (or their representatives) at the buyer level and work on improving the buyer-supplier connections.

Moreover, findings of this dissertation indicate the crucial role of human rights expertise within corporations to establish adequate management systems. Building on this, future research could explore the implications of integrating human rights professionals into supply chain management processes. To deepen our understanding, researchers could investigate the specific types of human rights expertise required, and what role and powers they should have within organizational dynamics. For example, my findings emphasize the necessity for expertise in mapping global supply chains and identifying high-risk areas. It also appears that experts must be given a role of enabler and a training role for the rest of the company to raise awareness within companies. This needs to be investigated further to confirm these preliminary findings. Additionally, in Chapter 6, my focus was centered on *internal* experts, meaning those employed by companies themselves. Instead, McVey (2022) focused on the authority of external human rights experts. I also highlighted the necessity for public human rights experts to act in support. It would be interesting to see how these different experts can exchange information and knowledge and ensure a multi-level action to ensure labor standards in global supply chains. Future research should highlight the strengths and capacities of each expert and see how they are intertwined. Here, interesting reflections were discussed in chapter 6, relating to the professionalization and marketization of human rights expertise. As we are progressively shifting towards a holistic embeddedment of human rights concerns within companies, one risk highlighted was the 'marketisation' of human rights, meaning that products will sell better when they are *'human rights approved'*. This would shift the business *and* human rights into a business *of* human rights (Deva, 2020). Further research into this process would shed light into the potential risks of business and human rights. This calls for empirical qualitative research with human rights experts in different institutions holding different internal or external consulting functions, for instance: public expert supporting businesses, external private firms' experts providing consultancy to companies on their due diligence plans, and internal experts such as the ones interviewed within companies. It also calls for theoretical studies on the role of these experts in organizations.

7.5 Concluding remarks

In 2016, Arnold proposed that we shifted the debate in business and human rights from *whether* multinationals have human rights obligations, to *how* multinationals integrate their human rights responsibility in their practices, and how we politically and legally hold them accountable (Arnold, 2016). A year later, Hsieh (2017) writes a commentary on Arnold's work, arguing against extending human rights obligations onto multinationals, considering that human rights protection must remain entirely a state obligation. Instead of discussing the legitimacy and moral human rights obligations of multinationals, this dissertation investigates *what* are companies doing to integrate human rights obligations in their business practices. The research question raised departs from the normative debate of what companies ought to do, instead to engage in a descriptive debate of what is being done – and what are the limits. Empirically investigating companies' commitments and actions hopefully provides elements to contribute to the normative debate.

Results stress the importance of a binding framework regulating corporate voluntary responsibility towards human rights, considering the gaps between what companies say – the "talk" – and what they do – the "walk". As advocated by other scholars (Scherer & Palazzo, 2011), and established by Ruggie with the UNGPs, the approaches of public and private regulation are not exclusionary and should go hand in hand. The call for a binding framework on corporate accountability should not undermine private efforts to address labor rights in global supply chains. It is time however that the public actor interferes with the largely unregulated field of corporate responsibility beyond national borders, now that an array of corporate practices has developed. In particular, it is paramount that government agencies be well equipped to guide and support multinationals in their human rights prevention down supply chains, with the appropriate expertise on human rights.

After my reflections on labor standards in global supply chains, I also highlight the necessity to transition to a new model of global production, one more centered on the social problematics than the drive of economic profit. Legal makers and governments should be the instigators of this new model. As put by Delmas-Marty, we must *"consider law not as immu-*

table structure, but as an evolving process that calls for reinventing models."[27] By reflecting on the developing legal framework on due diligence, and by highlighting the opportunities and threat of the current stance of the European policy maker, I hope my dissertation has conveyed the following message: the current global production system calls for a transition – one that must also be pushed by the public actor, but where the private actor will hold an increasingly important role – and where the public / private divide is fading. This transition must put social interests at the center, meaning that companies' primary objectives can no longer be driven by capitalist profit-driven objectives. Codes of conduct, as instruments setting standards for global supply chains, are a good first step in this direction to start the discussion on human rights protection, but they must be strengthened and valued to represent a pillar of the company's activities, where the social mission of the private actor becomes a core objective of the organization.

27 This is an unofficial translation from the French quote: « *Considérer le droit non pas comme un édifice immuable, mais comme un processus évolutif qui appelle à réinventer des modèles* » (Mireille Delmas-Marty, 1941-2022).

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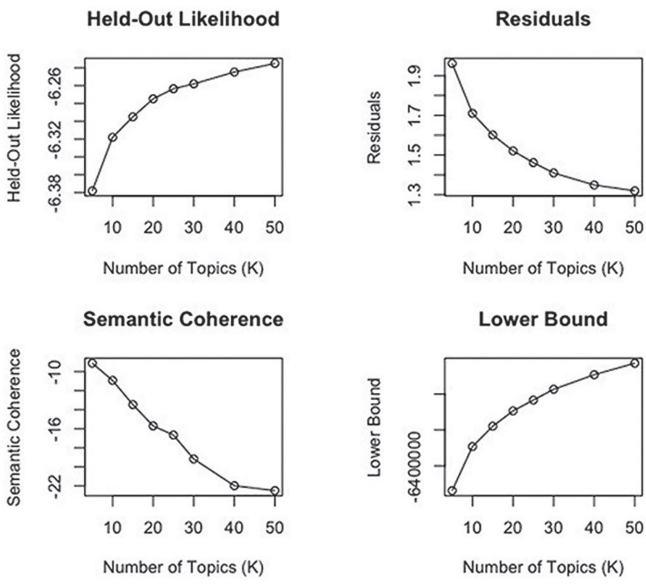
9 Annex

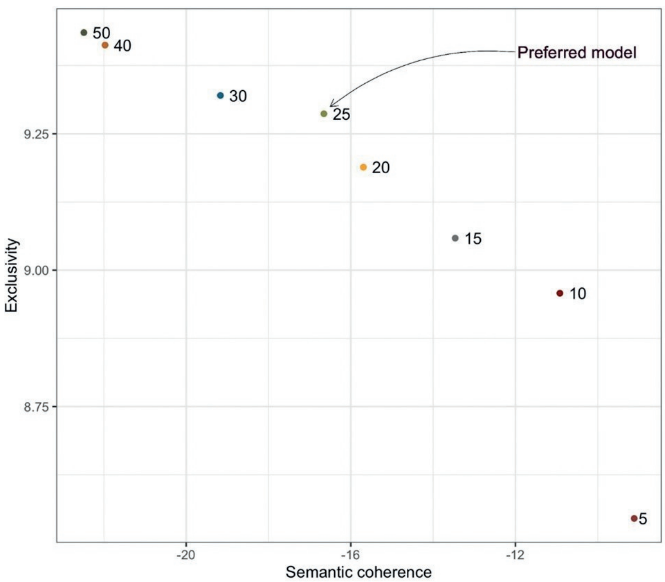
9.1 Chapter 4

APPENDIX 1: Justification for 25 topic model

The figures below justify the choice of 25 topics identified in the Structural Topic Modelling method. The graphs show that the optimal number of topics was 25, based on the trade-off between the linguistic coherence of topics and exclusivity.

Diagnostic Values by Number of Topics




50
40
30
25
20
15
10
5
Preferred model
9.25
9.00
8.75
Exclusivity
-20
-16
-12
Semantic coherence

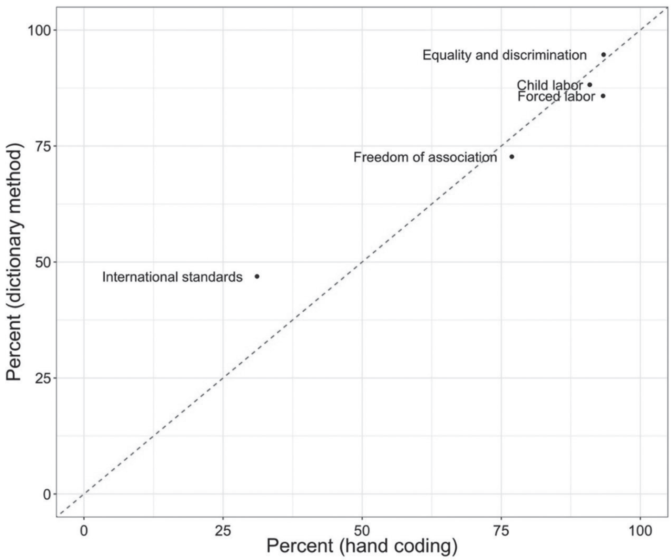
APPENDIX 2: Classifier for the dictionary-based method

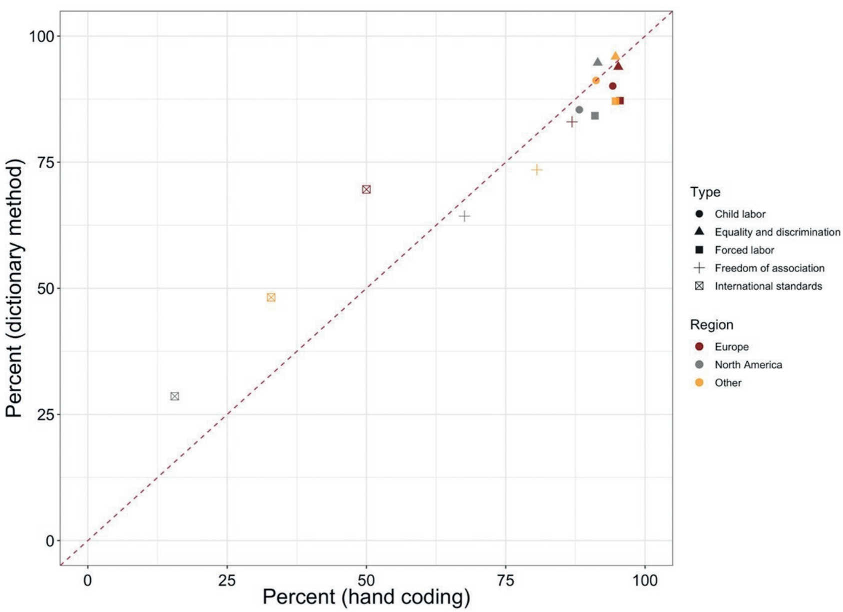
The table below lists the keywords included in the dictionary-based method for the identification of each variable.

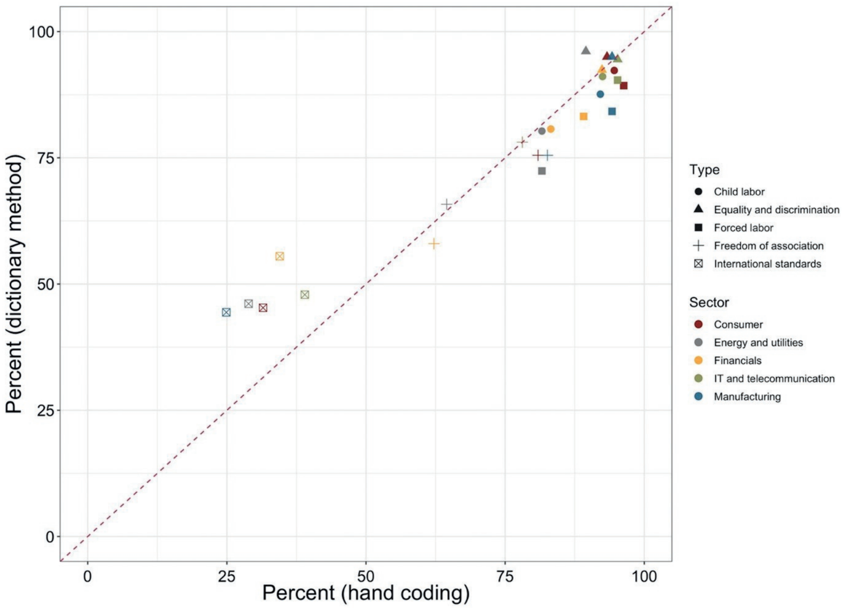
Category	Keywords
FORCED LABOR	Forced labo(u)r Compulsory labo(u)r Involuntary labo(u)r Bonded lab(o)ur Slavery Freely chosen employment
CHILD LABOR	Child Underage Minimum age
DISCRIMINATION	Discrimination Harassment Equal opportunity
FREEDOM OF ASSOCIATION	Freedom of Association Collective Bargaining Collectively bargain Bargain collectively Trade Union(s) Labo(u)r union(s) Associate freely Freely associate Worker(s) representation
HEALTH AND SAFETY	Health and Safety Safety and Health Occupational hazard
WAGES AND COMPENSATION	Remuneration Benefit(s) Compensation Wage(s)
WORKING HOURS	Working hours Hours of work Working time Overtime
INTERNATIONAL STANDARDS	ILO Declaration on Fundamental Principles and Rights at Work ILO Declaration 1998 ILO Conventions (UN) Universal Declaration of Human Rights UN Guiding Principles on Business and Human Rights (UN) Global Compact OECD Guidelines for Multinational Enterprises

APPENDIX 3: Scattered plot

The scattered plot below visually presents the result gap between the dictionary method and the hand coding. The closer the points are to the diagonal axis, the more similar results were for the hand coding and the dictionary method.



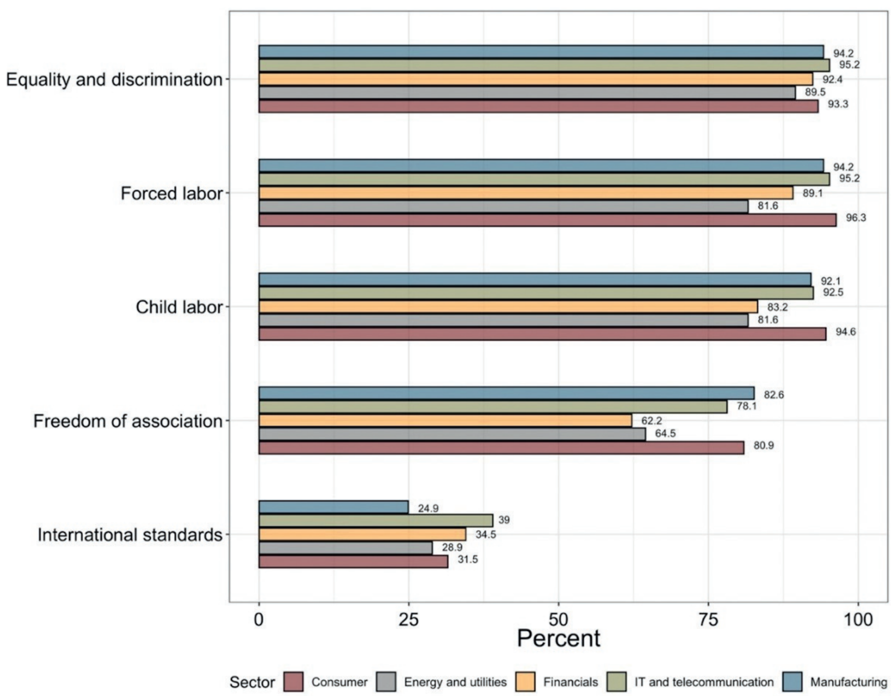



Percent (dictionary method)
100
75
50
25
0
Percent (hand coding)
0
25
50
75
100
Type
Child labor
Equality and discrimination
Forced labor
Freedom of association
International standards
Sector
Consumer
Energy and utilities
Financials
IT and telecommunication
Manufacturing

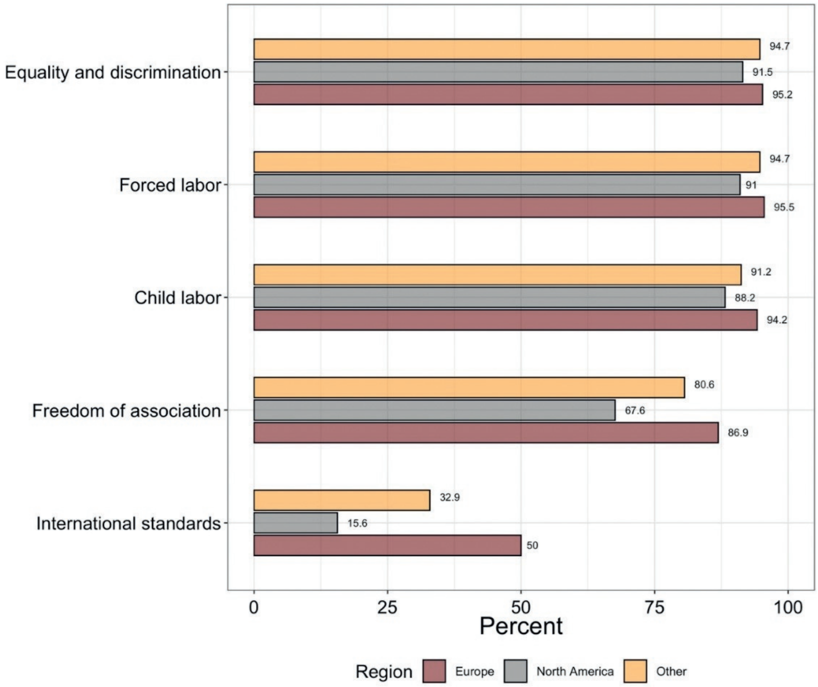
APPENDIX 4: Sector clustering

Clustering	Consumer	Energy and utilities	Financial	Manufacturing	IT and telecommunication
GICS sectors	Consumer Staples (72) Consumer Discretionary (109) Health Care (80) Real Estate (37)	Utilities (50) Energy (26)	Financials (119)	Industrials (147) Materials (94)	Information Technology (101) Communication (45)

APPENDIX 5: Variation of labor-related provisions across sector groups according to the manual coding



APPENDIX 6: Variation of labor-related provisions across geographical locations according to the manual coding



Appendix 7 : Labelling of the topics identified by the STM approach

	V1	V2	V3	V4	V5	V6	V7	V8	V9	V10	V11	V12
1	worker	grievanc	recruit	migrant	land	mechan	fee	sourc	mandatori	solut	young	agenc
2	gift	entertain	improp	intellectu	proprietari	offici	export	appear	behalf	accur	govern	anyth
3	human	declar	principl	nation	guid	global	fundament	intern	univers	unit	freedom	recogn
4	compani	director	offic	capit	one	corpor	depart	approv	violat	member	board	disclosur
5	vendor	patient	health	anti-corrupt	commerci	complianc	program	feder	state	forth	hotlin	permit
6	convent	ilo	undertak	labour	legisl	particular	attend	remuner	measur	defin	bank	refer
7	group	januari	subject	compact	site	guarante	kind	indirect	copi	met	page	local
8	shall	articl	contractor	order	purchas	entitl	least	notic	independ	upon	relev	establish
9	profession	ethic	transpar	therefor	channel	situat	market	research	interest	collabor	launder	peopl
10	sustain	charter	procur	reduc	develop	water	consumpt	carbon	csr	environment	strategi	purchas
11	allianc	particip	student	rba	hazard	ill	mainten	discharg	injuri	conform	worker	facil
12	partner	data	must	conflict	competit	code	agre	technolog	confidenti	sanction	export	abid
13	factori	audit	home	appendix	copi	site	food	store	print	critic	team	number
14	board	director	life	invest	committe	bank	june	stakehold	sharehold	coven	annual	societi
15	csr	etc	procur	region	societi	chemic	substanc	green	reduct	guidelin	establish	exampl
16	supplier	miner	conflict	code	gold	applic	complianc	must	briberi	reserv	expect	regul
17	personnel	credit	access	drug	premis	network	alcohol	possess	contact	softwar	email	media
18	anim	minim	hazard	welfar	releas	join	wast	emiss	scientif	treatment	labor	medic
19	parti	third	behalf	third-parti	public	industri	entertain	advantag	one	client	gift	agreement
20	workplac	violenc	water	incid	low	harass	safeti	wast	communiti	indigen	risk	injuri
21	divers	energi	inclus	expect	firm	valu	communiti	workforc	help	brand	opportun	reflect
22	deliveri	qualiti	product	manual	compon	packag	tool	materi	date	chang	purchas	section
23	never	speak	care	supervisor	alway	team	know	question	can	help	media	ask
24	facil	hour	overtim	wage	age	employ	week	compens	minimum	allow	child	whichev
25	modern	slaveri	recognis	organis	labour	breach	relev	behaviour	minimis	rais	authoris	chain

	V13	V14	V15	V16	V17	V18	V19	V20	LABEL
1	regular	deduct	leav	train	overtim	accommod	clear	next	Worker protection
2	payment	properti	prohibit	antitrust	other	trade	violat	trademark	Relationship with supplier
3	compact	labor	organ	bargain	convent	forc	child	form	International texts and standards
4	interest	committe	outsid	famili	financi	execut	subsidiari	appli	Unclear
5	code	target	subcontractor	anti-briberi	labor	agent	violat	must	Unclear
6	carri	iso	occup	corrupt	especi	guarante	contract	organis	International labour legislation
7	per	translat	entiti	hous	norm	engag	plc	print	Unclear
8	period	duti	provis	appoint	amend	deliveri	specifi	section	Unclear
9	money	public	privat	object	reput	guidelin	observ	principl	Unclear
10	approach	effici	climat	energi	recycl	improv	chain	solut	Environmental standards and sustainibility
11	identifi	electron	recogn	emerg	character	control	mother	releas	Unclear
12	extern	applic	market	interest	step	restrict	expect	complianc	Unclear
13	visit	document	ltd	produc	day	page	find	auditor	Auditing procedure
14	execut	member	risk	approach	amount	various	reinforc	enhanc	Unclear
15	disast	accid	effort	qualiti	contribut	activ	consider	request	Unclear
16	request	minimum	adher	anti-corrupt	traffick	environment	upon	integr	Unclear
17	regulatori	data	oblig	electron	supplier	comput	properti	background	Unclear
18	wastewat	young	freeli	reus	live	emerg	treat	system	Limiting environmental impact and risks
19	life	data	offici	perceiv	given	improp	deal	proprietari	Unclear
20	manag	transport	physic	hazard	identifi	environ	greenhous	health	Prevention against risks and occupational hazards
21	commit	share	live	believ	highest	goal	equal	integr	Corporate ethical values
22	specif	manufactur	process	cost	label	part	point	traceabl	Product quality
23	insid	competitor	make	colleagu	sure	thing	feel	even	Unclear
24	disciplinari	labor	regular	exceed	higher	least	bond	prison	Labor rights and minimum working conditions
25	suppli	whistleblow	polici	tax	contractor	evas	claus	plc	Unclear

9.2 Chapter 5

ANNEX 1

Results of study 1 broken down per sector and geographic location

Crosstabulation expert assessment with geographic location

	No code	No provision	Recommendations to suppliers	Obligations to suppliers	Obligations to companies	Corrective Action Plans	Total
Asia	108	31	6	43	12	0	200
Europe	72	28	28	155	54	11	348
Latin America	30	2	5	2	1	0	40
North America	209	36	36	264	33	10	588
Oceania	12	4	6	28	11	4	65
Total	431	101	81	492	111	25	1241

Crosstabulation expert assessment with sectors

	No code	No provision	Recommendations to suppliers	Obligations to suppliers	Obligations to companies	Corrective Action Plans	Total
Communication	30	5	3	24	7	0	69
Consumer Discretionary	49	10	8	55	18	5	145
Consumer Staples	16	5	6	44	12	5	88
Energy	36	7	0	11	2	0	56
Financials	86	20	18	54	20	1	199
Health Care	36	8	5	59	2	2	112
Industrials	61	19	15	79	22	4	200
Information Technology	37	7	7	71	8	1	131
Materials	27	5	8	55	10	4	109
Real Estate	25	9	4	17	5	1	61
Utilities	28	6	7	23	5	2	71
Total	431	101	81	492	111	25	1241

Crosstabulation number of management systems geographic location

	No code	0 category	1 category	2 categories	3 categories	4 categories	5 categories	Total
Asia	108	42	15	7	11	7	10	200
Europe	72	50	57	84	55	23	7	348
Latin America	30	4	2	1	1	2	0	40
North America	209	71	80	102	66	31	29	588
Oceania	12	12	14	13	8	6	0	65
Total	431	179	168	207	141	69	46	1241

Crosstabulation number of management systems with sectors

	No code	0 category	1 category	2 categories	3 categories	4 categories	5 categories	Total
Communi-cation	30	12	9	11	6	0	1	69
Consumer Discretionary	49	16	23	17	29	8	3	145
Consumer Staples	16	9	20	18	12	11	2	88
Energy	36	6	8	4	1	1	0	56
Financials	86	31	27	37	9	8	1	199
Health Care	36	14	11	18	24	7	2	112
Industrials	61	40	19	43	19	15	3	200
Information Technology	37	13	12	13	13	11	32	131
Materials	27	16	16	29	14	5	2	109
Real Estate	25	15	8	6	6	1	0	61
Utilities	28	7	15	11	8	2	0	71
Total	431	179	168	207	141	69	46	1241

ANNEX 2

Full correlation matrix for study 2

	KTC Global score	KTC Management and accountability	KTC Training	KTC Stakeholder engagement	KTC Traceability	KTC Risk Assessment	KTC Purchaasing practices	KTC Worker Engagement	KTC Freedom of association
KTC Global score	1								
KTC Management and accountability	.690**	1							
KTC Training	.841**	.670**	1						
KTC Stakeholder engagement	.816**	.557**	.734**	1					
KTC Traceability	.673**	.389**	.459**	.559**	1				
KTC Risk assessment	.820**	.626**	.681**	.725**	.514**	1			
KTC Purchasing practices	.745**	.536**	.581**	.673**	.511**	.587**	1		
KTC Worker Engagement	.764**	.379**	.593**	.643**	.475**	.622**	.580**	1	
KTC Freedom of association	.545**	.189	.311**	.382**	.222*	.445**	.606**	.616**	1
KTC Grievance mechanisms	.786**	.564**	.628**	.672**	.465**	.623**	.605**	.617**	.485**
KTC Monitoring	.914**	.602**	.786**	.673**	.542**	.710**	.604**	.696**	.454**
KTC Corrective action plans	.842**	.684**	.734**	.624**	.510**	.698**	.559**	.556**	.342**
KTC Remedy	.883**	.691**	.757**	.678**	.568**	.710**	.594**	.556**	.348**
Implementation keywords: Number of catgories referred to	.119	.149	.033	.155	.189	.107	.111	.081	-.087
Frequency of 'Transparency' keywords	.098	-.029	-.010	.101	.241*	-.058	.090	.068	-.100
Frequency of 'Risk assessment' keywords	.022	.039	-.002	.150	-.082	.023	-.033	.003	-.079
Frequency of 'Training' keywords	.214	.108	.012	.166	.306**	.206	.054	.165	-.092
Frequency of 'Corrective action process' keywords	-.052	.060	-.047	.063	-.013	-.040	-.111	-.049	-.175
Frequency of 'Reporting procedures' keywords	.245*	.203	.184	.117	.237*	.209	-.018	.187	.057
Expert assessment	.109	.195	.047	.134	.075	.173	.136	.099	.037

KTC Grievance mechanisms	KTC Monitoring	KTC Corrective action plans	KTC Remedy	Implementation keywords: Number of categories present	Frequency of 'Transparency' keywords	Frequency of 'Risk assessment' keywords	Frequency of 'Training' keywords	Frequency of 'Corrective action process' keywords	Frequency of 'Reporting procedures' keywords	Expert assessment
1										
.659**	1									
.604**	.809**	1								
.664**	.820**	.935**	1							
.092	.043	.110	.137	1						
-.010	.097	.085	.101	.579**	1					
.158	-.042	.103	.075	.283**	.150**	1				
.265*	.164	.144	.134	.498**	.366**	.420**	1			
.063	-.147	.025	.055	.470**	.193**	.570**	.252**	1		
.174	.223	.200	.170	.386**	.066	.016	.077*	.075*	1	
.121	.042	.154	.176	.818**	.216**	.276**	.193**	.329**	.185**	1

9.3 Chapter 6

Annex 1: Topic list and example questions

Ice breaker: Can you introduce yourself, and your position within your company?

TOPIC 1: Adopting a code of conduct for global supply chains.

- Please describe your global supply chains and the suppliers you work with And the main environmental and human risks arising in your supply chains?
- Why has your company adopted a supplier code of conduct?
- Were you involved in the process? Who is in charge of adopting the code?
  And with whom?
- What standards are important to you / your company, in the codes of conduct and in practice?
- Which (national/international) incentives influence your CSR business practices (if any)? (Factors of influence)

TOPIC 2: Implementing supplier codes of conduct.

- Who oversees the code implementation within your organization?
- How is the SCC integrated in supplier contracts?
- What is your company currently doing to implement your codes of conduct?
- What challenges encountered in the implementation of your SCC in global supply chains? What solutions brough forward?
- To what extent have you noticed a change of practices in the past few years?

TOPIC 3: Assessing the effect of due diligence laws.

- Are you familiar with the due diligence EU Directive proposal?
- How do you expect the Directive to affect your business practices? What are the organizational changes to be expected in the way CSR is dealt with in your enterprise?
- How do you expect the Directive to affect your supplier codes of conduct and its implementation?
- How do you expect the Directive to affect your relationship / contracts with suppliers?
- What is your opinion on these laws?

Do you have any final remarks? This is your opportunity to discuss anything that was left aside in this conversation but that you wish to touch upon.

Annex 2: Table describing the Atlas.TI code book

Code group	Code name
Development of SCC	Reasons for SCC adoption Time SCC adoption Team adopting SCC Support from public institutions Implementing codes – Who? SCC and Human rights policies Governance: role of SCC Inspiration content SCC content Importance of HR experts UNGP influence SCC in contract
Evolution & restructuring	Team of HR experts Evolution of HR interest New code Public sector support Evolution: Corporate restructuring Evolution: New tool Environment & sustainability before UNGP influence
Implementation challenges	Collaboration with procurement Stakeholder engagement Collaboration with suppliers HR embeddedness in practice Difficulties in measuring SCC compliance Mapping at-risk suppliers Supplier leverage Costs of implementation HR not a priority Cascading down the supply chain Internal gov collaboration
Implementation good practices	Implementation tools Efforts for supplier-buyer relationship Internal awareness raising Internal workshops Supplier monitoring Grievance Whistleblowing E-learning Internal gov collaboration
Legal framework potential impact	Benefits of the laws SMEs difficulties CSDDD: Companies in favour Too much freedom for companies CSDDD: too early CSDDD: Administrative burden Mandatory obligation = action Compliance ticking box CSDDD: Ressources needed CSDDD: HR as a priority CSDDD: Gaps with practice Competition difficulties Deficits of the law CSDDD: Level playing field SCC in contract Importance of HR experts

Summary

Navigating corporate responsibility in global supply chains using codes of conduct

In the interconnected world of global commerce, the clothes we wear and the gadgets we use are produced in complex supply chains spanning across multiple countries and involving diverse actors. While this global production system benefits European consumers and supports a global free-market economy, it also exposes deep social injustices, particularly concerning workers' rights. Issues such as forced labor, child exploitation, discrimination, and limited access to collective bargaining rights frequently arise for workers within supply chains. Tragic human rights events – most famously the Rana Plaza disaster – have highlighted these challenges, emphasizing the urgent need to ensure fair and sustainable working conditions across production networks. In this context, civil society and consumers are increasingly demanding that multinational corporations adopt responsible practices, social policies, and integrate the protection of human rights into their operations. The role that multinationals must play in addressing labor issues beyond their corporate walls is at the heart of a contemporary debate, questioning the *raison d'être* of these powerful private actors and their broader societal obligations.

This dissertation is based on the premise that companies have a social responsibility extending beyond their economic role. As key transnational economic and political actors, multinationals must contribute to preventing human rights violations wherever they operate, sharing a responsibility to fight against social injustice. This responsibility applies not only to their direct employees but also to external stakeholders, including towards workers within their global supply chains. My research evaluates the extent to which companies recognize this responsibility and incorporate human rights protection into their business practices.

Evidence of the integration of human rights considerations within business practices can be found in their corporate social responsibility (CSR) policies, and most commonly, their codes of conduct. These codes aim to establish ethical benchmarks, including minimum labor standards, to be complied with throughout the supply chain. Adopted by multinationals for their business partners, they are considered to be forms of 'private regulation' of supply chains, and represent a hope for a global regulation of labor standards. However, corporate efforts towards social rights have faced criticism regarding their effectiveness and practical implementation. Anti-sweatshop movements, for instance, denounce superficial measures or "window dressing" practices conducted by multinationals. Critics argue that the standards articulated in codes are rarely implemented in practice,

creating a gap between public commitments and concrete actions regarding social efforts in supply chains. This research seeks to provide data and analyze the situation to answer key questions: What are companies truly saying in their codes of conduct, and what happens beyond the standards setting?

Codes of conduct, as a policy at the border between law (even referred to as 'self-regulation') and business practice, require an interdisciplinary approach using law, business studies, social sciences, and political sciences. By focusing on multinationals' practices to implement minimum labor standards, I hope to contribute to understanding how codes of conduct are adopted and implemented and investigates the limits of private regulation in supply chains. To this end, I use empirical methods to analyze corporate practices and commitments regarding the protection of labor standards.

This dissertation employs a 'compilation dissertation' format, consisting of four distinct articles that individually address various facets of codes of conduct adoption and implementation, reflecting corporate commitments to labor standards within global supply chains. Following an introduction to the topic and the theoretical building blocks, Chapter 2 presents the legal framework surrounding corporate responsibility and codes of conduct with a doctrinal approach. It demonstrates that, although codes belong to the soft law sphere, recent legal developments render codes increasingly mandatory, towards legal pathways to enforce codes. Yet, the analysis shows that codes' enforceability remains at the discretion of multinationals.

Subsequently, Chapter 3 examines the effectiveness of SCCs through a systematic literature review, synthesizing empirical studies to answer: What do we know about the effectiveness of SCCs in improving labor standards in global supply chains? The chapter identifies existing knowledge and gaps in the research, forming a critical foundation for the empirical analyses conducted in the following chapters. Chapter 4 offers a quantitative textual analysis of the content of SCCs, mapping the labor standards and commitments articulated by multinationals. Statistical analysis reveals that most companies include a list of core labor rights in their codes, where the abolition of forced labor, child labor, and discrimination are explicitly included, and noticing some geographical and sectorial differences.

Following the analysis of the content of codes regarding labor standards, the next two chapters focusses on their implementation. Chapter 5 scrutinizes the internal management systems companies employ to enforce their codes. Utilizing the same Database from Chapter 4 and comparing it with data from the NGO KnowtheChain, this chapter evaluates the alignment between corporate commitments and actual practices. Findings reveal a lack of evidence supporting the notion that increased commitments articulated in SCCs equate to improved management practices. This suggests a disparity between the formulation of policies and their practical executions, or a gap between the *talk* and the *walk*. Finally, Chapter 6 presents a qualitative study based on interviews with human rights experts within multinationals, examining the entire process from SCC adoption to implementation. This chapter assesses the internal perception of codes of conduct as seen by human rights experts, and their role in tackling supply chain labor issues. It also connects these efforts to the evolving legal framework on mandatory human rights due diligence, exploring the anticipated impact of the due diligence directive. The study reveals that some human rights experts within multinationals acknowledge the lack of appropriate tools to ensure codes' impact and the overall lack of awareness of SCCs and human rights standards within the company. This lack of awareness likely extends to the supplier level as well. Despite these somewhat negative results on codes' implementation, some factors influencing code implementation are observed, which serve as contributions to the practice. To enhance implementation, improvements can be made at four distinct levels: (1) Implementation of codes within companies (thus: buyer level), (2) Integration of the codes' standards within the buyer-supplier relationship, (3) Implementation at supplier level, and (4) External influences on code implementation.

The concluding chapter stresses the importance of a binding framework regulating corporate voluntary responsibility towards human rights, considering the gaps between what companies say – the "talk" – and what their actions – the "walk". By reflecting on the developing legal framework on mandatory human right due diligence and highlighting the persistent challenges in implementing labor rights, this thesis conveys the following message: the current global production system tainted by inequalities and labor exploitation calls for a transition – one that must also be pushed by the public actor, but where the private actor must hold an important role as the public / private divide is fading. Social interests should be at the heart of this transition, meaning that companies' primary objectives can no longer be driven solely by capitalist profit-driven objectives. Codes of conduct, as instruments setting standards for global supply chains, are a good first step in this direction to start the discussion on human rights protection, but they must be strengthened and valued to represent a pillar of the company's activities, where the social mission of the private actor becomes a core objective of the organization.

Samenvatting

Navigeren door bedrijfsmatige verantwoordelijkheid in wereldwijde toeleveringsketens met behulp van gedragscodes

In de verweven wereld van de mondiale handel zijn de kleding die we dragen en de apparaten die we gebruiken het resultaat van complexe toeleveringsketens die zich over meerdere landen uitstrekken en diverse actoren betrekken. Hoewel dit mondiale productiesysteem Europese consumenten voordelen biedt en bijdraagt aan een vrijemarkteconomie, legt het ook diepe sociale ongelijkheden bloot, met name op het gebied van arbeidsrechten. Problemen zoals gedwongen arbeid, kinderarbeid, discriminatie en beperkte toegang tot collectieve onderhandelingsrechten komen regelmatig voor bij werknemers in toeleveringsketens. Tragische gebeurtenissen zoals de ramp met Rana Plaza hebben deze kwesties onder de aandacht gebracht en benadrukken de noodzaak van eerlijke en duurzame arbeidsomstandigheden in productienetwerken. In dit kader groeit de roep vanuit de samenleving en bij consumenten voor multinationale ondernemingen om verantwoordelijke praktijken te hanteren, sociale beleidsmaatregelen te integreren en mensenrechten te beschermen binnen hun activiteiten. De rol van multinationals bij het aanpakken van arbeidskwesties in hun toeleveringsketens staat centraal in een actueel debat, waarin zowel de legitimiteit van deze machtige private actoren als hun bredere maatschappelijke verantwoordelijkheden kritisch onder de loep worden genomen.

Deze dissertatie is gebaseerd op de aanname dat bedrijven een sociale verantwoordelijkheid hebben die verder gaat dan hun economische rol. Als belangrijke transnationale economische en politieke actoren moeten multinationals bijdragen aan het voorkomen van mensenrechtenschendingen, waar ze ook opereren. Deze verantwoordelijkheid geldt niet alleen voor hun directe werknemers, maar strekt zich ook uit tot externe stakeholders, zoals zakenpartners en werknemers binnen hun mondiale toeleveringsketens. Mijn onderzoek evalueert in hoeverre bedrijven deze verantwoordelijkheid erkennen en mensenrechtenbescherming in hun bedrijfspraktijken integreren.

In reactie op maatschappelijke verwachtingen hebben bedrijven beleid voor maatschappelijk verantwoord ondernemen (MVO) ingevoerd, zoals de implementatie van gedragscodes. Deze codes zijn bedoeld om ethische normen vast te stellen, waaronder minimale arbeidsnormen, waaraan moet worden voldaan in de hele toeleveringsketen. Deze vorm van private regulering biedt hoop op mondiale regulering van arbeidsnormen, aangezien multinationals via deze codes beogen arbeidsnormen vast te stellen die in de hele keten moeten worden nageleefd. Deze inspanningen hebben echter kritiek gekregen op hun effectiviteit en praktische implementatie. Antisweatshopbewegingen hekelen bijvoorbeeld oppervlakkige maatregelen of «window dressing»-praktijken van multinationals. Critici beweren dat de normen die in codes worden vastgelegd zelden in de praktijk worden nageleefd, waardoor er een kloof ontstaat tussen publieke beloften en concrete acties met betrekking tot sociale inspanningen in toeleveringsketens. Dit onderzoek heeft als doel gegevens te verstrekken en de situatie te analyseren om belangrijke vragen te beantwoorden, zoals: Wat zeggen bedrijven werkelijk in hun gedragscodes, en wat gebeurt er voorbij het vaststellen van normen?

Gedragscodes, als beleid op het snijvlak van recht (vaak aangeduid als 'zelfregulering') en bedrijfspraktijk, vereisen een interdisciplinair onderzoek dat inzichten uit het recht, de bedrijfskunde, de sociale wetenschappen en de politieke wetenschappen combineert. Deze dissertatie draagt, door te focussen op de bedrijfspraktijken van multinationals bij de implementatie van minimale arbeidsnormen in mondiale toeleveringsketens, bij aan het begrip van hoe gedragscodes worden aangenomen en uitgevoerd. Tegelijkertijd onderzoekt het de beperkingen van private regulering. Hiervoor maak ik gebruik van empirische methoden om bedrijfspraktijken en verplichtingen met betrekking tot de bescherming van arbeidsnormen te analyseren.

Deze dissertatie volgt een 'compilatievorm', bestaande uit vier afzonderlijke artikelen die elk verschillende aspecten behandelen van de adoptie en implementatie van gedragscodes en de betrokkenheid van bedrijven bij arbeidsnormen in mondiale toeleveringsketens. Na een inleiding op het onderwerp en de theoretische basis, presenteert hoofdstuk 2 het juridische kader rond corporate responsibility en gedragscodes met een doctrinaire benadering. Het laat zien dat, hoewel codes behoren tot de sfeer van soft law, recente juridische ontwikkelingen gedragscodes steeds meer afdwingbaar maken via juridische wegen. Toch toont de analyse aan dat de afdwingbaarheid van codes grotendeels afhankelijk blijft van multinationals zelf. Vervolgens onderzoekt hoofdstuk 3 de effectiviteit van gedragscodes via een systematische literatuurstudie, waarin empirische studies worden gesynthetiseerd om de vraag te beantwoorden: Wat weten we over de effectiviteit van gedragscodes bij het verbeteren van arbeidsnormen in mondiale toeleveringsketens? Dit hoofdstuk identificeert bestaande kennis en lacunes in het bestaande onderzoek, wat een kritische basis vormt voor de empirische analyses in de daaropvolgende hoofdstukken. Hoofdstuk 4 biedt een kwantitatieve tekstanalyse van de inhoud van gedragscodes, waarbij de arbeidsnormen en verplichtingen van multinationals in kaart worden gebracht. Statistische analyses laten zien dat de meeste bedrijven een lijst van kernarbeidsrechten opnemen in hun codes, waarbij de afschaffing van dwangarbeid, kinderarbeid en discriminatie expliciet wordt genoemd, met enkele geografische en sectorale verschillen.

Na de analyse van de inhoud van codes met betrekking tot arbeidsnormen richten de volgende twee hoofdstukken zich op de implementatie ervan. Hoofdstuk 5 onderzoekt de interne managementsystemen die bedrijven gebruiken om hun codes te handhaven. Met behulp van dezelfde database als in hoofdstuk 4 en gegevens van de NGO KnowTheChain evalueert dit hoofdstuk de afstemming tussen bedrijfsverplichtingen en praktische uitvoering. De bevindingen tonen een gebrek aan bewijs dat versterkte verplichtingen in gedragscodes leiden tot verbeterde managementpraktijken. Dit suggereert een kloof tussen het formuleren van beleid en de praktische uitvoering ervan, ofwel een kloof tussen woorden en daden. Hoofdstuk 6 presenteert een kwalitatieve studie gebaseerd op interviews met mensenrechtenexperts binnen multinationals en onderzoekt het volledige proces van adoptie tot implementatie van gedragscodes. Dit hoofdstuk beoordeelt de interne perceptie van gedragscodes zoals ervaren door mensenrechtenexperts en hun rol bij het aanpakken van arbeidskwesties in toeleveringsketens. Ook worden deze inspanningen gekoppeld aan het zich ontwikkelende wettelijke kader voor verplichte due diligence op het gebied van mensenrechten en wordt het verwachte effect van de due-diligencerichtlijn onderzocht.

Het slothoofdstuk benadrukt het belang van een bindend kader voor het reguleren van vrijwillige maatschappelijke verantwoordelijkheid van bedrijven voor mensenrechten, gezien de kloof tussen wat bedrijven zeggen – het ‘woord’” – en wat ze doen – de “daad”. Codes van gedrag bieden een eerste stap in de richting van een discussie over mensenrechtenbescherming, maar mechanismen voor implementatie moeten worden versterkt om een centrale pijler van bedrijfsactiviteiten te vormen, waarbij de sociale missie van de private actor een kernrol krijgt in de organisatie.

Résumé

Explorer la responsabilité sociale des entreprises au sein des chaînes d'approvisionnement mondiales à l'aide de codes de conduite

Dans le monde interconnecté du commerce mondial, les vêtements que nous portons et les produits que nous consommons sont le fruit de chaînes d'approvisionnement complexes, s'étendant sur plusieurs pays et impliquant divers acteurs. Si ce système de production mondiale bénéficie aux consommateurs européens et contribue à une économie de marché mondiale appréciée des libéraux, il expose également de profondes injustices sociales, notamment liées les droits des travailleurs. Des risques d'atteinte aux droits humains tels que le travail forcé, l'exploitation des enfants, la discrimination et l'accès limité aux droits de négociation collective apparaissent régulièrement pour les travailleurs des chaînes d'approvisionnement. Des événements tragiques relatifs aux droits de l'homme – dont le plus célèbre est l'effondrement du Rana Plaza au Bangladesh en 2015 – ont mis en évidence ces défis, soulignant l'urgence de garantir des conditions de travail justes et durables au sein des réseaux de production. Dans ce contexte, la société civile et les consommateurs appellent de plus en plus les multinationales à adopter des pratiques responsables et à intégrer la protection des droits humains dans leurs activités. Le rôle que doivent jouer les multinationales pour aborder les enjeux sociaux dans leurs chaînes d'approvisionnement est au cœur d'un débat contemporain, remettant en question la raison d'être de ces puissants acteurs privés et leur mission envers la société.

Cette thèse repose sur le postulat que les entreprises ont une responsabilité sociale allant au-delà de leur rôle économique. En tant qu'acteurs transnationaux économiques *et* politiques essentiels, les multinationales doivent contribuer à prévenir les violations des droits humains, où qu'elles opèrent. Cette responsabilité s'applique non seulement à leurs employés directs, mais aussi à leurs parties prenantes externes, y compris aux travailleurs au sein de leurs chaînes d'approvisionnement mondiales. Ma recherche évalue dans quelle mesure les entreprises reconnaissent cette responsabilité et intègrent la protection des droits humains dans leurs pratiques commerciales.

L'intégration des considérations relatives aux droits humains dans les pratiques d'entreprises se reflète dans les politiques de Responsabilité Sociale des Entreprises (RSE), et ce particulièrement dans leurs codes de conduite – un document largement utilisé. Les « codes de conduite » visent à établir des référentiels éthiques, incluant des standards minimaux pour les travailleurs, qui doivent être respectées tout au long de la chaîne d'approvisionnement. Adoptés par les multinationales pour réguler leurs partenaires commerciaux, les codes de conduites constituent une forme de régulation privée des chaînes d'approvisionnement, représentant un espoir

pour une régulation mondiale des normes de travail. Cependant, les efforts des entreprises en matière de droits sociaux font l'objet de critiques quant à leur efficacité et à leur mise en œuvre pratique. Les mouvements *anti-sweatshop* dans l'industrie du textile, par exemple, dénoncent des mesures superficielles ou des pratiques de "window dressing" menées par les multinationales. Les critiques affirment que les standards formulés dans les codes sont rarement suivis d'actions concrètes, créant un fossé entre les discours publics et les moyens pour les mettre en œuvre. Cette recherche vise à fournir des données et à analyser cette situation, afin de mieux comprendre: Que disent réellement les entreprises dans leurs codes de conduite, et quelles actions concrètes ont lieu au-delà des engagements formulés ?

Les codes de conduite, en tant que politiques se situant à l'intersection du droit (souvent qualifiées d'« autorégulation ») et des pratiques commerciales, nécessitent une approche interdisciplinaire intégrant le droit, les sciences de gestion, les sciences sociales et les sciences politiques. Cette étude se concentre sur les processus d'adoption et de mise en œuvre de ces codes, afin d'explorer les limites de la régulation privée dans les chaînes d'approvisionnement. Pour ce faire, j'utilise des méthodes empiriques quantitative et qualitative, pour analyser les engagements publics des entreprises envers les droits des travailleurs, et leurs mises en pratiques. Cette thèse adopte le format de « thèse compilée », constituée de quatre articles distincts qui abordent individuellement différents aspects de l'adoption et de la mise en œuvre des normes liées aux droits des travailleurs dans les codes de conduite. En plus de ces quatre articles, un premier chapitre introduit le sujet et les fondements théoriques de la recherche, un second chapitre présente le cadre juridique, et le chapitre conclusif discute des résultats apportés.

Le chapitre 2 décrit donc le régime de responsabilité des entreprises, et les impacts juridiques des codes de conduite selon une approche doctrinale. Il montre que, bien que les codes relèvent de la sphère du droit souple (« soft law ») en étant adoptés volontairement par les entreprises, les développements juridiques récents rendent les codes de plus en plus obligatoires, et diversifient les voies juridiques pour faire appliquer les codes. Cependant, l'analyse montre que l'applicabilité des codes reste à la discrétion des multinationales. Le chapitre 3 analyse ensuite l'efficacité des codes de conduite pour améliorer les droits des travailleurs, à travers une revue systématique de la littérature. Celle-ci synthétise les études empiriques existantes, afin de répondre à la question: Que savons-nous de l'efficacité des codes de conduite pour améliorer les normes du travail dans les chaînes d'approvisionnement mondiales ? Ce chapitre dresse un bilan des connaissances disponibles et met en lumière les lacunes de la recherche, fournissant ainsi une base critique pour les analyses empiriques présentées dans les chapitres suivants. Le chapitre 4 propose une analyse textuelle quantitative du contenu des codes de conduite, visant à décrire les engagements des multinationales pris lors de l'adoption de leur code, les cartographier et les comparer. L'analyse statistique révèle que la majorité des entreprises intègrent des droits sociaux fondamentaux dans leurs codes, tels que l'abolition du travail forcé, du travail des enfants et de la discrimination. Les résultats soulignent aussi des variations géographiques et sectorielles dans le contenu des codes.

Les chapitres suivants se concentrent sur la mise en œuvre des codes. Le chapitre 5 examine les systèmes de gestion et de management mis en place par les entreprises pour appliquer leurs codes. En utilisant la même base de données que le chapitre 4, et en la comparant avec les données de l'ONG KnowTheChain, ce chapitre évalue l'alignement entre les engagements des entreprises et leurs pratiques concrètes. Les résultats ne montrent pas de lien évident entre la qualité des engagements formulés dans les codes de conduite, et l'amélioration des pratiques concrètes. Cela met en évidence un décalage entre les promesses faites par les entreprises et leur mise en œuvre en pratique. Enfin, le chapitre 6 présente une étude qualitative basée sur des entretiens avec des experts en droits humains au sein des multinationales, analysant le processus complet des politiques RSE, de l'adoption à la mise en œuvre des codes. L'étude explore également le cadre juridique en développement concernant le devoir de vigilance, en examinant l'impact anticipé de la directive européenne à ce sujet.

Le chapitre de conclusion souligne la nécessité d'un cadre contraignant pour encadrer la responsabilité des entreprises en matière de droits humains, face à l'écart persistant entre leurs déclarations publiques et leurs actions concrètes. Le système de production mondial, marqué par des inégalités et des violations des droits sociaux, exige une transition profonde, initiée par les acteurs publics mais nécessitant une implication croissante des entreprises. Les intérêts sociaux doivent occuper une place centrale dans cette transition, imposant aux entreprises de dépasser une logique purement lucrative pour intégrer une mission sociale au cœur de leur stratégie. Les codes de conduite constituent une première étape en matière de régulation privée, mais leurs mécanismes d'application doivent être renforcés pour devenir un véritable pilier des activités des entreprises. Cela implique une refonte de leur rôle et de leur responsabilité au sein de la société. Parallèlement, l'acteur public doit jouer un rôle fondamental en tant que garant de l'intérêt général, en guidant les entreprises vers des pratiques responsables, en assurant une justice sociale dans les chaînes d'approvisionnement, et en sanctionnant les comportements contraires aux droits des travailleurs. Cette dynamique, où les responsabilités des acteurs privés et publics se croisent, est essentielle pour bâtir un système économique plus juste et durable.

Ces réflexions sur la limite de la régulation privée sont partagées à un moment charnière, où le législateur européen est en train d'introduire des obligations imposant aux multinationales d'assurer des chaînes d'approvisionnement sociales et durables. En apportant des données empiriques sur les pratiques des entreprise, cette thèse espère contribuer au débat sur une gouvernance efficace et éthique des conditions de travail dans les chaînes d'approvisionnement mondiales.

Curriculum Vitae

Sarah Vandenbroucke, born in Lille (France), holds a bachelor's degree in law from the Université de Lille 2, an LL.M. in European Law from Leiden Law School (2017), and a joint Master's in Organisation and Labour Studies from the University of Toulouse 1 Capitole and the Graduate School of Social Sciences of Amsterdam (2018). She has previously worked at the Parliamentary Assembly of the Council of Europe in the Committee on Equality and Non-Discrimination in Strasbourg (France), the International Labour Organisation regional office for South-East Asia in Delhi (India), and as a consultant for European institutions on social and employment policies in Brussels (Belgium).

Her deep interest in human rights, labor rights, organizational sociology, and international governance led her to pursue a PhD at the Business Studies Department of Leiden Law School of Leiden University, where she began her research on March 15th, 2020. During the four years of her PhD, Sarah taught in the European and International Human Rights Advanced Master at Leiden Law School, coordinated the Empirical Legal Studies Lab and chaired the PhD Committee of her Faculty.

Sarah has broadened her expertise as a visiting researcher at the European University Institute in Florence, Italy, for six months in 2023. Her commitment to Business and Human Rights, as well as her passion for social justice and ethics, is reflected in her active involvement with the Netherlands Network for Human Rights Research and L'Observatoire de l'Ethique Publique, a French think tank on public ethics. She continues to be an active academic member and holds coordinating roles in both organizations.

In the range of books published by the Meijers Research Institute and Graduate School of Leiden Law School, Leiden University, the following titles were published in 2023 and 2024

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INSTITUUT VOOR RECHTSWETENSCHAPPELIJK ONDERZOEK

In today's interconnected world, the clothes we wear and gadgets we use are produced through complex supply chains, stretching across countries and involving multiple entities. This system of global production reveals profound social injustices, including forced labor, child exploitation, discrimination, and limited access to collective bargaining. Tragedies like the Rana Plaza disaster highlight the urgent need for fair and sustainable working conditions in supply chains. In response, civil society and consumers increasingly demand that multinational corporations act responsibly by integrating human rights into their practices.

To meet societal expectations, businesses have adopted corporate social responsibility (CSR) policies, including codes of conduct, to set ethical benchmarks for labor standards. By drafting codes, multinationals accept to endorse a social responsibility for their supply chains – at least on paper. But what are companies really saying in codes of conduct, and what happens beyond the labor standards set in codes?

This socio-legal dissertation examines the promises of multinationals, exploring the gap between commitments on paper and actions in practice. The quantitative and qualitative methods analyze the content of codes of conduct, their enforcement mechanisms, and the shortcomings of corporate self-regulation. These insights are timely as the European Union introduces new regulations to ensure sustainable and ethical supply chains.

This is a volume in the series of the Meijers Research Institute and Graduate School of the Leiden Law School of Leiden University. This study is part of the Law School's research programme 'Coherent privaatrecht '.