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**New Approaches adopted by
Multinational Companies in the
implementation and preservation
of Labor Rights across
Supply Chain**

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Table of Contents

Abstract	1
Introduction	3
I. Globalization: definition and effects of a worldwide phenomenon	7
1.1. A new actor of Globalization: Multinational Companies	13
1.2. Globalization impact on the Juridical Sphere	16
<i>1.2.1. Normative Frameworks and Different Levels of Governance</i>	20
<i>1.2.2. Principal Legislation and Regulation on International & National Labour Law</i>	35
<i>1.2.3. The Non-Coercive Effect of Soft Law Acts</i>	44
1.3. Corporate Social Responsibility to address Global Social Issues	45
<i>1.3.1. The Evolution of CSR</i>	47
II. Strategic CSR approaches adopted by Multinational Companies	52
2.1. The Solution: Total Societal Impact (TSI)	54
<i>2.1.1. Consolidating TSI into the Activities of the Company</i>	59
<i>2.1.2. TSI industries attractiveness for investors</i>	62
<i>2.1.3. ESG and financial performances: Empirical studies show positive correlation</i>	65
2.2. Partnership and Stakeholder Engagement	68
2.3. Fairtrade initiative: a better deal for farmers	71
2.4. The positive effect of transparency within the upstream Supply Chain	75
<i>2.4.1. Specific cases of TSI Application within the Supply Chain</i>	80
III. Innovative Technologies fostering visibility & transparency	87
3.1. Blockchain Technology	88
3.2. QR Code Labelling	98
Discussion	99
Conclusion	103
Appendix	107
Bibliography	140

Abstract

The core of this thesis is based on the different approaches adopted by Multinational Enterprises on the matter of labour rights protection. This area is attracting numerous discussions due to the increasing importance given to global challenges by consumers, investors and governments. Since companies' choice is strongly influenced by the perception of these actors, they are adopting new methodologies to guarantee improved best practices, promoting transparency across their supply chains. This is having a positive impact that is reflected on the higher level of trust and appreciation of the stakeholders.

The topic of the thesis was addressed through a qualitative approach with a focus on research papers and authoritative sources produced over the past decades. This allowed me to consider the main perspectives and approaches of CSR adopted by companies in the application of solutions to limit labour abuses within the supply chain.

The structure of this thesis is based on three-pronged approaches:

The first chapter focuses on the globalization effects on juridical systems which have induced to a common practice named *law shopping* which is widely welcomed by Multinational Companies, constantly looking for the most convenient national legislations in matter of labour rights. Many international institutions like ILO, UN and national institutions have tried to prevent this mechanism through the implementation of regulations and soft law acts to regulate the MNCs' behaviour. In line with these policies, a great contribute is also provided by the same corporations which are introducing codes of conducts aiming to comply with the international, regional and national normative.

In the second chapter, the focus is on the new ways of doing business introduced by many companies that are integrating the *Total Societal Impact* within their core business to guarantee a good impact to the society through their activities. Some examples analysed show the positive correlation between "doing well by doing good" and higher margins and valuation in several industries with a further section dedicated to the increasing interests of investors towards ESG investing companies. In addition, I analysed the beneficial effects of partnership among stakeholders in the identification and implementation of best practices to guarantee labour rights. This part is followed by a paragraph dedicated to the Fairtrade initiative and the importance of transparency within the supply chain. In the final section of the chapter, two companies with outstanding results in the social sustainability field are

presented, providing an overview of the factors and strategies contributing to the labour rights implementation.

In the third chapter, the interest is concentrated on the technological innovations proposed by some companies, which based their TSI approach on a higher level of traceability and visibility of their processes across the supply chain. Finally, several interviews were conducted among practitioners that provided multiple interesting perspectives on their vision on labour rights within the supply chain. In conclusion, a discussion section is dedicated to my observation and considerations on the matter.

Introduction

Over the last decades, society has been subjected to a dramatic acceleration in progress and innovation, accompanied by rapid interconnection and economic growth, as effect of “*globalization*”. This phenomenon, despite occasional interruptions, has been observed since the 14th century A.D, when Marco Polo began his travels around the world, launching the trends of global economic integration among different societies. Today, this phenomenon is assuming a wider impact having implication on everyone’s life and boosting the global economy to the highest level.

Among those that benefitted the most from the dynamics of globalization, are Multinational Companies (MNCs). The reason behind this change is given by the shifted approach adopted by them in relation to their business choices. Their increasing tendency to look for countries offering lower labour costs and scarce protective legislation for human rights, led organizations to offshore in the more cost attractive countries, reaping favourable production conditions. MNCs generally wield a tremendous amount of power, due to their sophisticated well-constructed value chains, and their immense resources and capital, making it necessary to scrutinize. In this context, several MNCs have been legally and very publicly accused of wronging the people working in their value chains through forced labour, child labour, poor working conditions, and the exploitation of at-risk people.

This has produced numerous scandals which have been denounced by governing global organizations like the United Nations and the International Labour Organization (ILO), which have strengthened their commitment in the fight against the violations of human rights. Many companies are realizing that, for several reasons, this is not a viable long-term approach and that a sustainable business model must be implemented across their supply chains. For this reason, they are expressing their intention to switch, openly welcoming directives provided by the international, regional and national institutions which are introducing acts to address companies’ activities in host countries. Enterprises are also implementing codes that allow them to create more discipline within their organizations.

In addition, innovative programs and initiatives based on Corporate Social Responsibility (CSR) and Total Societal Impact (TSI) have been embraced, consenting on a reorganization of the business processes to prevent and mitigate violations. The concepts at the core of the portfolios are now social sustainability, transparency, collaboration, and, last but not the least,

the respect of good labour practices within companies, with a particular focus on the upstream level.

Aiming at total visibility of the value chain processes from one end to another, it is critical for enterprises to stay up-to-date on the latest technological trends of society. Innovative digital software should be adopted to increase transparency and guarantee that every action is respecting the legislation and laws in place. One of the most common discussions related to future opportunities and challenges is whether the technological advancement will create new opportunities and sustainable solutions or they will not be sufficiently consistent to support the root cause of labour rights abuses within supply chains.

The objective of this thesis is to perform an observation of globalization's effects on Multinational Companies, with an in-depth analysis of the impact produced by the innovative initiatives introduced aiming at the eradication of the cycle of unfair labour conditions in the current panorama. The value added to the subject matter will come from understanding how corporations are taking the responsibility of governing businesses as well as the solutions available to scale the obstacles involved. In order to accomplish this goal, three hypotheses have been formulated, centred around the chosen topic. The hope is that through the data collected, categorised and analysed, these hypotheses will be answered definitively. If any of the hypotheses are dis-proven, then the results shall be measured along with the observations to further understand it:

- ***Hypothesis - 1:*** Governance, internally and externally is crucial to identify and act against human rights violations and companies need to establish collaborative relationships with NGOs, and organizations like the ILO to better understand, isolate and eliminate causes of these incidents.
- ***Hypothesis - 2:*** In today's consumer and market environment, where consumers put an emphasis on social equality and accountability, it is likely that companies making a net positive impact on the world will be consumer attractive. Therefore, to stay afloat in a volatile consumer centric environment, companies must prioritize the societal impact that they make if they intend to remain profitable.
- ***Hypothesis - 3:*** Many (people and enterprises) cite a lack of transparency, actionable data and visibility into the supply chain as a reason for their inability to counteract issues related to human rights. One possible solution to address this

visibility and data shortfall would be to identify custom or adapted technological solutions that will aid them in this venture.

Based on the scope and objectives of this work as well as the hypotheses, these are questions that need to be asked and answered.

- **Question - 1:** Among the various players involved, who bears the responsibility for the overseeing and governing companies? Is the responsibility shared? How will they involved be held accountable?
- **Question - 2:** Are companies adhering to the conventional scope of sustainability practices through CSR (Corporate Social Responsibility) initiatives or are they shifting toward TSI (Total Societal Impact) initiatives in their quest to positively impact their value chains? What is the benefit they see from this shift?
- **Question - 3:** Are technologies like blockchain a viable solution to the obstacle of limited transparency and visibility in entrenched, complex supply chains? How do industry leaders and players perceive it? How does it compare to the presently available solutions?

Once the various sources of data have been analysed, including the case studies and interviews, and these questions have been answered, the hypotheses will likely have been proved or disproved and this undertaking of the thesis will have been fruitful.

For this undertaking, the choice has been to adopt a qualitative method. The majority of the data used in this thesis comes from data focal on the nature of the topic, gathered from sustainability professionals and leaders in the industry today as well as from the past. The data collected involved both primary data and secondary data from research papers and articles.

The decision was made to perform a descriptive research work, gathering observations to establish the relationship between the business world, the players and the human rights incidents occurring due to a lack of oversight and, following that, moving on to legislation, technological solutions and strategic and non-strategic approaches to the issue at hand. In addition, further value has been added through business studies compiled with data on the programs and initiatives from companies and organizations, allowing me to assess the criticality of this venture in the eyes of each player and examine how each of them approaches the fight.

Moreover, a conclusive session consisting of interviews is conducted involving interviewees from Philip Morris International, Livekindly, and the International Labour Organization. The interviews give a glimpse of years of experience built on by the dilemmas faced and individually preferred approaches, highlighting the best practices chosen to have a wider extent of application to the results of the data collected.

These interviews were conducted across multiple industries. The interviewees were chosen due to their outstanding career and vast expertise on the matters of social sustainability helping to enrich this work with meaningful perspectives.

By analysing this additional data source, and in complementary of other data sources, I am presented an opportunity to study multiple perspectives and statements, even data that may seem contradictory. This would allow to reach individual conclusions and allowing to answer the research questions defined, thereby answering my hypotheses.

In summary, the qualitative methodology with a descriptive approach complemented with interviews and case studies will allow for:

- linking the research to the existing subject matter
- linking the reference points (initiatives, statements from NGOs, MNCs and governing bodies) to conclusions, ensuring to stay rooted in reality
- using case studies as a reference point to complement the conclusions with regards to the hypotheses
- identifying and understanding perspectives of practitioners and leaders from multiple industries.

I Globalization: definition and effects of a worldwide phenomenon

In the today's world, Globalization is the phenomenon shaping each aspect of our society, defining integral parts of the way we live and our perspectives. It brings the world closer, accelerating processes and adding value to activities performed worldwide across interconnected nodes.

The process of globalization has not always proceeded smoothly due to periodic intervals occurred along the path. It is only in the last century that the pace has increased exponentially as never before¹.

The purpose of this chapter is to focus on the framework established by globalization impacting every aspect of our society with an emphasis on the players, and normative which are emerged throughout the process.

The new scenarios have affected the global economy and it is unceasingly driving the behaviours of the international actors in the economic and juridical sphere. With this purpose, the study will give an overview of the definitions of globalization and the effect it has on markets, with a focus on the empowerment of *Multinational Companies* (MNCs). This section proposes an introduction to the main elements of MNCs, also called *Multinational Enterprises* (MNE), moving then to the main advantages being offered to companies due to the emergent “*offshoring*” phenomenon that has benefitted both companies and society but also comes with downsides reflected by incidents involving the violation of labour rights by enterprises.

Yet, the chapter also provides a general framework on the principal effects of globalization on the juridical sphere, with a specific section dedicated to the different levels of governance enriching the international, regional and national community in matter of labour rights definition and implementation. In addition, a following complementary part will provide a classification and explanation on the main normative and principles which have a critical role in addressing states and Multinational Companies' behaviour, in compliance with labour rights. This will bring the focus on the main self-regulation codes adopted by enterprises, characterized by the main principles and concepts enhanced by the international organizations in respect and protection of the employees' rights.

¹ M. Mussa, *Factors Driving Global Economic Integration*, 2000, August 25, p.9

At the scope to furnish a picture of the main elements which are relevant for this topic, many complex matters are not deeply analysed in this chapter. The literature linked to the topic is vast and this inevitably leads to the selection of a defined number of sources. This allows to guarantee a certain degree of linearity and to narrow the focus concerning the core argument. This choice will help in the analysis of the multinational enterprises (MNEs)' behaviour and their implementation of practices and legislation in favour of labour rights protection.

The initial part of this work aims to offer a general overview of globalization to provide a gradual understanding of the basic concepts necessary to analyse before reaching the core of the dissertation. Globalization is the term indicating the process which defines aspects of the present age like the growing interdependence of the world economy, population and cultures. The sum of new technology, faster trade of goods and services, the flow of investments, movement of capital, goods, people, and ideas are crucial aspects that it signifies². This phenomenon affects every domain, producing a global economy that interconnects every factor involved. It affects almost all countries even if it is often an uneven process³. In fact, it is generally perceived both beneficial, due to the fast-economic growth and employment creation, and source of inequality, which leads to poverty, social instability, and conflicts⁴. In the past, characteristics or features of globalization had already presented themselves in the form of trade between different corners of the world through land and sea routes like the Silk Road and the Spice Routes for example. Next came a form closer in attributes to the conventional forms of Globalization, the emergence of corporations like the British East India Company (founded in 1600) and the Dutch East India Company (founded in 1602). These corporations deployed abroad, to access new markets and resources. They did not end well for the host countries, in many or most cases, due to the exploitative and unchecked nature of their operations⁵.

² Peterson Institute for International Economics (PIIE), *What is Globalization*, 2018, <https://www.piie.com/microsites/globalization/what-is-globalization.html>

³ For instance, a low-income country might account for a very little part of the world trade but changes in demand/ prices of its commodities or a policy of import duties reduction might have a great economic and social impact on its economy. In this case, the world trade has a bigger effect on this country rather than other developing countries (M. Khor, 2001, pp.7-8)

⁴ ILO, *Rules of the game: An introduction to the standards-related work of the International Labour Organization*, 2019, Geneva, pp.8,10

⁵ www.businessinsider.com/rise-and-fall-of-united-east-india-2013-11?IR=T

The features of globalization have advanced in three major waves that have not yet concluded and are likely to drive continued development in the future influencing the global economy and social behaviours.

The first wave began at the end of the 19th century with the rise of the Industrial Revolution, where breakthrough innovations like the telegraph, steamship, and railroad stimulated the flow of information and the movement of commodities thanks to lowered transportation costs. This was possible through quicker transportation mechanisms and easier modes of communication across long-distance nodes. In this context, a substantial role was also played by governments, which understood the importance of investing in innovation to allow the progress of society⁶.

The dawn of the new century brought with it the rise of nationalism and *protectionism*⁷ in some countries during the period of 1920 -1930, leading to the end of the first wave of globalization, with increasing restrictions placed on free trade⁸.

After World War II, many countries struggled to rebuild their deeply damaged economies by the consequences of the war. In that context, the economy of the United States of America was strengthened and allowing it to consider the creation of and evolve into a global economy. The USA set the basis for opening a new era of opportunity characterized by *liberalization*⁹, which promoted international trade and the flow of investments, governed by rules accepted by the players, and supervised by transnational institutions.

This second wave saw a rapid expansion of trade, supported by the creation of new international economic institutions like the International Monetary Fund, the United Nations, the World Bank, the World Trade Organization, and the North Atlantic Treaty Organization. The purpose was the creation of a world in which countries cooperate to foster peace and

⁶ M. Mussa, *Factors Driving Global Economic Integration*, 2000, August 25, pp.9-11

⁷ *Protectionism* is the word indicating the restrictions on international trade applied by the government with the scope of stopping foreign products and push consumers and companies to buy goods and services domestically produced. The government may apply: 1) taxes on imports –tariffs, which are paid by domestic importers, not exporters or foreign governments; 2) limits on the quantity of imports -quotas; 3) subsidies to domestic industries; other regulations.

⁸ M. Kolb, Peterson Institute for International Economics (PIIE), *What is Globalization?*, 2018, <https://www.piie.com/microsites/globalization/what-is-globalization.html>

⁹ *Liberalization* is the term indicating the situation in which countries allow business and people to purchase and sell goods and services across borders with few restrictions. In this scenario, liberalization refers to more free or open trade.

prosperity¹⁰. The end of the 90s' is a definitive starting point for the ongoing wave of globalization. It is characterized by the increasing complexity of the system and a growing level of benefits worldwide. The new technology-driven globalization sees the introduction of digital tools and the internet which catalyses and speeds up processes. The increasing streams of communication and the flow of information allow the diffusion of knowledge and innovation. In this panorama, the interconnection of systems is influencing each area and boosting the progress around the world.

Academic literature has provided many definitions of globalization which can be interpreted in different ways based on the light it is viewed in. This dissertation prioritizes the socio-economic perspective, which can facilitate the comprehension of the key points of the work. The International Monetary Fund (IMF) defines “economic globalization” as: “*a historical process, a result of human innovation and technological progress. It refers to the increasing integration of economies around the world, particularly through trade and financial flows. The term sometimes also refers to the movement of people (labour) and knowledge (technology) across international borders*”¹¹. This perspective points out the fundamental role played by innovation and trade to foster the creation of a global economy in a more interconnected society.

Furthermore, the movement of people reflects the increasing competition and division of labour which has been beneficial for markets since it allows them to specialize in what they do more efficiently compared to the others, having higher returns. In this way, they have access to larger export markets, cheaper imports, capital flows, and technology¹².

A slightly different definition is provided by S. Tallman which highlights that market-liberalization permits an “*increasing integration of national and regional economics and the domination of the world economy by massive MNEs.*” This led to a “*convergence of individual tastes at the expenses of local cultures, [...] political domination by a small number of industrialized states, [...], integration of capital markets, the increasing ubiquity*

¹⁰ M. Kolb, Peterson Institute for International Economics (PIIE), *What is Globalization?*, 2018, <https://www.piie.com/microsites/globalization/what-is-globalization.html>

¹¹ IMF Staff, *Globalization: Threat or Opportunity?*, 2000, <https://www.imf.org/external/np/exr/ib/2000/041200to.htm#II>

¹² C. Ogrean, M. Herciu, L. Belascu, *Searching for new paradigms in a globalized world: business ethics as a management strategy*, 2008, in *Journal of Business Economics and Management*, (9)2, pp.161-165

*of communication and information around the world, and the spread of technology to the farthest reaches of the globe”*¹³.

People worldwide can better satisfy their needs according to their preferences related to quality and cost. The reduced prices of production and communication have facilitated the explosion of a global economy. This perspective illustrates the role played by the liberalization in the interconnection of markets, enhanced by the multinational companies' phenomenon. This has led to a higher level of competitiveness among companies, which are constantly trying to meet the preferences of costumers and countries to result in more attractive in the business environment¹⁴.

This scenario was particularly convenient for the creation of global supply chains, due to the reduction of trade barriers to economic activities applied in some emerging countries. These trends also considerably influenced the policies of emerging economies, which, during the 1990s, have introduced convenient and competitive legal regimes to attract Foreign Direct Investments (FDI) from advanced economies, reaching a higher level of trade openness¹⁵.

Initially, MNCs were more interested in the reduction of their costs of supplies in order to optimize their expenses and offer to global markets competitively priced products, sourced from some *Low-Cost Countries* (LCC). After some time, prices became similar, aligning in all markets, and the main interest switched from raw resources like nature and labour to refined resources, like low-cost human capital¹⁶.

Globalization's effects, even if strongly dependent on technological developments that are attractive for both advanced and emerging countries, are highly addressed by policy choices made by governments and international institutions¹⁷.

¹³ S. Tallman, *Global Strategic Management*, 2006, in *The Blackwell Handbook of Strategic Management*, pp.461-487

¹⁴ C. Ogorean, M. Herciu, *Globalization and the dynamics of competitiveness – A multilevel Bibliographical study*, 2010, *Studies in Business and Economics*, p.127

¹⁵ M. Khor, *Rethinking globalization: Critical Issues and policy choices*, 2001, Zes Books, New York, p.8

¹⁶ S. Garelli, *The new waves in globalization and competitiveness*, 2008, in *IDM World Competitiveness Yearbook 2008*, pp.35-39.

¹⁷ M. Khor, *Rethinking globalization: Critical Issues and policy choices*, 2001, Zes Books, New York, p.2

This global phenomenon contributed to the creation of new job opportunities worldwide launching the expansion of MNC's activities to locations outside their country of origin¹⁸. This increased their power exponentially and after the fall of the URSS, the companies' total headcounts jumped from 24 to 54 million, and their turnovers doubled¹⁹.

Recent improvements in ICTs (Information & Communication Technologies) have reduced the cost of distance, offering new possibilities to generate value remotely, leading to the acceleration of the so-called *offshoring* phenomenon which increases the potential savings for MNC²⁰. The offshoring practice consists of the relocation of an organization's business processes from one nation to another, based on the potential cost advantages. For instance, a firm that moves its manufacturing plant to an LCC to benefit from lower labour costs increases resource availability and lower its spending on overheads such as energy and infrastructure.

Taking the factors explained into account, it can be said that offshoring could be considered both "*facilitated by*" and "*a facilitator of*" globalization. The concept of offshoring encourages globalization through the benefits that it offers. Companies understand that outsourcing no longer remains the only option to manufacture their products. By setting up their manufacturing facilities in LCCs, they can drive down their business costs and can possibly provide more products or services to their consumers through affiliates.

Nevertheless, the decision of a firm to offshore is not solely based on direct costs. In fact, companies make sure that the target countries protect their best interests in terms of import/export taxes, IP, trade regulations, the stability of the financial system and local currency, political stability, and geographical position²¹.

Comment:

Offshoring, as other business strategies, offers its drawbacks or risks.

¹⁸ N. V. Venkatraman, *Offshoring Without Guilt*, 2004, I MIT Sloan Management Review; Cambridge Vol. 45, Iss. 3, (Spring 2004), pp. 14-16.

¹⁹ M. J. T. Calatayud, J. C. Candelas, P. P. Fernandez, *The Accountability of Multinational Corporations for Human Rights' Violations*, 2008, p.171

²⁰ S. Zaheer, S. Manrakhan, *Concentration and Dispersion in Global Industries: Remote Electronic Access and the Location of Economic Activities*, 2001, in Journal of International Business Studies, 32, 4 (Fourth Quarter 2001): pp.667-686

²¹ T. Brändle, A. Koch, *Offshoring and Outsourcing Potentials: Evidence from German Micro-Level Data*, 2017, The World Economy, doi: 10.1111/twec.12439, pp. 1775- 1777

a. **To the Firms:** Firms now find themselves having to put an increased amount of effort into keeping track of the changing geopolitical nature of different parts of the world and its implications. They must execute a deep analysis of the convenience of investing outside of their national boundaries, but they also need to continuously monitor and control the social, geopolitical, legal, and economic frames applied within the host country borders.

The same goes for the market trends and the currencies as well as the FOREX. Market perception and quality standards also raise other risks, since consumer quality opinion is based on the power of the brand, reputation, and image of the company, which can generate a collapse if a scandal emerges. Firms must now work harder to meet the highest possible standards in compliance with international and national law.

b. **Risks to the People:** Since offshoring presents such a favourable option to firms, there is always a high possibility that it might create a volatile job market, increasing the rates of unemployment in the home country. This usually occurs due to the convenient conditions of moving part of the supply chain to a location where the legal requirements and costs are much lower for the company.

This happens most commonly in emerging economies that do not have a favourable set of laws that protects labour rights, in terms of the minimum salary, work conditions, and the range of rights which must be guaranteed to employees. This might lead to the possibility of exploitation for the Low Cost-County's workers.

1.1. A new actor of Globalization: Multinational Companies

As defined above, the phenomenon of globalization facilitated the establishment of Multinational Companies around the world. A Multinational Enterprise or Trans-National Corporation is defined by United Nations as “an *economic entity operating in more than one country or a cluster of economic entities operating in two or more countries - whatever their legal form, whether in their home country or country of activity, and whether taken individually or collectively*²²”.

²² United Nations, *Norms on the responsibilities of transnational corporations and other business enterprises with regard to human rights*, 2003, Geneva, art 20, p.7

The definition of MNE indicates a series of enterprises composed of several entities that are economically interconnected but juridically distinguished and independent from each other, operating in a plurality of legal systems. Their ‘*lead firm*’ commonly known as the “Headquarters”, is located in the country hosting their capital enterprise and represents the nationality of the Multinational Company. The different operational segments of the productive process are spread across different nations which are chosen based on economic conveniences, such as fiscal benefits, labour, raw material prices, etc.

It is characterized by a matrix society that is based on the legislation of a precise country that produces goods and provides services at a global level through affiliated societies, according to the law of the host countries where those activities take place. This means that they develop a network of branches, offices, manufacturing plants, and contractors at the international level that are subject to the juridical regimes of different nations²³.

The wide composition of actors dislocated globally which identifies the companies’ production blocks, amplifies the different economic and legislative normative to be implemented by the several bodies of the firm. In this context, the risk of responsibility dispersion attributed to the *lead firm* is dissipated. This creates a high level of inequalities across workers of the same chain (*race to the bottom*), as well as inequity in the distribution of value-added activities²⁴.

MNCs have become the main players on the stage of international trade and many of them have budgets that go beyond the GDPs of some countries. This increases their influential capacity to the point that corporations play a decisive role in globalization. Consequently, the power of the states in defining and controlling the rules of the economic system in the Western countries and developing countries is falling rapidly. Indeed, many nations are losing the power to apply their national laws over MNCs, or many home countries are not willing to limit and regulate the activities under their authority²⁵.

²³ A. Perulli, V. Brino, *Handbook of International Labour Law*, 2018, G. Giappichelli Editore – Torino, pp.2, 115

²⁴ V. Brino, *Le prospettive di enforcement- Lavoro Dignitoso e catene globali del valore: uno scenario (ancora) in via di costruzione*, 2019, LAVORO E DIRITTO / a. XXXIII, n. 3, Società editrice il Mulino, p. 556, 557

²⁵ A. Perulli, V. Brino, *Handbook of International Labour Law*, 2018, G. Giappichelli Editore – Torino, p.2

It is possible to identify a gap between the global dimension of the business and the national dimension of legislation which allows companies to exploit the gaps of governments' law systems. In other words, it would be critical to define an organism that could impose its jurisdiction over all MNEs in the matter of labour and human rights in general, able to identify the proper instruments to force businesses to respect them²⁶.

The increase of MNCs' power is also having a dramatic impact on human rights compliance worldwide, especially in emerging and non-democratic countries. The Human Rights Watch shows that the impact of corporations on human rights is not limited to some sectors but is an issue that is affected by all companies whether they be small, large, domestic, international, private, or public. To fight the abuse of human rights, it is crucial to align different players on similar goals²⁷.

As reported by HRW:” *In assessing the impact of business activity on human rights, it is important to focus as much on corporate ties with third parties that commit abuse (such as suppliers or government security forces) as on cases in which businesses themselves directly cause harm. Many times, the Corporation endorse, facilitate, encourage, or aid the human rights violation*²⁸”.

It is fundamental to consider that many MNCs do not address the supply chain's abuses properly, but they hide the misbehaviours that occurred to maintain a good image in customers' eyes.

Frequently, the economic interest leads to a state neglecting victims of an MNC's abuse. Many-a-time, these people are not adequately compensated and must accept that the situation comes with no meaningful reparations. This drives them to act upon the root cause which might be a lack of action on behalf of their governments. Some companies do not embrace human rights standards, meaning that even if Codes of Conduct (CoC) exist, they are not implemented properly. These days, the introduction of further mechanisms of compliance to ensure the respect of labour standards is necessary. If abuses want to be prevented, a good

²⁶ Ibid., p.116

²⁷ Human Rights Watch, *On the Margins of Profit, Rights at Risk in the Global Economy*, 2008, Volume 20, No. 3(G) p.2

²⁸ Ibid., p.2

level of attention must be paid to the governmental responsibilities and obligations concerning the violations²⁹.

The *Prima Facie* on the matter suggests that international and national legislation on human rights should not be considered enough to regulate business activity. This assumption is misleading since MNCs are in a position where they can effectively escape from both laws playing one against the other. The reason for this is that international human rights treaties were mostly created to be applied within the state's boundaries, but the legal development of those instruments did not consider MNCs as legal entities. Indeed, the human rights doctrine was established after World War II, when the effects of globalization and MNCs' phenomenon were still unknown or could not be predicted. The consequence is that the common belief in which the only actors accountable for human rights violations are states and state's agents is now subject to challenge.

Responsibilities of MNCs in terms of human rights violations are still uncertain and it remains undefined if MNCs should be held accountable on the same level as governments in terms of legal human rights obligations. According to M.J.T. Calatayud, J.C. Candelas, and P.P. Fernández, while states have public purposes and functions, MNCs have private scopes, so it is not correct to impose the same duties on both³⁰.

1.2. Globalization impact on the Juridical Sphere

One of the key challenges of the last decades has been the effects of globalization on the regulative systems at both the national and supranational levels. This section offers an overview of the distortion globalization has caused on juridical systems, which are used strategically by Multinational Enterprises to move part of their business where the legislation in the matter of labour law is more favourable.

The introduction of new methods in the organization of MNC and the continuous research of high profit and cost-saving has caused a fracture among economic and institutional spheres of the market. In this spectrum, national and transnational organizations recognize the need

²⁹ M.J.T. Calatayud, J.C. Candelas, P.P. Fernández, *The Accountability of Multinational Corporations for Human Rights' violations*, 2008, Cuadernos Constitucionales de la Cátedra Fadrique Furió Ceriol, (64), p.174

³⁰ *Ibid.*, p.174

to re-think the development of the world economic system, ensuring a balance in the distribution of resources and social justice³¹.

Many companies choose to exploit the advantages offered by different regulatory systems among states by relocating the production facilities and steering financial investments to countries where local legislation is most hospitable to them and costs are lower³². Investing in low social standards countries set a downward trend of social justice principles.

In the past, social justice principles were solemnly defined and taken into consideration, while nowadays they strive to maintain their role, due to the incessant dismantling of the institutional roots on the market. Today, the typical European normative model based on the welfare state is considered too protective and expensive. It is threatened by the competitiveness of global enterprises and by the cost of commodities produced and sourced from low-cost countries.

The market liberalization tends to clash with labour law regulation, whose role is gaining importance in the legislative sphere. Finding a point of conciliation between the global economy and social rights is the key to deal with the issue³³. The absence of regulation might conduce to the increase of volatility of the economy and labour market due to the focus on short-term profits and bad consequences on the redistribution of workers and corporations, causing damages to the enterprise's sustainability, employment creation, and productivity³⁴. Another issue concerning the matter is the gap to be bridged between the national sphere of jurisdiction and the international sphere of production. While many of the policies in the economic and social sectors were under the jurisdiction of the states, they have recently been conferred to supranational institutions. Governments must now introduce policies in line with the rules and decisions of these institutions³⁵.

³¹ A. Perulli, V. Brino, *Handbook of International Labour Law*, 2018, G. Giappichelli Editore – Torino, p. 1

³²R. Shamir, *Between Self-Regulation and the Alien Tort Claims Act: On the Contested Concept of Corporate Social Responsibility*, 2004, *Law & Society Review*, Vol 38, No.4, p. 637

³³A. Perulli, V. Brino, *Handbook of International Labour Law*, 2018, G. Giappichelli Editore – Torino, p.1-2

³⁴ ILO, *Rules of the game: An introduction to the standards-related work of the International Labour Organization*, 2019, Geneva, p.9

³⁵ M. Khor, *Rethinking globalization: Critical Issues and policy choices*, 2001, Zes Books, New York, pp.11-12

A key duty of the State is to create norms able to guarantee the respect of the internal legislation and address phenomena induced by the globalization, taking into consideration the power and competencies conferred to supranational institutions³⁶.

According to the Harvard Law Review, it is critical to consider the “remedial gap” of international law in the regulation of MNCs' behaviour. International Law addresses countries' liabilities but fails to “*articulate the human rights obligations of corporations and to provide mechanisms for regulating corporate conduct in the field of human rights*”³⁷. At present, there are two legal levels of control to regulate MNCs' behaviour:

First, the attempt to subject MNCs to universal standards, and second, the mobilization of judicial-legal systems adopted by developed countries to sanction corporate practices where it is difficult to invoke the local laws³⁸.

The most used paradigm to describe the effect globalization has on the actual crisis of legislation is the *theory of competition among systems of rules*. This theory states that when a factor of production becomes mobile, companies try to move toward systems with more flexible rules enabling their chance to increase their profits³⁹.

Emerging countries, increasingly looking for foreign direct investments, are unwilling to introduce norms that may limit the MNCs' activities or inhibit corporate investment. They aim to avoid the risk of MNCs' relocation toward a more convenient place (e.g. countries that do not enforce child labour prohibition, minimum wage requirements, environmental protection, etc.)⁴⁰. In this framework, legislators act as economic operators adopting the best strategies in the juridical sphere, with the risk of *normative dumping*.

Regulatory competition is one of the principal aspects of the social dumping phenomena, involving states, international trade rules, and enterprises. Besides the regulatory competition paradigm, the trade-liberalization drives countries to abolish their frontiers to maximize their

³⁶ Perulli, V. Brino, *Handbook of International Labour Law*, 2018, G. Giappichelli Editore – Torino, p.2

³⁷ Harvard Law Review, *Corporate Liability for Violations of International Human Rights Law*, 2001, 114(7) Harvard Law Rev. p.2030

³⁸ R. Shamir, *Between Self-Regulation and the Alien Tort Claims Act: On the Contested Concept of Corporate Social Responsibility*, 2004, *Law & Society Review*, Vol 38, No.4, p.637

³⁹ Perulli, V. Brino, *Handbook of International Labour Law*, 2018, G. Giappichelli Editore – Torino, p.2

⁴⁰ Harvard Law Review, *Corporate Liability for Violations of International Human Rights Law*, 2001, 114(7) Harvard Law Rev. p.2030

competitive advantage. The result is a global market that embraces every commodity on the planet. An extreme version of the vision is the creation of free-trade zones where the law is “exceptionally” suspended, as well as fundamental social rights.

Companies, considering themselves mobile and stateless within the global frame, are induced to use the *law shopping*, exploiting the most convenient social norms. The less virtuous countries in terms of normative dumping aim to attract foreign capitals⁴¹.

The main consequence of the dumping adopted by enterprises is the sale of commodities in foreign markets at a lower price compared to the production value of a similar product, which does not cover the manufacturing costs. This means that there is a high probability of labour exploitation related to the non-compliance with the minimum wage for workers.

The concept is described by art. VI par.1 of the GATT⁴² which condemn the dumping practice as “*the introduction of a product of one country into the commerce of another country at less than the normal value of the product*”, specifically when the price of the product exported from one country to another:

- I. Is less than the comparable price, in the ordinary course of trade, for the like product when destined for consumption in the exporting country, or,*
- II. In the absence of such domestic price, is less than either*
 - i. The highest comparable price for the like product for export to any third country in the ordinary course of trade, or*
 - ii. The cost of production of the product in the country of origin plus a reasonable addition for selling cost and profit”.*

For this reason, par.2 of article VI offers a solution to prevent the effects caused by dumping through the adoption of anti-dumping duty by the importing country which should correspond to the margin of dumping of the product.

This phenomenon provokes a distortion in trade flow, due to the failure of the government to enforce labour rights. The rise of competition and the growth of the global value chain leads

⁴¹ A. Perulli, V. Brino, *Handbook of International Labour Law*, 2018, G. Giappichelli Editore – Torino, pp.2-3

⁴² GATT, *The General Agreement on Tariffs and Trade*, 1986, Geneva, p.10

to a necessary action to take responsibility for the working conditions and environmental effect caused by these complex systems⁴³.

These challenges can be addressed with the integration of two perspectives, *Inter-normativity*, and *Co-regulation*. The first one underlines the necessity to create horizontal connections among different bodies of rules⁴⁴, also called *connecting regimes*⁴⁵, with the integration of sectoral strategies and objectives. They operate according to the international law and, in case of violation of the core labour standards, they move from the *moral suasion* of ILO to *economic sanctions* for non-complying governments. As described by A. Perulli in *Handbook of International Labour Law*, the social standards are “*an instrument of implementation of an equal competitive principle at an international level, to limit the social dumping phenomena*”.

The second one, the co-regulation, integrates the regulative model of each body. It creates bridges and connections among regimes of regulation and mechanisms. Co-regulation identifies five mechanisms of regulation connecting hard and soft law:

- 1) The traditional formation of law,
- 2) The instruments of economic regulation based on positive or negative sanctions,
- 3) Mechanisms of self-regulation like code of conducts used within MNC,
- 4) Voluntarism as a self-regulation mechanism of individuals who comply with certain rules, whether there may be sanctions in case of not fulfilment and
- 5) Regulation based on sharing information through training and education programs⁴⁶.

1.2.1. Normative Frameworks and Different Levels of Governance

This section provides some insights on the main subjects and regulations, which have been established at different levels of governance, providing a clarification on the role played by each institution in the labour rights preservation. This offers a classification of the main issues

⁴³ A. Perulli, V. Brino, *Handbook of International Labour Law*, 2018, G. Giappichelli Editore – Torino, pp. 1-7

⁴⁴ An example is the necessity to bind the social agenda to the trade agreements in order to apply sanctions toward those countries non-complying with rules or agreements, which allows the production of commodities by exploiting prison labour or child labour.

⁴⁵ For instance, *connecting regime* can be considered as the linkage between human rights and enterprises, or international trade and non-trade matters

⁴⁶ A. Perulli, V. Brino, *Handbook of International Labour Law*, 2018, G. Giappichelli Editore – Torino, pp.6-8

faced in the contrast of unvirtuous conduct by MNCs, which have the responsibility to guarantee good work conditions for employees.

At this point, it is critical to understand the different dimensions where the normative systems are implemented to protect human labour rights. Even though each subject has a diverse mechanism of regulation, everyone needs to be aligned in the social and economic dimensions, taking into consideration the view of other key participants to gather their acceptance and expertise on the subject⁴⁷. To counter the human rights abuses by states and MNCs, many actors have produced a series of acts of hard laws and soft laws like “external” codes of conduct to address this phenomenon. It is possible to categorize them into four dimensions that define a specific range of jurisdiction.

a) The first one is the international dimension, in which International Organizations such as ILO and the United Nations are the main actors welcoming these new processes of regulation through the elaboration of codes of conduct since the ‘70s. Among them, the International Labour Organization (ILO), founded in 1919 thanks to the signatory nations of the Treaty of Versailles⁴⁸, is the institution responsible for the creation of the international labour standards and the defence of fundamental labour rights. ILO became a specialized Agency of UN in 1946 and today counts 187 member states. It aims at “*promoting opportunities for women and men to obtain decent and productive work in conditions of freedom, equity, security, and dignity*”⁴⁹.

Today, the standards defined by ILO are a critical element to ensure that the global economy and the continuous growth are sustainable and beneficial for everyone. The definition of international social standard guarantees that guidelines for governments and employers are provided to prevent the risk to decrease the labour rights to gain more competitive advantage.

⁴⁷ M. S. McDougal & W. M. Reisman, *The Prescribing Function in the World Constitutive Process: How International Law Is Made*, 1981, in *International Law Essays* 353, pp.356-357

⁴⁸ They instituted a Commission for Labour International Legislation composed by the representatives of France, Cuba, Belgium, Japan, Czecho-Slovakia, Italy, USA and UK which elaborated the ILO’s Constitutional Act (A. Perulli, V. Brino, *Handbook of International Labour Law*, 2018, G. Giappichelli Editore – Torino, p.26)

⁴⁹ ILO, *Rules of the game: An introduction to the standards-related work of the International Labour Organization*, 2019, Geneva, pp.7-17

ILO has produced a significant number of acts of hard and soft law that incorporate labour and business' viewpoints and deal with elements that may contribute to the improvement of workers' conditions (economic, social, political, and civil rights)⁵⁰.

It triggers the activation of the principles by introducing obligatory standards on the matter of concern. The standards are legal instruments defined by ILO's actors – workers, employers, and governments' representatives - nominated by notable national associations that actively participate in the definition of the Organization's principles and rights at work. The standards are addressed either as Conventions (also called Protocols) or Recommendations.

The first ones are defined as legally binding international treaties and are subject to ratification by ILO's member states, which are obliged to implement them in their national territory, while the latter is non-binding and act as guidelines for states, which do not have to ratify them. The procedures of adopting and implementing ILO's Conventions are part of the human rights protection mechanism within the UN system⁵¹.

In case an internal norm conflicts with the principles of the Conventions, it is applied to the so-called *principle of more favourable existing provisions* which states that the most favourable legislation for workers will prevail, in accordance with the art 19 par.8 of the ILO Constitution⁵².

Lately, ILO's normative production has been characterized by an extensive recourse to soft law acts, which contains principles, standards, and norms deprived of their mandatory value

⁵⁰ The constitutive act's preamble of ILO (1919) states: "*The failure of any nation to adopt human labour standards may be an obstacle in the way of social justice improvements in other nations*".

⁵¹ Conventions and Recommendations are designated by representatives of governments, employers and workers and are adopted at the International Labour Conference held every year. Under the article 19(6) of the ILO Constitution, once a standard is approved, member States have to submit it to their national authority (usually the Parliament) for ratification, within a period of twelve months. If the Convention has been ratified, it generally comes into force for that country one year after the date of ratification. Ratifying countries undertake to apply the Convention in national law and have to report on its application at regular intervals. If technical assistance for the implementation is required, this is provided by the ILO. In addition, complaint procedures can be initiated against countries for violations of a Convention that they have ratified (ILO, *Rules of the game: An introduction to the standards-related work of the International Labour Organization*, 2019, Geneva, p. 18)

⁵² Art. 19 part.8, *ILO Constitution*: "*In no case shall the adoption of any Convention or Recommendation by the Conference, or the ratification of any Convention by any Member, be deemed to affect any law, award, custom or agreement which ensures more favourable conditions to the workers concerned than those provided for in the Convention or Recommendation*" (ILO, *ILO Constitution*, art.19 par.8)

for states. This section includes all the recommendations, declarations, guidelines, papers produced by ILO. The application of the standards is constantly supervised by the same organism, considered effective due to the unique tripartite structure composed by the International Labour Conference, the Governing Body, and the International Labour Office. In 1919, the founders of ILO recognized the necessity of having clear rules which might be determinant to ensure the constant alignment between the global economy and social justice, peace, and prosperity⁵³.

However, it is only during the '90s that ILO adopted a pragmatic approach, not only protecting the labour rights but also considering the employment issues and the needs of Low-Cost Countries⁵⁴.

A crucial event that triggered the evolution of ILO is represented by the Rana Plaza tragedy occurred in a Bengali garment factory in 2013, where thousands of workers lost their lives after a fire caused by the horrible work conditions applied. After the scandal, which involved several famous brands, the ILO recognized the need to increase the dialogue with companies with a further intensification of the control and monitoring mechanisms. The identification of a governance gap pushed ILO to create a tighter connection with states, supporting the implementation of the normative and control bodies with business, boosting the dialogue and reporting on labour rights matters, and workers, to discuss the issues faced and guarantee protection⁵⁵.

Among the main duties, ILO has also the crucial task of confronting the WTO⁵⁶, to verify the possibility of creating a linkage between international trade and social rights. It faces a series of constraints in the protection of labour rights because its *standards* are not binding for

⁵³ ILO, *Rules of the game: An introduction to the standards-related work of the International Labour Organization*, 2019, Geneva, p. 12

⁵⁴ A. Perulli, V. Brino, *Handbook of International Labour Law*, 2018, G. Giappichelli Editore – Torino, p.13

⁵⁵ V. Brino, *Le prospettive di enforcement- Lavoro Dignitoso e catene globali del valore: uno scenario (ancora) in via di costruzione*, 2019, LAVORO E DIRITTO / a. XXXIII, n. 3, Società editrice il Mulino, pp. 559, 563

⁵⁶ WTO, World Trade Organization, *is the only global international organization dealing with the rules of trade between nations. At its heart are the WTO agreements, negotiated and signed by the bulk of the world's trading nations and ratified in their parliaments. The goal is to help producers of goods and services, exporters, and importers conduct their business* (WTO site, www.wto.org/english/thewto_e/whatis_e/whatis_e.htm)

states. For this reason, the cooperation between ILO and WTO is fundamental to solve this shortfall or constraint ineffectiveness.

The WTO is a leading global institution that deals with international commerce matters and the impact of trade⁵⁷. It also focuses on other issues such as commodities' technical standards, labour, health, etc. that are predestined to evolve into an inter-normative perspective⁵⁸.

In line with the WTO standpoint, Brian Barrett-Lennard states: "*The main player behind globalization is the WTO, established in the mid-1990s, whose functions include administering global trade rules, providing a forum for negotiations on trade liberalization, monitoring national trade policies and handling trade disputes behind closed doors. People cannot complain to a corporation. The WTO is undemocratic and biased towards corporations and powerful countries. Corporate rights take precedence over labour standards, human rights, social justice, and the environment*"⁵⁹.

Nevertheless, the main reason behind the difficulties in finding alignment on the social cause between ILO and WTO is related to a political-structural factor. The WTO conception of international labour is linked to the Ricardian classical theory of comparative advantages. This point has been described during the Singapore Ministerial Declaration of WTO which states: "*We reject the use of labour standards for protectionist purposes, and agree that the comparative advantage of countries, particularly low wage developing countries, must in no way be put into question. In this regard, we note that the WTO and ILO Secretariats will continue their existing collaboration*"⁶⁰.

Therefore, the WTO has firmly remarked its loyalty to the comparative advantage principle which is characterized by the different features of each country – natural resources, capital, and manpower – and is not able to avoid the distortions of trade which are defined by the different national legislations, also in the matter of labour. This is clashing with the *ILO's Declaration of Social Justice and a Fair Globalization* which claims that the labour principles cannot be used as a comparative advantage. The only step forward expected in the

⁵⁷ R. Ratner, *Corporations and Human Rights: A Theory of Legal Responsibility*, 2001, Yale Law Journal, Vol.111:443, p.538

⁵⁸ A. Perulli, V. Brino, *Handbook of International Labour Law*, 2018, G. Giappichelli Editore – Torino, p.13

⁵⁹ Brian Barrett-Lennard, *Anti-Globalization*, 2001, Melbourne: Beach Box Books, pp. 20–21

⁶⁰ WTO, *Singapore Ministerial Declaration*, 1996, Ministerial Conference 9-13 December, WT/MIN (96)/DEC 18 December 1996, p.2

matter is the universal acknowledgment and recognition of the human labour rights elaborated by UN, ILO, creating the requisites for the respect of the minimum social rights⁶¹. Another subject which is the source of several acts of law-making is the United Nations which, due to its universal credit as the leading international organization for the promotion of human rights standards, is one of the subjects entitled to produce important milestones to promote the respect of human rights worldwide.

In 2011, the United Nations Guidelines introduced an innovative system: the *due diligence*, to help companies identifying, preventing and mitigating the impact of their actions in case of labour rights violation and compensate the gaps left by the law, especially in case of weak juridical systems. The due diligence concept emphasizes the responsibilities of companies related to the actual and potential risks existing across the entire supply chain extension⁶².

Another milestone produced in 2015 by the UN is Agenda 2030, promoting 17 Sustainable Development Goals (SDGs) that the Member States must achieve by 2030. The goals have an international impact meaning that each and every institution should orient its portfolio based on the direction provided by the SDGs, in order to fight against the global challenges of these times.

The Organization for Economic Cooperation and Development (OECD) is another key factor that has grown a critical role in international contexts. After the direction of the UN Guidelines, the OECD produced the *OECD Due Diligence Guidance for Responsible Business Conduct* in 2018, with the scope to provide adequate support to companies in the application of the OECD Guidelines for Multinational Enterprises. It also encourages a clear comprehension and analysis of due diligence for responsible business conduct among governments and stakeholders. Furthermore, the OECD developed sectoral guidance in support of the OECD Guidelines, to help businesses, governments, civil society, and workers to fully understand the due diligence to manage risks and uncertainties, create long-term, distributed value across supply chains⁶³.

⁶¹ A. Perulli, V. Brino, *Handbook of International Labour Law*, 2018, G. Giappichelli Editore – Torino, p. 63-64

⁶² V. Brino, *Le prospettive di enforcement- Lavoro Dignitoso e catene globali del valore: uno scenario (ancora) in via di costruzione*, 2019, LAVORO E DIRITTO / a. XXXIII, n. 3, Società editrice il Mulino, pp. 559, 563

⁶³ mneguidelines.oecd.org/duediligence/

Today, OECD has obtained strong credibility in the process of embracing the home country of the most important MNCs. Nevertheless, in the past decades, it created some concerns in relation to the absence of developing countries within its domain, which would mean having a large portion of enterprises and potential victims of abuses. This, summed to the lack of transparency in its activities generated some discussions related to its action and decision-making process, emerged in 1998 over the proposed Multilateral Agreement on Investment⁶⁴. The World Bank is another institution that is introducing acts of soft law and including human rights concepts in the projects which is financing since 1992, when introduced the *Guidelines for the Treatment of Foreign Investment*. The World Bank's competencies in foreign investment and development allow it to be one of the best subjects for the creation of guidelines on corporate conduct. The only risk is the lack of deep expertise in human rights issues which may bring in a distorted vision reflecting the corporate and State's point of view⁶⁵.

b) Second is the regional dimension, characterized by different spaces of rules based on different criteria like the *integrity of different forms* and *forms of regional integration*. The latter relates also to the labour legislation. At a regional level, it is fundamental to consider the steps forward made by the European Union and its battle to prevent regional deregulation and competition due to normative differences of members' states and promoting the application of social standards.

An example of implementation is the Lisbon Treaty that, due to the support of the Court of Justice, made social rights common constitutional reference in social matters, established in the EU Charter of fundamental social rights.

⁶⁴ The Multilateral Agreement on Investment (MAI) was an agreement secretly negotiated among OECD members between 1995 and 1998. It aimed to establish a new dimension of laws based on universal investments granting MNCs rights to engage in financial operations worldwide, overcoming the national laws and citizens' rights. In addition, it was supposed to give enterprises the right to denounce governments in case their legislation on health, labour and environment might threaten their interests. The draft created criticism from NGOs and developing countries which fear the total behavioural freedom for foreign investors. A global campaign against MAI was generated till when, in 1998, the OECD's host nation, France, announced to refuse to give its support to this agreement to limit and regulate foreign investors (S. R. Ratner, *Corporations and Human Rights: a Theory of Legal Responsibility*, 2001, Yale Law Journal, Vol.111:443, p.459).

⁶⁵ R. Ratner, *Corporations and Human Rights: A Theory of Legal Responsibility*, 2001, Yale Law Journal, Vol.111:443, p.537

Also, the European Commission strongly emphasizes the necessity to integrate the respect and protection of human and labour right into the policies established by the EU, with a focus on those areas subject to the phenomenon of law dumping and boosting socially responsible practices within the supply chains⁶⁶.

In January 1999, the European Parliament adopted a proposal highlighting the responsibilities of companies based in Europe. The aim of it is one day, to reach a European Code of Conduct for EU countries⁶⁷. In 2010 it stated that non-compliance with the CSR principles is a form of environmental and social dumping, then confirmed again by the Parliament in a Resolution of 2011.

Another good example of a regional dimension is the North American Agreement on Labour Cooperation (NAALC) which was adopted by Canada, Mexico, and United States within the North American Free Trade Agreement (NAFTA). The NAALC, recognized as the first free-trade agreement which embraces the labour rights protection, aimed to implement a mechanism that would encourage the protection of labour rights in a free-trade context.

The agreement was determinant for the implementation of social values and the definition of goals in line with labour rights, similarly to the EU experience. International standards were introduced in the economic agreements and labour standards became a rule. In case of non-compliance, economic-financial sanctions and competition damages were enforced.

An effective measure highlighting the impellent need for transparency is the Directive 2014/95/EU, which require a satisfying level of communication and reporting on non-financial elements from Multinational companies⁶⁸.

c) The third dimension is the national one, in which countries are reacting in different ways to manage the labour rights violation boosted by globalization dynamics, although the limits to control phenomena which take place outside the country's borders⁶⁹.

⁶⁶ A. Perulli, V. Brino, *Handbook of International Labour Law*, 2018, G. Giappichelli Editore – Torino, p.15,16,132

⁶⁷ M.J.T. Calatayud, J.C. Candelas, P.P. Fernández, *The Accountability of Multinational Corporations for Human Rights' violations*, 2008, Cuadernos Constitucionales de la Cátedra Fadrique Furió Ceriol, (64), p.176

⁶⁸ . Brino, *Le prospettive di enforcement- Lavoro Dignitoso e catene globali del valore: uno scenario (ancora) in via di costruzione*, 2019, LAVORO E DIRITTO / a. XXXIII, n. 3, Società editrice il Mulino, p. 560

⁶⁹ A. Perulli, V. Brino, *Handbook of International Labour Law*, 2018, G. Giappichelli Editore – Torino, pp.16,20,134

Nowadays, the most common system adopted in the national sphere to impose the respect of human rights in corporations is the national law. Indeed, states have control of the companies that have a business in their territories, and they implement sanctions if they do not comply with the national rules. The ILO standards are also seen as instruments on labour and social policy matters in support of their implementation at the national level⁷⁰.

Countries which ratified the ILO Conventions can implement the standards in two different ways:

- 1) They go through an examination period of the convention and their legislation and, if a revision of the latter is needed, they comply with the new Protocol ratified. Many countries consider these standards as a guideline for drafting their policies and laws.
- 2) In many countries, once the convention is ratified, it applies immediately at the national level. In this way the standards can be used by courts in their jurisdiction, in case the national law is not adequate or contains a gap⁷¹.

A wide range of measures is established for enterprises violating their duties, such as the publication of the companies not completely in line with the standards, the reduction of their benefits through the cut down of preferential loans, licenses or permits, contracts with the PA (Public Administration) and public interventions of the enterprise administration or criminal fines. *“The effectiveness of national regimes will turn in part on international expectations regarding the scope of a state's jurisdiction to legislate”*⁷².

The many States have also introduced systems to incentivize companies to adopt good labour practices such as forms of tax reliefs, differentiated tax regimes for companies, and subsidization. This is what happened for example in the case of the UK where the British Government promoted tax reliefs/incentives for enterprises whose interests and actions are aligned to improve the conditions of life and labour⁷³.

⁷⁰ ILO, *Rules of the game: An introduction to the standards-related work of the International Labour Organization*, 2019, Geneva, p.12

⁷¹ Ibid., p.25

⁷² S. R. Ratner, *Corporations and Human Rights: a Theory of Legal Responsibility*, 2001, Yale Law Journal, Vol. 111:443, p. 534

⁷³ A. Perulli, V. Brino, *Handbook of International Labour Law*, 2018, G. Giappichelli Editore – Torino, pp.132, 133

Nevertheless, the necessity to regulate a phenomenon that goes beyond the national borders often does not permit to legally proceed at the local level. The Government can decide the modality of control.

Most national rules are based on two key aspects: the principles of *territoriality*, also called Host Country Control, and *nationality*, also named Home Country Control. The first is a principle of public international law under which a sovereign State can prosecute acts committed within its border and under its laws, while the second grants prosecution for crime when the subjects engage in illegal conduct for the home country irrespective of the place where the activities have taken place.

This means that enterprises are responsible under the law of the State where their headquarters is located, also for acts committed in other countries. The principle of territoriality is the most adopted by governments. Both systems need interconnection between the nation which claims to have jurisdiction and facts/subjects involved. The coordination between two national regimes having different principles is not easy but it is critical.

According to S. R. Ratner, each State should manage the human rights abuses which take place either under the principle of nationality or territoriality:

“If both the state of nationality and the territorial state (which is also likely to be the state of any victims of abuses) choose to regulate the activity, the result may well be an effective regime if the two states did not place different demands on corporations. But the developing world states might well place fewer requirements on businesses, in which case companies would seek to challenge the more restrictive laws. Litigation or diplomatic disputes over the limitations of jurisdiction-in particular, the relevance of the reasonableness test-would inevitably arise”⁷⁴.

The complexity of this process has often conduced to the idea of introducing regulations based on universal jurisdiction which allows States to recognize abuses and violations of human rights regardless of the relations of the nation with subjects and facts. These ideas might be applicable, but two obstacles impede its introduction:

⁷⁴ S. R. Ratner, *Corporations and Human Rights: A Theory of Legal Responsibility*, 2001, Yale Law Journal, Vol. 111:443, p.535

Firstly, the non-acceptance of universal jurisdiction, characterized by the fact that, if a state tries to regulate a wide range of human rights activities within corporations, it might face the opposition of other countries, hence the absence of general acceptance.

Secondly, even though States tend to prosecute foreign nationals for human rights violations committed overseas, they are diffident to accuse other countries⁷⁵ based on universal jurisdiction because they are concerned about foreign legislation consequences of court cases based on this rule. Others fear the several resources required to proceed with prosecutions or civil suits because witnesses and evidence are usually placed abroad. These factors are the main causes that create hesitancy in the regulation of MNCs' activities overseas⁷⁶.

Even if a government has jurisdiction, the Court might decide to close the case based on *forum non-conveniens*, (from Latin, "*an inconvenient forum*"). It is a legal doctrine frequently used by Courts in common law's Countries to indicate the "acknowledge" that another forum or Court is more appropriate to adjudicate the matter. In this way, the case is sent to the suggested forum⁷⁷. This principle is very used to close cases presented in tribunals of the company's home country toward non-legal actions executed by an affiliated in the ground of the host country.

However, there are some good examples of implementation of the principles of extraterritorial jurisdiction and nationality that have been established in some countries. Taking the case of the US, the American labour law considers "unjustifiable" the socially unfair practices adopted by MNC, such as the violation of worker's rights. This allows promoting judiciary actions against companies not in compliance with the law. Specifically, the Alien Tort Claims Act, also known as ATCA⁷⁸, has demonstrated its potential in making

⁷⁵ S. R. Ratner, J. S. Abrams, *Accountability for Human Rights Atrocities in International Law*, 2001, 13 (2d ed.), pp.165-186.

⁷⁶ S. R. Ratner, *Corporations and Human Rights: A Theory of Legal Responsibility*, 2001, Yale Law Journal, Vol.111:443, p. 536

⁷⁷ https://en.wikipedia.org/wiki/Forum_non_conveniens

⁷⁸ The ATCA is a Law introduced in 1789 by the United States Congress which gave jurisdiction to US Federal Courts over "*any civil action by an alien for a tort only, committed in violation of the law of nations or a treaty of the United States*" (S. P. Mulligan, *The Alien Tort Statute (ATS): A Primer*, 2018 Washington, DC: Congressional Research Service. June 1, 2018). This law allows non-US citizens to sue lawsuits in US federal courts for violations of human rights guaranteed by the international law even if the abuses happened outside the United States land. It does not imply all torts that violate human rights but only those who are recognized by the US law of nations or treaties adopted by the United States. The act is valid only for civil cases and it is not applied for criminal

enterprises accountable for the human rights abuse, allowing the victims to receive reparation for the damages caused by the international law gaps.

This powerful tool is used to scrutinize the performance of enterprises and attract the attention of media and public opinion on the conformity of MNCs to human rights in their activities. When ATCA started being used as a legal tool to challenge corporations for their abuses, a counteroffensive has emerged by the corporative sector to reduce the use of this act in future litigations.

The best example of a coalition against the ATCA was USA-Engage, hundreds of MNCs which considered this act as a new form of American imperialism limiting the norm of equal sovereignty among States. If these suits are allowed to proceed by the Courts, then ATCA and national systems could use the legal mechanism to support the implementation of corporate social responsibility and increase the companies' accountability⁷⁹.

There are also bilateral agreements which introduced soft law concepts like the one signed in December 2000 by the US and UK governments, companies, and NGOs on the voluntary Principles on Security and Human Rights in the Extractive Sectors. This file states that public and private institutions should respect international human rights laws and introduce strict recommendations to companies to ensure that private security forces respect human rights following the UN soft law⁸⁰.

In this context, among the most significant actions are the *due diligence* legislations implemented by countries like France and the United Kingdom, where companies have the duty to implement a vigilance plan to identify and prevent potential risks coming from the activities under their control (directly or indirectly) and from the suppliers and providers they engage with. This can be perceived as an initial step change to ensure the extraterritorial responsibility of businesses (see Chapter II). The common critics provided are related to the

responsibility acts. During the 90s, ATCA was used for the first time to fight against human rights violations committed by enterprises.

⁷⁹ M.J.T. Calatayud, J.C. Candelas, P.P. Fernández, *The Accountability of Multinational Corporations for Human Rights' violations*, 2008, Cuadernos Constitucionales de la Cátedra Fadrique Furió Ceriol, (64), p.179,182

⁸⁰ . R. Ratner, *Corporations and Human Rights: a Theory of Legal Responsibility*, 2001, Yale Law Journal, Vol.111:443, p. 537

missing sanctioning mechanism which is not clarifying *ad hoc* penalties for the irresponsible companies⁸¹.

As shown above, many institutions are introducing principles and non-mandatory norms to implement responsible labour practices within enterprises. Because States accept to delegate the fulfilment of legality at the national and international level to the business hands, which adopt voluntary mechanisms, the economic power has a concrete advantage over social rights⁸².

d) The fourth dimension is the soft law regulation or self-regulation which is represented by the *Lex Mercatoria*⁸³ and the codes of conduct adopted by Multinational Enterprises which gives them the standards to respect and apply in the field of extraterritorial relationships. These series of not binding acts are adopted by each company based on the social and environmental international standards and guarantee that companies adopt ethical behaviour along with the different activities of the supply chain.

Concerning the enterprises' behaviour, there are especially two actions that should be taken into consideration, which are the respect of the standards in LCC and the competitive de-regulation of advanced juridical systems. International organizations should act to resolve such humanitarian issues with policies that can effectively address them. Only with the support of institutions that guide the economic order like WB and IMF, it will be possible to answer human rights issues⁸⁴.

Comment: The governance structure on human rights matters remains inadequate and must be further built on. The reason for this statement is that, in the case of a human rights violation by firms, there are several obstacles to be addressed and many countries do not have adequate legislation to persecute the company which committed the abuse in the host country, leaving it outside the jurisdiction. Furthermore, most of the States which adopt the *principle of*

⁸¹ V. Brino, Le prospettive di enforcement- Lavoro Dignitoso e catene globali del valore: uno scenario (ancora) in via di costruzione, 2019, LAVORO E DIRITTO / a. XXXIII, n. 3, Società editrice il Mulino, p. 565

⁸² M.J.T. Calatayud, J.C. Candelas, P.P. Fernández, *The Accountability of Multinational Corporations for Human Rights' violations*, 2008, Cuadernos Constitucionales de la Cátedra Fadique Furió Ceriol, (64), p.177

⁸³ Lex mercatoria is a normative customary system adopted in the commercial, trade sector since the Middle Age aiming to regulate the relations and agreements of international trade

⁸⁴ A. Perulli, V. Brino, *Handbook of International Labour Law*, 2018, G. Giappichelli Editore – Torino, pp.14-17

nationality or, during a lawsuit, apply the “*forum non-conveniens*”, can escape from their social responsibilities, demonstrating, once again, their unethical intentions.

In several cases even if the perpetrators are punished, the consequences may not be severe enough to act as deterrents, and victims are not sufficiently compensated. The implementation of light penalties might not be impactful to discourage companies from the adoption of bad practices.

This seems to be a matter of not having one single point of reference in terms of human rights legislation, presenting the gaps of having different national laws which have to regulate a transnational phenomenon like MNCs which can take advantage from the inadequate laws of several countries, often not sufficiently serious in the matter.

Legislators worldwide must attempt to align their laws to the main international standards, guaranteeing their presence in their Constitutions.

If a nation belongs to a trade bloc, then all member nations must join to compile one exhaustive set of human rights legislation that they can defer to. This will also extend to requirements for transparency and reporting as well as the punishment if any of these standards are not met, meaning multiple nations will hold firms accountable for their action or in-action.

In trade blocs such as the European Union, this will carry a great deal of force, and firms with less savoury methods will either clean up their act or face the consequences which will be dire indeed. Once the laws have been aligned on a regional platform, it can be taken a step further.

If different regional trade blocs such as the EU and the NAFTA can agree on and align their legislation and methods on the trade performed between them, they can establish watertight legislation applicable to human rights leaving no room for misdirection, no loopholes that can be exploited and a stronger united front to combat human rights crimes in business.

Instead of setting up obligatory standards that companies can meet if they desire, legislators must pass into motion laws requiring firms to establish more progressive standards in terms of CSR activities. Companies must be required to perform reporting activities on their global operations and the activities of their suppliers regularly and set standards for transparency to ensure that they are not kept in the dark while their people are subjected to crimes. To make

these standards and activities more appealing, they can be incentivized by the states, but only those companies which have registered tangible social results should receive benefits.

As explained above, one nation that has taken a step in the right direction is the United States of America. The US has laws in place allowing them to persecute American firms for violations of human rights committed outside of their borders if the firm generates revenue selling those products within their country. Other countries and trade blocs must establish similar legislation allowing them to persecute firms for crimes committed in other Nations. International Organizations overseeing labour laws must strengthen their presence, step in to mediate, or decide on cases where the jurisdiction is unclear and further pressure countries to establish stronger laws.

These Laws must be created to have a three-pronged effect:

- Prevent violations of human rights
- Persecute them
- Act as a deterrent against future crimes

Note: To act as a suitable deterrent however the consequences should suit the crimes. Perhaps companies can be required to pay adequate compensation to the victims whom they have exploited, and furthermore be fined a certain percentage of their yearly turnovers that can go towards the creation of organizations to oversee the human rights sectors or to fund projects envisioned by existing organizations.

Further-more, specialized legislation must be drawn to ensure that companies pay more attention to activities in their value chain. They must, therefore, make the effort to map their downstream supply chain and hold their suppliers to the high standards that they themselves are held. This activity while pain-staking is made easier for firms to perform and track through ICT tools such as blockchain and so on.

If their suppliers are committing violations against human rights in their operations, the focal firm must report them to the appropriate authorities. If this is not done the focal firm will also be held complicit in the crimes since they profited from them. If they say they were not aware, it will be considered that they did not take adequate measures to prevent the crimes in question from occurring.

All these as exhausting as they may be to implement have the possibility of creating a world with fewer violations of human rights.

1.2.2. Principal Legislation and Regulation on International & National Labour Law

In general, the international community has produced a wide range of acts of hard and soft law which gave a contribution to the empowerment of human rights and on their constant adoption from many organizations. It is critical to consider that, among them, the hetero regulation, also called the external code of conduct, represents a consensus from States and MNCs which constitute a model for the definition of their internal policy and normative for one and creation of the code of conduct for the other.

They define standards of behaviour that are not supported by sanctions or enforcement mechanisms. For this reason, it is important to consider that Guidelines, Declaration, etc. remain acts of soft law that do not constitute an obligation for States and companies⁸⁵.

Human Rights include civil, political, economic, and social and cultural rights, such as the right to life, the right to freedom of association or the right to health. They were recognized within the eight Core Conventions, covering subjects that are considered to be fundamental principles and rights at work: freedom of association and the effective recognition of the right to collective bargaining; the elimination of all forms of forced or compulsory labour; the effective abolition of child labour; and the elimination of discrimination in respect of employment and occupation⁸⁶.

In this section, it is taken into consideration the significant steps made by the international organizations in the recognition and adoption of the human and labour rights to regulate the behaviours of States and Multinational Enterprises which are chronologically disposed of. The first recognition of the responsibilities assigned to Trans-national corporations has been in 1988, with the UN Code of Conduct on a transnational corporation. In this COC, it was established that TNCs are subject to the national sovereignty of the country in which they operate, in respect of laws, regulation, and administrative practices of the country, which dispose of wealth and resources within its borders.

In the Para.14 of the same document, it is reported a small section dedicated to human rights and fundamental freedom, which underlines the obligation of companies to respect them in

⁸⁵ A. Perulli, V. Brino, *Handbook of International Labour Law*, 2018, G. Giappichelli Editore – Torino, p. 118

⁸⁶ www.ilo.org

compliance with government policies and legislation. Moreover, States shall fulfil their international obligations⁸⁷.

Human Rights were first recognized following World War II and The Universal Declaration of Human Rights in 1948 and were then added to the international treaties. One of them is the 1998 ILO's Declaration on Fundamental Principles and Rights at Work. This Declaration highlight that all ILO Member States, even if they did not ratify the Convention but only because they are part of the International Labour Organization, are obliged "*to respect, to promote and to realize, in good faith and per the Constitution, the principles concerning the fundamental rights which are the subject of those Conventions, namely:*

(a) freedom of association and the effective recognition of the right to collective bargaining (Conv. n. 87/1948. Conv. n. 98/1949).

(b) the elimination of all forms of forced or compulsory labour and slavery (Conv.n.29/1930. Conv. n.105/1957)

(c) the effective abolition of child labour (Conv. n. 138/1973. Conv. n. 182/1999).

(d) the elimination of discrimination in respect of employment and occupation (Conv. n. 100/1951. Conv. n. 111/1958) ”⁸⁸.

In 1977, after long negotiations within the International Labour Conference, a new soft law act was produced: the ILO Tripartite Declaration of Principles concerning Multinational Enterprises and Social Policy, then revised in 2000, 2006, and 2017. The Declaration aims to foster the positive effect MNEs have on economic and social progress and promote the implementation of decent work practices.

The Tripartite Declaration was intended to guide employers and workers' organizations of both home and host countries, governments, and MNEs. It highlights the fact that every actor must play his role in preventing human rights abuses within the supply chain. Enterprises should prevent or mitigate human rights impacts that are linked to their operations, while States should ensure the application of national laws and policies by companies.

⁸⁷ UN, *Code of Conduct on transnational corporations*, 1988, UN doc. E/1988/39/Add.1, 1 February, pp.5, 6, 14

⁸⁸ International Labour Organization, *ILO Declaration on Fundamental Principles and Rights at Work and its Follow-Up*, 1998, International Labour Conference at its Eighty-sixth Session, Geneva, June 18

The Declaration focuses on the fields of employment, training, conditions of work and life, industrial relations. In the first section, it is reported that MNCs should promote employment measures, especially when operating in host countries in which this result as a serious issue. Multinational enterprises should also guarantee training to their workers in their host countries.

The Declaration recognizes the important role played by companies in the economic rise of developing countries, but they also see the negative side that the process may bring due to the diversified juridical systems. Also, the Declaration underlines that Member States need to promote and realize the principles of the 1998 ILO Declaration on Fundamental Principles and Rights at Work and its Follow-up.

Of critical importance is also the section related to labour conditions. MNCs have the duty to guarantee adequate salaries that should be able to satisfy the needs of the employee and his family, prevent child labour, security, and health for their workers. Multinational enterprises should also inform authorities, workers and employees' organizations on the safety and health standard related to their operations that they adopt in other States.

MNC and national enterprises should also consider that *“any worker who, acting individually or jointly with other workers, considers that he or she has grounds for a grievance should have the right to submit such grievance without suffering any prejudice whatsoever as a result, and to have such grievance examined pursuant to an appropriate procedure”*.

Finally, the incentives promoted by the host States which aim to attract Foreign Direct Investments should not compromise the workers' rights to collective bargaining and their Union's freedom.

ILO is authorized to perform some periodical controls both on MNC supply chain activity and on government regulation behaviour.⁸⁹

A fresh wave of modernization has characterized the new concept of decent work introduced in the 1999 Report of Director-General where the primary goal of ILO is the equal *“opportunities for women and men and to obtain decent and productive work, in conditions*

⁸⁹ International Labour Organization, *ILO Tripartite Declaration of Principles concerning Multinational Enterprises and Social Policy*, 1977, International Labour Office at its 204th Session, Geneva, November, pp.2-15

of freedom, equality, security, and human dignity". The report highlights the evolution of the ILO's activity due to a continuous transformation of the global economy.

Indeed, the ability of markets to self-align with the key concepts of capital and labour has been over-estimated, creating asymmetrical risks and benefits. The system is facing a crisis of adjustment due to the new prosperity and inequality carried by Globalization. For this reason, unemployment and human insecurity have been introduced in the core political agenda of many countries. It is fundamental to consider these issues as not isolated phenomena but as part of a political and social context linked worldwide. The scope of ILO is to give a human face to the global economy. This aim is reflected in its four strategic goals: promoting rights at work, promoting opportunities for work, protection against vulnerabilities and contingency in work, promotion of social dialogue. The main action of the International Labour Organization is to create awareness on the criticality of the rights at work in every financial environment, exposing the voice of its constituents in the global economy discussions⁹⁰.

In 1999 an important milestone has been launched by Kofi Annan, the then UN Secretary-General: The Global Compact. This initiative, which was officially launched in July 2000 at UN Headquarters in New York, is the world's largest citizenship initiative. It is based on ten principles, derived by the ILO Declaration on Fundamental Principles and Rights at Work, which embrace human rights, labour, environment, and anti-corruption (see principles below). The main goals of the Global Compact are:

1. Mainstream the ten principles in business activities around the world.
2. Trigger sustainable and socially responsible policies in the global economy.

The Compact has rapidly reached more than 10.000 participants with over 6.000 companies in more than 130 countries and UN agencies, labour groups, and civil society. The Global Compact is not a regulatory tool, but an opportunity to boost discussion and enable networking among governments, labour organizations, and companies, inducing companies to integrate the Compact into their strategic decision.

⁹⁰ International Labour Conference, *Decent Work*, 1999, Report of the Director-General, 87th Session, Geneva, pp.1-6

In 2008, the United Nations Global Compact Labour Working Group⁹¹, with the support of the International Labour Organization, have established a tool which will help enterprises in the comprehension and implementation of the principles related to the labour pillars, called “*The Labour Principles of the United Nations Global Compact: A Guide for Business*”. This document has been produced through the collaboration of international organizations that are both united in the fight for labour and human rights but was also inspired by other sources like the Universal Declaration of Human Rights, the ILO Declaration on fundamental labour principles and rights, etc.⁹²

The Global Compact is an instrument of soft law but has established a series of obligations for the stakeholder who apply them to their strategies, policies, and procedures. Indeed, subscribers must send yearly communication to their stakeholders regarding the progress’ application of the principles. The results are then published on the website of the Global Compact or other local network websites. In case of violation of the principles, the Member State would be defined as “*non-communicating*” and the “reprimand” in the website.

This phase is then followed by the cancellation of the Country from the list of the Member States which is part of the Global Compact and its name would be then added on the list of MNCs which have been de-listed for non-complying with their obligations. Countries have also the possibility to be re-admitted but they would need to fill a new procedure. The non-compliance to the Compact would not implicate any juridical sanction but would create damage for countries’ reputation⁹³.

⁹¹ The United Nation Global Compact Labour Working Group is an organism born in June 2008 and established by the United Nations Global Compact Board. It is formed by the Secretary-General of the International Organization of Employers (IOE) and the General Secretary of the International Trade Union Confederation (ITUC) and backed by the International Labour Organization. Its scope is to raise awareness and understanding among UN Global Compact companies on the four labour principles of the Global Compact. In addition, it organizes forums, information exchange mechanism and creates tools to ensure UN Global Companies have high commitment on the labour principles of the Global Compact (International Labour Office, *The Labour Principles of the United Nations Global Compact: A Guide for Business*, Geneva: ILO 2008, p.8)

⁹² International Labour Office, *The Labour Principles of the United Nations Global Compact: A Guide for Business*, Geneva: ILO 2008, p1-8

⁹³ A. Perulli, V. Brino, *Handbook of International Labour Law*, 2018, G. Giappichelli Editore – Torino, pp.122-123

UN Global Compact and its Human Rights Principles

Principle 1. *Businesses should support and respect the protection of internationally proclaimed human rights.*

Principle 2. *Businesses should ensure that their operations are not complicit in human rights abuses.*

Labour Principles Principle

Principle 3. *Businesses should uphold the freedom of association and the effective recognition of the right to collective bargaining.*

Principle 4. *Businesses should uphold the elimination of forced or compulsory labour.*

Principle 5. *Businesses should uphold the effective abolition of child labour.*

Principle 6. *Businesses should uphold the elimination of discrimination in respect of employment and occupation.*

Environment Principles

Principle 7. *Businesses should support a precautionary approach to environmental challenges.*

Principle 8. *Businesses should undertake initiatives to promote greater environmental responsibility.*

Principle 9. *Businesses should encourage the development and diffusion of environmentally friendly technologies.*

Anti-Corruption Principle

Principle 10. *Businesses should work against all forms of corruption, including extortion and bribery⁹⁴.*

However, some criticisms have been raised since the Global Compact does not include the mechanism of sanction for non-compliance of companies to the Compact's principles (elimination of all forms of forced labour, the abolition of child labour, elimination of discrimination and so on)⁹⁵.

In 2003, the United Nations produced the Norms on the Responsibilities of Transnational Corporations and other Business Enterprises regarding Human Rights, which confirmed once

⁹⁴ www.unglobalcompact.org/what-is-gc/mission/principles

⁹⁵ T. E. Johnsen, M. Howard, J. Miemczyk, *Purchasing and Supply Chain Management: A Sustainability Perspective*, 2019, p.355

again the human rights obligations of enterprises and States. It is stated that TNCs and national companies must not promise any kind of benefit or advantages to States or public entities. They should avoid any activity which encourages Governments or other bodies to violate human rights. Furthermore, they shall also make sure that the goods or services provided will not be utilized for human rights' abuse activities. To prevent such mechanism, Transnational Corporations and national companies will be subject to period control by the United Nations and other international and national bodies to verify their application of the normative.

This action will consider input from stakeholders such as NGOs and should be independent and transparent. In the case of human right violation, the entity will be immediately provided reparation to the individual or community affected⁹⁶.

In 2008, the promotion of a Decent Work Agenda and a prompt fight against the challenges imposed by Globalization has been promoted by the International Labour Organization in the ILO Declaration on Social Justice for a Fair Globalization. Among the several goals of this act, there is the promotion of social protection, respect of social labour standards, social dialogue, and employment creation. To achieve the ILO's targets, it is necessary to promote the standard-setting policy and ensure that these principles are used as a means to achieve the objectives of the organization⁹⁷.

This was a very innovative piece of work where it was stated for the first time that “*the violation of fundamental principles and rights at work cannot be invoked or otherwise used as a legitimate comparative advantage*”, repudiating the practice of social dumping. Such a statement was a powerful way to indicate that the Member States and MNCs must not consider the labour rights abuses as a justification for their business interests.

Also, the work of Member States to facilitate social policy should be supported by ILO with technical cooperation and expert advice in case assistance is required to make progress in the strategic objectives. This can be provided through programs for decent work within the UN system. They can also be provided to non-state entities such as MNEs and trade unions to

⁹⁶ United Nations, *Norms on the responsibilities of transnational corporations and other business enterprises with regard to human rights*, 2003, Distr. GENERAL, E/CN.4/Sub.2/2003/12/Rev.2, August 26, pp.5,6

⁹⁷ ILO, *Rules of the game: An introduction to the standards-related work of the International Labour Organization*, 2019, Geneva, pp.8,12

boost ILO's operational action and create new partnerships. Also, Member States have a key role in this, through the adoption of economic and social policy that allows them to have an integrated approach toward the realization of the strategic objectives. This can be done at a regional or/and a national level and may consider the creation of indicators and statistics to monitor the progress made. Another key aspect to value is the promotion of sustainable enterprises which are showing a substantial effort in achieving these targets⁹⁸.

In June 2009 the ILO goal of promoting the decent work principles was again promoted in the *Recovering from the crisis: A Global Jobs Pact*, which was launched due to the increase of global unemployment social crisis, proposed new measures that countries, regional and multilateral institutions may introduce to reinforce their effort to solve the crisis. The request for a coordinated global policy that embraces all the actors worldwide such as the UN, international organizations, regional organizations, development banks, etc. Fundamental to overcome the global jobs crisis is also the political decision taken by the Member States and international actors such as business, labour, local authorities, civil societies, and many more⁹⁹.

In March 2011, the UN Human Rights Council unanimously endorsed the UN Guiding Principles on Business and Human Rights which is an international reference point for States and companies concerning the way States and enterprises should protect and respect human rights worldwide¹⁰⁰.

It is composed of three main points which are interconnected one with the other.

The first one considers the obligations on respect and protection of human rights and fundamental freedoms by States within their jurisdiction, which must implement any action in their power to prevent, investigate, punish such violations, and specifically through policies, legislation, etc.

The second one is related to the role enterprises have on human rights safeguards. It states that they should not violate human rights and should avoid contributing or causing human

⁹⁸ ILO, *ILO Declaration on Social Justice for a Fair Globalization*, 2008, International Labour Conference, Ninety-seventh Session, Geneva, June 10, pp.11-14

⁹⁹ ILO, *Recovering from the crisis: A Global Jobs Pact*, 2009, International Labour Conference, Ninety-eighth Session, Geneva, June 19, pp.1-4

¹⁰⁰ PRI, *Digging deeper: Human Rights and the extractives sector*, 2018, pp.4-9

rights impacts linked to their operations and identify and address them when it occurs. It is also important to communicate the methods applied to address them.

The third one is related to the remediation of MNCs in the case of human rights abuse. In case of violation, they should cooperate in their remediation through judicial, administrative, legislative instruments and, finally provide the victim with an effective compensation for the damages that occurred¹⁰¹.

These fundamental principles and rights at work are universal and applicable to all human beings in all States, regardless of the level of economic development. They are the essence of the “eight-core” ILO Conventions, which express in more detail and a formal legal structure the scope and content of these fundamental principles and rights¹⁰².

During the UN General Assembly in September 2015, the Decent Work Agenda’s pillars – social protection, employment creation, rights at work and social dialogue - were declared as core elements of the new resolution *Transforming Our World: The 2030 Agenda for Sustainable Development*, composed by 17 Sustainable Development Goals (SDGs) and 169 targets of the United Nations which countries have to achieve by 2030.

The SDGs are a *set of universal and transformative Goals* which stimulate the action in three critical dimensions – environmental, social, and economic. For instance, the Goal 8 of the resolution, “*promote sustained, inclusive and sustainable economic growth, full and productive employment and decent work for all*”, is related to the fight against inequalities, unemployment, and promotion of labour rights¹⁰³.

The resolution came into force on January 1st, 2016 and, since then, every Member State is expected to address its energies toward the fulfilment of the SDGs Agenda.

ILO’s the Member States, which have not yet ratified the eight core conventions, must annually submit reports with the progress made, specifically showing the parts of the law and its practice linked to the matter dealt with and indicating the issues preventing ratification. The information is then consolidated in a report by the CEACR, the Committee of Experts on the Application of Conventions and Recommendations, made by 20 independent legal

¹⁰¹ United Nations, *Guiding Principles on Business and Human Rights*, 2011, UNHR, New York and Geneva, June, pp.2-28

¹⁰² www.claiminghumanrights.org/_ilo.htm

¹⁰³ UN General Assembly, *Transforming our world: the 2030 Agenda for Sustainable Development*, 2015, October 21, A/RES/70/1, pp.3-20

experts. They provide a series of comments, which might be either in the form of observations, published in the Committee's report on the Application of Conventions and Recommendations or technical questions, addressed directly to the Governments, which are not published. The Committee's report is then analysed during the annual session of the International Labour Conference by a tripartite Conference Committee on Application of Standards.

In addition to this supervisory process, there is a complaint system for ILO's governments and delegates, which inspect the ratified convention part which is not observed in a state¹⁰⁴.

1.2.3. The Non-Coercive Effect of Soft Law Acts

One of the key ways in which global rule-setting system has been set in place in recent years is through forms of self-regulation called Codes of Conduct (COC), which are voluntary commitments within which companies, business associations and other entities, can operate according to the social norms and standards which are defined through multilateral agreements¹⁰⁵. The codes of conduct represent the value and the mission of the MNC. They are based on the standards defined by the UN in Conventions like the Universal Declaration of Human Rights and the International Labour Organization's (ILO) Core Conventions¹⁰⁶.

There are several types of COC adopted by different entities:

- 1) the multi-stakeholder codes used by NGOs and private enterprises in response to lack of formal government or intergovernmental policies¹⁰⁷;
- 2) the industry association codes.
- 3) the model codes, used for example by Amnesty International as guidance on labour practices;
- 4) the intergovernmental codes, such as the UN Global Compact and
- 5) the codes developed by ILO and the issue-specific codes or agreement¹⁰⁸.

¹⁰⁴ www.claiminghumanrights.org/ilo_procedure.html

¹⁰⁵ L. W. Fransen, & A. Kolk, *Global rule-setting for business: A critical analysis of multi-stakeholder standards Organization*, 2007, 14 (5), pp.667-684

¹⁰⁶ T. E. Johnsen, M. Howard, J. Miemczyk, *Purchasing and Supply Chain Management: A Sustainability Perspective*, 2019, pp-340-353

¹⁰⁷ A. Sobczak, *Codes of conduct in subcontracting networks: A labour law perspective*, 2003, *Journal of Business Ethics* 44(2-3), pp.225-234

¹⁰⁸ L. W. Fransen, & A. Kolk, *Global rule-setting for business: A critical analysis of multi-stakeholder standards Organization*, 2007, 14(5), pp.667-684

These codes became common knowledge at the beginning of the '90s but only in the last twenty years, they have spread exponentially. The adoption of international standards in the company's regulation provides a minimum level of control over some critical issues and protect the MNCs from exposure to social non-compliance behaviour (like the risk of child labour in their supply chain)¹⁰⁹.

Although the introduction of these codes is a significant incentive in the implementation of human rights, many critics are cynical about this self-regulating system. The major one is their non-legally binding character, which attributes the designation of "soft law" acts to the codes¹¹⁰.

Many companies embrace a restricted group of human rights issues, mostly connected to the industry run by the company. In many cases, the main purpose is the improvement of the company image, by ensuring that harmful practices are not utilized in the processes. The respect of these soft law acts depends on the good faith of the organization. Many Labour Organizations and NGOs are pushing for enterprises to adopt systems to monitor the respect of human rights, but many companies are reluctant to accept, perceiving them as limitations, which prevent the free market forces. The introduction of self-regulation codes is often seen to protect themselves from further external regulation imposed by the public dimension¹¹¹.

1.3. Corporate Social Responsibility to address Global Social Issues

The increasing interest of consumers in ethical production methods and fair work conditions for the employees has led MNCs to introduce codes of conduct to regulate their daily activities within the business environment, especially in their production sites and supply chain. This sector, which has built its pillars on the International Labour Organization (ILO) standards, is called Corporate Social Responsibility (CSR) and is increasingly becoming a

¹⁰⁹ ILO Working Party on the Social Dimensions of the Liberalization of International, *Trade Overview of Global Developments and Office Activities Concerning Codes of Conduct, Social Labelling and Other Private Sector Initiatives Addressing Labour Issues*, 1998, Geneva, (Nov. 1998), ILO Doc. GB.273/WP/SDL11 (Rev.1)

¹¹⁰ M.J.T. Calatayud, J.C. Candelas, P.P. Fernández, *The Accountability of Multinational Corporations for Human Rights' violations*, 2008, Cuadernos Constitucionales de la Cátedra Fadrique Furió Ceriol, (64), p.175

¹¹¹ A. Prakash and M. Potoski, *Racing to the bottom? Trade, environment, governance, and ISO 14001*, 2006, American Journal of Political Science 50(2), p.350

key department in most of the corporations due to the important regulation which is imposing to the economic actors for the respect of social and environmental causes.

ILO defines CSR as “a way in which enterprises give consideration to the impact of their operations on society and affirm their principles and values, both in their internal methods and procedures and in their interactions with other actors”.

Besides this definition, the concept of CSR has long been studied by academicians and has a diverse history in the literature. In the 1950s there were the first consistent studies on the matter which developed then consistently in the ‘60s and became more specific starting from ‘70s. H. R. Bowen, considered the Father of Corporate Social Responsibility¹¹², developed a theory in which the key element in CSR is the businessman, which has the obligation to implement policies or actions which are desirable in terms of objectives and values for our society¹¹³.

A similar definition has been given by Carroll (1983), which initially stated that: “CSR involves the conduct of a business so that it is economically profitable, law-abiding, ethical and socially supportive. To be socially responsible... then means that profitability and obedience to the law are foremost conditions when discussing the firm’s ethics and the extent to which it supports the society in which it exists with contributions of money, time,



Figure 1 The Pyramid of Corporate Social Responsibility (Carroll:1991)

¹¹² A. B. Carroll, *Corporate social responsibility: Evolution of a Definitional Construct*, 1999, University of Georgia, BUSINESS & SOCIETY, Vol. 38 No. 3, September, pp.268-295

¹¹³ H. R. Bowen, *Social Responsibilities of the Businessman*, 1953, New York, 1st ed., p. 6

*and talent. Thus, CSR is composed of four parts: economic, legal, ethical, and voluntary or philanthropic*¹¹⁴.

In a second moment, he revisited its four-part CSR perspective, and, in 1991, he proposed a new model called the Pyramid of CSR, as shown in Figure 1. The core of his theory highlights the responsibilities of a business which should reflect the expectation of the society on specific practices adopted by corporations. Carroll states:

*“For CSR to be accepted by the conscientious businessperson, it should be framed in such a way that the entire range of business responsibilities is embraced. It is suggested here that four kinds of social responsibilities constitute total CSR: economic, legal, ethical, and philanthropic. Furthermore, these four categories or components of CSR might be depicted as a pyramid. To be sure, all these kinds of responsibilities have always existed to some extent, but it has only been in recent years that ethical and philanthropic functions have taken a significant place*¹¹⁵.

The structure of the pyramid has the economic category on the basis upon which the other three segments rest. Businesses should fulfil these four simultaneously and each *obligation is in constant tension with one another*. *“The CSR firm should strive to make a profit, obey the law, be ethical, and be a good corporate citizen*¹¹⁶.

1.3.1. The Evolution of CSR

The current wave of interest companies demonstrates in CSR dates back to the ‘90s, where it has slowly emerged in many countries. The consolidation of enterprises in the US in the late 19th century led to the anti-trust movement and the regulation of their utility demands¹¹⁷ adopted to demonstrate governments and unions the concern of MNC on corporate social responsibility issues¹¹⁸.

¹¹⁴ A. B. Carroll, *Corporate social responsibility: Will industry respond to cutbacks in social program funding? Vital Speeches of the Day*, 1983, July 15, pp. 604

¹¹⁵ A. B. Carroll, *The pyramid of corporate social responsibility: Toward the moral management of organizational stakeholders*, 1991, *Business Horizons*, 34, July/August, pp.40, 42.

¹¹⁶ *Ibid.*, pp. 42, 43

¹¹⁷ J. Richter, *Holding corporations accountable: corporate conduct, international codes, and citizen action*, 2001, London: Zed, p. 18

¹¹⁸ J. Bakan, *The Corporation: the Pathological Pursuit of Profit and Power*, 2004, London: Constable, p. 18

By the 1990s a wave of neo-liberal policies spread across the more advanced economies, and companies received strong critics for their environmental and labour practices in their daily activities. The global “value chains” growth increased the control of companies over the suppliers, which led to calls for them to take responsibility not only for aspects such as quality of the products but also for environmental impacts and working conditions. This was a peculiar aspect for brands, having a significant influence on corporate reputation, making them susceptible to bad publicity in case of not compliance.

The year 1995 - 1996 was named the “Year of the Sweatshop” in the United States due to the insurgency of several scandals regarding famous brands¹¹⁹. Nike, for example, was attacked by the *New York Times* and other media due to the extensive bad labour practices of its Indonesian suppliers. This had an impact on consumer behaviour which started boycotting the brand¹²⁰. After that, many activists’ campaign was triggered.

At this moment, some companies decided to introduce corporate social responsibility into their business, while others such as Levi Strauss and Shell (extractive industry) introduced supplier code of conduct regulating their corporate practices. During this period, many CSR measures were initiated by the most advanced economies, pushed by NGOs, environmental groups, trade unions, human rights organizations¹²¹.

In the early ‘90s, CSR was perceived as a corporate initiative embraced by MNCs and organizations, but it is only at the end of the period that was adopted by international organizations like WB, UN, etc. and national development cooperation agencies. After a first period, where huge potential was seen in the market as a driver of development, this scenario lost gradually its power. In the last decades, companies have often demonstrated their interest in short-term financial profit, with the preference to escape from long-term investments, necessary to stimulate human development and benefit the poor.

¹¹⁹ J. Bendell, *Barricades and boardrooms: A Contemporary History of the Corporate Accountability Movement*, 2004, Technology, Business and Society Paper no. 13, Geneva: UNRISD, Jenkins, Corporate codes of conduct, pp.11, 30-35

¹²⁰ M. Porter, M. R. Kramer *Strategy & Society: The Link Between Competitive Advantage and Corporate Social Responsibility*, 2006, Harvard Business Review, December, p.2

¹²¹ J. Bendell, *Barricades and boardrooms: A Contemporary History of the Corporate Accountability Movement*, 2004, Technology, Business and Society Paper no. 13, Geneva: UNRISD, Jenkins, Corporate codes of conduct, pp.11, 30-35

The firms which have this mindset do not usually consider the social targets as a priority¹²². Many companies perceive the lack of basic guidelines that help them to balance long-term objectives and short-term costs. That is why often CSR practices are separated from operation units creating a tremendous loss of opportunity. To have a unified strategy it would be desirable to have an integrated vision with social perspectives as part of the core of the businesses. In this sense, the business should be able to identify an opportunity to create shared value for both society and business.

According to M.R. Kramer and M.E. Porter, the key elements which induce companies to adopt CSR can be classified into four areas: moral obligation, sustainability, license to operate, and reputation. The moral obligation indicates that enterprises have a “*duty to be good citizens*” achieving economic success through the respect of ethical values, people, and the environment. The second aspect, sustainability, refers to the triple bottom line of economic, social, and environmental performance.

An effective definition in this sense has been given in 1980 by Gro Harlem Brundtland, the Norwegian Prime Minister: “*Meeting the needs of the present without compromising the ability of future generations to meet their own needs*”. The license to operate is linked to the “*permission from governments, communities, and numerous other stakeholders to do business*”. This can be tacit or explicit. It is a very pragmatic point because it allows the company to have an impact on issues that are critical for the stakeholders. The last point is reputation, often the main force behind the adoption of CSR initiatives by companies, able to improve their image and brand and increase the value of their stock¹²³.

The main concern for companies is linked to the potential damage on reputation these scandals can create due to the media exposure of bad corporate practices¹²⁴.

Limitations of CSR

Nowadays, CSR is a widely spread initiative that is considered very attractive for investors and companies. Although this appreciation and consensus are increasing, some actors do not

¹²² R. Jenkins, *Globalization, Corporate Social Responsibility and poverty*, 2005, International Affairs, Volume 81, Issue 3, May, pp. 525–540

¹²³ M. Porter, M. R. Kramer, *Strategy & Society: The Link Between Competitive Advantage and Corporate Social Responsibility*, 2006, Harvard Business Review, December, pp. 3-6

¹²⁴ Emerging Market Economics, *Pro-poor investment: Maximising the Contribution of Investment and Business to Poverty Reduction*, 2002, report to the Department for International Development, London: DFID, p. 19

perceive it as effective and tangible. The reason behind this idea is given by the struggle to activate actions and tackle results which are not enforced by compulsory normative and sanctions.

Among the main critics related to this initiative is the voluntarily suspended dimension in which CSR is placed. Hence, there is a moderate and uncommitted effort in trying to implement a social change. It is often questioned the effective results CSR bringing to MNCs. In this case, as already mentioned, codes of conduct are addressed but not subordinated to compulsory regulation¹²⁵.

Furthermore, sustainability has been usually treated as a stand-alone initiative with goals that are not aligned with the profit-seeking enterprises. The sustainability goal can also be perceived as incompatible with the purchasing departments which are constantly focused on cost reduction and are evaluated on their cost-saving performance¹²⁶. The incompatibility of Corporate Social Responsibility and profitability is also remarked upon by the sceptical in case a company declares that it will engage in sustainable initiatives.

In those situations, there is often a common belief that companies use CSR as an opportunity mechanism without having a real interest in the promotion of labour rights but only a mere willingness to improve their image. CSR policies are often perceived as initiatives aiming to promote the company's agenda. They simply provide finance to protect the good enterprise reputation and to comply with a minimum part of the standards required by law¹²⁷. The main supporter of this idea is Friedman, who believes in the idea of instrumental stakeholder theory of CSR.

The concept behind this theory is that CSR is only adopted by a business to increase its profits. He attacks the definition of "social responsibilities of business", claiming that "[...] *there is one and only one social responsibility of business--to use its resources and engage*

¹²⁵ A. Perulli, V. Brino, *Handbook of International Labour Law*, 2018, G. Giappichelli Editore – Torino, pp.129-137

¹²⁶ T. E., Johnsen, M. Howard, J. Miemczyk, *Purchasing and Supply Chain Management: A Sustainability Perspective*, 2019, pp.73-74

¹²⁷ A. Amel-Zadeh, *Social Responsibility in Capital Markets: A Review and Framework of Theory and Empirical Evidence*, 2018, Said Business School University of Oxford and Newton Centre for Endowment Asset Management University of Cambridge, p.5

*in activities designed to increase its profits so long as it stays within the rules of the game, which is to say, engages in open and free competition without deception or fraud*¹²⁸.

Friedman's point of view states that a business cannot be considered as responsible for solving the issues of society. Since it is an artificial institution created by individuals, it can only stay alive if it is able to maximize profits, and this is its unique interest. The idea of Friedman has been challenged by Freeman and Porter who strongly believe in the idea that corporations can "do well by doing good", integrating the profit maximization and Corporate Social Responsibility. In fact, according to their theory, economic and social targets are converging in the long run¹²⁹.

¹²⁸ M. Friedman, *The social responsibility of business is to increase its profits*, 1970, New York Times Magazine, September 13, pp.1-6

¹²⁹ A. Amel-Zadeh, *Social Responsibility in Capital Markets: A Review and Framework of Theory and Empirical Evidence*, 2018, Said Business School University of Oxford and Newton Centre for Endowment Asset Management University of Cambridge, p.5

II. Strategic CSR Approaches adopted by Multinational Companies

Today, although some critics say otherwise, many companies believe in the potential benefits of CSR for society. They are conscious of the significance of “going beyond the profit” and wish to remove the negative effects of their policies. They trust the potential contributions this initiative will bring to complement the gaps of the legislation and the limits of the market¹³⁰.

CSR is widely embraced by those companies that decide to embrace the social cause. Consumers find more ethical to buy products or services which are provided by virtuous companies that are more aligned with their values. The discussion around the authenticity of these initiatives are supported by a series of factors: the misbehaviours performed by corporations, the increasing interest of consumers and investors on social matters and the transparency required within the supply chain activities, especially by international organizations.

This is very well perceived from both customers and employees. In the past years, a wide number of advanced economies and charities worldwide have donated more than \$200 billion to emerging markets, especially the ones facing poverty, inequality, hunger and climate change. At the same time, companies have invested in those states about \$3.7 trillion.

Although some scepticisms, this significant result is the reflection of organizations, enterprises and investors’ tentative to fight against the big challenges of humanity. Some people strongly believe in the action of companies for the implementations of solution to global problems¹³¹.

In the past decades the fight against the main global challenges was mostly addressed through philanthropy and donations that have a little effect on the valorisation of the brand and the engagement of the employees in the initiative¹³². Great part of enterprises treats CSR initiatives as an independent phenomenon, outside the business area, limited and unsustainable, far from the main business activities. It is especially the separation of CSR practices and core strategy of the company which did not allow to reach the expected results. The basis of traditional CSR implied the following elements:

¹³⁰ A. Perulli, V. Brino, *Handbook of International Labour Law*, 2018, G. Giappichelli Editore – Torino, pp. 130, 131

¹³¹ W. Woods, *The business benefits of doing good*, 2018, TED Talk business

¹³² BCG, *Total Societal Impact: A New Lens for Strategy*, 2017, October, p.14

- Consider social issues generically
- Implement social initiatives which are not part of the company's interest¹³³.

Social issues were not integrated in the core business activities. On this purpose, an interesting point of view on traditional CSR has been provided by Wendy Woods, Managing Director & Senior Partner at BCG during a famous TED Talk. She argued that the impact of CSR:

" [...] is just not big enough, or strong enough, or durable enough to drive solutions to the biggest problems in our world today because it's incremental cost. Even when business is booming, CSR just isn't designed to scale. And then of course in a downturn, it's one of the first programs to be cut. So no, CSR - corporate social responsibility - isn't the answer¹³⁴ ".

A company should address its strategy toward a unique position, differentiating from competitors based on superior processes and distinctive products, creating business opportunities which are solving societal problems¹³⁵. This concept has been used to explain the innovative concept of "Strategic CSR", the target of which is to help companies unlock shared value by investing in social aspects that benefit both society and business, strengthening competitiveness. The success of the community and of the firm becomes interconnected and reinforced.

Furthermore, the more a social issue is linked to the company business, the higher is the chance to use properly the resources and capability of the firm to benefit society.

According to M. Porter & M. R. Kramer: *"Pioneering value chain innovations and addressing social constraints to competitiveness are each powerful tool for creating economic and social value"*¹³⁶.

The best way to promote the strategic CSR is through the addition of a social dimension to the value proposition of a company which help to redefine the activities. This provides a way to connect CSR initiatives to the core strategy and processes of the business.

¹³³ M. Porter, M. R. Kramer, *Strategy & Society: The Link Between Competitive Advantage and Corporate Social Responsibility*, 2006, Harvard Business Review, December, pp.10-13

¹³⁴ W. Woods, *The business benefits of doing good*, 2018, TED Talk business

¹³⁵ M. Porter, *Building the Microeconomic Foundations of Prosperity: Findings from the Business Competitiveness Index*, 2004, in *The Global Competitiveness Report 2003-2004*, World Economic Forum, p.31

¹³⁶ M. Porter, M. R. Kramer, *Strategy & Society: The Link Between Competitive Advantage and Corporate Social Responsibility*, 2006, Harvard Business Review, December, pp.10-13

In this way, the social impact becomes part of the company's strategy and this creates a new competitive positioning, distancing itself from the other companies. This will lead to self-sustaining solution which do not require the subsidies of privates or government.

Briefly, the main points regarding Strategic CSR are:

- Involvement in social matters linked with the interests and operations of the MNC
- Focusing on social issues which present market opportunities
- Connecting core business activities with social issues directly¹³⁷.

2.1. The Solution: Total Societal Impact (TSI)

The society has recently embraced a new typology of CSR which is endorsed by Multinational Enterprises and is an element integrated in the definition of Strategic CSR given in the previous paragraph. The Boston Consulting group (BCG) has identified this new field with the name of Total Societal Impact (TSI) which is defined as a collection of assessment and measures which consider the social, economic and environmental impact of the enterprises' activities, operations, products, core capabilities and services within the entire production cycle¹³⁸.

The analysis advanced by BCG pushes Multinational Companies to the adoption of TSI lens to implement significant changes within their company' strategy bringing benefits to the core business' activities and creating a positive impact on society (Figure 2). In particular large asset owners and asset managers are progressively investing on TSI which offers huge opportunities to embrace the 2030 Agenda of United Nations characterized by the 17 Sustainable Development Goals (SDGs). In fact, there are several trends that are pushing companies to focus on the societal impact. For instance, the recognition that solving global challenges will not be possible without the help of private sector in meeting the United Nations SDGs; the importance of social and environmental matters for stakeholders like millennials, who are playing a significant role in addressing these battles; the increasing

¹³⁷ B. A. N. Eranda, N. Abeysekera, *Strategic Corporate Social Responsibility through Redefining the Firm's Value Chain*, 2015, International Journal of Business and Social Research, Volume 05, Issue 06, pp.31-32

¹³⁸ BCG, *Total Societal Impact: A New Lens for Strategy*, 2017, October, p.6

EXHIBIT 1 | Total Societal Impact Cannot Be Separated from the Business

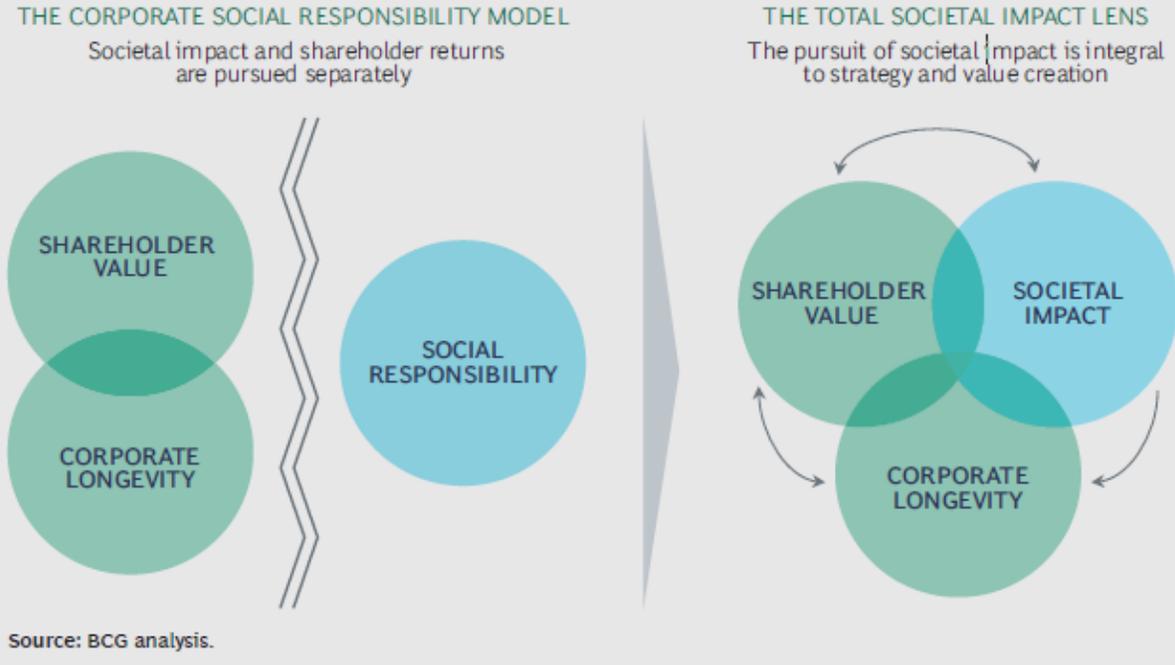


Figure 2

interest of investors in ESG (Environmental, Social, Governance) sectors with a positive impact on the long-term *Total Shareholder Returns* (TSR); the emergent reporting activity of companies' performance in these areas to increase transparency¹³⁹.

They are elements which support the idea of value creation proposed by the ESG factors¹⁴⁰. Implementing good practices related to the ESG is also a way to reduce the downside risks and “*negative events which may affect the company reputation, while boosting new opportunities in the long run, introducing innovations on scalable way which provide societal benefits and have lower costs. Furthermore, a responsibly sourcing can build customer’s trust and loyalty and motivates employees, attracting new talents. The genuine*

¹³⁹ BCG, *Total Societal Impact: A New Lens for Strategy*, 2017, October, pp.7, 10

¹⁴⁰ The ESG proposition is based on three elements: the E stands for Environmental criteria and considers a series of aspects such as the resources used by the firm, the energy used, the CO₂ produced, which companies have the responsibility to manage properly due to the effect they have on the planet; the S stands for Social criteria and analyse the reputation of the workers labour conditions within the enterprise and the relations of the firm with institutions, organizations and communities in the location of interest for the business; the G stands for Governance and considers the practices, audits and monitor of the procedures and KPIs implemented by the company to regulate its own behaviour, in compliance with the legislation and the expectation of internal and external stakeholders.

*intentions of a firm which helps the economic and social targets of a country can create deeper connection among governments, regulators etc”*¹⁴¹.

Several elements are integrated into the Total Societal Impact initiative:

- The benefit for society, which is introduced by a product or service, for instance a new medicine which is able to save people, or a system which enable farmers to receive bank loans to make investments in the crop;
- Good business practices, in line with ethical rules or hiring policies in support of a community or a country;
- The jobs enabled through the purchase of materials or services which are needed within the supply chain operations;
- Impact of a company on the environment (positive or negative)¹⁴².

Many enterprises have already launched programs to address the above points like the efforts to eradicate people out of poverty and programs to eradicate house gas emissions. Although the increasing appreciation of these initiatives, some enterprises are reluctant toward the implementation of this methodology due to their orientation on the maximization of Total Shareholders Returns.

This mindset boosts the creation of high-performance companies which are generating goods and services which are requested from society and foster the economic growth. In this sense, MNCs have always thought about global social challenges as important issues that governments and NGOs must take care of. Nowadays, the corporate leaders are reconsidering the business’ role in the society¹⁴³.

In this sense, it is possible to classify two different attitudes of MNCs, the shareholder and stakeholder’s value approach. The first, also called neoclassical view, focuses on the maximization of the shareholder value which depends on the profit the firm is making. In this case the company is responsible only toward the shareholders. While, the second one, which is based on trust and positive long-term relationships with its stakeholders, is seen as an incentive to promote these relations ethically and economically.

¹⁴¹ BCG, *Total Societal Impact: A New Lens for Strategy*, 2017, October, pp.11-12

¹⁴² Ibid., pp.11-12

¹⁴³ D. Beal, R. Eccles G. Hansell et al., *Total Societal Impact: A New Lens for Strategy*, 2017, October 25, www.bcg.com/publications/2017/total-societal-impact-new-lens-strategy.aspx

The stakeholders' value approach considers the interest of a variety of bodies such as customers, suppliers, governments, workers etc., which should be included in the decisions of the firm¹⁴⁴. In the case of stakeholders' value companies have the duty to act in the issues which are significant for society, considering the responsibilities of the leadership teams at the top and adopting a *paternalistic* behaviour¹⁴⁵.

Stakeholder value model advise a shift in the priorities of firms, from the mere shareholders' return to an inclusive measurement which consider social and environmental causes as part of the MNC's strategy. From a short-term results initiative to a long-term sustainable investment, avoiding the risk of possible lawsuits, consumer boycotts etc., reducing the risk of corporations to face profitability economic shocks¹⁴⁶.

As a matter of fact, the TSI stands next to TSR since it is a driver of the new company' strategy. In fact, due to the innovation, it is possible to have this parallelism between the two elements, creating benefits to the core business activities and solving worldwide problematics in the field of human and labour rights. This may happen through the introduction of novel features or lower-cost products, services, and business model which can bring to new market opportunities, serving new customer segments in existing markets or unexplored ones¹⁴⁷.

This allows to foster Total Shareholder Returns over the long-term making it sustainable and enduring. Indeed, the investment community is looking at TSI with increasing interest recognizing a huge potential on investing in this new key sector which represents a positive prospect for society¹⁴⁸.

Recent studies highlight that the financial benefits driven by the ESG proposition can be visible in several contexts. The first point to highlight is the enablement of top-line growth, meaning that the ESG companies can explore new markets and gain support in the old ones due to the labour relationship built with local governments and communities. This allow to

¹⁴⁴ M. Friedman, *The social responsibility of business is to increase its profits*, 1970, New York Times Magazine, September 13, p.1

¹⁴⁵ A. Berle, G. Means, *The Modern Corporation and Private Property*, 1932, New Brunswick: Harcourt, Brace & World, p.18

¹⁴⁶ A. Amel-Zadeh, *Social Responsibility in Capital Markets: A Review and Framework of Theory and Empirical Evidence*, 2018, Said Business School University of Oxford and Newton Centre for Endowment Asset Management University of Cambridge, pp.6, 10

¹⁴⁷ BCG, *Total Societal Impact: A New Lens for Strategy*, 2017, October, pp.17, 18

¹⁴⁸ B. Eccles, *Total Societal Impact Is the Key To Improving Total Shareholder Return*, Forbes, 2017, October 25, <https://www.forbes.com/sites/bobeccles/2017/10/25/total-societal-impact-is-the-key-to-improving-total-shareholder-return/#7957dc7e2113>

easily access to sustainable resources avoiding the risk of losing customers due to the production of unsustainable products¹⁴⁹.

The introduction of good labour practices and inclusive supply chain can create tighter connections and resilient networks which are less dependent on few suppliers. It is also seen as a source of differentiation strategy that may positively influence the opinion of consumers, who, with the adoption of CSR within the business, perceive a higher quality of products and services, having an important impact on reputation and consequently on financial performance. This can be translated in a business competitive advantage because it benefits the brand and inspire trust¹⁵⁰. In fact, according to several consumers' surveys launched to investigate the CSR effect on stakeholders' behaviour, the consumers are willing to pay a Premium price for products made with sustainable practices¹⁵¹. About 70% of customers claimed their willingness to pay even 5% more for sustainable products which present the same features of the unsustainable one. This is very convenient for companies; whose valuation increase substantially compared to the other companies in the same industry with little social capital¹⁵².

Due to the trust inspired by the firm, the public bodies and social stakeholders are willing to approve and award them with new growth opportunities without risk of operating delays. Furthermore, they have the possibility to earn subsidies, avoiding penalties and legal interventions. A company which have an interest on the social and developments targets has the possibility to create strong relationship with politicians, regulators, governments and many other powerful bodies¹⁵³.

Besides, another important point that must be considered is the health and satisfaction of employees which can be translated into financial performance: the higher the level of fulfilment at work, the better performance can be foreseen. Employees are the source of

¹⁴⁹ BCG, *Total Societal Impact: A New Lens for Strategy*, 2017, October, p.18

¹⁵⁰ M. E. Porter, M. R. Kramer, *Strategy & Society: The Link Between Competitive Advantage and Corporate Social Responsibility*, 2006, Harvard Business Review, December, pp.10-11

¹⁵¹ A. Amel-Zadeh, *Social Responsibility in Capital Markets: A Review and Framework of Theory and Empirical Evidence*, 2018, Said Business School University of Oxford and Newton Centre for Endowment Asset Management University of Cambridge, p.17

¹⁵² McKinsey Quarterly, *Five ways that ESG creates value*, 2019, November, pp.4, 6

¹⁵³ BCG, *Total Societal Impact: A New Lens for Strategy*, 2017, October, p.18

shareholder value which embeds the skills of the firm but also a source of innovation¹⁵⁴. In general, socially responsible firms are perceived as more attractive and can retain talents, boosting their motivation through the creation of a purpose¹⁵⁵.

The satisfaction of workers is strictly correlated to the increase of shareholder returns and profitability as demonstrated by a research conducted by the London Business School in which the best 100 companies see an increase in their stock returns between 2.3% and 3.8% per year. The higher the social impact the company has, the greater the drive of employees that do not have to face any social stigma. Also, employees' productivity may decrease due to labour actions, strikes, and so on¹⁵⁶.

During the interviews of the 2019 Global Impact Investment Network, investors reported that around 80% of their staff indicated that working for a mission-driven company is much more stimulating and about 79% of them are delighted by working on an enterprise in line with their values¹⁵⁷.

2.1.1. Consolidating TSI into the Activities of the Company

The introduction of the Total Societal Impact within the company's core business and strategy is strongly linked to the implementation of the Sustainable Development Goals. The UN estimated that the total amount of investments necessary to fulfil the 17 SDGs is between US\$5 and 7 trillion per year, with an annual investment of US\$3.9 trillion only in the developing countries, with a current gap of around US\$2.5 trillion. It is evident the necessity of increasing the amount of investments coming from governments, public organizations and especially privates to finance impactful projects in support of the SDGs. In the recent years, the amount of impact investing for assets under management went from US\$114 billion in 2016 to US\$502 billion in 2018 showing a catalyst effect for financing SDGs providing high risk capital. Even though the astonishing annual increase, stakeholders confirm the remaining

¹⁵⁴ D. Siegel, *Skill-based technological change: Evidence from a firm-level survey*, 1999, Kalamazoo, MI: Upjohn Institute Press, pp.1-4

¹⁵⁵ D. K. Peterson, *The Relationship between Perceptions of Corporate Citizenship and Organizational Commitment*, 2004, *Business and Society* 43, pp.296-319

¹⁵⁶ McKinsey Quarterly, *Five ways that ESG creates value*, 2019, November, pp.4-7

¹⁵⁷ Global Impact Investing Network, USAID, *Annual Impact Investor Survey 2019*, 2019, Ninth Edition p. XV

challenges related to the impact investments in SDGs. More should be done to reach the UN Agenda 2030 target¹⁵⁸.

As already mentioned, one company does not have the resources to commit to all the 17 SDGs but has the power to select the ones which are present in its supply chain to challenge them. To implement a structured TSI which is at the centre of the company strategy, it is necessary to determine these elements from the early stages of the process, identifying which ESG is critical in the industry. The best way to gather these inputs is through the support of industry partners, industry experts, customers, and organizations like the Sustainability Accounting Standards Board (SASB)¹⁵⁹.

Initially, companies need to clarify the TSI of their products and services today and their aim in the future, determining if they can further implement some initiative to make TSI as a core business. After that, they should generate a solid and unifying story that demonstrates the integration of TSI into their value proposition and highlights the results expected. This will bring to the creation of a series of portfolio initiatives which rotate around the core activities of the business characterized by some high priorities which will be enforced across the business units of the company. Along with the execution of these phases, it is fundamental to establish the proper partnerships with the right organisms (NGOs, development organizations, other MNCs, governments, etc.) which can amplify the impact on large-scale. Their support will also help in the identification of the right metrics and KPIs to measure the results which will be also aligned and extended to the rest of the stakeholders. This methodology will allow to identify new cause-effect scenarios concerning the new initiatives implemented in the light of TSI. In the end, the actual performances would be measured and compared to the targeted ones, allowing the creation of new assumptions that will be shared with the key stakeholders such as employees, NGOs, customers, and government. This stage is fundamental because it will allow them to valorise and engage in the social issues that matter to them. The following step is then to engage investors on the matters, spreading awareness on the results obtained, and demonstrating the benefits of doing good and commit to social issues. An increasing communication on the effects of TSI processes on performance and financial results of the company can foster the interest and engagement. A

¹⁵⁸ IISD, *Impact Tokens: A Blockchain-based solution for impact investing*, 2019, April, pp. 3,4

¹⁵⁹ BCG, *Total Societal Impact: A New Lens for Strategy*, 2017, October, p. 19

good level of communication of the vision from the CEO to shareholders and stakeholders enables the right commitment and actions to integrate the TSI concept into the business model¹⁶⁰.

The creation of annual reports and events can be a good opportunity to spread awareness on the matter. In this sense, it is fundamental to demonstrate the involvement of global challenges coming from each level of the enterprise. To have the right governance and support in place across the whole company is considered as a key factor. In this sense, the senior management and the board of directors should be involved in the promotion of social impact initiatives that are integrated within the core business of the company, tracked through metrics that are part of the business model. In this way, the MNC earns more by monetizing positive externalities¹⁶¹.

Furthermore, it is critical to implement policies promoted by governments and investors that motivate companies to activate Results-Based Financing initiatives which make profit solving global challenges. This may be enabled by the definition of Social Impact Incentives (SIINC)¹⁶² for effective social companies with a sustainability mission. This Finance model was defined by Roots of Impact and the Swiss Agency for Development and Cooperation and allows high-impact social firms to have the possibility to raise a wide number of investments, expand their sustainable portfolio and enable returns and profitability by paying for real achieved results.

Returns attract investors who provide the amount of capital impact necessary for scaling. This method is based on the entrepreneurial and flexible drive which characterize the social enterprises that have an interest in the progress and solution of the biggest issues of the society. The SIINC approach aligns the interest of the three actors: social companies, public and philanthropic funders, and impact investors. To implement a similar mechanism, it is critical to have a public funder or organization which decides to give a Premium to the company for the social contribution given which are added to the regular revenue of the firm.

¹⁶⁰ BCG, *Total Societal Impact: A New Lens for Strategy*, 2017, October, p.38

¹⁶¹ B. Eccles, *Total Societal Impact Is the Key to Improving Total Shareholder Return*, Forbes, 2017, October 25, <https://www.forbes.com/sites/bobeccles/2017/10/25/total-societal-impact-is-the-key-to-improving-total-shareholder-return/#7957dc7e2113>

¹⁶² SIINC is a project led by Roots of Impact and supported by Swiss Agency Development & Cooperation (SADC), InterAmerican Development Bank, New Ventures and Ashoka. It was implemented in December 2015 in Latin America and the Caribbean islands.

Before that, the outcome payer would evaluate the metrics tracked by the company and processes to implement to effectively achieve the goal. If they satisfy the impact desired, the enterprise is selected for the opening payment-phase. In this context, a base-line payment amount is defined between the parts. In case the company underperforms, the payments will be below the defined baseline, it outperforms, the amount paid will be higher than the baseline. This grows the profitability of the company which becomes more attractive for investors. In this scenario, the company reaches long-term financial support, while the investor and the results funder have lasting returns provided by the source of their investment¹⁶³.

2.1.2. TSI industries attractiveness for investors

As stated above, the social and environmental sustainability is becoming a differentiation occasion for MNCs which attract the attention of consumers and investors. This is the reason behind the rise of responsible investment strategies that englobe environmental, social, and governance (ESG) factors¹⁶⁴.

One of the strategies adopted by investors is to avoid stocks of enterprises whose products or services are suspected to have a negative societal impact. Today, investing in companies that solve social and environmental problems is becoming quite common and attractive¹⁶⁵.

Many companies believe that the application of social norms and standards is too costly and delay economic progress. One of the aspects which corporations underestimate is the positive effects on economic performance favoured by the respect of international labour standards. In this sense, among the key points considered by investors, there is “how” production and profits are generated, rather than the mere fact that profits are generated. When they need to choose the best country to invest in, their priority falls into those states having good labour practices and social stability, rather than low labour costs. This is a clear indication of the importance given to sustainable enterprises, which provide several benefits:

¹⁶³ Roots of Impact, Swiss Agency for Development and Cooperation, *Social impact incentives (SIINC): Enabling high-impact social enterprises to improve profitability and reach scale*, 2016, pp.4-18

¹⁶⁴ Global Sustainable Investment Alliance (GSIA), *Global Sustainability Investment Review*, 2018, p.3

¹⁶⁵ BCG, *Total Societal Impact: A New Lens for Strategy*, 2017, October, p.16

- the promotion of investments in safety and health can decrease the costs used to repair expensive accidents and health care, which is amplified by the huge damage on the image and reputation of the company;
- the introduction of investment in employment protection can motivate employees to take risks and be the pioneer of new solutions;
- the implementation of new investments on trainings for employees can grow their capabilities, boosting better performance achievement;
- the investments on activities that bring more employee satisfaction such as equality, minimum wage, and working-time standards can reduce the turnover levels¹⁶⁶.

In the past years, several trillion have already been devoted to socially responsible investing in the category of global assets, demonstrating that business can drive solutions to global challenges. At the beginning of 2018, global sustainable investing reached \$30.7 trillion in Europe, United States, Japan, Canada, Australia/New Zealand, the five major markets, with an increase of 34% from the previous two years. The responsible investments have now a good share in several regions with some regions demonstrating faster growth than others. The higher increase between 2016 and 2018 was in Japan, but also the US grew faster than the previous two years. In the other regions, sustainable investments keep rising but at a slower speed¹⁶⁷.

According to some studies, about 75% of the investors expect higher revenues and increased efficiency for companies that adopt TSI. However, there are still a few main constraints that do not allow TSI companies to get full credit for their activities. First, the way companies and investors dialogue with each other, with no clear definition of the relation between ESG and financial performance. It is indeed necessary to communicate better the advantages brought by TSI in the company performance and TSR, bringing effective evidence and awareness across MNCs. Second, the strictly financial companies result-oriented do not have proper ESG experts and, consequently, do not transfer properly the way ESG influence financial performances¹⁶⁸.

¹⁶⁶ ILO, *Rules of the game: An introduction to the standards-related work of the International Labour Organization*, 2019, Geneva, pp. 14,15

¹⁶⁷ Global Sustainable Investment Alliance (GSIA), *Global Sustainability Investment Review*, 2018, p.3

¹⁶⁸ BCG, *Total Societal Impact: A New Lens for Strategy*, 2017, October, p.17

Third, too many high impact companies struggle to increase their profitability and attract investments to grow. The number of development investments is too small to fulfil the need of the emerging countries and the target achieved hardly reaches a level of returns and risk reduction aligned with the traditional capital markets. The consequence is that a high level of capital for social and environmental matters is still to be deployed. In 2015, the OECD and World Economic Forum denounced an annual investment gap of US\$3.1 trillion resulting from Sustainable Development Goals sectors¹⁶⁹.

One year later, the annual survey of the GIIN, Global Impact Investing Network, and JP Morgan Chase & Co reported the “*lack of high-quality investment opportunities with a track record*” for the fourth consecutive year, perceived as the second biggest problem of the industry growth¹⁷⁰. The trend of the four-year 2014-2018 shows an increase of 11% per annum in impact investments with a deal size increase of 20%.

In 2019, the GIIN and USAID annual survey took into consideration the point of view of about 254 global impact investors in matters of social and environmental impact. Among them, about 85% sustained to be an impact investor due to its investments in responsible

Number of respondents shown above each bar, some respondents chose ‘not sure’ and are not included.

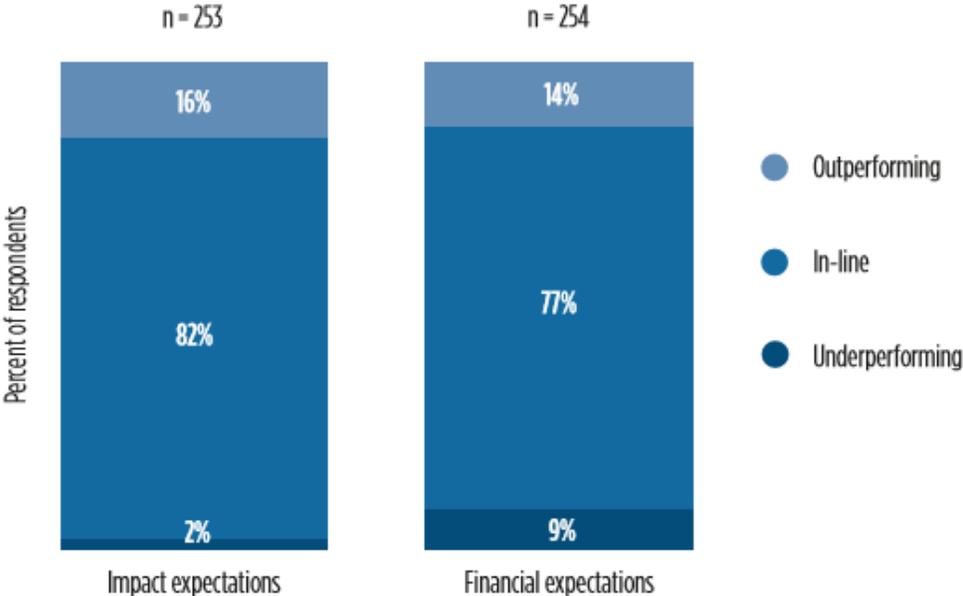


Figure 3

¹⁶⁹ Roots of Impact, *Social impact incentives (SIINC): Enabling high-impact social enterprises to improve profitability and reach scale*, 2016, pp.4-18

¹⁷⁰ Global Impact Investing Network, JP Morgan Chase & Co, *Annual Impact Investor Survey 2016*, 2016, Sixth Edition, p.9

companies and the perception of it as a personal mission. In this regard, 56% of investors stated that they target social and environmental goals, 36% only social objectives, and 7% only environmental impact. 77% of them are in line with their expectations, 14% outperformed and 9% underperformed. The new challenges, to add to the previous listed above, are the “*lack of suitable exit options*”, the *limited sophistication of impact measurement and management practice*” and a lack of “*high-quality investment opportunities with track records*”. The plan of investors for 2019 was to invest US\$37 billion in impact investments, with a growth of 13% for the volume of capital invested and a growth of 14% in the number of investments from 2018.

A section of the survey focuses on the incorporation of the SDGs in the impact investment action. It highlights that 71% of them mapped their portfolio to SDGs, about 50% incorporated SDGs into their management systems, 1/5 of them invested to specifically target the SDGs.

In the section related to the “Performance relative to expectations”, presented in *Figure 3*, it is possible to envision the impact expectations and the financial expectation for their investments year-to-date. Almost 15% of investors show outperforming in both, while 2% and 9% reported underperforming concerning, respectively, impact and financial expectations. While 82% are in line with their impact expectations and 77% are aligned with their financial expectations¹⁷¹.

2.1.3. ESG and financial performances: Empirical studies show positive correlation

Some studies have demonstrated that some initial steps toward Total Societal Impact implementation are addressed. Investors and analysts are focusing on the statistical data indicating the company’s performance, with major emphasis on the valuation multiples¹⁷², defined as the value of a company linked to long-term opportunities and risks, and the margin

¹⁷¹ Global Impact Investing Network, USAID, *Annual Impact Investor Survey 2019*, 2019, Ninth Edition pp. 6-34

¹⁷² The valuation multiples are based on the Smart Multiple methodology that adopts a multiple regression model which includes several financial performance measures such as the company size, margin levels, growth rates and debt leverage to identify the valuation for the business at a certain time. Adding ESG measures to the Smart Multiple method is possible to study the impact on valuation of ESG performance, separate from financial performance (BCG, *Total Societal Impact: A New Lens for Strategy*, 2017, October, p.20)

(EBITDA margins and gross margins). In this sense, it is critical to quantify and measure the impact TSI practices have on the valuation of a corporation.

BCG discovered that in different industries several pieces of evidence are confirming the interdependence between financial and non-financial performance, which foster a growing valuation of a company, mostly related to minimizing negative impact and risks, also defined as downside topics (health and safety, environmental issues, etc.). The industries considered in the research were linked to four sectors: retail and business banking, oil and gas, consumer packaged goods, and biopharmaceutical.

Initially, BCG determined the topics and the availability of data to measure each of the themes defined. The input was provided by MSCI and Oekom Research, two big information providers, while the financial data were provided by S&P Capital IQ. After this initial step, a selection of the leading companies in each sector was initiated, including those MNCs representing 80% of the market capitalization with a collection of 39 companies in biopharmaceuticals, 66 in oil and gas, 97 corporations in consumer-packaged goods and 141 in retail and business banking. Once selected, it was advanced a quantitative analysis using the ESG metrics and interviewed 200 people (investors, employees, NGOs) across 20 companies. The evidence showed that several non-financials factors on ESG had a positive relationship on the valuation and margins of the enterprises, which may help to understand which areas have the best chance to develop TSI and TSR. The studies were conducted on 65 topics related to ESG such as: promoting employee safety, promoting transparent lobbying, implementing fair and responsible compensation, improve working conditions, ensure compliance with the supplier standard on labour rights.

Finally, it was confirmed that investing in ESG does not impact negatively financial results. It was found a positive correlation on valuation multiples for 16 elements and correlation on margins for 17 topics.

During the process, the ESG metrics provided by MSCI and Oekom were mapped in parallel with the collection of the downside topics. After that, the ESG measure provided by the two vendors were normalized to have a common scale¹⁷³. The same has been done for the ESG topics selected. It was studied their link to valuation multiples, finding a linear and positive

¹⁷³ Normalization using the z-score means $(x - \text{population means}) / \text{standard deviation}$. The population indicates companies grouped within the same industry

relation between ESG performance and valuation multiples. At this point, it was observed the variance of valuation multiples between top performers in ESG and the medians¹⁷⁴. The results of the study show that in general companies that invest in TSI performance will have a higher valuation premium.

As mentioned, it was found linearity for downside topics, supported by the existence of good metrics already in place. On the other hand, the right metrics for identifying upside opportunities were missing and this made difficult the measurement.

In each of the four sectors indicated, the best performers in each industry applied policies that allowed them to have a drastic diminution of the risk, boosting a higher valuation compared to the performance of other companies. The valuation Premium was respectively:

- 3% for retail banking and a 0.5% Premium in the margins of those that have policies that ensure financial products for those in need. An example is a program called Enterprise Development which invests 0.2% of the profit as collateral for loans that can be used by black-owned small-medium enterprises.
- 11% for consumer-packaged goods which can be summed by a 4.8% Premium in the margin when the supply chain applies a responsible sourcing policy. Due to the big size of this kind of enterprises, a step-change in these areas can boost a huge impact on economic development in the sourcing locations. It can also increase the resilience and cost reduction in the supply chain due to the several suppliers available.
- 12% for biopharmaceutical and 8.2% Premium in their margins if they can make medicines accessible to whoever is in need. An example in this sense is Merck which is taking the value from its manufacturing operations and supply chain to allow more people to access their medicines.
- 19% for oil and gas, with an increase of 3.4% in their margins for the companies maintaining health and safety across their operations with the implementation of programs that minimize accidents, environmental damage and provide training for employees. These practices have a significant importance for the communities where they operate and are supported by governments to boost the development of the local business which supply the company¹⁷⁵.

¹⁷⁴ BCG, *Total Societal Impact: A New Lens for Strategy*, 2017, October, p.6-21

¹⁷⁵ Ibid., p.8

These numbers evidence that TSI policies have a strong impact on society. Growth rates and financial risks are not the only critical drivers of valuation. Today, measures linked to a positive social and environmental impact have an important role in valuation and margins, and this is an aspect that competitors must not ignore anymore. This may generate collective propulsion to best practices implementation.

Another empirical study conducted in 2015 by G. Friede, T. Busch and A. Bassen consolidated the data of 2200 samples demonstrating that in 90% of the cases there is a nonnegative ESG-CFP (Corporate Financial Performance) relation which is positive and remains stable over time in most of the cases. The process of collecting and elaborating the data was characterized by two phases: 1. Identify the so-called vote-count studies, which have then to count the studies with positive, negative and nonsignificant results and vote as winner the category with higher share, 2. Collect the findings of econometric studies to have a second-order meta-analysis. After this analysis they could state that “*investing in ESG pays financially*” and the results found can give direction to the responsible investing to better align with the objectives of society to exploit the entire potential of value adding ESG elements¹⁷⁶.

To advance the proper mechanism for a new corporate strategy based on TSI, companies should be able to consider the risk and chances of investing in the three Environmental, Social and Corporate Governance (ESG) pillars which are the main factors influencing returns¹⁷⁷.

2.2. Partnership and Stakeholder Engagement

During the last twenty years, significant development has been the stakeholder engagement role in the supply chain activity. This was a powerful way to increase the legitimacy of business operations in the eyes of NGOs, media, and consumers. They continuously have the potential to influence governments, regulators, and public opinion on sustainability issues¹⁷⁸.

¹⁷⁶ G. Friede, T. Busch and A. Bassen, *ESG and financial performance: aggregated evidence from more than 2000 empirical studies*, 2015, *Journal of Sustainable Finance & Investment*, Vol. 5, No. 4, pp.210–211,

¹⁷⁷ W. Woods, *The business benefits of doing good*, 2018, TED Talk business

¹⁷⁸ S. George, *Corporations and NGOs working in partnership to create social change*, 2014, *The Guardian*, December 11

<https://www.theguardian.com/sustainable-business/2014/dec/11/corporations-and-ngos-working-in-partnership-to-create-social-change>

Stakeholders can impact the supply chain's decisions in several ways, such as focusing on the environmental and social responsibility of suppliers and highlighting their bad practices in support of the communities where the company is located. Consequently, this may induce investors to lose interest in a specific company that is negatively perceived by public opinion. Lately, the stakeholder engagement has moved to a partnership between companies and external actors. Corporate leaders have asked the support of NGOs, consulting firms, and academic experts to partner together in sectors where they are more specialized and can support supply chain distant parts. This modality has been strongly encouraged by the United Nations whose normative has stimulated these kinds of arrangements. This can benefit companies' reputation preventing a negative press by collaborating with NGOs and developing better practices across supply networks, for example in emerging countries. Partnerships help to demonstrate the brand's value and engagement in social issues which can be communicated to the main stakeholders.

The power companies can exercise to implement good labour practices can be optimal especially if advised by other stakeholders like the Fair Labour Association (FLA) whose mission is "*to combine the efforts of business, civil society organizations, and colleges and universities to promote and protect worker's rights and to improve working conditions globally through adherence to international standards*"¹⁷⁹. FLA aims at bringing legitimacy and knowledge on companies' behaviour which shape MNCs' actions through the introduction of mechanisms like the Sustainable Compliance methodology (SCI)¹⁸⁰ that promote efficient and progressive improvements in employment practices and working conditions of employees. Companies are incentivized toward the initiation of self-assessments which measure their ESG performances leading to a quantitative rating which is envisioned by several stakeholders interested also in the non-financial KPIs of the

¹⁷⁹ Fair Labour Association, *Charter Document*, 2017, October, p.3,

¹⁸⁰ The Sustainable Compliance methodology is an assessment system which measure normal working conditions, digging down into the root causes of the issues and providing solutions valid for the long term. It is based on four steps: 1) Check Up: the assessors gather past and present information related to the facility, analyse the company policies and processes, check the results of the self-assessment and gather input on-site; 2) Diagnosis: the assessor discover the root cause of problems (i.e. fake records which increase the risk of companies; 3) Remedy: assessors recommend the proper action to be taken immediately and define the long-term plan for improving production planning; 4) Follow Up & Results: the company co-work with the facility, sharing ownership for the plan to implement and action. The cooperation between brands and factories improve the situation (www.fairlabor.org/our-work/our-methodology)

corporation. These results are then evaluated by socially responsible investing enterprises that elaborate them in their rating criteria and assess the firm based on the defined criteria. This allows the creation of socially responsible portfolios which are assessed by third party certification groups. If the non-financial of the companies' performances have an effective social impact, they will receive a certification that can be shared with governments, retailers, consumers, and so on¹⁸¹.

It is evident that the impact activated by the supplier assessment practice is gradually shaping and developing better processes, realized with the support of stakeholders. This action is critical to help suppliers in developing the right capabilities in sustainability¹⁸².

This is necessary to transfer knowledge to suppliers to improve their processes and practices, building capabilities to deliver sustainable sourced products and services in a way that protects social justice and the environment¹⁸³.

An example is Coca-Cola that partnered with WWF to receive some know-how on water-stewardship usage. Working together on common topics can help to address some challenges and add value to their activities, leveraging on the knowledge of NGOs in making the supply chain decisions, and managing the relationship with the partners. Liz Lowe, Corporate Responsibility and Sustainability Manager in Coca-Cola clarified her point on this topic: *"Partnerships are essential. We are a soft drinks company so we cannot do it all on our own. We need expertise around sustainability and making a difference in the field. Human relationships are what counts. We must understand what our common objectives are. Companies such as Coca-Cola must ensure sustainable growth for their business and need expertise around that"*¹⁸⁴.

Besides, it can help MNCs to build skills in sustainable production, applying different working methods among suppliers, first tier, second tier and so on which are required to

¹⁸¹ T. E. Johnsen, M. Howard, J. Miemczyk, *Purchasing and Supply Chain Management: A Sustainability Perspective*, 2019, pp. 370- 384

¹⁸² J. Gualandris, M.Kalchschmidt, *How Does Innovativeness Foster Sustainable Supply Chain Management?*, 2015, In: Sustainable Operations Management. A. Chiarini (ed.): Springer, pp. 103-129

¹⁸³ T. E. Johnsen, M. Howard, J. Miemczyk, *Purchasing and Supply Chain Management: A Sustainability Perspective*, 2019, pp. 370- 391

¹⁸⁴ S. George, *Corporations and NGOs working in partnership to create social change*, 2014, The Guardian, December 11

<https://www.theguardian.com/sustainable-business/2014/dec/11/corporations-and-ngos-working-in-partnership-to-create-social-change>

implement the changes necessary. To do that, the collaboration between enterprises, competitors, communities, NGOs and academia is fundamental¹⁸⁵.

This process is increasingly being used to address sustainability performance improvements and to guarantee equilibrium between the value generation business needs and the expectations of society.

It has been strongly sustained by researchers like Porter and Freeman that, perform the activities ethically, in line with the good labour practices' norms, contributes to the general improvement and growth of the company, without limiting competitiveness and profitability. The experience has now brought to identify four main points that level up the quality of the codes of conduct and company behaviour which will be further analysed in some parts of this thesis: transparency, control, sanctionary mechanisms, and social labelling.

2.3. Fairtrade initiative: a better deal for farmers

Among the main initiatives which embrace these principles as key to boost trust toward companies and create a sense of community to a common goal, there is Fairtrade. The idea behind the creation of Fairtrade comes from the intention to guarantee better deals for workers in developing countries from international trade. The volatile dynamics of the global economy cause the continuous movement of commodities' prices, affecting negatively those at the root of the value chain which sell their products at much lower cost. In a similar panorama, the solution was identified in 1994 with the foundation of an independent consumer organization like Fairtrade, an independent non-profit organization established in UK. Fairtrade defines itself as a consumer choice movement that gives buyers the power to decide and make responsible choices when they purchase products made in developing countries. The main key focus areas of Fairtrade Foundation have been summarized in four points:

- *“To license the use of the Fairtrade Mark in the UK*
- *To help to grow demand for Fairtrade products and empower producers to sell to traders and retailers*

¹⁸⁵ T. E. Johnsen, M. Howard, J. Miemczyk, *Purchasing and Supply Chain Management: A Sustainability Perspective*, 2019, pp. 370, 384

- *To find new ways of working with our partners to support producer organizations and their networks*
- *To raise public awareness of the need for Fairtrade and the significant role of Fairtrade in making trade fair”¹⁸⁶*

Fairtrade defines a series of social, economic and environmental standards for companies and workers which grow the products. Workers’ standards are mostly linked to the protection of the social and environmental rights, while, for companies, they are mostly related to the payment of the Fairtrade Minimum Price and an additional Fairtrade Premium that can be used to implement projects for the community development or invest in business. This relates mostly to products like coffee, cocoa, clothing, jewellery, and much more. The coffee, for example, is a product grown in over 80 countries in the tropical areas from about 25 - 30 million farmers. Lands ranging from 0.1 to 5.0 hectares of coffee are their only source of income and this makes them more vulnerable to the effects of the market fluctuations. The long coffee chain is characterized by several actors that go from the farmer, passing through the manufacturers, wholesalers, till the final stage of the chain. Everyone requires a mark-up on the initial price. In the case of oversupply, the prices of the coffee drop down causing huge damage for the smallholders. Their small volumes supply prevent them from bargaining the price, cutting them out of business since they have low margins. The Fairtrade initiative wants to induce customers to be responsible and give them the power to make virtuous actions to ensure the farmers and producers receive the price with a premium to support their communities and invest in their business. In this way it moves a step forward in addressing the injustices induced by the conventional trade, guaranteeing all producers sustainable livelihoods. This allow to boost and realize their mission “*to connect disadvantaged farmers and workers with consumers, promote fairer trading conditions and empower farmers and workers to combat poverty, strengthen their position and take more control over their lives*”¹⁸⁷.

The Fairtrade Premium initiative consists in the calculation of an additional amount, summed to the initial minimum price, based on the percentage of the volume of product sold and it varies on the commodity and region where it is produced. The price is adjusted every

¹⁸⁶ www.fairtrade.org.uk/What-is-Fairtrade/Who-we-are

¹⁸⁷ www.fairtrade.org.uk

three/four years to adapt the local inflation. Cacao farmers, for example, earn a Premium of \$200 per tonne of cocoa beans sold. In 2016 Fairtrade generated more than 150 million euro in Premium which was used by communities of farmers, called cooperatives, which receive the amount of money. These cooperatives are characterized by representative farmers who are democratically elected and have the responsibility to decide how this money should be invested to improve the business and lives of their community¹⁸⁸. Workers have the possibility to decide if the investments should support the community projects, productivity and quality, children education, environmental sustainability and much more.

Fairtrade make sure that the standards defined for the product supply chain are respected by workers and companies through independently check. In order to guarantee this action to the consumers, Fairtrade licence the use of its mark on products and packaging to indicate it¹⁸⁹. According to some research conducted by Fairtrade 82% of people in UK is in line with the value and mission of the Organization with an interest on their activity, while 84% believe in the importance of third-party certification¹⁹⁰.

In the present day, one of the organizations leading the “fair trade” mission is the *World Fair Trade Organization* (WFTO), an association founded in 1989 composed of over 400 enterprises and organizations defined as Fair Trade Enterprises. Each enterprise commits to improving the livelihoods of manufacturers and workers worldwide giving them chances for sustainable growth and equal opportunities, selling their products at fair prices. This idea of bringing trade to developing countries as a stimulus for growth was embraced by many, marking the founding of the Fair-Trade Organizations across Europe.

The mark guarantees that these members or organizations meet standards regarding working conditions, wages, child labour, and the environment through their value chains. It signifies that these marked organizations are 100% committed to the principles of Fair Trade setting them apart from other companies.

Members of the WFTO are subject to audits performed by the organization which includes all aspects related to supply chain aiming to leave nothing disregarded. The organization

¹⁸⁸ Fairtrade Foundation, Annual Report and Financial Statements, December 2018, p.4

¹⁸⁹ www.fairtrade.org.uk/What-is-Fairtrade/What-Fairtrade-does/Fairtrade-Premium

¹⁹⁰ Fairtrade Foundation, Annual Report and Financial Statements, December 2018, p.8

operates democratically, and each member is allowed to influence its working through a voting system.

The WFTO is now composed of 4 Regional Chapters;

1. Africa: COFTA
2. Asia: WFTO-Asia
3. Europe: WFTO-EUROPE (Formerly the predecessor IFAT)
4. Latin America: WFTO-LA
5. The Pacific-Rim: WFTO-PACIFIC.

These 5 Regions encompass members in 71 countries. All members have to meet the requirements of the WFTO Standards and Monitoring System and so far over 150 organizations have registered. These principles include, but are not limited to, the absence of child labour, forced labour, gender equity, and good working conditions. These members are monitored to ensure they meet the standards of the mark.

WFTO also provides the *First-Buyer Product label* for use by non-WFTO enterprises who buy from members. Meaning, if a company purchases goods from recognized Fair-Trade Enterprises and then rebrands and sells them, they receive an identifying mark, after passing meeting guarantee requirements, under the conditions that at least 95% of the products come from WFTO members.

Organizations like the WFTO ensure that enterprises under their supervision respect legality and values that should not have to be implicitly mentioned and enforced. In case a member is suspected of breaching the standards of the WFTO, they can be reported to the Organization by anyone, including the general public through an accountability watch.

The World Fair Trade Organization also undertakes projects aimed to positively influence behaviours of enterprises outside their circle, educate consumers, and help those at risk of exploitation. The Organization launched a project focused on the European demographic. The goal of the project named “DEAR”¹⁹¹ (Trade Fair, Live Fair) is to influence consumers and direct their attention towards the benefits of sustainable consumption, Fair Trade products, and enterprises. By cultivating a better understanding, the project affects the necessary change through those with the most valued opinions over the practices of companies.

¹⁹¹ wfto.com/projects/dear-trade-fair-live-fair

If consumers consciously and continually choose products that have been responsibly sourced and manufactured, corporations will re-orient their ways, if only to stay afloat and relevant in a consumer-centric world. In many cases, it is more effective to influence consumers rather than attempting to re-educate companies, which is met with resistance.

One example of consumer opinion influencing corporate decisions is the case of Nestlé¹⁹², which, in 2018, reported to the Australian Senate that the new reporting requirements regarding issues such as human trafficking, slavery, sexual servitude and child labour within businesses' supply chains would cost money that would be paid by customers. Consumers expressed a willingness to pay these costs if necessary, though Nestlé insists it has always supported the act in question (Modern Slavery Act 2018)¹⁹³.

One group of people highly at risk of exploitation are refugees, those who are displaced from their homes to escape war, conflict, or persecution. Partnering with the United Nations High Commissioner for Refugees (UNHCR) and their global refugee artisan project, MADE51¹⁹⁴, the WFTO, and the Fair Trade for Refugee Artisans project seeks to make sure that refugee artisans are working according to Fair Trade standards (fair wage payments, decent working conditions, etc.) and that they are connected with the global markets. Through collaboration, WFTO and UNHCR strive to give those displaced an opportunity to earn livelihoods and safeguard them from those who would exploit them for cheap labour¹⁹⁵.

2.4. The positive effect of transparency within the upstream Supply Chain

The implementation of transparency mechanism within the supply chain is the answer to the increasing regulation introduced at the global level by the main organizations which are committed in the labour rights protection. As already cited in the first part of the dissertation the main normative are represented by the United Nations Conventions, the ILO's international labour standards, the UNGP, the OECD Guidelines and many more. The consequential evolution of their application was the introduction of new systems that allowed the rating and control of supplier's practices, which are then evaluated through the attribution

¹⁹²www.business-humanrights.org/en/australia-nestle-comments-on-modern-slavery-bill-2018-suggests-penalties-best-considered-after-grace-period

¹⁹³www.smh.com.au/politics/federal/nestle-says-slavery-reporting-requirements-could-cost-customers-20180816-p4zy51.html

¹⁹⁴ wfto.com/projects/made-51

¹⁹⁵ www.unhcr.org/crafted-by-refugees-made51.html

of a score. A key way to conduct this assessment is accomplished with the support of supplier audits which have the role of scrutinizing processes, standards, systems adopted by suppliers to verify the sustainability of such practices.

The legislation in a matter of procurement is rapidly adapting worldwide to favour good practices and innovative schemes. It is surprising that also developing countries are introducing better national rules to reform the procurement approach and protecting the suppliers' rights¹⁹⁶.

Similarly, the European Union has defined ambitious goals for its member states, to guarantee the integration of social and environmental elements in a matter of procurement. They are indicated by the European Commission Public Procurement, which highlights six main priorities that should be enabled through the collaboration of public authorities and the rest of the stakeholders involved:

- 1) *“Ensuring wider uptake of innovative, green and social procurement*
- 2) *Professionalizing public buyers*
- 3) *Increasing access to procurement markets*
- 4) *Improving Transparency, integrity, and data*
- 5) *Boosting the digital transformation of procurement*
- 6) *Cooperating to procure together”*¹⁹⁷

These guidelines show the main topics which should be addressed by EU member states and that should be implemented in every industry and company. This is a clear signal to dismantle any ambiguities on the position taken at the regional dimension in the matter of public procurement. In this context, a great number of countries are implementing new legislation on transparency requirements to have a significant impact on the supply chain. An example is the 2017 French Law on Corporate Duty of Vigilance¹⁹⁸ with the scope to push enterprises

¹⁹⁶ T. E. Johnsen, M. Howard, J. Miemczyk, *Purchasing and Supply Chain Management: A Sustainability Perspective*, 2019, pp. 39-44

¹⁹⁷ European Commission, *Public Procurement*, in Internal Market, Industry, Entrepreneurship and SMEs, ec.europa.eu/growth/single-market/public-procurement_en

¹⁹⁸ The French Corporate Duty of Vigilance Law, adopted on February 2017 by the French Parliament, states as follows:

“Article 1

[...] “Art. L. 225-102-4. – I. – Any company that at the end of two consecutive financial years, employs at least five thousand employees within the company and its direct and indirect subsidiaries, whose head office is located on French territory, or that has at least ten thousand employees in its

of a minimum size to state social sustainability risks within their supply chain, especially concerning safety abuse, labour rights, and so on. This law also obliges corporations to build a plan which depicts a map of the main risks and list the requirements to assess the issues, sustained by evidence related to the risks declared. In the case of missing evidence, the company is subject to the payment of 10 million euros. This can be considered an example for other countries to build a transparency policy within supply chains.

service and in its direct or indirect subsidiaries, whose head office is located on French territory or abroad, must establish and implement an effective vigilance plan.

“The controlled subsidiaries or companies that exceed the thresholds mentioned in the first paragraph are deemed to satisfy the obligations laid down in this Article from the moment that the company which controls them [...] establishes and implements a vigilance plan for the company’s operations, as well as the operations of all the subsidiaries or companies that it controls.

“The plan shall include the reasonable vigilance measures to allow for risk identification and for the prevention of severe violations of human rights and fundamental freedoms, serious bodily injury or environmental damage or health risks resulting directly or indirectly from the operations of the company and of the companies it controls [...], as well as from the operations of the subcontractors or suppliers with whom it maintains an established commercial relationship, when such operations derive from this relationship.

[...]

It shall include the following measures: “1° A mapping that identifies, analyses and ranks risks; “2° Procedures to regularly assess, in accordance with the risk mapping, the situation of subsidiaries, subcontractors or suppliers with whom the company maintains an established commercial relationship; “3° Appropriate action to mitigate risks or prevent serious violations; “4° An alert mechanism that collects reporting of existing or actual risks, developed in working partnership with the trade union organizations representatives of the company concerned; “5°(new) A monitoring scheme to follow up on the measures implemented and assess their efficiency. “The vigilance plan and its effective implementation report shall be publicly disclosed [...]. “A Council of State decree can add to the vigilance measures laid down in 1° to 5° of this Article. It can specify the modalities for elaborating and implementing the vigilance plan, within multiparty initiatives that exist in the subsidiaries or at territorial level where appropriate.

“II. – When a company does not meet its obligations in a three months period after receiving formal notice to comply with the duties laid down in I, the relevant jurisdiction can, following the request of any person with legitimate interest in this regard, urge said company, under financial compulsion if appropriate, to comply with its duties. “An application may be made to the president of the court, ruling in interlocutory proceedings, for the same purpose.

[...]

Article 2

[...] the author of any failure to comply with the duties specified in Article L. 225-102-4 of this code shall be liable and obliged to compensate for the harm that due diligence would have permitted to avoid.

[...]

“The court may order the publication, distribution or display of its decision or an extract thereof, in accordance with its procedures. The costs shall be paid by the person convicted. “The court may order its decision to be carried out under financial compulsion.” (European Coalition of Corporate Justice, French Corporate Duty of Vigilance Law (English Translation), 2016, Paris, November 29)

In 2015 the United Kingdom introduced the UK Modern Slavery Act. Under this act, companies are required to publish the processes implemented to prevent slavery and human trafficking within their organization. It is also fundamental to identify risky sections within the supply chain, verify that the issues are not existing, and measure them based on the minimum KPIs required¹⁹⁹.

As stated above, several countries are stepping forward in the implementation of national legislation that requires more visibility across the supply chain, while others, although the legislation exists, do not guarantee the enforcement of the laws and relative sanctions. Some companies genuinely interested in the topic are introducing severe codes of conduct to regulate themselves and align with ILO standards with the support of other stakeholders, to identify the behaviours which must be displayed by suppliers.

Besides, in case the companies adopt the concept of delegation, which is the process of assigning responsibility to other actors, the first tier would be empowered to monitor the following tiers. Whereas in case the enterprise takes ownership it is responsible to verify the compliance with laws and code of conduct across the whole upstream network²⁰⁰. In both cases, it is important to develop the right capabilities to ensure a correct monitoring activity, usually supported by NGOs or other experts in the matter of labour rights protection. This allows suppliers or purchasing teams to have the right knowledge to evaluate tiers operative strategy, spotting risks and performance.

Once the direction has been established, companies are aware of the routes to follow during the supplier's research. Nowadays, it is important to incorporate sustainability criteria within the procurement contracts to define in advance the execution of activities to prevent violations from suppliers. In this regard, an increasing number of MNCs are implementing a code of conduct for sustainable sourcing which helps in the selection of the right suppliers aligned with the principles of the company. The procedure to identify the proper suppliers is based on several steps, which are usually followed by companies. Initially, a large number of suppliers are selected, followed by further research which involves scouting and scanning

¹⁹⁹ T. E. Johnsen, M. Howard, J. Miemczyk, *Purchasing and Supply Chain Management: A Sustainability Perspective*, 2019, p. 339

²⁰⁰ T.E. Johnsen, *Supply network delegation and intervention strategies during supplier involvement in product development*, 2011, International Journal of Operations & Production Management, Vol. 31 (6), pp.6, 7

of the more competitive at the global level. To facilitate this process, it is helpful to have some visibility on the suppliers' conditions and features. The design and agreement of contracts between companies and suppliers are not as straightforward as it may seem due to the legal constraints. Suppliers usually have their terms and conditions which are convenient for them and are subject to the legislation of the country in which the work is provided²⁰¹.

In general, the approach adopted by companies in the case of the supplier's misleading behaviour is to correct the wrong actions, supporting the implementation of good practices. Many companies are today collaborating to achieve the same targets. This is facilitated by the creation of platforms and hubs in which common standard processes to tackle supply chain operative mechanisms are introduced and followed by companies. These allow stakeholders to monitor the results reached by MNCs, to verify the main risks within the supply chain, to verify if the product complies with the legislation, and to connect partners globally. The platforms are usually managed by non-profit organization like Sedex²⁰², EcoVadis, and others. These tools are much more advanced than mere reporting because they have several features available such as the warnings in case of outdated or incomplete data provided, training systems, auditing, risk identification and action to prevent problems²⁰³.

This process is based on the Plan-Do-Check-Act (PDCA) cyclical evaluation with continuous improvement. Despite this common line of behaviour, the enterprise can also terminate the contract with the non-complying supplier at any point. This is an approach that is commonly used by many companies that have responsible sourcing practices at the centre of their strategy and process. This method, in line with a higher degree of transparency within their supply chain, is systematic to reach the corporations' targets. The only risk is that

²⁰¹ T. E. Johnsen, M. Howard, J. Miemczyk, *Purchasing and Supply Chain Management: A Sustainability Perspective*, 2019, pp. 44-48

²⁰² Sedex, Supplier Ethical Data Exchange, is a non-profit organization which work with companies to empower responsible and ethical practices across global supply chains and provide ratings for suppliers. The organization core product is a tool which is an online database which store and report information on labour standards, health and safety, environment and business ethics. It is useful to identify the KPIs that need to be considered and tracked before the definition of the corrective action plan. The Sustainable Purchasing Leadership Council suggested some critical factors that companies should consider before choosing one or another tool: the input gathered on the main sustainability issues, availability of training for suppliers, verify the liability of data, level of visibility, low cost of data sharing to allow an increasing progress tracking etc.

²⁰³ PRI, *Digging deeper: Human Rights and the extractives sector*, 2018, p. 10

suppliers refuse to use these technological tools to avoid the recognition of human rights infringements.

2.4.1. Specific cases of TSI Application within the Supply Chain

This section focuses on some interesting policies adopted by companies that are taking an important step forward in the implementation of good labour practices in support of better living conditions of the communities which are engaged in the supply chain. Among them, we find Hugo Boss, a clothing industry, and Danone, a food industry.

Hugo Boss

Hugo Boss AG is a German luxury fashion brand headquartered in Metzingen, Germany. The company was founded in 1924 by Hugo Boss. It is one of the biggest German clothing companies with global sales of €2.9 billion in 2019. Originally established as general-purpose clothing, it has expanded over time to accessories, footwear, and fragrances.

Hugo Boss is particularly interesting as a topic of study since it has an extensive and established supply chain, as part of the fashion industry which has come under scrutiny since the Rana Plaza incident and the accusations of labour rights violations which have since come to light.

Hugo Boss has demonstrated a significant interest in the risks that emerged within supply chain in recent years, conscious of the criticism received by the fashion and luxury firms which were sourcing from suppliers adopting slavery and forced labour. Hugo Boss commits itself to comply with internationally recognized labour and social standards derived from ILO Core Conventions and the UN Universal Declaration of Human Rights.

The resulting Hugo Boss Supplier Code of Conduct contains the basis of cooperation with suppliers identified by the social standards for partners. Suppliers are assessed on the basis of their compliance with social standards in particular in countries where national law do not prevent child labour, forced labour, bad working conditions, discrimination, unfair wages, etc. In 2018, Hugo Boss developed a child labour policy providing the guidelines to prevent child labour and forced labour and indicating the measures to adopt in case of presence within the company activities. Should there be gaps in local legislation where, for example, working hours or wages are not defined, the Hugo Boss' social standards become the minimum standard.

Hugo Boss over the past decade has implemented several interesting projects that are aimed toward improving living conditions in countries where it operates.

In 2017, Hugo Boss published an official report in which it condemned and rejected any form of slavery and human trafficking within its value chain, promoting the selection of suppliers in line with the sustainable standards of the company. It also triggered a series of initiatives to complement its plan: the collection of data through questionnaires in relation to its *modus operandi*, the definition of contracts on purchasing terms & conditions and audits that would perform controls on social issues risks assessment, etc. In 2019, over 119 audits were assessed with over 93% of the suppliers with a satisfactory social audit result. Hugo Boss stated this in one the section *Achieving Joint Responsibility* of the Sustainable Magazine published in 2016:

“We rely on collaboration. We select our partners carefully, establish strategic partnerships, and work together to achieve our goals. The basis for collaboration is the recognition of our values, our Code of Conduct and the Social Standards set out in this code. In this way, we obligate both ourselves and our suppliers to respect human rights, to protect the environment, and to offer fair working conditions. To ensure adherence to these principles we conduct regular audits. We support those partners who do not meet our requirements to improve. However, where such efforts are not successful in the long term, the consequent result is to end collaboration. To enhance our commitment, we work with the international organization Fair Labour Association and Germany’s Partnership for Sustainable Textiles. Partnerships with local unions and non-governmental organizations are becoming increasingly important to us”²⁰⁴.

The partnership between Hugo Boss and Fair Labour Organization started in 2014 to guarantee the protection of workers’ rights and obtain the right level of support in the implementation of good labour conditions. Hugo Boss implemented the Social Compliance Program whose good results were recognized in 2018 after an independent assessment carried by FLA on the basis of the following principles:

- Adoption and communication of the workplace standards
- Training for employees to identify and fix noncompliance problems

²⁰⁴ Hugo Boss, *Thinking Beyond Acting to The Point*, 2016, Sustainability Magazine, p.18

- Conduction of facilities' assessments
- Creation of employees confidential reporting methods²⁰⁵

Since 2017, Hugo Boss works to improve the labour conditions of the textile workers in the region of Tamil Nadu in India where it aims to improve the social standards at factories with a focus on improving women rights and the complaints mechanisms. In fact, often women do not have the proper knowledge related to their rights and, in order to avoid this, Hugo Boss organize training programs to boost the knowledge on employees' rights²⁰⁶. It also tries to boost the dialogue between stakeholders like governments, suppliers and civil society to build trust and introduce better solutions.

Hugo Boss is also aware of the extreme importance of transparency in sustainability to track the main risks and challenges within its supply chain by promoting an incessant supplier assessment and promote cross-functional cooperation between procurement, sustainability and logistic functions to implement the best purchasing decisions.

Hugo Boss also has plans to implement blockchain technology in its supply chain, or Distributed Ledger Technology, this will have multiple advantages such as contributing towards easier data sharing, contributing towards transparency and visibility in supply chain as well as ease in knowledge sharing, both of which can aid in the identification of discrepancies regarding the treatment of direct or indirect employees in the value chain.

By replacing traditional centralized systems with blockchain, the company encourages accountability for the sustainability standards and decentralized data storage. In addition, the access system allows all players to verify sustainability standards through audits. In other cases, when a product is shipped down the supply chain, the sender can update the relevant data which can be accessed and verified by the receivers and the other members of the chain. By improving visibility in these ways and fostering partnerships, the blockchain allows companies access to the resources required to study the situations in the supply chain and act as required. In collaboration with OECD (Organization for Economic Cooperation and Development), and ASTRATUM a firm specializing in Blockchain and Cryptography, Hugo Boss is working on using blockchain tokens enabling transparency & information sharing

²⁰⁵ www.fairlabor.org/report/accreditation-assessment-hugo-bosss-social-compliance-program

²⁰⁶ group.hugoboss.com/en/responsibility/stories/initiative-tamil-nadu

thereby eliminating certification/audit processes, using dashboards to study data and incentive programs to encourage sustainable practices.

Hugo Boss is also working with the UN to write a policy requirement and guidance to apply blockchain technology across its supply chain. According to Heinz Zeller, the Principal Sustainability at Hugo Boss, the aim is to achieve ‘harmonization’ across the value chain, starting from raw material producers, creating a mode for secure information sharing across the supply chain while eliminating multiple certifications and audit processes²⁰⁷.

Danone: the RESPECT program & AIM-PROGRESS

A French virtuous company dedicating the interest in the implementation of programs that prioritize transparency across the supply chain is Danone, a food & beverage company, aiming at promoting healthier eating and drinking practices²⁰⁸. The company is well recognized worldwide for being one of the pioneers in the implementation of social and environmentally sustainable practices based on the main sustainable risks identified.

This section will highlight some of the main steps conducted by the company through the introduction of the program named RESPECT. This initiative is based on several ILO fundamental rights conventions in the prevention of child labour, forced labour, working hours pay, and many more. In this sense, Danone made an important step forward in the eradication of forced labour in 2016, when it joined the Consumer Goods Forum. This initiative commits its members to the elimination of forced labour elements from their operations and supply chains. It is based on three main principles:

- 1) Every worker should have freedom of movement
- 2) No worker should pay for a job
- 3) No worker should be indebted or coerced to work

Based on this commitment, Danone adopted the RESPECT program, whose aim is to ensure first-tier suppliers are embracing these principles and requirements imposed by Danone, based on the ILO directions²⁰⁹. The program has some peculiarities which differentiate it from the initiatives already mentioned. It starts with the self-assessment of suppliers’

²⁰⁷ globalfashionagenda.com/blockchain-unlocking-the-value-chain-for-better-traceability-2/#

²⁰⁸ www.danone.com/about-danone.html

²⁰⁹ Danone, *2018 Registration Document– Annual Financial Report*, 2018, pp. 165, 201

performance in the field of CSR carried through a questionnaire, proposed by Sedex in its platform. In fact, each first-tier supplier needs to register in the space.

After the self-assessment is completed, an independent company audit is accessed adopting the SMETA²¹⁰ benchmark, selecting the suppliers at risk. Since supplier results are saved and published in the platform, every company can monitor the supplier's audit results commissioned by others, avoiding unnecessary audit repetition. Once non-compliance is recognized, the procurement team should make sure the corrective action plan defined by the auditors is activated by suppliers.

Danone engages with several independent organizations to indicate the sustainability improvements to make. The non-compliance is usually related to safety issues, working hours, and low wages. Danone introduced a measure to define the right moment to implement SMETA audits and the precise time close of the non-compliance period. In the case of non-compliance by the deadline indicated, Danone terminates the relationship with the supplier. In 2017, by inspiration of the UN Guiding Principles on Business and Human Rights (UNGP) and the French Corporate Duty of Vigilance Law, Danone enriched further the RESPECT program, emphasizing the first-tier supplier method and including also its upstream supply chain. As part of this plan, the MNC divided its suppliers into three levels of priority based on the location and sector trade information. It was defined that high-priority supplies would receive a mandatory audit, the medium-priority would perform a self-assessment. The innovative element brought by the upstream supplier mapping and traceability, allowed the company to map the main risks, largely related to the workers employed in farms and plantations within the agriculture upstream. In 2018, following the implementation of RESPECT, Danone was able to achieve several results in different areas. In the Palm Oil sector, it reached 100% traceability within the factories and 68% within plantations. For what concerns fruits, it requested the first-tier suppliers to map their sources in the farms and to identify the main risks. This strategy allowed Danone to track more than 65% of fruit volume. For what concern cocoa and cane sugar it developed a plan for risk assessment in certain

²¹⁰SMETA, Sedex Members Ethical Trade Audit, is an audit method which list the best practice ethical audit techniques. It helps auditors to carry high quality audits, including every element of responsible business practice that is based on four pillars Labour, Health and Safety, Environment and Business Ethics. Through SMETA suppliers can share the results of their audit with multiple customers, eliminating duplication and redundancy in the ethical auditing. This allows to check the KPIs every company is doing well and less well. (www.sedex.com/smeta-audit/)

production locations, followed by the auditing process on a group of farms producing 75% of total volumes acquired. The audits were performed by third parties which apply and execute the direction reported on the Sustainable Agricultural Initiative FSA 2.0- tool. Through the results obtained it was possible to identify where companies stand and build the corrective action plan.

Danone participates also to the AIM-PROGRESS group, which is an initiative aiming to boost collaboration among food manufacturers companies such as Mars, Unilever, Nestlé, PepsiCo, etc. The core of the program is to define common standards on the four pillars previously defined which will be imposed by the main food industry to the suppliers. The positive impact brought by the program is that it facilitates the compliance of suppliers to shared standards for their customers and it also allowed companies to have multiple suppliers that are already aligned with the requirement of the enterprise.

Danone aims to create a regenerative agriculture and in order to do that it needs to equip and support farmers properly, creating durable relationship with them and signing long-term contracts with the suppliers to guarantee them stable and fixed income. It also provides trainings, financial and technical aids through several projects when needed²¹¹.

The risk faced by MNCs is that they often become overly dependent on a supplier's decision, that would often take advantage of overcharging them. The best choice is to multi-source from several suppliers, avoiding the dependence on one single source. This happens especially due to the continuous outsourcing practices adopted by companies²¹².

Comments:

A company must engage in the main challenges which are under the umbrella of the ESG. It is equally important to prioritize and understand the sectors the company can positively affect based on its core activities and position. It is also possible that companies within the same industry have a different focus but are both creating a good impact on society which can generate good results for others.

Companies are rapidly progressing towards Total Societal Impact in their strategies with an emphasis on promoting visibility and transparency across their supply chains. These are

²¹¹ Danone, *2018 Registration Document– Annual Financial Report*, 2018, p.191

²¹² T. E. Johnsen, M. Howard, J. Miemczyk, *Purchasing and Supply Chain Management: A Sustainability Perspective*, 2019 p. 356, 357

perceived today as minimum requirements to gain the appreciation, trust, and engagement of stakeholders, who are extremely sensitive on the subject of labour rights violated by several brands. Among the main problems identified is a lack of adequate controls of the working conditions in the upstream sources.

Enterprises demonstrate varying degrees of commitment on this critical activity, with some approaching the task in a principled and comprehensive manner towards the sixth or lower tier of supply but others also struggling to crack the sources and ethicalities of the first-tier suppliers. The complexity of long upstream supply chains with several tiers or agents causes an unclear system which is difficult to be tracked. It is reasonable to assume that a reduction of the tier's chains would help and improve the quality of the analysis made. Introducing a new simple and linear system would benefit in the identification of the main source of labour rights abuse. This strictly depends on the methodologies adopted to gather data and, on the evidence, that input is accountable and reliable. It is fundamental to protect them and use them with the right purpose of having a positive social impact on society.

III. Innovative Technologies fostering visibility & transparency

The core object of this III chapter is related to the new approaches adopted by companies concerning technology which can provide an outlook on the processes carried across supply chains. This is perceived as an opportunity for companies that commit to it, aware of the initial investment they must face to implement new techniques. Although the challenges, they are aware of the potential results can be achieved in the long run to reduce risks and promote superior levels of visibility across the company's production chain.

Furthermore, MNE are also defining the impact that technologies have on addressing the 17 United Nations SDGs, considered as a high-level target that must be reached by 2030 for the benefits of society (end poverty, planet safety and protection, people's peace and prosperity). In fact, critical challenges associated to projects connected to SDGs can be overcome in a cost-efficient way²¹³.

This is also perceived as an attractive mechanism by customers that grow a higher level of trust for transparent companies that enable innovative technologies while "doing good" to the world. Technology is also considered the proper way for companies to collect and disclose information related to their end-to-end activities with special consideration for the upstream processes related to sourcing and production.

According to some recent surveys' customers' expectations related to the honesty and traceability of the firm, operations are evolving dramatically compared to the pre-internet period. When new technologies based on transparency will heavily take place, a minimum amount of data on corporate practices will be required, and missing information will not be tolerated. This may have consequences on the company's reputation. Hence, companies avoiding clear communication will have a negative impact on the customer's mind.

As announced before, the increasing interest of the younger generations which look with admiration to the new digital information systems will become a critical element of the switch for Multinational Companies. This new customer segment motivated by the potential features of new technologies like smart labelling systems and blockchain to track companies' actions will be identified as a significant element to implement traceability across supply chain processes.

²¹³ IISD, *Impact Tokens: A Blockchain-based solution for impact investing*, 2019, April, pp. 1, 5

In this context, it is easy to understand that every kind of technology may be critical for the productivity and image of the company, from the mere social network relations to the most multifaceted algorithms that interconnect the complex data. The advanced tech solutions based on transparency will determine the opinion of the stakeholders, overcoming the impact of the marketing campaigns made by firms about themselves.

Some new techniques have the potential to increase collaboration of stakeholders through the usage of platforms where people are interacting and cooperating with suppliers, contractors, and so on, having the possibility to increase the level of engagement and, if required to provide training. This is a sort of capabilities social media platform used with a collaborative and learning scope. It allows also to create partnerships with companies belonging to the same industry but with the same goal, enabling them to share common issues and address useful solutions. This is a key element that simplifies many aspects of the supply chains.

According to recent studies, a higher level of automation and artificial intelligence will be determinant for the business evolution especially for the methodologies adopted to measure supply chain processes offering the possibility to lead toward new systems guarantying transparency²¹⁴.

3.1. Blockchain Technology

One technology considered a potentially viable solution to overcome certain shortfalls in data visibility and transparency is Blockchain. To re-iterate, despite many corporations implementing, at present it is only a potential solution, nevertheless it does present numerous opportunities that cannot be disregarded. Some small(er) firms and NGOs have introduced this system to, for example, create a unified network of suppliers in a single database to better track work conditions and flow of goods coming from different hubs²¹⁵. Some firms specialize in the creation of platforms based on fostering transparency across the supply chain through blockchain.

²¹⁴ SC Johnson, Globescan, *Building Trust: Why Transparency Must Be Part of the Equation*, 2019, pp.21-23

²¹⁵ Foreign Affairs, *The Innovative Finance Revolution: Private Capital for the Public Good*, by The Rockefeller Foundation, p.86 https://www.rockefellerfoundation.org/wp-content/uploads/FARockefellerFinalPDF_1.pdf

To better understand these opportunities and benefits, it is necessary to answer, “What is Blockchain and how does it work?”. This will in turn answer the questions such as of how companies can assimilate it, what benefits they stand to gain, and its impact.

What it is

Blockchain Technology or Distributed Ledger Technology is composed of a decentralized ledger, “*meaning that the ledger is stored in multiple copies on many computers within a decentralized network so that no one own or control the ledger*”. It is composed of several blocks linked together, and once data is digitally assigned to a block the data is unalterable and transparent to all other players. Anyone who has the access can use it. The ledger is characterized by a “*consensus protocol*”, which consists in an “*algorithm requiring a majority of the computers on the network to agree with any changes made to it. Once a consensus has been reached, all the computers on the network update their copies of the ledger simultaneously*”²¹⁶.

How it works

As you might be thinking, this potentially makes blockchain a possibly indispensable tool in eliminating any possibility of fraud in any industry once asset data is stored digitally. For example: In a supply chain, once a supplier has assigned the export data associated with a package at his or her “node”, other parties or “nodes” in the chain can use the platform to view the package but the data constituting the package cannot be altered, even if they are the focal firm in the supply chain. This is because to manipulate the data, the block holding the data must be deconstructed and recreated from scratch and this goes for all following blocks in the chain, making it incredibly complex.

(Fact: Blockchain is the technology supporting Bitcoin, acting as a trusted platform for peer-to-peer transactions, eliminating third parties).

Challenges

Whereas blockchain is widely appreciated as innovative technology offering multiple advantages to favour transparency, many stakeholders have identified challenges to take in consideration which may have an impact on the growth and impact investing. The most common are:

²¹⁶ IISD, *Impact Tokens: A Blockchain-based solution for impact investing*, 2019, April, p. 5

- 1.” *Appropriate capital across the risk/return spectrum*”, considering the necessity to have blended types of financing coming from different sources of capital, having divergent expected returns, risks and impact.
2. “*Common understanding of definition and segmentation of the impact investing market*”, meaning that investors have a clear knowledge on the investments and how they can be integrated into portfolios of the different industries, having diverse returns, engagement’s motivation, themes and assets.
- 3.” *Suitable exit options*” related to the risk of impact investing and the uncertainty to get good valuations once they leave the current positions. Sometimes, exits require to be planned many years in advance and it can be hard to have such long-run forecasting causing delays in the impact investments.
4. “*Sophistication of impact measurement practice*”, indicating the difficulties on having good quality KPIs obtained by standardized and reliable methods to measure non-financial returns.
5. “*High-quality investment opportunities*”, characterized by the lack of robust projects and investment’ opportunities that can be attractive by a large number of investors, especially due to the novelty of this kind of initiatives²¹⁷.

Benefits

The implications are enormous, it presents an opportunity for transparency and traceability across the different layers of the supply chain, allowing a business model which solves cross-functional problem arising from unreliable information.

Other than transparency and security, the other potential benefits are varied such as:

- a) Promoting financial and social inclusion through superior transaction efficiency and speed
- b) opportunities for cost reduction
- c) improve the data gathering, accelerating the processes of monitoring and reporting
- d) offers the chance to build relationships between parties based on trust
- e) Foster positive sustainable behaviours

²¹⁷ IISD, *Impact Tokens: A Blockchain-based solution for impact investing*, 2019, April, pp. 8, 9

All this is possible since a block can be structured to hold data on sales, shipment, and distributions thus enabling enhanced demand forecasting and procurement²¹⁸.

Impact

The studies assessing the real impact for company on investing in advanced technology like blockchain is ongoing and not much has been documented. However, the first investments are emerging, generating positive and measurable social impact aligned with financial returns. An example is the development done with “impact tokens”. Impact tokens are instruments that can be used to unlock investments supporting the development of projects promoting encouraging social and environmental result²¹⁹. Through this technology it is possible to track and quantify the impact within supply chains using metrics linked to the activity of origin.

These impact tokens allow the measurement of the impact achieved in the implementation of United Nations SDGs, which permits to create innovative payment methods based on the performance but also to track and verify the actual effects of this system’s implementation on SDGs in a reliable and speedy manner²²⁰.

This helps investors identify the financial value created from the initiatives which are a key requirement to access the impact of a token and their ability to address investments toward desired impact results. There are several assessments executed to evaluate the quality of an impact token such as:

1. The quantifiable real value considering the data comes from the decentralized approach. The utilization of this approach leads to the best approach in case the impact token model can collect data which can be validated free from the human intervention or judgment. The idea is to decentralize the storage of data to make sure the information is not owned, manipulated, and controlled by central actors²²¹.
2. The growth of trust between stakeholders and users, determined by the success of the blockchain projects based on transparency and decentralization’s systems. Through this mechanism, it is possible to reward the actors whose operation

²¹⁸ Ibid., p.12

²¹⁹ IISD, *Impact Tokens: A Blockchain-based solution for impact investing*, 2019, April, p. 1

²²⁰ OECD, *Social Impact Investment 2019: The Impact Imperative for Sustainable Development*, 2019, OECD Publishing, Paris., pp. 89-90

²²¹ www.chathamhouse.org/event/chatham-house-primer-blockchain?gclid=EAIaIQobChMI3reOnJqG6QIVAbTtCh01mgGUEAAYAAEgLuW_D_BwE

contributed the most to the project accomplishment and protection of its principles. It also gratifies the community of users and stakeholders which with the buy-in approach.

3. The catalysation of impact investments flows, which is represented by impact-financial instruments like impact bonds, perceived as difficult to track in their processes. Recently the UN Principles for Responsible Investment initiative has proposed a series of sectors where blockchain may catalyse the financial streams through the simplification of the system. This may be related to several areas like access to medical information, energy trading systems, protected recording of educational certificates for schools, etc.

4. The transparency and open-sourcing features of impact token, which should be accessible to the whole community of stakeholders and answer the questions of the public sphere. In conclusion, the blockchain system used for impact tokens should be accessible to the ones having the open-source code.

5. The possibility to remove costs of transaction and facilitating and accelerating the direct payment towards individuals like the second tiers, third tiers, and so on, making obsolete the need of a middleman. In this sense, immediate and direct rewards are much more effective for inducing correct labour behaviour. This rapid monetization can create behavioural incentives for those who receive them²²².

This is considered a unique and long-term advantage since current models adopted by companies are generally slow and expensive.

The promising parameters introduced by this technology, transparency, and traceability, trigger a set of values that are appreciated by stakeholders. In this sense, a critical aspect to consider is that major manufacturing and production investments are established in developing countries with bad legislative systems and low-trust environments. The application of blockchain mechanisms can mitigate and intensify the element of trust and decrease the risk generated by unverified claims related to bad labour practices²²³.

²²² WEF, *5 ways blockchain can transform the world of impact investing*, 2018, World Economic Forum, Geneva, www.weforum.org/agenda/2018/09/5-ways-blockchain-cantransform-the-world-of-impact-investing

²²³ SC Johnson, Globescan, *Building Trust: Why Transparency Must Be Part of the Equation*, 2019, pp.25-29

In this context, the positive incentive to implement such technology are accompanied by common downsides and doubts related to the effectiveness of the new Distributed Ledger Technology. One of the issues announced by Sally Uren, CEO of Forum for the Future, is the possibility that the continuous evolution of systems like blockchain, may create issues concerning the data ownership and privacy since its decentralized systems are characterized by open-access data that do not have a specific owner. This may emphasize the need for new pieces of legislation that can regulate business behaviour meeting the standards at the global level. The Multinational Companies' belief in the power of transparency should be promoted even if the national legislations and local standards are less severe compared to what the company is accustomed to in the most advanced economies.

This legislation will need to advance as technology evolves. Experts claim that current regulation is made to discipline non-digital phenomena. This is the behaviour that customers would expect by corporations aiming to have a good impact on societal problems. In this sense, transparency should be considered as a cultural element of the company, and it is critical to choose the right people to make it grow as a pillar. Transparency is also viewed as a cultural aspect for countries.

Another consideration made by some companies concerning blockchain is their lack of capacity, resources, and skills to implement such a complex technology that embraces several areas like financial data, ethics, environment, etc. It is especially difficult to have detailed information about every single hub and actor involved in the supply chain, especially the upstream part, with the emerging risk of inability to control the tiers of suppliers²²⁴.

Comments

As widely explored the Distributed Ledger Technology is appealing for large number of companies that are willing to take risks for a positive outcome, and are supported by international, regional and national institutions. These bodies could have the important duty of creating the guidelines to regulate the usage of impact tokens to define the main rules to adopt them, clarify the ownership dilemma and giving their contribute on the best practices to adopt such technologies on SDGs. This would guarantee ahigher level of clarity, standardization and increase the attraction of investors on the matter.

²²⁴ SC Johnson, Globescan, *Building Trust: Why Transparency Must Be Part of the Equation*, 2019, p.25-29

It may also be useful to create an open-source database containing the projects which have been triggered and deployed using the newest technologies, allowing MNC to envision the progress made by the most advanced companies and stimulate curiosity. The necessity to have data and results-driven initiatives would be the key for the success of the idea, boosting interaction.

Among the advantages introduced by the use of blockchain there is also the possibility to execute better performances. In the present day, corporations have firms specializing in audits that step on their behalf to visit supplier locations and assess operations based on criteria such as number of workers, wages, working hours, benefits, days off etc.

One possible blockchain based application that could potentially track supplier performance in social sustainability standards are sensors. The best way to present the concept is with an example. A company aiming to measure themselves and their suppliers on factors such as employee working conditions, working hours, wages, number of shifts, break times, overtime etc. can use sensors connected to the machines to track and log the data. This is where the concept of blockchain comes in, since storing the data on servers on site brings with the risk of data tampering, instead blockchain technology can be implemented, using this technology, the supplier's data once logged is transmitted to their appropriate node in the blockchain, thus removing the risk of data manipulation or tampering. By tracking the parameters including but not limited to the number of employees and plant capacity, discrepancies or abnormalities can be tracked easier, through comparison with historical data, for example an inexplicable increase in output while neither working hours, number of machines, uptime nor shifts has increased raises questions which need to be analyzed.

This makes audits easier as well and discourages suppliers from child labour or slave labour since this would be obvious if someone analysed the data. Another added advantage presented is that, a focal company with access to this kind of data from supplier firms can no longer feign ignorance or pass off blame. If they have access to the data, but do not analyse it, they are also responsible. While this example is based on companies in the manufacturing industry using machines to manufacture the products, and the installment costs would be higher than desirable to many, it also eliminates other costs associated with audits. The technology available to us today presents immense potential for visibility into value chains and preventing these human rights violations from occurring.

But for this approach to succeed, focal firms and other players in the supply chain must keep a close eye on each other, on-site audits, while required fewer, must not be neglected and still performed to ensure that suppliers do not attempt to tamper with the data before it enters the system or with the sensors collecting the data. While the one-time investment costs might be high and there are other factors to consider such as industry, products, and process types, a pilot project with a number of trusted suppliers could yield favourable results for consideration.

It also requires that both the suppliers and the focal firm have the necessary technological resources and know-how to implement the project, or that the focal firms grow their competencies or establish collaborative relationships with industry experts.

Drawbacks

One immediately significant drawback or obstacle associated with Blockchain projects is the shortage in competencies in the corporations. Despite wielding considerable wealth and resources, blockchain technology and its applications have been deemed obscure to many and they do not possess the technological capabilities or competencies. This means significant risk (since people fear what they do not understand), and significant cost associated with acquiring human capital or outsourcing to third parties for implementation.

The only viable solution to overcome this uncertainty is to accept it. Companies need to focus on widening competencies and acquiring tech capabilities, having the know-how will substantially reduce risks, increasing chances of a successful implementation.

Another drawback is uncertainty, despite the immense potential, both industry experts and companies cannot be sure of what benefits of implementation are available in the field of sustainability (since this hinges on many factors, both external and internal). One possible solution as previously stated is a pilot test. A test organized in collaboration with trusted suppliers could yield favourable results for a feasibility study.

Tony's Chocolonely

Tony's Chocolonely is a Dutch Confectionery founded in 2005 committed to the respect of fair-trade practices. Its structure, operations, and values are centred around the mission to fight slavery, forced labour, and child labour in the cocoa industry through sustainable practices, responsible sourcing, and strategic partnerships with companies to beans straight from the farmers at an excellent price.

In contrast to other long-established big-name corporations in the same industry, Tony's Chokolonely produces their chocolate in a "*Slave free manner*". The company was founded in 2004 by a reporter of the Dutch TV program *De Keuringsdienst van Waarde*, named Teun van de Keuken²²⁵. He proofed that companies like Hershey's, Mars and Nestlé disregarded agreements on slavery in their supply chain²²⁶.

In Ivory Coast and Ghana over 2,100,000 children are subject to child labour due to the low wages earned by their parents working in the harvest. Here, the average pay for a cocoa farmer is \$0.78 per day, which is a considerably small amount for the support of an entire family. Tony's was able to establish a Living Income Price of \$2.20 in Ivory Coast and \$2.10 in Ghana, with the collaboration of Fairtrade. In addition, over 30,000 workers are victim of modern slavery in the cocoa plantations, including adults and children which are often not paid²²⁷.

With the mission of establishing a supply chain 100% free of slavery and forced labour, he funded Tony's Chokolonely in 2005²²⁸, which was acknowledged by a court in Amsterdam as producing chocolate from slave-free cocoa²²⁹.

Tony's believes this should be possible for any company through 5 Sourcing Principles:

- Implementing traceability measures to track cocoa beans, in order to know exactly the farmers which, produce the beans and social and environmental conditions adopted
- Paying farmers, a premium price. In 2018/2019 the premium amount reached 2.6 million (\$460 per ton of cocoa in Ghana and \$520 per ton of cocoa in Ivory Coast.
- Investing in them through the creation of cooperatives which allow farmers to stand for their rights. The cooperatives decide how the money should be spent during an annual meeting:50% of the premium is paid to the farmers in cash, the rest is used for training, buy equipment and the management of cooperatives.
- Ensuring long-term contracts for farmers

²²⁵ Tony's Chokolonely, *Annual Report 2018/2019*, 2019, p.4

²²⁶ www.slavefreechocolate.org/harkin-engel-protocol

²²⁷ Tony's Chokolonely, *Annual Report 2018/2019*, 2019, p.15

²²⁸ www.dutchnews.nl/features/2007/02/sweet_revenge-2/

²²⁹ entrepreneurshipcases.amsterdam/wp-content/uploads/2018/12/case-text-Tonys-Chokolonely.pdf

- Investing in agricultural skills and knowledge related to growing cocoa to boost quality and productivity²³⁰.

To implementing traceability in their supply chain, Tony's turned to Blockchain. The company adopted "Bean Tracker", a supply chain platform that uses scalable technology to track the origin of cocoa beans and their journey from "Bean-to-Bar" as well as the other critical ingredient, sugar. To implement Bean Tracker based on Blockchain technology, Tony's partnered with Accenture.

The platform is shared, meaning any of the players in the supply chain, for example, the farmers can access the platform through a mobile app and upload the data relevant to them, related to a batch of beans in this particular and this way, the package can be tracked on the platform as it travels through the various nodes of the supply chain, until it reaches its destination, eliminating a possibility of counterfeiting.

While in the pilot stages, the technology shows a great deal of promise, and Tony's have seen interest from other players in the cocoa industry such as processors to use the platform²³¹.

In addition, Tony's Chocolonely is implementing a new GPS technology which allows to map the crops used by the farmers who are selling their products to the company. This method allows to identify the size of the farm in hectares, calculating the necessary amount of manpower, seeds and fertilizer to have a high-level product. In addition, provides the exact location of the farms to verify the conditions of the land²³².

Tony's aspiration is to have 100% free of modern slavery supply chain and in 2017 no single case was found while, in 2018, 259 cases of child labour were identified but 56 cases were resolved in 2019. This means that once the problem is spotted, you can dig down to understand why children are working and this helps to find concrete solutions. The market growth of Tony's Chocolonely can be considered a proof of the bright future reserved to the social impact companies. In Dutch, Tony's is the market leader with a share of 18.8%, with a strong support from customers which are increasingly choosing the brand. The challenge is to go global, in fact the huge amount of investments triggered in 2018/2019 recorded an increase in the net revenue from 55.1 million euro to 69.6 million euro, with a growth of

²³⁰ Tony's Chocolonely, *Annual Report 2018/2019*, 2019, pp.25-26

²³¹ www.forbes.com/sites/chelseadavis/2019/03/31/this-company-is-using-blockchain-technology-to-eradicate-slavery-in-the-chocolate-industry/#5ff8dbbb1407

²³² Tony's Chocolonely, *Annual Report 2018/2019*, 2019, p.34

26.5%. This result is not completely satisfying Tony's since it did not reach the budgeted target of 33.5%, with a gross margin of 40.4% and a break-even net-profit. The target was respectively 40% and 4%. According to the forecast, these results will increase in the following years²³³.

3.2. QR Code Labelling

An innovative element that may be useful to provide transparency related to the products is the labelling practice which gives customers a higher level of information on the methodologies used to make the products they buy. This system is today implemented by many companies, especially apparel and food companies which need to track every step of their value chain to guarantee sustainability practices are fully embraced by their companies. This option has been implemented by Naturipe, a farmer owner grower-shipper, which implemented a unique path to guarantee the best product from the harvest to the customer. It is based on the use of QR codes labels which are stuck on the crates containing the products picked by the farmers. These crates are then weighted, scanned, and placed into cold storage. After this first stage, they will be put on a ship receiving several controls. Finally, they will be stored in a refrigerated distribution warehouse where they will be packed following the instruction of Naturipe to finally reach the stores where they will be sold in the market.

The QR code would identify the product throughout the whole process. The customer has visibility on the process described by only scanning with the phone the QR code labelling present in the product. Specifically, it would be possible to verify the location where the product was grown, the conditions of the workers, and their alignment with the labour rights standards and laws and analyse the sustainability practices and KPIs. This process would be supported by the new blockchain technology providing supply chain information in real-time. This technology was mostly implemented to have clear input related to quality. Timeliness and practices adopted along the supply chain and also to solve health and safety issues related to the upstream visibility. Besides, this technology helps to control and determine the compliance of the company with the regulations which aim the eradication of slavery and

²³³ Tony's Chocolonely, *Annual Report 2018/2019*, 2019, p. 12-19, 71

human trafficking workers from the value chain, ensuring customers the ethical sourcing practices²³⁴.

A similar system has been promoted by WWF - New Zealand, WWF - Australia, and WWF - Fiji which are collaborating with blockchain companies, information and communication technology (ICT), and tuna fishing companies to make some clarity on the activities. This project is based on blockchain technology to strengthen supply chain management in the Western and Central Pacific region. Over the years this field has been at the centre of polemics for the records of forced labour and human trafficking, with huge quantities of seafood coming from illegal fisheries, often engaging in human rights violations.

Customers, wholesale, and retails are feeling the pressures given by these practices, asking for the implementation of full transparency and traceability to avoid the risks for their brand reputation and align on the fight toward human rights abuses. Similarly, the solution identified was the introduction of a radio-frequency identification tag (RFID), which will be affixed on the fish once picked up and registered on various devices on the vessel. This will then reach the facility and partitioned it would receive a QR code that, once scanned, guarantees customers they are purchasing legally caught tuna in line with the sustainable practices. This helps in the fight against oppressive and slave practices providing the end-to-end story of the tuna fish²³⁵.

Discussion

The interviews conducted (see Appendix) have put in light several perspectives, those of the practitioners experienced in the domain in companies large and small, enriched by their stringent relationships with International Organizations. The results of the discussion have captured a combination of visions, with common grounds that are critical for the analysis. The variegate backgrounds were embraced as key to having a complex but wider outlook on the current strategies adopted in the MNCs' environment toward the labour rights implementation and protection.

²³⁴ www.forbes.com/sites/sap/2019/02/18/from-vine-to-table-blockchain-enters-the-food-chain/#3fb2a4836223

²³⁵ www.wwf.org.nz/what_we_do/marine/blockchain_tuna_project/

One of the points to highlight before continuing with the in-depth analysis is the different approaches adopted by interviewees representing the categories chosen:

- Multinational Companies and
- The International Labour Organization.

In the case of the first, the interviews presented the opportunity to forge a better understanding with the interviewees, fulfilling curiosity and building an interactive exchange, supported by their professional and personal point of views; In the second case, I was led through the historical milestones that signified the evolution of the ILO, while uncovering the dynamic behind its incessant contribution to the eradication of labour violations across global value chains. In this case a general overview of the salient aspects was presented with a more generic outcome. The style of the interviews themselves was divergent but this provided an opportunity to analyse answers based on differing perspectives that enrich and sometimes even complete each other resulting in an integrated outcome.

Among the main criticalities highlighted by the several interviewees is the low effectiveness of the legislative instruments available: ILO provides acts of soft law which are not binding for states and this reduces the urgency in terms of aligning with the international law, creating a gap in the regulation of the labour violation phenomenon. On the other hand, many countries ratify the ILO Conventions by aligning the national legislation but, the absence of enforcement mechanisms and effective sanctioning systems allows the perpetration of such violation of human rights by MNCs and, indirectly, by states to continue. This problem has been acknowledged by the ILO's representative during the interviews, who admitted this is a shortfall they are presented with. Nevertheless, an increasing interest and commitment on the matter has been demonstrated by companies like Philip Morris, Ferrero, Nestlé and so on, which are also, due in part to past scandals, are incentivizing programs to tackle and eliminate risks within the supply chain.

Some interviewees have also denounced the necessity of having a more prescriptive law that clarifies what exactly is expected from companies to apply since often the legislation is vague and generic, fixing utopic targets, especially in the past decades. A margin of improvement is perceived after the introduction of the UNGP in 2011 that requires full knowledge on the risks within the supply chain and upstream, with the obligation to fix them and refund the victims. According to all interviewees the step change occurred partly through the creation

of the Agenda 2030 of United Nations which presented the chance to focus on few concentrated global challenges that are more relevant for each company that can positively influence the destiny of humanity.

Another focal point underlined is the necessity to ensure every actor is giving its honest and complete contribution in the implementation of the directions put forth by the entities like the UN and the ILO, in particular governments, businesses and civil society. This forms an intricate network of actors whose action is successful once everyone is performing in the proper way toward the same goal. One of the interviewees, Ana Leite, a Social Sustainability Manager in PMI, espouses the importance of “Multi-stakeholder environment”, in which companies are strongly engaging with their suppliers, through the support on NGOs for the implementation of the programs, but always having as a reference the ILO standards. In this sense, businesses have the duty to complement the knowledge of suppliers and tiers on the methodologies of responsible sourcing and capabilities to help them implementing better practices. This can be done organizing training sessions that reinforce the relations between companies and suppliers but also offering the latter the space to expose the issues faced during their daily activities. This creates a space of dialogue, learning and growth for both. Furthermore, the main KPIs which are mostly tracked within the social sustainability sector are related to child and forced labour, minimum wage, and personal protective equipment which are among the highest risks presented within the supply chains. The abuses of labour rights are mostly caused by the cycle of extreme poverty, which is at the centre of workers’ lives, affected by the unfair wealth distribution across the long supply chains. In this system, the value is distributed in an unequal and unbalanced way, concentrated on the countries where the downstream activities are executed and penalizing the states where the upstream activities are performed. As proposed by Aldo Uva (COO, Livekindly) to eliminate modern slavery, it is critical to leave the value-added activities in the sourcing countries, allowing people to improve their living wages and eradicate completely the cycle of poverty. As announced by Rubben, PMI is implementing a system to guarantee the living income to the farmers, while other companies are also able to offer them an additional Premium.

Several programs are implemented by companies and ILO to improve the living conditions and income of the workers. In this sense, MNCs are involving a wide number of experts to identify the problems, create an action plan, control and mitigate the risks, in order to have

effective results and measure the positive impact produced. In this regard, a common concern emerged is the difficulty to measure and evaluate the societal impact derived, especially in matter of Total Societal Impact, shaped by ESG measurements often set externally by NGOs. This is a critical point since many studies claim the importance of being a sustainable development company in the eyes of the investors who believe in the importance of impact investing. In this regard, the opinion of the interviewees is categorized in two parts, some agree with the statement while the rest, although in support of the concept, believe investors are still oriented toward companies with higher returns rather than ESG companies.

For this reason, customers have the power to change the situation if they start boycotting companies with poor practices or demonstrating a strong interest toward social and environmentally sustainable companies. The trade-off is not investor oriented MNCs but customer oriented MNCs, which can influence the margins and address the direction of the investments simply buying by the ESG enterprises. In order to do that, customers need to be oriented and have visibility on the performance of companies, on the bad and good results and understand the value and pillars which are at the core of the firms. Nowadays, the key concept behind trust and loyalty of the customer is transparency. An increasing visibility on the methods adopted to produce goods and services is the solution. Customers need to view ESG information, and, in this case, the conditions in which suppliers and tiers operate.

In order to boost traceability, transparency and visibility the key solution underlined by all interviewees is the introduction of technologies. Every company interviewed is already different kind of technologies, which focus on help in several fields. ILO strongly encourages and collaborates on this. The main technologies enabling increased visibility are robots and drones, the results are captured by field technicians during the audits, then collected in databases, on the use of systems that allow for tracking etc. The interviewees demonstrated scepticism on blockchain technology because, in their point of view, it does not properly or directly address the root causes of forced and child labour. In fact, this provided information on the movements and data related to the product but does not eradicate bad labour practices or human rights abuses. On the contrary, the ILO representative stated that incentivizing the use of such technology as a transparent mechanism is key, thereby fostering more visibility, trust and discovering promising solutions.

Conclusion

In today's world, institutions and business at the core of global economy agree on the critical role invested by sustainability to achieve the main goals of society toward a better future for humanity. The increasing awareness on the matter has grown in the past decades, since the effects of globalization have been increasingly perceived around the globe, presenting massive implications on everyone's lives. In this context, huge benefits were reserved to the Multinational Companies that, constantly looking for reducing their costs, opted for a massive movement of their upstream activities toward Low-Cost Countries resulting in the "offshoring" phenomenon.

In many cases, low costs of manufacture that are considered attractive are accompanied by inadequate legislation safeguarding labour rights, the normative dumping. In the past decades, several scandals surrounding some of the best-known international brands practicing offshoring opened the eyes of organizations, states, business, NGOs and customers. The growing interest lead to the need of more discipline and diligence with the production of several acts of hard and soft law. In this sense, organizations like United Nations and the International Labour Organization espousing the protection of human rights and decent work conditions, produced a wide number of conventions, declarations and guidelines to provide the path which every actor is called to follow. The directions provided, for example, by the UNGP and the SDGs have the capacity to re-address the objectives of states and MNCs, provoking an acceleration on the goals fixed for 2030.

In this matter, the goal #8decent work and economic growth, strictly linked to the problem related to the common violations of labour rights is a priority that states, and companies expressed the willingness to address properly.

A large number of states have already ratified and introduced legislation based on the conventions introduced by institutions like ILO, but the main issue identified in most of the developing countries is a lack of enforcement. The existence of a law in line with the ILO and UN direction is not effective if it is not reflected in the practice.

In this matter, the suggestion is the institution of a body capable of verifying the application of the law and the actual compliance within the standards and principles defined by the international institutions. Moreover, I believe that more effective sanctioning systems should be implemented at the national level in case of non-compliance with labour legislation, and

in respect of labour rights, the ILO should be capable of excluding the country from its members and imposing economic sanctions on its economy. The introduction of a chapter in the UNGP has pointed out the importance of providing reparation to the victim of abuses or the family of the person. This can also damage the image of the state.

On the subject of adopting social sustainability practices, multinational companies are moving forward with the implementation of the strict measures adopted by the virtuous countries and are also implementing their code of conduct and due diligence principles to auto-regulate themselves toward social and environmental challenges. Although the path is not easy or straightforward, the act of promoting workers' rights must start from the analysis of the portfolios and practices adopted by each company in its operations. Since most abuses are concentrated on the lowest levels of the supply chain, the biggest challenge reported by MNCs is in the continuous research of transparency in every block characterizing the production, distribution, and selling machine.

MNCs normally have hundreds of thousands of workers, including several tiers of suppliers and third-party service operators. For this reason, the continuous control and the adoption of best practices are often hard to perform. Nevertheless, companies are undertaking this duty not just for the global challenge, but especially because customers are focusing their interest on social and environmental matters, influencing their decision-making between one product and the other, one brand and the other. Also, consumers are increasingly attracted by companies that guarantee visibility and transparency on the methods used to grow their products, with a preference for more expensive but forced and child labour free goods. This induces companies to boost accountability and be socially responsible day after day.

A second aspect, closely connected to the previous one, is the increasing interest of investors in ESG companies, perceived as attractive and being able to bring higher returns in the future. This statement is a bit controversial since several studies like the one conducted by BCG are demonstrating that investing in social sustainable enterprises increases the margin and valuation of the MNCs. Other researchers claim that, according to the statistics, investing in ESG firms brings positive financial returns. A slightly different opinion has been released by the interviewees in this dissertation (see Appendix), where scepticism has been expressed due to the current interest of investors for companies with high returns, be they investing in ESG or not. It is also true – in their opinion – that being a company with records of slavery

and child labour within the supply chain, for example, affects negatively the margins, and that transparency is a key aspect to preserve today.

The analysis conducted on the aspects analysed led to develop a personal belief: that customers today have the responsibility and power to influence investors and companies in the choices related to the future. If consumers start choosing companies which value visibility on the processes, good labour practices, and a portfolio built on human rights, a big step change may happen. I believe that, as individuals, each of us has the potential to influence the investments of the big actors if we only consider transparency a minimum requirement and begin boycotting the companies that do not demonstrate an interest in the social matters. In order to do that, it is important to start an action to educate customers to look and pretend labour rights behind the goods and services provided. This may be started from the smallest and newest companies which can foster their campaigns on traceability and better practices adopted to slowly influence the mind and hearts of everyone in the global economy. They can demonstrate that the change is possible, publicizing the strategy, plan, and results obtained with effort. An example in this sense is what the chocolate manufacturer “Tony’s Chocolonely” is doing to unmask bad practices within large brands and demonstrate how it is possible to operate 100% slavery free in the supply chain. This will bolster the trust and loyalty of customers toward a company that is looking to the future of humanity.

The scope of this dissertation was to uncover the main factors behind the difficulties in implementing a supply chain free of labour abuses, understanding the variables involved and promoting a transparent value chain, able to find the root cause of the violations and evaluating the best approaches adopted in social sustainability, commonly known as Strategic Corporate Social Responsibility. On the topic of strategies, an interesting concept analysed is Total Societal Impact which indicated the company strategies and portfolios entirely built on social, environmental, and governance pillars that are characterized by a defined system of ESG indicators that help on the measurement of the impact performed. This is not very known yet, but it is auspicious that in the next years all companies will be able to constitute their targets with an eye on a profitable way to solve global challenges and be socially responsible entities.

In this panorama, companies are adopting several approaches that aim to create a strict connection with their employees, giving birth to a huge number of programs that are bringing

successful results. This is done through the increasing collaboration of enterprises and NGOs which provide the guidelines on the implementation of effective programs that help them identifying and collecting information on specific KPIs which represent the bigger risks within their supply chain. In this context, the ILO is also providing support on the normative aspects of the specific nation to the companies. On this concern, companies allow internal or external auditing to monitor the conditions and the improvement done in relation to the issues previously identified. These risk assessments permit the definition of the main gaps and the action plan which should be immediately implemented to correct the wrong behaviours of suppliers and tiers. The results are often collected in databases that are shared across companies to favour the knowledge related to the sourcing activities and supplier's performance.

Among the most used approaches, supported by due diligence principles and responsible sourcing practices codes, is a strong dialogue between suppliers and MNCs, with the intermediation of NGOs. In this case, there is a mutual exchange: companies offer suppliers and tiers training sessions to ensure they know which are their rights, presenting the best practices required, based on the company's principles and suppliers are given the opportunity to open up and have the space to express the frustration they are facing, creating growth prospects for both. One of the most critical issues presented at the upstream level is the unfair income perceived that starts a cycle of extreme poverty. This is also caused by other risks like child labour and poor work equipment, for example. In this case, some companies have implemented programs to guarantee the minimum living income, allowing a decent life to the workers at the bottom of the chain, which is the most penalized. In this case, other two options have been proposed in this dissertation: the first is the initiative adopted by "Fairtrade" in which, farmers perceive an additional Premium income which is summed to the minimum wage, second, as proposed in the interviews, it is critical to creating short supply chains in which the value is not dispersed and distributed unfairly across countries, but remains in the country of production.

To conclude, practitioners, scholars, and institutions are firmly convinced that the acceleration to guarantee transparency, traceability, visibility, and trust will be obtained only through the introduction of technologies. Starting from the introduction of systems like iPad which are interconnected to databases which allow farmers or field technicians to enter the

characteristics of a product, a field, the child labour practice in the crop and the minimum income issues, it is possible to have a real-time visualization of the conditions of the harvest and workers, automatizing processes, data and increasing the speed substantially. This is also supported by the introduction of drones, which give a picture of the crop, provide information on the size, and allow to constantly monitor the features of the land. Some companies like Livekindly have started adopting also robots that move around the field capturing data. Some companies have also introduced the use of QR codes to have the possibility to follow the product.

In this dissertation, an emphasis has been placed on a widely discussed technology: blockchain, a large group part of experts is fascinated by the technology, considering it a proper impact investment that every company looking for transparency and credibility should focus on. It offers the possibility to track the movement of the product from the moment it is picked up to the moment it is sold to the customers, offering a high amount of data related to the product. Blockchain is working through the ledger distribution technology which does not allow data modification once the data is stored on the chain. A step forward which is auspicious is that through the introduction of a QR code, the customer will be able to verify the information on the product, demonstrating full transparency by the brand and creating loyalty.

Another group of practitioners is fully convinced that, in order to identify the situation of labour rights violations, it is not appropriate to use a system like a blockchain since it is not able to solve the root cause. They claim that blockchain provides a massive opportunity for traceability but not in spotting the “why” in some contexts and abuses are at the basis of the chain.

One of the interviewees proposed a “Multi-stakeholder approach”, where the governance is improved, everyone applies its responsibilities, controls, and dialogue are guaranteed and the cycle of poverty is interrupted through the definition of better income for suppliers.

Appendix

As stated in the methodology section, this thesis will follow a qualitative path for this dissertation and as we want to understand present perspectives shaped by dilemmas and business cases. The intention is to approach business practitioners with questions that provide valuable points of view on the environments they operate in. This will allow us to understand:

- a) Their experiences and further perspectives,
- b) Useful insights that will help understand their perspectives which have seen an evolution,
- c) The impact of companies in implementing and safeguarding labour rights across supply chains with an in-depth focus on past, present, and future, and
- d) The role of technological solutions plays in the same.

Prior to this task, I created a base set of keys to help me understand and analyse the answers I receive during the interviews and to identify the data that I require to enrich my work.

Keywords:

- a) Collaboration
- b) Innovation
- c) Impact Investments
- d) Transparency
- e) Traceability
- f) Projects
- g) Societal Impact
- h) Governance (*all examples*)

These keywords or identifiers are a combination of data from theoretical papers like the ones just reviewed, data from an over topic survey by informal conversation, and my own views or perspectives on the subject matter. Post-interview, matching these keywords to the statements made by interviewees makes them easier to understand. Keywords make it easier to identify if the interviewee's statements align with our perspectives, and hypotheses.

An absence of these keywords or a reduced number will mean that the hypotheses do align with the perspectives of the interviewee meaning the interview must be revisited under the misalignment. The causes of the misalignment must be appropriately observed and noted. Inversely, a high match means that the thesis and the hypotheses are indeed on the right track.

Interviews:

This section is based on several interviews conducted across several actors in different companies, chosen due to their outstanding career and vast expertise on the matter of social sustainability. Their background and experiences have helped to enrich this work with further perspectives. The useful insights provided have helped to understand the point of view of

professionals who have seen the evolution and the impact of companies in the implementation and protection of labour rights across the supply chain, with a deep focus on past, present, and future elements on the matter.

Interview No - 1:

Name: Parchet Rubens – Manager Sustainability Project, PMI Operations

Industry: Tobacco

Company: Philip Morris International (PMI)

- Philip Morris International is a leading tobacco company in the production and sale of cigarettes and Reduced Risk Products (RRP) – like IQOS- and accessories in markets worldwide. In 2019 it recorded net revenue of \$29.8 billion (18.9% from RRP) and net earnings of \$7.2 billion. PMI operates 38 owned manufacturing facilities and collaborates with 28 third-party manufacturers. The company has 33,200 suppliers in over 180 markets with over 335,000 farmers contracted. Among them, 92% of the labour practices implemented to produce tobacco have been monitored with over 2712 (88%) child labour actions spotted by 2875 field technicians. The PMI mission is to have 100% critical suppliers which source sustainably by 2025 and pay minimum wage by 2022²³⁶.

Positions:

- Finance,
- Corporate Audit,
- Leaf (10 years - Switzerland, Indonesia, Philippines, US, South Africa, and other countries from where PMI purchases Leaf), controlling Leaf sourcing,
- Sustainability (1 year) – initiatives more related to social sustainability, employees, people sustainability, employability, governance for sustainability (environment, social, etc.)

²³⁶ Philip Morris International, Progress toward a world without cigarettes, Integrated Report 2019, 2019, pp.4, 5,32

1) **Question:** What is your opinion on the statement that companies should address global challenges defined by the 17 SDGs, for example, the #8 decent work and economic growth and #9 industry innovation and infrastructure? What should companies focus on?

Answer: I firmly believe in the importance of the SDGs and, as a businessperson, I find it necessary to prioritize their achievements to ensure the sustainability of the global system. If everyone complies and implements the SDG targets, then their purpose can be achieved but if even one deviates significantly, all the system collapses. I believe companies must respect them from both a human and economic perspective since companies are made by people, but they want to increase profitability too. Companies need to prioritize the SDGs based on the value creation they produce in their industry. Understandably, companies focus on some SDGs over others, having more abilities to achieve them in the short term while taking into consideration the future perspective to achieve all of them in the long term.

2) **Question:** Do you think that PMI is integrating the TSI/Strategic CSR within its core business activities? Do you see any evolution from the past?

Answer: Indeed, I see a huge evolution from the past. If we consider the global societal impact of Philip Morris concerning behaviour and responsible attitude, I have seen the company being extremely conscious and dedicated to minimizing negative impact and contributing to societal impact. This behavioural shift was the answer to the issues faced during the past by the company. PMI decided to be a better actor due to the bad historical records registered in labour rights. This pushed the company to gradually evolve, introducing social sustainability as part of its culture. In this context, there was a further element that prevented PMI to fully embrace *TSI*: the product we are selling.

We must accept that it is not a product that has a beneficial impact on society. The step-change happened when PMI introduced new less harmful products for customers. The company decided to openly confirm the negative effects of the old product, promoting a smoke-free future with the IQOS. At that moment, Philip Morris does not know if the new product will be successful but has decided to take the massive risk with a CSR intention in mind. This indicates the willingness of the company to be CSR oriented, looking at “doing the right thing”, having a less bad impact on society.

3) **Question:** What are the main opportunities and challenges PMI is facing in support of labour rights within the supply chain?

Answer: The supply chain encompasses many levels. The biggest risks so far have been in agriculture, among farmers, but today we have also a completely new supply chain structure concerning digital equipment for IQOS (which is a technological device). This supply chain is further exposed to labour rights abuses than the agriculture one. The level of risk is very high, and PMI must tackle two different supply chains with different actors involved which are in many different countries.

This implies diverse and multiple levels of legal protection compared to states like Switzerland and Italy, where abuses are severely punished due to legislation and culture. Countries like Malawi, Mozambique, China, Pakistan, Bangladesh, Indonesia, and the Philippines have higher records of labour abuses, and often the scarcity of knowledge on what is happening in the farms makes the identification of violations more challenging and limited.

4) **Question:** What are the main opportunities and challenges that your company is facing in support of labour rights within the supply chain? On which programs/processes are you mostly focusing? What results would you like to see?

Answer: For a successful change in those regions in a matter of labour rights, two aspects should be addressed: the enforcement of laws by states and a cultural change in the perception of labour rights. This is very hard to implement because it is linked to traditions, historical practices, and powers that are difficult to modify. We need to encourage governments to create the appropriate level of regulations. PMI, as a company, has its regulations which apply in the stipulation of contracts and agreement with partners to protect labour rights.

Since compliance with strict standards is often difficult for partners, it is necessary to have a certain level of tolerance. The company may find it hard to perform high-level controls in case the number of farmers is very high. In this case, the support of the government in legality enforcement is critical. PMI advanced discussions with the government to decide the appropriate rules, to promote a certain level of protection of labour rights, giving recommendations on certain topics based on the experience we have.

Thus, PMI engages with local authorities to convey the message and, in parallel, the company triggers the activity in several departments like sustainability and external affairs to identify, minimize and mitigate the impact of the problem and then define a due diligence strategy to enforce the change.

An opportunity PMI identified is the promotion of a different style of marketing tobacco in Malawi. Historically the majority of tobacco was marketed to an auction floor where companies would bid on it and the winner would take the tobacco. This practice still applies to generate a fundamental issue for the farmers who cannot participate on the options floor because they do not have a track or a car. The necessity to sell the tobacco leads the farmer to sell it at a lower price in comparison to the actual market value he would have sold to companies participating in an auction. The buyer who took advantage of the farmer would then auction the tobacco to the highest bidder.

To prevent this issue, PMI has promoted a new initiative called “*Contract growing*” which involves signing a contract with the farmer defining the amount and quantities of tobacco that will be bought. This way, the farmer is bound to sell the agreed quantities of tobacco to the company’s supplier based on the contract. PMI asks its suppliers to provide tobacco which has been sourced only through *contract growing*. This method prevents one of the biggest issues for farmers: the risk of overproduction.

When the demand is lower than the production, farmers must sell at a lower price which does not allow them to cover the minimum needs of them and their families. The *contract growing* protects farmers, having the chance to get a better price. The second advantage provided from this practice is that having a direct relationship with the farmer, it is possible to track and trace what he does, imposing rules to the farmer as part of the agreement, suppliers must not use forced labour into your farm, you must not pay less than the minimum wage, every employee must have accommodation, etc.

5) **Question:** Who decides the price of tobacco?

Answer: There are multiple approaches but in general, PMI considers a specific path. It estimates the cost of production and the minimum revenue for the farmers. With these two variables, it is then able to define a fair price made by the cost of production plus a margin and this makes the price. Obviously, PMI cannot ignore the market dynamics, in fact, if the supply is low and demand is high, the price increases, but if it is the opposite the price is reduced. The idea is to never buy at a price lower than the cost of production. Even when PMI buys directly from other companies that bought from farmers, the minimum revenue is a principle considered before purchasing.

6) **Question:** Do you ask for the support of NGOs and Agencies for the implementation of best practices and certification?

Answer: Yes, we ask the support of NGOs and independent consultant companies to set targets that we have in social sustainability, to define the plans and verify independently what has been done. PMI works with Verité' in tobacco supply chains. As a matter of fact, many NGOs prefer to avoid working with tobacco companies because they do not want to be associated with us and it is often not easy to establish partnerships with them. It is important to remember that also in the tobacco industry there are vulnerable people, employees, and families which need to be supported and should not fall the victim to this. We cannot let them down.

7) **Question:** Which are the main KPIs that you track within the supply chain to tackle labour rights? Do you think the company is doing enough to reach these targets?

Answer: The main KPIs we track are minimum wage and living income to ensure farmers have decent living conditions to feed children, pay their education, feed them. The company is seriously committed and dedicated to the achievement of these targets. The resources and means to trigger them have been set and we are constantly improving to be more efficient and impactful. The company is very involved overall in this.

8) **Question:** How do you make sure suppliers respect the rights and rules within the supply chain?

Answer: The majority of the initiative is linked to independent reviews performed either by PMI if the supplier guarantee he applies certain measures but in the majority of the cases, we use external verification like SGS, PWC, consulting, and controlling companies to advance other reviews.

9) **Question:** Do you think transparency in the supply chain is important? How does it affect your reputation and image? Do you think TSI policies increase your company's valuation and margins?

Answer: Yes, transparency is critical for the company. The key point to understand is that PMI started the implementation of sustainability policies when it already had a bad image and reputation. My feeling is that the transparency in sustainable practices is perceived as damage control. Good labour practices initiatives help people all over the world to have better work-life conditions. This is also helpful to defend ourselves when we are attacked but do

not change our image in people's minds. So far, we are carrying weight from history where we can't go back but we can't go much up if not with some incremental improvement. In terms of our image, every positive step we do is considered normal, our duty, but if something bad is done, it affects our image badly. So, the effect of transparency and sustainability is not improving our image but is mostly damage control.

For what concerns valuation and margin, I do not think it will improve valuation and margin in the short term. Valuation increases if PMI is considered an ESG Investment Company. If investments in our business increase because stakeholders think we are virtuous or because the industry's image changes in the eyes of people, this would mean that we are attracting investors and increasing our valuation. Right now, this is not happening. As of today, I assume PMI is attracting its revenues and investors do not mind the industry. The introduction of IQOS is part of our sustainable practice to push for it and for a product that respects society more. The contribution is related to the sustainability of the industry.

10) **Question:** Do you use any technology to boost visibility across the supply chain? What about blockchain? Is it a possibility you might explore?

Answer: We use technology as an assessment to measure the size of the land, to estimate the yield, and to identify the issues with the plants. The technology is also used as a database to analyse data.

Regarding the blockchain I am sceptical. It is not bad, but it only addresses partially the problems related to labour rights abuses. Blockchain is a technology that requires a very significant investment but providing a marginal gain, whereas our main issue is on practices and abuses taking place and blockchain does not help at all in preventing the abuses.

I know that the products come from a specific place but still, blockchain does not solve at all the problems related to the use of children to produce, forced labour, low income, etc. Big issues in the supply chain are not going to be solved through it. It is a fancy technology that can be used in finance, deals in real estate, and many other sectors where 100% traceability to track the movement and features of a product is needed.

Do we have to invest in it? Maybe, but we have already many tools in place to track. In tobacco, we already trace back to farmers even if in a more conventional way. Blockchain would start from the scanning of a code in the exact point in which the tobacco is picked in the middle of Pakistan and it would continue till the final stage of the chain ensuring 100%

transparency. Does it improve what we have now? I have my doubts and I have my doubts that blockchain will solve the issue of traceability we are facing. When it comes to raw material there are other issues to address before investing in a technology that marginally solves the situation. I believe we should invest in something that has an impact, not something that gives a marginal output.

11) **Question:** In what would you rather invest?

Answer: I think it is more appropriate to invest in promoting living income throughout the supply chain, minimizing the risk of children not going to school by paying for the school, for food. An investment is smart even when you trick the system. For example, if we say to the farmer that, sending his kids to school, we would give them food, this may benefit his life since he does not have to pay for the food. He sees the positive effects of sending the kids to school and organizing his work without them.

From an intellectual perspective, it would be better to convince the farmer for what is right, but it is also good to convince him to do the right thing. Through NGOs we implement programs to promote education, picking the children in the morning, bringing them to school, feeding them, getting uniforms, and bringing back home in the evening. This provides huge support to the farmer since he does not have the time to execute all these actions. This is normally done through the help of NGOs and suppliers because it mostly occurs in countries where we don't buy directly like African countries and Latin America (in Argentina).

Our suppliers are doing things like building houses for farmers in South Africa to accommodate the farmers, while before they would sleep on the field. In some countries in Asia, there are schools for children of farmers and sports activities to improve the situation of communities. In relation to the corrective abuses, PMI decided to stop purchasing from some countries because it was given a deadline like 3 - 5 years to correct some bad behaviours. Farmers and suppliers did not correct them, so we stopped buying from them.

Interview No - 2:

Name: Anna Kletsidou – Head of PMI Social Sustainability & Human Rights – PMI External Affairs

Industry: Tobacco, FMCG (Fast Moving Consumer Goods)

Company: Philip Morris International

Past Positions:

- Nestlé - Legal Compliance, Sustainability (9 Years)
- Lawyer
- EU Commission for Digi-Employment and Social Affairs

1) **Question:** What is your opinion on the statement that companies should address global challenges defined by the 17 SDGs, for example, the #8 decent work and economic growth and #9 industry innovation and infrastructure? What should companies focus on?

Answer: Every company with a very important footprint and heavy supply chains like Philip Morris International and Nestlé have a duty to measure and address impact giving their contribution to solving global challenges indicated by SDGs. In the context of labour rights protection, it would be easier to fix operations within the supply chain of the company, but the main issues go beyond that, reaching suppliers and farmers providing raw materials. It is at their level that the main challenges like child labour, health, and safety occur. In PMI we commit to human rights and follow the guidance provided by UN Global Compact, UN Guiding Principles of Business and Human Rights. To fully align with this guidance, we built our due diligence processes codes and responsible sourcing principles which set the requirements for our suppliers in a matter of human and labour rights, environmental responsibility, etc.

Nowadays, all big companies have mapped their activities toward SDGs prioritizing those where they have the biggest impact. In PMI this is done through an assessment where we connect with internal and external stakeholders and identify where we need to prioritize and put much of our effort based on the impact and the leverage we have. SDGs are the northern star, they are key.

2) **Question:** Do you think that PMI is integrating the Total Societal Impact/ Strategic CSR within its core business activities? Do you see any evolution from the past?

Answer: Today almost every company has a set of core values that are integrated into the business strategy. In this regard, it is complex for companies to measure and evaluate the societal impact produced, having a clear indication of the action and initiative which are determinant for the success. Most of the time it is complicated to have clarity on this since many actions are concatenated. In the fight against child labour, for example, we talk to children and raise awareness among workers and farmers, we identify and provide solutions

through programs to feed and support kids at school and much more. To understand which actions are successful and have a positive impact, it is critical to measure them through external verification and make interviews with the right holders. This, I believe, is the strategic CSR. For what concerns the Total Societal Impact, from the last two years we have introduced many KPIs and ESG measurement set externally to get there. We are constantly reporting on our progress, considering what we do, and which are the main challenges faced. Integrating reports with financial, social, and environmental elements is a sign of evolution.

3) **Question:** Do you think MNCs give enough credit to the direction provided by international institutions like the UN, ILO in labour rights protection?

Answer: All companies usually refer to UN instruments, codes, and conventions as guidance. In 2011, the UNGP was a key milestone that clarified the responsibilities of the state and business providing the proper guidance to the companies. Many laws are produced on the matter of labour rights protection within companies and this is having a positive impact to address business environment. Is this enough? I think this is an initial step, but the law should be more prescriptive, precisely focusing on what concretely is expected from companies to show and apply. An example in the matter is the *French due diligence care of duty law* and the *UK modern slavery Act* which are considered a good start. The more clarity we get from the UN on what is expected, the better it is.

4) **Question:** The international institutions are giving guidance and each country is addressing the national law to respect. In your opinion, is it required better recommendations by states or international organizations?

Answer: I think everyone should play its part: states have a duty to respect and preserve human rights and enforce the right set of laws. I think that many countries have already the right legislation in place, in line with ILO, UN, EU directives, etc. The problem is that often the law is not properly enforced by countries. Then, there is also the responsibility of companies to implement the right policies and controls. I would suggest the introduction of a driven mechanism in which people can report the issues faced, highlighting the requirement for the suppliers and the obligations of tiers toward their suppliers to clean up the biggest issues within the supply chain in a matter of labour rights. If every institution would respect its role, things would be much better.

5) **Question:** What are the main opportunities and challenges that PMI is facing in support of labour rights within the supply chain?

Answer: PMI has a quite diverse supply chain: 30% is dedicated to the tobacco agricultural supply chain, the majority is on direct materials and then we have the electronic supply chain, with different issues.

In the agriculture supply chain, PMI sources tobacco from 24 countries often from remote areas (Mozambique, Malawi, Indonesia, etc.) with poor infrastructure and records of human rights violations according to the international rating standards. We source tobacco from about 335 000 smallholder farmers which have 2 hectares or less of land in those countries. Here, the risk of child labour and salary below the minimum wage is very high. For what concern forced labour we have clear rules in the Agricultural Labour Practice code stating its prohibition within the PMI supply chain.

This code has been created in 2011 with the initiation of the Agricultural Labour Practice program containing 70 principles such as the abolition of child labour, forced labour in the company, the introduction of the minimum wage, the provision of protective equipment to ensure the workers safety and so on. How can we make sure these rules are respected? We have around 2875 field technicians that are doing the so-called “*farm-by-farm monitor*” so they go to the farm and start a dialogue with the workers to identify the main issues: are children working there? Are there issues in the situation of forced labour situations? The field technicians take notes and report the issues found to PMI. In reply to this, the company implements a “*raise-a-prompt-action plan*” to address the issues.

One of the biggest challenges in PMI is related to youth access prevention to cigarettes. We sell cigarettes to millions of little points of sales across 182 countries. How can we make sure that those products do not end up in the wrong ends? This is a very difficult task, but we try to collaborate with retailers to prevent these issues. Here we have a problem related to the final stage of the supply chain linked to children's rights of health which are the most vulnerable.

6) **Question:** Which are the programs that had the biggest impact so far?

Answer: I would say that the ALP, Agricultural Labour Practices program, had the biggest positive impact in terms of value creation so far. PMI is focusing its effort on the promotion of a better living income for the farmers. To implement that, we are working with external

companies to identify which is the proper living income per country based on the annual earnings from tobacco per farmer. This is fundamental because poverty is the root of many labour violations such as child labour, no safety issues, forced labour, etc. All of them are related to poverty, which is why we believe better pay is the enabler to address most of the issues. If the farmer has a living income, he can pay the minimum wage with no issues reaching the living wage. The farmer often prefers to use his children because he can't afford to pay for another worker. This is also a cultural matter because the farmer wants his kid to develop skills and learn a job, but the main cause is extreme poverty.

Another successful program related to my previous position in Nestlé is the “*Youth Employment Initiative*”, which focused on improving the 18-30 years old people's employability, preparing them for the work environment transition, finding the first job, and improving employability based on the right skills needed by Nestlé. This represents a win-win situation in which Nestlé prepares young people for their future work in the company while supporting the youth to do the first steps in the work environment.

7) **Question:** Do you ask for the support of NGOs and Agencies for the implementation of best practices and certification?

Answer: Yes, we worked with Verité, a supply chain management consultant company to design the Agricultural Labour Program. They have also been our strategic partners. Since 2011 we work with Control Union Certification which is a supply chain auditor. It has been auditing our agriculture supply chain and reporting about human rights violations to have full transparency.

8) **Question:** Which are the main KPIs tracked within the supply chain in a matter of labour rights?

Answer: We are committed to eradicating child labour by 2025 so we are tracking the number of children doing hazardous work based on the age, the activities they are doing, and, based on that, we implement a different action plan. PMI wants also to pay minimum wage by 2022, guarantee the safety rights and commit to providing Personal Protective Equipment (PPE). To make sure we are implementing the right strategy we report on these KPIs to reach the target defined.

9) **Question:** How do you make sure that your suppliers respect these rights and laws within the supply chains?

Answer: We ask the support of auditing companies that have the same targets we have to verify compliance with our standards. Fundamentally, suppliers are aware of the PMI code of conduct for suppliers called the Responsible Sourcing Principles that focus on the agricultural supply chain and the ALP code. In the last 3 years, we understood the main issues faced by the company (child labour, PPE, minimum wage), discovering that 8 countries, in particular, were worse than others and they were driving the negative path. Our focus was to prioritize those areas, introducing new targets, reporting, and cascading those to the suppliers to make sure they are achieved on time.

10) **Question:** Do you think transparency in the supply chain is important? How does it affect your reputation and image? Do you think TSI policies increase your company's valuation and margins?

Answer: Transparency is key. Transparency creates trust. A company needs to have clear targets and report on the main challenges is facing, particularly on the mistakes. This is necessary to create trust and be credible in the eyes of stakeholders. It is a critical factor, especially for those companies which have trust deficit issues due to past heritage like PMI, which opted for full transparency and adopt an audit report which is unique for the level of details provided in its 60 pages. PMI is not the only company with similar challenges; it is commonly shared also in other industries like coffee, cocoa, etc. and the only way to achieve the targets is through collaboration with governments, NGOs, and international organizations.

In general, I think customers are willing to pay more to make sure the product is free of child labour and human rights are respected. This is not valid for PMI because our margin does not depend on this; people are not buying more if the company respects human rights. Furthermore, PMI is not doing this to increase the margins but because respecting the labour rights within the supply chain is the right thing to do. The increasing number of investors focusing on ESG companies is positive because pushes companies to be more transparent, driving good behaviours. Is the investors' behaviour influenced by the growing regulation in the matter of human rights? Maybe, but there is a clear interest in the matter.

In PMI we take these issues very seriously, measuring our records, and engaging with investors, sharing the work we are doing in the sustainability arena, and participating in Dow Jones Sustainability indexes.

11) **Question:** Do you use any technology to boost visibility within the supply chain? What about blockchain? Is it a possibility you might explore?

Answer: Currently, we are exploring blockchain especially in the agricultural supply chain, but we did not implement it yet. In the meanwhile, we are using a different kind of technology to track fieldwork conditions, called STEP. This initiative was launched in July 2019 and it is based on the Responsible Sourcing Principles deployment across suppliers. We started onboarding suppliers (tier 1 and tier 2) of direct materials and electronics which have to fill a Self-Assessment Questionnaire (SAQ) based on the initial risk-screening identified. In the case of medium-high risk, field technicians have to run an audit, recording all data related to the farm and its workers using an iPad. This information is filled manually and ends up into a bigger database containing the consolidated results related to 33200 suppliers across 24 countries. PMI has the data of a demographic for every single farm considering the main issue of the farm, the number of people working there, the type of employment, the number of children in the farm, their age, and if they go to school. In 2019, 71% of suppliers filled the SAQ using the STEP platform; the target for 2020 is 90% of the direct materials and electronic suppliers. This cannot be considered as the most sophisticated technology; however, it collects a wide level of data that allows identifying the location where much of the impact is occurring.

Interview No - 3:

Name: Ana Leite – Social Sustainability Manager – PMI Operations

Industry: Tobacco

Company - Philip Morris International

Positions:

- Managing Social Sustainability Programs and Processes (in more than 10 countries so far)

1) **Question:** What is your opinion on the statement that companies should address global challenges defined by the 17 SDGs, for example, the #8 decent work and economic growth and #9 industry innovation and infrastructure? What should companies focus on?

Answer: Yes, companies need to focus on SDGs. I like the concept behind these 17 goals defined by the United Nations, although I don't think they reached the level of growth

expected. I believe it is vital that companies choose from 3 to a maximum of 5 SDGs that are more relevant for them without stopping until they achieve the change they want to see in the world. In the case of PMI, we are focusing on number #3 - Good Health and Well-being, to guarantee customers the right to health. In this sense, we are producing IQOS and other products which should cause less harm to people. We are also focusing on the number #9 - Decent work and economic growth”, and the number #13 - Industry innovation, through the development of IQOS. Companies need to plan on what is more important for their stakeholders and focus on those.

2) **Question:** Do you think that PMI is integrating the Total Societal Impact/ Strategic CSR within its core business activities? Do you see any evolution from the past?

Answer: Personally, when I think about CSR, I imagine the old conventional way based on philanthropy, donation, and charity which was separated by the company strategy. I prefer to differentiate between that CSR and accountability to minimize, neutralize, and improve the impact on society that PMI calls simply “sustainability”. If we want to be normalized as a company, we need our stakeholders to perceive us as a socially responsible company incorporating sustainability in everything we do. If I look at the past, there has been an evolution, considering that no one would have known even the correct definition of child labour provided by ILO.

We decided to set the sustainability path after the scandal of the episode in Kazakhstan, where a fire burning in a PMI location was reported by Human Rights Watch, which published a report in 2009/2010 claiming the involvement of the company in child labour and forced labour practices. This news was then published by the New York Times and had a bad effect on PMI reputation. At that point, the management team was shocked by this fact and decided to take action to prevent the repetition of similar episodes.

Since that moment, PMI started thinking about the ALP program, making slow progress in in-house occupation health and safety and supply chain. Along these years, a long way has been done through the collaboration with suppliers, the implementation of training, co-development of programs with NGOs to drive forward the positive impact in our supply chain, and much more. Now, it is the moment to talk about a human rights strategy and I am not referring to a due diligence plan because we already have it (audit).

3) **Question:** Do you have a code of conduct? Which are its main pillars? What was your inspiration when you were building it (ILO, UN, etc.)?

Answer: Yes, we do, and it is called “Responsible Sourcing Principles”, composed by 3 main pillars: human rights, environmental management, and business ethics. The code inspiration was based on the ILO principles, UN Global Compact, and UN Guiding Principles for Business and Human Rights. PMI offers also a training to employees to learn about it.

4) **Question:** What are the main opportunities and challenges that your company is facing in support of labour rights within the supply chain?

Answer: There are two main challenges: one is historic, and one is new. The historic challenge in the agricultural supply chain since we have about 150,000 farmers around the world mostly from developing countries. It is a big challenge and opportunity to do the right thing by implementing the proper actions.

The new one is related to the development of IQOS, the new product, which requires a completely different supply chain so we are moving away from the well-defined tobacco suppliers which provided us with the same kind of materials for many years, to a completely new world of electronic supply chain based mostly in China. Here, suppliers can change quickly and when you try to study the labour practices adopted, it is not easy because there are several tiers of suppliers. In this case, you must understand which tiers you are dealing with, who are these people and discover the labour practices they adopt. PMI is working in factories where there are two main problems: first, sometimes it has to face countries with repressive regimes like China, where the freedom of association does not exist; second, the company is working on countries where, even if the laws are in place, they are not enforced. Many people claim that countries like Malaysia and Indonesia have laws but unfortunately, the rule of law and enforcement is lacking.

5) **Question:** What can be done to make countries enforce the laws?

Answer: Companies are accountable in this but cannot do it all by themselves. I believe that working in multi-stakeholder environments where you bring together state, business, and civil society is probably the best way to do that even though it is not easy. Companies need to minimize the impact they have on society and team up with other companies. This is especially valid when they share the same suppliers and can put pressure on them. In this case, there are two problems with human rights:

a. If compared to environmental challenges, human rights topics are more difficult to measure. It is possible to easily quantify emissions, quality material, and so on but it is difficult to measure the impact on human rights due to the many factors involved. For example: when can you say that your child labour eradication programs are successful? You can say how many children were involved and the actions you did but it is fundamental to consider also the possible outcomes related to the future of the children.

b. Environmental issues related to climate change have taken a much bigger part of the public agenda. Today we have a higher number of people enslaved in forced labour we have ever had during the entire history of humankind. Unfortunately, this is not on the priorities of the public agenda and therefore we need to work even harder.

6) **Question:** On which, programs/processes are you mostly focusing on? What results would you like to see?

Answer: The focus is on the RRP particularly on the electronic supply chain to minimize negative impact and to address unethical practices discouragement.

We are also initiating a campaign based on the communication and engagement of our suppliers about Responsible Sourcing Principles (RSP) aiming at increasing their capabilities in areas of human rights, labour rights, etc. To do that, we activated a series of seminars for tier 1 and tier 2 to boost the implementation of RSP across the upstream level. The first one was in 2019 with 53 participants which were representing 28 electronics suppliers.

Furthermore, PMI implemented a program called *Human Rights Impact Assessment (HRIA)*, which is based on the self-assessment of PMI stakeholders, who have the opportunity to express their view in the matter of human rights. This is a way to engage, partner, and analyse the gaps and risks that still need to be addressed through the implementation of new programs. In 2019, this initiative has been deployed in Mexico and the Philippines, with the plan of roll-out in further markets in 2020. This program reinforces the relationship and trust of our stakeholders, giving them the space to open up and improve their current condition while offering PMI the chance to listen and learn. Among the main point spotted so far, we have the necessity to respect the working hours, in line with the ILO standards and the minimum salary issues.

7) **Question:** Do you think MNCs give enough credit to the direction provided by international institutions like the UN, ILO in labour rights protection?

Answer: I think big steps forward have been done, especially after 2011 with the United Nations Guiding Principles. The UNGP was a landmark document because it established the responsibility and action plan of government, business, and civil society (NGOs). The UNGP says that it is critical to know what is going on within your supply chain and show what has been done to fix issues. The UNGP does not require to go beyond fixing what is wrong or mitigate. Although an initial scepticism, now I see many companies considering the importance of these guidelines from the UN.

Today, whoever wants to have a serious supplier in social sustainability and implement human rights must follow the ILO directions. I have always believed in ILO and UNGP as key drivers. The UN Global Compact is very nice, but it is so high level that it is perceived as too generic. It is a nice starting point.

Companies like PMI can do more through the implementation of initiatives, projects, programs that have a positive impact on the people that are part of our supply chain considering the several supplier's tiers, workers, and communities around us. This is something ambitious, but we want to achieve it within the next 5 years. There are many companies already doing this (Nestlé, Mars, Unilever, L'Oréal, etc.), which are trying to have a positive impact.

8) **Question:** Is investors' interest modified in the last years, leading them toward this kind of investment?

Answer: Sure, particularly in public companies like ours, where very often a block of shares is owned by responsible investors that would regularly require to know about the progress made. This is why we produce the "Sustainability Annual Report", characterized by a high level of detail. We are also part of the Dow Jones Sustainability Index and we have as one of our objectives to increase our scoring so that investors will increase the interest in what we are doing.

9) **Question:** Do you ask for the support of NGOs and Agencies for the implementation of best practices and certification?

Answer: Yes, we surely ask the support of NGOs, but often they do not want to be associated with us due to the industry we work for, tobacco. The main battle for me is to convey the

message that PMI is a tobacco company that wants to sell less risky products for consumers and, for this, we would like to be seen as a socially responsible company too, although the industry. We fight this every day.

10) **Question:** Which are the main KPIs tracked by your company within the supply chain in a matter of labour rights? How do you make sure that your suppliers respect these rights and laws within their supply chains?

Answer: The KPIs in the matter of rights are mostly related to child labour, worker accommodation, health, and safety, etc. All the Agricultural Labour Practices KPIs are published on the website. In the new sustainability report, we have many new KPIs especially in relation to the biggest challenges and issues the company has and this is what UNGP says, you need to look through the lens of the right holders and people who are impacted, not through the lens of the company. We tend to do that as much as possible.

11) **Question:** How do you make sure that your suppliers respect these rights and laws within their supply chains?

Answer: This is a very difficult question. We can't make sure of it today. We have more than 33,000 suppliers, what we do today is talking to them and make sure they agree on the rules we require them to respect. In addition, we dig down on the most vulnerable areas of the supply chain, working with suppliers to make sure they implement the best practices. All this is not easy, and it is one of the biggest challenges that companies have today because we have visibility till tier-1, tier-2 and then it stops.

So far, we concentrated our efforts on the tobacco growing supply chain but, the introduction of a new electronic supply chain defined new needs and methods required to spot human rights issues in that sector. For this reason, PMI developed the "Responsible Sourcing Principles" and a strategy of communication of the responsible working principles toward the key suppliers. Furthermore, the company started working on a due diligence framework and platform called SIP which focuses on tier-1 suppliers. Following the due diligence platform, it is possible to select the critical suppliers and have an initial broad look that requires further analysis to verify the compliance with the Responsible Sourcing Principles. We are now developing the reporting part, enriched by a scoring and follow-up action plan aligned with the suppliers. It is in the process to be rolled-out.

12) **Question:** Do you make contracts with them? Do you perceive it as effective to make them respect the rules?

I do not think a contract is able to solve this kind of issue and I don't think it is the right way to solve it either because the termination of a contract as a response to labour rights violation does not help people impacted by abuses. Companies should look for ways to improve methods because what really counts is the work you do with suppliers, in collaboration with them. Contracts are not very determinant.

13) **Question:** Do you think transparency in the supply chain is important? How does it affect your reputation and image? Do you think TSI policies increase your company's valuation and margins?

Answer: Transparency is absolutely important. I believe that, if a company is not transparent, it is not credible. Good news but particularly bad news are fundamental to be reported. If you are not transparent this will affect your reputation.

For what concern valuation and margins, I think that being a socially responsible company, with the right policies and practices in place is going to increase your company valuation and margins only in some cases, not for PMI. However, not having them in place, can definitely decrease margins and valuations. Today we have a growing number of investors and consumers who are very sensitive to the action implemented by companies. In addition, another key aspect to take into consideration is the ability to track talents especially when new generations are looking for a job which gives them the opportunity to learn, grow, doing what they are passionate about but only in a socially responsible company. Today when we hire new people, especially millennials, we highlight that we want a different future for PMI, and we want to make employees proud of our fight of reducing the harm from our products and to prevent the children's access to smoke.

14) **Question:** Do you use technology to boost visibility within your supply chain? What about blockchain? Is it a possibility you might explore?

Answer: We use various technologies for analysis like *ad hoc* tools and SIP, a platform for tracking suppliers' conduct, supply chain risks, and labour practices. There is also another platform called EcoVadis that is doing something similar. These methodologies are useful because they are like an audit, you go there, and you make a snapshot of the situation at that moment. Self-assessment and audits are a series of steps to it. This tool is not the answer to

everything. This initial step is powerful but a human rights strategy for operation as a whole is also needed. In fact, we are now working on the development of an integrated human rights strategy for Operations, aligned with PMI human rights strategy.

For what concerns blockchain, I am not a believer in this technology for the resolution of labour rights abuses within the supply chain. I think it can work in certain areas, but it is a too immature solution to be applied on wide-scale bases for sustainability. PMI thought about it in the past years but personally, I think it doesn't address the issues we have. It doesn't help to find the root cause of our issues. Blockchain may help if the specific supply chain situation is still ok or if big issues have been already spotted. For the 5-year PMI human rights strategy I would not include blockchain. In my opinion, good sustainability will come from a multi-stakeholder approach, based on suppliers' engagement, commitment and inclusion programs, and suppliers' recognitions.

Interview No - 4:

Name: Aldo Uva – COO, Chief R&D Officer, President of Americas

Industry – Food & Beverage

Company - Livekindly

Live kindly is a new company born in March 2020 with the ambitious goal of transforming the global food industry to build a sustainable future for customers and employees. Live kindly focuses on the promotion of the food industry evolution in the direction of three main pillars: the wellbeing of humanity, green planet, and agricultural wealth. On the basis of the food chain, agricultural practices are the source of natural products and this is why the company decided to start from agriculture, where workers are farmers by choice and not by chance. Through the implementation of sustainable agriculture that creates good value for the farmer, is possible to eliminate the cycle of poverty which starts from here. In order to better monitor the supply chain operations, it is important to reduce their length, reducing the supply chain in order to increase transparency, generate more value which is left within the country and make processes more controllable and simpler.

The company is born global due to some acquisitions and projects started in Africa, Serbia, US (Minnesota), with an initial fund of 210 million that reached then 320 million.

Past Positions:

- Nestlé - SVP Beverage
- Natuzzi - Group CEO
- Firmenich - CEO Flavour Division
- Ferrero - COO and Chef of Opening Innovation
- Livekindly - COO, Head of Innovation, President of Americas (*Focused on the Plan-based food creation aiming at traceability from the field all the way down to the product, starting from the control of the seed used in the farm, processed, harvested, cleaned and vertically integrated end-to-end - launched March 10th, 2020*)

1) **Question:** What is your opinion on the statement that companies should address global challenges defined by the 17 Sustainable Development Goals (for instance 8) decent work and economic growth, 9) industry innovation, and infrastructure)? What should companies focus on?

Answer: Today, a natural product supply chain needs to invest in the SDGs. Live kindly is a born-global company with six core strategies that are based on the SDGs: #2 - Zero hunger, to make sure everyone has access to good food; #3 - Good health and well-being, because we believe in the humanity's well-being through good food; #6 - Clean water and sanitation, #13 - Climate action, reducing animal proteins to promote the vegetal ones, #14 - Life below water, compostable packaging to avoid pollution; and #15 - Life on land, connected to the SDG #14.

These SDGs have the objective to provide more food for everyone. Live kindly started as MNC because made several acquisitions in Australia, South Africa, Europe, and the US. Since we are a new company starting from zero, it was easier for us to put the SDGs as a root basis for our business, while for MNC like Ferrero it is more difficult to change the mentality. The big companies are slowly addressing their sustainable practices which are becoming part of their core strategy reported in their CSR annual report measured by KPIs. For a brand-new company like Livekindly, it is easier to start already with sustainability objectives.

When I was the COO of Ferrero, we started thinking about sustainability objectives linked to SDGs. This was fundamental because it was quite difficult to implement the right actions without linking them to a few objectives. If we consider the Agenda of Rio 1992 and the Millennium Development goals in 2000 aiming at eradicating poverty by 2015, they are very high objectives without defined plans. A step-change in a matter of labour rights is born with the definition of the Sustainable Development Goals where the public and private sector agreed their commitment to SDGs with the identification of a serious structured plan. At that moment all MNC have seriously started thinking about solving global challenges. This had a huge impact on every actor who is cultivating, picking up, transforming, and using products across the whole value chain. From this point on, we, as MNC, started working on projects which implemented transparency and traceability. On the other hand, I think that achieving all the SDGs by 2030, is quite ambitious but difficult and we triggered the right mechanisms to achieve this target.

2) **Question:** Is your company integrating Total Societal Impact/ Strategic CSR in its core business activities? Do you see any evolution in this sense from the past?

Answer: For what concern Ferrero in the last two years we moved from having SDGs embedded but not completely integrated with core activities to an acceleration of their incorporation in the last years.

3) **Question:** Do you have a code of conduct? Which are its main pillars? What was your inspiration when you were building it (ILO, UN, etc.)?

Answer: Obviously, ILO is the institution that is giving us the main guidelines, but also the UN and the rule of law. So, we are building a code of conduct on it. We created a sustainability advisory board where we took people from NGOs and other industries to implement processes and regulations that define the standards based on the objectives of the international institutions.

4) **Question:** What are the main opportunities and challenges that your company is facing in support of labour rights within the supply chain?

Answer: Livekindly and Ferrero are facing the same issue related to the wealth distribution of the agricultural world which needs to break a series of cultural, economic, and social barriers. Farmers are aware of being monitored for specific products' quality issues but are less mindful of labour rights such as child labour, fair labour practices, and so on. The reason

behind that is the kind of remuneration they get, which does not allow them to hire other employees in a legal way, inducing them to use their family members, especially children, to work in the farms and subtract them from education.

The problem today is that MNCs cultivate and source cacao from countries like Côte d'Ivoire and Ghana, where 75% of global cacao is grown, and then they move it to Europe and the US for the following steps related to transformation. If beans of cacao are freighted and modified in Europe and the US, where they are sold, no value is left in the sourcing countries. Live kindly wants to adopt more sustainable ways for both the planet and the distribution of wealth. It cultivates yellow beans or soy in South Africa, which are then transformed and sold in the same country. In every country, we try to develop short supply chains to increase traceability and create value that eliminates modern slavery, child labour, and plan-based food (eliminating animal cruelty).

For Ferrero, cacao is the most important element for its products which is mostly taken from Turkey. The commodity is then immediately sold to other countries and this decreases consistently the amount of value left in the local supply chain, especially in countries with low wages. This induces the adoption of bad labour practices due to the small value added by the activities of the farmers who are obliged to maintain low prices of production not investing on the farm. In this context, farmers do not invest in modern techniques and they hire immigrants' workers (children, non-contracted), especially Syrians. This is a typology of agriculture that, producing a little amount of money, remains unbanked, do not allow to boost investments and increase the poverty cycle.

In conclusion, if a farmer is poor, wherever he is, it is important to help him earning more within the value chain, else, he will not be able to implement the regulations required by law.

5) **Question:** On which, programs/processes are you mostly focusing on? What results would you like to see?

Answer: Our programs are trying to boost traceability, tracking raw material movement in order to have a transparent supply chain. In order to do that, we are implementing a completely different and unique process: we provide the raw material to use in the crop to the farmer, such as yellow peas and soy. In this way, we establish a purchasing contract of the product at a certain price in order to guarantee the farmer the whole volumes produced will be entirely sold if the directions provided are entirely applied (quantity of water to use,

fertilizers, etc.). This methodology will guarantee a product in line with the company standards and high quality of the product that will be 100% sold. On this assumption, the farmers' approach will be much more positive, and it is easily possible to ask him to follow certain protocols (no child labour, etc.). Making a shorter supply chain, it is easier to implement the proper controls. If the contract defines a price with a higher margin, it is possible to implement good practices. In this sense, we implemented a project called "*From Field to Silos*", based on guaranteeing traceability and a fair distribution of value and wealth across the whole supply chain.

We are also trying to implement a plan to reconvert the plantations which are not rentable. We convince farmers to stay in the crop which has the potential to be productive if properly utilized. An example is what is happening in Swaziland where we cultivate sugar cane. Here, we realized that the demand for sugar is decreasing drastically and farmers are abandoning the crops. In light of this, one of the objectives we set for 2021 is the conversion of certain crop hectares that we need to transform from unproductive to productive. The plan is to convert: 5000 hectares this year, 20,000 in 2021, 40,000 in 2022, and 70,000 in 2023 years. Our main KPIs are related to the transformation of crops from unproductive to productive, increasing the source of income for farmers. This will help them to go back to the business.

6) **Question:** Which are the main KPIs tracked by your company within the supply chain in a matter of labour rights? How do you make sure that your suppliers respect these rights and laws within their supply chains?

Answer: The main KPIs we track are the traditional ones defined by ILO such as child labour, presence of illegal workers, presence of child labour that does not work but avoid the school, and much more. In this case, we pay the transportation of children to go to school.

I have to admit that for us in Livekindly it is easier implementing the correct practices compared to a big MNC because we are starting from scratch with farmers, so we are completely free to communicate our standards and pretend they are respected. We did not check them yet because the harvest will be in 6 months, but we promise to verify them.

Also, Ferrero has similar KPIs. The only difference is that Ferrero works also with third parties' farmers so external auditors to enforce them are needed. While in Livekindly we can set new contracts containing brand new requirements from our side that allow us to have negotiable strength, in big MNCs existing agricultural systems are followed, based on the

adoption of certifications and standards like Fairtrade that are often difficult to control. Another key element to consider is the typology of the product that is cultivated. Indeed, there is a big difference between seasonal products such as tobacco, yellow peas, soy, and trees like peaches, hazelnuts, and pears because it is not possible to plant a tree every time. In that case, the interventions needed are much more complex to transform agricultural practices.

In Ferrero we had two different KPIs: GSP (Good Social Practices), related to human rights, and GAP (Good Agricultural Practices), related to the direction given to farmers on how to plant, crew, etc. In this concern, we would consider the 100% certified agriculture if both, GSP and GAP, are respected.

7) **Question:** Do you ask for the support of NGOs and Agencies for the implementation of best practices and certification?

Answer: I think the presence of NGOs and agencies is fundamental because it is not good to have self-referential systems. NGOs provide the right level of input related to the key areas of focus for a business, helping to understand the problems caused by bad practices. Governate and non-governate agencies are important because give us the social dimension. I personally worked very well with the United Nations because they helped Ferrero to understand the input required to better structure the strategy definition of the business. I do not believe in the sustainability strategies and impact on supply chain established without the support of NGOs because it would be auto referential, based on the internal interests. On the contrary, it should be done considering also the opinion of NGOs and agencies that agree on the protocol to better understand the real needs.

8) **Question:** Is investors' interest modified in the last years, leading them toward this kind of investment?

Answer: This question is quite complicated. If you ask this question to investors, they would probably say that they prefer companies that are engaged in social activities to support global challenges but then you verify that capitals are strongly directed toward industries and companies which provide higher returns. Many companies are proposing to stop considering only profits, but when you talk to investors in the board rooms it is evident that this is not considered as the main value yet.

Personally, I would consider more trade-off customers and companies other than business and investors. Customers are the stakeholders who have the real power of influencing investors' decisions. In Ferrero, I used to talk about "Individual Social Responsibility (ISR)". In fact, I strongly believe that we need to consider the concept of ISR with a strong focus on: "What am I doing in my private and professional life?" If customers award companies that promote traceability and respect human rights, the objective of investments on companies will be completely shifted from *Talk the Talk* to *Walk the Talk*. If customers start boycotting the companies which refuse transparency and sustainable practices, capitals will start shifting too. If customers approach SDGs as something not strictly linked to them, but that is mostly the responsibility of other bigger actors like companies and countries, the situation will remain as it is. We, as customers, need to feel involved otherwise real shift of investments toward socially responsible companies will not occur. If, for example, transformer tomato companies boycott all tomato produced using irregular migrants and customers do not buy them, the product will not access the market, and this will discourage a bad practice. It is important to analyse the root cause of a problem and eliminate it. Unfortunately, this is rare to happen because the consumer is not aware, and the company wants to maintain lower prices to increase profitability. The problem is that losing profit the company does not invest, if it does not invest it does not create jobs, and the cycle of poverty continues. But if this system is not broken the issues within the supply chain will never be solved. It is a very complex chain.

9) **Question:** Do you think transparency in the supply chain is important? How does it affect your reputation and image? Do you think TSI policies increase your company's valuation and margins?

Answer: The absence of transparency can cause a very bad impact on reputation. This is what happened to companies like Nike, H&M, etc. In Ferrero, we were very serious about that. If something was not completely traceable, we would have not purchased to avoid risks. I think that in the business we are still away from the impact of multiple valuations because companies are still valued on the multiple of a sector. Today bigger companies' valuations in the sector of plant-based food are completely different from one of the small companies. There is not corrective higher/lower factor related to the social commitment of companies. It

would be nice to have companies investing in ESG having higher multiples, but this corrector is not yet existing.

10) **Question:** Do you use technology to boost visibility within your supply chain? What about blockchain? Is it a possibility you might explore?

Answer: Technologies are fundamental to have traceability. Live kindly is collaborating with Google X to track the situation of its crops in different realities through robots that walk along the camps capturing data to provide information on the crop and drones which take the image of the plantation. In this way, it is possible to know exactly the quality of the production crops. Blockchain is important but has some limits on the applicability of the value chain. It is complicated to understand how to apply it.

Live kindly is also working on a new initiative that consists of spray a DNA with no colour and taste on the harvest, which is a sort of code that does not modify the food. This stays on the product until it reaches the customer allowing to track the product. This initiative helps for food safety because you know exactly from where that product comes and where you used that product. In addition, on the farm, you should have instruments able to certify that hectares with those trees respected the standards. The DNA has a code certifying that the product comes from a farm that has respected good agricultural practices. It is a complex and costly technological system, but I believe technology is the only way to address the issues we have related to bad labour practices and environmental challenges. Technology gives us the possibility to implement methodologies we did not have before. I really trust this is the way to fight global social challenges.

Interview No - 5:

Name: Erica Barbaccia - Consultant

Organization: International Labour Organization

The International Labour Organization is the United Nations Agency aiming at promoting social justice and durable peace through the promotion of conditions such as fair income, sustainable and inclusive economic growth and social security, in accordance with the fundamental labour rights defined by the Declaration of Philadelphia (1944). It was established in 1919 as part of the Treaty of Versailles and its Headquarters is based in Geneva, Switzerland.

ILO is a tripartite organization composed of the governmental representatives, employers, and workers of the 187 members' states that have equal voting rights. The different interests and visions of the three parties are the results of the international standards defined within the International Labour Conference.

1) **Question:** Which are the main steps forward made by the international community toward labour matters? Which are the main Conventions which had the strongest impact on companies?

Answer: The International Labour Organization, on the occasion of its 100 years in 2019, identified the main drivers of the current labour world evolution: demographic modification, technological innovation, climate change, and globalization. Among them, globalization influenced dramatically the production and distribution of goods and services that were boosted by the outsourcing and offshoring phenomenon across supply chains.

According to ILO 1 over 5 workers are involved in the supply chain of a company which is equal to 80% of the commercial trade, providing better opportunities to the most vulnerable groups like women and migrants. Nevertheless, the negative effects of global value chains were reconsidered after the tragedy of Rana Plaza in 2013 which focused on the social costs of globalization: child labour, freedom of association and bargaining, forced labour, and discrimination, which are the ILO core labour standards.

After the tragedy, ILO played a fundamental role to recognize the moral obligation of MNCs to pay an adequate amount of money to the injured and families of the victims. The international community is aware of the necessity of an integrated action at every level. This is part of the UN Agenda 2030 on sustainable development based on the 17 SDGs which is the way to solve the big challenges of society.

In 2017 ILO introduced a section in the UNGP related to the reparation that companies must pay to the people victim of abuses. The main peculiarity is the only instrument adopted by the three parties to contribute to decent work and sustainable growth. The Declaration is a guide for MNCs: there is no economic growth without social growth, employment, security, education, life, and work conditions which are verified by the auditing activity.

2) **Question:** On which programs/processes are you mostly focusing on to boost decent work conditions within Multinational companies?

ILO action is helping companies, governments through technical collaboration. An example is *Better Work* which is a program launched in 2007 in partnership with WB, UN Agencies, 9 governments, 1700 companies with over 2 million workers involved. The initiative aims at promoting decent work normative in the apparel sector to protect workers' rights and boost competitiveness within supply chains, helping companies to implement the standards across the whole supply chain. The program focuses on countries that ratified or did not ratified the standards, especially Bangladesh, Haiti, Indonesia, Cambodia, Giordano, Vietnam, and Nicaragua.

An example is ENI, the Italian multinational oil, and gas company, that asked the support of the ILO in the identification of the labour normative and standards to be implemented within its production centres, including also the convention on the maternity right and the prevention of violence and rape within the work environment. For 2 years, ILO is providing technical education to the employees that promote the application of decent work conditions within the business. ILO supported ENI in the know-how in the matter of social rights through the creation of a booklet containing the principles needed by ENI to be reflected and implemented in the specific country. Companies require the support of ILO because they need to apply programs that converge international and national legislation and they often lack the knowledge on the specific national legislation.

Nowadays, MNCs know that the respect of social rights has positive economic and reputational effects but scandals in the matter cause heavy damage to their image and loss in profitability considering the high fees in reparation the company is obliged to pay and the boycott by consumers.

In February, ILO triggered a collaboration with the European Commission and the Italian Ministry of Labour to adopt a national plan against the agricultural exploitation against the illegal hiring ("Caporalato" practice) to promote sustainable enterprises with an ethical supply chain and decent work.

Another interesting project promoted by ILO is the *Vision Zero Fund* which started in 2016 from G8 where the safety and health of workers in the production chains are highlighted as the main standard to ensure.

In 2018 ILO activated the *Responsible Supply Chains in Asia* program in collaboration with EU and OECD, aiming at fostering inclusive and sustainable growth in line with the criteria of the responsible social conduct of Multinational enterprises.

3) **Question:** Do you find that technology can boost visibility within the supply chain? Have you worked with companies that adopt blockchain or other such technologies?

Answer: Beside the technical support activity of ILO, it is required a complex and integrative administrative auditing system to inspect and monitor the situation within the specific supply chain. This is strongly facilitated by the introduction of technological tools. For example, the Ministry of Agriculture is strongly incentivizing the introduction of blockchain systems. In addition, the use of drones to monitor the land from above would provide further visibility on the crop. This will facilitate also the work inspectors sent by the state to visit remote areas or fields difficult to access. The progress has to be evaluated and monitored in a long-term plan with objective criteria. I perceive an increasing interest by companies, but we are still at the initial stage because we identify cases of labour abuses every day.

4) **Question:** What are the challenges ILO is facing in the implementation and protection of labour rights within the companies' supply chain?

Answer: A new challenge has emerged recently with the Coronavirus pandemic where many companies did not pay properly their workers, especially in the textile sector. In this context ILO, in collaboration with international trade unions, has promoted a declaration to push companies to pay workers during the lockdown and comply with labour rights, although the decreased revenues.

For example, in Taiwan ILO gave technical support to the labour inspectorate providing an app to monitor the work condition, often without the need to physically visit the facilities.

International law is soft law, for this reason, countries need to ratify Conventions produced. Since the soft law acts do not have a coercive effect, it is often difficult to make them effective. Other times, the law is there but the enforcement is completely missing. For this reason, one of the ILO battles is related to the creation of a body that is responsible to implement coercion.

In this case, ILO supervises the application of the Conventions, and, in case of prolonged misalignment, the country risks to be excluded by the International Labour Organization. In order to monitor the application of the normative, the three representative parties of ILO have

the duty to send an annual report containing the Conventions which have been applied or not. This is evaluated by an experts' Commission which evaluates the results. At this point, ILO provides technical assistance and, in case of incompliance by the country, it is expected an exclusion from ILO which may cause serious consequences for the image and commercial relations with other nations part of the ILO.

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