LEUPHANA
UNIVERSITÄT LÜNEBURG

FROM COMPLIANCE TO DUE DILIGENCE: THE ROLE OF TRANSPARENCY FOR THE DEVELOPMENT OF SUSTAINABLE SUPPLY CHAIN GOVERNANCE REGIMES

HWR Conference „The Politics of Supply Chains“

Elke Schuessler, Leuphana University Lüneburg

Pic: @mbaumi / Unsplash

Background: Garment supply chain governance project

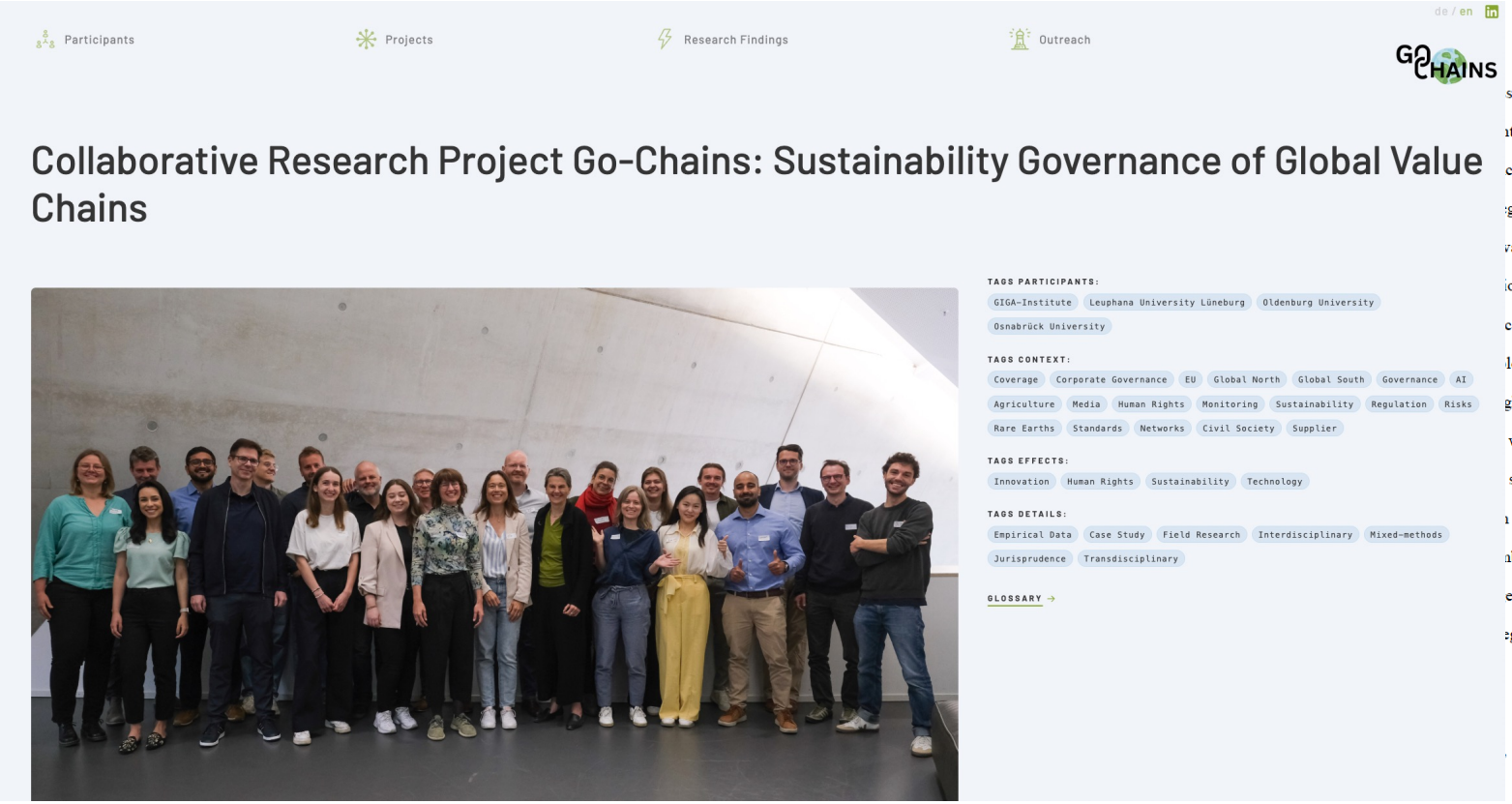
VolkswagenStiftung

https://www.wiwiss.fu-berlin.de/forschung/Garments/index.html

"What Rana Plaza told us, whatever it was we were doing, it didn't work, we have to try something else."
(CSR manager garment brand)

Ongoing research on sustainable supply chain governance

Constructing Mandatory Human Rights Due Diligence:
Unpacking how Private Regulation Experience is Shaping the Law



ABSTRACT

s, legal, and civil-society actors construct the meaning and
ts due diligence legislation, representing a regulatory shift
ce to binding public frameworks. Focusing on Germany's
gotiated by stakeholders associated to the garment industry,
vate governance regimes influence the interpretation and
ion. Using interview, document, and observation data, our
c where regulatory uncertainty and legal ambiguities provide
lementing the law along historically entrenched lines of
ghtened sense of ambiguity and uncertainty around the law.
we argue that public regulation can become endogenized –
seeks to regulate – into established discourses and practices
leading to a settlement around a managerialized version of
abolic organizational changes, a history of contestation in a
er a bifurcation dynamic that heightens legal and regulatory
egulatory actors and mechanisms are reinforced rather than

human rights due diligence, garment industry, private

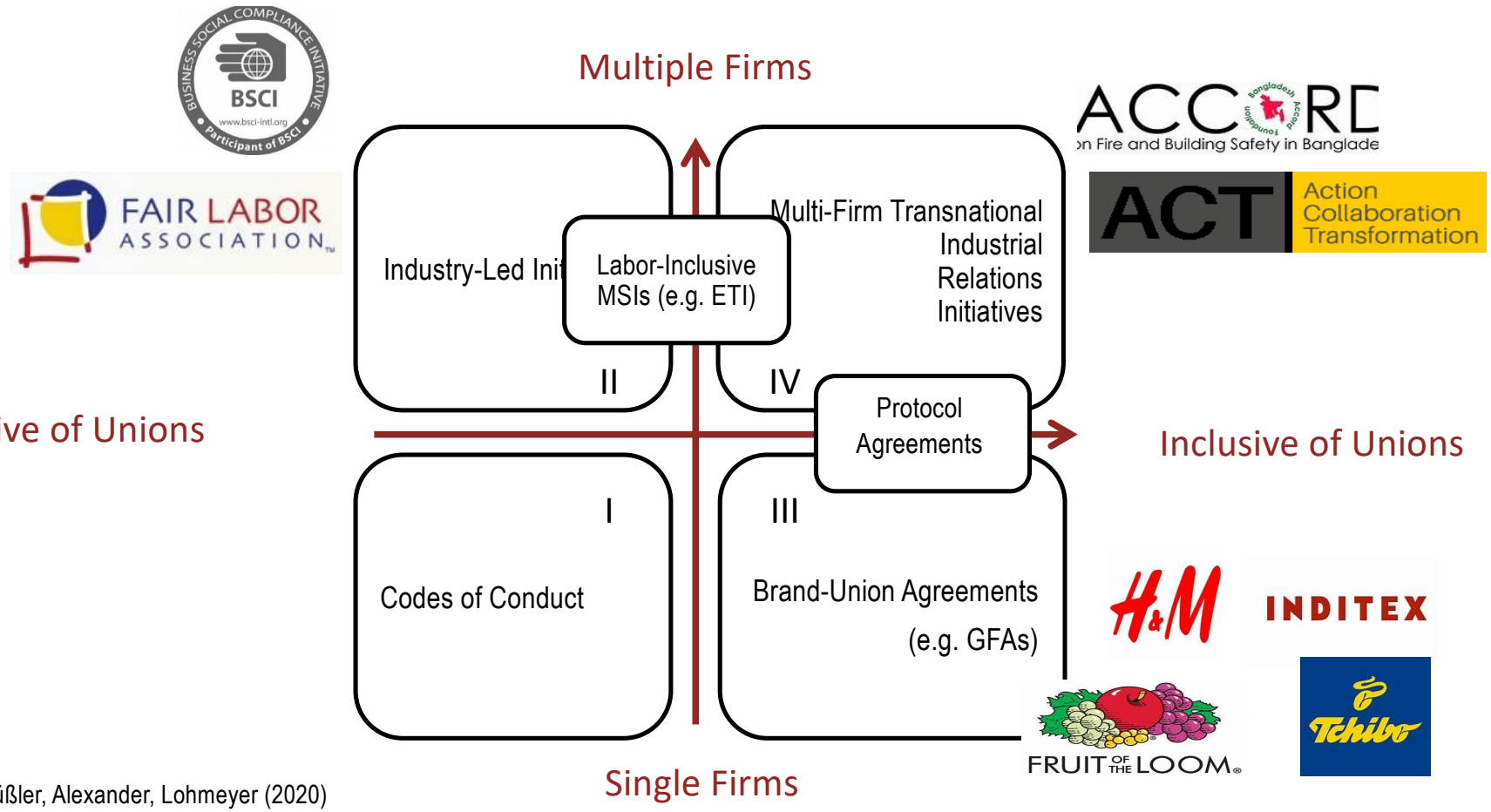
https://www.go-chains.org/de

Towards more radical forms of transnational governance of global supply chains?

Main observations:

- The limits of **voluntary and private** governance regimes
- A shift towards more **binding** forms of **private** transnational governance
- The emergence of new **public** governance regimes, e.g. EU CSDDD

A shift towards more binding forms of private governance – but these are limited and contested



Ashwin, Oka, Schüßler, Alexander, Lohmeyer (2020)

Human rights due diligence as an innovation in public governance

National:

Loi sur le devoir de vigilance, France (2017)

Child labor due diligence law, Netherlands (2019)

Supply Chain Due Diligence Act, Germany (2021)

Norwegian Transparency Act (2021)

Transnational:

EU corporate sustainability reporting directive (CSRD, coming into force from 2025 onwards)

EU Corporate Sustainability Due Diligence Directive (EU CSDDD, published in May 2024)

UN Treaty on Business and Human Rights (negotiations ongoing)

Voluntary and binding governance regimes: Key distinguishing features and changing role for transparency

	Voluntary codes and auditing	Binding private governance agreements	Human rights due diligence legislation
Aim	Saving reputation, risk management	Changing the industry, respecting human rights	Avoiding human rights risks
Attribution of responsibility	Suppliers	Buyers	Buyers
Definition of risk	Reputational risk for the buyer	Shared risks and responsibilities among buyers of an industry	Human rights and environmental risk for third parties irrespective of the industry
Locus of Intervention	Buyer-supplier dyad	Industry level	Whole networks
Focal components	Perfecting compliance (auditing, monitoring, codes of conduct), standard-setting and collaboration in MSIs	Co-signing binding sectoral agreements with unions in specific areas (e.g. building safety), changing purchasing practices accordingly	Systematic risk management across the supply chain and regarding a variety of human rights and environmental risks, grievance mechanism
Enforcement mechanism	Market incentives	Brand agreements, dispute procedures	Legal (e.g., civil liability) and financial sanctions

The (questionable) role of supply chain transparency

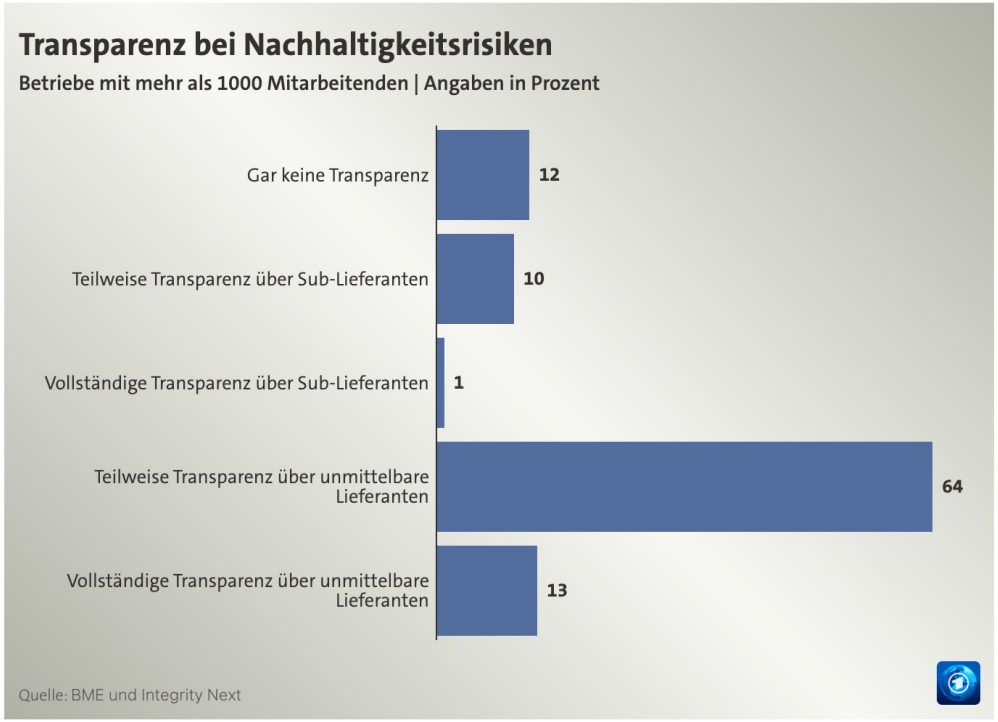
- Transparency “as a state in which information is made apparent and readily available to certain actors“ (Gardner et al., 2019)
- Transparency as “**neither inherently good nor bad**, and that the impact of increased transparency depends fundamentally on what information is being made transparent, how, to whom and for what purpose“ (Gardner et al., 2019)
- Transaprency also as “**powerful, deceptive, illusionary and enchanting** (Quattrone, 2022) -> Illusion of being able to measure complex phenomena
- Transparency as (dis-)empowering – who uses information and for what?-> **Unintended consequences** (Egels-Zanden et al., 2015; Mol, 2015)
- **Disembedding** and **simplifying** effects of transparency (Gardner et al., 2019)

Supply chain transparency as interrelated categories of information (Gardner et al., 2019; building on Egels-Zanden et al., 2015)

- Traceability information that reports on the different actors involved
- Transaction information that reports on the purchasing practices and investment decisions of different supply chain actors.
- Impact information that reports on social and environmental impacts
- Policy and commitment information that refers to the supply chain actors' policies and commitments to increase the sustainability of their operations,
- Activity information that reports on actions taken by supply chain actors,
- Effectiveness information that reports on the effectiveness of a given intervention

Central problems when it comes to transparency regarding human rights due diligence

- Substantive lack of knowledge regarding human rights risks along the supply chain/network
- Limited knowledge regarding human rights risks among direct suppliers
- Lack of integration among CSR and purchasing KPIs



https://www.tagesschau.de/investigativ/rbb/lieferkettengesetz-111.html

Trends after Rana Plaza (2013-2019)

Figure 8: Lead firm knowledge and public disclosure of first-tier

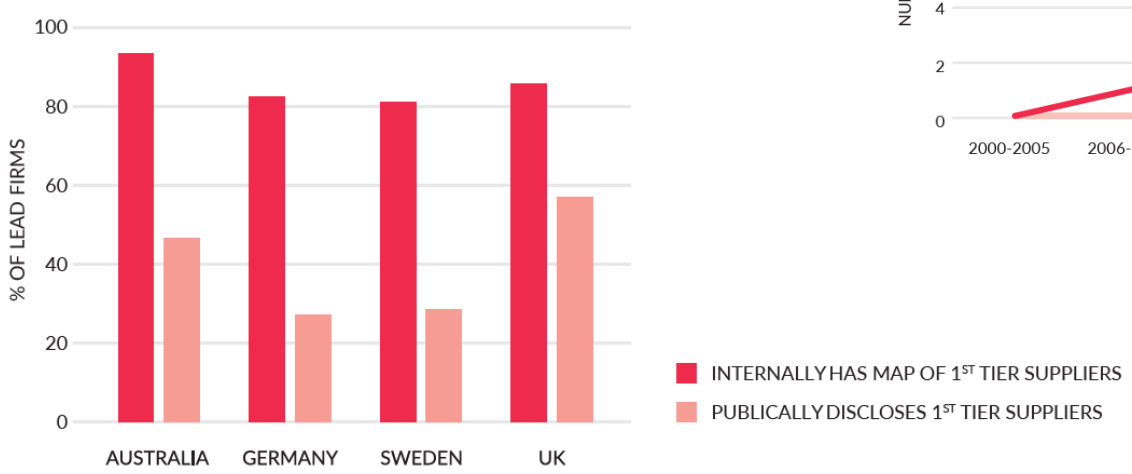
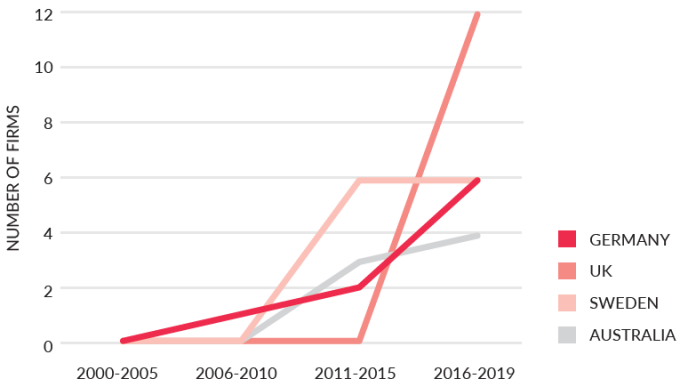
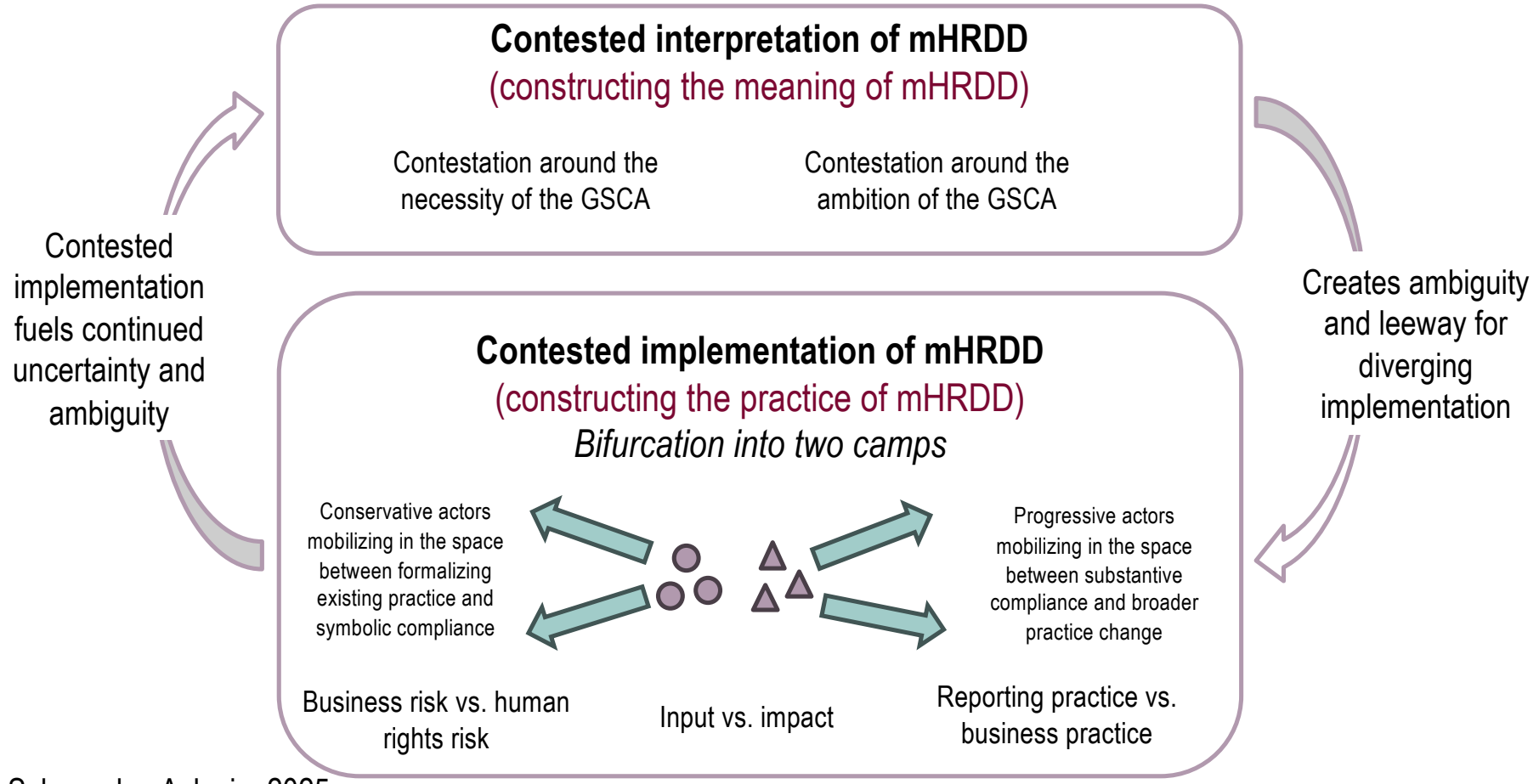


Figure 9: Lead firm publication of first tier suppliers by home country and year



Schuessler, E., Frenkel, S., Ashwin, S., Kabeer, N., Egels-Zandén, N., Alexander, R., ... & Rahman, K. M. (2019). Garment Supply Chains since Rana Plaza: Governance & Worker Outcomes. Garment Supply Chain Governance Project Final Report.

Different transparency dimensions also matter in the current negotiations around HRDDD in Germany



Lohmeyer, Schuessler, Ashwin, 2025

Examples from current reporting practices (from Msc thesis Janina Wohlers; work in progress)

Analysis of the sustainability reports of leading German companies from the garment, energy and automotive sector in 2024

Focus on ESRS standards in the area of "workers in the value chain" and the minimal requirements of the GSCA

Main findings:

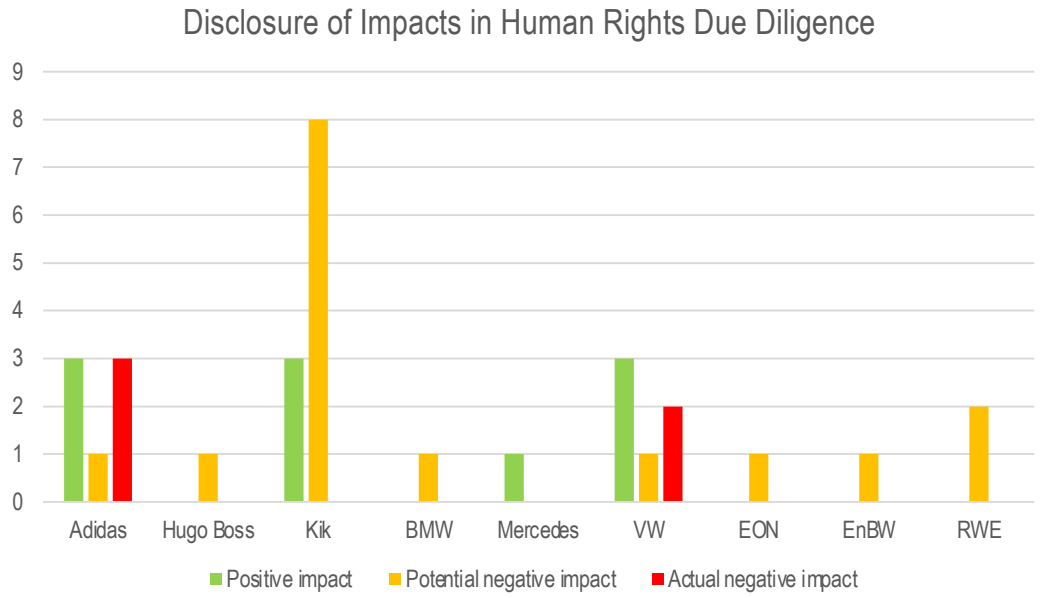
- Only few companies go beyond the minimal reporting requirements of the GSCA
- Limited reporting of concrete impacts and effectiveness of measures
- Strong focus on stakeholder engagement
- Energy sector behind selected companies from garments/automotive (adidas and VW)

Traceability Information	Adidas	Hugo Boss	KiK	s.Oliver	BMW	Mercedes	VW	EnBW	E.ON	RWE
Supplier List Tier-n										
Supplier List Tier 2										
Supplier List Tier 1										
Supplier Names										
Supplier Locations										
Supplier Roles										

Information available

Information partially available

No information available



Msc thesis Janina Wohlers; work in progress

Overall transparency	Traceability Information	Commitment Information	Activties Information	Impact Information	Effectiveness Information
Adidas	Up to Tier 2				
Hugo Boss	Up to Tier 2				
Kik	Tier 1				
BMW	Country information only				
Mercedes	Country information only				
VW	Country information only				
EnBW	Country information only				
E.ON					
RWE	Country information only				
	Fully transparent				
	Mostly transparent				
	Partially transparent				
	Slightly transparent				
	Not transparent				

Msc thesis Janina Wohlers; work in progress

Summary and conclusions

- Both **internal and external dimensions** of transparency seem to be lacking among German firms
- “Transparency” as a an aim **open to strategizing and contestation**. Internal and external politization around…
  - Which information is to be collected?
  - Which information is to be reported?
  - Which information is to be acted upon?
  - …
- **Pathways** from traceability to action to impact and effectiveness to date unclear
- Continued reliance on **civil society actors** to drive these pathways – yet their resources are fragile…