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1. Introduction

The coronavirus pandemic (Covid-19) is having an unprecedented impact on economies all over the world, exacerbating the already precarious workers' conditions at all levels of the global supply chains and highlighting how fragile they are. The global crises revealed the existence of a system based on precarious forms of work, low wages, unsafe and dangerous workplaces, excessive working time and hostility to the trade union phenomenon. Such a system has direct effects on employees of the lead companies, as well as on contractors, suppliers, and third parties who reiterate these precarious conditions due to low costs of production and globalization processes not governed by rules of law. In this scenario, the challenges for companies are: to overcome the extraordinary economic crises, resume activities on a global scale, making their businesses work better, and building more secure and resilient¹

¹ The OECD defines resilience as “the ability of households, communities and nations to absorb and recover from shocks, whilst positively adapting and transforming their structures and means for living in the face of long-term stresses, change and uncertainty. Resilience is about addressing the root causes of crises while strengthening the capacities and resources of a system in order to cope with risks, stresses and shocks” in OECD, *Risk and resilience*, 2019, <https://www.oecd.org/dac/conflict-fragility-resilience/risk-resilience/>.

supply chains. According to *Fortune*², the 94% of the biggest companies have suffered supply chain disruptions, due to the closing of borders and manufacturing sites. The emergency context has caused the incapacity of businesses to cope with shortages in supplies, therefore pushing them to find alternative solutions for productions, as well as to manage and reduce risks related to a single geographic area of supply. The pandemic has led disruptions across different sectors, especially at the beginning of the crisis (March–April 2020). These disruptions have highlighted the opportunity for more agile supply chains, which are characterized by their shortening and a greater risk diversification–strategy covering a larger number of suppliers from different countries, accentuating the regionalisation of the value chains, rather than reshoring, backshoring, and nearshoring. Such terms bring in mind of businesses in times of economic crises as strategies to fortify their production capabilities against (potential) disruptions: while reshoring and backshoring companies move production into their own countries, nearshoring is the repositioning of those activities in countries nearer to the companies' headquarter.

Nonetheless, are greater risk management strategies at firm level, which make global value chains more resilient and stronger, sufficient to guarantee the respect of labour rights during and after the pandemic? And how such rethinking of the global supply chains could really improve the protection of labour rights? In this context, while governments are strongly committed to find solutions for saving jobs, enterprises, and for coping with the crises' effects on economies, the Global Framework Agreements (GFAs) signed in this challenging and uncertain scenario may be the tool of the global social dialogue, which guarantees the social cooperation and cohesion in the dealing of the immediate consequences of the pandemic, such as: promoting workers' income, health and employment, and the management of the most serious human rights' risks in supply chains. In the following pages will be highlighted some joint declarations signed by the multinational corporations and the global trade unions as evidence of their longstanding and trustful relationship. Underlying this established relationship is the parties' common goal of finding shared solutions against the risks of abuse and violations of workers' rights, also linked to the current global crisis.

² SHERMAN, *94% of the Fortune 1000 are seeing coronavirus supply chain disruptions: Report*, in *Fortune*, 21 February, 2020. Available at <https://fortune.com/2020/02/21/fortune-1000-coronavirus-china-supply-chain-impact/>.

2. *What is the fate of labour rights within the global supply chains during the global crisis?*

In a study carried out in the period between November 2020 and March 2021 by the European Parliament³, the overall view from sectors and experts is that value chains can be strengthened by increasing diversification. Three findings have emerged in the report: *i*) it is a common trend across the sectors that the second wave of infections seems to have been less harmful than the first one, where factories and borders were largely open and new adaptation to workplaces were established, as security and distance requirements; *ii*) in order to remain internationally competitive, the European Union will need to continue relying on the global value chains. All value chains need to remain global and cannot be reallocated to the national level, thus strengthening of such chains at European level and focusing on circular economy, innovation, diversification of sources and international partnership with the third countries is needed; *iii*) finally, to reinforce value chains at European level, Member States need to consider how to contribute with their national measures and recovery plans. For a long-term development, it is important to identify different solutions for specific characteristics of the various sectors, supporting the diversification of raw material sources and promoting the circular economy to reduce the pressure on value chains.

In a Resolution of the 17th April 2020, the European Parliament (EP) affirmed, for a stronger post-crisis European Union, “corporate human rights and environmental due diligence are necessary conditions in order to prevent and mitigate future crises and ensure sustainable value chains”⁴. This is one of the many resolutions the EP adopted to call for the introduction of a binding European due diligence law, which obliges companies to identify, address and remedy aspects of their value chains in terms of human rights (including social, trade union and labour rights), the environment (including contributing to climate change) and good governance.

³ EUROPEAN PARLIAMENT, *Study on Impacts of the COVID-19 pandemic on EU Industries*, 2021. Available at [https://www.europarl.europa.eu/RegData/etudes/STUD/2021/662903/IPOL_STU\(2021\)662903_EN.pdf](https://www.europarl.europa.eu/RegData/etudes/STUD/2021/662903/IPOL_STU(2021)662903_EN.pdf).

⁴ European Parliament Resolution on EU coordinated action to combat the COVID-19 pandemic and its consequences (2020/2616(RSP), 17 April 2020. Available at https://www.europarl.europa.eu/doceo/document/TA-9-2020-0054_EN.pdf.

Similarly, the Council of the European Union, in its Conclusions on human rights and decent work in global supply chains of December 1st, 2020, stated: “in order to manage crises effectively and flexibly, companies are well advised to have an overview of their value chains, know their suppliers and cooperate with them” and that “corporate due diligence, in particular human rights due diligence, is the key for responsible supply chain management in line with the UN Guiding Principles on Business and Human Rights, the ILO Tripartite Declaration of Principles concerning Multinational Enterprises and Social Policy and the OECD Guidelines for Multinational Enterprises”⁵. However, the duty for corporations to act proactively to prevent the risks of human rights violations in their business relationships is not new. It was first introduced in the United Nations Guiding Principles on Business and Human Rights (UNGPs) in 2011, as a component of the responsibility of business enterprises to respect human rights. Since then, it has been incorporated in the OECD Guidelines on Multinational Enterprises, the ILO Tripartite Declaration of Principles Concerning Multinational Enterprises and Social Policy. In 2018, the OECD adopted the Due Diligence Guidance for Responsible Business Conduct providing a detailed guide on how companies should avoid infringing on the rights by identifying, preventing, mitigating and accounting for how they address their impacts’ operations on human rights.

Another step forward towards the improvement of enterprises’ human rights performances was the adoption of the EU Directive on the Disclosure of Non-financial Information (2014/95/EU), introducing transparency mechanisms to the disclosure of the non-financial and diversity information by certain large undertakings and groups. The EU Directive is consistent with the use of sustainability reports as a general transparency instrument, but it does not provide specific guidance. Within the Communication on the European Green Deal of the 11 December 2019⁶, the Commission committed to review the Non-Financial Reporting Directive in 2020 as part

⁵ Council of the European Union, *Council’s Conclusions on Human Rights and Decent Work in Global Supply Chains*, 1 December 2020. Available at <https://data.consilium.europa.eu/doc/-/document/ST-13512-2020-INIT/en/pdf>.

⁶ European Commission, *Communication from the Commission to the European Parliament, the European Council, the Council, the European Economic and Social Committee and the Committee of the Regions*, 11 December 2019. Available at https://eur-lex.europa.eu/resource.html?uri=cellar:b828d165-1c22-11ea-8c1f-01aa75ed71a1.0002.02/DOC_1&format=PDF.

of the strategy to strengthen the foundations for sustainable investment. In line with the commitment, on 20 February 2020 the Commission launched a public consultation on the reviewing of the Non-Financial Reporting Directive (NFRD), closed on 11 June 2020. In the agendas for the forthcoming Commission meetings published on 9 March 2020, the review of the NFRD was scheduled in the Commission meeting on 21 April 2021⁷.

Considering these premises and the current lack of conceptual and legal clarity on the due diligence process, where companies are applying different standards, the European institutions has invited the EU Commission to foster the responsible management in the global supply chains. This invitation is done to present a proposal of a legal framework on sustainable corporate governance, including cross-sectoral corporate due diligence obligations throughout the global supply chains. The European Commission, for its own part, expressed its commitment to adopt in 2021 due diligence obligations to all different sectors and to create a level playing fields along the European Union. To this end, it commissioned an external study on due diligence requirements through the supply chains and launched a public consultation (closed on 8 February 2021) seeking the views of stakeholders on this legislative instrument. In due diligence processes, it is important to rely on the social dialogue and industrial relations: strengthening the capacity of employers' and workers' organizations, improving workers' participation by respecting the freedom of association and collective bargaining. Since the discussion on a compliant corporate governance to international labour standards started, from the trade unions' perspective, the European Trade Union Confederation (ETUC) expressed its position. In the Action Programme for 2019–2023, the ETUC included – amongst its objectives – the aim to adopt a EU directive on human rights (including labour rights) due diligence and a legally binding treaty on multinational companies and human rights (currently under negotiation within the UN). The proposal is finalized to establish due diligence obligations in line with social and environmental standards and objectives of the EU focusing on prevention of human rights violations, but also on effective controls, sanctions and remedies. To this end, according to ETUC's highlights the directive should ensures the full involvement of trade unions and workers' representatives,

⁷ It is dated April 21, 2021, the European Parliament proposal for a Corporate Sustainability Reporting Directive (CSRD), to revise and extend the scope of the sustainability reporting requirements introduced by the NFRD.

considered the most central actors of the whole due diligence process, on the basis of a combinations of legal provisions, including Article 153(1)(e) (information and consultation) and Article 154 TFEU.

Over the years, cross-border actions and initiatives, carried out by social partners, have contributed to the development of social dialogue with regards to the adoption of soft law instruments regulating labour conditions at transnational level, including value chains. In the absence of a legal framework, these soft law instruments may be adopted, thus pushing multinational enterprises towards the full application and respect of principles regarding social and labour rights. Many global enterprises have decided autonomously to develop corporate policies and other forms of private regulations (like Code of conduct, Code of Ethics, Corporate Social Responsibility (CRS), Auditing, Reporting initiatives) to resolve environmental issues, promote and ensure the respect of social and labour standards. These initiatives, however, are voluntary actions of enterprises to adopt sustainable and responsible behavior as a result of a reputational strategy. In these private regulations, the role and the voice of trade unions and workers' representatives are limited; also the effectiveness of these regulations is not guaranteed. Moreover, as to the global value chains, due to the lack of involvement of workers' representatives in the monitoring processes, the supervision about the implementation of core labour standards – where applicable – is not guaranteed. With the increase of the transnational dimension for companies and their operations, an ever greater need for transnational negotiations within companies has grown. Multinational enterprises – with a solid industrial relations culture⁸ – and global trade unions have started a cross-border cooperation which will help to finalize the negotiations and to adopt Global Framework Agreements⁹. The aim of GFA is to improve the application of labour standards at a global level, including global value chains, starting from a different ground unlike with

⁸ It means that when MNEs are headquartered in States with Industrial Relations systems based on collective representation and bargaining at industry level ensuring the promotion and protection of labour standards through social dialogue between social partners, the management are more proactive to put in place processes of social dialogue at global level.

⁹ Global Framework Agreements include international framework agreements (IFAs), between Global Union Federations (GUFs) and MNEs, and European Framework Agreements (EFAs), between MNEs and European trade union federations and/or European Works Councils.

private regulations, such as CSR initiatives. In the transnational collective bargaining, the trade unions, at global or European level, are active players in the negotiation and implementation of such agreements. In this kind of collective bargaining, the transnational regulation of social and labour rights, also within the global value chain where the multinational enterprises operate, is negotiated with trade unions rather than being a unilateral initiative. In these agreements, signatory parties establish to organize, in a more responsible way, the multinational enterprises' operations and practices along the value chains, stating that subcontractors and suppliers must comply with GFAs' principles and providing joint grievance mechanisms. Best practices of GFAs demonstrate that the cross-border cooperation, which is realized by signing such agreements, have positive results when they have an extending application among all parties and sites enterprises' activities, such as providing solutions to manage corporate restructuring, promoting living wages and health and safety, supporting small and medium enterprises within the supply-chains, maintaining the social cohesion via the effective involvement of workers' representatives in all the implementation phases (from the negotiation of the agreement's contents to the resolution of disputes arising globally)¹⁰.

In the transnational bargaining conducting to the negotiation of GFAs, it is important to mention the role assumed by European Works Councils (EWCs) – at European level – and Global Works Councils (GWCs) – at global level –. These workers' representative bodies, according to the recognition they have by companies, could be drivers for the negotiations of GFAs as well as they are fully involved in the monitoring and implementation processes of these agreements. When the workers' representative body is established at global scale, the global committee (GWC) has the responsibility to monitor the application of the GFA beyond the local/European borders, including value chains.

Due to the weaknesses of legally binding frameworks for the private regulations examined above and the inadequacy of remedies offered by Corporate Social Responsibility, different national legislations initiatives were gradually adopted (or are going to be) across Europe¹¹. The national

¹⁰ GUARRIELLO, STANZANI, *Trade union and collective bargaining in multinationals*, Franco Angeli, 2018, p. 256.

¹¹ For instance, the pioneer French law on due diligence was adopted in 2017, and the latest German mandatory human rights due diligence law, adopted in June 2021, will enter into force in 2023.

legislations will not be explored in the essay, but it is important to mention that these initiatives adopted at national level have introduced human rights due diligence obligations to prevent and regulate abuses of labour rights within the global supply chains. The main goal of the policy-makers is to balance business strategies adopted for cross-border activities with the respect of human and workers' rights, creating duties to report the accordance of these requirements in order to avoiding abuses related to high demand in a short timing.

3. *The implementation of GFAs to protect workers' rights throughout the global supply chains*

Before the Covid-19 pandemic spread with its extraordinary health, social and economic consequences, the violations of workers' rights throughout the global value chains have already existed. Rather than to face reputational risks, multinational companies have started to sign, rapidly since 2000s, Global Framework Agreements with the employees' representatives negotiating on procedures for compliance of international labour standards, regulating employment relations within companies worldwide, transforming the global value chains to a place of improved working conditions and, last but not least, increasing unionization in the countries where the signatory multinational company operates. Although these agreements operate in a legal void, they have the typical effect of private contracts, i.e. they have the full force of law between the signatories. Even though they are instruments of soft law, they have promoted the development of social dialogue culture, which is a mechanism of democratic involvement, for workers and their representatives, in the decisions taken by the company, exercising the rights of information, consultation and participation. The GFA normally has procedural contents, enriched over the time by the provision of monitoring processes, disputes resolution mechanisms and implementation practices to ensure the effectiveness of the agreement on a global scale. When the monitoring and supervision procedures are properly implemented, the development and growth of unionization in many areas of the world is achieved.

Good examples of transnational company agreements have been reached and implemented by the following multinational companies:

Schneider Electric, Volkswagen, Thales, SKF, Santander, Unicredit, BNP Paribas, Enel, Eni, Bosch, Electrolux, OHL, ThyssenKrupp, Salini Impregilo, Solvay, Renault, Engie (ex GDF Suez)¹². In the analysis of the texts of these agreements and their renewals, a greater focus on subsidiaries, suppliers and subcontractors has emerged, where the respect of decent work principles are seriously at risk. The trend to extend the implementation of transnational agreements towards suppliers and subcontractors, as well as the sanctioning mechanisms envisaged for agreement violations by third parties linked by contractual and business relations, emphasises the procedural-institutional aspects of these agreements, thus creating a system of social dialogue and mutual engagement to promote labour and trade unions' rights on a global scale. Such form of transnational collective bargaining, of course, needs good system of industrial relations and solid relationships between the national trade unions (of the parent company and of the countries where the multinational company operates) and with the Global Works Councils (GWCs), representing employees globally. The presence of consolidated relations among workers' representatives in the countries involved, shows the predisposition towards a form of dialogue with the central management at transnational level. Such social dialogue allows the company to identify and negotiate common interests and issues that need to be jointly regulated signing such agreement, that will be then effectively implemented in all the ramifications and third-party companies with which the enterprise has commercial connections. The reference to subcontractors is present in every agreement analyzed, but not all of the agreements give it the same relevance. Subcontractors are required to respect the fundamental principles envisaged in the agreements, however some of them mention these principles in general and potential terms provision, others, specifically provide that the lack of compliance with these principles will make the businesses and commercial relations with the third parties involved null. In terms of effective monitoring, however, it is quite complicated to evaluate whether the subcontractors in question, respect these principles or not. At this regard, the abovementioned agreements establish the setup of joint monitoring bodies that include the participation of company and union representatives. GUFs

¹² The agreements were analyzed within two European projects – EURACTA and EURIDE – financed by the DG Employment, Social Affairs and Inclusion of the European Commission.

are usually part of these bodies and often represent those countries where the threshold of such representation is limited. European Works Councils (EWCs) and Global Works Councils (GWCs) play an important role in the monitoring and implementing phase.

As an evidence that a dialogue and cooperation among social partners may be an important tool in giving a chance for the protection of supply chains' workers, particularly effected due to Covid-19 impacts, some joint declarations signed by the major groups of the garment, electronic and e-commerce sectors (Inditex, H&M, Tchibo, ASOS) and of the food services sector (Sodexo) with their counterparts sectoral Global Unions, has to be mentioned. These declarations of "reaffirmed commitments" stem from previous Global Framework Agreements are the result of the longstanding relationship existing between corporations and the global unions of the sector concerned.

Regarding the GFA of Inditex and IndustriALL Global Union, in the signed agreement of 2019, parties (re)affirmed "the crucial role that freedom of association and collective bargaining play in developing mature industrial relations [...] in the shared belief that cooperation and collaboration are keys to strengthen human rights within Inditex's supply chain". Compared to the previous text¹³, Inditex's GFA provides the introduction of supervision measures for the parent company to identify, as well as prevent, severe violations of human and workers' rights committed by subsidiaries, suppliers and subcontractors. Inditex's GFA recognizes the involvement of trade unions' representatives in the monitoring process of its implementation throughout the global supply chains: "Local trade unions have an important role to play in ensuring in the implementation of the agreement within the Inditex's supply chain. Local trade unions will participate in the implementation of the agreement in their respective countries". The flow of communication between Inditex local management and the local affiliates of IndustriALL Global Union allows a continuous exchange of information based on sharing all the necessary data, contributing to a better understanding of the supply chain and to further information related to any type of potential issue which may arise. Furthermore, to allow the active role of trade unions' representatives in the monitoring process, the agreement

¹³ The longstanding relationship between the company and the global union started in 2007, when the first GFA was signed.

states: the commitment of the company to provide the list of plants of the supply chain; the duty for contractors to able trade unions' representatives, either local representatives, accessing all plants; finally, the duty for both parties to exchange information on violations occurred and remedies applied. The solid cooperation, existing between Inditex and the sectoral global union IndustriALL since the signature of the agreement in 2007 (which was renewed in 2019), has been the premises for the adoption – in August 2020 – of the joint declaration to support the recovery of global garment industry during the Coronavirus pandemic. The negative impacts of the Covid-19 pandemic on economies and activities, due to restrictions measures applied all over the world by governments to limit the contagion, have particularly effected global supply chains and their workers with cancellation of orders, which are done without any payments, factory closures, unpaid workers and massive job losses worldwide¹⁴. In the absence of a legal framework requiring the parent company to impose certain requirements upon its subsidiaries to comply with the labour standards and within the global supply chain, the risks for human and labour rights, which are to be faced with, are enormous. In the statement, Inditex reiterated its commitment to work together with the global union to support the supply chain and other sectors throughout this period. In order to minimize the impacts of the global pandemic “the company has involved the union representatives in the company’s operations in key supplier markets and among its suppliers as it starts to deliver on its responsibilities of its Global Union Committee established as part of the renewed GFA”, aiming to ensure, throughout its supply chains: health and safety standards, collective bargaining rights and workers’ rights to unionise, stabilizing of payment terms to allow suppliers to honour payments for workers.

The reaffirmed commitment of GFA’s signatories Inditex and IndustriALL to face, in a such scenario, the issues related to pandemic, was invoked to deal with a conflict occurred due to the Romanian supplier for Inditex, Tanex. Tanex refused to allow union access to the plant as the agreement provides to oversee the respect of workers’ rights by suppliers. On this basis, an agreement was reached between Tanex management and

¹⁴ International Labour Organization says “Almost 25 million jobs could be lost worldwide as a result of COVID-19”, March 18, 2020, see: https://www.ilo.org/global/about-the-ilo/newsroom/news/WCMS_738742/lang-en/index.htm.

UNICONF (Clothing and Knitwear Trade Unions Federation), based on the renewed GFA of 2019 and the Romanian law on social dialogue, with the aim to construct a fruitful dialogue with unions and to recover the local industry affected by the pandemic effects. As a result, Tanex management is committing to: respect freedom of association, ensure compliance with the provisions of the GFA, inform IndustriALL (through its affiliate UNICONF) on the implementation of those provisions.

Concluding on the priority to foster commitment among social partners at cross-border level, also to be faced with challenges related to pandemic impacts and beyond, it has to be mentioned the joint declaration signed on December 2020 by the management of the textile group Inditex and its European Works Council on the digital transformation strategic plan of the group, accelerated by the closing of shops and the increase of online shopping demands. For this reason, the declaration commits to involve workers' representatives in the relocation of employees via the creation of new positions nearby, emphasizing the priority to maintain employment throughout the digital transformation process and providing training for those who need new skills. The declaration is also important for the recognition of workers' voice and their involvement in the management's decisions taken towards the digital transition process by which they will be directly affected.

The German firm Tchibo, is the second major global brand after Inditex that signed, in November 2020, a joint commitment with IndustriALL with the aim to guarantee the suppliers' resilience. The agreement underlines the importance of social dialogue at all levels as a tool to protect workers along supply chains and contributes to the economic and social recovery after the pandemic, "with the view to prepare the sector for future". Tchibo is one of the leading retailers for consumer goods in Germany, Switzerland, and Austria. A GFA was signed by Tchibo and IndustriALL in 2016, with the aim to ensure the effective application of the international labour standards throughout the Tchibo's non-food supply chain. The agreement "shall cover the Tchibo Non-Food supply chain with all its vendors, suppliers, their producers and subcontractors and applies to all employees, regardless whether employed directly or indirectly by Tchibo's business partners and regardless the contractual basis of this employment, whether in the formal or the informal sector".

In the global framework agreement, the group is committed to recognize a more active role to workers' representatives for the

implementation of labour standards along the supply chain and creating an enabling environment for mature industrial relations and collective negotiations, both at sectoral and company level. Another principle stated in the agreement is the cooperative involvement in solving problems that may arise in the implementation and monitoring of measures as stipulated in the agreement. Such problem solving is to be reached by enabling working groups at a local level to set out their strategies in order to resolve any disputes. Moreover, in the event that parties will not be able to find an appropriate mutual solution for a remote breach, they “shall agree to seek assistance of the ILO for mediation and dispute settlement” and “to abide by the final recommendations of the ILO”. Finally, the company agreed to allow workers’ representatives to access at suppliers’ and subcontractors’ sites, with the consensus of the local management. However, access to the plants is not unconditional, as the agreement states that “the specific realization of such access shall be provided based upon the mechanisms that both the management of IndustriALL Global Union and Tchibo might deem necessary. IndustriALL Global Union recognizes and agrees that any union access to the premises of a Tchibo Non-Food supplier is conditional on the prior consent of the business partner. Consequently the parties agree that in the event IndustriALL Global Union or its affiliated unions want to meet with workers at a premises of a Tchibo Non-Food supplier, IndustriALL Global Union or its affiliated unions shall ask Tchibo to obtain the requisite consent from the business partner”.

Within this framework, and signing the joint statement with the Global Union, Tchibo assumed the responsibility to be proactive and cooperative in taking all the necessary actions to protect labour rights along the value chain and to seek a mitigation of the Covid-19 impact, as well as to prepare the sector for the future.

Another good example of joint declaration was recently adopted (in March 2021) following the need to safeguard workers from abuses due to the socio-economic recession related to pandemic and to protect the garment value chains. The agreement has been signed by IndustriALL Global, the Swedish Union IF Metall and the giant H&M on the basis of the previous GFA which occurred in 2015. Under this agreement, the group recognizes the Global Union as a partner on the discussion of human and labour rights in the workplaces, extending the protection of these rights in all production sites where the group operates. In order to achieve such

protection, the agreement has established National Monitoring Committees, for the monitoring of the agreement's implementation locally, to facilitate a dialogue between parties on the labour market, and also for the resolution of any conflicts, which shall to be solved primarily at factory level. These national committees are composed by local trade unions and H&M representatives and they are situated in six countries: Bangladesh, Cambodia, Myanmar, Indonesia, Turkey and, most recently (2019), India. Furthermore, a Joint Industrial Relations Development Committee is provided by the agreement, which is composed by equal numbers of representatives for each party and has the responsibility for planning and overseeing practical implementation of the agreement at a global level. The agreement, contrary to Inditex's GFA, does not state any duty for the lead company to prevent abuses perpetrated by subsidiaries, suppliers, and subcontractors, but it states the commitment of the group to provide the list of the supply chain's plants to allow the role of unions in the monitoring process. "H&M will actively use all its possible leverage to ensure that its direct suppliers and their subcontractors producing merchandise/ready made goods sold throughout H&M group's retail operations respect human and trade union rights in the workplace"; on the basis of this statement, foreseen in the GFA, cross-border social partners establish a powerful initiative to reinforce the signatory parties' cooperation and to reaffirm their commitment to support the recovery of the garment industry, culminated in the adoption of a joint statement by H&M group and IndustriALL Global Union. The joint statement was adopted as a result of unfair practices put in place by suppliers who failed to comply with the commitments made in the GFA to protect workers' rights, breaching their obligations regarding proper and fair rules in the event of temporary redundancies and layoffs. "IndustriALL and H&M fully agree that this is un-acceptable and that initiatives will be developed to prevent similar behaviours in the future. IndustriALL and H&M also will make efforts and will actively use its possible leverage with suppliers and unions to remedy violations of workers' rights involving un unlawful layoffs / redundancies, closure and denial of trade union rights".

ASOS has signed, in February 2021, a bilateral declaration with the IndustriALL Global Union to reaffirm the commitment stated in their GFA, which was established by the online fashion retailer and the Global Union in 2017. In the new joint statement the signatory parties renewed their engagement to work together – also with suppliers – to find solutions for

overcoming and mitigating effects caused by the pandemic. ASOS's GFA was the first agreement signed by an e-commerce brand. With it, the group recognizes the role of freedom of association and collective bargaining and decides to formalize the partnership with the trade unions, thus creating a framework of strong industrial relations and for the implementation of employment rights to all workers within the global value chain. In the agreement, ASOS recognizes its duty to guarantee the implementation of principles stated: "all workers producing products for ASOS whether or not they are employees of ASOS"; at this aim "the signatories will observe and require they contractors, subcontractors and principle suppliers to observe the internationally recognized standards as set down in the agreement". To facilitate the implementation of the agreement, ASOS agreed to disclose all data and information regarding suppliers, but, similarly to the Tchibo's GFA, the physical access to sites is conditioned to the prior consent of the supplier. The commitment in working together to find and share solutions to overcome the pandemic effects reaffirmed in the joint declaration represents, also for ASOS, a necessary action to reinforce the relationship and to create new or change "roles that protect lives, social protection systems and business resilience in an unfamiliar new reality, while also seeking to support businesses, the wider economy, and above all, the health, safety, employment and income of workers".

Going towards the conclusion of the analysis of joint commitments' best practices delivered by companies and global unions on the basis of previous global agreement which establishes a framework of powerful cross-border social dialogue and industrial relations, the bilateral initiative adopted during the pandemic which is struggling to recede (March 2021), needs to be mentioned. It is about the joint statement signed by the corporation Sodexo¹⁵ and the International Union of Food, Agricultural, Hotel, Restaurant, Catering, Tourism, Tobacco and Allied Workers' Associations (IUF). The food service sector is certainly one of industries which is mostly severe damaged, due to social distancing regulations, thus, closing of restaurants and hotels globally, the remote working (or working from home) measures adopted to reduce the contagion and the spread of the delivery food service which, on the long-term, will change consumers' demands. In this contest, and based on the global framework agreement signed on

¹⁵ Sodexo is a French food services and facilities management company.

December 2011, signatory parties reached a declaration of intent “On health and safety, including the pandemic as prompted by COVID-19 Crisis”. The focus of this declaration is: to improve the protection of employees’, even when they work at clients’ premises; to stimulate negotiations at national and/or local level; and to promote the implementation of health and safety standards across its global operations. Regarding health and safety in the workplace, the group has developed over the years a preventive approach, usually take place with employees’ representatives, by means of identification of the major health and safety risks and the development of prevention programmes, and by the sharing of information on work-related accidents and the reporting of the company’s health and safety results to ensure their improvement. The parties to the declaration agreed to transpose commitments in agreement at national or local level, foreseen the election of health and safety representatives and the consultation of employees’ representatives to developing health and safety plans and to improving/-reviewing/implementing the existing ones. These kind of measures are improved in the new statement in order to guarantee safe working conditions for employees, above all during the pandemic. Finally, as stated in the GFA, parties agreed to guarantee the implementation of commitments via regularly exchange of information and fruitful communication, also “to review the implementation of the agreement, to jointly work for resolving any differences arising from the implementation of the agreement and for finding ways to advance social dialogue relating to labour and human rights issues covered by the agreement”, done by regular contact between parties and the provision of an annual meeting. Local visits are foreseen by the agreement “based on modalities and planning to be defined by a joint agreement”.

4. *Conclusions*

The solid relations and the transnational social dialogue built among companies and trade unions arising from transnational agreements, demonstrate the engagement of both parties in the implementation of international labour standards established in the GFA and the promotion of workers’ involvement in the creation and fulfilment of due diligence processes. All the measures highlighted are part of a global action plan of joint commitments from various stakeholders (such as governments, bank

and finance institutions, international organisations, brands and retailers/e-tailers, manufacturers, employers organisations and trade unions), to urgently develop concrete and specific measures to support and protect workers from the impact of the global crisis. Doubtless, the GFAs mentioned above demonstrate they are important tools of transnational collective bargaining and that social dialogue at global level is recognized – both by companies and trade unions – as essential for the promotion and the protection of workers' rights around the world.

However, the voluntary approach can create competitive disadvantages for companies that do undertake due diligence. Such as GFAs are soft law mechanisms, multinational companies are not obliged to start this kind of negotiation processes, neither for their content, nor for the provision of monitoring procedures and dispute resolution mechanisms in case of violations or issues which can arise throughout the company's operations and its global supply chain. Nonetheless when companies decide – voluntarily – to start a cooperation with the global unions to protect human and workers' rights, they create a ground for transnational collective bargaining and a mutual trust among stakeholders. The lack of legal binding force becomes more pronounced when the implementation of international labour standards are not guaranteed throughout the value chain and workers' rights are abused and violated by the local firms of the global supply chain. In this scenario, when there are no rules imposing the parent company's responsibility for these kind of violations, the involvement of unions and workers' representatives at all levels plays an important role in monitoring and identifying violations. Probably, the adoption – at national and supranational level – of legislative measures could improve due diligence processes in the global supply chain. If so, what will change (if it will change) within the role of social dialogue and workers representatives and the capacity of transnational collective bargaining to guarantee the protection of workers rights? Meanwhile, we see the transnational collective bargaining does not stop, not even in the middle of a global health, economic and social disaster. International social dialogue is having an important input to support workers and giving them responses: the challenge will be the real implementation of the principles stated and the monitoring of this effectiveness.

Abstract

The article aims at analyzing some joint declarations reached by Multinational companies of the garment, e-commerce, and food services sectors (Inditex, H&M, Tchibo, Asos, Sodexo) and the global trade unions of the sectors concerned. These declarations of 'reaffirmed commitment', stem from the previous Global Framework Agreements, are the result of the longstanding relationship existing between the groups and the global unions, as well as the evidence that the dialogue and the cooperation among the social partners may be an important tool for the protection of workers' rights violated throughout the global value chains. These violations are exacerbated due to the spread of Covid-19 pandemic and its extraordinary consequences.

Keywords

Global Framework Agreements, Global Trade Union, Social dialogue, Workers' rights' violations, Global value chains.