

► **Responsible Business Conduct and Human Rights Due Diligence:**

Good practices of Japanese Companies Operating in Bangladesh, Cambodia and Viet Nam, Trade, Investment and Labour Nexus and a Way Forward



▶ Responsible Business Conduct and Human Rights Due Diligence:

Good practices of Japanese Companies Operating in Bangladesh, Cambodia and Viet Nam, Trade, Investment and Labour Nexus and a Way Forward

Yuki Kobayashi (ILO Office for Japan), Susumu Tanaka (Japan External Trade Organization, Research & Analysis Department)

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First published 2024



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ISBN: 9789220405598 (print)
9789220405604 (web PDF)

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Printed in Japan

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This report was jointly prepared by the ILO Office for Japan and JETRO's Research & Analysis Department with ILO responsible for Chapters 1-3, 8, 10 and 11, JETRO for Chapters 4-7 and the column. Chapter 9 was written jointly.

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▶ Acknowledgement

In conducting the ILO-JETRO joint research, interviews were conducted with governments, workers' and employers' organisations in Bangladesh, Cambodia and Viet Nam. In Japan, Japan Business Federation (Keidanren), industry associations such as the Japan Auto Parts Industries Association (JAPIA), the Japan Electronics and Information Technology Industries Association (JEITA), and the Japan Textile Federation (JTF) shared their initiatives. In addition, the companies listed below kindly agreed to be interviewed at their headquarters and at their offices in their respective countries. We would like to express our sincere appreciation to all the organisations and companies, as well as to all those who provided advice and support in the preparation of this report.



Foreword

This report is published under the project “Building Responsible Value Chains in Asia through the Promotion of Decent Work in Business Operations” funded by the Ministry of Economy, Trade and Industry, Japan (METI). The project, undertaken by the International Labour Organization (ILO), aims to promote decent work¹ by systematically supporting the practice of enterprises’ compliance with relevant domestic laws and respect for international labour standards, and by promoting cooperation among government, workers, and employers to address structural challenges. In practice, the project provides support to companies, including Japanese companies and their business partners overseas in conducting human rights due diligence, and gives advice towards improving human rights and labour conditions in target countries and industries. The target countries and industries for this project are Bangladesh (the garment industry), Cambodia (the garment industry), Viet Nam (the garment and electronics industries), and Japan (the garment/ textile, electronics/ electronics parts, and automotive parts industries).

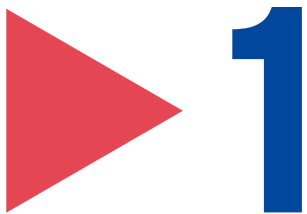
In October 2022, the Overseas Research Department (former name, renamed the Research & Analysis Department in April 2023) of the Japan External Trade Organization (JETRO) and the ILO Office for Japan agreed upon and signed a memorandum of understanding (MOU) for joint research on human rights due diligence efforts between Japan and three other Asian countries (Bangladesh, Cambodia, and Viet Nam). This research report summarises the results of the cooperative research conducted based on the MOU.

This research examined the trade relationships between Bangladesh, Cambodia, and Viet Nam and Japan, as well as policies and initiatives related to the promotion of responsible business conduct, and compiled examples of responsible business conduct and labour practices of Japanese enterprises engaged in manufacturing including apparel/ textile, electronics and electronic parts that have operational locations and business partners in these countries. It also includes potential steps stakeholders can take to foster an environment that enables responsible business conduct and labour practices, as well as further promoting initiatives at the enterprise level. It is our hope that the examples of initiatives taken by Japanese enterprises on human rights due diligence and responsible business conduct, as summarised in this report, will serve as a reference for initiatives by other Japanese enterprises and their supply chains, and promote further initiatives in Japan. We also hope that this report will contribute to further promotion of efforts and cooperation among stakeholders towards respect for international human rights and labour standards, including core labour standards and the ILO Tripartite Declaration of Principles concerning Multinational Enterprises and Social Policy (MNE Declaration).

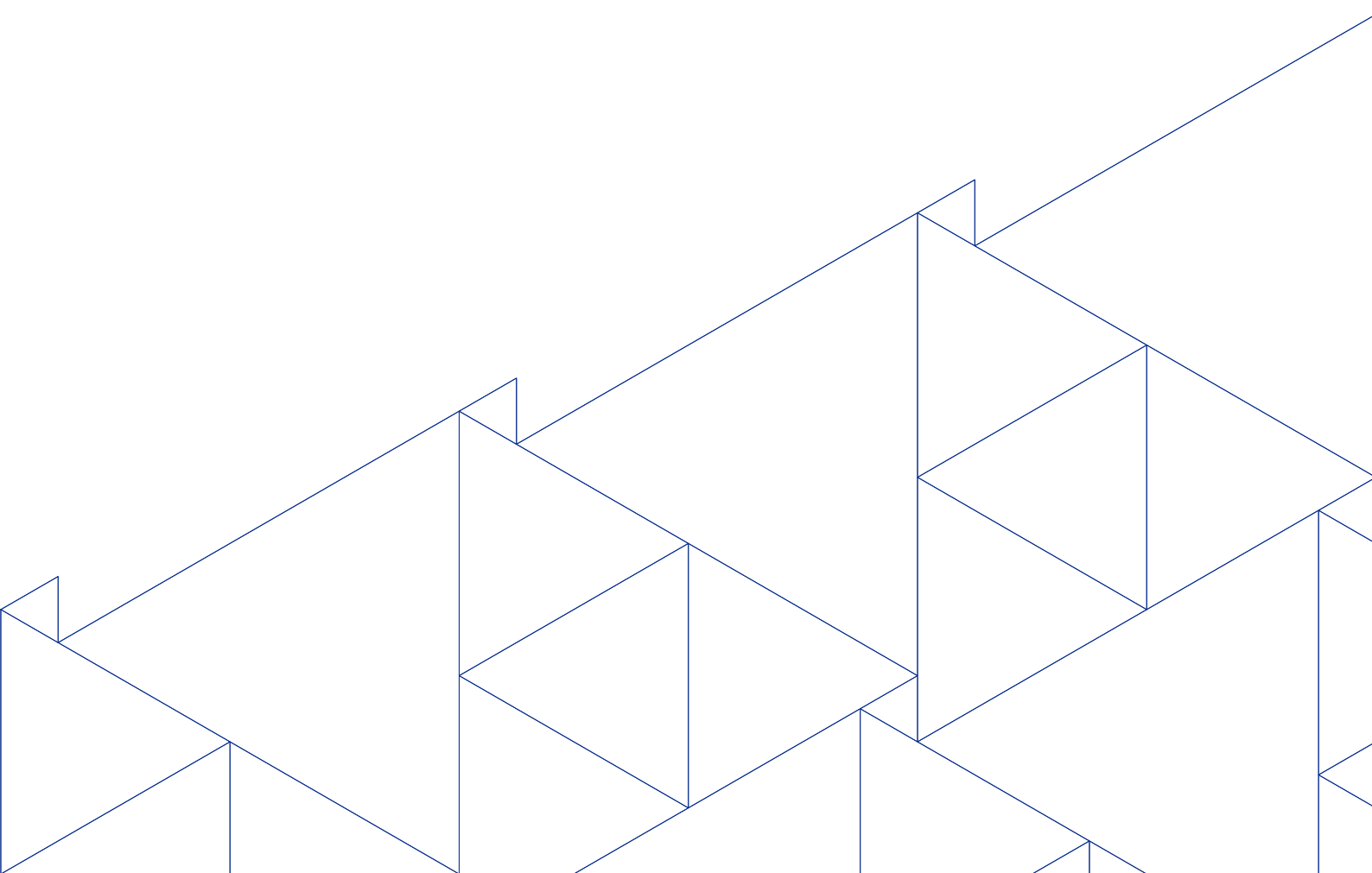
1 “Decent work” refers to “a rewarding and humane job, or more specifically, a productive job for all, based on freedom, fairness, security and human dignity.”
ILO, Decent Work. <https://www.ilo.org/topics/decent-work>

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Background and Objectives of the Research



1.1 Background

In 2011, the UN Guiding Principles on Business and Human Rights (UNGPs) were unanimously endorsed by the UN Human Rights Council. The UNGPs set out three pillars: the state duty to protect human rights; the business responsibility to respect human rights; and access to remedy. The concept of human rights due diligence, a process for enterprises to fulfill their duty to respect, was also introduced.

More than ten years have passed since the endorsement of the UNGPs, and the complementary functioning of the UNGPs with the ILO MNE Declaration and the OECD Guidelines for Multinational Enterprises on Responsible Business Conduct has made the concept of “business and human rights” and responsible business conduct more widely recognized not only among UN agencies but also among various other stakeholders such as states, enterprises, and civil society organizations. In 2014, the UN Human Rights Council adopted a resolution to encourage all States to take steps to implement the UNGPs, including to develop a national action plan (NAP) or other such frameworks, and NAPs are being developed around the world. By November 2023, 26 countries have developed NAP, and four more have included business and human rights components in their broader national human rights national action plans.

In addition, policies and measures are in place in various countries to encourage enterprises to respect human rights. Consequently, enterprises which engage in cross-border activities are increasingly evaluated on their actions based on not only their compliance status with the national laws and regulations of the countries in which they operate, but also against international standards, including the principles contained in numerous international labour standards.

In response to this trend, the Japanese government launched its National Action Plan (NAP) on Business and Human Rights in October 2020². In September 2022, the Government also developed the Guidelines on Respecting Human Rights in Responsible Supply Chains to further promote efforts by Japanese enterprises to respect human rights³.

Amid these initiatives, the project “Building Responsible Value Chains in Asia through the Promotion of Decent Work in Business Operations”, funded by the Ministry of Economy, Trade and Industry, Japan (METI), was launched in 2022. Under this project, in October 2022, the Research & Analysis Department of the Japan External Trade Organization (JETRO) and the International Labour Organization (ILO Office for Japan) agreed upon and signed a memorandum of understanding (MOU) for joint research on human rights due diligence efforts between Japan and three Asian countries (Bangladesh, Cambodia, and Viet Nam). This research report summarizes the results of the research conducted as a joint project between the JETRO Research & Analysis Department, and the ILO Office for Japan based on the MOU.

1.2 Objectives

The target countries and industries of this research are Bangladesh (the garment industry), Cambodia (the garment industry), Viet Nam (the garment and electronics industries), and Japan (the garment/ textile, electronics/ electronics parts, and automotive parts industries). With a view to encouraging responsible

2 Ministry of Foreign Affairs, “Launch of Japan’s National Action Plan on Business and Human Rights(2020-2025)”, October 16, 2020. https://www.mofa.go.jp/press/release/press4e_002939.html

3 The Inter-Ministerial Committee on Policy Promotion for the Implementation of Japan’s National Action Plan on Business and Human Rights, September 2022, Guidelines on Respecting Human Rights in Responsible Supply Chains. https://www.meti.go.jp/english/press/2022/pdf/0913_001a.pdf

business conduct at the corporate level, this research compiled examples of responsible business conduct and labour practices of Japanese enterprises in the garment/apparel, electronics and parts industries, which have operational locations and business partners in Bangladesh, Cambodia, and Viet Nam, and examined policies, initiatives, and the like related to the promotion of responsible business conduct to foster an environment that enables responsible business conduct and labour practices.

This research is the first effort to clarify, from the perspectives of the government, enterprises, and workers who are rights holders,⁴ the initiatives and issues of responsible business conduct by Japanese enterprises that have operational locations and business partners in the target countries, as well as the current status and issues of developing the environment for promoting responsible business conduct. This report addresses two questions: In light of the development of the international framework on business and human rights, what initiatives and measures are being taken in Bangladesh, Cambodia and Viet Nam to promote responsible business conduct in these countries? How do the Japanese enterprises researched engage in responsible business conduct, through initiatives at their headquarters in Japan, while cooperating with their subsidiaries or business partners located in Bangladesh, Cambodia, and Viet Nam? Building on the challenges and opportunities identified in the research, this report will also suggest a way forward and steps each relevant party can take to promote responsible business conduct.

1.3 Principles and guidelines

This report uses as its analytical framework the UN Guiding Principles on Business and Human Rights, the ILO Tripartite Declaration of Principles concerning Multinational Enterprises and Social Policy (MNE Declaration), and the OECD Guidelines for Multinational Enterprises (OECD Guidelines), as well as the OECD Due Diligence Guidance for Responsible Business Conduct which sets out practical methods for implementing the OECD Guidelines. As explained in the next chapter, these documents are the main international documents on responsible business conduct and they provide principles and guidelines to which enterprises should refer. These documents are consistent with and complementary to each other.

1.4 Structure of the report

This report is organized as follows. In Chapter 2, the international frameworks in responsible business conduct and business and human rights will be summarised. It will also explain the relationship between the three documents used as the analytical framework of this report, namely the UNGPs, the ILO MNE Declaration, and the OECD Guidelines for Multinational Enterprises. Chapter 3 summarises the policies and measures taken by the governments to promote decent work and challenges in the area of labour in Bangladesh, Cambodia, and Viet Nam. Chapter 4 summarises the Trade and Sustainable Development (TSD) chapter of trade agreements and preferential tariff systems between the above three countries and their main trade partners, or EU, US and Japan. Chapter 5 presents trade trends (garment, electronics, and automobiles/auto parts) between Japan and the three countries concerned. Chapter 6 summarises the investment promotion efforts in each of the three countries concerned. Chapter 7 considers the challenges that Japanese companies face in establishing investment and business relationships in Bangladesh, Cambodia, and Viet Nam. Chapter

4 In the discourse on business and human rights, stakeholders are individuals or groups of people whose interests are affected or may potentially be affected by an enterprise's activities. Among these, if the interest is individual human rights or collective rights (rights held by groups such as indigenous people), stakeholders with human rights that have been or could potentially be impacted are called rights holders. Examples include communities at the local, regional, or national levels, workers and employees, and consumers or end-users of products. (OECD Guidance Q8) (See 9.1 for stakeholder descriptions)

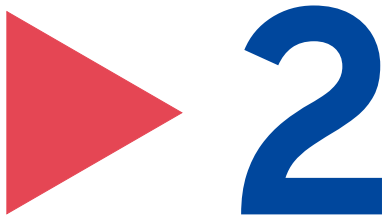
8 introduces the efforts of employers' organizations (Keidanren and relevant industry associations) related to business and human rights in Japan, and Chapter 9 analyses and presents good practices of Japanese enterprises that have operational locations and business partners in Bangladesh, Cambodia, and Viet Nam on responsible business conduct and human rights due diligence. Chapter 10 discusses stakeholder responses on human rights in due diligence in Bangladesh, Cambodia and Vietnam. Finally, Chapter 11 presents potential steps governments, businesses, and employers' and workers' organizations can consider to further promote responsible business conduct. Regarding corporate practices on responsible business and human rights due diligence, readers are invited to refer to Chapter 9 Good Practices at the Company level.

1.5 Survey method

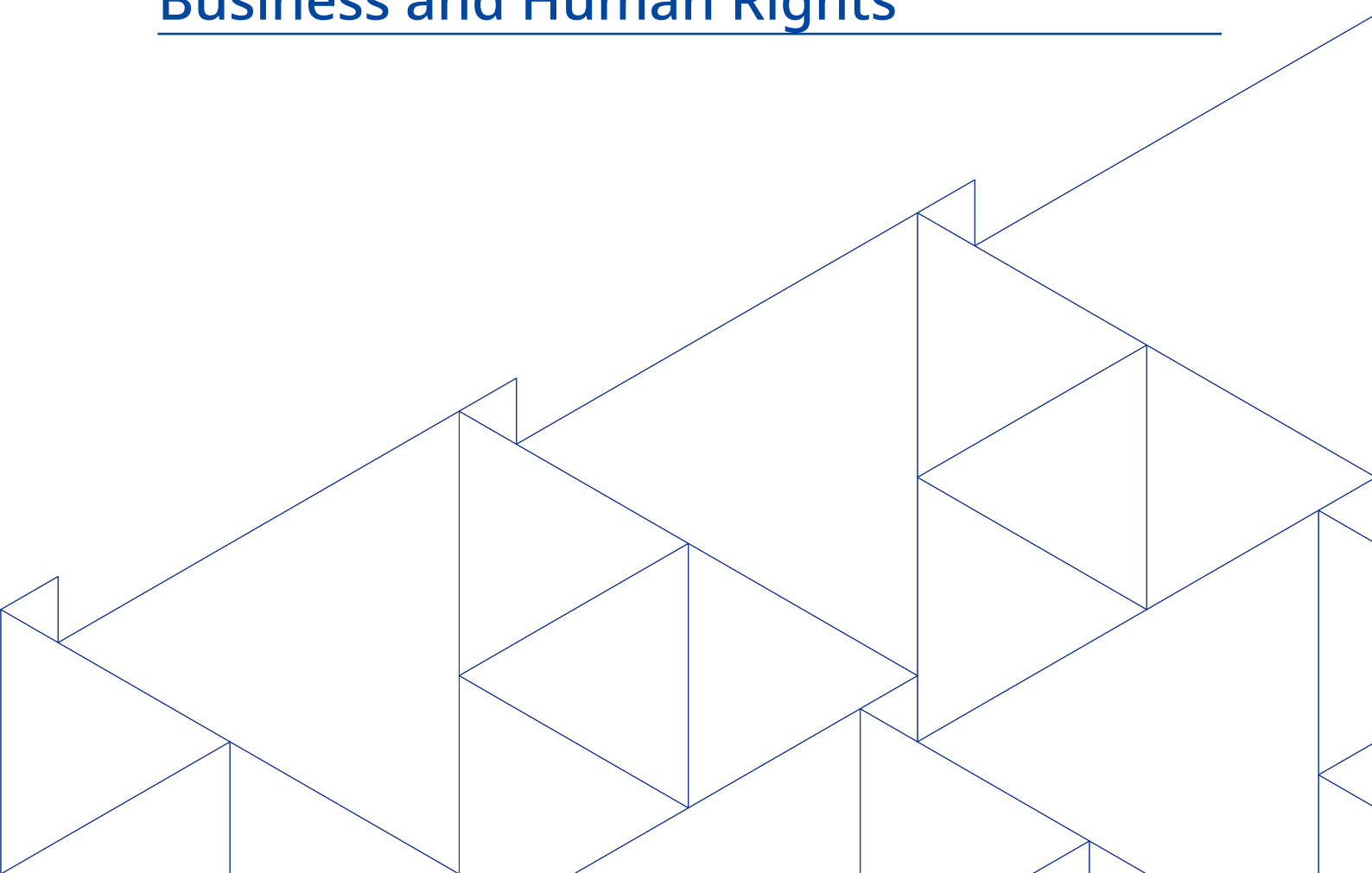
Chapter 2 is based on literature review using public information sources including websites and ILO reports. Chapter 3 analyses the policies and measures of the three target countries, as well as the Decent Work Country Programmes⁵ and its reports, using the ILO MNE Declaration as a framework. In Chapter 4, literature review was conducted on the relationship between the EU, the United States and Japan and the three target countries, using publicly available information on preferential tariff systems, trade and sustainable development chapter in the EU trade agreements, and the US Trafficking in Persons Report etc. Chapter 5 outlines the trade trends between the relevant countries and Japan for the target items extracted from the Global Trade Atlas⁶ and other sources. Chapter 7 summarises management issues based on the results of the annual JETRO Survey on Business Conditions for Japanese Companies Operating Overseas (questionnaire survey). Chapter 8 draws on a literature review of publicly available information on the initiatives of Japanese employers' associations, as well as information discussed at an information exchange meeting among industry associations, which was held online in March 2023. For Chapter 9 interviews were conducted with Japanese companies and their suppliers that have operational locations and business partners in the three target countries. The interviews were conducted in person or online between September 2022 and March 2023 using a semi-structured interview method. Of the Japanese companies interviewed, 13 are headquarters in Japan, six are local subsidiaries or group companies, and two are suppliers that have business with Japanese companies. Selection of the companies were initially through publicly available information, including but not limited to non-financial information, to identify enterprises in the research target area which have offices and operations in Bangladesh, Cambodia, and Viet Nam and engaged in human rights initiatives. The interviews were then conducted with those companies that granted permission after reaching out through such channels as JETRO's network and industry associations. Chapter 10 is compiled based on interviews with government, employers' and workers' organisations and other stakeholders in Bangladesh, Cambodia and Viet Nam. The interviews were conducted face-to-face from September to December 2022, using semi-structured methods.

5 "Decent work country programmes" are the ILO's programming instrument at the country level. They provide a framework that identifies the priorities of ILO constituents in a country and specifies the planned support of the Office to the achievement of results under those priorities. They are developed with full participation of national governments and employers' and workers' organizations and are implemented with their active engagement. ILO, Decent Work Country Programmes. <https://www.ilo.org/about-ilo/how-ilo-works/results-based-management/decent-work-country-programmes>

6 A database of trade statistics for 168 countries and regions created by IHS. Data sources are national statistical agencies. HS codes are used for item classification.



International Framework for Responsible Business Conduct and Business and Human Rights



2.1 State-centred human rights promotion regime

The internationally recognized human rights addressed in this report are understood as the human rights under the International Bill of Human Rights, and the fundamental principles and rights at work, which are a subset of the international labour standards. The International Bill of Rights refers to the Universal Declaration of Human Rights (1948) and subsequent international covenants such as the International Covenant on Economic, Social and Cultural Rights (1966) and the International Covenant on Civil and Political Rights (1966).⁷ The fundamental principles and rights at work address 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, elimination of discrimination in respect of employment and occupation, and a safe and healthy working environment.⁸

The Universal Declaration of Human Rights, mentioned above, defines human rights “as a common standard of achievement for all peoples and all nations”. As can be understood from this, originally, the international human rights regime for respecting and protecting the International Bill of Human Rights and fundamental principles and rights at work were discussed in terms of the relationship between individuals and states, and a state-centred approach has been taken. In other words, in the international human rights regime, a state-centred regime has been adopted in which states first agree on human rights standards at the international level, and then governments respect, protect, and fulfill human rights and labour rights of all individuals through relevant domestic laws, policies, and other measures. With regard to labour rights, states that have ratified international labour conventions are required to apply these principles and rights to their labour laws and policies, and to promote them within their countries. The ILO supervisory machinery monitors progress made by states in implementing ratified conventions; and through general surveys on particular topics periodically reviews the application of its conventions and recommendations across all member states.⁹ In addition, with regard to the core labour standards, the 1998 ILO Declaration on Fundamental Principles and Rights at Work and its Follow-up (adopted in 1998 and amended in 2022) (hereafter, the “ILO Declaration on Fundamental Principles and Rights at Work”) stipulates that ILO member states should make efforts to promote these principles even when the convention has not been ratified by states.

2.2 The need for international coordination associated with globalization and the ILO MNE Declaration

The international human rights regime has been a state-centred mechanism as described in 2.1, which requires states to develop and fully implement legal and regulatory systems, as well as policy measures, which could ensure protection of workers’ rights. At the same time, globalization of production and intensifying of market competition has generated further downward price pressure on enterprises, which often adversely impacts respect for workers’ rights. To counter the gaps in sufficient protection of workers’ rights, expectations arose for business to develop private mechanisms such as codes of conduct and social audits, and to not compete based on violating workers’ rights to drive down production costs.

7 Nina Seppala, 2009. “Business and the International Human Rights Regime: A Comparison of UN Initiatives,” *Journal of Business Ethics*, Springer, vol. 87(2). <https://www.jstor.org/stable/pdf/27749694.pdf> : 401-417.

8 The 110th Session of the International Labour Conference held in June 2022 adopted a resolution on the inclusion of a safe and healthy working environment in core labour standards, which took immediate effect. Accordingly, the core labour standards were changed from eight conventions in four categories to ten conventions in five categories. ILO, ILO Declaration on Fundamental Principles and Rights at Work. <https://www.ilo.org/ilo-declaration-fundamental-principles-and-rights-work>

9 For more information, please refer to ILO website, ILO supervisory system: Regular supervision. <https://www.ilo.org/international-labour-standards/ilo-supervisory-system-regular-supervision>

In this context, the need for international norms and coordination to encourage more responsible business conduct has increased, and several international documents have been adopted since the 1970s. The OECD Guidelines for Multinational Enterprises adopted in 1976 aim to ensure that the operations of multinational enterprises are in harmony with government policies, to strengthen the basis of mutual confidence between enterprises and the societies in which they operate, to help improve the foreign investment climate, and to enhance the contribution to sustainable development made by multinational enterprises.¹⁰ In November 1977, the ILO MNE Declaration was discussed by representatives of governments, employers, and workers and adopted by the ILO Governing Body. The MNE Declaration aims to encourage the positive contribution which multinational enterprises can make to economic and social progress, such as job creation and the improvement of quality of lives, and the realization of decent work for all. It also identifies to minimize and resolve the difficulties to which their various operations may give rise, and states that, to achieve these goals, the three actors—government, employers (enterprises), and workers—should play their respective roles.¹¹

Furthermore, the 1998 ILO Declaration on Fundamental Principles and Rights at Work stipulates that states have an obligation to respect, to promote, and to fulfill the fundamental principles and rights in five categories described in 2.1, and that ILO member states should make efforts to promote these principles even if they have not ratified the corresponding fundamental conventions.

[Column: ILO's tripartism]

The International Labour Organization (ILO) is the only UN body to follow tripartism of government, employer and worker representatives. These tripartite constituents make the ILO a unique consensus-building forum where governments of ILO member states and social partners consisting of labour and management can freely and openly discuss and formulate labour standards and policies. The ILO also encourages this tripartism within its member states by promoting a “social dialogue” between trade unions and employers in the formulation and, where appropriate, implementation of national policies on social, economic, and many other issues.¹² Social dialogue refers to all types of negotiations, consultations or mere exchange of information conducted by representatives of governments, employers and workers on issues of common interest relating to economic and social policy.

2.3 UN Guiding Principles on Business and Human Rights and the ILO MNE Declaration (2022 revised)

Since the 2000s, initiatives to protect internationally recognized human rights described in 2.1, including the fundamental rights of workers, have become increasingly widespread, as represented by the launch of the United Nations Global Compact (UNGC)¹³ in 2000, the publication of the first edition of the Global Reporting Initiative (GRI) Guidelines also in 2000, and the publication of the ISO 26000 (Guidance on social responsibility) in 2010. The concept of business and human rights was shaped by the gradual establishment of norms directed at state and corporate actors to address the adverse impact on human and worker rights

10 OECD Guidelines for Multinational Enterprises on Responsible Business Conduct. <https://mneguidelines.oecd.org/mneguidelines/>

11 ILO, Tripartite Declaration of Principles concerning Multinational Enterprises and Social Policy (MNE Declaration). <https://www.ilo.org/enterprises-department/areas-work/tripartite-declaration-principles-concerning-multinational-enterprises-and>

12 For more information, please refer to the following ILO pages; About the ILO (<https://www.ilo.org/about-ilo>), and Social dialogue and tripartism (<https://www.ilo.org/topics/social-dialogue-and-tripartism>).

13 The United Nations Global Compact (UNGC) is the world's largest sustainability initiative by which the United Nations and the private sector (enterprises and organizations) join hands to build a healthy global society. For more information, please visit the United Nations Global Compact website. <https://unglobalcompact.org/>

caused by the global business activities.

In 2011, the UN Guiding Principles on Business and Human Rights (hereafter, “UNGPs”) were unanimously endorsed by the UN Human Rights Council. The UNGPs specify that the scope of the responsibility of business enterprises to respect human rights relies on internationally recognized human rights understood, at a minimum, as those expressed in the International Bill of Human Rights and the fundamental rights of the ILO’s core labour standards set out in the ILO Declaration on Fundamental Principles and Rights at Work (UNGP 12). Then they classify the relationship between business activities and these internationally recognized human rights into three pillars of “1. The state duty to protect human rights, 2. The corporate responsibility to respect human rights, and 3. Access to remedy”, reaffirming the duty of states to protect human rights. On the other hand, the UNGPs clearly state that business enterprises have a responsibility to respect human rights, including the rights of workers, in their business activities and supply chains, and, as a concrete way for companies to respect human rights, they stipulate a policy commitment to meet their responsibility to respect human rights, the implementation of a human rights due diligence process, and processes to enable the remediation of any adverse human rights impacts (UNGPs 15-22) (see Figure 2-1). It is noteworthy that the UNGPs acknowledge that corporate activities can make a positive contribution to human rights, but state that this contribution does not offset actions a failure to respect human rights throughout their operations (commentary on UNGP 11). The third pillar is also notable, as it spells out the duty of states and the responsibility of business enterprises for the provision of remediation to complement the ability of states to remedy the adverse human rights impacts caused by corporate activities and to provide remedy to victims (UNGPs 22, 25-31).

The OECD Guidelines for Multinational Enterprises and the ILO MNE Declaration have each been revised to improve consistency among international documents, including the UNGPs.¹⁴ The OECD Guidelines for Multinational Enterprises were revised in 2011 and 2023 to be more coherent and consistent with the UNGPs.¹⁵ The ILO MNE Declaration was revised in 2017 and 2022, and the 2017 revision incorporated the UNGPs. Paragraph 10 of the revised declaration states that the UNGPs apply to all states and all enterprises. The same paragraph also states that enterprises are required to ensure respect for internationally recognized human rights, and to that end, they should carry out due diligence¹⁶ (see Figure 2-1). With the 2022 revision, a safe and healthy working environment was included in the MNE Declaration, reflecting a resolution by the International Labour Conference in June 2022 to include a safe and healthy working environment in the core labour standards.

In the figure below, the complementary relationship between the UN Guiding Principles on Business and Human Rights, the OECD Guidelines for Multinational Enterprises/Due Diligence Guidance for Responsible Business Conduct, and the ILO MNE Declaration on the practical responses to respect for human rights required by corporations internationally is summarised in the following figure. With regard to the OECD

14 John Gerard Ruggie, and Tamaryn Nelson. “Human Rights and the OECD Guidelines for Multinational Enterprises: Normative Innovations and Implementation Challenges.” *The Brown Journal of World Affairs* 22, No. 1 (2015). <https://www.jstor.org/stable/24591004> : 99-127

15 The OECD Guidelines for Multinational Enterprises on Responsible Business Conduct have been revised six times (1979, 1984, 1991, 2000, 2011 and 2023). The 2011 revision includes a new chapter on human rights, which states that companies have a responsibility to respect human rights, as well as implementation of human rights due diligence as appropriate to their size, the nature and context of operations and the severity of the risks of adverse human rights impacts.

16 Tripartite Declaration of Principles concerning Multinational Enterprises and Social Policy (2022): 10-11. <https://www.ilo.org/publications/tripartite-declaration-principles-concerning-multinational-enterprises-and-3>

Guidelines for Multinational Enterprises, the OECD Due Diligence Guidance for Responsible Business Conduct is included, which presents practical methods for the implementation of the OECD guidelines.

► Figure 2-1 Overview of the practical methods presented by international instruments: Examples of organizing the main items of respect for human rights required of enterprises

UN Guiding Principles on Business and Human Rights		OECD Guidelines for Multinational Enterprises/Due Diligence Guidance for Responsible Business Conduct	ILO MNE Declaration	
Business enterprises need to know and show that they respect human rights (GP 15)	Policy commitment (GP 16)	(1) Embed responsible business conduct into policies & management systems	<ul style="list-style-type: none"> • General policies Carry out due diligence to identify, prevent, mitigate and account for how they address their actual and potential adverse impacts that relate to internationally recognized human rights (10 (d)) Identify and assess any actual or potential adverse human rights impacts (This process should involve meaningful consultation with potentially affected groups and other relevant stakeholders including workers' organizations, as appropriate to the size of the enterprise and the nature and context of the operation) (10 (e)) • Employment <ul style="list-style-type: none"> • Employment promotion • Social security • Elimination of forced or compulsory labour • Effective abolition of child labour: Minimum age and worst forms • Equality of opportunity and treatment • Security of employment • Training • Conditions of work and life <ul style="list-style-type: none"> • Wages, benefits and conditions of work • Safety and health • Industrial relations <ul style="list-style-type: none"> • Freedom of association and the right to organize • Collective bargaining • Consultation • Access to remedy and examination of grievances Provide effective means of enabling remediation (65) Respect the right of the workers to have all their grievances processed (66) • Settlement of industrial disputes 	
	Human rights due diligence(GP 17)	Identify and assess any actual or potential adverse human rights impacts through business enterprises' own activities or as a result of their business relationships (GP 18)		(2) identify & assess adverse impacts in operations, supply chains & business relationships
		In order to prevent and mitigate adverse human rights impacts, business enterprises should integrate the findings from their impact assessments across relevant internal functions and processes, and take appropriate action (GP 19)		(3) Cease, prevent or mitigate adverse impacts
		Enterprises should track the effectiveness of their response (GP 20)		(4) Track implementation and results
		Communicate how business enterprises address their human rights impacts (GP 21)		(5) Communicate how impacts are addressed (disclosure)
		Remediation (GP 22)/ Establish or participate in effective operational-level grievance mechanisms (GP 29)		(6) Provide for or cooperate in remediation

Dialogue

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Dialogue

Stakeholders

Source: Compiled from the JETRO Regional and Analytical Report "Responding to the Increasing Demand for Global Respect for Human Rights (Overview)", the UN Guiding Principles on Business and Human Rights, the OECD Guidelines for Multinational Enterprises, the OECD Due Diligence Guidance for Responsible Business Conduct, and the ILO Tripartite Declaration of Principles concerning Multinational Enterprises and Social Policy (MNE Declaration)

2.4 UN Guiding Principles on Business and Human Rights and state initiatives

More than 10 years after the UNGPs were unanimously endorsed, there has been a growing movement for states to take appropriate measures to prevent, investigate, punish, and remedy human rights violations through effective policies, legislation, regulations, and judicial decisions to create an environment in which enterprises respect internationally recognized human rights norms. For example, by November 2023, 26 countries have developed national action plans (NAP) on business and human rights initiatives, and four more have included business and human rights components in their broader national human rights national action plans.¹⁷ In addition, a series of laws have been enacted in various countries to obligate enterprises to disclose information on human rights initiatives and to carry out human rights due diligence. Starting with the California Transparency in Supply Chains Act (became effective in 2012), these include the United Kingdom's Modern Slavery Act (enacted and became effective in 2015), the French Law on Duty of Care (enacted and became effective in 2017), Australia's Modern Slavery Act (became effective in 2019), the Dutch Child Labor Due Diligence Act (enacted in 2019, Not yet implemented as of November 2023), the Norwegian act relating to enterprises' transparency and work on fundamental human rights and decent working conditions (became effective in 2022), Swiss Conflict Minerals and Child Labor Due Diligence Legislation (became effective in 2022 and started to be applied in 2023), and the German Act on Corporate Due Diligence in Supply Chains (became effective in 2023) (as of November 2023).¹⁸ In addition, in the EU, a draft Corporate Sustainability Due Diligence Directive was announced in 2022 and is currently under consideration to achieve harmonization among member states, while legislation in some member states is moving ahead.

This can also be said to be a move in line with the UNGPs; for example, GP 2 provides that "States should set out clearly the expectation that all business enterprises domiciled in their territory and/or jurisdiction respect human rights throughout their operations."

The Japanese government also has been pursuing business and human rights policies based on the UNGPs. In October 2020, the Japanese government launched the National Action Plan (NAP) on Business and Human Rights, and in November 2021, as part of a follow-up to this action plan, published the results of the Questionnaire Survey on the Status of Efforts on Human Rights in the Supply Chains of Japanese Companies conducted jointly by METI and the Ministry of Foreign Affairs (MOFA), which showed a strong demand for the government to develop guidelines and other measures. In light of this situation, METI set up the Study Group on Guidelines on Respecting Human Rights in Responsible Supply Chains in March 2022 to carry out further discussions,¹⁹ and in September 2022, the government formulated the "Guidelines on Respecting Human Rights in Responsible Supply Chains". In April 2023, METI published the "Reference Material on Practical Approaches for Business Enterprises to Respect Human Rights in Responsible Supply Chains", aiming to encourage companies to make efforts for the respect of human rights.²⁰

17 OHCHR, National action plans on business and human rights, <https://www.ohchr.org/en/special-procedures/wg-business/national-action-plans-business-and-human-rights>

18 Check the JETRO website for the latest information: https://www.jetro.go.jp/world/scm_hrm/, <https://www.jetro.go.jp/biz/areareports/special/2023/0302/f22b36902a04180b.html>

19 Ministry of Economy, Trade and Industry, Japan, the Study Group on Guidelines on Respecting Human Rights in Responsible Supply Chains, https://www.meti.go.jp/shingikai/economy/supply_chain/index.html

20 Ministry of Economy, Trade and Industry, Japan, Press release, April 2023, "Reference Material on Practical Approaches for Business Enterprises to Respect Human Rights in Responsible Supply Chains" Released, <https://www.meti.go.jp/press/2023/04/20230404002/20230404002.html>

In response to these government initiatives, Stakeholders of Japan's National Action Plan on Business and Human Rights, while welcoming the launch of the NAP, issued joint comments calling for, among other things, the development of a system of stakeholder engagement in implementing, monitoring and revisiting the NAP.²¹ The Japanese Trade Union Confederation has also called for the identification of priority issues based on gap analysis of existing policies, steady implementation of the NAP towards the protection of workers' rights²², and review of the action plan and guidelines in line with the situation and mandatory human rights due diligence legislation in future²³. The NAP states in the framework for its implementation and review that "Towards the revision of the NAP five years after being rolled out, approximately four years from the launch of the NAP, the Inter-Ministerial Committee will start working on revising the NAP, while taking into account the views of stakeholders". In accordance with the aforementioned framework, the Inter-Ministerial Committee on the Implementation of Japan's National Action Plan on Business and Human Rights was established in March 2023 to facilitate cooperation among relevant ministries and agencies, reviewing and determining necessary matters regarding the NAP's implementation.²⁴ In December 2021, the Inter-Ministerial Committee was reorganized into the Inter-Ministerial Committee on Policy Promotion for the Implementation of Japan's National Action Plan on Business and Human Rights. The reorganized Inter-Ministerial Committee has been following the progress of the NAP's implementation.

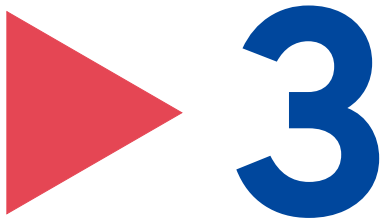
21 Stakeholders of Japan's National Action Plan on Business and Human Rights, 10 November 2020, "Stakeholders of Japan's National Action Plan on Business and Human Rights issued Joint Comments following dialogue facilitated by the ILO", <https://www.ilo.org/resource/news/stakeholders-japans-national-action-plan-business-and-human-rights-issued>

22 JTUC-RENGO, 16 October 2020, Statement on the development and launch of the National Action Plan on Business and Human Rights, https://www.jtuc-rengo.or.jp/news/article_detail.php?id=1115

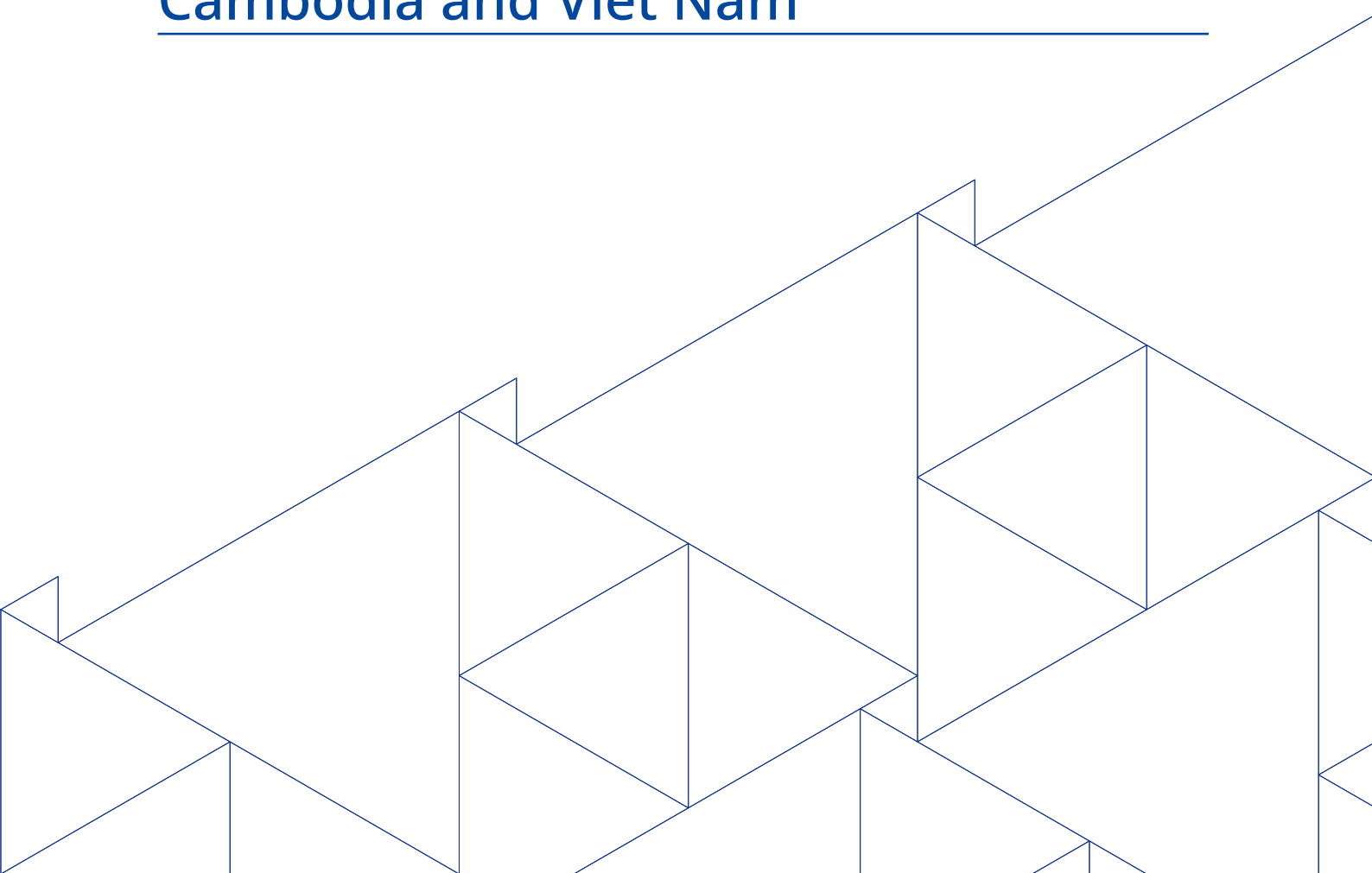
23 JTUC-RENGO, 14 September 2023, JTUC-RENGO's Views on Business and Human Rights, http://www.jtuc-rengo.org/updates/pdf/JTUC-RENGOs_Views_on_Business_and_Human_Rights.pdf

24 The Inter-Ministerial Committee on Policy Promotion for the Implementation of Japan's National Action Plan on Business and Human Rights, March 2023. <https://www.mofa.go.jp/mofaj/files/100180501.pdf>

- ▶ Responsible Business Conduct and Human Rights Due Diligence:
Good practices of Japanese Companies Operating in Bangladesh, Cambodia and Viet Nam, Trade,
Investment and Labour Nexus and a Way Forward



RBC Related Policies and Initiatives and Decent Work Challenges in Bangladesh, Cambodia and Viet Nam



In Chapter 2, it was presented on how international human rights protection frameworks have, to date, adopted a state-sponsored approach. This is reflected in GP1 of the UNGPs, which this report adopts as the framework for its analysis, which states that “States must protect against human rights abuse within their territory and/or jurisdiction by third parties, including business enterprises. This requires taking appropriate steps to prevent, investigate, punish and redress such abuse through effective policies, legislation, regulations and adjudication”.

Focusing on the above-mentioned obligations of states, this chapter introduces the states’ ratifications of the ILO’s Fundamental Conventions, particularly in the field of labour rights and regulations, and the major policies, legislation, and regulations pursued by governments in the areas of the MNE Declaration, which this report uses as a framework for its analysis: general policies, employment, training, conditions of work and life, and industrial relations. In addition, the areas of work that the ILO works with the governments to further improve are presented.

3.1 Initiatives of the Bangladesh Government and Challenges in its Labour Sector

3.1.1 Overview of initiatives

Through its national development plans, including the Bangladesh Vision 2041 and Perspective Plan 2021-2041 and the Bangladesh 8th Five Year Plan 2021-2025, the Government of Bangladesh has sought to reduce poverty, achieve socio-economic equity and graduate from its least developed country (LDC) status by 2026²⁵. In the labour sector, efforts has been made in the framework of international treaties ratified by the country, national laws, policies and judicial decisions. For example, the Labour Act 2006 is the main law providing substantive and procedural rules on workers’ rights, benefits and remedies. The Act includes many of the core international labour standards set out in the ILO Declaration on Fundamental Principles and Rights at Work and refers to the UN Guiding Principle 12 on Business and Human Rights, which specifies the responsibility of companies to respect human rights. The National Human Rights Commission Act 2009 also provides for the establishment of a National Human Rights Commission (NHRC) for the purpose of protecting and promoting human rights. Bangladesh’s National Human Rights Commission comprises 12 committees on various areas to be prioritized, one of which is the Committee on Business and Human Rights and Corporate Social Responsibility.²⁶

As also outlined in Chapter 4, Bangladesh has developed a National Action Plan on the Labour Sector of Bangladesh (2021-2026)²⁷ and a Road Map on the Labour Sector in Bangladesh, 2021-2026²⁸. The National

25 ILO, Decent Work Country Programme for Bangladesh, 2022-2026. https://www.ilo.org/wcmsp5/groups/public/---asia/---ro-bangkok/---ilo-dhaka/documents/publication/wcms_857815.pdf

26 Surya Deva and Golam Sarwar, 2023, Industry Preparedness in Bangladesh for Human Rights Due Diligence Laws Draft Report for ILO.

27 Ministry of Labour and Employment Government of the People’s Republic of Bangladesh, 2021, National Action Plan (NAP) on the Labour Sector of Bangladesh (2021-2026). https://file-dhaka.portal.gov.bd/files/dife.tangail.gov.bd/notices/4a500c68_e58c_4c05_8358_54011150f753/0c2ef75f5a0f845ce1379deac6d89c6c.pdf

28 ILO Governing Body, GB.342/INS/INF/2(Rev.1), June 2021, Road map of actions to address all the outstanding issues mentioned in the complaint concerning non-observance by Bangladesh of the Labour Inspection Convention, 1947 (No. 81), Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87), and the Right to Organise and Collective Bargaining Convention, 1949 (No. 98). https://www.ilo.org/wcmsp5/groups/public/---ed_norm/---relconf/documents/meetingdocument/wcms_800701.pdf

Action Plan on the Labour Sector of Bangladesh (2021-2026) outlines the government's commitments to (1) bring labour law inline with ILO standards on freedom of association and collective bargaining; (2) eliminate all forms of child labour by 2025; (3) eliminate violence, harassment, unfair labour practices and anti-union discrimination against workers; (4) increase the approval rate of trade union registration applications; (5) eliminate the backlog of labour court cases; and (6) ensure the availability of new labour inspectors and the full functioning of labour inspectors. As per the plan, the government has already ratified both the ILO Minimum Age Convention and the Forced Labour Protocol. The National Action Plan on the Labour Sector (2021-2026) is closely related to the above-mentioned Road Map on the Labour Sector in Bangladesh, 2021–2026 submitted by the Government of Bangladesh to the ILO Governing Body²⁹.

3.1.2 Status of ratification of treaties

Bangladesh has ratified 8 of the 10 conventions of the ILO Fundamental Labour Conventions. The unratified core labour conventions are the Occupational Safety and Health Convention, 1981 (No. 155) and the Promotional Framework for Occupational Safety and Health Convention, 2006 (No. 187), but the country is obliged to respect, promote and fulfil fundamental principles and rights in all five sectors of labour in line with the ILO Declaration on Fundamental Principles and Rights at Work, 1998.

► Chart 3-1 Bangladesh's ratification of the ILO's core labour standards (as of October 2021)

Field	Core labour standards Convention name	Status of ratification
Effective recognition of freedom of association and the right to collective bargaining	Freedom of Association and Protection of the Right to Organise Convention, 1948 (No.87)	July 22, 1972
	Right to Organise and Collective Bargaining Convention, 1949 (No.98)	July 22, 1972
Elimination of forced labour	Forced Labour Convention, 1930 (No.29)	July 22, 1972
	Abolition of Forced Labour Convention, 1957 (No.105)	July 22, 1972
Abolition of child labour	Minimum Age Convention, 1973 (No.138)	May 22, 2022
	Worst Forms of Child Labour Convention, 1999 (No.182)	March 12, 2001
Elimination of discrimination in employment and occupation	Equal Remuneration Convention, 1951 (No.100)	January 28, 1998
	Discrimination (Employment and Occupation) Convention, 1958 (No.111)	July 22, 1972
Safe and healthy work environment	Occupational Safety and Health Convention, 1981 (No.155)	Unratified
	Promotional Framework for Occupational Safety and Health Convention, 2006 (No.187)	Unratified

Source: Compiled from the website on the status of ratification of the ILO Conventions³⁰

3.1.3 Initiatives in the labour sector and decent work issues

This section presents not only the status of ratification of the ILO conventions, but also some of the policies, legislation, regulations and rulings that the Government of Bangladesh is pursuing to promote the protection of human rights, especially in the field of labour, using the framework of the MNE Declaration. These initiatives and issues introduce the priority items for improvement that are addressed in the National Action Plan on the Labour Sector of Bangladesh (2021–2026) and by the ILO and the Government of Bangladesh.

29 ILO, Decent Work Country Programme for Bangladesh, 2022–2026. https://www.ilo.org/wcmsp5/groups/public/---asia/---ro-bangkok/---ilo-dhaka/documents/publication/wcms_857815.pdf

30 ILO, NORMLEX Ratification for Bangladesh. https://www.ilo.org/dyn/normlex/en/f?p=NORMLEXPUB:11200:0::NO::P11200_COUNTRY_ID:103500

3.1.3.1 Employment

Child labour

At the 4th Global Conference on the Sustained Eradication of Child Labour in December 2017, the Government of Bangladesh committed to eliminating all forms of child labour by 2025. While some steps have been taken towards meeting this target, much remains to be done. The commitment has not been fully backed-up, for example, by improved access to quality education, social protection interventions, resources, or strong enforcement mechanisms. Other factors that impede progress include low wages, labour demands and a persistent social norm justifying child labour as a coping strategy for families facing daily survival challenges – challenges that have been intensified by the COVID-19 pandemic. The agriculture sector accounts for 22 per cent of what is considered the worst form of child labour³¹, involving hazardous substances that could harm children’s health, safety and morality. Monitoring progress towards the 2025 elimination target is a challenge due to existing data being dated³².

Bangladesh’s ratification of the ILO Minimum Age Convention, 1973 (No. 138), on 22 March 2022 will add weight to efforts to accelerate efforts to meet the target³³. Action 2 in the National Action Plan on the Labour Sector of Bangladesh (2021–2026) also calls for the elimination of all forms of child labour by 2025. The government is taking action to achieve the abolition of child labour through strengthening the regulatory and policy framework for the abolition of child labour, strengthening the enforcement and investigations, government-led projects against child labour, conducting surveys on child labour, and awareness-raising activities³⁴.

Equality of opportunity and treatment

Bangladesh has a relatively comprehensive gender equality policy and institutional architecture linked to global frameworks and commitments, including the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW), the Beijing Declaration and Platform of Action (1995), which is an international declaration for the advancement of women and gender equality, and the SDGs. The National Women’s Development Policy (NWDP, 2011) is a core policy reference, while the Gender Strategy of the 8th Five Year Plan (section 14.5.3)³⁵ states the ongoing commitment of Bangladesh to gender equality in the pandemic recovery period. Bangladesh’s Labour Act also prohibits discrimination on the grounds of sex in relation to the determination and payment of wages³⁶.

While gender indicators have improved between 2006 and 2020 across all main developmental areas in

31 For more information, visit the ILO website. (Worst Forms of Child Labour Convention, 1999 (No. 182). https://www.ilo.org/dyn/normlex/en/f?p=NORMLEXPUB:12100:0::NO::P12100_ILO_CODE:C182) All 187 ILO member states have ratified the convention.

32 ILO, Decent Work Country Programme for Bangladesh, 2022–2026. https://www.ilo.org/wcmsp5/groups/public/---asia/---ro-bangkok/---ilo-dhaka/documents/publication/wcms_857815.pdf :10

33 Ibid.

34 Ministry of Labour and Employment Government of the People’s Republic of Bangladesh, 2021, National Action Plan (NAP) on the Labour Sector of Bangladesh (2021-2026). https://file-dhaka.portal.gov.bd/files/dife.tangail.gov.bd/notices/4a500c68_e58c_4c05_8358_54011150f753/0c2ef75f5a0f845ce1379deac6d89c6c.pdf :6-8.

35 General Economics Division (GED) Bangladesh Planning Commission, the 8th Five Year Plan, <http://oldweb.lged.gov.bd/UploadedDocument/UnitPublication/1/1166/8FYP.pdf> :747.

36 Surya Deva and Golam Sarwar, 2023, Industry Preparedness in Bangladesh for Human Rights Due Diligence Laws, Draft Report for ILO.

Bangladesh, particularly those related to political empowerment, women's participation in the labour market in the country remained at 24.4 per cent in FY2022, compared with 79.6 per cent for men³⁷. According to a joint ILO–Gallup (2017) report, unpaid care and domestic work is the primary barrier for women engaging in and staying in the workforce globally. Married women in Bangladesh spend on average 26 hours on household chores per week, suggesting a significant workload they bear, compared to only about eight hours for men³⁸.

Despite regulations and policies in place, sexual harassment at the workplace continues to be a major concern in all sectors to a varying degree. For example, in November 2022, the workers in the RMG industry in Savar, 20km northwest of central Dhaka, staged demonstrations in Dhaka protesting the sexual harassment of women workers. This is not an isolated case of a factory. A 2019 report by a nonprofit organisation found that 81.5 per cent of the respondents had experienced or witnessed sexual harassment and abuse at work³⁹.

To address gender-based discrimination and harassment, the Government of Bangladesh is working with the ILO from a policy and legislative perspective with the following four objectives by 2026: (1) reduce gender-based violence and harassment; (2) reduce the disproportionate burden of unpaid domestic work on women; (3) increase women's voice and status in the workplace; and (4) increase the number of workplaces equipped to address gender-based issues⁴⁰.

3.1.3.2 Training

More than two million people, mostly young, enter Bangladesh's labour market every year, however, a lack of adequate education and skills hold many Bangladeshis back from obtaining quality jobs⁴¹. The literacy rate is at 69 per cent and an estimated 30.6 per cent of the population aged 15 or older had not completed any level of education i.e., no class passed, 22.3 per cent had completed the primary level, 35.0 per cent had completed secondary school and 4.2 per cent had completed tertiary level of education⁴².

The Government of Bangladesh has long recognized the potential contribution of technical and vocational education and training (TVET)⁴³ and other forms of skills development to increasing the skills base of the workforce in order to take advantage of current demographic dividend opportunities; seize the opportunities of the 4th Industrial Revolution; increase economic growth and enterprise development; boost productivity;

37 ILO STAT, Country Profiles. <https://ilostat.ilo.org/data/country-profiles/>

38 ILO, Decent Work Country Programme for Bangladesh, 2022–2026. https://www.ilo.org/wcmsp5/groups/public/---asia/---ro-bangkok/---ilo-dhaka/documents/publication/wcms_857815.pdf :17.

39 Sample size was 200, among garment workers. ActionAid, Briefing paper: Sexual harassment and violence against garment workers in Bangladesh. <https://actionaid.org/sites/default/files/publications/ActionAid%20briefing%20paper%20on%20Bangladesh%20garment%20workers%20FINAL.pdf>

40 ILO, Decent Work Country Programme for Bangladesh, 2022–2026. https://www.ilo.org/wcmsp5/groups/public/---asia/---ro-bangkok/---ilo-dhaka/documents/publication/wcms_857815.pdf :44.

41 Amanullah (Mak) Khan, 2019, Situation Analysis of Bangladesh TVET Sector: A Background Work for a TVET SWAp. https://www.ilo.org/wcmsp5/groups/public/---asia/---ro-bangkok/---ilo-dhaka/documents/publication/wcms_735704.pdf

42 Bangladesh Bureau of Statistics, Labour Force Survey 2016–2017. <https://mccibd.org/wp-content/uploads/2021/09/Labour-Force-Survey-2016-17.pdf> :33–35.

43 Technical and vocational education and training (TVET) is an umbrella term that refers to aspects of the educational process that, in addition to general education, include the study of technology and related sciences and the acquisition of practical skills, attitudes, understanding, and knowledge about occupations in various areas of economic and social life. For more information, see: The World Bank, ILO and UNESCO, Building Better Formal TVET Systems: Principles and Practice in Low- and Middle-Income Countries. <https://documents1.worldbank.org/curated/en/099071123130516870/pdf/P175566037a5e20650a657068b5152205bf.pdf> :86.

improve international competitiveness and reduce poverty. This potential is summed up in the vision of the National Skills Development Policy, 2021: “A demand-driven skilled workforce will be built for the socio-economic development of Bangladesh⁴⁴.”

The ILO and the Government of Bangladesh have implemented programmes to continue strengthening market-driven directions in skills development, accelerating the acquisition of digital and green technologies, improving governance and private sector engagement in TVET, promoting the inclusion of women, persons with disabilities, migrant workers and other vulnerable groups, enabling increased investment in TVET and skills development, strengthening collaboration with skills institutes and industry, increasing interest in retraining and upskilling employees in the private sector, improving the availability of up-to-date labour market information to support TVET planning, and strengthening linkages between about 24 ministries and 20 institutions involved in skills development, TVET and training in the informal sector⁴⁵.

3.1.3.3 Wages, benefits and conditions of work

Wages and long working hours is another major challenge across sectors in Bangladesh. According to a 2017 government survey, about half of employed workers work 48 hours per week, especially this accounts for 63.5 per cent of men⁴⁶. Regarding wages, in December 2023 after a large scale demonstrations, the minimum wage per month in the garment industry (the country’s main industry) was raised by 56 per cent from 8,000 Bangladesh Taka to 12,500 taka (approximately USD 114)⁴⁷.

The workers are constantly struggling in the absence of savings and social security. The Covid-19 pandemic further brought attention to the vulnerabilities of workers. In rural areas where more than 70 per cent of Bangladesh’s total population lives, average income dropped by more than 80 per cent since the outbreak of the pandemic⁴⁸. When brands cancelled orders worth billions with the factories or refused to pay, workers bore the brunt of being at the last end of the supply chains, including layoffs and unpaid wages. A 2020 survey of factory owners in Bangladesh by Pennsylvania State University’s Center for Global Workers’ Rights and the Worker Rights Consortium found that one million garment workers were laid off, 72 per cent without severance pay.⁴⁹

Moreover, in Bangladesh’s Export Processing Zone (EPZ), workers face problems in terms of wages, benefits and working conditions for different reasons than outside the processing zone. The Export Processing Zones Authority Act 1980 establishes the Bangladesh Export Processing Zones Authority (BEPZA) which is empowered and responsible for the creation, development, operation and management of industrial zones like EPZs as well as promoting investment in Bangladesh. Under this Act, BEPZA instructions I and II were

44 ILO, Decent Work Country Programme for Bangladesh, 2022–2026. https://www.ilo.org/wcmsp5/groups/public/---asia/---ro-bangkok/---ilo-dhaka/documents/publication/wcms_857815.pdf :13-14.

45 Ibid, 15.

46 Bangladesh Bureau of Statistics, Labour Force Survey 2016-2017. <https://mccibd.org/wp-content/uploads/2021/09/Labour-Force-Survey-2016-17.pdf> :96.

47 “Bangladesh hikes minimum wage for garment workers after protests”, November 8, 2023 Reuters. <https://www.reuters.com/world/asia-pacific/bangladesh-hikes-minimum-wage-garment-workers-after-protests-minister-2023-11-07/>

48 ILO, Decent Work Country Programme for Bangladesh, 2022–2026. https://www.ilo.org/wcmsp5/groups/public/---asia/---ro-bangkok/---ilo-dhaka/documents/publication/wcms_857815.pdf :11.

49 Anner, Mark, March 2020, “Abandoned? The Impact of Covid-19 on Workers and Businesses At the Bottom of Global Garment Supply Chains”. <https://www.workersrights.org/wp-content/uploads/2020/03/Abandoned-Penn-State-WRC-Report-March-27-2020.pdf>

introduced to ensure minimum labour standards in EPZs. However, these instructions provided arbitrary power to the employers in granting leaves and bonus, while restricting the rights of EPZ workers. The Act also fails to lay down any provision on maternity benefits or injury compensation to which they are legitimately entitled⁵⁰. Moreover, the absence of structured labour-management consultation and negotiation have been pointed out as preventing the workers participation in decision making⁵¹.

Occupational Safety and health

The Tazreen fashion factory fire in 2012 and the Rana Plaza collapse in 2013 have sparked debate over health and safety deficiencies in the country and the global garment industry. In May 2013, in the immediate aftermath of the Rana Plaza Building Collapse, The Accord on Fire and Building Safety in Bangladesh (the Accord) was established. The Accord introduced safety standards on construction and fire prevention for garment factories. It was progressively signed between mainly European brands and retailers (buyers) and both domestic and foreign labor unions. After major European apparel brands and other companies signed the agreement, making compliance with its standards became a fundamental criterion for choosing production facilities. With the same background and objectives as the Accord, the Alliance for Bangladesh Worker Safety (also known as the Alliance) was established in 2013 with the participation of buyers from the United States and Canada, as well as apparel and retail organisations, and has mainly served as a fire and building safety standard required for exports to the United States.

On May 20, 2020, the Accord was reorganized into the RMG Sustainability Council (RSC). The Council was established as a private organization led by the Bangladesh Garment Manufacturers and Exporters Association (BGMEA), which has about 4,500 members. From June 1 of the same year, RSC replaced Accord and took over the role of inspection and guidance of production plants with exports to Europe. The Accord's function as a safety standard was transferred to the International Accord for Health and Safety in the Textile and Garment Industry, which came into force on September 1, 2021. In addition to the existing agreements, it also mentions the possibility of emphasizing human rights due diligence efforts. As of the effective date, 80 apparel brands, mainly in Europe, and Fast Retailing, as a Japanese company, had signed the agreement⁵².

In addition, in 2017, the Remediation Coordination Cell (RCC) was established within the Ministry of Labour and Employment to monitor the remediation process for garment factories⁵³. The RCC will transition into an Industrial Safety element under a new Department of Inspections for Factories and Establishments Safety Unit and is envisaged to monitor industrial safety in all industries, including technical and legal supervision⁵⁴. This reform is also described in the National Action Plan on the Labour Sector of Bangladesh (2021–2026).

50 Chowdhury, Muhammod Shaheen, 2017, "Compliance With Core International Labor Standards in National Jurisdiction: Evidence from Bangladesh", *Labor Law Journal* : 84.

51 Md. Zohurul Islam and Sununta Siengthai, 2009, "Quality of Work Life and Organizational Performance: Empirical Evidence from Dhaka Export Processing Zone" ILO Conference on Regulating for Decent Work, Geneva, 1-19.

52 Fast Retailing, August 2023, "Fast Retailing Signs the Accord on Fire and Building Safety in Bangladesh", <https://www.fastretailing.com/eng/sustainability/news/1308081100.html>.

53 ILO, May 2017, "Remediation Coordination Cell for Bangladesh garment industry launched", https://www.ilo.org/dhaka/Informationresources/Publicinformation/Pressreleases/WCMS_553877/lang--en/index.htm

54 ILO, Decent Work Country Programme for Bangladesh, 2022–2026. https://www.ilo.org/wcmsp5/groups/public/---asia/---ro-bangkok/---ilo-dhaka/documents/publication/wcms_857815.pdf

3.1.3.4 Industrial relations

Freedom of association and right to organise

As introduced in 5.3.1.2 about Bangladesh's ratification of conventions, the country has ratified the Freedom of Association and Protection of the Right to Organise Convention (No. 87) and the Right to Organise and Collective Bargaining Convention (No. 98). However, the Committee of Experts on the Application of Conventions and Recommendations, one of the ILO's monitoring systems⁵⁵ for the application of conventions described in Chapter 2, has, in its regular discussions, expressed concerns about the application of the convention through legislation and policies in Bangladesh. In 2020, the Committee of Experts on the Application of Conventions and Recommendations' views on the application of the principles on the right to organise and collective bargaining point out that the standards required by the ILO Conventions are inadequately applied to Bangladesh's Labour Act. The recommendation specifically urged a simplification of the trade union formation application process and emphasized the need for social dialogue to establish a realistic minimum threshold (based on the percentage of workers in the enterprise) for union formation.⁵⁶ In 2023, it also called for heightened penalties against employers engaging in trade union discrimination and urged training for officials to transparently handle such discrimination complaints.⁵⁷

The EPZ Labour Act was enacted in 2019 to apply over export processing zones (EPZs)⁵⁸. While the Act gives EPZ workers a more favourable conditions in some areas compared to the labour rights of the workers outside of EPZ, some provisions restrict fundamental rights of workers, including the right of workers to organise and bargain collectively⁵⁹. Instead of trade unions, the workers in EPZs have Workers' Welfare Association (WWA). The ILO's CEACR Committee recommends that numerous provisions of the EPZ Labour Act related to the WWA be repealed or amended in order to give EPZ workers all the rights as in the ILO Convention No. 87^{60 61}.

This description of a series of measures to follow up on the views of the ILO General Conference and ILO supervisory bodies is found in the National Action Plan for the Labour Sector (2021-2026)⁶². Actions set out within the National Plan include bringing Bangladesh's Labour Act into compliance with ILO standards on freedom of association and collective bargaining and increasing the success rate of trade union registration

55 The ILO constantly reviews the application of its conventions and recommendations and has various mechanisms in place to facilitate ratification indirectly. For more information, visit the website. <https://www.ilo.org/tokyo/standards/supervisory-bodies/lang-ja/index.htm>

56 ILO, CEACR, Observation adopted 2020, published 109th ILC session (2021) Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87) – Bangladesh, https://www.ilo.org/dyn/normlex/en/f?p=1000:13100:0::NO:13100:P13100_COMMENT_ID,P13100_COUNTRY_ID:4060432,103500:NO

57 ILO, CEACR, Observation adopted 2023, published 112nd ILC session (2024), Right to Organise and Collective Bargaining Convention, 1949 (No. 98). https://www.ilo.org/dyn/normlex/en/f?p=1000:13100:0::NO:13100:P13100_COMMENT_ID,P13100_COUNTRY_ID:4367682,103500:NO

58 The EPZ Labour Rules were adopted in 2022.

59 Surya Deva and Golam Sarwar, 2023, Industry Preparedness in Bangladesh for Human Rights Due Diligence Laws Draft Report for ILO :26.

60 Surya Deva and Golam Sarwar, 2023, Industry Preparedness in Bangladesh for Human Rights Due Diligence Laws Draft Report for ILO :24.

61 ILO, CEACR, Observation - adopted 2022, published 111st ILC session (2023) Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87) - Bangladesh. https://www.ilo.org/dyn/normlex/en/f?p=1000:13100:0::NO:13100:P13100_COMMENT_ID,P13100_COUNTRY_ID:4322754,103500:NO

62 Ministry of Labour and Employment Government of the People's Republic of Bangladesh, 2021, National Action Plan (NAP) on the Labour Sector of Bangladesh (2021-2026). https://file-dhaka.portal.gov.bd/files/dife.tangail.gov.bd/notices/4a500c68_e58c_4c05_8358_54011150f753/0c2ef75f5a0f845ce1379deac6d89c6c.pdf :22.

applications. In harmony with this, the ILO and the Government of Bangladesh are also working on the Decent Work Country Programme to strengthen the capacity of tripartite partners and strengthen institutions and processes towards effective social dialogue, including collective bargaining.

3.2 Initiatives of the Government of Cambodia and Challenges in its Labour Sector

3.2.1 Overview of initiatives

In line with the two development visions to address socio-economic challenges in the country, the Government of Cambodia has implemented employment policies, social protection strategies and other measures, while enhancing the legal system to protect workers' rights. Cambodia's development vision is set out in the Pentagonal Strategy -Phase I for Growth, Employment, Equity, Efficiency and Sustainability: Building the Foundation Towards Realizing the Cambodia Vision 50⁶³ and the National Strategic Development Plan (NSDP) 2019-2023.⁶⁴ These strategies and plans provide guidance for national strategies and plans, in addition to the country's numerous laws and Prakas (ministerial ordinances). Labour related legislation that is consistent with this development vision includes the Labour Law, the Trade Union Law, the Social Security Law, the Social Protection Law, and the Law on Minimum Wage. These national strategies and plans also provides guidance to other areas covered in this section such as industrial development and employment, social protection strategies, Technical Vocational Education and Training (TVET), occupational health and safety, abolition of child labour, development of the garment sector, and worker skills development with a view to transitioning to a digital economy.

3.2.2 Status of ratification of treaties

Cambodia has ratified 8 of the 10 conventions of the ILO Fundamental Labour Conventions. Unratified core labour conventions are the Occupational Safety and Health Convention, 1981 (No. 155) and the Promotional Framework for Occupational Safety and Health Convention, 2006 (No. 187). Even if not ratified, Cambodia is obliged to respect, promote and fulfil fundamental principles and rights at work in all five sectors in line with the ILO Declaration on Fundamental Principles and Rights at Work of 1998.

63 Royal Government of Cambodia, 2023, Pentagonal Strategy -Phase I for Growth, Employment, Equity, Efficiency and Sustainability: Building the Foundation Towards Realizing the Cambodia Vision 50. <https://mfaic.gov.kh/files/uploads/1XK1LW4MCTK9/EN%20PENTAGONAL%20STRATEGY%20-%20PHASE%20I.pdf>

64 Royal Government of Cambodia, National Strategic Development Plan (NSDP) 2019-2023. https://data.opendatacambodia.net/laws_record/national-strategic-development-plan-nsdp-2019-2023/resource/bb62a621-8616-4728-842f-33ce7e199ef3

► Figure 3-2 Cambodia's ratification of the ILO's core labour standards (as of May 2023)

Field	Core labour standards Convention name	Status of ratification
Effective recognition of freedom of association and the right to collective bargaining	Freedom of Association and Protection of the Right to Organise Convention, 1948 (No.87)	August 1999
	Right to Organise and Collective Bargaining Convention, 1949 (No.98)	August 1999
Elimination of forced labour	Forced Labour Convention, 1930 (No.29)	February 1969
	Abolition of Forced Labour Convention, 1957 (No.105)	August 1999
Abolition of child labour	Minimum Age Convention, 1973 (No.138)	August 1999
	Worst Forms of Child Labour Convention, 1999 (No.182)	March 2006
Elimination of discrimination in employment and occupation	Equal Remuneration Convention, 1951 (No.100)	August 1999
	Discrimination (Employment and Occupation) Convention, 1958 (No.111)	August 1999
Safe and healthy work environment	Occupational Safety and Health Convention, 1981 (No.155)	Unratified
	Promotional Framework for Occupational Safety and Health Convention, 2006 (No.187)	Unratified

Source: Compiled from the website on the status of ratification of the ILO Conventions⁶⁵

3.2.3 Decent work issues and government initiatives

This section presents not only the status of ratification of the ILO conventions, but also some of the policies, legislation, regulations and rulings that the Government of Cambodia is pursuing to promote the protection of human rights, especially in the field of labour, using the framework of the MNE Declaration. These measures introduced are priority items for improvement by the ILO and the Cambodian government.

3.2.3.1 Employment

Employment promotion

Cambodia's labour force participation rate is high and unemployment is low compared with global average.⁶⁶ Underpinning Cambodia's workforce profile are systemically high levels of informality and vulnerability. Workers in the country's informal sector account for approximately 80 per cent of all workers. According to the statistics by the World Bank, GDP per capita in Cambodia increased from USD 950 in 2012 to USD 1,760 in 2022⁶⁷, an UN study in 2018 showed that workers in the informal sector remained vulnerable⁶⁸. This high level of vulnerability stems from unstable employment of workers in the informal sector, which is not adequately protected by laws and social protection measures.

In addition, young workers under the age of 18 are also highly vulnerable and they are up to three times more likely to be unemployed than adults.⁶⁹ Young women find it harder than young men to reach higher levels

65 ILO, NORMLEX Ratification for Cambodia. https://www.ilo.org/dyn/normlex/en/f?p=NORMLEXPUB:11200:0::NO::P11200_COUNTRY_ID:103055

66 According to estimates by the ILO, the labour participation rate in Cambodia was 81.4% (2023) and 60.8% (2023) globally. The unemployment rate was estimated at 0.4% (2019) in Cambodia and 5.1% (2023) globally. ILO, ILO stat explorer. <https://ilostat.ilo.org/data/>

67 The World Bank. <https://data.worldbank.org/indicator/NY.GDP.PCAP.CD?locations=KH>

68 UN Country Team Cambodia, 2018, Common Country Assessment, 2019-2023.

69 National Institute of Statistics, Ministry of Planning, 2019, Report on the Cambodia Labour Force Survey 2019. https://www.ilo.org/wcmsp5/groups/public/---asia/---ro-bangkok/documents/publication/wcms_821320.pdf :72.

of education; and high levels of youth internal and international migration for unskilled work, often without proper legal identification and protection, exposes them to risk of abuse and discrimination at the workplace, as well as social exclusion in general⁷⁰.

One factor contributing to this vulnerability faced by informal sector workers and young workers is due to the narrow base of the economy, which remains dependent on the garment export sector, tourism, rice and construction. Through the Industrial Development Policy (IDP) 2015-2025 and the National Employment Policy (NEP) 2015-2025, the Cambodian government aims to transform Cambodia's industrial structure from low value-added, low wage, and labor intensive to a skills-driven economy, setting targets in the areas of labor market development, labor relations, and skills and human resource development^{71 72}.

Equality of opportunity and treatment

Cambodian government's national policies and strategies regard gender equality as an important item. In support of this, Cambodia is a signatory to international human rights conventions that address women's human rights, including the Convention for the Elimination of all forms of Discrimination against Women (CEDAW) and its Optional Protocol. Cambodia has furthermore ratified ILO Conventions C100 (Equal Remuneration, 1951) and C111 (Discrimination, Employment and Occupation, 1958). Gender equality is enshrined in Cambodia's constitution and underpinned by Neary Rattanak IV, the five-year strategic plan (2014 – 2018)⁷³ for Gender Equality and the Empowerment of Women.

On the other hand, it has been noted that women's participation is limited in the country, especially in political representation, leadership roles and economic opportunities. Cambodia remained ranked 92nd out of 144 countries in the 2023 Gender Gap report, with a score of 0.695, placing it 10th out of 18 countries in the Asia-Pacific region.⁷⁴ Cambodian women have a lower labour force participation rate than men, and their employment is concentrated in low value and low skill sectors. Furthermore, women tend to have lower wage and salary levels for work of equal value than men. In addition, gender disparities are also observed in senior employment opportunities, with women occupying just over 30 per cent of management positions.⁷⁵ Gender disparities in these economic opportunities are reflected in differences in monthly income; for example, the median monthly income of men working in services and sales is 1 million Cambodian riel (KHR) (USD 247), compared to KHR 860,000 (USD 212) for women.⁷⁶

In the garment sector, insufficient protection of the rights of pregnant women and harassment have been identified as factors that hinder women's success. Specifically, cases continue to be reported of illegal discriminatory actions, including job termination of pregnant workers under short-term work contracts. In

70 UNited For Youth Employment in Cambodia, 2017, United Nations Joint Programme Document, Phnom Penh

71 ILO, 2019, Kingdom of Cambodia Decent Work Country Programme 2019-2023. https://www.ilo.org/wcmsp5/groups/public/---ed_mas/---program/documents/genericdocument/wcms_711728.pdf :20

72 Royal Government of Cambodia, Cambodia Industrial Development Policy 2015 – 2025, retrieved from https://www.eurocham-cambodia.org/uploads/97dae-idp_19may15_com_official.pdf

73 Ministry of Women's Affairs, Cambodia, Neary Rattanak IV, The Five-Year Strategic Plan (2014 – 2018) for Gender Equality and the Empowerment of Women in Cambodia. https://www.undp.org/sites/g/files/zskgke326/files/migration/kh/Cambodian-Gender-Strategic-Plan---Neary-Rattanak-4_Eng.pdf

74 World Economic Forum, Global Gender Gap Report 2023. https://www3.weforum.org/docs/WEF_GGGR_2023.pdf

75 National Institute of Statistics, Ministry of Planning, 2019, Report on the Cambodia Labour Force Survey 2019. https://www.ilo.org/wcmsp5/groups/public/---asia/---ro-bangkok/documents/publication/wcms_821320.pdf :72

76 Ibid, 74.

addition, violence and harassment have also been identified as issues. As indicated by data produced by the annual reports of the ILO Better Factories Cambodia programme, sexual harassment remains an important as an issue that needs to be addressed, it also points out that harassment and violence in the workplace often go unreported⁷⁷.

The UN Committee on the Elimination of Discrimination against Women, in its examination of the sixth periodic report by the Cambodian government regarding the Convention on the Elimination of All Forms of Discrimination against Women in 2019 recommended that the State party “Adopt and implement comprehensive legislation to prevent and respond to violence and harassment, including sexual harassment, in the workplace, and establish an independent complaints mechanism to ensure that victims have effective access to redress and that perpetrators are held accountable”.⁷⁸ Furthermore, 42 civil society organizations have issued a joint statement calling on the government to ratify the ILO Violence and Harassment Convention, 2019 (No. 190).⁷⁹

Child labour

The Cambodian government is actively addressing the issue of child labour. At the IVth Global Conference on the Sustained Eradication of Child Labour (2017), the Royal Government of Cambodia pledged to accelerate efforts to eradicate all forms of child labour in line with the National Plan of Action on Reduction in Child Labour and Elimination of Worst Form of Child Labour 2016-2025, SDG 8.7 and ILO Minimum Age Convention, 1973 (No. 138) and ILO Worst Forms of Child Labour Convention, 1999 (No. 182).

Although several policies have been applied to eradicate child labour as described above, child labour remains a serious issue more broadly, driven by poverty and fuelled by challenges in accessing basic education and the often poor quality of schooling and low completion rates.⁸⁰ In 2022, with regards to the implementation of the Minimum Age Convention 1973 (No. 138), the Committee of Experts on the Application of Conventions and Recommendations, which examines the application of ILO Conventions and Recommendations, has also requested the Cambodian government to continue its efforts to strengthen the labour inspection services to enable them to effectively monitor and detect cases of child labour, including children working on their own account or in the informal economy.⁸¹

In the garment and footwear sector, the ILO Better Factories Cambodia reports showed a significant decrease in the number of child labor identified, with 74 cases in the reporting period May 2013 - April 2014, compared to 10 cases in the period May 2017 - June 2018.⁸²

77 ILO Better Factories Cambodia, Annual Report 2018 an industry and Compliance Review, <https://betterwork.org/reports-and-publications/better-factories-cambodia-annual-report-2018-an-industry-and-compliance-review/>

78 The UN Committee on the Elimination of Discrimination against Women, Concluding observations on the sixth periodic report of Cambodia, CEDAW/C/KHM/CO/6. <https://documents.un.org/doc/undoc/gen/n19/363/06/pdf/n1936306.pdf?token=aAQsLHAIUq8pOFLtqg&fe=true> :Para 37 (d)

79 “CSOs urge labour standards”, 22 June 2021, The Phnom Penh Post. <https://www.phnompenhpost.com/national/csos-urge-labour-standards>

80 ILO, 2019, Kingdom of Cambodia Decent Work Country Programme 2019-2023. https://www.ilo.org/wcmsp5/groups/public/---ed_mas/---program/documents/genericdocument/wcms_711728.pdf :25.

81 ILO Committee of Experts on the Application of Conventions and Recommendations (CEACR), Observation - adopted 2022, published 111st ILC Session (2023) Minimum Age Convention 1973 (No.138). https://www.ilo.org/dyn/normlex/en/f?p=1000:13100:0::NO:13100:P13100_COMMENT_ID,P13100_COUNTRY_ID:4297015,103055

82 ILO Better Factories Cambodia, Annual Report 2018 - an industry and Compliance Review, <https://betterwork.org/reports-and-publications/better-factories-cambodia-annual-report-2018-an-industry-and-compliance-review/>

3.2.3.2 Training

At the same time as raising the level of education of the working-age population, Cambodia has also put systems in place in terms of Technical and Vocational Education and Training (TVET) to improve practical and vocational skills and competencies. According to the Policy on Labour Migration in Cambodia 2019-2023, a policy report published by the Government of Cambodia, the number of people with secondary and higher education in the country doubled from 2013 to 2017.⁸³ In addition, the government is developing mechanisms such as technical and vocational education and training systems and the development of qualifications. In particular, under the National Technical and Vocational Education and Training Policy 2017-2025, the government has taken steps to close the skills gap and prepare for the country's transition to a high value-added economy.⁸⁴

Despite the promotion of such initiatives, the inequalities between the occupational skills of the country's workers and the demands of the labour market are a problem. The constraints caused by low skill levels in the Cambodian workforce are highlighted by employers as the second most severe obstacle for the operation of manufacturing enterprises, according to the 2016 World Bank Group Enterprise survey.⁸⁵ The level of job-skill mismatch indicated from the following figures are high, with only 31 per cent of youth in Cambodia in jobs that match their qualifications. Under-qualification is most severe in the industry sector, with 64 per cent of youth under-qualified for the jobs available.

The problem of imbalanced occupational skills stems from the potential of TVET being vastly underutilized. Out of the 250,000 post-secondary graduates in 2014, only three per cent are from technical and vocational fields such as agriculture, science and engineering, indicating that TVET has not been able to address the skills shortage problem in these areas. Skills constraints are likely to intensify as Cambodia moves towards more "knowledge economy" jobs, with a growing demand for digital literacy as well as soft skills in areas including leadership. The ILO and the Government continue to work to improve workers' skills and competencies so that more women, men, youth and vulnerable groups could meet the labour market needs in the context of the 4th Industrial Revolution.⁸⁶

3.2.3.3 Wages, benefits and conditions of work

The National Social Protection Policy Framework (NSPPF, 2016-2025) provides overarching guidance for the Social Protection system in Cambodia. The NSPPF brings together contributory and non-contributory schemes under one policy document. Currently, among the Social Assistance schemes are the vocational trainings for the youth from poor and vulnerable households, as well as cash transfers for Pregnant Women and Young Children, Persons with Disabilities. The Social Security schemes provide medical services, sickness benefits, maternity benefits, employment injury protection, and pensions.

Despite the broad lifecycle coverage, social protection provision remains highly fragmented, receives only a

83 Kingdom of Cambodia, 2018, Policy on Labour Migration for Cambodia 2019-2023. <https://asean.org/wp-content/uploads/2021/12/1.-Labour-Migration-Policy-2019-2023.pdf> :10

84 The Royal Government of Cambodia, 2017, National Technical Vocational Education and training policy 2017-2025. https://data.opendevelopmentcambodia.net/en/dataset/bd098176-606f-4665-938d-6abd02f1a2c1/resource/6e0bba9d-8a8a-4d7f-b76a-60c4c06c660d/download/ntvet-policy-2017-2025.eng_.pdf

85 Ibid, 21.

86 ILO, 2019, Kingdom of Cambodia Decent Work Country Programme 2019-2023. https://www.ilo.org/wcmsp5/groups/public/---ed_mas/---program/documents/genericdocument/wcms_711728.pdf

small proportion of current government expenditure, and is based on a system that protects and the most vulnerable and the formal economy only, leaving a large unprotected gap in the “missing middle”. The low coverage among the vast majority of workers in informal employment leaves them extremely vulnerable to lifecycle shocks (such as illness, injury, unemployment, death of a family member, etc.) and economic downturns.

To remedy this situation, the Government of Cambodia aims to continue implementing initiatives in line with the newly drafted National Social Protection Policy Framework Vision 2030 and to adopt a strategic approach to formalization.

Occupational Safety and health

The Government of Cambodia strives to provide workers with appropriate health and safety standards, and this effort is supported by the country’s related regulations and documents. These include Chapter 8 of the Labour Law, 25 ministerial regulations concerning occupational safety and health (OSH) in garment, service and construction sectors, relevant regulations and guidelines issued by the Ministry of Labour and Vocational Training, and the 2nd National OSH Master Plan (2018-2022).⁸⁷ In addition, priority has been given to the development of national occupational safety and health legislation and policy framework under the Decent Work Country Programme (2019-2023).⁸⁸

On the other hand, Cambodia has not ratified ILO fundamental conventions on OSH, namely, the Occupational Safety and Health Convention, 1981 (No. 155) and the Promotional Framework for Occupational Safety and Health Convention, 2006 (No. 187).⁸⁹ Efforts are underway to ratify these conventions under the Decent Work Country Programme (2019-2023) mentioned above.⁹⁰

Reliable OSH data, such as data on occupational injuries and diseases, has not been comprehensively collected in Cambodia, yet significant health and safety problems have been noted in the garment, footwear and construction industries. In the garment and footwear industry, for example, the ILO Better Factories Cambodia factory assessments reveals that OSH compliance violations remain high.⁹¹ Specific violations reported, include failure to meet standards such as adequate lighting (93% of all factories), adequately equipped and staffed infirmary (85%), assessment of workplace hazards (65%), allowable temperature and ventilation (65%), implementation of assessment of overall OSH issues (64%), worker-management collaboration on OSH (64%), adequate OSH policies (62%), and pre-employment medical examinations (62%).

3.2.3.4 Industrial relations

Freedom of association and right to organise

Cambodia has ratified the 1948 Convention on Freedom of Association and Protection of the Right to

87 Sothary, S., 2021, The Current Situation of OSH Development in Cambodia. <https://www.jisha.or.jp/international/pdf/cambodia2021.pdf>

88 ILO, 2019, Kingdom of Cambodia Decent Work Country Programme 2019-2023. https://www.ilo.org/wcmsp5/groups/public/---ed_mas/---program/documents/genericdocument/wcms_711728.pdf :24

89 ILO, Up-to-date conventions and protocols not ratified by Cambodia, NORMLEX. https://www.ilo.org/dyn/normlex/en/f?p=NORMLEXPUB%3A11210%3A0%3A%3ANO%3A%3AP11210_COUNTRY_ID%3A103055

90 ILO, 2019, Kingdom of Cambodia Decent Work Country Programme 2019-2023. https://www.ilo.org/wcmsp5/groups/public/---ed_mas/---program/documents/genericdocument/wcms_711728.pdf :24

91 Ibid.

Organize (No. 87). The Labour Law and Trade Union Law are the two core legislative instruments to enforce the standards set forth in the Convention. The Labour Law has undergone periodic revisions since 1997, and revisions to the Trade Union Law (2016) in 2019 were in response to the concerns of unions and other stakeholders on difficulties in obtaining registration and most representative status (MRS) status, as well as on the protection of union leaders and members against harassments.

Despite the ratification of the above-mentioned Convention 87 (Convention on Freedom of Association and Protection of the Right to Organize, 1948) and repeated legislative amendments, discrimination against trade union members is still observed in Cambodia. The ILO has a system for monitoring the application of conventions and recommendations in each country. One of these, the Conference Committee on the Application of Standards⁹², sent a mission (a direct contact mission) to Cambodia in March 2017 to identify concerns regarding the implementation of the Freedom of Association and Protection of the Right to Organise Convention. The Committee then developed a road map for strengthening convention application and monitoring in Cambodia⁹³. In this roadmap, it was hoped that the revision of the Trade Union Act 2019 would address one of the concerns: discrimination against trade union members. However, the Observation by the Committee of Experts on the Application of Conventions and Recommendations, which was issued in 2021 following the revision of the Act, continues to point out the existence of discrimination against trade union members in the country⁹⁴. Furthermore, in the discussion of Committee of Application of Standards 2023, the committee expressed deep concerns over the continued use of national legislation, including the Penal Code, to prosecute individuals expressing political or ideologically opposing views, as well as those participating in strikes.⁹⁵

Collective bargaining

Cambodia has ratified the Right to Organise and Collective Bargaining Convention, 1949 (No. 98), which, similar to the above-mentioned Freedom of Association and Protection of the Right to Organise Convention, 1948 (No.87) has been the subject of remarks by the Committee of Experts on the Application of Conventions and Recommendations.

The Committee of Experts on the Application of Conventions and Recommendations notes that the number of collective bargaining agreements in Cambodia remains limited.⁹⁶ Collective bargaining agreements are concluded as a result of collective bargaining; that is, as a result of voluntary processes that determine working conditions and regulate relations between workers (trade unions) and employers (employers' associations).⁹⁷ However, many of the collective bargaining agreements recorded in Cambodia were

92 The ILO constantly reviews the application of its conventions and recommendations and has various mechanisms in place to facilitate ratification indirectly. For more information, visit the website. ILO supervisory system/mechanism

93 ILO, 2019, Kingdom of Cambodia Decent Work Country Programme 2019-2023. https://www.ilo.org/wcmsp5/groups/public/---ed_mas/---program/documents/genericdocument/wcms_711728.pdf :23

94 ILO Normlex, Comments adopted by the CEACR: Cambodia. https://www.ilo.org/dyn/normlex/en/f?p=1000:13201:::NO:13201:P13201_COUNTRY_ID:103055

95 ILO, Normlex, Individual Case CAS, Discussion: 2023, Publication: 111st ILC session (2023) -Abolition of Forced Labour Convention, 1957 (No. 105) Cambodia. https://www.ilo.org/dyn/normlex/en/f?p=NORMLEXPUB:13100:0::NO::P13100_COMMENT_ID,P13100_COUNTRY_ID:4348240,103055

96 ILO Committee of Experts on the Application of Conventions and Recommendations (CEACR), Observation - adopted 2020, Right to Organise and Collective Bargaining Convention, 1949 (No. 98) – Cambodia, https://www.ilo.org/dyn/normlex/en/f?p=NORMLEXPUB:13100:0::NO::P13100_COMMENT_ID,P13100_COUNTRY_ID:4057896,103055

97 ILO Helpdesk: Q&A on Collective Bargaining https://www.ilo.org/empent/areas/business-helpdesk/faqs/WCMS_DOC_ENT_HLP_CB_FAQ_EN/lang--en/index.htm

concluded in the process of resolving specific disputes and not as a result of voluntary collective bargaining between workers and employers. Collective bargaining is practiced by some larger hotels, garment factories, and service enterprises, but generally remains rare in most sectors.⁹⁸

In view of this situation, the ILO and the Government of Cambodia are working through the Decent Work Country Programme (2019-2023) to promote social dialogue among workers, employers and government representatives in the country and to further strengthen disputes resolution channels, such as enhancing the effectiveness of the national complaints mechanisms⁹⁹.

3.3 Initiatives of the Government of Viet Nam and Challenges in its Labour Sector

3.3.1 Overview of Initiatives

The Party and State have paid attention to leading, directing, and creating positive changes to ensure sustainable jobs, improving working conditions, and raising living standards. These efforts include Central Party Committee Resolution 27 on wage reforms; Resolution 28 on social insurance reforms; Party Secretariat Directive No. 37 on strengthening leadership for the development of harmonious, stable and advanced industrial relations in the new situation; Resolution 02-NQ/TW dated 12 June 2021 of the Politburo on reforming the operations of the VGCL¹⁰⁰ in the new situation; the Prime Minister's 2021 Directive No. 16 on ensuring decent work, raising living standards. Compared to five years ago, the number of employed workers increased by 26 per cent, of which stable jobs and incomes increased steadily; workers' lives have increasingly improved; working conditions, occupational safety and health have been emphasized.¹⁰¹

3.3.2 Status of ratification of treaties

Viet Nam has to date ratified 9 out of the 10 ILO Fundamental Conventions. The remaining convention is Convention No. 87 on Freedom of Association and Protection of the Right to Organise, but the country is obliged to respect, promote and fulfil fundamental principles and rights in all five sectors of labour in line with the ILO Declaration on Fundamental Principles and Rights at Work, 1998. The Government has reaffirmed its commitment to the 1998 Declaration in the CPTPP and in the agreed FTA with the EU, pledging to give serious consideration to ratification of the remaining Fundamental Convention. Ratification of No. 87 on Freedom of Association and Protection of the Right to Organise was targeted for 2023 but the study and preparation are still being taken by the Government.

98 ILO, 2019, Kingdom of Cambodia Decent Work Country Programme 2019-2023. https://www.ilo.org/wcmsp5/groups/public/---ed_mas/---program/documents/genericdocument/wcms_711728.pdf :23

99 ILO, 2019, Kingdom of Cambodia Decent Work Country Programme 2019-2023. https://www.ilo.org/wcmsp5/groups/public/---ed_mas/---program/documents/genericdocument/wcms_711728.pdf :46

100 VGCL, entrusted with the representation of the interests of workers, is a sole and unified trade union organisation in Viet Nam. It is made up of the 18 National Industrial Unions and Federations of Labour in all 63 cities and provinces under the Central Government and has a membership of over 6 million. ILO, Workers and Employers Organizations in Viet Nam. <https://www.ilo.org/hanoi/Areasofwork/workers-and-employers-organizations/lang--en/index.htm>

101 ILO, Decent Work Country Programme Viet Nam 2022 - 2026 The future of work we create. https://www.ilo.org/wcmsp5/groups/public/---asia/---ro-bangkok/---ilo-hanoi/documents/publication/wcms_872736.pdf :5

► Chart 3-3 Viet Nam's ratification of the ILO's core labour standards (as of December 2023)

Field	Core labour standards Convention name	Status of ratification
Effective recognition of freedom of association and the right to collective bargaining	Freedom of Association and Protection of the Right to Organise Convention, 1948 (No.87)	Not ratified
	Right to Organise and Collective Bargaining Convention, 1949 (No.98)	July 2019
Elimination of forced labour	Forced Labour Convention, 1930 (No.29)	March 2007
	Abolition of Forced Labour Convention, 1951 (No.105)	July 2020
Abolition of child labour	Minimum Age Convention, 1973 (No.138)	June 2003
	Worst Forms of Child Labour Convention, 1999 (No.182)	December 2000
Elimination of discrimination in employment and occupation	Equal Remuneration Convention, 1951 (No.100)	October 1997
	Discrimination (Employment and Occupation) Convention, 1958 (No.111)	October 1997
Safe and healthy work environment	Occupational Safety and Health Convention, 1981 (No.155)	October 1994
	Promotional Framework for Occupational Safety and Health Convention, 2006 (No.187)	May 2014

Source: Compiled from the website on the status of ratification of the ILO Conventions¹⁰²

3.3.3 Initiatives in the Labour Sector and Decent Work Issues

This section presents not only the status of ratification of the ILO conventions, but also some of the policies, legislation, regulations and rulings that the Government of Viet Nam pursuing to promote the protection of human rights, especially in the field of labour, using the framework of the MNE Declaration.. These measures introduced are priority items for improvement by the ILO and the Vietnamese government.

3.3.3.1 Employment

Social security

The country is focusing on strengthening and expanding social security systems with the long-term goal of providing social protection for all. Goals include extending social insurance to informal economy workers; improving the enforcement of the Social Insurance Law and its related regulatory framework; addressing gender equality issues and expanding and improving social health protection.

Despite these efforts, since responsibilities for implementing the many programmes of social protection fall on several state agencies, social protection is left fragmented, unequal, and incomplete, presenting coverage gaps for some of the most vulnerable groups of the population.¹⁰³ As for social health insurance, while coverage for women and men is certainly high, existing data suggests that there are gender gaps and inequalities in benefits.¹⁰⁴

To address this situation, the ILO and the Vietnamese government are working to ensure that the national social protection system is inclusive, integrated, consistent, adaptable to people's life cycles, applies a risk-

102 ILO, NORMLEX Ratification for Viet Nam. https://www.ilo.org/dyn/normlex/en/f?p=NORMLEXPUB:11110:0::NO::P11110_COUNTRY_ID:103004

103 Decent Work Country Programme Viet Nam 2022 - 2026 The future of work we create. https://www.ilo.org/wcmsp5/groups/public/---asia/---ro-bangkok/---ilo-hanoi/documents/publication/wcms_872736.pdf:10

104 Ibid, 7.

based, resilient and gender-responsive approach, and aims to meet the needs of the most vulnerable.¹⁰⁵

Elimination of forced or compulsory labour

Viet Nam has adopted several laws and measures on forced labour and trafficking in persons (TIP). The revised Labour Code in 2019 includes clearer provisions and greater protection for workers without labour contracts. Article 69 of the law concerning Contract-based Vietnamese overseas workers¹⁰⁶, removed obligatory brokerage fees and expanded worker protection including the right to unilaterally terminate a contract.¹⁰⁷

Despite these and other provisions, practices in respect of human trafficking for sexual and labour exploitation, especially of women and children, continues to be of serious concern. To address this situation, the ILO and the Vietnamese government are making continuous efforts to strengthen national laws, policies and monitoring mechanisms to prevent and combat human trafficking and migrant smuggling, clarify the definition of human trafficking that is unclear when compared with international standards, identify victims, and to strengthen inter-sectoral cooperation. In addition, the government, together with the ILO, is working to ensure equitable access to the protection system for victims, witnesses and other vulnerable groups, particularly immigrants, women and children.

Equality of opportunity and treatment

Viet Nam has made significant progress in reducing gender disparities over the last three decades. The gap in labour force participation and earnings has narrowed considerably. Viet Nam has a high female participation rate in the labour force as compared with the global average. In the aggregate, the gender gap in earnings is lower in Viet Nam than in many other East Asian countries, reduced from 25 per cent in 2009 to 13 per cent currently. More and more women are in business managerial positions and run their own businesses, although the proportion is significantly less than men.¹⁰⁸

Labour market participation of women is remarkably high in Viet Nam. Nevertheless, such a high level of female economic activity may be mistaken as an indicator of relatively limited gender inequality in the country. ILO research in 2020 shows that women in Viet Nam carry a disproportionate double burden, and they face multiple and persistent inequalities.¹⁰⁹ With regard to dependence on vulnerable forms of employment outside the home, women are on average found in lower-quality employment than men, more likely than men to be found in vulnerable employment, which is characterized by instability and offering limited social

105 Outcome 2.1 The national social protection and social care system are inclusive, coherent, and integrated, applying life cycle, risk informed, resilient and gender responsive approaches with a focus on meeting the needs of the most vulnerable people.

106 No 72/2006/QH11, Vietnamese Workers Working Abroad Under Contract Art. 69. <https://asean.org/wp-content/uploads/2016/08/EN--Law-on-sending-Vietnamese-worker-to-work-overseas.pdf>

107 ILO, Decent Work Country Programme Viet Nam 2022 - 2026 The future of work we create. https://www.ilo.org/wcmsp5/groups/public/---asia/---ro-bangkok/---ilo-hanoi/documents/publication/wcms_872736.pdf :13

108 Only 22.4 per cent among the top private sector managers are women and only 31.6 per cent of enterprises were female owned in 2018. ILO, Decent Work Country Programme Viet Nam 2022 - 2026 The future of work we create. https://www.ilo.org/wcmsp5/groups/public/---asia/---ro-bangkok/---ilo-hanoi/documents/publication/wcms_872736.pdf :6.

109 Barucci, V., Cole, W. & Gammarano, R. 2021. Research Brief: Gender and the labour market in Viet Nam, An analysis based on the Labour Force Survey, https://www.ilo.org/wcmsp5/groups/public/---asia/---ro-bangkok/---ilo-hanoi/documents/publication/wcms_774434.pdf.

security benefits. According to 2019 data, they complete a disproportionate amount of family responsibilities compared to men. They spend twice as many hours as men in activities producing services for their own households. Close to 20 per cent of men report they do not spend any time in these activities at all.¹¹⁰ A lack of public or affordable childcare, and the burden of unpaid care work also presents limitations in the type and security of jobs that women generally have access to.¹¹¹

Women tend to earn less than men, despite comparable working hours and the progressive elimination of gender gaps in educational achievement. The pay gap between men and women is estimated to be even bigger in jobs requiring higher levels of education. Men with vocational training have an income 15 per cent higher than females with the same level of educational attainment. There is a gap in educational quality between men and women, particularly in rural areas. Only 29 per cent of rural women have access to vocational training compared to 40 per cent of rural men.¹¹²

Viet Nam has passed important laws and policies to improve gender equality. It has made commitments for gender equality in national strategies and action plans. The revised Labour Code in 2019 has added and reinforced provisions on non-discrimination and women's labour rights such as a reduction of the difference in retirement age between men and women, strengthening parental leave for both parents, and tightening the definition of sexual harassment in the workplace. Female workers have the right to decide for themselves whether to engage in work that may have negative impacts on their reproductive health, as opposed to previously prohibited by law.¹¹³ The new National Strategy for Gender Equality (NSGE), for the period 2021-2030, has been approved¹¹⁴; and strategically outlines target areas to remedy remaining gaps in gender equality and guide the implementation of the Gender Equality Law over the next ten years. Viet Nam is also working with the ILO to transform sociocultural attitudes and practices, accountability, laws and policy frameworks to eliminate gender-based violence and all forms of abuse, exploitation and discrimination against vulnerable groups.¹¹⁵

3.3.3.2 Training

Viet Nam has achieved extraordinary success on many education indicators, such as enrollment rates in primary and secondary education. On the other hand, with regard to technical and vocational education and training (TVET), there is a need to improve its relevance to the job market and expand equitable access to tertiary education. This is a crucial step in upskilling the majority of the labour force in Viet Nam who are locked in unskilled or low-skilled job sectors.

The proportion of trained employed workers, the combination of workers with either formal vocational education or tertiary education, has been increasing steadily. Still, Viet Nam has experienced slow growth in

110Ibid, 8.

111ILO, Decent Work Country Programme Viet Nam 2022 - 2026 The future of work we create. https://www.ilo.org/wcmsp5/groups/public/---asia/---ro-bangkok/---ilo-hanoi/documents/publication/wcms_872736.pdf :6.

112Ibid, 7.

113Ibid, 6.

114Resolution 28/NQ-CP, 3 March 2021, <https://english.luatvietnam.vn/resolution-no-28-nq-cp-dated-march-03-2021-of-the-government-on-promulgation-of-the-national-strategy-on-gender-equality-in-the-period-of-2021-203-199301-doc1.html>

115ILO, Decent Work Country Programme Viet Nam 2022 - 2026 The future of work we create. https://www.ilo.org/wcmsp5/groups/public/---asia/---ro-bangkok/---ilo-hanoi/documents/publication/wcms_872736.pdf :6.

tertiary enrolment rates compared with regional neighbors.¹¹⁶ In addition, the increase in the share of trained labour is mostly attributable to higher numbers of individuals completing tertiary education. The increase in the share of workers with formal TVET education has been increasing at an even slower rate.

Another challenge in the country is the misalignment between workers' qualifications and the skills demanded in the workplace. An analysis of qualification mismatches reveals that the high-skilled jobs in Viet Nam are performed by individuals who have completed a level of education that matches the job's requirements. But the same does not apply to medium-skilled jobs. For example, in 2019, more than one-half of all medium-skilled jobs in Viet Nam were performed by individuals without a matching level of qualifications.¹¹⁷ Overall, almost 40 per cent of workers in Viet Nam are undereducated for the jobs they do. If the trend continues, the overall share of the labour force above 15 years of age with a tertiary education degree will only increase marginally by 2050 and the country will face potential skills shortages as it attempts to expand industrialisation¹¹⁸.

To address the mismatch between the qualifications these workers have and the skills their workplaces demand, the government is reforming Viet Nam's education system with the goal of providing quality education and learning, and equipping all children, adolescents, youth and adults with relevant learning, transferable skills and digital skills¹¹⁹.

3.3.3.3 Wages, benefits and conditions of work

With the revision of the Labour Code in 2019 and improved implementation of the Code, realisation of rights at work and decent work are expected to improve. Labour inspection institutions are targeted for strengthening for them to contribute effectively to the promotion and enforcement of workers' rights. Efforts are needed in wide range of areas, including the supervision of formal and informal agricultural workplaces and cooperatives. As of mid-2022, the total number of inspectors specializing in labour, war invalids and social affairs across the whole country was 456. They included staff of MOLISA, inspectors of three agencies assigned to perform specialized inspections, namely the Department of Overseas Labour Management, Department of Labour Safety, and the General Department of Vocational Education. The inspectors also perform many other tasks, beyond their activities in the field of labour.¹²⁰ A Master Plan 2020 for the improvement of labour inspections¹²¹ has been formulated and the country has been taking steps to improve its labor supervision. The Labour Inspection Convention, 1947 (No. 81) is ratified in Viet Nam; international supervisory bodies¹²² provide important comments on the need to improve efforts to fully apply international standards.¹²³

116 From 1990 to 2016, Viet Nam's gross enrolment ratio in tertiary education grew tenfold from 2.7% to 28.3%.

However, the ratio remains below that of other countries in the region, notably Thailand (49.3%), China (49.1%), Malaysia (41.9%) and Indonesia (36.3%). OECD, Multi-dimensional Review of Vietnam. https://www.oecd-ilibrary.org/development/multi-dimensional-review-of-viet-nam_367b585c-en :208-209.

117 ILO, 2019. Decent work and the sustainable development goals in Viet Nam: Country profile, https://www.ilo.org/wcmsp5/groups/public/---asia/---ro-bangkok/---ilo-hanoi/documents/publication/wcms_730825.pdf.

118 ILO, Decent Work Country Programme Viet Nam 2022 – 2026 The future of work we create. https://www.ilo.org/wcmsp5/groups/public/---asia/---ro-bangkok/---ilo-hanoi/documents/publication/wcms_872736.pdf :9.

119 Ibid, 32.

120 Ibid, 13.

121 A Master Plan 2020 for the improvement of labour inspections

122 ILO regularly examines the application of conventions and recommendations and has various systems in place for facilitating ratification on the side. For more details, refer to the website. (<https://www.ilo.org/tokyo/standards/supervisory-bodies/lang-ja/index.htm>)

123 ILO, Decent Work Country Programme Viet Nam 2022 - 2026 The future of work we create. https://www.ilo.org/wcmsp5/groups/public/---asia/---ro-bangkok/---ilo-hanoi/documents/publication/wcms_872736.pdf :14.

Occupational Safety and health

The Occupational Safety and Health (OSH) Law (2015) has a broad scope that includes the informal economy and mandates labour inspections to monitor respect for the law and handling of violations. Compliance with the OSH Law by enterprises and employees has been gradually reinforced and enhanced. The number of occupational accidents is decreasing in general, but in the informal economy has tended to increase, and furthermore a possibility of underreporting has also been raised.

Detection of occupational diseases is still difficult due to the limited access to workers' health surveillance, lack of established diagnostic criteria, and insufficient skills and knowledge in establishing diagnoses.

With regard to occupational diseases, prevention is more important than treatment after they have occurred, and this requires implementation of the progressive policies set out in Decision No. 659/QĐ-TTg of 2020 on Improvement of Workers' Health and the Prevention of Occupational Diseases in the period 2020-2030. The Decision prioritizes action in small and medium-sized workplaces, agricultural areas, craft villages, women and elderly workers, and workers without labour contracts¹²⁴. The ILO and the Vietnamese Government are taking steps aimed at strengthening occupational health and safety through building a health and safety culture and improving compliance to prevent occupational diseases.

3.3.3.4 Industrial Relations: Freedom of Association and Right to Organise

The Government of Viet Nam has taken important steps toward improving the legislative framework for freedom of association. The revision of Labor Law in 2019 included a number of provisions aimed at promoting social dialogue in labor relations, collective bargaining, and social disputes.¹²⁵ A particularly noteworthy revision to the Labour Code in 2019 is the first recognition of workers' rights to form, establish, and join "workers' representative organisations" (WROs) at enterprise level.¹²⁶ While the country has so far allowed trade unions at the establishment level (called "grass-roots trade unions") affiliated with the Viet Nam General Confederation of Labour: VGCL), it is expected that by recognizing workers' rights to form, establish and join company-level workers' rights organizations (WRO), employers and workers will gain greater autonomy and be able to negotiate and decide on conditions such as wages, safety and health with less government involvement.¹²⁷

The Code came into force in 2021; it is now at the stage where implementing regulations need to be drafted. On the other hand, at the time of writing in 2023, no WRO has yet been established. Viet Nam also ratified the Right to Organise and Collective Bargaining Convention, 1949 (No. 98). The above-mentioned amendments to the revised Labour Code constitute important steps towards a more conducive environment for the exercise of freedom of association.¹²⁸ Based on legal and policy documents adopted by Viet Nam, the ILO and the Government of Viet Nam have further strengthened social dialogue and dispute resolution mechanisms to bring industrial relations governance in line with international human rights standards.

¹²⁴Ibid, 15.

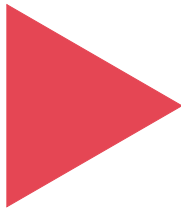
¹²⁵ILO, Better work Vietnam Annual Report, 2020. <https://betterwork.org/portfolio/better-work-vietnam-annual-report-2021-an-industry-review>: 8.

¹²⁶Ibid.

¹²⁷Ibid.

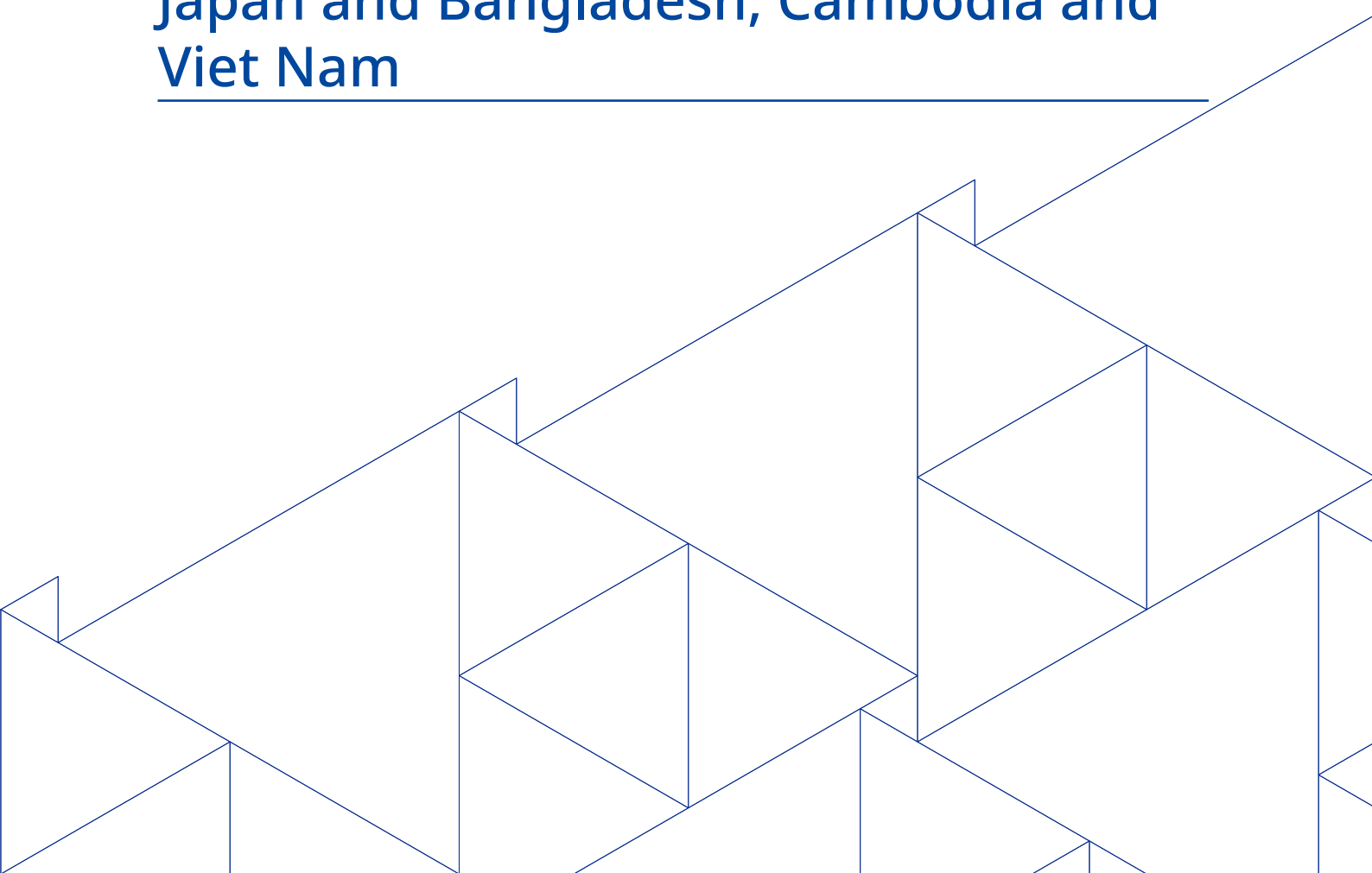
¹²⁸ILO, Decent Work Country Programme Viet Nam 2022 - 2026 The future of work we create. https://www.ilo.org/wcmsp5/groups/public/---asia/---ro-bangkok/---ilo-hanoi/documents/publication/wcms_872736.pdf :13.

- ▶ Responsible Business Conduct and Human Rights Due Diligence:
Good practices of Japanese Companies Operating in Bangladesh, Cambodia and Viet Nam, Trade,
Investment and Labour Nexus and a Way Forward



4

Trends around Trade and Labor between the EU, the United States and Japan and Bangladesh, Cambodia and Viet Nam



This chapter provides an overview of trends around trade and labour between Bangladesh, Cambodia and Viet Nam and the EU, the United States – which are major trading partners for Bangladesh, Cambodia and Viet Nam – and Japan from perspectives including the Generalised Scheme of Preferences (GSP) and trade agreements.

4.1 EU

4.1.1 The EU policy on decent work

The European Commission, the executive body of the European Union, released its Communication on Decent Work Worldwide on 23 February 2022.¹²⁹ This is also known as the EU’s Decent Work Strategy, and the elimination of child and forced labour is at the heart of this endeavour. As a responsible global player supporting the universal values of human rights, and a major economic power, the EU takes a strong stance on upholding and updating the multilateral rules based global order,¹³⁰ including international labour standards, in line with the concept of open strategic autonomy¹³¹ and as reflected in the Global Gateway.¹³² The EU economy is connected to millions of workers around the world through global supply chains, while EU consumers are increasingly demanding goods that are produced in a sustainable and fair way that ensures decent work for those who produce them. In addition, it is also in the interest of EU workers and companies, as well as related responsible public and private actors around the world, to strengthen the respect for decent work globally and thereby avoid a “race to the bottom” based on a model of attracting investment by lowering labour protection standards.

The EU’s Communication on Decent Work Worldwide, released in February 2022, which sets out how the European Union will act upon these challenges, address such issues, establishes the internal and external policies that the EU will use to implement decent work around the world, and places this objective at the heart of a just transition and an inclusive, sustainable and resilient recovery from the COVID-19 pandemic. The EU says that it will promote decent work across all sectors and policy areas in line with a comprehensive approach that addresses workers in the internal market, countries outside the EU and global supply chains. This approach is in line with the ILO’s Global Call to Action. This Communication sets the policies that the EU will use to implement decent work around the world, and is comprised of four policy areas: (1) EU policies and initiatives with outreach beyond the EU; (2) EU bilateral and regional relations; (3) the EU in international and multilateral fora; and (4) EU engagement with and support for stakeholders and global partnerships. In this section, focused on (2) EU bilateral and regional relations, we look at the EU’s bilateral relations with Bangladesh, Cambodia and Viet Nam from the perspective of the EU’s Generalised Scheme of Preferences (GSP) and the “trade and sustainable development (TSD)” chapter in trade agreements.

129 European Commission, 2022, “Commission Sets Out Strategy to Promote Decent Work Worldwide and Prepares Instrument for Ban on Forced Labour Products”, Press release, 23 February 2022, Brussels. https://ec.europa.eu/commission/presscorner/detail/en/ip_22_1187

130 European Commission, 2022, “Joint Communication on Strengthening the EU’s Contribution to Rules-Based Multilateralism”, 17 February 2021, Brussels, JOIN (2021) 3 Final. <https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:52021JC0003&from=EN>

131 European Commission, 2021, “Trade Policy Review - An Open, Sustainable and Assertive Trade Policy”, 18 February 2021, Brussels, COM (2021) 66 Final. <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=COM:2021:66:FIN>

132 European Commission, Global Gateway. https://commission.europa.eu/strategy-and-policy/priorities-2019-2024/stronger-europe-world/global-gateway_en

4.1.2 The EU's Generalised Scheme of Preferences (GSP)

The EU has introduced the following three types of Generalised Scheme of Preferences (GSP)¹³³ that grant reductions to or exemptions from the tariffs imposed on imports into the EU of products originating in developing countries. (1) Standard GSP reduces some tariffs for low and lower-middle income countries. (2) GSP Plus exempts some tariffs as further preferential treatment for those countries subject to the standard GSP that have ratified or adhere to a total of 27 major UN and ILO conventions on human rights and labour rights (Annex VIII, Part A of the GSP Regulation) and on the environment and good governance (Annex VIII, Part B of the GSP Regulation).¹³⁴ (3) Everything but Arms (EBA) exempts all tariffs on goods other than arms and does not impose import quotas for the least developed countries.

Since the GSP aims not only to support economic development through preferential treatment for developing countries, but also raises the promotion of human rights in subject countries, the EU can temporarily suspend the granting of preferential tariffs to subject countries if they violate conventions on human rights or labour rights. The EU can temporarily suspend the granting of preferential tariffs to subject countries under the standard GSP and EBA if there “are serious and organized violations” of the principles stipulated in the 15 major conventions on human rights and labour rights conventions specified in Part A, and may do the same under GSP plus not only if a subject country fails to comply with the principles stipulated in the conventions specified in Part A and Part B, but also if it fails to comply with legally-binding commitments on matters such as effective implementation. The EU is thought to emphasize the protection of human rights through dialogue and monitoring with subject countries rather than with such temporary suspension measures, and there are few cases in which a temporary suspension measure was actually imposed.¹³⁵

Of the countries subject to this report, Bangladesh and Cambodia are subject to the EBA, so the Part A conventions are listed below.

- (1) Convention on the Prevention and Punishment of the Crime of Genocide (1948)
- (2) International Convention on the Elimination of All Forms of Racial Discrimination (1965)
- (3) International Covenant on Civil and Political Rights (1966)
- (4) International Covenant on Economic Social and Cultural Rights (1966)
- (5) Convention on the Elimination of All Forms of Discrimination Against Women (1979)
- (6) Convention Against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment (1984)
- (7) Convention on the Rights of the Child (1989)
- (8) Convention concerning Forced or Compulsory Labour, No. 29 (1930)
- (9) Convention concerning Freedom of Association and Protection of the Right to Organise, No. 87 (1948)
- (10) Convention concerning the Application of the Principles of the Right to Organise and to Bargain Collectively, No. 98 (1949)

¹³³European Commission, “Generalised Scheme of Preferences”. https://policy.trade.ec.europa.eu/development-and-sustainability/generalised-scheme-preferences_en.

Japan External Trade Organization (JETRO), “The EU's Tariff System, Special Measures and Generalised Scheme of Preferences”. https://www.jetro.go.jp/world/europe/eu/trade_03.html

¹³⁴Official Journal of the European Union, “Regulation (EU) No. 978/2012 of the European Parliament and of the Council of 25 October 2012 Applying a Scheme of Generalised Tariff Preferences and Repealing Council Regulation (EC) No 732/2008”. <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX:32012R0978>

¹³⁵Ionel Zamfir, 2017, “Human Rights in EU Trade Policy: Unilateral Measures.” Briefing. January 2017. European Parliamentary Research Service. [https://www.europarl.europa.eu/thinktank/en/document/EPRS_BRI\(2017\)595878](https://www.europarl.europa.eu/thinktank/en/document/EPRS_BRI(2017)595878)

- (11) Convention concerning Equal Remuneration of Men and Women Workers for Work of Equal Value, No. 100 (1951)
- (12) Convention concerning the Abolition of Forced Labour, No. 105 (1957)
- (13) Convention concerning Discrimination in Respect of Employment and Occupation, No. 111 (1958)
- (14) Convention concerning Minimum Age for Admission to Employment, No. 138 (1973)
- (15) Convention concerning the Prohibition and Immediate Action for the Elimination of the Worst Forms of Child Labour, No. 182 (1999)

4.1.3 The EU's Generalised Scheme of Preferences (GSP) for Bangladesh - EBA

4.1.3.1 The formulation of a National Action Plan (NAP) and a roadmap for the labour sector as the largest beneficiary of the EU-EBA

Bangladesh does not have a Free Trade Agreement (FTA) with the EU, but it is the largest beneficiary of the EU's Generalized Scheme of Preferences (GSP), and is eligible for the EBA (Everything But Arms), which makes exports to the EU of goods other than arms duty free. In its evaluation of the GSP, including the EBA, in the European Commission's January 2018 report to the European Parliament and Council for the period of 2016 to 2017,¹³⁶ the European Commission noted that 49 countries were beneficiaries of EBA, with Bangladesh accounting for 66 per cent of all EBA preferential tariff imports by value. On the other hand, the evaluation also indicated the intention of the European Commission and the European External Action Service (EEAS) to engage more positively with stakeholders such as NGOs, international organizations, social partners and businesses in Bangladesh following the deterioration of the state of human rights and worker's rights in the country. In Bangladesh, the European Commission has also raised concerns regarding labour rights, in particular freedom of association and the implementation of a joint initiative known as the "Compact for Continuous Improvements in Labor Rights and Factory Safety in the Ready-Made Garment and Knitwear Industry in Bangladesh". The EU has in particular raised the alignment of the Bangladesh Labour Act (BLA 2006) and the Export Processing Zones (EPZ) Act with the ILO labour rights conventions as one of its priority actions.¹³⁷

In a joint press release¹³⁸ by the 9th session of the EU-Bangladesh Joint Commission¹³⁹ on 21 October 2019, both the EU and Bangladesh agreed on the aim to strengthen the economic relationship through increased trade and investment flows. In the press release, Bangladesh and the EU concurred that the unilateral, preferential trade scheme – EBA under the GSP – granted by the EU to Bangladesh has made a direct and significant contribution to Bangladesh's economic growth and social and economic development. Exports from Bangladesh to the EU more than tripled between 2006 and 2018, and the EU is currently the main trading partner of Bangladesh, absorbing half of its overall exports. The EU mentioned that Bangladesh is the source of more than 62 per cent of all EBA exports to the EU, making it the largest beneficiary of the EU's

¹³⁶ European Commission, 2018, "Report on the Generalised Scheme of Preference Covering the Period 2016-2017." <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A52018DC0036>.

¹³⁷ European Commission, 2018, "Report on the Generalised Scheme of Preferences Covering the Period 2016-2017". <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A52018DC0036>

¹³⁸ Meetings of the EU-Bangladesh Joint Commission are held under the Cooperation Agreement concluded in 2001 and are supplemented by meetings of three sub-commissions focused on: Development Cooperation; Governance and Human Rights; and Trade and Economic Cooperation.

¹³⁹ Delegation of the European Union to Bangladesh. 2019, "The European Union and Bangladesh Held the 9th Session of Their Joint Commission", Joint Press Release, Dhaka, 21 October 2019. https://www.eeas.europa.eu/delegations/bangladesh/european-union-and-bangladesh-held-9th-session-their-joint-commission_en

EBA programme. In this context, it was recalled that EBA preferences, as well as any future trade relationship, are conditional on the respect of human rights, including labour rights, as reflected in the international conventions listed in the GSP Regulation. Sustained reforms of labour rights standards by the Government of Bangladesh, and their full alignment with ILO conventions on the basis of consensus of the tripartite constituents is crucial in this regard. Moreover, the fact that the Bangladeshi Government's respect of human rights, including rights related to labour, and the observance of ILO conventions are crucial was referred to, and the EU and Bangladesh agreed to develop a road map on some issues strengthening compliance with labour and human rights. It should be noted that the EBA covers the least developed countries (LDC), and that Bangladesh is expected to graduate from the LDC category on 24 November 2026.^{140, 141}

In June 2021, the Government of Bangladesh developed its National Action Plan (NAP) on the Labour Sector (2021–2026) based on consultation with the EU.¹⁴² Each action plan is scheduled to be implemented with the further engagement of the tripartite constituents and, where appropriate, with the support of the ILO and other development partners.

In addition, following complaints under Article 26 of the ILO Constitution regarding violations of the Labour Inspection Convention, 1947 (No. 81), Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87), and the Right to Organise and Collective Bargaining Convention, 1949 (No. 98), the Government of Bangladesh also submitted a roadmap for action to the 342nd session of the ILO Governing Body held on 11 November 2021.¹⁴³ The state of progress in relation to the roadmap is reported regularly to and confirmed by the ILO Governing Body.¹⁴⁴

4.1.3.2 Overview of the National Action Plan on the Labour Sector and the state of progress of the revision of labour law

Although the National Action Plan on the Labour Sector and the roadmap differ in terms of the background of their formation and have been established in different forms, they contain many common matters as described on the next page.

140 United Nations, 2021, "Graduation of Bangladesh, Lao People's Democratic Republic and Nepal from the LDC Category", 24 November 2021. <https://www.un.org/development/desa/dpad/2021/graduation-of-bangladesh-lao-peoples-democratic-republic-and-nepal-from-the-ldc-category/>

141 In monitoring each year by the United Nations Committee for Development Policy and a triennial review planned for 2024, the impact of COVID-19 on the economy is scheduled for scrutiny, and matters such as the need for a further extension of the transition period (three years to 2029) will also be considered. It is thought that after graduating from LDC status, Bangladesh will aim for the acquisition of GSP plus.

142 Ministry of Labour and Employment, Government of the People's Republic of Bangladesh. 2021. "National Action Plan (NAP) on the Labour Sector of Bangladesh (2021-2026)". https://mole.portal.gov.bd/sites/default/files/files/mole.portal.gov.bd/page/a4e3595b_284f_44e1_8c62_f0fb170214c4/National_Action_%20Plan_on_Labour_Sector_on_%20Bangladesh.pdf

143 ILO, 2021, "Road Map of Actions to Address All the Outstanding Issues Mentioned in the Complaint Concerning Non-Observance by Bangladesh of the Labour Inspection Convention, 1947 (No. 81), Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87), and the Right to Organise and Collective Bargaining Convention, 1949 (No. 98)." https://www.ilo.org/gb/GBSessions/GB342/ins/WCMS_800701/lang--en/index.htm

144 Most recently, at the 346th meeting of the Governing Body held on 4 November, 2022. https://www.ilo.org/wcmsp5/groups/public/---ed_norm/---relconf/documents/meetingdocument/wcms_858319.pdf

The National Action Plan on the Labour Sector lists the following as action categories,¹⁴⁵ but these are also incorporated into the roadmap, with the exception of actions 2, 8 and 9. Actions 1, 3, 4 and 7 are positioned as priority areas in the roadmap.¹⁴⁶ With regard to action 9, the ratification of the Forced Labour Convention, 1930 (No. 29) was completed on 20 January 2022,¹⁴⁷ and the ratification of the ILO Minimum Age Convention, 1973 (No. 138) on 22 March 2022.¹⁴⁸

Action 1: Bring Bangladesh labour laws in compliance with ILO standards on freedom of association and collective bargaining (Details to be covered hereinafter)

Action 2: Eliminate child labour in all its forms by 2025

Action 3: Combat violence against workers, harassment, unfair labour practices and anti-union discrimination

Action 4: Increase the success rate of application for trade union registration (paper and online)

Action 5: Eliminate the backlog of cases at labour courts, including in the Dhaka Metropolitan Area

Action 6: Set up an efficient system to follow up on worker's complaints received through helpline

Action 7: Provide for new labour inspectors and ensure full functionality of labour inspectorate

Action 8: Ensure proper work for the Remediation Coordination Cell (RCC) and transition to Industrial Safety Unit (ISU) 149 /Ensuring close cooperation of the RCC/ISU with the RMG Sustainability Council (RSC)

Action 9: Ratify ILO Convention, 1973 (No.138) on minimum age and Protocol of 2014 to the ILO Convention, 1930 (No.29) on forced labour

The background behind the National Action Plan on the Labour Sector calling for the revision of labour law was that the labour laws of Bangladesh do not conform to ILO standards on the freedom of association and collective bargaining, and that the human rights of workers in these areas are constrained excessively. Specifically, the current labour law in Bangladesh is the Bangladesh Labour Act of 2006, amended in 2013 and 2018. The Bangladesh Labour Act requires the registration of unions and imposes strict conditions on their registration, such as requiring that more than 20 per cent of all workers have agreed to join and establishing a limit on the number of registrations for each place of business. In addition, it also lays out provisions about collective bargaining rights, including that strikes can be suspended after the fact for reasons such as declines in productivity, and that strikes are prohibited at new companies for three years. The Bangladesh Labour Rules of 2015 based on the Bangladesh Labour Act, which was amended in 2022, also play an important role. In addition, the Export Processing Zones (EPZ) Labour Act of 2019 also exists as a special labour law that

145 Ministry of Labour and Employment Government of the People's Republic of Bangladesh, 2021, "National Action Plan (NAP) on the Labour Sector of Bangladesh (2021-2026)", June 2021. https://mole.portal.gov.bd/sites/default/files/files/mole.portal.gov.bd/page/a4e3595b_284f_44e1_8c62_f0fb170214c4/National_Action_%20Plan_on_Labour_Sector_on_%20Bangladesh.pdf

146 ILO, "Road Map of Actions to Address All the Outstanding Issues Mentioned in the Complaint Concerning Non-Observance by Bangladesh of the Labour Inspection Convention, 1947 (No. 81), Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87), and the Right to Organise and Collective Bargaining Convention, 1949 (No. 98)". https://www.ilo.org/gb/GBSessions/GB342/ins/WCMS_800701/lang--en/index.htm

147 ILO, Ratifications of P029 - Protocol of 2014 to the Forced Labour Convention, 1930, Date of entry into force: 9 November 2016. https://www.ilo.org/dyn/normlex/en/f?p=NORMLEXPUB:11300:0::NO:11300:P11300_INSTRUMENT_ID:3174672:NO

148 ILO, Ratifications of C138 - Minimum Age Convention, 1973 (No. 138), Date of entry into force: 19 June 1976. https://www.ilo.org/dyn/normlex/en/f?p=NORMLEXPUB:11300:0::NO:11300:P11300_INSTRUMENT_ID:312283:NO

149 Both the RCC and the ISU are organizations that belong to the Department of Inspection for Factories and Establishments (DIFE) within the Ministry of Labor and Employment.

applies in export processing zones. This act imposes even greater restrictions on the right to organize and the right of collective bargaining within an EPZ.¹⁵⁰ Further, the National Action Plan on the Labour Sector calls on the Bangladeshi Government to make changes with regard to each, listing specifically the provisions to be changed and the details to be amended.¹⁵¹

As shown in Table 4-1 below, progress can be seen in terms of formalities, such as in a., the completion of the amendment of the Bangladesh Labour Rules, and d., the enactment and imminent promulgation of the EPZ Labour Rules. However, with regard to the Bangladesh Labour Rules of a., only some of the provisions that were supposed to be changed have been amended.

► Table 4-1 The state of progress of the revision of labour laws (as of 15 March 2023)

Acts and rules, and required actions / Number of issues identified (in parentheses)		Schedule and state of progress
a.	Amendment of the Bangladesh Labour Rules (BLR 2015) (12 issues identified)	Completed in September 2022 (one year later than planned)
b.	Amendment of the Bangladesh Labour Act (BLA 2006) (amended in 2018) (34 issues identified)	A tripartite constituent working group is discussing the draft of the amendments from their respective perspectives, and has already held six meetings
c.	Amendment of the Bangladesh Labour Rules (BLR 2015) (after b. amendment of the BLA)	Scheduled for consideration under the designated tripartite mechanism following the amendment of BLA 2006
d.	Establishment of the EPZ Labour Rules	Gazetted and promulgated in October 2022
e.	Amendment of the Bangladesh EPZ Labour Act (35 issues identified)	Amendment work is scheduled to begin in July 2023

Note: Required actions or number of issues identified shown in parentheses.

Source: The ILO Report submitted to the 347th meeting of the ILO Governing Body on the implementation of the action roadmap by the Government of Bangladesh,¹⁵² Ministry of Labour and Employment, Government of the People's Republic of Bangladesh, "National Action Plan (NAP) on the Labour Sector of Bangladesh (2021 to 2026)".¹⁵³

4.1.3.3 Evaluation of and reaction to the EU EBA monitoring mission, etc.

A team of EU officials from Brussels travelled to Bangladesh to carry out an official EBA monitoring mission to Bangladesh from 13 to 18 March 2022 and reviewed the country's progress in the context of the enhanced engagement process under the Everything But Arms (EBA) arrangement. The EU officials also met with the representatives of civil society, trade unions and employers, and had exchanges with EU member states'

150 Provisions have been put in place that prohibit the right to form normal unions in an EPZ (though Worker Welfare Associations (WWA) exist as an alternative), and that allow committee members appointed by EPZ authorities to judge the legality of a strike, etc. in advance.

151 Ministry of Labour and Employment, Government of the People's Republic of Bangladesh, 2021, "National Action Plan (NAP) on the Labour Sector of Bangladesh (2021-2026)", June 2021. https://mole.portal.gov.bd/sites/default/files/files/mole.portal.gov.bd/page/a4e3595b_284f_44e1_8c62_f0fb170214c4/National_Action_%20Plan_on_Labour_Sector_on_%20Bangladesh.pdf

152 ILO, 2023, Report by the Government of Bangladesh on Progress Made on the Implementation of the Road Map Taken to Address All Outstanding Issues Mentioned in the Article 26 Complaint Concerning Alleged Non-Observance of Conventions 81, 87 and 98. https://www.ilo.org/gb/GBSessions/GB347/ins/WCMS_869201/lang--en/index.htm

153 192 Ministry of Labour and Employment Government of the People's Republic of Bangladesh, June 2021, National Action Plan (NAP) on the Labour Sector of Bangladesh (2021-2026). https://mole.portal.gov.bd/sites/default/files/files/mole.portal.gov.bd/page/a4e3595b_284f_44e1_8c62_f0fb170214c4/National_Action_%20Plan_on_Labour_Sector_on_%20Bangladesh.pdf

Ambassadors and UN agencies. The monitoring mission addressed issues relating to human rights and labour rights. In particular, discussions focused on the Bangladeshi Government's implementation of the National Action Plan on the Labour Sector and its compliance with human rights obligations. It is said that the EU conveyed to the Bangladeshi authorities the need to address the substance of all remaining issues in a timely and effective manner.¹⁵⁴

The EU and Bangladesh held the 10th joint Commission meeting on 20 May 2022.¹⁵⁵ It was recalled that EBA preferences are conditional on the respect of human rights, including labour rights, as reflected in the international conventions listed in the GSP Regulation. Sustained reforms of labour rights standards by the Government of Bangladesh, and their full alignment with the ILO Conventions are crucial in this regard. In this context, the EU welcomed the finalization and publication of Bangladesh's National Action Plan on the Labour Sector and stressed the need for its comprehensive implementation as per the stipulated timelines, for regular updates periodically on its implementation, and for trying to advance the timelines of revising the labour law applicable in export-processing zones (Amendment to the Bangladesh EPZ Labour Act).¹⁵⁶ On the other hand, Bangladesh reiterated the need for ensuring fair prices, especially in view of the investment being made in safer and greener factories.¹⁵⁷

Furthermore, it was also pointed out in the EU's letter to the Bangladeshi Government on 22 December 2022 that, given that the amendment of the Bangladesh Labour Rules only amended some of the provisions that were supposed to be changed, most of the points that needed to be addressed per the National Action Plan on the Labour Sector have not been covered.¹⁵⁸

4.1.4 The EU's Generalised Scheme of Preferences (GSP) for Cambodia - EBA

4.1.4.1 Partial suspension of the EU EBA for Cambodia

While there is no FTA between Cambodia and the EU, Cambodia is the second largest beneficiary of the EU's EBA, which makes exports to the EU of goods other than arms duty free, after Bangladesh, among the EU's Generalised Scheme of Preferences (GSP). In the report from the European Commission to the European Parliament and the Council of the EU on the GSP including the EBA covering the period of 2016 to 2017,¹⁵⁹ which was published in January 2018, the Commission noted that Cambodia accounted for 18 per

154 Delegation of the European Union to Bangladesh, 2022, EU EBA monitoring mission to Bangladesh, 13 to 18 March 2022. https://www.eeas.europa.eu/delegations/bangladesh/eu-eba-monitoring-mission-bangladesh-13-18-march-2022_en

155 European Union External Action, The Diplomatic Service of the European Union, "EU and Bangladesh Hold 10th Joint Commission Meeting", 20 May 2022, Brussels. https://www.eeas.europa.eu/eeas/eu-and-bangladesh-hold-10th-joint-commission-meeting_en

156 "EU Wants Bangladesh to Quickly Amend EPZ Labour Act", The Business Standard, 14 May 2022. <https://www.tbsnews.net/economy/eu-wants-bangladesh-quickly-amend-epz-labour-act-419874>

157 European Union External Action, The Diplomatic Service of the European Union, "EU and Bangladesh Hold 10th Joint Commission Meeting", 20 May 2022, Brussels. https://www.eeas.europa.eu/eeas/eu-and-bangladesh-hold-10th-joint-commission-meeting_en

158 "Implement Roadmap on Ending Child Labour in Agri, Households by 2024: EU Tells Bangladesh", The Business Standard. 19 January 2023. <https://www.tbsnews.net/economy/implement-roadmap-ending-child-labour-agri-households-2024-eu-tells-bangladesh-570890>.

159 European Commission, 2018, "Report on the Generalised Scheme of Preferences Covering the Period 2016-2017 - COM (2018) 36 Final". <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A52018DC0036>

cent of all EBA preferential EU imports by value. On the other hand, the report also indicated the intention of the European Commission and the European External Action Service (EEAS) to engage more actively with Cambodia, involving relevant stakeholders, including NGOs, CSOs, international organizations, social partners and businesses following declining human and labour rights situation in Cambodia.

Subsequently, on 12 August 2020, the EU temporarily withdrew part of the tariff preferences granted to Cambodia, a country subject to the EBA¹⁶⁰. This was a measure based on Commission Delegated Regulation (EU) 2020/550,¹⁶¹ which the European Commission adopted on 12 February 2020. The products subject to the withdrawal of the tariff preferences include some clothing and footwear, travel goods, and sugar, which, according to the European Commission, are equivalent to about 20 per cent of imports from Cambodia into the EU. Since that date, these products have been subject to general tariffs based on the EU's most-favoured-nation tariff rates. An announcement by the European Commission in February 2020 stated that, of the total exports worth \$5.4 billion (2018) from Cambodia to the EU, 95.7 per cent were imported duty-free based on the EBA.¹⁶² This made Cambodia the second largest EBA beneficiary after Bangladesh.

According to the European Commission, since the adoption of the Delegated Regulation in February 2020, Cambodia has had sufficient opportunity to take action to correct its human rights situation, such as restoring the political rights of forces opposed to the regime and amending or repealing laws on political parties and NGOs, but neglected to take appropriate action. The Commission said that even considering the impact of COVID-19 on the Cambodian economy, the recovery of human rights violations is an urgent issue, and stressed the validity of the withdrawal of the tariff preferences measure. Specifically, the Commission pointed to elements indicating the existence of serious and organized violations by Cambodia of the principles of the following four UN international covenants and ILO Conventions on human and labour rights. The four core human and labour rights UN/ILO Conventions are: (1) the International Covenant on Civil and Political Rights, 1966 ("ICCPR"); (2) the Convention concerning Freedom of Association and Protection of the Right to Organise, 1948 ("ILO Convention 87"); (3) the Convention concerning the Application of the Principles of the Right to Organise and to Bargain Collectively, 1949 ("ILO Convention 98"), and (4) the International Covenant on Economic Social and Cultural Rights, 1966 ("ICESCR"). Violations of (1) included the violation of the right to take part in the conduct of public affairs (Article 25 of the ICCPR), with the European Commission pointing to a series of repressive actions against the Cambodia National Rescue Party (CNRP), the former largest opposition party, and the curtailment of domestic political participation and the right to vote, including in particular amendments to the Law on Political Parties (LPP), the arrest on 3 September 2017 of (then) CNRP leader Kem Sokha,¹⁶³ and the court-ordered dissolution of the CNRP. In addition, due to serious and organized violations of the Right to Freedom of Expression (Article 19 of the ICCPR); the Rights to Freedom of Association and of Peaceful Assembly (Article 21 and Article 22 of the ICCPR); labour rights, including freedom of association, the right to organize and collective bargaining (Articles 2, 3, 4 and 7 of ILO Convention No. 87; Article 1 and 3 of ILO Convention 98; Article 19, 21 and 22 ICCPR; Article 7 and Article 8 of ICESCR); and non-

160 European Commission, 2020, "Cambodia loses duty-free access to the EU market over human rights concerns", press release, 12 August 2020. https://ec.europa.eu/commission/presscorner/detail/en/IP_20_1469

161 Official Journal of the European Union, "Commission Delegated Regulation (EU) 2020/550 of 12 February 2020". <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX:32020R0550>

162 European Commission, 2020, "Trade/Human Rights: Commission Decides to Partially Withdraw Cambodia's Preferential Access to the EU Market", press release, 12 February 2020, Brussels. https://ec.europa.eu/commission/presscorner/detail/en/ip_20_229

163 Kem Sokha was released on restricted bail on 10 September 2018, but was prohibited from engaging in political activities pending the outcome of the trial.

discrimination, land and housing rights (Article 2(2) and 11(1) of ICECR), the European Commission decided to temporarily withdraw part of the tariff preferences granted to Cambodia.¹⁶⁴

4.1.4.2 The reaction of the Cambodian Government

The Cambodian Government tried to make some concessions to EU demands before the partial withdrawal of tariff preferences was put into place. However, following the imposition of the measure, the following court proceedings were held against the CNRP members, and activists who were responsible for the imposition of the measure. This can be found in the resolution document of the European Parliament dated 5 May 2022.

In March 2021, nine senior leaders of the CNRP, including Sam Rainsy, the former (and first) CNRP leader, who is in exile, were sentenced in absentia to 25 years in prison.¹⁶⁵

In November 2021, the Cambodian authorities started mass trials in 2021 against more than 100 members of the opposition and human rights defenders for exercising their right to freedom of expression and peaceful assembly, and more than 60 documented political prisoners are being held in pre-trial detention.¹⁶⁶

In addition, after the partial withdrawal of tariff preferences under the EBA, Prime Minister Hun Sen and other senior officials have made repeated comments, including, “The suspension of the EBA has no impact at all for some products due to the overwhelming impacts of Covid-19 on Cambodia’s economy and the world at large”, and “I didn’t object to the withdrawal, and I will not request that they restore the preferential trade scheme. Cambodia has been well prepared to face this situation without preferential trade from the EU. We will not negotiate over, object to or protest their decision”.¹⁶⁷

In other developments outside of the government, the Garment Manufacturers Association in Cambodia (“GMAC”: currently the Textile, Apparel, Footwear and Travel Goods Association in Cambodia (“TAFTAC”)) filed a lawsuit with the EU Court of Justice on 16 July 2020, asking it to cancel the Commission’s Delegated Regulation on the temporary withdrawal of tariff preferences for specific products,¹⁶⁸ but this was dismissed as inadmissible.¹⁶⁹

164 Official Journal of the European Union, 2020, “Commission Delegated Regulation (EU) 2020/550 of 12 February 2020”. <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX:32020R0550>

165 European Parliament, 2022, “European Parliament Resolution of 5 May 2022 on the Continuous Crackdown of Political Opposition in Cambodia (2022/2658(RSP))”, 5 May 2022, Strasbourg, F. https://www.europarl.europa.eu/doceo/document/TA-9-2022-0201_EN.html

166 European Parliament, 2022, “European Parliament Resolution of 5 May 2022 on the Continuous Crackdown of Political Opposition in Cambodia (2022/2658(RSP))”, 5 May 2022, Strasbourg, E. https://www.europarl.europa.eu/doceo/document/TA-9-2022-0201_EN.html

167 Several media outlets reported these comments made by Prime Minister Hun Sen and other government officials on 20 May 2021 at the 26th “Future of Asia”, an international exchange conference (organized by the Nikkei Shimbun), including Phnom Penh Post. “Covid Nullified Impact of EBA Withdrawal, PM Says”, 21 May 2021. <https://www.phnompenhpost.com/national-politics/covid-nullified-impact-eba-withdrawal-pm-says>

168 Official Journal of the European Union, 2020, “Action Brought on 16 July 2020 – Garment Manufacturers Association in Cambodia v. Commission (Case T-454/20) (2020/C287/62)”. https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=uriserv:OJ.C_.2020.287.01.0042.01.ENG

According to the TAFTAC (formerly “GMAC”), the value of exports to the EU fell by about 20% in 2020, and that in addition to the spread of the COVID-19 pandemic, the temporary suspension of the EBA also had an impact. (Interview, 12 December 2022.)

169 Official Journal of the European Union, 2022, “Order of the General Court of 22 November 2021 -- Garment Manufacturers Association in Cambodia v. Commission (Case T-454/20) (2022/C37/42)”. https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=uriserv:OJ.C_.2022.037.01.0031.01.ENG

4.1.4.3 Recent developments in the European Parliament and the response of the Cambodian Government

The European Parliament has repeatedly adapted resolutions condemning human rights violations in Cambodia, including the European Parliament resolution dated 11 March 2021,¹⁷⁰ but ahead of the communal elections on 5 June 2022, the European Parliament adopted a new resolution, dated 5 May 2022.¹⁷¹ With this resolution, the European Parliament pointed out previous human rights violations once again and asked the European Commission to monitor the upcoming communal elections very closely and to be prepared to use all tools available, including a complete suspension of Cambodia's EBA status and other sanctions, should the electoral observers find evidence of unfair elections.

In response to the above resolution of the European Parliament, the National Assembly of the Kingdom of Cambodia argued against it as follows in a statement dated 9 May 2022,¹⁷² and expressed its unwillingness to respond to the EU's approach.¹⁷³ The main essence of that statement included the following assertions. "The European Parliament's Resolution of 5 May 2022 is misleading, biased, politicised, one-sided, and totally disrespectful of a sovereign state." "The European Parliament's grievance over the single-party rule is also unwarranted. The Cambodian People's Party (CPP) was elected democratically and constitutionally by the people of Cambodia. Despite the call for an electoral boycott by some groups in the 2018 national election, the turnout rate was 83.02 per cent, with 77 per cent of them voting for the CPP." "In the case of Mr. Kem Sokha, his trial has always been transparent and participatory. In the wake of the improved situation of the COVID-19 pandemic in Cambodia, the hearings were resumed on 19 January 2022. The speed of the hearings on his conspiracy charges to overthrow the government is at the court's discretion. We wish to underline that the issue of conspiracy with foreign countries to overthrow a legitimate government is not tolerated under the law of any country, including in countries of the European Union." "The National Assembly of the Kingdom of Cambodia urges the European Parliament to view Cambodia's human rights and democracy objectively, taking into account our national and historical contexts, and to refrain from its usual practice of double standards."

4.1.5 The EU Viet Nam FTA

4.1.5.1 TSD provisions in EU FTAs and DCFTAs

Negotiations on trade agreements began after October 2006 when the EU announced the "Global Europe" trade strategy, and the agreements were signed after 2011, include provisions or chapter on trade and sustainable development (TSD).¹⁷⁴ Specifically, there are 11 trade agreements, including the EU-Viet Nam FTA, that are categorized as so-called new generation free trade agreements (FTA) and deep and comprehensive

170 European Parliament, 2021, "European Parliament Resolution of 11 March 2021 on the Mass Trials against the Opposition and Civil Society in Cambodia (2021/2579(RSP))", 11 March 2021, Brussels. https://www.europarl.europa.eu/doceo/document/TA-9-2021-0087_EN.html

171 European Parliament, 2022, "European Parliament Resolution of 5 May 2022 on the Continuous Crackdown of Political Opposition in Cambodia (2022/2658(RSP))", 5 May 2022, Strasbourg. https://www.europarl.europa.eu/doceo/document/TA-9-2022-0201_EN.html

172 Statement of the National Assembly of the Kingdom of Cambodia, 09 May 2022. <http://national-assembly.org.kh/article/5626#.ZEjYanZzxhE>

173 Ministry of Information, "Cambodian National Assembly Dismayed by EU Parliament's Resolution", 09 May 2022. <https://www.information.gov.kh/articles/75162>.

174 European Commission, "Sustainable Development in EU Trade Agreements". https://policy.trade.ec.europa.eu/development-and-sustainability/sustainable-development/sustainable-development-eu-trade-agreements_en

free trade areas (DCFTA).¹⁷⁵ There are differences among TSD chapter or provisions of these trade agreements. But the main common elements are the effective implementation of international labour conventions, including respect for the fundamental principles of the ILO, the effective enforcement of labour laws, and not deviating from labour laws to encourage trade and investment and prevent the resulting “race to the bottom”.

Furthermore, the European Commission, the EU’s executive body, believes that it is important to use bilateral trade agreements as a tool to promote international standards. One of its reasons is that both parties to trade agreements that include TSD chapter or provisions are committed to the ILO Conventions and the ILO Declaration on Fundamental Principles and Rights at Work, making it easier to lobby to the other party for effective implementation. Moreover, it has also pointed out the importance of dialogue with trading partners and with the respective stakeholders on both sides. It has also raised the ability to link tariffs with the protection of labour rights as an advantage of bilateral trade agreements. However, with regard to the last point, in the discussions of the review of the TSD provisions for the past few years, it was noted that this is an approach mentioned as a last resort, and that it is cooperation rather than sanctions that will result in deep changes to sustainability issues in a country or society.¹⁷⁶

With the regard to these TSD chapter or provisions of trade agreements, including the EU Viet Nam FTA, the EU holds regular meetings with partners including Viet Nam after the entry into force of the respective trade agreements to discuss the state of implementation and enforcement of the commitment to the TSD chapter or provisions in the respective trade agreements. Member states are notified of progress regularly through the TSD Expert Group. The expert group is composed of representatives from related member state authorities and the European Commission. The EU and its partner, the Domestic Advisory Group (DAG), bring together business organisations, trade unions, environmental and other organisations to discuss the state of implementation of the TSD chapter or provisions of their trade agreement. The Section for External Relations within the European Economic and Social Committee functions as the secretariat of the EU DAG.

4.1.5.2 The TSD chapter in the EU-Viet Nam FTA

The EU-Viet Nam FTA, which was signed on 30 June 2019 and entered into force on 1 August 2020, includes Chapter 13, or a TSD chapter that is composed of three pillars: labour, the environment and corporate social responsibility. Basically, rather than being asked to achieve new standards, as members of the ILO, both the EU (member states) and Viet Nam are required to meet the obligations they are already committed to firmly, and to raise their domestic standards.¹⁷⁷ Specifically, this includes reaffirming the commitments by each party, in accordance with its respective obligations under the ILO and the “ILO Declaration on Fundamental Principles and Rights at Work and its Follow-up”, adopted by the International Labour Conference at its 86th Session in 1998, and making continued and sustained efforts towards ratifying, to the extent it has not yet

175 EU-Central America Association Agreement, EU-Colombia-Ecuador-Peru Trade Agreement, EU-South Korea FTA, EU-Singapore FTA, Japan-EU Economic Partnership Agreement (EPA), EU-Canada Comprehensive Economic and Trade Agreement (CETA), EU-USA Trade and Cooperation Agreement (TCA), EU-Georgia DCFTA, EU-Moldova DCFTA, EU-Ukraine DCFTA.

176 Based on a meeting at the European Commission’s Directorate-General for Trade dated 2 February 2023.

177 Viet Nam Institute of Strategy and Policy for Industry and Trade (VIOIT). <https://vioit.org.vn/vn/hoc-tac-quoc-te/hoan-thien-chinh-sach-ve-phat-trien-ben-vung-trong-hiep-dinh-evfta-nham-day-manh-xuat-nhap-khau-cua-Viet-Nam-4533.4086.html>

done so, the fundamental ILO conventions.¹⁷⁸ In this regard, Viet Nam ratified the ILO Convention No. 98, the Right to Organise and Collective Bargaining Convention, and the ILO No. 105, the Abolition of Forced Labour Convention, in July 2019 and July 2020, respectively. In addition, it also aimed to ratify by 2023 at the latest, the ILO Convention No. 87, the Freedom of Association and Protection of the Right to Organise Convention, which is the only one of the 10 core labour standards conventions that it has not yet ratified.

In Viet Nam, the Labour Code was revised in 2019, in a form compliant with the EU-Viet Nam FTA. One of the provisions included compliance with the ILO Conventions, and the TSD chapter is regarded as a major step. On the other hand, although it is a binding chapter, the TSD chapter is not the same as other chapters of the EU-Viet Nam FTA, with no concrete norms stipulated nor any financial commitments. It is said that dialogue by the DAG has become an important means of monitoring the implementation of TSD chapter commitments, as it is not allowed to take countervailing measures by withdrawing trade benefits temporarily.¹⁷⁹

4.2 The United States

4.2.1 The recent state of foreign policy and human rights of the United States

4.2.1.1 Human rights protection and fair competition conditions in national security

In the United States, respect for fundamental human rights is positioned as a cornerstone concept of the nation because of the historical background of its founding, and the US State Department holds that a central goal of US foreign policy is the promotion of respect for human rights, as embodied in the Universal Declaration of Human Rights.¹⁸⁰ US President Joe Biden, in particular, has taken that stance strongly, showing a willingness to handle international issues through cooperation with allies and friends who share values such as democracy and human rights. Further, in the National Security Strategy released in October 2022, the protection of human rights, along with democracy, is specified as an important factor that underpins the stability of world order and strengthens the national security of the United States.¹⁸¹

Respect for human rights has also been incorporated into trade policy. The Office of the United States Trade Representative (USTR) has raised a “worker-centered trade policy” based on President Biden’s “foreign policy for the middle class.” Most recently, the “2023 Trade Policy Agenda and 2022 Annual Report” released by the USTR in March 2023 raised the protection of workers’ rights as one of the major trade issues of 2023 and stated that the USTR would work to level the playing field for workers in the United States.¹⁸²

The “level playing field” described here is, if considered from a labour perspective, a demand for trading

178 Official Journal of the European Union, 2020, “Free Trade Agreement Between the European Union and the Socialist Republic of Viet Nam, Chapter 13: Trade and Sustainable Development, Article 13.4: Multilateral Labour Standards and Agreements, 2.,3.,4.,”. [https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:22020A0612\(01\)](https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:22020A0612(01))

179 Based on a meeting dated 10 November 2022 with Vice Chair of the Ho Chi Minh Office of European Chamber of Commerce in Viet Nam, who was also involved in the EU-Viet Nam FTA negotiations.

180 The US Department of State, Human Rights and Democracy. <https://www.state.gov/policy-issues/human-rights-and-democracy/>

181 The White House, 2022, National Security Strategy, October 2022. <https://www.whitehouse.gov/wp-content/uploads/2022/10/Biden-Harris-Administrations-National-Security-Strategy-10.2022.pdf>

182 The United States Trade Representative, 2023 Trade Policy Agenda and 2022 Annual Report. [https://ustr.gov/sites/default/files/2023-02/2023%20Trade%20Policy%20Agenda%20and%202022%20Annual%20Report%20FINAL%20\(1\).pdf](https://ustr.gov/sites/default/files/2023-02/2023%20Trade%20Policy%20Agenda%20and%202022%20Annual%20Report%20FINAL%20(1).pdf)

partners to make corrections so that workers in the United States do not face unfair competition from products that are distributed at low prices as a result of being produced with reliance on forced labour. Corrective actions include demands for participation in international regimes on working conditions or the imposition of additional tariffs, import volume restrictions, etc., on imports into the United States. In other words, it can be said that the United States' international efforts to protect human rights are aimed both at fostering the stability of the world order through cooperation with allies and friends who share the same values as the United States, as mentioned above, and also at strengthening the competitiveness of the United States.

From the perspective of this level playing field, trade agreements involving the United States often include requirements for the maintenance of the working environment towards the protection of human rights in participating countries. The stance of emphasizing the labour chapter can be seen in the United States-Mexico-Canada Agreement (USMCA), which entered into force in July 2020, such as the labour chapter being incorporated into the main text of the agreement (Chapter 23) after having been treated as a supplemental agreement under the USMCA'S predecessor, the North American Free Trade Agreement (NAFTA). Further, the dispute settlement chapter of the USMCA (Chapter 31) has established a new "Facility Specific Rapid Response Labor Mechanism (RRM)" and strengthened the ability to implement enforcement actions in response to labour problems among the three member countries.¹⁸³

4.2.1.2 Trade restrictions on the grounds of protecting human rights

Apart from trade agreements, there are other instruments that impose trade restrictions from the perspective of the protection of human rights. In the United States, Section 307 of the Tariff Act of 1930 prohibits importing any product that was mined, produced, or manufactured wholly or in part by forced labour. Specifically, United States Customs and Border Protection (CBP) can issue Withhold Release Orders (WRO) that suspend the delivery of cargo and prevent it from entering the United States.¹⁸⁴ The law was amended in February 2016 to remove an exception that applied until then that exempted imports from a WRO if production in the United States was unable to meet domestic demand.¹⁸⁵ As of the end of July 2023, there were 52 active WROs and 8 findings, of which 35 WROs and 5 findings were against Chinese companies or products.¹⁸⁶ Other countries include Malaysia (3 WROs), followed by Mexico (1 WRO and 2 findings). The number of injunctions and the value of imports subject to them based on active WROs was 314 cases totalling \$49.8 million in fiscal 2020 (October 2020 to September 2021), 1,469 cases totalling \$486 million in fiscal 2021, and 2,398 cases totalling \$466 million in fiscal 2022, indicating that enforcement has been strengthened in recent years.

The Uyghur Forced Labor Prevention Act (UFLPA) was established in December 2021¹⁸⁷ and enforced from June 2022 due to concerns about human rights violations in the Xinjiang Uyghur Autonomous Region of

183 The U.S. Department of Labor, Labor Rights and the United States-Mexico-Canada Agreement (USMCA). <https://www.dol.gov/agencies/ilab/our-work/trade/labor-rights-usmca>

184 The Government of the United States, The Tariff Act of 1930. <https://www.govinfo.gov/content/pkg/USCODE-2020-title19/pdf/USCODE-2020-title19-chap4.pdf>

185 The Government of the United States, Trade Facilitation and Trade Enforcement Act of 2015. <https://www.congress.gov/114/plaws/publ125/PLAW-114publ125.pdf>

186 The US Customs and Border Protection, Withhold Release Orders and Findings List. <https://www.cbp.gov/trade/forced-labor/withhold-release-orders-and-findings>

187 The Government of United States, An Act to Ensure that Goods Made with Forced Labor in the Xinjiang Uyghur Autonomous Region of the People's Republic of China Do Not Enter the United States Market, And for Other Purposes. <https://www.congress.gov/bill/117th-congress/house-bill/6256/text?r=1&s=1>

China. In principle, the law prohibits the import into the United States of any product mined, produced or manufactured in whole or in part in the Xinjiang Uyghur Autonomous Region, or involving any business operator identified in the law's enforcement strategy,¹⁸⁸ on the presumption that it is subject to Section 307 of the Tariff Act. According to public CBP data on the enforcement of the law,¹⁸⁹ approximately 4,651 shipments (worth \$1.640 billion) were subject to inspection or suspension based on the law from its enforcement in June 2022 through July 2023. Import was permitted in 1,849 cases as the cargo was not subject to the enforcement of the law as a result of a review of its legality, etc., and it was denied in 872 cases. Under the law, even if a product is produced in a country or region other than China, it is subject to enforcement if the Xinjiang Uyghur Autonomous Region is involved in the production or processing of its raw materials. Therefore, injunctions may be taken out based on the act not only against products imported directly from China but also against products imported via third countries. In fact, 1,447 shipments (worth \$397.9 million) from Viet Nam have been subject to the enforcement of the act, with 349 imports permitted and 330 denied. Further, in the apparel sector, 22 shipments from Cambodia (worth \$610,000) have been subject to enforcement of the act.

In addition, as regards exports, the first Summit for Democracy, hosted by the United States in December 2022, announced the establishment by four countries – the United States, Australia, Denmark and Norway – of the framework for the “Export Control and Human Rights Initiative (ECHRI)” aimed at cooperation among volunteer countries so that dual-use products that can be used for both military and civilian purposes are not used in violation of human rights.¹⁹⁰ The ECHRI Code of Conduct was announced at the second Summit for Democracy, held in March 2023. In addition to the four countries mentioned above, it was announced that a further 24 countries, including the United States, Australia, Denmark, Norway and Japan, would participate,¹⁹¹ so the number of participating countries is increasing steadily.

4.2.2 Bangladesh and the United States' generalized system of preferences

4.2.2.1 Bangladesh's removal from the GSP in July 2013

While the United States and Bangladesh do not have an FTA, the United States took measures giving preferential tariff treatment to Bangladesh through its generalized system of preferences (GSP), which provides partial exemptions from import duties for some developing countries. Although Bangladesh had been subject to the GSP, the Obama Administration removed it from the list of subject countries in July 2013.¹⁹² One of the requirements for beneficiaries of the aforementioned GSP is taking measures for internationally recognized

188The Office of Strategy, policy, and Plans, Strategy to Prevent the Importation of Goods Mined, Produced, or Manufactured with Forced Labor in the People's Republic of China, June 17, 2022. https://www.dhs.gov/sites/default/files/2022-06/22_0617_fletf_uflpa-strategy.pdf

189The US Customs and Border Protection, Uyghur Forced Labor Prevention Act Statistics. <https://www.cbp.gov/newsroom/stats/trade/uyghur-forced-labor-prevention-act-statistics>

190The White House, Joint Statement on the Export Controls and Human Rights Initiative, December 10, 2021. <https://www.whitehouse.gov/briefing-room/statements-releases/2021/12/10/joint-statement-on-the-export-controls-and-human-rights-initiative/>

191The U.S. Department of State, 2023, Export Controls and Human Rights Initiative Code of Conduct Released at the Summit for Democracy, March 30, 2023. <https://www.state.gov/export-controls-and-human-rights-initiative-code-of-conduct-released-at-the-summit-for-democracy/>

192The U.S. Department of Labor Bureau of International Labor Affairs, Labor Rights and Factory Safety in Bangladesh. <https://www.dol.gov/agencies/ilab/trade/preference-programs/bangladesh-gsp>

workers' rights, including: (1) freedom of association; (2) the right of trade unions to organize and bargain collectively; (3) prohibition of the use of any form of forced labour; (4) the minimum age of employment of children and prohibition of the worst forms of child labour; and (5) working conditions related to minimum wages, work hours and occupational health and safety.¹⁹³ The United States cited concerns over the rights and safety of workers in Bangladesh and pointed to the fire at a garment factory in November 2012 and the collapse of the Rana Plaza building in April 2013 as specific examples for the reason for Bangladesh's removal. On the other hand, the United States presented to Bangladesh its "Bangladesh Action Plan 2013" towards the recovery of its GSP status and called on the country to take concrete steps to improve workers' rights and safety based on the action plan. This action plan calls on Bangladesh to carry out the following in consultation with the ILO: (1) the establishment and implementation of procedures for government inspections related to labour, fire and building standards; (2) the enactment and implementation of labour law reforms on freedom of association and the right to collective bargaining in the ready-made and knitwear sectors; (3) a review of the EPZ Act with regard to the freedom of association and the right to collective bargaining in Export Processing Zones (EPZ); and (4) support in the shrimp processing sector to ensure the strengthening of freedom of association, including initiatives against union discrimination and unfair labour practices.

A review of the country by the USTR in January 2015 was able to confirm progress based on the action plan, particularly in the fire and building standards areas, but it also said that progress was particularly necessary in the handling of unfair labour practices and legal amendments, and that almost no progress had been made with regard to the protection of workers' rights in export processing zones, concluding that further progress was required in order to consider reinstating the country as subject to the GSP.¹⁹⁴ The GSP expired in December 2020 and has not been reinstated as of July 2023.

4.2.2.2 Human rights issues in Bangladesh under the scrutiny of the United States

"The List of Goods Produced by Child Labor or Forced Labor in 2022," announced by the US Department of Labor in September 2022,¹⁹⁵ lists bidis (hand-rolled cigarettes), bricks, footwear, furniture (steel), garments, glass, leather, matches, poultry, salt, shrimp, soap, textiles, and jute (textiles) as products that rely on child labour in Bangladesh. It also lists garments as products that rely on forced labour, and dried fish as products that rely on child labour and forced labour. In addition, in the "2021 Findings on the Worst Forms of Child Labor," announced by the same department in September 2022, and which summarizes the initiatives of national and regional governments with regard to the worst forms of child labour,¹⁹⁶ Bangladesh was classified in the "moderate advancement" group as a country that had made meaningful efforts to eliminate the worst forms of child labour. Specifically, the report gave a good evaluation to the early 2022 ratification by Bangladesh of the ILO's Minimum Age Convention (No. 138) of 1973 and the 2014 Protocol to the Forced

193 The Office of the United States Trade Representative, 2020, U.S. Generalized System of Preferences Guidebook, November 2020. https://ustr.gov/sites/default/files/gsp/GSPGuidebook_0.pdf

194 The Office of the United States Trade Representative, 2015, GSP Review of Bangladesh Recognizes Progress, Urges that More be Done on Worker Safety and Rights, January 16, 2015. <https://ustr.gov/about-us/policy-offices/press-office/press-releases/2015/january/gsp-review-bangladesh-recognizes>

195 Office of Child Labor, Forced Labor, and Human Trafficking, 2022 List of Goods Produced by Child Labor or Forced Labor. https://www.dol.gov/sites/dolgov/files/ILAB/child_labor_reports/tda2021/2022-TVPR-List-of-Goods-v3.pdf

196 Office of Child Labor, Forced Labor, and Human Trafficking, 2021 Findings on the Worst Forms of Child Labor. https://www.dol.gov/sites/dolgov/files/ILAB/child_labor_reports/tda2021/TDA_Big_Book.pdf 94 The U.S. Department of State, March 2023, "2022 Country Reports on Human Rights Practices: Bangladesh". <https://www.state.gov/reports/2022-country-reports-on-human-rights-practices/bangladesh/>

Labor Convention (No. 29) of 1930, as well as to the protection of children in vulnerable environments through labour inspections.

Moreover, each year, the US Department of State publishes “Country Reports on Human Rights Practices,” which summarize the state of human rights in each country and region, and a “Trafficking in Persons Report,” which summarizes the efforts of national and regional governments against human trafficking. The “2022 Country Reports on Human Rights Practices: Bangladesh,”⁹⁴ released in March 2023, details across 61 pages cases of human rights violations by the Bangladeshi Government and officials, significant restrictions on workers’ rights to freedom of association and collective bargaining, and the worst forms of forced child labour. In addition, continuing from the previous year’s report, the “2022 Trafficking in Persons Report,”¹⁹⁷ which was published in July 2022, classified Bangladesh into the group that does not meet the minimum standards with regard to human trafficking, but is making efforts aimed at its elimination (Tier 2). The report gave a good evaluation to the Bangladeshi Government’s ratification of the aforementioned ILO protocols as part of its efforts against forced labour, as well as to increased efforts to investigate and prosecute human trafficking. On the other hand, it viewed as problems the country’s insufficient efforts to identify potential human trafficking victims and other issues. As noted above, while the GSP review and various United States Government reports give some credit to human rights efforts in Bangladesh, they also point out that issues remain. It should be noted that statements were made by Home Minister Asaduzzaman Khan and Foreign Minister Abdul Momen committing the country to taking proactive measures against technology-mediated trafficking in persons at the Counter Trafficking in Persons Technical Working Group on Combating Trafficking in Persons (CTIP-TWG) held in July 2022, in response to the trafficking report, by the Bangladesh Ministry of Home Affairs and the Bangladesh United Nations Network on Migration (BDUNNM).¹⁹⁸

4.2.3 Cambodia and the United States’ generalized system of preferences

4.2.3.1 Cambodia and the expiration of the generalized system of preferences

While the United States has not concluded an FTA with Cambodia, it has provided tariff preferences to Cambodia through the GSP. However, as noted above, the GSP expired in December 2020 and had not been reinstated as of July 2023. While the invalidation of the GSP has become prolonged, there have been calls in US Congress to reinstate it. In the previous 117th session of Congress (January 2021 to January 2023), the “CHIPS and Science (CHIPS Plus) Act,” which was enacted in August 2022, was initially discussed in a form with the GSP and other trade provisions attached, but without being able to reach agreement on the trade provisions, it was ultimately enacted in a form that excluded them.¹⁹⁹ In the current 118th session of Congress (from January 2023) as well, there have been persistent moves among both House and Senate trade representatives, with Representative Adrian Smith, chair of the House Ways and Means Committee’s Trade Subcommittee, calling in January 2023 for the GSP to be reinstated, and Senator Mike Crapo of the Senate Finance Committee calling for the same in February 2023. In addition, the Progressive Policy Institute, a centre-left think tank in the United States, recommended to the federal government that it reinstate the GSP in “Pacific Islands

197The U.S. Department of State, “2022 Trafficking in Persons Report”. <https://www.state.gov/reports/2022-trafficking-in-persons-report/>

198IOM Bangladesh, “Combating Human Trafficking in Bangladesh Requires Coordinated Action in Digital and Offline Contexts”. <https://bangladesh.iom.int/news/combating-human-trafficking-bangladesh-requires-coordinated-action-digital-and-offline-contexts>

199JETRO, 28 July, 2023, “JETRO Business Summary”. <https://www.jetro.go.jp/biznews/2022/07/a04feddeacbd728b.html>

Trade: Options for U.S. Policy,” a report published in February 2023.²⁰⁰ Upon the reinstatement of the GSP, it would be customary to incorporate measures that would apply retroactively until the start of the period of its invalidity. Consequently, if the GSP were approved and reinstated, it is assumed that customs duties would be reimbursed for products imported into the United States from Cambodia during the period of its invalidity.

4.2.3.2 Human rights issues in Cambodia under the scrutiny of the United States

“The List of Goods Produced by Child Labor or Forced Labor in 2022,” announced by the US Department of Labor in September 2022, lists alcoholic beverages, bovines, fish, manioc/cassava, meat, rubber, salt, shrimp, sugarcane, textiles, timber and tobacco as products that rely on child labour in Cambodia. It also lists bricks as products that rely on child labour and forced labour. In addition, in the “2021 Findings on the Worst Forms of Child Labor,” the same department classified Cambodia in the “minimal advancement” group as a country where efforts are being made, but laws, policies and practices that could delay progress in the country continue. Specifically, the department viewed as problems the Cambodian Government’s failure to take proactive measures such as the investigation into or prosecution of officials in the country who have encouraged the worst forms of child labour.

In addition, the “2022 Country Reports on Human Rights Practices: Cambodia” points out that the ruling Cambodian People’s Party has a de facto system of one-party rule under which it monopolizes parliamentary seats, and the report details across 39 pages cases of the Government’s authoritarian actions against opponents of the regime and of human rights violations by the Government and its officials. Moreover, the “2022 Trafficking in Persons Report” classified Cambodia into the group whose efforts against human trafficking are the most delayed (Tier 3). Cambodia was downgraded one tier from the previous report, and it was reported that pervasive corruption in the country impedes the enforcement of laws, holding human traffickers accountable, and the provision of support to victims, in addition to the reports from NGOs on cases of online fraud by foreigners based in Sihanoukville. The Government of Cambodia has announced that the country’s Ministry of Justice would establish a working group to combat all forms of trafficking in persons and sexual exploitation in September 2022,²⁰¹ and Justice Minister Kheut Lit has stated that he is instructing the country’s prosecution and judicial authorities to promptly investigate and try crimes such as trafficking in persons and sexual exploitation, and to strengthen the response capacity of justice officials.²⁰²

4.2.4 The US withdrawal from the TPP, the launch of the IPEF and Viet Nam

4.2.4.1 The labour chapter of the TPP, which the United States sought to introduce

The Obama Administration, which negotiated the agreement, called for the introduction of binding standards and regulations on labour and the environment, and included a labour chapter (Chapter 19) in the text of the Trans-Pacific Partnership (TPP), which was signed in February 2016 by 12 countries including the United States, Viet Nam, and Japan. Specifically, it incorporated the adoption and maintenance of the rights stated in the ILO Declaration on Fundamental Principles and Rights at Work (freedom of association and the right to collective

200 Progressive Policy Institute, “Testimony to International Trade Commission on U.S.-Pacific Island Trade Opportunities”.
<https://www.progressivepolicy.org/wp-content/uploads/2023/02/Pacific-Islands-Trade-Testimony.pdf>

201 The Ministry of Justice, Cambodia. <https://www.moj.gov.kh/kh/news-event/1514>

202 The Ministry of Justice, Cambodia. <https://www.moj.gov.kh/kh/news-event/1530>

bargaining, the elimination of all forms of forced labour, the abolition of child labour, the elimination of discrimination in respect of employment and occupation, etc.) in the laws of member states.²⁰³ Although the United States withdrew from the TPP in January 2017 under the Trump Administration, its labour provisions have been carried over into the Comprehensive and Progressive Agreement for Trans-Pacific Partnership (“CPTPP”), which took effect in December 2018 based on the TPP, with the remaining 11 countries excluding the United States.²⁰⁴

Most recently, in May 2022, the Biden Administration took the lead in announcing the launch of negotiations on the Indo-Pacific Economic Framework (IPEF) involving 14 countries, including the United States, Viet Nam and Japan. The IPEF set four core pillars of work for negotiation: trade, supply chains, clean economy and fair economy. Under the trade framework, the labour pillar is set as a negotiation item, and the IPEF participating countries are negotiating provisions and initiatives for the adoption and maintenance of the ILO Declaration on Fundamental Principles and Rights at Work.²⁰⁵ In addition, with regard to the supply chain pillar, the participating countries signed onto the IPEF Supply Chain Agreement in November 2023, which provides for the establishment of the IPEF Labor Rights Advisory Board and the new establishment of a mechanism for receiving allegations of labour rights inconsistencies²⁰⁶ .

Viet Nam is not subject to the United States generalized system of preferences (GSP), partly because it is a communist country.

4.2.4.2 Human rights issues in Viet Nam under the scrutiny of the United States

“The List of Goods Produced by Child Labor or Forced Labor in 2022,” announced by the US Department of Labor in September 2022, lists bricks, cashews, coffee, fish, footwear, furniture, leather, pepper, rice, rubber, sugarcane, tea, textiles, timber and tobacco as products that rely on child labour in Viet Nam. It also lists garments as products that rely on child labour and forced labour. Viet Nam was not mentioned in the “2021 Findings on the Worst Forms of Child Labor.” In addition, in September 2022, the UN Committee on the Rights of the Child (CRC) conducted an examination of the implementation of the Convention on the Rights of the Child in Viet Nam and evaluated the country’s development of a National Action Plan for Children as significant progress, and made recommendations to improve the situation. Nguyen Thi Ha, Deputy Minister of the country’s Ministry of Labour, Invalids and Social Affairs, stated that “Viet Nam is ready to cooperate with other countries and UN agencies in the process of implementing the recommendations and is ready to share Viet Nam’s experience.”²⁰⁷

However, the “2022 Country Reports on Human Rights Practices: Viet Nam” points out that Viet Nam has an authoritarian system whereby the Communist Party rules alone, and it details across 43 pages cases of human rights violations by the Government and its officials. Moreover, the “2022 Trafficking in Persons Report”

203 TPP Chapter 19: Labour. <https://ustr.gov/sites/default/files/TPP-Final-Text-Labour.pdf>

204 TPP Agreement (Translation): Chapter 19. https://www.cas.go.jp/jp/tpp/tppinfo/kyotei/tpp_text_yakubun/pdf/160308_yakubun_19.pdf

205 Indo-Pacific Economic Framework for Prosperity (IPEF): Trade Pillar. <https://ustr.gov/trade-agreements/agreements-under-negotiation/indo-pacific-economic-framework-prosperity-ipef/trade-pillar>

206 The U.S. Department of Commerce, Substantial Conclusion of Negotiations on Landmark IPEF Supply Chain Agreement, 27 May 2023. <https://www.commerce.gov/news/press-releases/2023/05/substantial-conclusion-negotiations-landmark-ipef-supply-chain>

207 Voice of America, Viet Nam, 5 October 2022. <https://www.voatiengviet.com/a/uy-ban-lhq-neu-quan-ngai-ve-tinh-hinh-vi-pham-quyen-tre-em-o-Viet-Nam/6776901.html>

classified Viet Nam into the group whose efforts against human trafficking are most delayed (Tier 3). Viet Nam was downgraded one tier from the previous year's report for failing to meet the minimum standards aimed at the elimination of human trafficking from the previous year and not making serious efforts to that end. In July 2022, Le Thi Thu Hanh, spokesperson for the Ministry of Foreign Affairs of the Republic of Viet Nam, commented on the Trafficking in Persons Report, saying that the report "does not fully and accurately reflect the situation and measures to combat trafficking in persons in Viet Nam" and that the Viet Nam is ready to cooperate more closely in the future to fully assess the situation and measures to combat trafficking in persons in Viet Nam and discuss specific cooperation with stakeholders, including the US, to effectively implement measures to combat trafficking.²⁰⁸

4.3 Japan

4.3.1 Japan's labour-related measures concerning trade and the labour chapter in economic partnership agreements (EPA)

4.3.1.1 Japan's labour-related measures concerning trade

In October 2020, the Japanese Government formulated a National Action Plan (NAP) on Business and Human Rights.²⁰⁹ The plan states in "Chapter 2, Section 2. Areas of the NAP, (2) Measures of the Government as an Actor regarding State Duty to Protect Human Rights, C. Promotion and Expansion of the Business and Human Rights Agenda in the International Community," that the Japanese Government has incorporated clauses concerning social issues, including labour and the environment into some of the EPAs and investment treaties that Japan has signed or ratified, and has promoted shared understanding between signatories on values to be respected, such as securing appropriate labour standards and conditions and the protection of the environment. As examples, the NAP raises the fact that the Comprehensive and Progressive Agreement for Trans-Pacific Partnership (CPTPP) includes independent chapters on labour and the environment as well as provisions on women's participation, and the Japan-EU Economic Partnership Agreement (EPA) includes a Trade and Sustainable Development Chapter.

In addition, the NAP raises "Continue to make efforts towards concluding EPAs and investment agreements that benefit not only industry but also a wide range of people, including workers" as future measures planned.

Under Japan's preferential tariff system, Japan provides duty-free treatment to Bangladesh and Cambodia as LDCs for items subject to special preferential treatment (of which there are 2,436), but there are no human rights or labour-related requirements.²¹⁰

4.3.1.2 The labour chapter in economic partnership agreements

The first time Japan concluded an EPA that included a comprehensive labour chapter was with the TPP, which it signed in February 2016. However, there are some cases where EPAs and investment agreements concluded by Japan have included provisions to the effect that investment should not be encouraged by means such as the lowering of labour standards. For example, Article 103 of the Japan-Philippines EPA states that "each

208 Tuổi Trẻ, 21 July 2022. <https://tuoitre.vn/bo-ngoai-giao-phan-doi-bao-cao-cua-my-ve-nan-buon-nguoi-o-Viet-Nam-2022072112524065.htm>

209 Ministry of Foreign Affairs, National Action Plan on Business and Human Rights (2020 to 2025). https://www.mofa.go.jp/press/release/press4e_002939.html

210 Ministry of Foreign Affairs, Preferential Tariff System. https://www.mofa.go.jp/mofaj/gaiko/t_kanzei/index.html

Party shall strive to ensure that it does not waive or otherwise derogate from, or offer to waive or otherwise derogate from, such laws in a manner that weakens or reduces adherence to the internationally recognized labour rights”.²¹¹

After the United States withdrew from the TPP, it was signed in March 2018 as the CPTPP, excluding the United States, and it took effect in December of that year. The labour chapter of the TPP was taken over intact in the CPTPP. In addition, the EU-Japan Economic Partnership Agreement was also signed in July 2018 and entered into force in February 2019. The “Trade and Sustainable Development” chapter of the Japan-EU EPA also provides for the reaffirmation of the respective commitments of each party with regard to the ILO Declaration on Fundamental Principles and Rights at Work, etc., as well as for the respect, promotion and realization in each party’s laws, regulations and practices the internationally recognized principles the fundamental rights at work (freedom of association, right to collective bargaining, elimination of forced and compulsory labour, abolition of child labour, elimination of discrimination in respect of employment and occupation).²¹²

4.3.2 The trade agreement with Bangladesh

There is no trade agreement between Japan and Bangladesh, and as a least developed country (LDC), Bangladesh is subject to special preferential measures (see 4.3.1.1). In December 2022, the Japanese Government announced that it would launch the Joint Study Group on the possibility of a Japan-Bangladesh Economic Partnership Agreement (EPA).²¹³

4.3.3 The trade agreement with Cambodia

Japan and Cambodia are both signatories to the ASEAN-Japan Comprehensive Economic Partnership Agreement (AJCEP) and the Regional Comprehensive Economic Partnership Agreement (RCEP), but these agreements have no provisions on labour. Like Bangladesh, Cambodia is subject to the special preferential measures for LDCs (LDC preferential measures) with no requirements concerning human rights or labour (see 3.3.1.1.).

4.3.4 Viet Nam and the CPTPP labour chapter

Four trade agreements have been concluded between Japan and Viet Nam – the Japan-Viet Nam EPA, the AJCEP, the CPTPP, and the RCEP – but the only one with a labour chapter is the CPTPP. The labour chapter of the CPTPP consists of Articles 19.1 to 19.15. Article 19.3.1 requires each party to adopt and maintain the core labour standards stated in the ILO Declaration. Specifically, each party is required to adopt and maintain in its statutes and regulations, and practice (a) freedom of association and the effective recognition of the right to collective bargaining, (b) the elimination of all forms of forced or compulsory labour, (c) the effective abolition of child labour, and (d) the elimination of discrimination in respect of employment and occupation.

211 Japan-Philippines Economic Partnership Agreement, Article 103: Investment and Labor. https://www.mofa.go.jp/mofaj/gaiko/fta/j_asean/philippines/pdfs/mokuji.pdf.

212 Ministry of Foreign Affairs, Japan, “Fact Sheet on the Japan-EU Economic Partnership Agreement (EPA)”. <https://www.mofa.go.jp/mofaj/files/000382020.pdf>

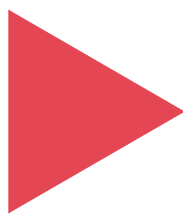
213 Ministry of Economy, Trade and Industry, Japan, press release, 12 December 2022, “Launching of the Joint Study Group on the possibility of a Japan-Bangladesh Economic Partnership Agreement (EPA).” https://www.meti.go.jp/english/press/2022/1212_001.html

Apart from that, the agreement also provides for the holding of regular labour councils by representatives of the parties, and for the holding of cooperative labour dialogue and labour consultations at the request of the parties as mechanisms to ensure compliance with the agreement. Moreover, if a problem cannot be resolved through labour consultations, a shift to judicial dispute resolution (panel proceedings) based on Article 28 is allowed. Further, if the losing party does not comply with the ruling, it could lead to the suspension of benefits such as preferential tariffs based on Article 28.20.²¹⁴

One focus of the CPTPP negotiations was a grace period for the application of judicial dispute resolution based on Article 28 for violations of the labour chapter by Viet Nam. Ultimately, through mediation by Japan, it was agreed in the form of a side letter between Japan and Viet Nam, separate to the agreement, that a three-year grace period would be allowed with regard to the provisions of the labour chapter in general and that a five-year grace period would be allowed with regard to the freedom of association under Article 19.1 Paragraph 1(a).²¹⁵ The CPTPP agreement was signed in March 2018 and it entered into force in December of that year.

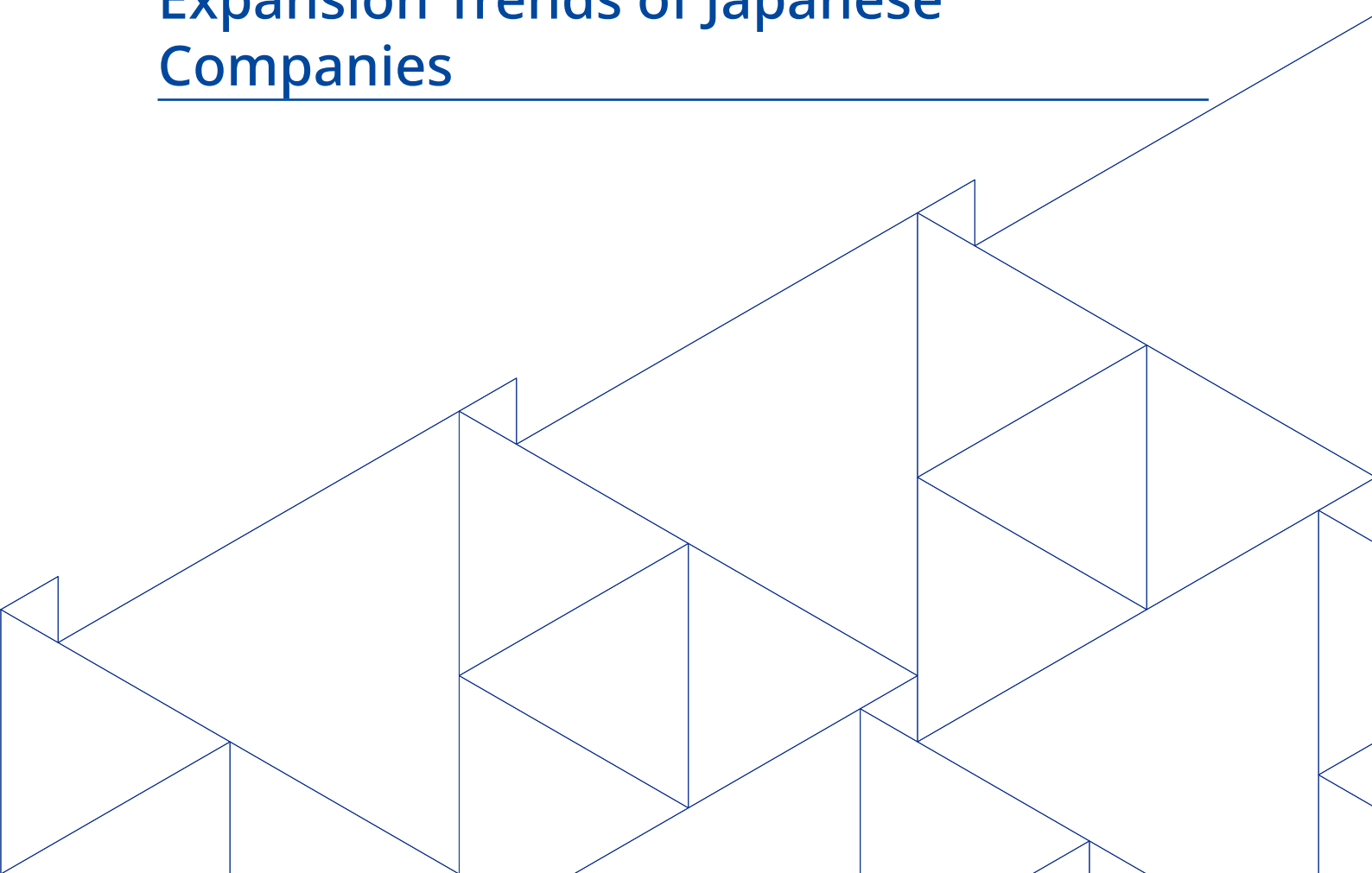
214 Kazuyori Ito, "Web Commentary on the TPP Agreement: Labor", RIETI, September 2016. https://www.rieti.go.jp/jp/projects/tpp/pdf/19_labor_v2.pdf

215 The side letter between Japan and Viet Nam on the relationship between Chapter 19 (Labor) and Chapter 28 (Dispute Settlement), 8 March 2018. https://www.cas.go.jp/jp/tpp/tppinfo/kyotei/tpp_side_letter_en/pdf/side_letter_tpp11_en03.pdf



5

The Trade Trends of Japan with Bangladesh, Cambodia and Viet Nam (Textiles and Clothing, Electronics and Electronic Parts, Automobiles and Automobile parts) and the Overseas Expansion Trends of Japanese Companies



This chapter gives an overview of trade trends with Japan focusing on textiles and clothing, electronics and parts, and automobiles and automobile parts, which were the subjects of this survey, based on statistics on trade with Japan for Bangladesh, Cambodia and Viet Nam. It also touches on the activities of Japanese companies into each country and the trends in their activities in each country.

5.1 Bangladesh

As shown in Table 5-1, exports from Bangladesh increased by a factor of about 2.4, from USD 16,204.4 million in 2010 to USD 38,757.8 million in 2021. The average annual rate of increase in exports over that period was 9.0 per cent. Meanwhile, imports increased by a factor of about 2.3, from USD 23,738.4 million in 2010 to USD 54,402.6 million in 2021. The average annual rate of increase in imports over that period was 8.7 per cent. Exports and imports grew at roughly the same rate, but imports always outpaced exports, and the trade deficit reached more than USD 15,600 million in 2021. The fact that the country's exports are mostly from the textile industry, centred on clothing, can be cited as the reason that exports decreased significantly in 2020 during the COVID-19 pandemic. Decreased needs for clothing amid prolonged lockdowns in all countries and people refraining from going out was a major cause.

Looking at exports by country, the United States was the leading destination in 2021, followed by various European countries, India and Japan. Although the share of exports to France and the Netherlands declined from 2010, the share increased for countries such as Spain and Bangladesh's neighbour India, to which OEM-centred exports for specific clothing brands increased.

Bangladesh recorded growth in exports to Japan by a factor of more than 2.6 from 2010 to 2014, but from the COVID-19 pandemic onward, exports fell year-on-year in both 2020 and 2021. In 2021 in particular, Japan was the only major country to which exports decreased, and it can be understood that there was a greater impact on the inability to sell apparel products than in Western countries due to the major decline in Japan in people going out, etc., because of the COVID-19 pandemic.

Looking at Bangladesh's imports by country, as shown in Table 5-2, the two standouts in 2010 were China and India, the origins of imports of USD 3,819 million and USD 3,214 million, respectively. However, imports from China have increased year by year, reaching USD 12,925 million in 2021, while imports from India remained at USD 8,593 million, so by value, China accounted for 23.8 per cent, or about one-quarter of imports.

Imports from Japan virtually doubled from USD 1,047 million in 2010 to USD 2,000 million in 2021, but its share of imports fell from 4.4 to 3.7 per cent, suppressed by the growth in the share of imports from China.

► Table 5-1 Trends in exports from Bangladesh

Major countries	Exports (USD 1 million)				Average annual growth rate (%)		Year-on-year growth rate (%)		Share (%)		
	2010	2015	2020	2021	2010 to 2014	2015 to 2019	2020	2021	2010	2015	2021
Total	16,204.4	31,208.4	33,673.2	38,757.8	86.3	23.0	-16.9	15.1	100.0	100.0	100.0
United States	3,950.5	5,783.4	5,832.3	6,974.0	41.3	18.9	-15.2	19.6	24.4	18.5	18.0
Germany	2,187.3	4,705.3	5,099.1	5,953.5	115.8	31.2	-17.4	16.8	13.5	15.1	15.4
United Kingdom	1,508.5	3,205.4	3,453.8	3,751.2	93.4	30.1	-17.2	8.6	9.3	10.3	9.7
Spain	572.7	1,753.8	2,189.0	2,343.9	182.2	45.7	-14.3	7.1	3.5	5.6	6.0
France	1,025.9	1,743.5	1,703.5	1,962.1	63.5	27.2	-23.2	15.2	6.3	5.6	5.1
Italy	623.9	1,382.3	1,282.8	1,308.6	113.5	18.9	-21.9	2.0	3.9	4.4	3.4
India	304.6	527.1	1,096.3	1,279.6	49.9	136.8	-12.2	16.7	1.9	1.7	3.3
Netherlands	1,016.9	840.3	1,098.6	1,277.4	-15.6	52.2	-14.1	16.3	6.3	2.7	3.3
Japan	330.6	915.2	1,200.7	1,183.6	160.7	49.2	-12.1	-1.4	2.0	2.9	3.1
Canada	666.8	1,029.1	1,000.4	1,164.0	64.9	30.2	-25.3	16.4	4.1	3.3	3.0
Belgium	390.5	975.1	723.4	704.9	148.7	-2.9	-23.6	-2.6	2.4	3.1	1.8
Sweden	223.4	460.0	584.3	656.1	88.8	51.3	-16.0	12.3	1.4	1.5	1.7
Other	3,402.8	7,887.9	8,409.0	10,198.9	125.4	27.1	-16.1	21.3	21.0	25.3	26.3

Source: Export Promotion Bureau of Bangladesh.

► Table 5-2 Trends in imports to Bangladesh

Major countries	Imports (USD 1 million)				Average annual growth rate (%)		Year-on-year growth rate (%)		Share (%)		
	2010	2015	2020	2021	2010 to 2014	2015 to 2019	2020	2021	2010	2015	2021
Total	23,738.4	40,579.3	48,699.9	54,402.6	71.6	27.6	-13.1	11.7	100.0	100.0	100.0
China	3,819.1	8,231.8	11,489.9	12,925.2	97.7	65.7	-15.8	12.5	16.1	20.3	23.8
India	3,213.9	5,827.7	5,793.6	8,593.5	87.8	31.2	-24.2	48.3	13.5	14.4	15.8
United States	469.3	690.6	2,126.1	2,268.2	78.4	157.3	19.7	6.7	2.0	1.7	4.2
Indonesia	665.3	1,397.5	1,902.4	1,845.6	66.0	38.8	-2.0	-3.0	2.8	3.4	3.4
Japan	1,047.1	1,523.6	1,720.7	2,001.2	23.3	21.2	-6.8	16.3	4.4	3.8	3.7
Singapore	1,550.5	2,198.5	1,716.2	2,468.0	55.3	41.3	-44.7	43.8	6.5	5.4	4.5
Malaysia	1,231.7	1,299.6	1,671.3	1,573.5	69.2	15.1	11.7	-5.9	5.2	3.2	2.9
Brazil	-	-	1,428.7	1,738.2	-	-	1.9	21.7	-	-	3.2
Qatar	-	-	1,218.7	1,021.0	-	-	16.0	-16.2	-	-	1.9
Saudi Arabia	-	-	1,091.2	979.5	-	-	9.5	-10.2	-	-	1.8
South Korea	838.5	1,223.1	1,030.3	1,126.6	43.0	7.5	-21.6	9.3	3.5	3.0	2.1
United Arab Emirates	-	-	720.0	1,325.9	-	-	-41.1	84.2	-	-	2.4
Other	9,489.4	15,165.1	13,765.5	13,121.0	60.7	-1.4	-7.9	-4.7	40.0	37.4	24.1
Imports to EPZ	1,413.6	3,021.8	3,025.3	3,339.2	110.5	41.2	47.5	23.7	6.0	7.4	6.1

Source: Bangladesh Bank.

Next, we will divide and arrange the foreign trade of Bangladesh from 2010 into the three sectors covered in this survey: automobiles and automobile parts, textiles and clothing, and electronics and electronic parts. JETRO has compiled trade statistics by item based on data from the Global Trade Atlas (GTA) for the years

2010 to 2013 and 2015, and on data from the Bangladesh Export Promotion Bureau (EPB)²¹⁶ and Bangladesh Bank²¹⁷ for the years 2018 to 2020. However, statistics by item were not available for the years 2014 and 2016 to 2017 due to the lack of data in Bangladesh. With regard to the definitions of items, in accordance with the definitions in the “JETRO Global Trade and Investment Report 2022,” “textiles and clothing” is the total for the items of HS codes 50 to 63, “electronics and electronic parts” is the total for the items of HS code 85, and “automobiles and automobile parts” is the total for the items of HS codes 8702 to 8705 and 8707 to 8708 in the GTA, but in the EPB materials, it is the total for the items of HS code 87.

5.1.1 Textiles and clothing

Textiles and clothing have long been positioned as a key industry of Bangladesh, with a major role being played by the so-called processing trade, whereby raw materials are imported and locally produced apparel products are exported. The pattern is for cotton and other raw materials to be imported from countries such as Bangladesh’s neighbour India, which is one of the world’s largest producers, or sourced domestically, with the products then manufactured and exported.²¹⁸ Europe and the United States, which account for 90 per cent of all textile product exports are the main destinations, and while exports to Japan, which account for about 3 per cent, have also tended to increase, the portion of exports to Japan, as shown in Table 5-4, has been slightly sluggish since 2019.

There are cases where exports to Japan are carried out by Japanese companies operating in Bangladesh themselves, and cases where trading companies and others outsource production to local factories. In both cases, the materials for products for Japan are supplied by the Japanese side or supplied by local procurement or by importing widely, not only from Southeast Asia, but also from ASEAN or Europe, etc., so if the volume of exports increases, imports also increase in association. On the other hand, it is also predicted²¹⁹ that the trend will shift in future from conventional cotton products to high-value-added products such as sportswear using chemical fibres. In line with this, there are also²²⁰ data showing that instead of relying on imports for raw materials, local procurement of clothing materials is gradually increasing.

With regard to the penetration into Bangladesh by Japanese companies in this field, there are cases where companies enter Bangladesh directly in the form of factories, carry out integrated production and export products, as well as cases where a major trading company mediates the selection of a local factory and exports to a Japanese destination. In addition, there are also cases where companies establish factories for the constituent parts of apparel and sell them widely to domestic manufacturers in Bangladesh. As the overall trend, the idea of identifying existing local textile factories and using them as contractors is thought to be more effective than bringing production bases to Bangladesh.

The 76th session of the UN General Assembly in November 2021 adopted a resolution that Bangladesh

216 Bangladesh Export Promotion Bureau, “Export Data”, Last viewed 9 June 2023. http://epb.gov.bd/site/view/epb_export_data/

217 Bangladesh Bank, Last viewed 9 June 2023. <https://www.bb.org.bd/en/index.php/econdata/bopindex>

218 From interviews with Japanese companies doing business in Bangladesh as of December 2022.

219 Comment made by Mr. Ando, Director of JETRO Dhaka Office at JETRO’s Bangladesh Manufacturing Mission for Japanese Companies held in March 2023.

220 Comment made by a participant at JETRO’s Bangladesh Manufacturing Mission for Japanese Companies held in March 2023.

is expected to graduate from its Least Developed Country (LDC) status in November 2026.²²¹ Bangladesh receives preferential tariff treatment for LDCs in exports to other countries, excluding the United States, and as Bangladesh moves towards graduating from LDC status, concluding trade agreements with major export destinations and diversifying its export industries are urgent issues for the country. With regard to exports to Japan in particular, the Japanese Ministry of Economy, Trade and Industry, with other organizations, announced in December 2022 that they would launch a “Joint Study Group on the Possibility of a Japan-Bangladesh Economic Partnership Agreement (EPA).” Movement has started towards the promotion of trade with Japan.

► Table 5-3 Trends in trade in textiles and clothing (Unit: Dollars)

	2010	2011	2012	2013
Total	24,050,852,946	31,390,934,568	30,408,106,502	30,777,506,462
Exports	16,747,168,889	21,420,368,566	21,416,204,229	21,422,691,555
Imports	7,303,684,057	9,970,566,002	8,991,902,273	9,354,814,907
Japan	275,313,356	417,120,436	516,189,103	568,710,641
Exports	224,410,370	379,939,770	444,632,755	507,412,212
Imports	50,902,986	37,180,666	71,556,348	61,298,429

	2015	2018	2019	2020
Total	40,185,658,348	41,985,010,000	44,007,610,000	42,676,425,456
Exports	28,332,560,789	32,872,010,000	36,241,610,000	34,189,225,456
Imports	11,853,097,559	9,113,000,000	7,766,000,000	8,487,200,000
Japan	835,899,239	1,194,251,000	1,063,797,000	1,044,776,000
Exports	720,865,868	1,161,851,000	1,028,197,000	1,009,976,000
Imports	115,033,371	32,400,000	35,600,000	34,800,000

Source: GTA for 2010 to 2015; EPB data and Bangladesh Bank data for 2018 to 2020.

5.1.2 Electronics and electronic parts

As shown in Table 5-4, the trend in trade in the electronics and electronic parts area is for a large excess of imports vis-a-vis both Japan and the rest of the world. However, while imports from the rest of the world have remained at around 50 times the value of exports, imports from Japan were around 10 times the value of exports in 2010, but the gap has narrowed in recent years, and the values of imports and exports were almost balanced in 2019. However, in 2020, imports of precision equipment from Japan increased significantly again, and the value of imports was again about double the value of exports.

Moving away from electronics slightly, some Japanese companies are approaching the IT industry of Bangladesh from the perspective of advanced IT human resources. It is estimated²²² that as many as 600,000 IT professionals who are highly proficient in English work as freelancers, which is expected to be a new option in the future as India’s IT human resources draw attention. Under “Digital Bangladesh & Vision 2021,” the Government of Bangladesh is working together with the private sector on the promotion of the IT industry, including the use of IT in society and the development of IT human resources. Based on the Government’s policy, the Bangladesh Association of Software and Information Services (BASIS), which carries out activities

221 United Nations Department of Economic and Social Affairs, “Graduation of Bangladesh, Lao People’s Democratic Republic and Nepal from the LDC category”, 24 Nov. 2021. <https://www.un.org/development/desa/dpad/2021/graduation-of-bangladesh-lao-peoples-democratic-republic-and-nepal-from-the-ldc-category/>

222 Results of a JETRO Dhaka office interview survey.

aimed at developing the IT industry, has established a Japan Desk and has also started other initiatives to secure IT human resources.

► Table 5-4 Trends in trade in electronics and electronic parts (Unit: Dollars)

	2010	2011	2012	2013
Total	2,049,325,909	2,856,408,353	1,924,868,192	1,843,672,900
Exports	31,868,035	48,991,762	76,277,142	45,033,242
Imports	2,017,457,874	2,807,416,591	1,848,591,050	1,798,639,658
Japan	51,425,960	29,774,773	30,150,808	17,981,039
Exports	4,012,460	1,668,580	4,614,056	6,720,602
Imports	47,413,500	28,106,193	25,536,752	11,260,437

	2015	2018	2019	2020
Total	2,510,132,001	3,074,960,000	2,279,210,000	2,538,578,186
Exports	59,518,001	61,960,000	61,210,000	67,478,186
Imports	2,450,614,000	3,013,000,000	2,218,000,000	2,471,100,000
Japan	53,660,943	30,534,000	22,233,000	37,789,000
Exports	7,640,117	11,134,000	10,533,000	12,989,000
Imports	46,020,826	19,400,000	11,700,000	24,800,000

Source: GTA for 2010 to 2015; EPB data and Bangladesh Bank data for 2018 to 2020.

5.1.3 Automobiles and automobile parts

Bangladesh imports finished automobiles, the majority of which are used vehicles. In addition, because there is a restriction that only cars up to five years old can be imported,²²³ imported cars are comparatively new, and there are high expectations for Japanese cars because they are right-hand drive for use on the left side of the road. For this reason, and particularly in this area of trade with Japan, imports from Japan account for more than 99 per cent of the total value of trade while exports from Bangladesh continue to be small, as shown in the section on Japan in Table 5-5.

The current situation is that the automotive parts support industry has not yet developed in Bangladesh and local procurement of automotive parts is difficult. Consequently, it is also considered difficult for vehicle manufacturers to enter the country. Because of this, there is an idea that Bangladesh could be a promising market for service parts, but it is also the case that, compared to Japan, the products matched to the Bangladeshi market are at the level of a few generations ago, so Japanese companies are no longer manufacturing finished cars at that level.²²⁴

Although there were 338 Japanese companies that had entered Bangladesh as of January 2023 (JETRO survey), in this area, in addition to imports of some highly preferred scooters and finished vehicles of large displacement, there are some Japanese companies that basically import from India parts for motorbikes in complete knock down (CKD) form and then assemble and sell them. Apart from that, however, local companies assemble and produce motorbikes with technology provided by Japanese companies, so no notable corporate entries have been seen.

223JETRO, "Trade and Investment Consulting Q&A", Last viewed 9 June 2023. <https://www.jetro.go.jp/world/qa/04A-001242.html>

224Comment made by a participant at JETRO's Bangladesh Manufacturing Mission for Japanese Companies held in March 2023.

► Table 5-5 Trends in trade in automobiles and automotive parts²²⁵ (Unit: Dollars)

	2010	2011	2012	2013
Total	745,467,700	691,271,818	485,042,626	514,390,482
Exports	20,869,182	1,388,265	3,322,778	2,026,228
Imports	724,598,518	689,883,553	481,719,848	512,364,254
Japan	374,133,501	112,800,620	183,364,379	166,064,560
Exports	4,130	95,964	97,737	49,779
Imports	374,129,371	112,704,656	183,266,642	166,014,781

	2015	2018	2019	2020
Total	810,182,620	1,692,730,000	1,229,240,000	1,497,427,695
Exports	14,565,821	85,730,000	84,240,000	161,227,695
Imports	795,616,799	1,607,000,000	1,145,000,000	1,336,200,000
Japan	350,164,764	312,735,000	293,056,000	315,122,000
Exports	1,543,998	1,135,000	1,256,000	1,022,000
Imports	348,620,766	311,600,000	291,800,000	314,100,000

Source: GTA for 2010 to 2015; EPB data and Bangladesh Bank data for 2018 to 2020.

5.1.4 Foreign direct investment

Inward direct investment (international balance of payments base, net, flow) was USD 2,896 million in 2021, up 12.9 per cent compared to the previous year. By country, the amount of investment from China grew the fastest, by a factor of 4.5, to USD 408 million, second only to the United States in value. In terms of investment from China by industry, electricity accounted for USD 226.7 million, or slightly less than 60 per cent of the total, but this seems to be related to the Payra coal-fired power plant. This project is a joint venture between the Bangladeshi Government-affiliated North-West Power Generation Company and a Chinese state-owned enterprise building an ultra-supercritical pressure coal-fired power plant near the Payra deep-water port, which is located about 300 km south of Dhaka. It opened partially in August 2016, and has a total investment of USD 2,480 million. Phase 2 of its development started in 2021, with the start of commercial operations scheduled for May to June 2024.

In the mainstay sewing industry, the amount of investment increased mainly from China, South Korea, Hong Kong, the United Kingdom and India, and reached USD 554 million, doubling from the previous year. This was the largest amount on an industry basis. Investment in oil and gas grew centred on the United States, increasing significantly by a factor of 2.6. On the other hand, food (down 63.7 per cent) and telecommunications (down 38.8 per cent), both of which are focus industries that had increased the previous year, turned significantly lower, resulting in the suppression of the growth of inward direct investment overall.

Direct investment from Japan increased by a factor of 2.6 to USD 91 million, with the fertilizer area the largest by industry at USD 39.73 million. The main contribution was from a project to develop a fertilizer manufacturing plant with the largest production capacity in Bangladesh (Ghorasal Project), with Mitsubishi Heavy Industries and Marubeni working on engineering, procurement and construction (EPC). The point that Japanese financial institutions such as the Japan Bank for International Cooperation (JBIC), MUFG Bank, and the Tokyo Branch of the Hong Kong and Shanghai Banking Corporation Limited (HSBC) are supporting this project through co-financing also attracted attention. Further, investment in the construction sector (\$16.31 million) was also robust against the backdrop of Official Development Assistance (ODA), such as the

²²⁵GTA extracts items from HS8702 to 8705 and 8707 to 8708, but in the EPB data, items are extracted from HS87.

construction of Line 6 of the Dhaka Mass Rapid Transit (MRT) system, which is the first elevated railway line in Bangladesh (opened partially in December 2022), as well as Terminal 3 of Dhaka Airport (scheduled for completion in 2024), both of which were promoted steadily by the Japanese Government and companies even during the COVID-19 pandemic.

► Table 5-6 Bangladesh inward FDI by country/region and industry
(international balance of payments base, net, flow)

(Units: USD 1 million, %)

Country / region	2020		2021		Industry	2020		2021	
	Amount	Amount	Composi- tion ratio	Growth rate		Amount	Amount	Composi- tion ratio	Growth rate
United States	296	586	20.2	98.0	Sewing	271	554	19.1	104.4
China	91	408	14.1	348.4	Electric power	508	422	14.6	-16.9
Singapore	157	299	10.3	90.4	Oil and gas	109	285	9.8	161.5
United Kingdom	397	296	10.2	-25.4	Banking	302	239	8.3	-20.9
South Korea	89	154	5.3	73.0	Communications	260	159	5.5	-38.8
Hong Kong	111	150	5.2	35.1	Food	333	121	4.2	-63.7
Netherlands	400	131	4.5	-67.3	Trade	121	107	3.7	-11.6
Japan	35	91	3.1	160.0	Total (Including others)	2,564	2,896	100.0	12.9
Total (Including others)	2,564	2,896	100.0	12.9					

Source: Bangladesh Bank

According to a JETRO survey, there were 338 Japanese companies operating in Bangladesh as of January 2023, and 140 member companies of the Japanese Commerce and Industry Association in Dhaka. Many companies have entered Bangladesh as manufacturing and export bases in textiles and light industry. Most recently, the entry of construction companies aiming for orders on domestic infrastructure projects have been conspicuous, and in addition, attention from Japanese companies and IT companies aiming for domestic demand has also increased. Furthermore, the Bangladesh Special Economic Zone (BSEZ), developed by the Bangladesh Economic Zones Authority (BEZA) and Japanese trading companies, opened²²⁶ in December 2022, and it is expected that Japanese companies will move there, in part because existing industrial parks have become too cramped.

5.1.5 Supplementary notes

On 27 April 2023, to coincide with Prime Minister Sheikh Hasina's visit to Japan, JETRO and the Bangladesh Investment Development Authority held the Bangladesh Trade and Investment Summit, which attracted attendees exceeding its 300-person capacity. During the ceremony, the conclusion of a memorandum of understanding (MoU) with 11 Japanese companies was announced and companies including Lion, the first Japanese company to move into the BSEZ, took the stage and were introduced as companies that will do business with Bangladesh from now on.

Prime Minister Hasina promised to provide comprehensive backing as the government in a hope for Japanese companies to build a future together with Bangladeshi companies. There are hopes that further trade and investment will be promoted between the two countries on the back of this event.

²²⁶JETRO, "Bangladesh Special Economic Zone opens and Prime Minister Sheikh Hasina expects foreign investment", JETRO Business Summary, 9 December 2022, Last viewed 9 June 2023. <https://www.jetro.go.jp/biznews/2022/12/c59bec1b6ec1f60b.html>

5.2 Cambodia

Cambodia's exports increased by a factor of 3.1 from USD 5,590.1 million in 2010 to USD 17,571.8 million in 2021. The average annual rate of increase in exports over that period was 11.0 per cent. Meanwhile, imports increased by a factor of 5.9, from USD 4,902.5 million in 2010 up to USD 28,702.8 million. The average annual rate of increase in imports over that period was 17.4 per cent. With the growth of imports greatly above the growth of exports, the country's trade balance fell from a surplus of USD 687.6 million in 2010 to a deficit of USD 11,131 million in 2021.

Looking at exports by country or region, the largest export destination is the United States. The value of Cambodia's exports to the United States expanded by a factor of 3.9 from USD 1,905.6 million in 2010 to USD 7,491 million in 2021. Looking at changes over the same period, the average annual rate of increase went from 1.2 per cent in the 2010 to 2014 period to 19.9 per cent from 2015 to 2019, and it remained strong even amid the COVID-19 pandemic at 20.8 per cent year-on-year in 2020 and 40.5 per cent in 2021. As a result, the share of Cambodia's total exports accounted for the United States increased from 34.1 per cent in 2010 to 42.6 per cent in 2021.

On the other hand, China, the second largest export destination as of 2021, received exports totalling only USD 65 million in 2010 (1.2 per cent share), less than major developed countries such as Canada, the Netherlands, the United Kingdom, Germany and Japan. Like exports to the United States, exports to China grew rapidly from 2010 to 2014 at an average annual rate of 53.3 per cent, and then grew significantly from 2015 to 2019 at an average annual rate of 25.7 per cent. The increase slowed to 7.6 per cent year-on-year in 2020 after the outbreak of the COVID-19 pandemic, and exports expanded again in 2021 with a 38.7 per cent increase. The value of exports to China in 2021 was USD 1,510.3 million, accounting for 8.6 per cent of total exports and making China the second largest export destination.

Exports to Japan, which were worth USD 89.6 million in 2010, trended strongly, increasing at an average annual rate of 40.1 per cent between 2010 and 2014 and 18.8 per cent between 2015 and 2019, but declined with the outbreak of COVID-19. In 2020, exports were down 6.8 per cent year-on-year, and in 2021, growth was limited to 2.9 per cent. While the degree of dependence on the United States and China has been increasing, Japan has maintained its position as the third largest export destination (6.2 per cent share).

Looking at Cambodia's imports by country and region, China is the largest source of imports. Imports from China increased by a factor of 8.2 from USD 1,186.3 million in 2010 to USD 9,684.3 million in 2021, with the share of Cambodia's total imports accounted for by China expanding from 24.2 to 33.7 per cent. Looking at the average annual rate of increase over the same period, it was 33.0 per cent from 2010 to 2014 and 17.9 per cent from 2015 to 2019. The rate decreased in 2020 during the COVID-19 pandemic (minus 6.4 per cent year-on-year), and imports expanded suddenly the following year, at 36.4 per cent.

Imports from Japan increased from USD 156.7 million in 2010 to USD 640.5 million in 2021. However, although the average annual rate of increase was 13.9 per cent from 2010 to 2014 and 20.4 per cent from 2015 to 2019, imports from Japan have been sluggish since the COVID-19 pandemic, falling 26.6 per cent year-on-year in 2020 and 1.8 per cent year-on-year in 2021, and Japan's share of Cambodia's total imports has declined to 2.2 per cent.

Looking at the top sources of imports in 2021, Singapore was number one at USD 5,097 million (32.7 times that of 2010, 17.8 per cent share of imports), followed by Thailand at USD 3,463.3 million (5.0 times 2010,

12.1 per cent share) and Viet Nam at USD 3,143.5 million (6.5 times 2010, 11.0 per cent share). Combined with Indonesia (8th highest, USD 607.9 million, 2.1 per cent share of imports) and Malaysia (10th, USD 401.7 million, 1.4 per cent share), five of the top ten positions are taken by ASEAN members.

► Table 5-7 Trends in exports from Cambodia (by country or region)

	Exports (USD 1 million)				Average annual growth rate (%)		Year-on-year growth rate (%)		Composition ratio (%)		
	2010	2015	2020	2021	2010 to 2014	2015 to 2019	2020	2021	2010	2015	2021
Total	5,590.1	8,542.4	17,716.5	17,571.8	5.2	14.8	19.5	-0.8	100.0	100.0	100.0
United States	1,905.6	2,136.8	5,333.2	7,491.0	1.2	19.9	20.8	40.5	34.1	25.0	42.6
China	65.0	405.5	1,089.1	1,510.3	53.0	25.7	7.6	38.7	1.2	4.7	8.6
ASEAN	703.4	765.1	3,848.3	1,177.4	-15.3	14.9	188.3	-69.4	12.6	9.0	6.7
Japan	89.6	571.6	1,062.4	1,093.6	40.1	18.8	-6.8	2.9	1.6	6.7	6.2
Canada	274.4	551.0	750.7	954.8	16.7	11.1	-10.6	27.2	4.9	6.5	5.4
Germany	112.4	748.4	971.1	880.8	50.6	9.6	-10.2	-9.3	2.0	8.8	5.0
United Kingdom	235.5	869.0	830.9	731.8	33.7	3.0	-15.2	-11.9	4.2	10.2	4.2
Belgium	63.8	282.5	482.3	508.1	31.4	17.8	-11.4	5.3	1.1	3.3	2.9
Viet Nam	96.1	185.6	387.4	507.7	0.2	17.9	7.9	31.0	1.7	2.2	2.9
Netherlands	235.8	248.7	363.0	441.4	-7.3	16.9	-21.8	21.6	4.2	2.9	2.5
Thailand	150.1	346.2	653.5	360.5	-24.0	10.0	28.8	-44.8	2.7	4.1	2.1

Source: Global Trade Atlas.

► Table 5-8 Trends in imports to Cambodia (by country or region)

	Imports (USD 1 million)				Average annual growth rate (%)		Year-on-year growth rate (%)		Composition ratio (%)		
	2010	2015	2020	2021	2010 to 2014	2015 to 2019	2020	2021	2010	2015	2021
Total	4,902.5	10,668.9	19,114.3	28,702.8	18.6	17.4	-5.7	50.2	100.0	100.0	100.0
ASEAN	1,684.0	3,547.9	7,680.6	12,923.8	14.7	22.5	-3.7	68.3	34.3	33.3	45.0
China	1,186.3	3,926.2	7,098.2	9,684.3	33.0	17.9	-6.4	36.4	24.2	36.8	33.7
Singapore	155.7	503.3	984.2	5,097.0	32.9	4.7	62.4	417.9	3.2	4.7	17.8
Thailand	690.7	1,561.5	2,868.0	3,463.3	11.0	20.0	-11.3	20.8	14.1	14.6	12.1
Viet Nam	487.3	927.0	2,656.0	3,143.5	15.6	30.9	-2.5	18.4	9.9	8.7	11.0
Switzerland	171.4	9.3	364.4	963.9	-53.1	24.4	1,535.7	164.5	3.5	0.1	3.4
Hong Kong	553.3	714.3	446.6	724.7	10.7	-6.7	-17.6	62.3	11.3	6.7	2.5
Japan	156.7	423.0	652.0	640.5	13.9	20.4	-26.6	-1.8	3.2	4.0	2.2
Indonesia	175.3	335.5	665.1	607.9	12.5	23.2	-13.9	-8.6	3.6	3.1	2.1
South Korea	248.1	459.6	549.4	580.0	12.0	10.0	-18.4	5.6	5.1	4.3	2.0
Malaysia	165.5	187.5	346.1	401.7	6.6	32.8	-40.7	16.1	3.4	1.8	1.4

Source: Global Trade Atlas.

5.2.1 Textiles and clothing

This section looks at Cambodia's trade (exports) by item. With regard to the definitions of items, in accordance with the definitions in the "JETRO Global Trade and Investment Report 2022," "textiles and clothing" is the total for the items of HS codes 50 to 63, "electronics and electronic parts" is the total for the items of HS code 85, and "automobiles and automobile parts" is the total for the items of HS codes 8702 to 8705 and 8707 to 8708.

Cambodia's exports of textiles and clothing virtually doubled from USD 3,056.5 million in 2010 to USD 6,045.5 million in 2015. Exports continued to grow steadily thereafter, reaching USD 8,489.6 million in 2019, but fell to USD 7,766.3 million in 2020 (down 8.5 per cent year-on-year) as COVID-19 spread worldwide. However, supported by the expansion of global demand, exports recovered to USD 8,357.9 million in 2021, an increase of 7.6 per cent compared to the previous year, bringing it close to the level of 2019. The average annual rate of increase from 2010 to 2021 was 9.6 per cent.

Looking at the data by country or region, the largest export destination, the United States, accounted for USD 3,113.1 million, or 37.2 per cent, of all textile and clothing exports in 2021. However, the average annual rate of increase over the same period was 4.9 per cent, which is relatively low compared to the rates of growth in exports to other major destinations, and the share of textile and clothing exports accounted for by the United States dropped significantly from 60.0 per cent in 2010. Looking at other major export destinations, Canada was second at USD 777.7 million (average annual rate of increase from 2010 to 2021: 10.3 per cent; share of exports in 2021: 9.3 per cent), Japan was 3rd at USD 751.6 million (26.0 per cent increase, 9.0 per cent share), Germany was 4th at USD 612.9 million (22.2 per cent increase, 7.3 per cent share) and the United Kingdom was 5th at USD 565.5 million (11.8 per cent increase, 6.8 per cent share). Apart from those, Belgium (6th), Spain (7th), the Netherlands (8th) and France (10th) are positioned in the top 10 countries, so it can be understood that North America, Japan and Europe are the top destinations for Cambodia's textile and clothing exports.

5.2.2 Electronics and electronic parts

Next, we will look at the trends in Cambodia's exports of electronics and electronic parts by country or region. Cambodia's exports of electronics and electronic parts were worth only USD 5.6 million in 2010 but have since followed an upward trend as domestic production has increased due to investment by foreign companies, including from Japan. Not impacted by the outbreak of COVID-19, exports increased 32.0 per cent year-on-year to USD 762.1 million in 2020 and a further 41.9 per cent year-on-year to USD 1,081.1 million in 2021, exceeding USD 1 billion for the first time.

Looking at the data by country or region, the United States, which had received virtually no exports of electronics and electronic parts from Cambodia until 2018, saw exports of USD 62.5 million in 2019, which then expanded to USD 281.3 million in 2020, and USD 548 million in 2021. The proportion of Cambodia's exports of electronics and electronic parts accounted for by the United States was 50.7 per cent in 2021. "Semiconductor devices, photosensitive semiconductor devices, light-emitting diodes (LED) and piezoelectric crystals"²²⁷ accounted for USD 256.9 million and "insulated wire, cable and other insulated electric conductors, and optical fibre cables"²²⁸ accounted for USD 170 million, so items under these two headings accounted for 77.9 per cent of exports.

227 HS code 85.41.

228 HS code 85.44.

Among other countries or regions, Thailand is second at USD 156.5 million (14.5 per cent share), Japan is third at USD 128.5 million (11.9 per cent share), China is fourth at USD 72.4 million (6.7 per cent share) and Hong Kong is fifth at USD 42.3 million (3.9 per cent share). Like with the United States, it is evident that 87.0 per cent of exports to Japan (USD 111.8 million) are “insulated wire, cable and other insulated electric conductors, and optical fibre cables,” with wire harnesses as the most likely common item.

5.2.3 Automobiles and automobile parts

Cambodian exports and imports of automobiles and automobile parts totalled USD 14.9 million and USD 1,011.9 million respectively in 2021. The trade balance for automobiles and automobile parts was a deficit of USD 997 million. Automobiles and automobile parts are small in scale, accounting for only 0.1 per cent of Cambodia’s total exports and 3.5 per cent of its total imports. Looking at the breakdown of imports, passenger cars (HS code 87.03) accounted for USD 509.1 million and cargo vehicles accounted for USD 456.5 million.

Looking at trade in automobiles and automobile parts with Japan in 2021, exports were at USD 300,000 and imports at USD 271.7 million. Passenger cars (USD 258.6 million) accounted for nearly all imports from Japan. Imports of automobiles and automobile parts from Japan in 2015 doubled from the previous year to USD 207.4 million against the backdrop of increased national income an association with the economic development of Cambodia. Imports continued to increase from 2016, reaching USD 522.3 million in 2019 before the COVID-19 pandemic. Imports from Japan decreased significantly due to the COVID-19 pandemic but remained around USD 300 million in both 2020 and 2021.

Excluding motorcycles, until recently, there was no assembly plant for four-wheeled or electric three-wheeled vehicles, and exports of automobiles and parts continued to be sluggish. However, a number of vehicle assembly plans have been announced since late 2021, including by Ford Motor Company of the United States. Regarding Japanese companies, Toyota Tsusho established a four-wheeled vehicle production company in Phnom Penh in November 2022, and has announced plans to assemble Toyota’s Hilux pickup trucks and Fortuner SUVs there in the future.²²⁹ The Cambodian Government has also positioned the automobile industry as a key industry for attracting investment, so the structure of trade may change in the future.

²²⁹Toyota Tsusho Corporation, “Toyota Tsusho Establishes Vehicle Assembly Business Company in Cambodia”, 14 November 2022. https://www.toyota-tsusho.com/english/press/detail/221114_006129.html

► Table 5-9 Cambodia's trade trends with the world (by major items)

	Amount (USD 1 million)				Average annual growth rate (%)		Year-on-year growth rate (%)			Composition ratio (%)		
	2010	2015	2020	2021	2010 to 2014	2015 to 2019	2020	2021	2010 to 2021	2010	2015	2021
Total trade	10,492.6	19,211.4	36,830.7	46,274.5	12.1	16.3	4.9	25.6	14.4			
Exports	5,590.1	8,542.4	17,716.5	17,571.8	5.2	14.8	19.5	-0.8	11.0	100.0	100.0	100.0
Imports	4,902.5	10,668.9	19,114.3	28,702.8	18.6	17.4	-5.7	50.2	17.4	100.0	100.0	100.0
Textiles and clothing	4,971.4	9,908.1	12,396.9	14,029.0	16.7	8.6	-10.0	13.2	9.9			
Exports	3,056.5	6,045.5	7,766.3	8,357.9	15.2	8.9	-8.5	7.6	9.6	54.7	70.8	47.6
Imports	1,914.9	3,862.7	4,630.5	5,671.1	18.9	8.1	-12.3	22.5	10.4	39.1	36.2	19.8
Electronics and electronic parts	226.3	833.5	1,945.2	2,271.8	25.4	18.6	18.0	16.8	23.3			
Exports	5.6	321.3	762.1	1,081.1	75.2	15.8	32.0	41.9	61.3	0.1	3.8	6.2
Imports	220.6	512.2	1,183.1	1,190.7	23.1	20.3	10.5	0.6	16.6	4.5	4.8	4.1
Automobiles and automobile parts	278.8	748.6	1,000.9	1,026.8	5.8	20.9	-37.4	2.6	12.6			
Exports	32.7	75.5	16.6	14.9	-43.7	-30.5	-5.8	-10.3	-6.9	0.6	0.9	0.1
Imports	246.1	673.1	984.3	1,011.9	8.9	23.8	-37.8	2.8	13.7	5.0	6.3	3.5

Source: Global Trade Atlas

► Table 5-10 Cambodia's trade trends with Japan (by major items)

	Amount (USD 1 million)				Average annual growth rate (%)		Year-on-year growth rate (%)			Composition ratio (%)		
	2010	2015	2020	2021	2010 to 2014	2015 to 2019	2020	2021	2010 to 2021	2010	2015	2021
Total trade	246.2	994.5	1,714.3	1,734.1	25.4	19.5	-15.5	1.2	19.4			
Exports	89.6	571.6	1,062.4	1,093.6	40.1	18.8	-6.8	2.9	25.5	100.0	100.0	100.0
Imports	156.7	423.0	652.0	640.5	13.9	20.4	-26.6	-1.8	13.7	100.0	100.0	100.0
Textiles and clothing	67.1	469.6	783.8	790.9	45.7	17.9	-13.6	0.9	25.1			
Exports	59.4	438.7	739.5	751.6	47.5	17.8	-12.5	1.6	26.0	66.3	76.7	68.7
Imports	7.7	30.9	44.3	39.4	28.8	19.1	-28.7	-11.2	16.0	4.9	7.3	6.1
Electronics and electronic parts	4.7	41.7	166.6	161.6	64.8	31.7	33.1	-3.0	37.8			
Exports	0.0	20.8	123.4	128.5	110.4	41.3	48.8	4.1	114.0	0.0	3.6	11.7
Imports	4.7	20.8	43.2	33.2	64.4	19.3	2.3	-23.2	19.4	3.0	4.9	5.2
Automobiles and automobile parts	53.2	207.9	309.0	272.0	13.6	25.9	-40.9	-12.0	16.0			
Exports	0.7	0.5	0.3	0.3	-83.0	-12.1	1.8	-7.8	-7.8	0.8	0.1	0.0
Imports	52.5	207.4	308.7	271.7	14.0	26.0	-40.9	-12.0	16.1	33.5	49.0	42.4

Source: Global Trade Atlas

5.2.4 Foreign direct investment

Statistics that summarize foreign direct investment comprehensively are not available for Cambodia. For this reason, we will look at recent trends in foreign direct investment by means of statistics on the approved value of “Qualified Investment Projects (QIP),” approved for the application of preferential investment treatment as stipulated in Cambodia’s new Law on Investment. However, it must be noted that large-scale investment projects are central to QIPs, so small and medium-sized investment projects have not been captured.

Looking at the trend in the approved value of QIPs released by the Council for the Development of Cambodia (CDC) (2015 to 2022, not including Cambodian capital), the approved value of QIPs in Cambodia has continued to increase, going from USD 899.2 million in 2015 to a record high of USD 5,680.7 million in 2019 prior to the COVID-19 pandemic. However, this decreased to USD 4,039.6 million in 2020 and to the mid USD 1.8 billion range for two years running from 2021.

Looking at the data by major country or region, a majority of the approved value of QIPs is accounted for by China at around 70 to 80 per cent, with 69.0 per cent in 2017, 73.4 per cent in 2018, and 65.3 per cent in 2019. This was due to investments for real estate development, centred on Phnom Penh and Sihanoukville. However, in 2020, during the COVID-19 pandemic, the approved value of QIPs halved and the Chinese share decreased to 39.9 per cent, but the following year, 2021, as the number of non-Chinese projects also decreased, the Chinese share increased relatively to 61.2 per cent. In 2021, the manufacture of automobiles, paper and solar panels accounted for the majority in terms of the value of approved QIP investment projects, but in terms of the number of investment projects, the manufacture of sewn products, shoes and bags accounted for the majority. The approved value of Japanese QIPs in 2016 and 2018 exceeded USD 800 million, the largest of any country or region except China. This is due to AEON MALL, which currently has shopping centres at three locations in Phnom Penh.

Looking back at Japanese companies’ investments in Cambodia, it can be seen that the entry of manufacturing companies increased with the dispersion of China risk from around 2010 under the idea of “China plus one.” However, rapid minimum wage increases occurred repeatedly in Cambodia thereafter, and wage levels in the country have soared. Japanese investment in the manufacturing sector has stagnated since 2013, with opinions raised to the effect that human resource development has not kept pace with wage increases and labour productivity is not worth its cost, and it was revealed that companies are forced to import the parts and raw materials required for local production from overseas as manufacturing bases have not been established domestically. On the other hand, investment by non-manufacturing companies has become mainstream following the improvement of national income due to high economic growth in recent years. AEON MALL’s first outlet in Phnom Penh in 2016 was a symbolic project, but investment has also increased in other service sectors such as educational services and resort development.²³⁰ Even in the manufacturing sector, it has been evaluated that the scale of increases in the minimum wage was suppressed by the COVID-19 pandemic, and that the development of workers and other industrial human resources has advanced, and now the country is starting to see cases of new entries and expansionary investments once again. These include the aforementioned announcement by Toyota Tsusho of its automobile assembly plan and the expansion of production by manufacturers of wire harnesses and other parts.

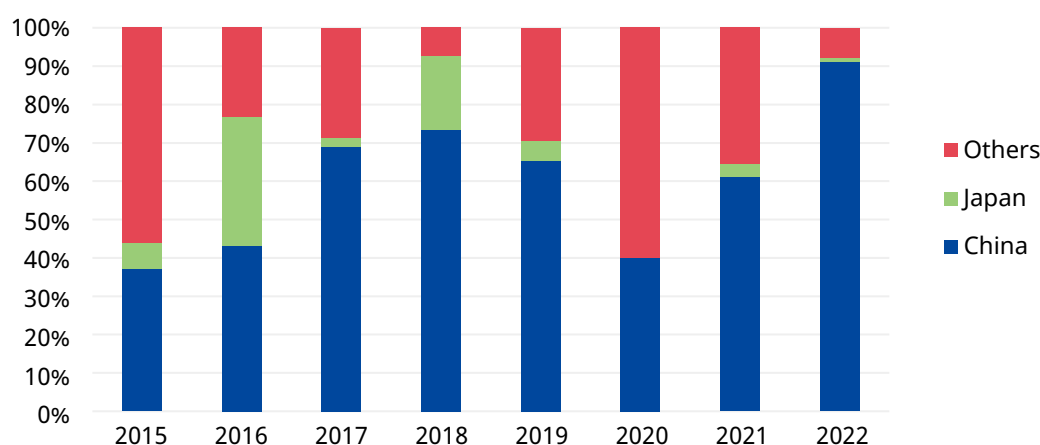
²³⁰JETRO, 2022, “Evolving Cambodian Business (The Cambodian Investment Environment - Direct Investment Results)”, Video (Japanese). <https://www.youtube.com/watch?v=TaXqkWFozVE&list=PLBbntsqbPBvPtZbPm9osLgWu7sdjKwO3&index=35>

► Table 5-11 Trend in approvals of Qualifying Investment Projects (QIP) in Cambodia (Unit: USD 1 million)

	2015	2016	2017	2018	2019	2020	2021	2022
China	334.0	1,070.0	1,770.3	3,357.7	3,710.6	1,610.7	1,139.2	1,688.8
British territories	115.1	35.8	49.0	19.8	463.4	1,712.7	247.9	33.8
Japan	59.3	825.2	63.2	883.2	298.9	7.2	61.8	24.8
South Korea	8.5	21.4	150.7	14.6	21.1	262.8	20.0	18.0
Singapore	29.8	103.8	311.6	7.9	25.2	113.3	134.8	12.6
United States	3.2	21.8	-	16.3	7.2	33.5	162.1	-
Other	349.4	393.7	221.1	275.9	1,154.3	299.6	95.2	77.9
Total foreign capital	899.2	2,471.5	2,565.8	4,575.3	5,680.7	4,039.6	1,861.0	1,856.0

Source: Council for the Development of Cambodia (CDC).

► Table 5-12 Proportion of approved Cambodian QIPs accounted for China and Japan (Unit: %)



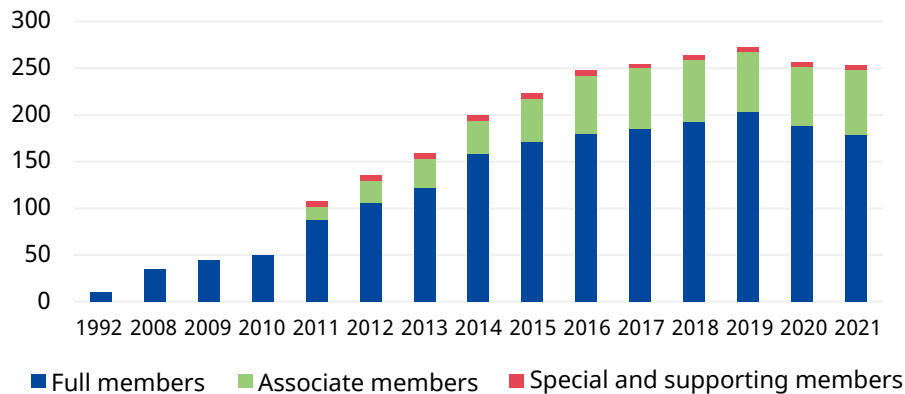
Source: Council for the Development of Cambodia (CDC).

As mentioned above, it is not possible to capture statistics on investments that do not fall under the QIP category. JETRO has calculated based on data from the Cambodian General Department of Taxation (GDT) that a cumulative total of 1,290 Japanese companies continued doing business in Cambodia from 2014 to March 2022. Looking at this chronologically, the number of companies increased rapidly to 494 in 2015 from 33 the previous year, and thereafter trended between 138 and 176 until 2019. Since the COVID-19 pandemic in 2020, the number has remained below 100, and it was only 17 in 2022. Looking at the cumulative number of companies during the same period (1,290) by industry, the service industry (for consumers) was the most numerous with 614 companies (47.6 per cent share), followed by 250 trading companies (19.4 per cent share), 152 in construction and real estate (11.8 per cent share), 111 in the service industry (for businesses) (8.6 per cent share), 90 in manufacturing (7.0 per cent share), 33 in agriculture (2.6 per cent share), 23 in finance and insurance (1.8 per cent share), and 17 in logistics and transportation (1.3 per cent share).

In addition, the trend in the number of member companies of the Japanese Business Association of Cambodia (JBAC) also provides a glimpse into the state of Japanese companies' entry into the country. The number of JBAC members was just 10 companies in 1992 and 50 in 2010 but has increased greatly since 2011. It reached its peak at 273 companies and organizations in 2019, before the COVID-19 pandemic, and as of 2021, there were 253 companies and organizations (including 179 full members).²³¹

²³¹ Japanese Business Association of Cambodia (JBAC), "Japanese Business Association of Cambodia: Annual Report FY2021". https://jbac.info/wp-content/uploads/2022/11/JBAC2021_EN.pdf

► Table 5-13 Trend in the number of members of the Japanese Business Association of Cambodia



Source: Japanese Business Association of Cambodia.

5.3 Viet Nam

Viet Nam's exports expanded by a factor of 4.6 from USD 72,236.7 million in 2010 to USD 335,726 million in 2021. The average annual rate of increase (CAGR) in exports over that period was 15.0 per cent. Most recently, the increase slowed to 6.4 per cent year-on-year in 2020 due to the COVID-19 pandemic but rebounded sharply to 19.3 per cent in 2021. Although domestic production activities stagnated temporarily due to the strengthening of restrictions on social activity, including lockdowns in Viet Nam, it was supported by strong external demand growth in association with the recovery of the global economy from the COVID-19 pandemic.

Meanwhile, the value of Viet Nam's imports expanded by a factor of 3.9 from USD 84,838.6 million in 2010 to USD 330,752.3 million in 2021. The average annual rate of increase in imports over that period was 13.2 per cent.

The country's trade balance, which was in deficit by USD 12,601.9 million in 2010, returned to the black in 2012, supported by the accumulation and increase of foreign direct investment and the associated robust export growth. Viet Nam's trade balance fell into the red once in 2015, but the country continued its trade surplus again from 2016 onward. Most recently, Viet Nam expanded its surplus to USD 20,132 million in 2020, but in 2021, provoked partly by the increase in global oil prices, imports surged (26.6 per cent increase year-on-year), reducing the trade surplus to USD 5,040.3 million, or one-quarter that of the previous year.

Looking at Viet Nam's exports by country or region (2021), the United States was the largest destination, accounting for USD 96,327.5 million, or 28.7 per cent, of all exports. Below that, China was second (16.7 per cent share), South Korea was third (6.5 per cent share), Japan was fourth (6.0 per cent share) and Hong Kong was fifth (3.6 per cent share). Looking at the sixth to tenth placed countries as well, with the Netherlands sixth, Germany seventh, and the UK tenth, the European countries are all lined up, providing a glimpse of Viet Nam's role as an export base for global markets. ASEAN, comprised of 10 Southeast Asian countries, accounts for 8.6 per cent of Viet Nam's exports overall, placing it behind China in the above rankings of countries and regions. (Thailand is the largest export destination within ASEAN, ranking ninth with a 1.8 per cent share.)

Next, we will look at changes in the value of Viet Nam's exports with its major export destination countries and regions over the period from 2010 to 2021. Exports to the United States, its largest export destination, increased by a factor of 6.8 over the period. The average annual rate of increase was 19.1 per cent from 2010 to 2014 and 16.4 per cent from 2015 to 2019. After the COVID-19 pandemic, exports gained momentum, increasing by 25.5 per cent year-on-year in 2020 and by 25.0 per cent in 2021. As a result, the share of Viet

Nam's total exports accounted for by the United States increased by 9 points from 19.7 per cent in 2010 to 28.7 per cent in 2021.

China is also increasing its prominence as an export destination for Viet Nam. Exports to China increased by a factor of 7.2 from USD 7,742.9 million in 2010 to USD 55,922.8 million in 2021. The average annual rate of increase from 2010 to 2014 was 17.8 per cent and from 2015 to 2019 was 25.8 per cent. Even after the COVID-19 pandemic, exports expanded steadily, increasing by 18.0 per cent year-on-year in 2020 and by 14.4 per cent in 2021. The share of Viet Nam's total exports accounted for by China increased by 6 points from 10.7 per cent in 2010 to 16.7 per cent in 2021.

By comparison, exports to Japan were USD 7,727.7 million (10.7 per cent share) in 2010, about the same as China, but remained at USD 20,117.9 million in 2021, due in part to a slowdown from 2013 to 2016 (year-on-year decrease in 2015). Japan's share as an export destination decreased from 10.7 per cent in 2010 to 6.0 per cent in 2021, and the country was overtaken by South Korea (USD 21,934.5 million, 6.5 per cent share) the same year.

Looking at imports by country or region (2021), the largest source of imports was China (USD 109,850.7 million), which accounted for 33.2 per cent of Viet Nam's total imports. South Korea, in second with USD 56,112.2 million, was only about half of those of China, so it can be understood that Viet Nam's imports from China overwhelm those from other countries and regions in scale. Japan was third (USD 22,601.6 million), the United States fourth (USD 15,179.1 million) and Thailand fifth (USD 12,552.8 million). Countries in the Asia-Pacific region, including ASEAN member countries (Malaysia sixth, Indonesia eighth), rank sixth through tenth, so the composition of dependence on the region for imports of the raw materials and parts required for production in Viet Nam, as well as food and daily necessities, can be observed. At USD 41,113.5 million (12.4 per cent share), Viet Nam's total imports from ASEAN are the third largest after China and South Korea, and equivalent to 1.8 times the imports from Japan.

We will now look also at changes in the value of Viet Nam's imports from its major import source countries and regions over the period from 2010 to 2021. Imports from China, Viet Nam's largest source of imports, expanded by a factor of 5.4 during the period from 2010 to 2021. The average annual rate of increase was 21.2 per cent from 2010 to 2014 and 11.2 per cent from 2015 to 2019. Most recently, imports increased by 11.4 per cent year-on-year in 2020 and by 30.5 per cent in 2021, and the share of imports from China increased by about 10 points from 23.8 per cent in 2010 to 33.2 per cent in 2021.

Imports from South Korea, which ranked second, also increased by a factor of 5.8 over the period. As with China, the rate of growth continued on a significant upward trend, with an average annual rate of increase of 22.2 per cent from 2010 to 2014 and 14.2 per cent from 2015 to 2019. Imports from South Korea decreased by 0.2 per cent year-on-year in 2020 at the start of the COVID-19 pandemic, but rebounded in a V-shape in 2021, increasing by 19.7 per cent. South Korea's share of imports increased from 11.5 per cent in 2010 to 17.0 per cent. In Viet Nam, South Korea's Samsung is said to produce about 60 per cent of its smartphones in Viet Nam, and the company's exports account for about 20 per cent of Viet Nam's total exports. The decrease in imports from South Korea in 2020 is believed to have been due to the disruption of supply chains against the backdrop of the global spread of COVID-19, resulting in delays in imports of semiconductors and other parts.

Imports from Japan also increased over the same period, but their momentum was relatively slow compared to China and South Korea, with imports from Japan in 2021 only 2.5 times higher than in 2010. As a result, Japan's share of imports fell to 6.8 per cent from 10.6 per cent in 2010.

► Table 5-14 Trends in exports from Viet Nam (by country or region)

	Exports (USD 1 million)				Average annual growth rate (%)		Year-on-year growth rate (%)		Composition ratio (%)		
	2010	2015	2020	2021	2010 to 2014	2015 to 2019	2020	2021	2010	2015	2021
Total	72,236.7	162,016.7	281,441.5	335,792.6	20.1	13.0	6.4	19.3	100.0	100.0	100.0
United States	14,250.9	33,475.0	77,072.4	96,327.5	19.1	16.4	25.5	25.0	19.7	20.7	28.7
China	7,742.9	16,567.7	48,879.8	55,922.8	17.8	25.8	18.0	14.4	10.7	10.2	16.7
ASEAN	10,364.7	18,195.1	23,128.6	28,779.8	16.5	8.2	-7.2	24.4	14.3	11.2	8.6
South Korea	3,092.2	8,915.4	19,125.2	21,934.5	23.4	22.0	-3.1	14.7	4.3	5.5	6.5
Japan	7,727.7	14,100.3	19,269.5	20,117.9	17.4	9.7	-5.7	4.4	10.7	8.7	6.0
Hong Kong	1,464.2	6,959.3	10,435.7	11,985.2	37.7	0.7	45.7	14.8	2.0	4.3	3.6
Netherlands	1,688.3	4,759.6	6,995.5	7,682.0	22.2	9.7	1.6	9.8	2.3	2.9	2.3
Germany	2,372.7	5,707.4	6,638.9	7,287.8	21.5	3.5	1.2	9.8	3.3	3.5	2.2
India	991.6	2,469.7	5,234.1	6,258.0	26.1	28.2	-21.6	19.6	1.4	1.5	1.9
Thailand	1,182.8	3,177.7	4,904.5	6,066.1	30.9	12.3	-2.9	23.7	1.6	2.0	1.8
United Kingdom	1,681.9	4,645.2	4,951.5	5,765.7	21.4	5.5	-14.0	16.4	2.3	2.9	1.7

Source: Global Trade Atlas

► Table 5-15 Trends in imports to Viet Nam (by country or region)

	Imports (USD 1 million)				Average annual growth rate (%)		Year-on-year growth rate (%)		Composition ratio (%)		
	2010	2015	2020	2021	2010 to 2014	2015 to 2019	2020	2021	2010	2015	2021
Total	84,838.6	165,775.9	261,309.5	330,752.3	14.9	11.2	3.1	26.6	100.0	100.0	100.0
China	20,203.6	49,441.1	84,197.8	109,850.7	21.2	11.2	11.4	30.5	23.8	29.8	33.2
South Korea	9,757.6	27,578.5	46,861.8	56,112.2	22.2	14.2	-0.2	19.7	11.5	16.6	17.0
ASEAN	16,407.5	23,759.3	30,451.4	41,113.5	8.7	7.8	-5.2	35.0	19.3	14.3	12.4
Japan	9,016.1	14,182.1	20,276.8	22,601.6	9.3	8.3	3.8	11.5	10.6	8.6	6.8
United States	3,779.8	7,792.5	13,763.9	15,179.1	13.6	16.5	-4.3	10.3	4.5	4.7	4.6
Thailand	5,602.3	8,269.6	10,945.1	12,552.8	5.9	9.0	-6.3	14.7	6.6	5.0	3.8
Malaysia	3,413.4	4,184.7	6,575.9	8,132.6	5.3	14.9	-9.7	23.7	4.0	2.5	2.5
Australia	1,443.6	2,022.0	4,676.7	7,948.4	9.2	22.0	4.4	70.0	1.7	1.2	2.4
Indonesia	1,909.2	2,738.5	5,388.2	7,608.4	6.8	20.2	-5.6	41.2	2.3	1.7	2.3
India	1,762.0	2,655.2	4,482.1	6,947.6	15.3	14.2	-0.8	55.0	2.1	1.6	2.1
Kuwait	372.8	130.6	3,201.8	4,720.2	13.2	129.9	-12.2	47.4	0.4	0.1	1.4

Source: Global Trade Atlas

5.3.1 Textiles and clothing

Next, we will look at exports of the three categories covered in this paper: textiles and clothing, electronics and electronic parts, and automobiles and automobile parts. With regard to the definitions of items, in accordance with the definitions in the "JETRO Global Trade and Investment Report 2022," "textiles and clothing" is the total for the items of HS codes 50 to 63, "electronics and electronic parts" is the total for the items of HS code 85, and "automobiles and automobile parts" is the total for the items of HS codes 8702 to 8705 and 8707 to 8708.

Textile and clothing exports grew steadily from USD 13,303.7 million in 2010, doubled to USD 27,266.4 million in 2015, and expanded to USD 41,291.4 million in 2021. However, the share of textiles and clothing in total

exports was 18.4 per cent in 2010, but fell to 12.3 per cent in 2021, following the sudden expansion in exports of electronics and electronic parts discussed below. The average annual rate of increase from 2010 to 2021 was 10.8 per cent.

Looking at exports of textiles and clothing by country and region, exports to the United States, the largest export market, increased by an annual average of 9.5 per cent from 2010 to 2021, to reach USD 17,157.3 million in 2021. The share of Viet Nam's total exports of textiles and clothing accounted for by the United States was 41.6 per cent (2021). Exports to China increased by an annual average of 22.1 per cent over the same period, by far the largest, and reached USD 4,435.9 million in 2021. As a result, the share of Viet Nam's total exports of these products taken by China increased from 3.7 per cent in 2010 to 10.7 per cent in 2021.

Exports to Japan also increased by a factor of 2.9 from USD 1,297.4 million in 2010 to USD 3,736 million in 2021. The average annual rate of increase over the same period was 10.1 per cent, and Japan was the fourth largest export destination in 2021 after South Korea, with a 9.0 per cent share of textile and clothing exports.

5.3.2 Electronics and electronic parts

The value of exports of electronics and electronic parts expanded quickly by a factor of 18.6, from USD 7,080.8 million in 2010 to USD 131,385.2 million in 2021, due to the expansion of domestic production and exports in association with the expansion of foreign direct investment. The share of total exports accounted for by electronics and electronic parts expanded from 9.8 per cent in 2010 to 39.1 per cent in 2021, so they have grown into Viet Nam's largest export industry.

Looking at the data by country or region, it can be observed that the United States and China are the main drivers of electronics and electronic parts in Viet Nam. Exports to the United States were no more than USD 793.3 million in 2010 but increased at an average of 40.2 per cent over the 12 years to 2021, expanding to USD 32,718.5 million in 2021. The share of exports accounted for by the United States increased from 11.2 per cent to 24.9 per cent. Looking at the breakdown, "telephone sets (including smartphones) and other devices" (hereinafter referred to as "telephones")²³² at USD 18,421.9 million, "diodes, transistors and similar semiconductor devices, photosensitive semiconductor devices, light-emitting diodes (LED) and mounted piezo-electric crystals"²³³ at USD 3,602 million, "electrical transformers, static and inductors"²³⁴ at USD 2,239.3 million, and "monitors, projectors and reception apparatus for television"²³⁵ at USD 1,817.2 million occupied the top places.

Likewise for China, exports were no more than USD 638.5 million in 2010, but expanded by a factor of 47.4 to USD 30,264.1 million in 2021, achieving an average annual rate of increase of 42.0 per cent over the same period. Looking at the breakdown, telephones accounted for more than half of exports at USD 16,066.1 million, followed by "transmission apparatus for radio broadcasting or television, television cameras, digital cameras and video camera recorders"²³⁶ (USD 2,619.7 million).

Like the United States and China, the average annual rate of increase from 2010 to 2021 for South Korea, the

232 HS code 85.17.

233 HS code 85.41.

234 HS code 85.04.

235 HS code 85.28.

236 HS code 85.25.

third largest export destination, exceeded 40 per cent, with exports expanding from USD 215.2 million in 2010 to USD 9,469 million in 2021, accounting for 7.2 per cent of Viet Nam's exports of electronics and electronic parts. Of those, "telephones" accounted for 58.4 per cent at USD 5,526.4 million. On the other hand, Japan (USD 5,166.4 million) is the sixth largest export destination after Hong Kong (USD 7,844.6 million), which is the fifth largest. Exports to Japan were unique among those of the top 10 countries and regions in that the average annual rate of increase was just 9.9 per cent. While exports of electronics and electronic parts from Viet Nam to other countries increased rapidly, Japan's share declined relatively, plummeting from 25.8 per cent in 2010 to 3.9 per cent in 2021.

5.3.3 Automobiles and automobile parts

The value of Viet Nam's exports of automobiles and automobile parts in 2021 was USD 1,839.7 million. Exports expanded by a factor of 4.4 from 2010 (average annual rate of increase of 14.3 per cent), but their share of Viet Nam's total exports was largely unchanged, going from 0.6 per cent in 2010 to 0.5 per cent in 2021. In contrast, the value of imports was USD 5,894 million in 2021 (1.8 per cent of total imports). The volume of trade in automobiles and automobile parts, both imports and exports, is extremely small, but the trade balance is a deficit of USD 4,054.3 million. Considering that Viet Nam's overall trade surplus is USD 5,004 million, roughly 80 per cent of that figure is cancelled out by the trade deficit of automobiles and automobile parts alone.

The number of automobiles Viet Nam produced was about 440,000 and there were about 500,000 new vehicle sales (2022), both of which are small compared to other ASEAN countries such as Thailand (about 1.88 million and 850,000 respectively) and Indonesia (1.47 million and 1.05 million respectively). On the other hand, the middle class is growing, with GDP per capita reaching USD 4,110 under conditions of stable economic development, but the automobile penetration rate by household remains at 4.8 per cent (2020). Viet Nam was already lagging behind countries such as Thailand, Indonesia and Malaysia in attracting the automobile industry, and the scale of automobile assembly and production by Japanese companies is relatively small.

There have also been delays in the building up of the parts industry, which underpins automobile production, and the dominant method is the knock-down method, which relies on imports from overseas for many parts and raw materials. In addition to the insufficient depth of the automobile-related industrial base, the government recently began to encourage the promotion of electric vehicles (EVs) to realize the goal of achieving carbon neutrality by 2050. Because of this, some investors are of the opinion that it is difficult to make large-scale investments from the perspectives of market size and return on investment.²³⁷

In recent years, VinFast, a new local Vietnamese automobile manufacturer, has shifted to a strategy of specializing in EV production, and in November 2022, it started exports to the United States of its own-brand battery electric vehicle (BEV) manufactured at its Hai Phong plant in northern Viet Nam.²³⁸ The company is moving forward with the construction of an EV plant in North Carolina in the United States, aiming to start operations in July 2024.²³⁹

237 Hiromitsu Sho, "The Viet Nam Automobile Industry Hoping for Market Expansion, EV and Supporting Industry Policies Continue to Fumble", JETRO, 25 April 2023. <https://www.jetro.go.jp/biz/areareports/special/2023/0401/4e645debddb6f510.html>

238 VINFAST, "VinFast Exports the First Batch of Electric Vehicles", press release, 25 November 2022. <https://vinfastauto.us/newsroom/press-release/vinfast-exports-the-first-batch-of-electric-vehicles>

239 VINFAST, "VinFast North Carolina Manufacturing Plant", press release, 29 March 2022. <https://vinfastauto.us/newsroom/press-kit/vinfast-north-carolina-manufacturing-plant>

► Table 5-16 Viet Nam's trade trends with the world (by major items)

	Amount (USD 1 million)				Average annual growth rate (%)					Year-on-year growth rate (%)		
	2010	2015	2020	2021	2010 to 2014	2015 to 2019	2020	2021	2010 to 2021	2010	2015	2021
Total trade	157,075.2	327,792.6	542,750.9	666,544.9	17.4	12.1	4.8	22.8	14.0			
Exports	72,236.7	162,016.7	281,441.5	335,792.6	20.1	13.0	6.4	19.3	15.0	100.0	100.0	100.0
Imports	84,838.6	165,775.9	261,309.5	330,752.3	14.9	11.2	3.1	26.6	13.2	100.0	100.0	100.0
Textiles and clothing	21,772.9	42,713.2	55,766.1	64,044.4	16.2	9.0	-7.4	14.8	10.3			
Exports	13,303.7	27,266.4	37,099.7	41,291.4	17.4	9.7	-5.9	11.3	10.8	18.4	16.8	12.3
Imports	8,469.1	15,446.8	18,666.4	22,752.9	14.4	7.8	-10.4	21.9	9.4	10.0	9.3	6.9
Electronics and electronic parts	17,074.2	89,256.3	206,537.0	249,526.1	42.6	18.3	18.1	20.8	27.6			
Exports	7,080.8	47,399.6	111,092.8	131,385.2	50.7	19.7	14.3	18.3	30.4	9.8	29.3	39.1
Imports	9,993.4	41,856.7	95,444.2	118,140.9	35.9	16.8	22.7	23.8	25.2	11.8	25.2	35.7
Automobiles and automobile parts	2,292.3	4,852.8	5,732.7	7,733.7	9.9	8.4	-14.5	34.9	11.7			
Exports	422.2	946.8	1,439.0	1,839.7	23.8	9.9	4.1	27.8	14.3	0.6	0.6	0.5
Imports	1,870.1	3,906.1	4,293.7	5,894.0	5.9	8.0	-19.3	37.3	11.0	2.2	2.4	1.8

Source: Global Trade Atlas.

► Table 5-17 Viet Nam's trade trends with Japan (by major items)

	Amount (USD 1 million)				Average annual growth rate (%)					Year-on-year growth rate (%)		
	2010	2015	2020	2021	2010 to 2014	2015 to 2019	2020	2021	2010 to 2021	2010	2015	2021
Total trade	16,743.7	28,282.4	39,546.3	42,719.5	13.2	9.0	-1.0	8.0	8.9			
Exports	7,727.7	14,100.3	19,269.5	20,117.9	17.4	9.7	-5.7	4.4	9.1	100.0	100.0	100.0
Imports	9,016.1	14,182.1	20,276.8	22,601.6	9.3	8.3	3.8	11.5	8.7	100.0	100.0	100.0
Textiles and clothing	1,843.6	3,906.1	5,013.4	4,630.1	19.3	9.3	-10.0	-7.6	8.7			
Exports	1,297.4	3,101.6	4,100.8	3,736.0	22.5	9.4	-7.8	-8.9	10.1	16.8	22.0	18.6
Imports	546.2	804.5	912.5	894.1	10.4	8.7	-18.7	-2.0	4.6	6.1	5.7	4.0
Electronics and electronic parts	3,233.5	5,864.3	11,997.2	13,080.7	14.1	17.0	9.3	9.0	13.5			
Exports	1,826.0	2,665.1	4,827.4	5,166.4	9.9	15.6	1.4	7.0	9.9	23.6	18.9	25.7
Imports	1,407.5	3,199.2	7,169.8	7,914.3	19.0	18.1	15.3	10.4	17.0	15.6	22.6	35.0
Automobiles and automobile parts	570.5	1,067.5	898.8	992.0	9.8	-1.8	-9.6	10.4	5.2			
Exports	213.5	332.4	353.6	373.4	16.7	5.0	-12.6	5.6	5.2	2.8	2.4	1.9
Imports	357.0	735.1	545.2	618.6	5.0	-5.3	-7.6	13.5	5.1	4.0	5.2	2.7

Source: Global Trade Atlas.

5.3.4 Foreign direct investment

According to the statistics of the Viet Nam Foreign Investment Agency, although foreign direct investment (approved basis, not including equity investments and share acquisitions) in Viet Nam decreased from USD 19,886 million in 2010 to around USD 16 billion from 2011 to 2012, it continued a steady rise thereafter to record USD 30,783 million in 2017. This trend reversed from 2018, with foreign direct investment decreasing to USD 26,263 million, and it has since maintained a level of around USD 22 billion to USD 24 billion.

However, it is difficult to analyse investment trends in Viet Nam chronologically based solely on changes in the amount of investment approvals. This is because, if a large project with large investment is approved, for example, it causes a large jump in the amount of investment in the applicable year. For this reason, it is necessary to look at the trend in foreign direct investment by foreign companies in combination with the trend in the number of investment approvals. The number of approvals for foreign direct investment increased steadily from 1,639 projects in 2010 to reach a peak of 5,454 in 2019. However, this turned into a decrease due to immigration restrictions and reviews of companies' overseas expansion policies during the COVID-19 pandemic from 2020 onward, but even so, foreign direct investment has maintained the same level as during the period of investment expansion prior to the COVID-19 pandemic. The number of investment approvals turned to an increase in 2022. Comparing the trends before and after the COVID-19 pandemic, in contrast to new investment tending to increase pre-pandemic, the amount of new investment stagnated from the pandemic onward, while expansionary investment tended to increase.

Looking at the cumulative totals of approved foreign direct investment amounts from 1988 to 2022, South Korea was the largest investor by country or region at USD 80,970 million, accounting for 18.5 per cent overall. South Korea also seems to have a large number of investments by sole proprietors and small businesses, accounting for 26.3 per cent of the total number of investment approvals (9,534). Second was Singapore with USD 70,846 million (16.1 per cent composition ratio), followed by Japan with USD 68,897 million (15.7 per cent), Taiwan with USD 36,434 million (8.3 per cent), Hong Kong with USD 29,493 million (6.7 per cent) and China with USD 23,349 million (5.3 per cent).

Approvals of large-scale investment approvals were also seen here and there during the COVID-19 pandemic. The momentum of Korean and Chinese companies in the electronics industry is remarkable. LG Display of South Korea announced additional investment in an organic LED module plant (2021, USD 1.4 billion)²⁴⁰ followed by additional investment in an organic EL panel plant (2021, USD 750 million)²⁴¹, while Samsung Electronics also announced plans for additional investment in a semiconductor package base plant (2022, USD 920 million)²⁴². Jinko Solar, a major Chinese solar panel manufacturer, announced plans to build a new silicon wafer plant (2021, USD 365.6 million)²⁴³. In 2022, Goertek announced plans to expand two electronics

240 "LG Display Raises Investment at Vietnam Factory by \$1.4 Bln. – Local Govt", Reuters. 31 August 2021. <https://www.reuters.com/technology/lg-display-raises-investment-vietnam-factory-by-14-bln-local-govt-2021-08-31/>

241 "LG Display Vietnam Adding US\$750 Million in Investment to Hai Phong's Project", Viet Nam Insider, 8 February 2021. <https://vietnaminsider.vn/lg-display-vietnam-adding-us750-million-in-investment-to-hai-phongs-project/>.

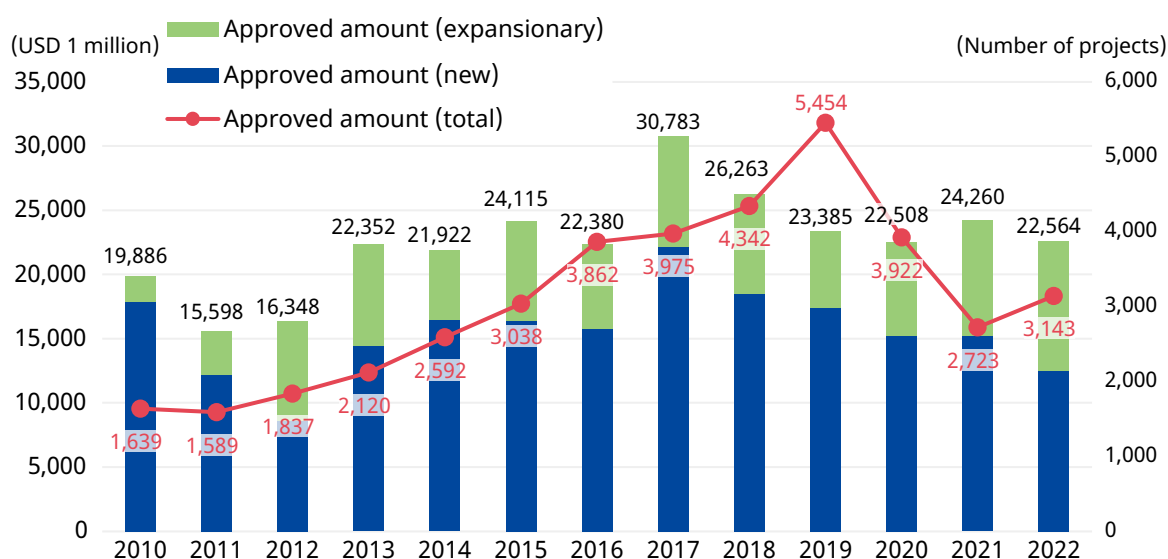
242 "Samsung Injects \$920 Million for Operation Expansion in Vietnam", Hanoi Times. 16 February 2022. <https://hanoitimes.vn/samsung-injects-920-million-for-operation-expansion-in-vietnam-320001.html>

243 Jinko Solar Inc "JinkoSolar's New 7GW Ingot/Wafer Facility in Vietnam to Strengthen the Sustainability of its Global Supply Chain by 2022", press release, 27 September 2021. <https://ir.jinkosolar.com/news-releases/news-release-details/jinkosolars-new-7gw-ingotwafer-facility-vietnam-strengthen>

plants in Viet Nam (total of about USD 700 million)²⁴⁴. Taiwan’s Foxconn also announced several business expansions, including the expansion of an electronics factory (2022, USD 300 million)²⁴⁵.

In other areas, projects include a new toy factory by Denmark’s Lego (2022, USD 1.32 billion)²⁴⁶, the development of an LNG-fired power plant by Marubeni and Tokyo Gas (2022, USD 2 billion)²⁴⁷, the expansion of an industrial park by Singapore’s VSIP (2022)²⁴⁸, the development of a shopping mall by AEON MALL in central Thua Thien Hue province (2022, USD 170 million)²⁴⁹, and a new solar panel plant by Fuji Solar (2022, USD 200 million)²⁵⁰.

► Table 5-18 Trend in global foreign direct investment in Viet Nam (approval base)



Note: Preliminary figures for 2022. “New” means new investment projects. “Expansory” includes capital increases for existing investment projects. Equity investment and share purchases are not included.

Source: Compiled by JETRO based on data from Viet Nam Foreign Investment Agency (FIA).

244 “Goertek Commits Additional \$306 Million to its Multimedia Equipment Project in Bac Ninh”, Viet Nam Investment Review, 2 March 2022. <https://vir.com.vn/goertek-commits-additional-306-million-to-its-multimedia-equipment-project-in-bac-ninh-91640.html>

245 “Apple Supplier Foxconn to Invest \$300 Million More in Northern Vietnam, State Media Reports”, Reuters, 20 August 2022. <https://www.reuters.com/technology/apple-supplier-foxconn-invest-300-mln-more-northern-vietnam-media-2022-08-20/>

246 LEGO, “The LEGO Group Announces Plans to Build New Factory in Vietnam to Support Long-Term Growth”, press release, 8 December 2021. <https://www.lego.com/en-us/aboutus/news/2021/december/new-factory-in-vietnam?locale=en-us>

247 Marubeni Corporation, press release, 4 November 2022. <https://www.marubeni.com/en/news/2022/info/00020.html/> Nikkei Inc, 4 November 2022. <https://www.nikkei.com/article/DGXZQOUC046Y20U2A101C200000/>

248 VSIP press release, 19 March 2022. <https://www.vsip.com.vn/NewEvent/NewDetails?newsId=2371>

249 AEON Mall, “AEON MALL decided to invest the first shopping mall in the Central region ‘AEON MALL Hue’”, press release, 6 May 2022. <https://aeonmall-VietNam.com/en/aeon-mall-decided-to-invest-the-first-shopping-mall-in-the-central-region-aeon-mall-hue/>

AEON Mall, “Construction Commencement Ceremony of ‘AEON MALL Hue’ – the 1st AEON MALL in Central Vietnam” press release, 13 February 2023. <https://aeonmall-VietNam.com/en/the-1st-aeon-mall-in-central-VietNam-construction-commencement-ceremony-of-aeon-mall-hue/>

250 Ryotaro Hagiwara, “2022 Inward Direct Investment in terms of Project Numbers Increased 15% Year-On-Year (Viet Nam).” JETRO Business Summary, 11 January 2023. <https://www.jetro.go.jp/biznews/2023/01/2d6c5403da3d1f30.html>

► Table 5-19 Approvals of direct investment in Viet Nam (by country or region)

Cumulative investment approvals (1988 to December 2022)				Investment approvals (January-December 2022)			
Country / region	Number of projects	Approved amount (USD1 million)	Composition ratio	Country / region	Number of projects	Year-on-year	Approved amount (USD1 million)
South Korea	9,534	80,970	18.5%	Singapore	393	25.9%	4,621
Singapore	3,097	70,846	16.1%	Japan	365	10.3%	4,559
Japan	4,978	68,897	15.7%	South Korea	777	21.2%	3,937
Taiwan	2,905	36,434	8.3%	China	410	27.7%	2,359
Hong Kong	2,164	29,493	6.7%	Hong Kong	213	-4.1%	2,060
China	3,567	23,349	5.3%	Denmark	11	37.5%	1,319
British Virgin Islands	888	22,382	5.1%	Taiwan	140	12.9%	1,161
Total	36,278	438,692	100%	Total	3,143	15.4%	22,564

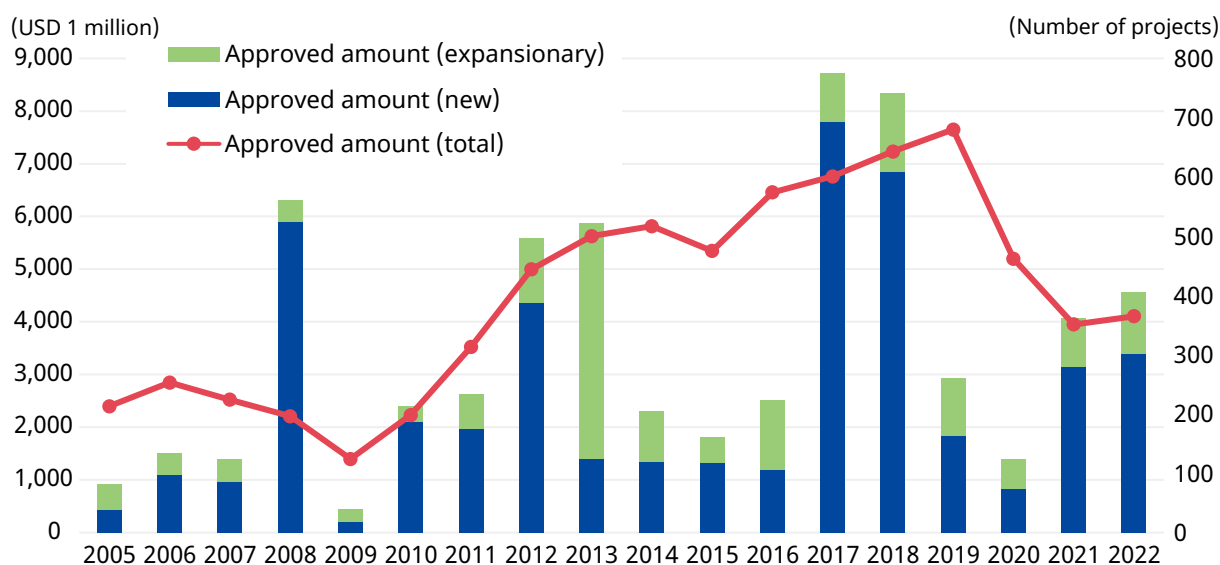
Note: Total also includes "other". Preliminary figures as of 20 December 2022.

Source: Viet Nam Foreign Investment Agency (FIA).

Next, looking at the trend for direct investment from Japan, USD 6,308 million of investment was approved in 2008, the third largest amount on record, but investment then plunged to USD 439 million the following year, 2009, and turned to increase again from 2010 onward. Unlike the trend for foreign direct investment in Viet Nam overall, Japan's is characterized by a large proportion of new investment. In particular, in the periods of investment expansion from 2010 to 2012, 2017 to 2018, and 2021 to 2022, new investment accounted for between mid-70 per cent to slightly less than 90 per cent of the total. This is in proportion to the increase in the number of investment approvals, suggesting a connection with the Viet Nam entry boom. On the other hand, from 2017 to 2018, the number of investment approvals did not grow significantly compared to the sudden rise in the approved amount. This period dovetails with the time when it was possible to see a coal-fired power plant, gas field development and smart city development with investments of upwards of USD 1 billion per project.

Looking at the breakdown of new investment from Japan by industry, based on the total number of approvals from 1998 to 2022 (4,978 projects), it shows that manufacturing took the largest share at 38 per cent (1,883), followed by retail and wholesale at 16 per cent (775), business services (tax, legal affairs, business consulting, architecture, design, R&D, advertising, market research, etc.) at 15 per cent (756), telecommunications at 14 per cent (702) and construction at 4 per cent (181). This constitutes the top five industries. On the other hand, looking at the cumulative approved amount for the same period (USD 68,897 million), manufacturing accounted for 64 per cent of the total at USD 43,025 million. Apart from that, retail and wholesale trade accounted for USD 7,769 million, while lifeline industries, including power plants and other infrastructure, accounted for USD 9,419 million or 14 per cent.

► Table 5-20 Trend in direct investment from Japan (number of approvals and approved amount)

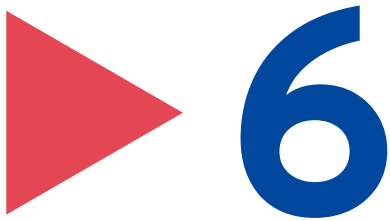


Source: Compiled by JETRO based on data from Viet Nam Foreign Investment Agency (FIA).

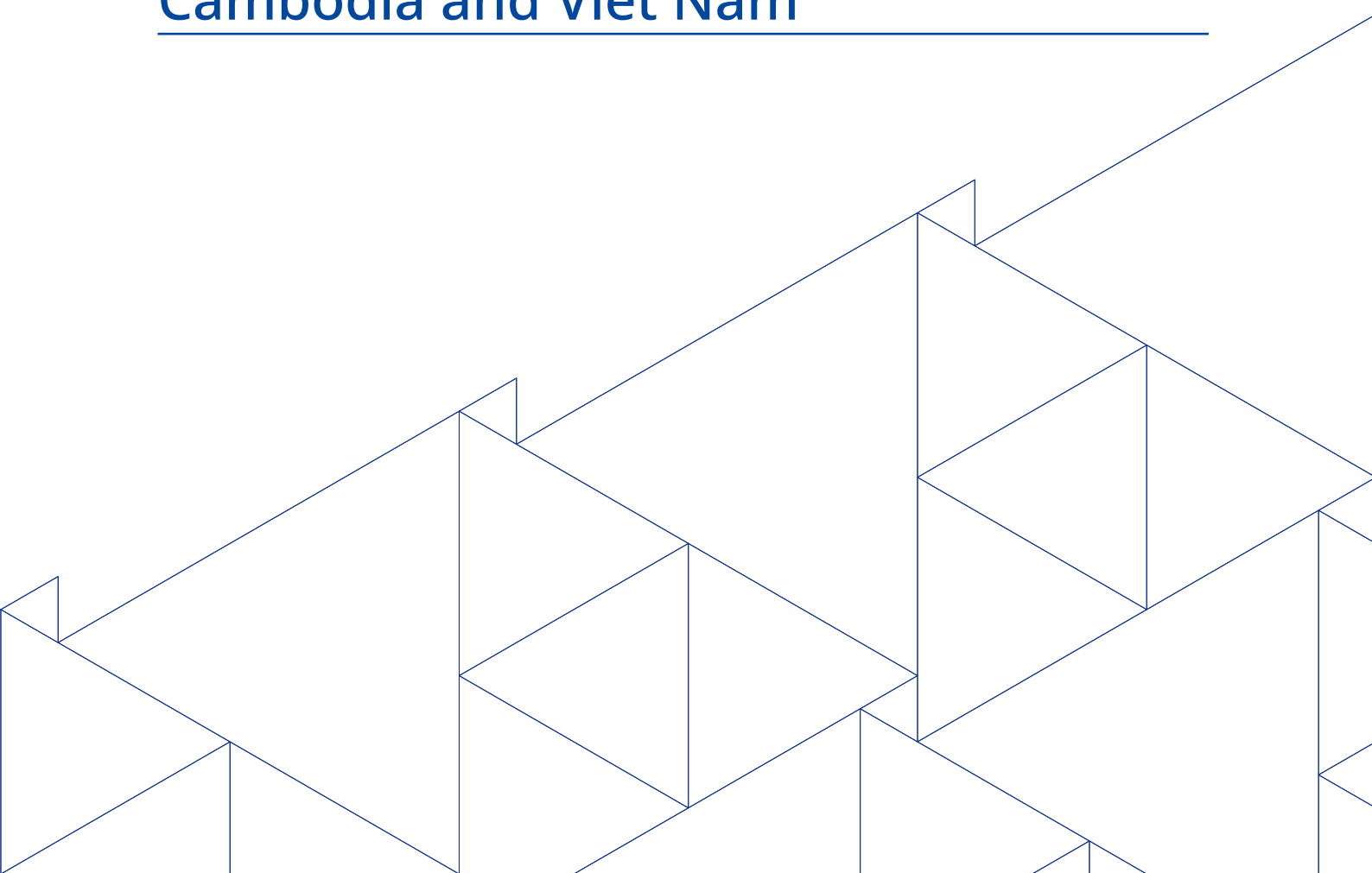
An overview of the trend of entry into Viet Nam by Japanese companies shows that the south region, including Ho Chi Minh City, accounts for 50 per cent of the cumulative number of investment approvals; the north region, including the capital Hanoi, for slightly more than 40 per cent; and the central region, including Danang, for slightly less than 10 per cent. Looking at the characteristics of each region, in the north, the common pattern is for large companies and assembling and processing manufacturers in the office automation equipment, automobile parts industries, etc., to enter the country together with their parts suppliers to form an industrial base. For example, Canon (printers and scanners), Brother (printers and multifunction machines), Panasonic (resin multilayer substrates for high-performance mobile terminals), Denso (engine-related products) and Bridgestone (tires) have export bases for products produced in Viet Nam. On the other hand, automobile and motorcycle manufacturers such as Toyota, Honda and Yamaha have entered the market for domestic demand based on local production and sales. Further, in the south, many small and medium-sized enterprises in the sewing, parts and food processing industries have entered and positioned Viet Nam as an export base. Moreover, there are also many companies that have entered for domestic sales in food processing (Ajinomoto, Acecook, Yakult, Kewpie, Kirin, Ezaki Glico, Sapporo Breweries, etc.), retail (Takashimaya, Family Mart, Mini Stop, 7-Eleven, Matsumoto Kiyoshi, etc.), and restaurant services.

The investment destinations are mostly large cities such as Ho Chi Minh City and Hanoi and their suburbs. In recent years, provinces such as Phu Yen and Ha Nam, which are adjacent to Hanoi, and Dong Nai, which is adjacent to Ho Chi Minh, have occupied high positions in the ranking for number of investment approvals by province and city. However, there have also been cases of investment in regional cities that are more removed rather than large cities and their suburbs, where issues are being exposed including rising wages for the labour force, recruitment difficulties and a lack of space in industrial parks.

- ▶ Responsible Business Conduct and Human Rights Due Diligence:
Good practices of Japanese Companies Operating in Bangladesh, Cambodia and Viet Nam, Trade,
Investment and Labour Nexus and a Way Forward



Efforts to Promote Investment in Corporate Activities in Bangladesh, Cambodia and Viet Nam



This chapter covers investment promotion efforts in Bangladesh, Cambodia and Viet Nam.

6.1 Bangladesh

In Bangladesh, several government-led investment promotion agencies have been set up and are working to attract investment to the country, mainly in the manufacturing sector.

6.1.1 Investment promotion agencies in Bangladesh

In Bangladesh, the following three agencies are working to promote investment.²⁵¹

First, there is BIDA (Bangladesh Investment Development Authority), which is the umbrella ministry for all investments undertaken across Bangladesh, including those in export processing zones. It is considered the first institution to consult with when investing in the country.

Next, there is BEPZA (Bangladesh Export Processing Zones Authority), which is the ministry in charge of investment in the eight EPZs (Export Processing Zones) in the country, and which has jurisdiction over matters such as the establishment of factories and local subsidiaries, which are prerequisites to export taking place.

Finally, there is BEZA (Bangladesh Economic Zones Authority), which is a ministry that deals with investments in (1) government, (2) private companies (including foreign companies), and (3) Economic Zones (EZs) developed through joint ventures between the government and the private sector. In recent years, EZs have been attracting attention as alternative to EPZs when it comes to expanding manufacturing abroad and setting up sites for manufacturing (as described below).

As of January 2023, a total of 338 Japanese companies have expanded their operations to Bangladesh (according to a JETRO survey). Nearly 10 per cent of those companies (32) have established a presence in EPZs on the premise of conducting export in line with investment promotion measures. In recent years, however, major EPZs such as Dhaka and Chittagong (Chattogram) have run out of vacant spaces, with some export-oriented manufacturing industries also being located outside the EPZs.²⁵² In December 2022, the Bangladesh Special Economic Zone (BSEZ), which was developed by BEZA together with Japanese trading companies, opened for business.²⁵³ There is anticipation that the zone will see investments by foreign companies, mainly Japanese companies.

6.1.2 Regulated and prohibited industries in Bangladesh

In Bangladesh, 4 industries have been designated as prohibited industries and 22 industries have been designated as regulated industries mainly requiring government approval.²⁵⁴

251 JETRO, “Investment Promotion Agencies”, J-file, Last viewed 9 June 2023. https://www.jetro.go.jp/world/asia/bd/invest_01.html

252 JETRO, “Encouragement of Foreign Capital”, J-file, Last viewed 9 June 2023. https://www.jetro.go.jp/world/asia/bd/invest_03.html

253 JETRO, “Bangladesh Special Economic Zone opens and Prime Minister Sheikh Hasina expects foreign investment”, JETRO Business Summary, 9 December 2022, Last viewed 9 June 2023. <https://www.jetro.go.jp/biznews/2022/12/c59bec1b6ec1f60b.html>

254 JETRO, “Regulations on Foreign Capital”, J-file, Last viewed 9 June 2023. https://www.jetro.go.jp/world/asia/bd/invest_02.html

<Prohibited industries (4)>

Arms, ammunition and military equipment, nuclear power, logging by mechanical means in afforestation/ forest protection areas, and money printing and minting

<Regulated industries (22)>

Deep-sea fishing; banking and finance; insurance; electric power-related; natural gas and oil surveys, extraction and supply; coal surveys, extraction and supply; other mineral resource-related industries; large-scale infrastructure projects; oil refining; medium and large-scale companies using gas and mineral resources as raw materials; communications services; satellite broadcasting services; air passenger transport and shipping; sea shipping; port construction; VoIP/IP telephone services; industries using heavy metals collected in coastal areas; explosives manufacturing, acid manufacturing; chemical fertilizer manufacturing; industries using industrial sludge and sludge as raw materials; and quarrying

6.1.3 Provisions concerning elements such as capital contribution ratios, land ownership by foreign companies, and paid-in capital

In principle, the ratio of capital contributions made by foreign entities can be 100 per cent of the total amount. In some industries, however, there are restrictions in place in terms of the amounts of capital contributions and ratios of capital contributions. For instance, the ratio of capital contribution by foreign entities can be up to 60 per cent in the insurance industry but only up to 40 per cent in businesses involving the dispatch of workers overseas.²⁵⁵

A foreign company can own land if it registers a company locally. Individual foreign nationals, however, are not allowed to own land. Purchasing land also requires a series of procedures that involves purchasing revenue stamps equivalent to 3 to 5 per cent of the total land value (depending on the location), paying taxes equivalent to 3 to 5 per cent of the total land value, and providing a deposit of 1 to 4 per cent of the total land value as a registration fee.

In the case of EPZs, it is not possible to purchase land. Usually, long-term (30-year) usage rights are acquired. The main EPZ fees (each shows unit cost per square meter; according to BEPZA, the unit price may change at any time)²⁵⁶ are USD 2.50 per year for the Chattogram EPZ, Dhaka EPZ, Comilla EPZ, Adamjee EPZ and Karnaphuli EPZ (USD 2.75 per month for rental plants) and USD 1.40 per year for the Mongla EPZ, Ishwardi EPZ and Uttara EPZ (USD 1.60 per month for rental plants).

In principle, there are no minimum requirements in place in terms of paid-in capital for businesses other than those in the financial industry. The minimum amount in terms of paid-up capital for the financial industry is BDT 4 billion (BDT 1 = about JPY 1.25) for banking, BDT 400 million for general insurance, BDT 300 million for life insurance, BDT 15 million for other special insurance, and BDT 1 billion for other financial institutions.²⁵⁷

255JETRO, "Regulations on Foreign Capital", J-file, Last viewed 9 June 2023. https://www.jetro.go.jp/world/asia/bd/invest_02.html

256JETRO, "Regulations on Foreign Capital", J-file, Last viewed 9 June 2023. https://www.jetro.go.jp/world/asia/bd/invest_02.html

257JETRO, "Regulations on Foreign Capital", J-file, Last viewed 9 June 2023. https://www.jetro.go.jp/world/asia/bd/invest_02.html

6.1.4 Encouraged industries, preferential treatment, and other such assistance relating to foreign capital

The industries that Bangladesh is promoting include export-oriented industries, high-tech industries, industries utilizing domestic natural resources, and industries relying on domestic raw materials. Corporate tax exemptions, major incentives for companies operating in Export Processing Zones (EPZs), and other major incentives (including for export-oriented industries, export-related industries, and IT and software companies) have been set up with a focus on these industries.

Businesses in the following designated industries that commenced business between July 2019 and June 2024, are eligible for corporate tax relief:

Active pharmaceutical ingredients, radiopharmaceuticals, automobile manufacturing, contraceptives and rubber latex, basic chemicals and chemical dyes, basic electronic parts (examples: resistors, capacitors, transistors, and electronic circuits), bicycle manufacturing (including bicycle parts), natural fertilizers, agricultural products using biotechnologies, boilers (including parts), compressors (including parts), bricks using automatic hybrid Hoffman/clean technologies, computer hardware, furniture manufacturing, home appliances (blenders, rice cookers, kitchen microwaves, microwave ovens, washing machines, induction heating devices, water filters, etc.), pesticides and agricultural chemicals, petrochemicals, pharmaceuticals, LED TVs, leather and leather products, mobile phones, plastic recycling industry, processing of Bangladeshi vegetables and fruits, industries utilizing radioactivity, textile machinery, tissue transplanting, toy manufacturing, tire manufacturing, industries specified in notifications provided in government gazettes, and infrastructure projects (various kinds).

Furthermore, as a tax break for the manufacturing industry, factories that commenced manufacturing outside the city (Outside of City Corporations) between July 2019 to June 2024 will receive a 20 per cent tax rebate for the first 10 years of manufacturing. In addition, it is stipulated that factories that are transferred from within the city to outside the city between July 2019 to June 2024 will receive a 20 per cent tax rebate for 10 years.

6.1.5 Tax breaks in Economic Zones (EZs) and Export Processing Zones (EPZs)

Companies established within Economic Zones and high-tech parks can receive the following tax breaks:²⁵⁸ corporate tax will first be reduced by 100 per cent during the first three years after establishment, then by 80 per cent during the fourth year, 70 per cent during the fifth, 60 per cent during the sixth, 50 per cent during the seventh, 40 per cent during the eighth, 30 per cent during the ninth, and 20 per cent during the tenth.

Meanwhile, for companies established in Export Processing Zones (EPZs), the tax exemptions are stipulated in detail for each EPZ. Companies that have registered within an EPZ from January 2012 onward are eligible.

In the Dhaka EPZ, Chattogram EPZ, Comilla EPZ, Adamjee EPZ and Karnaphuli EPZ (which have an exception for the first five years of commercial production), corporate tax will be reduced by 100 per cent during the first two years, 50 per cent during the next two years and 25 per cent during the next year.

²⁵⁸JETRO, "Encouragement of Foreign Capital", J-file, Last viewed 9 June 2023. https://www.jetro.go.jp/world/asia/bd/invest_03.html.

In addition, in the Mongla EPZ, Ishwardi EPZ and Uttara EPZ (which have an exception for the first seven years of commercial production), corporate tax will be cut by 100 per cent during the first three years, 50 per cent during the next three years and 25 per cent during the next year.

The chart below provides a comparison of the above-mentioned Bangladesh Export Processing Zones (EPZs) and Economic Zones (EZs).

► Chart 6-1 Comparative table for Export Processing Zones (EPZs) and Economic Zones (EZs)

Item	Export Processing Zones (EPZ)	Economic Zones (EZ)
Competent authorities	Bangladesh Export Processing Zones Authority (BEPZA)	Bangladesh Economic Zones Authority (BEZA)
Development/ Operation entities	<ul style="list-style-type: none"> • Government (BEPZA) • Private companies (Korean) 	<ul style="list-style-type: none"> • Government (BEZA) • Joint ventures between the government and private sector • Private enterprises
Major industrial parks	<p>BEPZA entities:</p> <ol style="list-style-type: none"> 1. Dhaka Export Processing Zone 2. Adamjee Export Processing Zone 3. Chattogram Export Processing Zone 4. Karnaphuli Export Processing Zone 5. Comilla Export Processing Zone 6. Mongla Export Processing Zone 7. Ishwardi Export Processing Zone 8. Uttara Export Processing Zone <p>Private entities: Korean Export Processing Zone (Chattogram)</p>	<p>Government-approved EZ development plans: 97 in total</p> <p>*Based on the list on the BEZA website below.</p> <p>https://www.beza.gov.bd/economic-zones-site/</p>
Number of Japanese companies that have expanded into the country	32 (clothing and other manufacturing companies)	2 (two-wheeled vehicle manufacturing, ink manufacturing)
Industrial parks with open space available (as of September 2021)	Only three have sufficient vacancies: Uttara, Ishwardi Mongla	Abdul Monem Economic Zone Bangladesh Special Economic Zone
Background concerning installation and future development plans	Established under the BNP Government (since 1983)	Established under the Awami League (AL) Government (since 2010). The Government aims for a total of 100 EZs.
Types of businesses permitted to move in	Non-government-regulated industries	Non-government-regulated industries
Corporate tax exemptions	<p><5-year tax exemptions> Chattogram, Dhaka, Comilla, Adamjee, Karnaphuli</p> <p><7-year tax exemptions> Mongla, Ishwardi, Uttara</p>	Reduction/exemption of tax for 10 years in principle (except for certain industries) Years 1 to 3 of operation: 100% tax exemption; Year 4: 80% tax reduction; Year 5: 70% tax reduction; Year 6: 60% tax reduction; Year 7: 50% tax reduction; Year 8: 40% tax reduction; Year 9: 30% tax reduction; Year 10: 20% tax reduction
Conditions for application of corporate tax exemptions	Must be registered and operating within an EPZ	Must be registered and operating within an EZ
Exemption from import taxes	Import of raw materials Introduction of new machinery and parts for export companies	Import of raw materials Introduction of new machinery and parts for export companies

Conditions for application of import tax exemptions	Owning a Bond License	Owning a Bond License
VAT tax exemptions	Utilities, etc.	Utilities, etc.
Conditions for application of VAT exemptions	Requires permission for tax exemption from government authorities	Requires permission for tax exemption from government authorities
Other preferential treatments (examples)	<ul style="list-style-type: none"> • Provision of one-stop service * Use of the BEPZA headquarters contact and dedicated portal site • Sale in the domestic market can be undertaken within a scope of no more than 10% of the previous fiscal year's exports etc. 	<p><For development entities></p> <ul style="list-style-type: none"> • Stamp tax exemption on application documents for loan applications from commercial banks, etc. <p><For resident companies></p> <ul style="list-style-type: none"> • Use of the BEZA One-Stop Service Centre (OSS), etc. * Various procedures related to the expansion of business operations by foreign companies in the country can be performed at the OSS Centre in the BEA headquarters building. • Use of dedicated portal sites for online procedures • 10-year income tax exemption for dividends • Exemption of income tax on royalties, technical services/support fees • Sale in the domestic market can be undertaken within a scope of no more than 20% of the previous fiscal year's exports etc.
Regulation of capital contribution ratios and paid-in capital	None	None
Regulations on overseas remittances	<p>Financial regulations prescribed by the central bank (Guidelines for Foreign Exchange Transactions and circular notices, which are issued as needed) are applied.</p> <p>* It should be noted that regulatory changes may take place that only apply to EPZs.</p>	<p>Financial regulations prescribed by the central bank (Guidelines for Foreign Exchange Transactions and circular notices, which are issued as needed) are applied.</p> <p>* It should be noted that regulatory changes may take place that only apply to EZs.</p>
Applicable labour laws	BEPZA Labour Act, 2019	BEPZA Labour Act, 2019
Obligation to establish labour unions	None	Same as EPZ
Other regulations to keep in mind	Regulatory changes are frequently undertaken by means of the issuance of circular notifications, so the confirmation of such notifications is necessary.	Same as EPZ

Source: JETRO, "Bangladesh Information"²⁵⁹

259JETRO, "Bangladesh Information", JETRO Website, Last viewed 9 June 2023. https://www.jetro.go.jp/world/asia/bd/invest_03.html

6.2 Cambodia

6.2.1 Investment promotion agencies in Cambodia

In Cambodia, The Council for Development of Cambodia (CDC) is designated as the sole government body responsible for the evaluation of and decision-making on projects related to domestic reconstruction, development and investment. However, the investment projects listed below must be subject to the consultation and approval of the Council of Ministers under Article 11 of the “Sub-Decree on the Organization and Functioning of the Council for the Development of Cambodia (No. 60)” (hereinafter referred to as “Sub-Decree No. 60”).²⁶⁰

► **Chart 6-2 Investment projects subject to approval by the Council of Ministers (Sub-Decree No. 60, Article 11)**

1	Investment projects with investment capital of at least USD 50 million
2	Investment projects involving politically sensitive elements
3	Investment projects related to the exploration and development of mineral resources and natural resources
4	Investment projects that may have a negative impact on the environment
5	Investment projects involving long-term development strategies
6	Investment projects based on concession agreements with the government*

*Infrastructure projects based on Build-Own-Transfer (BOT), Build-Own-Operate-Transfer (BOOT), Build-Own-Operate (BOO), or Build-Lease-Transfer (BLT) contracts.

Source: Sub-Decree on the Organization and Functioning of the Council for the Development of Cambodia (No. 60).

Two committees have also been established within the CDC: (1) the Cambodian Investment Board (CIB) and (2) the Cambodian Special Economic Zones Board (CSEZB).

The roles and responsibilities of the CIB include providing one-stop services for procedures related to the screening and approval of investment projects applied for as “Qualified Investment Projects (QIP)” falling under the scope of preferential treatment, the formulation and coordination of strategies and plans for private investment in general, marketing to attract investment for potential investors, policy recommendations for improving legal systems for the promotion of investment, and coordination with and reporting to parties inside and outside the government (Sub-Decree No. 60, Article 17). Meanwhile, the CSEZB is engaged in the development, management and supervision of Special Economic Zones (SEZs) in accordance with the No. 148 ANKr. BK Sub-Decree on the Establishment and Management of the Special Economic Zone²⁶¹ and No. 28 ANKr. BK (Sub-Decree) on the Amendment of Article 4 Point (4.1) of Sub-Decree No. 148 dated 29 December 2005 on the Establishment and Management of the Special Economic Zone.²⁶² A Special Economic Zone Administration has been established in each Special Economic Zone to provide one-stop services to companies operating in the zones, including services provided during steps spanning from the registration

260 Royal Government of Cambodia, Sub Decree on the Organization and Functioning of the Council for the Development of Cambodia (No. 60). https://cdc.gov.kh/wp-content/uploads/2022/05/SubDecree-N-60_2016-04-05.pdf

261 Royal Government of Cambodia, No. 148 ANKr. BK Sub-Decree on the Establishment and Management of the Special Economic Zone. https://cdc.gov.kh/wp-content/uploads/2022/05/SUB-DECREE-148-ANKR.BK-ON-THE-ESTABLISHMENT-AND-MANAGEMENT-OF-THE-SPECIAL-ECONOMIC-ZONE-FINAL_060314-.pdf

262 Royal Government of Cambodia, No. 28 ANKr. BK (Sub-Decree). https://cdc.gov.kh/wp-content/uploads/2022/05/SUB-DECREE-148-ANKR.BK-ON-THE-ESTABLISHMENT-AND-MANAGEMENT-OF-THE-SPECIAL-ECONOMIC-ZONE-FINAL_060314-.pdf

of investment projects to procedures involved in daily operations, such as import and export permits.

6.2.2 Regulated and prohibited industries in Cambodia²⁶³

Cambodia has adopted an open policy stance toward foreign direct investment. The only prohibited businesses are the following, which are listed in Section 1 of Annex 1 (ANNEX 1- Negative List) of the Sub-Decree on the Implementation of the Law on the Amendment to the Law on Investment of the Kingdom of Cambodia (No. 111). (Cambodian companies are also prohibited from undertaking such businesses.)²⁶⁴

► Chart 6-3 Investment Activities prohibited by the relevant Law and Sub-Decrees

1	Production and processing of psychotropic and narcotic substances
2	Production and processing using poisonous chemicals, agricultural insecticides and pesticides, and other chemicals that are prohibited by international rules and regulations or the World Health Organization and that affect public health and the environment
3	Processing and production of electricity using waste imported from a foreign country
4	Forest reclamation business prohibited by the Forestry Law
5	Businesses in which investment is prohibited according to other laws and regulations

Source: Japan International Cooperation Agency (JICA), "Sub-Decree on the Implementation of the Law on the Amendment to the Law on Investment of the Kingdom of Cambodia (No. 111) (ANNEX 1 - Negative List)."

6.2.3 Provisions concerning elements such as capital contribution ratios, land ownership by foreign companies, and paid-in capital

In Cambodia, with the exception of the prohibited businesses indicated in the aforementioned Negative List, investors can engage freely in investment activities if they have registered the establishment of a company with the Ministry of Commerce and obtained a business license. There are no restrictions in terms of capital contribution ratio limits for foreign companies. In other words, it is possible, in principle, to operate a business with 100 per cent foreign capital, except when it comes to the prohibited investment businesses described in the previous section (6.2.2). However, when investors apply for investment incentives, they must apply to the CDC or the Sub-Committee on Investment of the Provinces-Municipalities (PMIS) for investment registration.

As for capital, the Law on Commercial Enterprise (promulgated in June 2005) requires the issuance of at least 1,000 shares with a face value of at least KHR 4,000 (about USD 1). The Law on Commercial Enterprise applies to partnerships (general and limited partnerships), limited liability companies (private and public limited liability companies) and foreign companies (corporations incorporated under the laws of a foreign country and doing business while having a presence in Cambodia: subsidiaries, branches and representative

²⁶³As for the New Investment Law, which came into effect in October 2021, detailed operational regulations such as the requirements for and the period of application of preferential treatment were to be separately stipulated by a Cabinet Order. As of May 2023, when this report was written, as the Cabinet Order had not been released, and the report was written based on information available at that time. However, since the Order (No. 139 ANK. Brk) was promulgated on 26 June 2023, the information written in this chapter describing foreign investment policy (6.2.2 and 6.2.4) is subject to change. https://cdc.gov.kh/wp-content/uploads/2023/06/Sub-Decree-No_139-on-LoI-dated-23-Jun_26-3.pdf (Cambodian)

²⁶⁴Japan International Cooperation Agency (JICA), Sub-Decree on the Implementation of the Law on the Amendment to the Law on Investment of the Kingdom of Cambodia (No. 111) (ANNEX1-Negative List). https://www.jica.go.jp/cambodia/office/information/investment/ku57pq00001vq7ml-att/investment_guidebook_document_03.pdf

offices).²⁶⁵

In Cambodia, the Constitution (Article 44) states that “only Cambodian corporations and citizens with Cambodian nationality have the right to own land”. The Amended Law on Land of August 2001 (Law on Land of 2001) also stipulates that only natural or legal persons of Cambodian nationality have the right to own land, and that foreigners who have misrepresented their nationality to become landowners will be subject to punishment (Article 8 of the law in question). A Cambodian national corporation is one in which 51 per cent or more of the shares of said company are owned by Cambodians or Cambodian companies. Therefore, when a foreign national or a foreign corporation uses Cambodian land to carry out an investment project, the entity in question is required to either: (1) enter into a concession agreement with the Cambodian Government and acquire the right to use the land for the period stipulated in the agreement; (2) lease the land from a Cambodian national or a Cambodian corporation in possession of perpetual lease rights as stipulated in the Civil Code under a long-term lease agreement that is based on the perpetual lease rights (perpetual lease: a right on a long-term lease of more than 15 years to less than 50 years which must be renewed every 50 years at the longest); or, (3) enter into a short-term lease agreement with a definite term.²⁶⁶

6.2.4 Encouraged industries, preferential treatment and other such assistance related to foreign capital²⁶⁷

Cambodia’s foreign direct investment policy, as stated previously, takes a stance of freedom in principle, except for the prohibited businesses that are listed in Annex 1 (ANNEX 1- Negative List) of the Sub-Decree on the Implementation of the Law on the Amendment to the Law on Investment of the Kingdom of Cambodia (No. 111). Thus, the principle of non-discrimination between domestic and foreign countries is applied, except when it comes to the ownership of land by foreign nationals or foreign corporations, which is prohibited by the provisions of the Constitution.²⁶⁸

In Cambodia, the Amended Law on Investment (formerly the Law on Investment), which was originally enacted in 1994 and amended in 2003, has provided investment incentives for corporations establishing companies in Cambodia. This applies to Qualified Investment Projects (QIP), which are granted preferential treatment as described below. Subsequently, the New Law on Investment (NS/RKM/1021/014), which replaced the former Law on Investment, came into force on 15 October 2021. The new law stipulates elements such as the industrial sectors and industries that contribute to Cambodia’s economic development, the expansion of the scope and choices available in terms of tax incentives, and the protection of investors and investment assets, and it also adds new incentives.

265JETRO, “Cambodian Law on Commercial Enterprise”. https://www.jetro.go.jp/ext_images/world/asia/kh/law/pdf/corporation-law201503.pdf.

266JETRO, “Cambodia: Regulations on Foreign Capital”. https://www.jetro.go.jp/world/asia/kh/invest_02.html.

267As for the New Investment Law, which came into effect in October 2021, detailed operational regulations such as the requirements for and the period of application of preferential treatment were to be separately stipulated by a Cabinet Order. As of May 2023, when this report was written, as the Cabinet Order had not been released, and the report was written based on information available at that time. However, since the Order (No. 139 ANK. Brk) was promulgated on 26 June 2023, the information written in this chapter describing foreign investment policy (6.2.2 and 6.2.4) is subject to change. https://cdc.gov.kh/wp-content/uploads/2023/06/Sub-Decree-No_139-on-LoI-dated-23-Jun-26-3.pdf (Cambodian)

268Japan International Cooperation Agency (JICA), Sub-Decree on the Implementation of the Law on the Amendment to the Law on Investment of the Kingdom of Cambodia (No. 111) (ANNEX1-Negative List). https://www.jica.go.jp/cambodia/office/information/investment/ku57pq00001vq7ml-att/investment_guidebook_document_03.pdf

To receive preferential investment treatment in Cambodia, applicants must apply to the Cambodian Development Council (CDC) or the provincial and special investment subcommittees, undergo screening, and obtain certificates of registration. Businesses registered as QIPs are eligible for preferential treatment in the form of corporate tax exemptions over a period of time or for special depreciation (selection-based system).²⁶⁹ The old Law on Investment [Section 2 of Annex 1 (ANNEX 1- Negative List) of the Sub-Decree on the Implementation of the Law on the Amendment to the Law on Investment of the Kingdom of Cambodia (No. 111)] lists 46 investment activities that are not eligible for the application of preferential treatment.²⁷⁰ These 46 items are broadly divided into (1) those which serve to disqualify entire specific fields and (2) those which serve to disqualify projects that do not meet certain eligibility requirements, such as the amount of investment capital. In short, if an investment project does not fall under either of the aforementioned fields where investment is prohibited (the Negative List) or under “investment activities not eligible for preferential treatment,” it may be registered as a QIP and made eligible for preferential treatment. Focusing on the manufacturing sector, the above (1) applies only to the manufacture and processing of wood products (use of domestic wood) and tobacco production. Most projects with a certain amount of investment capital involved can be eligible for preferential treatment. Since a certain amount of investment capital is required, the QIP system is positioned as a system that is primarily targeted at large-scale investment projects.

► Chart 6-4 Investment activities not eligible for incentives (manufacturing)

Investment area	Investment conditions
Supporting industries that supply all products to export industries	USD 100,000 or more
Animal feed	USD 200,000 or more
Leather and related products, metal products, electrical and electronic equipment and office supplies, toys and sporting goods, motorcycles and their parts and accessories, and ceramic products	USD 300,000 or more
Food and beverages, products for the textile industry; clothing, textiles, footwear, and hats; furniture and fixtures made without using wood; paper and paper products; rubber and plastic products; traditional medicines; marine products for export (frozen and processed); and grains and crops for export (processed)	USD 500,000 or more
Chemicals, cement, agricultural fertilizers, petrochemicals, and modern pharmaceuticals	USD 1 million or more
Training and educational institutions for skill development and technical improvement of industrial human resources	USD 4 million or more

Source: Japan International Cooperation Agency (JICA), “Sub-Decree on the Implementation of the Law on the Amendment to the Law on Investment of the Kingdom of Cambodia (No. 111) (ANNEX 1 - Negative List).”

The “New Law on Investment,” which went into effect on 15 October 2021, expanded the scope, content and duration of preferential treatment.²⁷¹ Article 24 of the New Law on Investment specifies 18 sectors and business types that fall under the scope of eligibility for preferential treatment when it comes to investment.

²⁶⁹The QIP applies to individual investment projects, not to investors or investment companies (corporations). For this reason, when a company has multiple operations in Cambodia, some operations may have QIP certification and others may not.

²⁷⁰Japan International Cooperation Agency (JICA), Sub-Decree on the Implementation of the Law on the Amendment to the Law on Investment of the Kingdom of Cambodia (No. 111), Annex 1 (ANNEX 1 – Negative List), Section 2. https://www.jica.go.jp/cambodia/office/information/investment/ku57pq00001vq7ml-att/investment_guidebook_document_03.pdf

²⁷¹The Council for the Development of Cambodia, Law on Investment. https://cdc.gov.kh/wp-content/uploads/2022/04/LOI_English-Updated-13Dec21.pdf

Under the New Law on Investment, however, the scope of eligibility for preferential treatment extends not only to business types; in some cases, only the concept of the investment activities is indicated. The detailed regulations for operation when determining elements such as application requirements and duration of preferential treatment, are to be set down separately in a similar manner to the Cabinet Order. The promulgation thereof is being awaited (and operation for the period until such point will be based on the current Cabinet Order).²⁷²

► **Chart 6-5 Sectors eligible for preferential investment treatment and investment activities stipulated by Article 24 of the Law on Investment**

Subject sectors and investment activities	
1	High-tech industries involved in innovation or research and development
2	Innovative and highly competitive new industries and manufacturing involving high levels of added value
3	Industries that supply products to regional and global production chains
4	Industries that support agriculture, tourism, manufacturing, and regional and global production and supply chains
5	Electrical and electronics industries
6	Spare parts, assembly and installation industries
7	Machinery industries
8	Agriculture, agro-industrial, agro-processing and food-processing industries (for the domestic market and for exports)
9	SMEs in priority fields and development of SME clusters, industrial parks and science, technology and innovation parks
10	Tourism business and tourism-related businesses
11	Development of special economic zones
12	Digital industries
13	Investment in education, job training and productivity improvements
14	Health industries
15	Development of physical infrastructure
16	Logistics
17	Investments in environmental management and protection, biodiversity conservation, and recycling-oriented economies
18	Investment in green energy and technologies that help adapt to and mitigate climate change
19	Other fields and investment activities not listed in this law that are judged to have the potential to contribute to the socio-economic development of Cambodia

Source: Law on Investment of the Kingdom of Cambodia (provisional Japanese translation, JETRO)²⁷³.

272As for the New Investment Law, which came into effect in October 2021, detailed operational regulations such as the requirements for and the period of application of preferential treatment were to be separately stipulated by a Cabinet Order. As of May 2023, when this report was written, as the Cabinet Order had not been released, and the report was written based on information available at that time. However, since the Order (No. 139 ANK. Brk) was promulgated on 26 June 2023, the information written in this chapter describing foreign investment policy (6.2.2 and 6.2.4) is subject to change. https://cdc.gov.kh/wp-content/uploads/2023/06/Sub-Decree-No_139-on-LoI-dated-23_Jun_26-3.pdf (Cambodian)

273A provisional Japanese translation (by JETRO) of the Law on Investment is available at the following URL: https://cdc.gov.kh/wp-content/uploads/2022/04/4-japanese-version-of-LOI-%E6%8A%95%E8%B3%87%E6%B3%95_vfinal.pdf

► Chart 6-6 Summary of preferential treatment for investments in QIP Projects²⁷⁴

<p>[Basic preferential treatment: Option 1] Business income tax exemptions and reductions</p> <ul style="list-style-type: none"> • Business income tax exemption (up to 9 years) • Tax reduction applied to total amount of business income tax (added with the New Law on Investment) • (Six years after the end of the tax exemption period: 25%, 50%, and 75% every two years) • The expansion of acquired QIPs (Expansion-type QIP: Expanding production lines, adding new branded products, introducing new technologies to improve productivity and protect the environment, etc.) are also eligible for tax exemption if certain requirements are met • Duty-free import of production equipment and construction materials and equipment* • Exemption from export taxes (except as otherwise provided by other laws and regulations) etc. 	+	<p>[Additional preferential treatment] (Added under the New Law on Investment)</p> <ol style="list-style-type: none"> 1. Exemption from Value Added Tax (VAT) on production inputs produced in Cambodia that are procured for the purpose of conducting QIP business 2. Deduction of 150% from the taxable base amount for expenses incurred for the following business activities: <ul style="list-style-type: none"> • Research, development and innovation • Human resource development through vocational and skill training for Cambodian workers and employees • Construction of housing for workers and employees, dining rooms where meals are provided at reasonable prices, as well as day care centres and other facilities • Upgrading of machines for production lines • Providing benefits to Cambodian workers and employees, including comfortable transportation for workers to get from their homes to factories, accommodation, eating places and cafeterias that provide meals at reasonable prices, childcare centres and other facilities • Exemption from business income tax prescribed by Cabinet Order in relation to expansion-type QIPs 3. In terms of special preferential treatment, other preferential treatment prescribed by the Law on Public Finance System is applied to certain sectors and investment activities that are likely to contribute to the economic development of the state 								
OR										
<p>[Basic preferential treatment: Option 2] Extraordinary special depreciation of capital expenditures</p> <ul style="list-style-type: none"> • Deductions for capital expenditures by special amortization under the current tax system • Deduction of up to 200% for certain expenses (up to 9 years) • Duty-free import of production equipment and construction materials* • Exemption from export taxes (except as otherwise provided by other laws and regulations) etc. 										
<p>*Outline of the duty-free import system</p> <table border="1"> <thead> <tr> <th>QIP types</th> <th>Goods subject to duty-free import</th> </tr> </thead> <tbody> <tr> <td>Domestic-oriented QIP (Domestically oriented QIPs)</td> <td>Construction materials, construction equipment, and production equipment</td> </tr> <tr> <td>Export-oriented QIP (Export oriented QIPs)</td> <td>Construction materials, construction equipment, production equipment and production materials</td> </tr> <tr> <td>Supporting industry QIPs (Supporting Industry QIPs)</td> <td>Construction materials, construction equipment, production equipment and production materials *Limited to cases involving supply or direct export of all products to exporting companies.</td> </tr> </tbody> </table>			QIP types	Goods subject to duty-free import	Domestic-oriented QIP (Domestically oriented QIPs)	Construction materials, construction equipment, and production equipment	Export-oriented QIP (Export oriented QIPs)	Construction materials, construction equipment, production equipment and production materials	Supporting industry QIPs (Supporting Industry QIPs)	Construction materials, construction equipment, production equipment and production materials *Limited to cases involving supply or direct export of all products to exporting companies.
QIP types	Goods subject to duty-free import									
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Source: JETRO, "Cambodia - Encouragement of preferential treatment to foreign capital" (Japanese).

²⁷⁴For detailed application methods, application requirements, and other such elements, please refer to Articles 26 (on basic preferential treatment), Article 27 (on additional preferential treatment) and Article 28 (Other matters) of the New Law on Investment. In addition, the "production equipment" indicated within the duty-free import system refers to machines, devices and equipment that are substantially used in the production chain (excluding automobiles). The importation of automobiles for investment activities or projects in specific fields may be subject to separate preferential treatment provided for in the Law on Public Finance System or Cabinet Orders.

In addition to the preferential investment treatment provided for QIPs as stipulated in the Law on Investment, preferential treatment for specific industries has also been introduced. Examples of measures for the textile and garment industries include: (1) exemptions from VAT on imported production materials and equipment for companies exporting finished goods produced in Cambodia, and (2) exemptions from VAT (shouldered by the government) on imported production materials and equipment for supporting industries that produce and export clothing, textiles, footwear, travel bags, handbags and hats.²⁷⁵

6.2.5 Tax cuts in Special Economic Zones (SEZs) and Export Processing Zones (EPZs)

A Special Economic Zone (SEZ) is a region that is given a special legal and administrative status as a location for businesses to operate for the economic development of Cambodia. There are currently 24 SEZs in Cambodia, many of which are located near the borders with Thailand and Viet Nam.²⁷⁶ SEZs are industrial parks that are equipped with infrastructures such as power and drainage facilities, and that have the function of conducting various administrative procedures for business operations in a one-stop manner. Among them, (1) the Phnom Penh SEZ, (2) the Sanco Poipet SEZ, and (3) the Tai Seng Bavet SEZ are major destinations for foreign companies expanding their operations to the country, including Japanese companies. Of the 102 companies operating in the Phnom Penh SEZ, 42 are Japanese companies.²⁷⁷

Companies established within Special Economic Zones and high-tech parks (Zone Investors) are exempt from VAT on the import of production goods, construction materials, and production inputs (raw materials, parts, etc.) necessary to produce products in SEZs for export abroad.²⁷⁸

6.3 Viet Nam

6.3.1 Investment promotion agencies in Viet Nam

Investment promotion agencies in Viet Nam are working with the Ministry of Planning and Investment (central government), with provincial and municipal planning and investment bureaus (regional bureaus), and with the “management committees” of industrial parks, export processing zones, high-tech zones, and Special Economic Zones (SEZs) to attract foreign investors. Foreign investors are required to obtain an Investment Registration Certificate (IRC) and an Enterprise Registration Certificate (ERC) to establish (invest in) a company in Viet Nam. In the case of IRCs, application/issuance is undertaken by planning and investment bureaus or by the management committees of industrial parks, export processing zones, high-

²⁷⁵ Order of the Minister of Economy and Finance on Value Added Tax applicable to supporting or contracting industries that provide goods or services for exports by companies in the garment, footwear, handbag and hat industries.

(In the Khmer language; the name is not exact as it was translated using GoogleLens.) <https://www.tax.gov.kh/u6rhf7ogbi6/gdtstream/6b23c7cb-886d-428c-8939-a2ead2fc937e>

²⁷⁶ Only SEZs that are currently operating. <https://cdc.gov.kh/sez-smart-search/>

²⁷⁷ Royal Group Phnom Penh Special Economic Zone, Last viewed 16 June 2023. <http://www.ppsez.com/en/about/customer?limit=20&page=1>

²⁷⁸ Royal Government of Cambodia, No. 148 ANKr. BK Sub-Decree on the Establishment and Management of the Special Economic Zone. https://cdc.gov.kh/wp-content/uploads/2022/05/SUB-DECREE-148-ANKR.BK-ON-THE-ESTABLISHMENT-AND-MANAGEMENT-OF-THE-SPECIAL-ECONOMIC-ZONE-FINAL_060314-.pdf Order of the Minister of Economy and Finance on Value Added Tax applicable to supporting and contracting industries that provide goods or services for the export of garment, footwear, handbag and hat industries. (In the Khmer language; names are not exact as they were translated using Google Lens.) <https://www.tax.gov.kh/u6rhf7ogbi6/gdtstream/6b23c7cb-886d-428c-8939-a2ead2fc937e>

tech zones or SEZs in accordance with elements such as the nature of the investment project and the area where the project is to be implemented. In the case of regional industrial parks or other such areas for which no management committee has been established, the planning and investment bureau of the relevant region plays the aforementioned role (Government Decree 31/2021/ND-CP).

► Chart 6-7 Organizations undertaking the application/issuance of Investment Registration Certificates

Planning and investment bureaus	Management committees
<ul style="list-style-type: none"> • Investment projects carried out in two or more provincial administrative units • Investment projects carried out simultaneously inside and outside industrial parks, export processing zones, high-tech zones and special economic zones • Investment projects in industrial parks, export processing zones, high-tech zones and special economic zones without management committees, or investment projects falling outside the scope of the management of industrial parks, export processing zones, high-tech zones and special economic zones • Investment projects outside industrial parks, export processing zones, high-tech zones and special economic zones 	<ul style="list-style-type: none"> • Investment projects for the construction and management of infrastructure in functional areas of industrial parks, export processing zones, high-tech zones and special economic zones • Investment projects in industrial parks, export processing zones, high-tech zones and special economic zones

Source: JETRO, “Manual for the Establishment of Bases in Viet Nam Based on the Law on Investment and the Enterprise Law” (March 2022)

6.3.2 Regulated and prohibited industries in Viet Nam

In Viet Nam, under the Law on Investment of 2020 (61/2020/QH14),²⁷⁹ all investment and corporate management activities are prohibited for eight sectors, including the sale of narcotics, chemicals and minerals, firecrackers, and other such items, as well as the debt collection businesses, and so on, regardless of whether the situation involves a Vietnamese company or a foreign company (Article 6).

On the other hand, Article 7 and Annex IV of the Law on Investment of 2020 (61/2020/QH14)²⁸⁰ indicate 228 sectors where investment and management activities are conditionally permitted (regardless of whether the companies engaging in such activities are Vietnamese or foreign).²⁸¹ Each industry type has its own set of conditions that investors must satisfy when it comes to obtaining a business license, statutory capital, foreign investment ratios, and locations where the project is to be implemented. These are sectors deemed likely to affect national defence, national security, social order, safety, social morality and the preservation of the health of citizens, in addition to mainly the service sector. There is, however, little regulation of manufacturing.

Meanwhile, 25 sectors have been designated as sector where market access is prohibited only for foreign investors, including the manufacture of military goods and equipment, the manufacture and trade of weapons and gunpowder materials, mass media, the capture of seafood, services involving the dispatch of workers to overseas locations, and judicial administration services. As for the manufacturing industry, this

²⁷⁹Law on Investment (61/2020/QH14), Viet Nam. <https://vbpl.vn/TW/Pages/vbpqen-toanvan.aspx?ItemID=11133>

²⁸⁰Law on Investment (61/2020/QH14) (Annex IV), Viet Nam.
<https://vbpl.vn/TW/Pages/vbpqen-toanvan.aspx?ItemID=11133>

²⁸¹Annex IV of the Law on Investment (61/2020/QH14) specifies 227 sectors. However, a law serving to amend a portion of the Law on Investment, 03/2022/QH15 [Article 3 (5)], involves the addition of the sale and service of products and services related to cyber security, bringing the number of sectors to 228.

designation is limited to the aforementioned military goods and equipment and weapons and gunpowder materials (Annexes I and A of Government Decree 31/2021/ND-CP).²⁸²

In contrast, there are 59 sectors in which certain conditions are imposed on entry into said sectors by foreign investors. The main sectors included are exploration, development and processing for natural resources, minerals, oil and gas; power generation (hydropower, offshore wind and nuclear power); aquaculture; forestry; logistics (container handling services excluding airports), communications sectors; entertainment services; rail services; transportation services (including marine transport services, domestic waterway transport services, rail transport services and road transport services), game business services; and contracted overseas deployment of Vietnamese workers.

Manufacturing sectors includes the paper industry, transport equipment (with seats numbering over 29), aircraft, locomotives and railcars, tobacco, tobacco manufacturing machinery and equipment, marine vessels, building materials, and motorcycles. The certain conditions consist of those concerning (1) the foreign investor's ratio of capital contribution within the Articles of Incorporation, (2) the format of investment, (3) the scope of investment activities, (4) the investor's abilities and the partners participating in the implementation of investment activities, and (5) other conditions set up in accordance with provisions such as Vietnamese laws, decrees, and international treaties to which the country is a party (Annexes I and B for Government Decree 31/2021/ND-CP).²⁸³

6.3.3 Provisions concerning elements such as capital contribution ratios, land ownership by foreign companies, and paid-in capital

Among the fields in which foreign investors are permitted to invest on a conditional basis (see 4.2.2 above), there are 21 sectors that require at least a certain amount of statutory capital based on elements such as the laws and government decrees of the respective jurisdictions, including banking, non-banking services, securities, insurance, security services, air transport services, maritime transport services, international tourism services, recruitment services, communications, worker dispatching, and hospitals.

Further, foreign companies or foreign investors are subject to restrictions in terms of capital contribution ratios in 24 sectors, including agriculture, hunting and forestry; basic communications services; value-added communications services; banking and other financial services; sea shipping services; road transport services; and air transport services. Of these 24 sectors, investors entering certain sectors such as advertising, tourism services (travel agency businesses and tour arrangement businesses), customs clearance services, agency services for warehousing and the transportation of goods, are required only to establish joint ventures. There are also some business categories that have been subject to liberalization when it comes to capital contribution ratios by foreign companies or foreign investors.²⁸⁴

282 Japan International Cooperation Agency (JICA) (Japanese), Provisional translation by Masanori Tsukahara, Annexes I-A to Government Decree 31/2021/ND-CP, "Vietnamese Laws and Regulations: Protocol (Government Decree) Providing Detailed Provisions and Guidance for Enforcement of the Stipulations of the Investment Law (No. 31/2021/ND-CP)". https://www.jica.go.jp/project/VietNam/021/legal/ku57pq00001j1wzj-att/legal_31_2021_ND-CP.pdf

283 Japan International Cooperation Agency (JICA) (Japanese), Provisional translation by Masanori Tsukahara, Annexes I-B to Government Decree 31/2021/ND-CP: "Vietnamese Laws and Regulations: Protocol (Government Decree) Providing Detailed Provisions and Guidance for Enforcement of the Stipulations of the Investment Law (No. 31/2021/ND-CP)". https://www.jica.go.jp/project/VietNam/021/legal/ku57pq00001j1wzj-att/legal_31_2021_ND-CP.pdf

284 JETRO, "Viet Nam - Regulations on Foreign Capital: Investment Fields Requiring Statutory Capital" (Japanese). https://www.jetro.go.jp/ext_images/jfile/country/vn/invest_02/pdfs/vn7B010_houteishihonkingaku.pdf

In Viet Nam, foreigners are not allowed to own land. When a foreign investor or a foreign corporation needs land for an investment project, it is necessary to either acquire land usage rights from the government or lease them from land usage rights holders. In addition, foreign companies are allowed to acquire land usage rights in Viet Nam if they make a capital contribution to a local company that holds land usage rights in Viet Nam, or if a local company establishes a joint venture in the form of an in-kind contribution.²⁸⁵

6.3.4 Encouraged industries, preferential treatment and other such assistance related to foreign capital

6.3.4.1 Sectors for which investments are incentivized

Article 16 (1) of the Law on Investment of 2020 (61/2020/QH14)²⁸⁶ specifies the sectors for which investments are incentivized (14 sectors), which fall under the scope of eligibility for investment incentive measures.

► Chart 6-8 Sectors where investments are encouraged that fall under the scope of eligibility for preferential treatment [Article 16 (1) of Law on Investment (61/2020/QH14)]

1	High-tech business and high-tech supporting industries, research and development activities, production of products that utilize scientific and technological results in accordance with laws and regulations on science and technology
2	Production of new materials, new energy, clean energy and renewable energy; production of products recognized as having added value of 30% or more; and production of highly energy-efficient products
3	Production of electronic products, mechanical products, agricultural machinery, automobiles and auto parts, as well as shipbuilding
4	Production of products belonging to the list of priority supporting industries (Government Decree on the Development of Supporting Industries 111/2015/ND-CP)
5	Production of information technology, software and digital content products
6	[1] Cultivation and processing of agricultural and forestry products, aquaculture and processing of marine products, [2] planting and protection of forests, [3] salt production, [4] logistics services for capturing marine products and for fishing, and [5] plant and animal breed improvements and biotechnology
7	Waste collection, treatment, recycling and reuse
8	[1] Investment in infrastructure development, operation and management, and [2] public passenger transportation in urban areas
9	Early childhood education, general education, vocational education and higher education
10	[1] Medical examination and treatment, [2] production of raw materials for drugs and pharmaceuticals, and storage equipment for drugs, [3] scientific research on preparation techniques and biotechnology for the production of new drugs, and [4] production of medical devices and equipment
11	[1] Investment in physical training and sports facilities for disabled and professional athletes, and [2] investment in the protection and promotion of cultural heritage
12	[1] Investment in geriatric and mental care facilities and treatment centres for defoliant victims, and [2] investment in nursing homes for the elderly, the disabled, orphans and street children
13	People's Credit Fund, microfinance
14	The production of products produced by a value chain or industrial cluster and the provision of services, or the production and provision of services involving the participation in a value chain or industrial cluster and/or which are used to participate therein

Source: JETRO, "Viet Nam - Encouragement of preferential treatment to foreign capital."²⁸⁷

285JETRO, "Viet Nam - Regulations Concerning Foreign Capital" (Japanese). https://www.jetro.go.jp/world/asia/vn/invest_02.html

286Law on investment (61/2020/QH14), Viet Nam, <https://vbpl.vn/TW/Pages/vbpqen-toanvan.aspx?ItemID=11133>

287JETRO, "Viet Nam - Encouragement of preferential treatment to foreign capital" (Japanese). https://www.jetro.go.jp/world/asia/vn/invest_03.html

In Annex II of Government Decree 31/2021/ND-CP,²⁸⁸ sectors for which investments are incentivized are classified into “special sectors for which investments are incentivized” (Section A) and “sectors for which investments are incentivized” (Section B). In terms of “special sectors for which investments are incentivized” (Section A), the list includes a total of 32 sectors: (1) high-tech technologies, information technology, and supporting industries [8 sectors]; (2) agriculture [8 sectors]; (3) environmental protection and infrastructure development [6 sectors]; and (4) culture, society, sports, and medicine [10 sectors]. In terms of “sectors for which investments are incentivized” (Section B), the list includes (1) science and technology, electronics, machinery, materials production and information technology [20 sectors]; (2) agriculture [11 sectors]; (3) environmental protection and infrastructure development [23 sectors]; (4) education, culture, society, sports and medicine [9 sectors]; and (5) other sectors [4 sectors].

► Chart 6-9 Details of special fields for which investments are incentivized and fields for which investments are incentivized

Categories	Special sectors for which investments are incentivized (Section A)	Sectors for which investments are incentivized (Section B)
High-tech technologies, information technology and supporting industries (Section A) / Science and technology, electronics, machinery, production of materials, and information technologies (Section B)	<p>[8 sectors]</p> <ol style="list-style-type: none"> 1. Applications of high-tech technologies belonging to the list of high-tech technologies prioritized for investment and development as a result of decisions of the Government/Prime Minister 2. Manufacture of products belonging to a list of high-tech products whose development is encouraged as a result of decisions of the Government/Prime Minister 3. Manufacture of products belonging to the list of products of supporting industries in which development is prioritized under the provisions stipulated by the government concerning development of supporting industries 4. Development of high-tech technologies and high-tech companies; venture investments for the development of high-tech technologies; application, research and development of high-tech technologies in accordance with laws and regulations on high-tech technologies; the manufacture of biotechnology products; the development of high-tech human resources; and the provision of high-tech services 	<p>[20 sectors]</p> <ol style="list-style-type: none"> 1. Investments in research and development (R&D) 2. Production of steel pieces using iron ore, high-quality steel and alloys 3. Production of coke and activated carbon 4. Production of energy-saving products 5. Manufacture of petrochemicals, medicinal chemicals, basic science products and rubber parts 6. Manufacture of products with at least 30% added value (following the guidance of the Ministry of Planning and Investment) 7. Manufacture of automobiles, auto parts and ships 8. Manufacturing of electronic components that do not belong to sectors with special incentives for investment 9. Manufacturing of production tools, machines, equipment and accessories, food processing machines and irrigation equipment for agriculture, forestry, fisheries and salt manufacturing industries which do not belong to sectors where there are special incentives for investment 10. Production of alternatives to asbestos materials 11. Manufacture of lightweight, nonflammable building materials (density less than 1000 kg/m²)

288 Japan International Cooperation Agency (JICA), Provisional translation by Masanori Tsukahara. “Vietnamese Laws and Regulations: Protocol (Government Decree) Providing Detailed Provisions and Guidance for Enforcement of the Stipulations of the Investment Law (No. 31/2021/ND-CP)”. https://www.jica.go.jp/project/VietNam/021/legal/ku57pq00001j1wzj-att/legal_31_2021_ND-CP.pdf (Japanese) <https://vbpl.vn/bokehoachvadautu/Pages/vbpbq-van-ban-goc.aspx?ItemID=147720> (Vietnamese)

Categories	Special sectors for which investments are incentivized (Section A)	Sectors for which investments are incentivized (Section B)
High-tech technologies, information technology and supporting industries (Section A) / Science and technology, electronics, machinery, production of materials, and information technologies (Section B)	<ol style="list-style-type: none"> 5. Production of software products, digital information content products, important information technology products and software services pursuant to the provisions of the Law on Information Technology; production of cyber information security products and provision of cyber information security services that meet the conditions set forth in the provisions of the Law on Cybersecurity; production of products formed based on the results of science and technology under the provisions of the Law on Science and Technology. 6. Production of energy using renewable energy, clean energy and energy that utilizes waste treatment 7. Production of composite materials, light construction materials and rare materials 8. Production of products belonging to the list of important equipment products as a result of a decision of the Government/ Prime Minister 	<ol style="list-style-type: none"> 12. Investment in power generation using waste heat from construction material production plants to save energy and protect the environment 13. Manufacture of artificial sand to replace natural sand 14. Investment in the treatment of and use of waste generated from thermal power plants, chemical fertilizer plants, and metallurgical plants for the manufacture of construction materials 15. Investment in the treatment and use of household waste that serves as fuel for the production of construction materials 16. Investment in the production of equipment, supplies and replacement accessories for production sectors for cement, glass, tiles and refractory materials; investments in the production of building materials to replace those produced by out-of-date technologies. 17. Creation of eco-friendly transportation 18. Manufacture and assembly of diesel locomotives, freight cars with a payload of 30 tons or more, luxury passenger cars with structures designed for 100 kilometres per hour, and accessories for railway locomotives, freight cars and passenger cars 19. Production and processing of minerals used as construction materials 20. Production and sale of products formed based on science and technology of science and technology companies
Agriculture	[8 sectors] <ol style="list-style-type: none"> 1. Planting, caring for, nurturing, protection and development of forests; development of productive forests in empty lands with no plants and in hilly areas; planting of large trees and conversion of small timber forests into large timber forests; development of non-timber forest products and restoration of natural forests 2. Farming, processing and storage for agricultural, forestry, and marine products, and processing of non-timber forest products 3. Development of plant and livestock varieties, forestry seedlings, marine product varieties, development involved in breeding and crossbreeding, and development of high-tech forestry plant varieties 4. Purification, extraction and production of salt 	[11 sectors] <ol style="list-style-type: none"> 1. Cultivation, harvesting and processing of medicinal herbs, and protection and preservation of rare and unique genetic sources and medicinal herbs 2. Feed production and refining for animals and marine products 3. Scientific and technical services related to plant cultivation, animal husbandry, fisheries, and plant and livestock protection 4. New construction, improvement, and renovation of livestock slaughtering and dismantling facilities, industrial-intensive poultry and livestock storage and processing facilities, and wholesale markets and auction facilities for livestock and livestock products

Categories	Special sectors for which investments are incentivized (Section A)	Sectors for which investments are incentivized (Section B)
Agriculture	<ol style="list-style-type: none"> 5. Deep-sea fishing using advanced fishing methods, logistics services for fishing, construction of fishing vessel manufacturing bases, and manufacturing of fishing vessels 6. Maritime security services 7. Investment in research and production of biotechnology products used as food products 8. Manufacture of wood products; manufacture of artificial boards, including plywood, laminated wood, and MDF boards 	<ol style="list-style-type: none"> 5. Construction and development of intensive raw material areas for processing industries 6. Development of marine products 7. Investment in scientific research and technology transfers for the production of biological pesticides, the production of organic fertilizers and the development of organic fertilizers 8. Cultivation and processing of agricultural, forest and marine products linked under production chains; cultivation and processing of agricultural, forest and marine products based on organic farming methods 9. Manufacture of handicrafts, bamboo and wicker products, ceramics, glass, textiles, thread, embroidery and knitted works 10. Scientific research and technological development in the sector of agricultural science 11. Raising and protecting livestock progenitors; preserving genetic sources of rare livestock breeds and native breeds of livestock
Environmental protection and infrastructure development	<p>[6 sectors]</p> <ol style="list-style-type: none"> 1. Intensive waste collection, treatment, recycling and reuse 2. Construction and business for functional area infrastructure in industrial parks, export processing zones, high-tech zones and special economic zones 3. Development investments for water purification plants, power plants, water supply and drainage systems, bridges, roads, infrastructure construction, transport and railways, ports, seaports, inland waterway ports, airports, stations and other important infrastructure works as decided upon by the Government/Prime Minister 4. Development of public passenger transport in cities 5. Investment in the construction and management business for markets in rural areas 6. Investment in the development, operation and management of technical infrastructure construction work for industrial clusters 	<p>[23 sectors]</p> <ol style="list-style-type: none"> 1. Construction and development of infrastructure for industrial clusters 2. Building of apartments for workers in industrial parks, export processing zones, high-tech zones and special economic zones; construction of student dormitories and housing for people on need-based on social welfare; construction of functional urban areas for working people (including kindergartens, schools and hospitals) 3. Processing for oil spill incidents, overcoming incidents involving the erosion of mountains and banks as well as sediment disasters and other environmental accidents involving banks, beaches, levees and lakes; application of technologies to reduce the emission of ozone-depleting substances and greenhouse gases 4. Investments in merchandise exhibition, logistics centre, dry port, warehouse, supermarket and shopping centre businesses 5. Manufacture and supply of environmental observation equipment, on-site domestic wastewater treatment equipment, and environmentally friendly products and services certified with Viet Nam Eco Labels of the Law on Environmental Protection

Categories	Special sectors for which investments are incentivized (Section A)	Sectors for which investments are incentivized (Section B)
Environmental protection and infrastructure development		<ol style="list-style-type: none"> 6. Management investments into technology development offices and science and technology enterprises pursuant to the provisions of the Law on Technology 7. Management investments into centres for creative innovation and research and development 8. Centralized domestic wastewater treatment with a design capacity of more than 2,500 m³/day (24 hours) for cities of Class IV and above 9. Intensive collection, transportation and treatment of regular solid waste 10. Hazardous waste treatment and joint treatment of hazardous waste 11. Treatment and improvement of contaminated environmental areas within public areas 12. Responses to and processing for oil spill incidents, chemical-related incidents, and other environmental incidents 13. Construction of technical infrastructure for environmental protection in industrial parks, industrial clusters and villages producing handicrafts 14. Relocation and movement of business establishments causing serious environmental pollution 15. Environmental observation 16. Investment in the construction of cemeteries and cremation and electric burial facilities 17. Environmental damage assessments; environmental health assessments; environmental assessments for goods, imported scrap, machinery, equipment and technology 18. Production involving the application of new models relating to environmental protection in which invention patents or utility model patents are protected in a format issued by the state 19. Production of environmentally friendly products provided with the Viet Nam Green Label by the Ministry of Natural Resources and Environment, recycling of solid waste (domestic waste, industrial waste and hazardous waste), and production of new products based on the activities of treatment plants

Categories	Special sectors for which investments are incentivized (Section A)	Sectors for which investments are incentivized (Section B)
Environmental protection and infrastructure development		<p>20. Production of energy resulting from using certified gasoline, diesel fuel, and biofuels, as well as energy from bio-coal, wind, sunlight, tides, and geothermal usage, and other forms of renewable energy</p> <p>21. Manufacture and import of dedicated machines, equipment and means, automatic and continuous observation equipment for wastewater and exhaust, and environmental measurement, sampling and analysis devices subject to direct use in the collection, transport and treatment of waste; production of renewable energy; treatment of environmental pollution; response to and processing for environmental accidents</p> <p>22. Production, corporate management and service activities related to eco-friendly facilities for which Eco Label certification has been provided by the Ministry of Natural Resources and Environment</p> <p>23. Production of water-saving products, equipment and technology</p>
Education, culture, society, sports, and healthcare	<p>[10 sectors]</p> <ol style="list-style-type: none"> 1. Construction of social housing and resettlement housing 2. Investment in businesses of facilities for epidemic prevention and hygiene 3. Scientific research on compounding and biotechnology for the production of new therapeutic drugs, new veterinary drugs, vaccines, and veterinary probiotics 4. Production of pharmaceutical raw materials, major and important drugs, epidemic prevention and treatment drugs, vaccines, biomedical products, medicinal herbs, Chinese herbal medicine; production of medicines with patents and related privileges that are on the verge of expiry, advanced technologies for the production of therapeutics meeting GMP standards, the application of biotechnology, and packaging that directly contacts drugs 5. Investment in methadone-producing areas 6. Investment in the businesses of sports training and enhancement centres for athletes and of sports centres and training facilities for people with disabilities development of training methods, construction of sports facilities for international competitions, and investment in specialized training and stadiums 	<p>[9 sectors]</p> <ol style="list-style-type: none"> 1. Infrastructure facility projects for educational and training facilities and vocational education facilities; investment in the development of non-public education and training facilities and vocational education facilities (kindergarten, general and vocational education) 2. Manufacture of medical equipment and construction of storage warehouses for medicines for natural catastrophes, disasters, and dangerous infectious diseases 3. Production of protective chemicals for plants, insecticides and raw materials for drugs, as well as prevention and treatment for animals and marine products 4. Production of veterinary medicine and its raw materials, and storage of veterinary medicines; production of veterinary equipment and tools 5. Investment in bio-testing facilities, drug evaluation facilities, and facilities that meet standards of excellence in the production, storage, testing, and clinical testing of drugs

Categories	Special sectors for which investments are incentivized (Section A)	Sectors for which investments are incentivized (Section B)
Education, culture, society, sports, and healthcare	<p>7. Investment in businesses for geriatric medicine centres, mental health centres, and treatment centres for defoliant victims, and investment in the establishment of nursing homes for the elderly, the disabled, orphans, and street children</p> <p>8. Investment in the operations of the centres for treatment, education and social work, rehabilitation facilities for tobacco addicts, HIV/AIDS treatment facilities, public drug addiction treatment facilities, private drug addiction treatment facilities, and places which provide consultation and support for collaborative drug addiction treatment at the provincial level</p> <p>9. Investment in state-class museums, folk cultural facilities, folk dancing and opera companies, opera houses, film studios, printing and development studios, art and film museums, manufacture and repair of folk musical instruments, maintenance and preservation of museums, folk cultural facilities and arts and culture schools, and specialized villages that introduce and develop traditional crafts; investment in private performing arts, the National Library of Viet Nam, libraries in provinces and cities under central jurisdiction, and libraries that play an important role</p> <p>10. Investment in support facilities to prevent violence committed against sex workers based on gender</p>	<p>6. Investment in basic science research and certification of Eastern medicine and traditional medicine treatments, and establishment of testing standards in relation thereto</p> <p>7. Investment in the businesses of sports centres, training centres, sports clubs, playgrounds, swimming pools and facilities used for the manufacture, processing and repair of sports equipment</p> <p>8. Investment in prefecture-level libraries, specialty libraries, university libraries, libraries with educational facilities attached, community libraries, and private libraries that have public services and that serve to develop a reading culture for lifelong learning</p> <p>9. Investment in the development of vocational education quality testing organizations and investment in the production of vocational education equipment</p>
Other		<p>[4 sectors]</p> <p>1. Business activities of the People's Credit Fund and microfinance institutions</p> <p>2. Publishing activities for electronic publications</p> <p>3. Investment in commodity distribution chains of small and medium-sized enterprises, development facilities of small and medium-sized enterprises, support technology facilities of small and medium-sized enterprise, and investment in common work areas for small and medium-sized enterprises to make creative startups in accordance with laws on support for small and medium-sized enterprises</p> <p>4. Investment in creative startups</p>

Source: JETRO, "Manual for the Establishment of Bases in Viet Nam Based on the Law on Investment and the Law on Enterprises" (March 2022),²⁸⁹

289JETRO, "Manual for the Establishment of Bases in Viet Nam Based on the Law on Investment and the Law on Enterprises" (Japanese), March 2022. https://www.jetro.go.jp/ext_images/_Reports/02/2022/ed272f032fec21e9/vn_manual202203.pdf

6.3.4.2 Regions for which investments are incentivized

In addition, under Article 16 (2) of the Law on Investment of 2020 (61/2020/QH 14), the Vietnamese Government has designated the following as “regions for which investments are incentivized”: (1) zones wherein there exist difficult economic and social situations, zones wherein there exist extremely difficult economic and social situations (designated by 54 provinces and cities respectively); and (2) special economic zones, high-tech zones, industrial parks established pursuant to government provisions, export processing zones, and industrial clusters.²⁹⁰ The specific details on regions for which investments are incentivized are clarified in Annex III of Government Decree 31/2021/ND-CP.

6.3.4.3 Investment incentives²⁹¹

Based on Section 15 of the Act of Investment of 2020 (61/2020/QH14), investment incentives apply to both new and expanded investment projects. Each type of incentive is administered in accordance with the underlying government decrees involved.

- (1) Reduction or exemption of corporate income tax (standard rate: 20 per cent) on income and other income derived from sectors for which investments are incentivized (for all or part of an investment project)²⁹²
- (2) Exemption from import duties on imported goods for the purpose of forming fixed assets and on raw materials, good and parts used for production
- (3) Reduction and exemption of land rents, land use fees, and land use taxes
- (4) Adoption of the accelerated method of depreciation in the calculation of taxable income, and increase in expenses that can be deducted

Projects eligible to enjoy these investment incentives are:

- (1) Investment projects in sectors of the business subject to favourable treatment for investment
- (2) Investment projects in regions where investments are incentivized
- (3) Investment projects with a capital scale of 6 trillion VND or more that fall under at least one of the following conditions: (i) spending of at least 6 trillion VND within 3 years from the date of issuance of the Investment Registration Certificate or the date of approval of the investment policy and the generating of a total return of at least 10 trillion VND each year starting, at the latest, 3 years after the year in which projects start to earn income; (ii) or employment of more than 3,000 workers
- (4) Social housing construction investment projects, projects that employ more than 500 workers in rural areas, and investment projects that employ people with disabilities in accordance with the provisions of

²⁹⁰JETRO, “Manual for the Establishment of Bases in Viet Nam Based on the Law on Investment and the Law on Enterprises” (Japanese), March 2022. https://www.jetro.go.jp/ext_images/Reports/02/2022/ed272f032fec21e9/vn_manual202203.pdf

²⁹¹JETRO, “Viet Nam - Encouragement of preferential treatment to foreign capital” (Japanese). https://www.jetro.go.jp/world/asia/vn/invest_03.html

²⁹²The main conditions for new investment are: (1) the company has been established and has been issued an investment permit as of January 2014, and (2) if the company has already been established, [the new investment project] is independent of the company’s existing business and a new investment permit has been issued as of 2014. The main conditions for expansion investments are: (1) investment of at least 20 billion VND in fields for which investments are incentivized, acquisition of at least 10 billion VND in fixed assets within fields for which investments are incentivized, (2) acquisition of at least 20% of prior and existing fixed assets, and (3) acquisition of at least 20% of the prior and existing production capacity.

disability-related legislation

- (5) High-tech enterprises, scientific and technological enterprises, scientific and technological organizations, projects for technology transfers belonging to the list of technologies subject to the encouragement of the transfer thereof set forth in Annex 1 of Government Decree 76/2018/ND-CP (which is a guideline for the Law on Technology Transfer), technology development businesses and science and technology enterprise development businesses in accordance with the provisions of laws and regulations concerning science and technology, as well as enterprises that produce and supply technology, equipment, products and services to provide service in relation to requests for environmental protection
- (6) Creative startup investment projects, centres for creative innovation, research and development centres
- (7) Business investments in small business goods distribution chains, business investments in technology facilities to assist small businesses or development facilities for small businesses, and business investments in common work areas for creative start-ups consisting of small and medium-sized enterprises under the Small Business Support Act (04/2017/QH14)

► Chart 6-10 List of corporate tax benefits and reductions/exemptions

Tax rate	Conditions	Applicable period	Tax-exempt period	50% tax reduction period
10%	Income of companies undertaking new investment projects in areas with particularly difficult economic and social requirements, special economic zones and high-tech zones	15 years	4 years	9 years
	Income of companies that undertake new investments in the following sectors: Scientific research and technological development, high-tech applications belonging to the high-tech list of investment and development benefits under the provisions of the Law on High Technologies; the development of high-tech and high-tech enterprises; venture investments for the development of high-tech belonging to the high-tech list of development benefits under the provisions of the Law on High Technologies; investments in the construction and management of high-tech and high-tech enterprise development offices, investments in the development of national infrastructure of special importance under laws; the production of software products; the production of composite materials, lightweight building materials and rare materials; the production of energy generated by renewable energy, clean energy and waste disposal; and the development of biotechnology			
	Income of companies undertaking new investments in the following sectors of environmental protection: Manufacturing of environmental pollution treatment equipment and environmental monitoring and analysis equipment; pollution treatment and environmental protection; collection and treatment of wastewater, waste gas and solid waste; and the recycling of waste			
	The income of high-tech companies and of agricultural companies that apply high-tech			

Tax rate	Conditions	Applicable period	Tax-exempt period	50% tax reduction period
10%	<p>The income of companies that have implemented new investment projects in the sector of production (excluding production projects for commodities subject to the special consumption tax and mineral excavation projects), with minimum funds of 6 trillion VND, which have completed capital contributions within 3 years from the date of issuance of the investment certificate, and which meet any of the following conditions:</p> <p>A minimum of 10 trillion VND of annual sales 3 years after the year in which sales have begun to be generated</p> <p>3,000 or more employees 3 years after the year in which sales have begun to be generated</p>	15 years	4 years	9 years
	<p>The income of enterprises carrying out investment projects in the sector of production (except for cases of production of products subject to special consumption tax and cases of the exploitation of minerals) and that meet the following conditions: The capital size is at least 12 trillion VND, it uses technology assessed under the provisions of the Law on High Technology and the Law on Science and Technology, and it spends the total amount of capital registered within 5 years from the date on which permission for investment is granted under laws concerning investment</p>			
	<p>The income of a company that makes a new investment in the production of a product that belongs to the list of supporting industrial products eligible for priority in terms of development and which meets any of the following criteria:</p> <ul style="list-style-type: none"> • Industrial products that support high-tech under the provisions of the Law on High Technology • Industrial products that must meet the European Union's (EU) technical or equivalent standards in cases where they cannot yet be produced domestically by January 1, 2015, or where they can be produced domestically, wherein support is provided in the sectors of spinning and sewing, leather and footwear, electronics and information technology, production and assembly of automobiles, and production of products in the machinery industry 			
	<p>Income of publishers carrying out publishing activities in accordance with the provisions of the Publications Law</p> <p>Income of newspaper companies carrying out newspaper publishing activities (including newspaper advertising) pursuant to the provisions of the Newspaper Law</p> <p>Income of companies carrying out investment and management projects in social housing for subjects defined in Section 53 of the Law on Housing</p> <p>Income of companies that perform the following activities: Investment in planting, raising and protecting forests; growing, raising and processing agricultural and marine products in areas with difficult socioeconomic requirements; growing forest products in areas with difficult socioeconomic requirements; producing and manning plant and livestock seeds; producing, mining and refining salt (except for salt production as provided in Article 4-1 of Government Decree 218/2013/ND-CP); in preserving agricultural products after harvest; and preserving agricultural and marine products and foods (including investment in direct preservation or leasing of water, agricultural and food preservation)</p>	Entire period	-	-

Tax rate	Conditions	Applicable period	Tax-exempt period	50% tax reduction period
10%	Income of companies that conduct socialization activities in the sectors of education and training, vocational training, health care, culture, sports and the environment, and judicial appraisals	Entire period	4 years	5 years
	Income of companies that undertake new investment projects in socialization sectors in areas wherein there are difficult or particularly difficult economic and social requirements			9 years
15%	Income of companies carrying out cultivation, animal husbandry and processing in the sectors of agriculture and fisheries in areas wherein there are difficult socioeconomic requirements or particularly difficult socioeconomic requirements		-	-
17%	Income of companies undertaking new investment projects in areas wherein there are difficult economic and social requirements	10 years	2 years	4 years
	Income of companies that undertake the following new investment projects: Production of fine steel; production of energy-saving products; manufacture of machinery and equipment for agriculture, forestry, fishing and salt industries; manufacture of equipment for irrigation; production and refining of feed for livestock, poultry and seafood; and development of traditional professions			
	People's Credit Fund and macrofinance organizations			
20%	Income of companies that undertake new investments in industrial parks (Excluding industrial parks in areas with good economic and social requirements*).	Entire period	2 years	4 years

Source: JETRO, "Manual for the Establishment of Bases in Viet Nam Based on the Law on Investment and the Law on Enterprises" (Japanese). March 2022.²⁹³

In addition to the above corporate tax reductions/exemptions, special investment incentives are applied to investment projects that have a significant impact on economic and social development in Viet Nam.

293JETRO, "Manual for the Establishment of Bases in Viet Nam Based on the Law on Investment and the Law on Enterprises" (Japanese), March 2022. https://www.jetro.go.jp/ext_images/_Reports/02/2022/ed272f032fec21e9/vn_manual202203.pdf

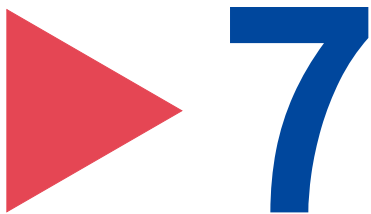
► Chart 6-11 Special investment incentives

Tax rate	Conditions	Applicable period	Tax-exempt period	50% tax reduction period
9%	(1) Income from investment projects belonging to sectors and industries where there are special investment incentives and that have investment capital of not less than 30 trillion VND, for which a minimum investment of 10 trillion VND is to be made within 3 years from the date of issuance of the Investment Registration Certificate or the investment policy approval	30 years	5 years	10 years
7%	(2) Income from investment projects belonging to one of the following: Projects for the establishment of new creative innovation centres or research and development centres with a total investment of over 3 trillion VND and a minimum investment of 1 trillion VND within 3 years from the date of issuance of the Investment Registration Certificate or investment policy approval (including expansions of newly established projects) Investment projects described above (1) and any wherein any of the following conditions are satisfied: a) It is a Level 1 high-tech technology project. b) There are Vietnamese companies that are participating in a Level 1 chain. c) Added value accounts for more than 30% and up to 40% of the total cost of the final product provided by the economic organization. d) It satisfies the conditions of Level 1 technology transfers. *For Level 1 assessment criteria, see Article 3 of the Government/Prime Minister's decision (29/2021/QD-TTg).	33 years	6 years	12 years
5%	(3) Income from investment projects belonging to one of the following: National centres for creative innovation to be established in accordance with the decision of the Government/Prime Minister Investment projects described in (1) above and wherein any of the following conditions are satisfied: a) It is a Level 2 high-tech technology project. b) There are Vietnamese companies that are participating in a Level 2 chain. c) Added value accounts for more than 40% of the total cost of the final product provided by the economic organization. d) It satisfies the conditions of Level 2 technology transfers *For Level 2 assessment criteria, see Article 3 of the Government/Prime Minister's decision (29/2021/QD-TTg).	37 years	6 years	13 years

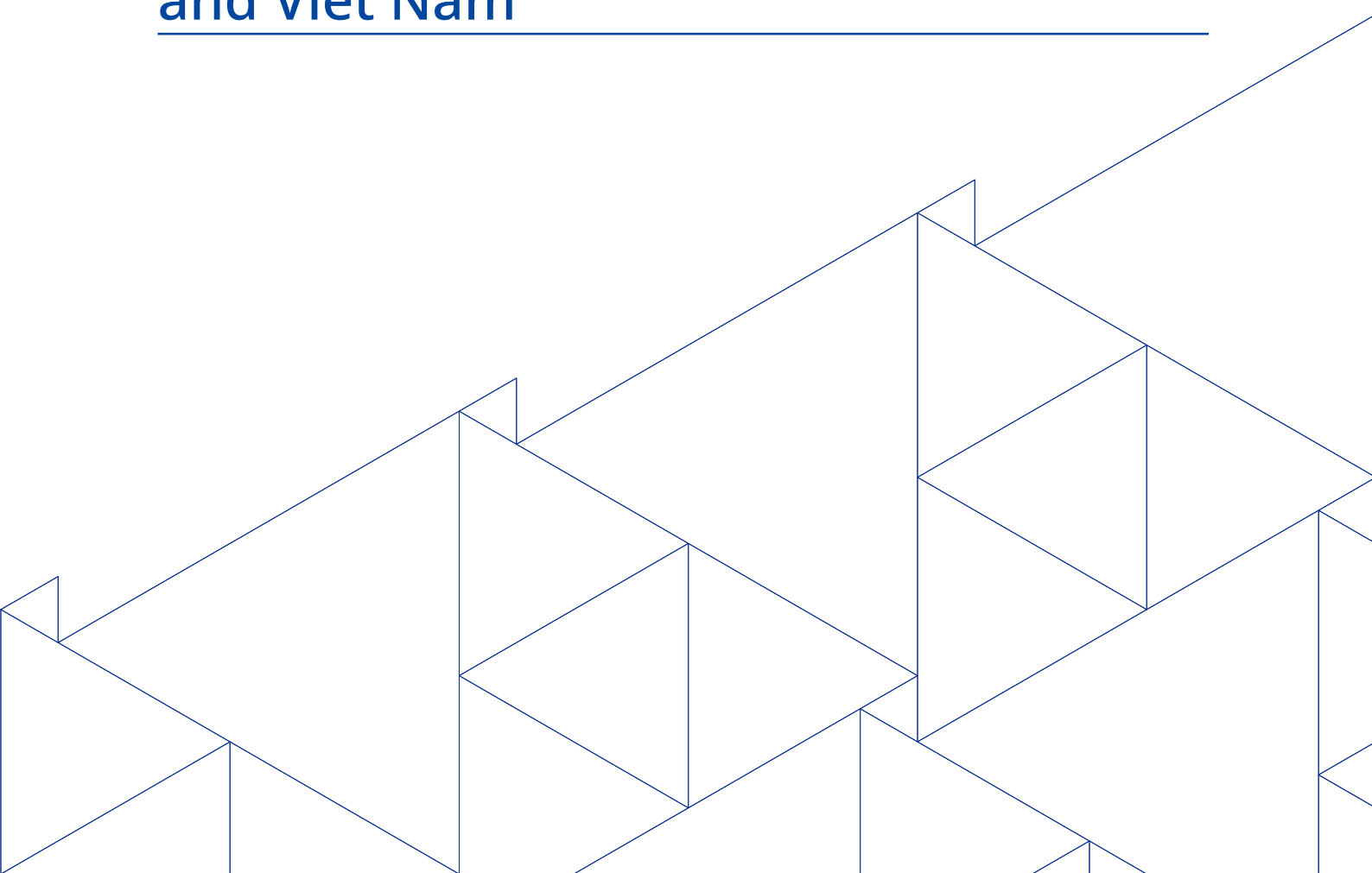
Source: JETRO, "Manual for the Establishment of Bases in Viet Nam Based on the Law on Investment and the Law on Enterprises" (Japanese), March 2022²⁹⁴.

294JETRO, "Manual for the Establishment of Bases in Viet Nam Based on the Law on Investment and the Law on Enterprises" (Japanese), March 2022. https://www.jetro.go.jp/ext_images/_Reports/02/2022/ed272f032fec21e9/vn_manual202203.pdf

- ▶ Responsible Business Conduct and Human Rights Due Diligence:
Good practices of Japanese Companies Operating in Bangladesh, Cambodia and Viet Nam, Trade,
Investment and Labour Nexus and a Way Forward



Challenges Faced by Japanese Companies in Bangladesh, Cambodia and Viet Nam



This chapter provides a country-by-country overview of the challenges faced by Japanese companies already doing business in Bangladesh, Cambodia and Viet Nam within the process.

7.1 Bangladesh

According to JETRO's 2022 Survey on Business Conditions of Japanese Companies Operating Overseas (Asia and Oceania)²⁹⁵(hereinafter "the survey of Japanese companies") conducted from August to September 2022, the 2022 DI index (a measure of current business conditions)²⁹⁶ for Bangladesh was 25.9 points, far above the global average of 13.8 points²⁹⁷. The outlook for 2023 is also bullish. While Bangladesh is characterized by a high willingness to do business in anticipation of high growth and potential, there are still medium- and long-term issues in the investment environment that will take time to resolve, such as cumbersome customs clearance procedures, currency fluctuations, difficulties in local procurement of raw materials and parts, and power shortages and blackouts²⁹⁸. There is a need to consider measures for such issues in advance when entering the market.

7.1.1 Benefits and risks of the business environment

According to the above survey of Japanese companies, 71.6 per cent of Japanese companies in Bangladesh indicated that they would expand their business in the next one to two years²⁹⁹ (Figure 7-1). This category remained high, at 68.0 per cent in the previous year (50 companies responded; valid response rate: 25.4 per cent). The results were the second highest after India among the 20 Asia-Pacific countries and regions surveyed (hereinafter "the region"), and were well above the regional average (44.4 per cent) and the global average (45.4 per cent), indicating the market size and expectations for future domestic demand in Bangladesh, where the urban population ratio exceeds 30 per cent and 170 million people are living in an area of 150,000 km², about twice the size of Hokkaido.

The overwhelming majority cited "high growth and potential" as the main reason for expansion of business, followed by increased work for new projects and production transfers to Bangladesh due to rising wages in China and Viet Nam.

In terms of the business environment benefits for Japanese companies, expectations for market growth are expressed. It is also noteworthy that, although there is a global trend to reduce the number of expatriates from pre-pandemic levels in the next one or two years and to expand and localize local personnel, no company in Bangladesh responded that they planned to scale down their operations or relocate or withdraw to a third country (region)

295JETRO 2022 Survey on Business Conditions of Japanese Companies Operating Overseas (Asia and Oceania): A survey conducted by JETRO between August and September 2022 of Japanese companies operating in 20 countries and regions in Asia and Oceania. Out of a total of 14,290 companies, valid responses were received from 4,392 companies (valid response rate: 30.7%). In ASEAN, 9,841 companies were requested to respond, and responses were received from 2,486 companies (valid response rate: 25.3%). In Bangladesh, 74 companies responded (valid response rate: 34.6%). https://www.jetro.go.jp/ext_images/en/reports/survey/pdf/2022/EN_Asia_and_Oceania_2022.pdf

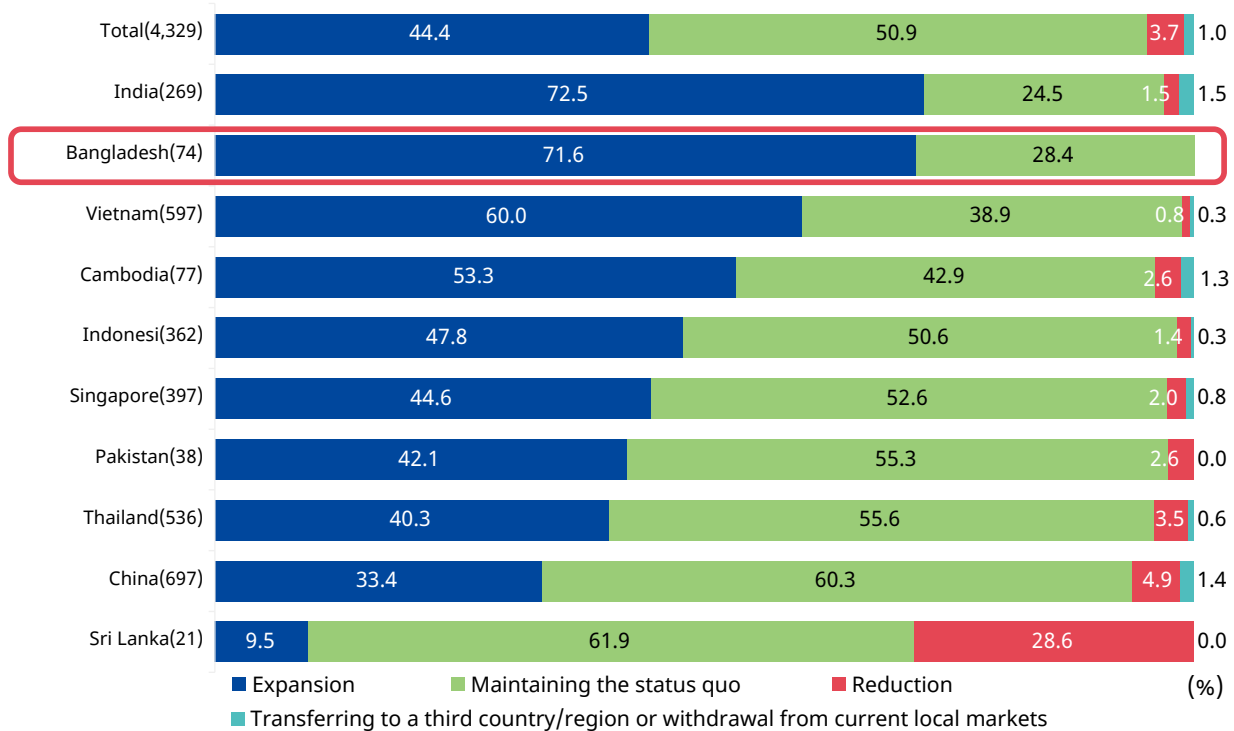
296Acronym for "Diffusion Index." The percentage of companies whose operating profits improve minus the percentage that deteriorate.

297JETRO, "2022 Survey on Business Conditions of Japanese Companies Operating Overseas (Asia and Oceania)", December 2022. https://www.jetro.go.jp/ext_images/en/reports/survey/pdf/2022/EN_Asia_and_Oceania_2022.pdf :13

298Ibid, 33.

299Ibid, 15.

► Figure 7-1 Business development direction over the next 1-2 years (by country and region)



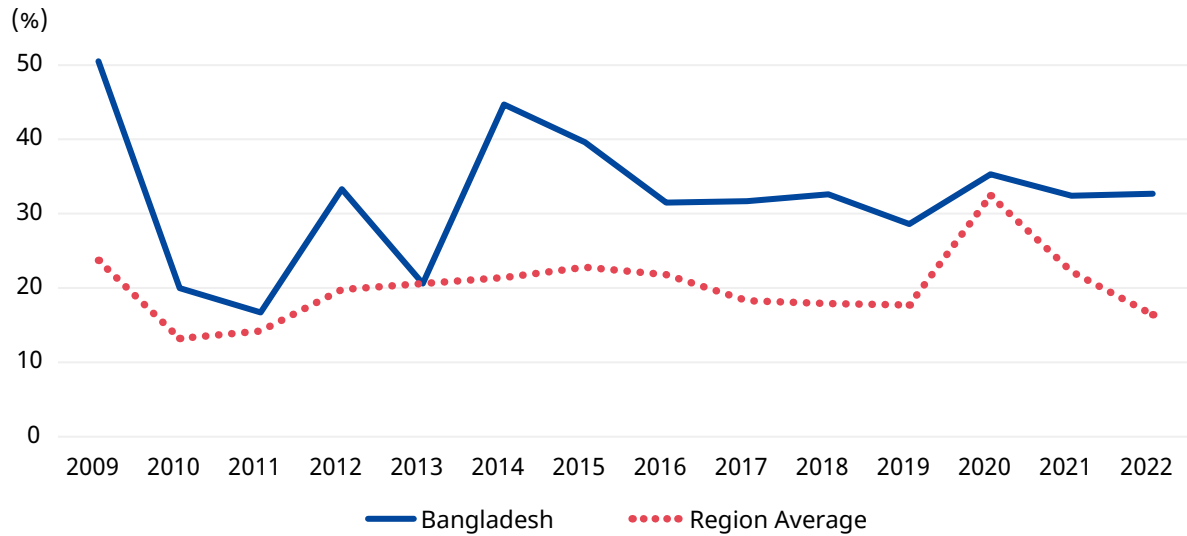
Note: The number in parentheses to the right of the country name is the number of companies that responded.

Source: Compiled based on the 2022 Survey on Business Conditions of Japanese Companies Operating Overseas (Asia and Oceania).

As for the forecast for operating profit in 2022, 47.3 per cent of respondents said they were in the black, up 4.1 percentage points from 43.2 per cent in the previous year's survey. This is lower than the overall average for the Asia-Pacific region (65.6 per cent), but the recovery from the pandemic is still ongoing. On the other hand, as a risk, 32.7 per cent of companies said they were in the red, an increase of 0.3 percentage points from 32.4 per cent in the previous year's survey.³⁰⁰ One factor is that the profitability of the domestic sales businesses, in particular, has become difficult due to the rising cost of procuring raw materials in line with the depreciation of the Bangladeshi taka against the US dollar (see Figure 7-2). On the other hand, it can be seen that many companies in Bangladesh are doing business in anticipation of domestic demand due to population growth and high growth and potential.

³⁰⁰Ibid, 6.

► Figure 7-2 Deficit ratio of Japanese companies in Bangladesh



Source: Compiled based on the 2009-2022 Survey on Business Conditions of Japanese Companies Operating Overseas (Asia and Oceania).

However, regarding the 2022 operating profit forecast for domestic and export-oriented companies in Bangladesh, 61.8 per cent said that they would see an increase (43.3 per cent overall), mainly due to increased sales from new business orders. Only 1.8 per cent responded with a decreased operating profit forecast, the lowest among all the countries and regions.³⁰¹

7.1.2 Management problems

As shown in Figure 7-3 below, there are many challenges faced by Japanese companies operating in the region.³⁰²

► Figure 7-3 Management challenges faced by Japanese companies operating in Bangladesh (74 companies responded)

Rank	Item	Percentage of respondents (% , multiple answers permitted)
1	Complicated customs clearance procedures	73.2
2	Exchange rate fluctuations	72.6
3	Difficulties in local procurement of raw materials and parts	67.4
4	Power costs and power outages	65.2
5	Rising procurement costs	63.0

Source: 2022 Survey on Business Conditions of Japanese Companies Operating Overseas (Asia and Oceania).

The highest response rate was 73.2 per cent (third in the previous year, at 46.7 per cent) for complicated customs clearance procedures. Especially in import customs procedures, many documents are required, the number of officers in charge is limited, the procedure varies greatly depending on the officer in charge, and there are mistakes that seem to arise from a lack of knowledge by the officer in charge, so customs clearance

301 Ibid, 9.

302 Ibid, 33.

takes longer than in other countries and there is a greater risk of cargo being delayed.³⁰³ Therefore, there are strong calls for improvements such as the simplification of customs procedures and the unification of operating rules, and improvements in operational aspects other than infrastructure are essential as well. Against this backdrop, the full-scale implementation of the Authorized Economic Operator (AEO) system for customs procedures was announced in January 2023, and it is reported that nine companies (including Japanese companies) have newly obtained provisional AEO certificates.³⁰⁴

The second biggest challenge was “exchange rate fluctuations” (72.6 per cent). Due to the reduction of subsidies for energy supply, the cost of gasoline and other fuels has increased by 50 per cent since August 2022, and the cost of self-generation, which is a backup in the event of power outages, has also increased significantly, exacerbating the impact of rising energy costs on factory operations. Against that backdrop, a weaker Bangladeshi taka against the dollar risks further high inflation via import prices for the nation, which relies on imports for energy. In addition, large fluctuations in foreign exchange rates make it difficult for companies to plan their future operations and force them to make repeated revisions, which many companies list as an issue.

The third most common issue was the “difficulty of local procurement of raw materials and parts” (67.4 per cent). While procuring raw materials from overseas is essential for Japanese companies in Bangladesh, the Government’s import restrictions aimed at maintaining foreign exchange reserves have had a significant impact. In some cases, the dollar shortage of commercial banks has caused delays in L/C settlements and difficulties in issuing them. Therefore, in the manufacturing sector, for example, one of the keys could be to establish a strong supply chain by promoting local procurement of raw materials, while also working with local group companies that hold a market share and foreign companies such as Indian companies.

The fourth category was “power shortages and blackouts” (65.2 per cent). In 2022, rolling blackouts were partly to blame for the weak currency combined with the stagnation in oil and gas supplies following Russia’s military invasion of Ukraine and the imposition of import controls, including on energy.

The fifth was “increased procurement costs” (63.0 per cent). Higher prices and a weaker currency due to rising energy prices have combined to raise procurement costs, putting pressure on management. “Increased procurement costs” were also a common management issue for all regions and industries in Asia and Oceania, at 69.0 per cent, reflecting the high pressure on earnings from rising costs.

Throughout the report, the issues of fiscal year 2022 are characterized by the various items and commonalities affected by the Russian military invasion of Ukraine worldwide, such as the soaring cost of raw materials and transportation, and the actualization of the risk of disruption of energy supply.

When asked about common topics across all regions and industries in Asia and Oceania, “increased wages for employees” received the most responses at 70.9 per cent. In Bangladesh, this topic was ranked second in the 2021 survey but dropped significantly in the 2022 survey. Rather than the issue of wages receiving less attention, this can be interpreted to mean that other topics, such as customs clearance and procurement costs, were given priority in Bangladesh.

303 From open-ended responses and interviews with companies in the “JETRO 2022 Survey on Business Conditions of Japanese Companies Operating Overseas (Asia and Oceania) (December 2022).

304 “Bangladesh Extends AEO Facility to Accelerate Cargo Flow from Ports”, The Load Star, 27 January 2023. <https://theloadstar.com/bangladesh-extends-aeo-facility-to-accelerate-cargo-flow-from-ports/>

In terms of wages, from the point of view of employers, the monthly base salary (salary excluding various benefits) for manufacturing workers in Bangladesh is USD 127, which was also relatively low in the survey as in the previous year and considered less important than other matters, along with those of engineers (USD 268) and managers (USD 765). These figures are also considered competitive in contrast to other countries. On the other hand, with annual wage increases of 6.9 per cent in fiscal 2021 compared to the previous year and 7.3 per cent projected for fiscal 2022,³⁰⁵ it may pose a business management challenge for Japanese companies operating there, while this would mean an improvement for workers in their standard of living. In particular, within the Export Processing Zone (EPZ), meal and commuting allowances are provided separately because they are not included in the minimum wage breakdown, and employers are obliged to raise wages by about 7.5 per cent each year, which puts a greater burden on them compared to companies outside the EPZ. In addition, since the minimum wage tends to increase during general elections, which are held every five years in Bangladesh, both employers and workers are focused on how much the wage will increase before the next elections in early 2024.

7.1.3 Implementation rates and challenges of human rights due diligence

While the percentage of Japanese companies already conducting human rights due diligence was around 30 per cent around the world, it was 40.6 per cent in Bangladesh. Including plans for future implementation, the percentage rose to 53.1 per cent, among the highest in the region.³⁰⁶

This comes against the backdrop of increased scrutiny after the 2013 Rana Plaza collapse. With Europe, where laws and regulations are being developed with an emphasis on the environment and respect for human rights, as its major trading partner, it is believed that standards for compliance and requests from business partners are encouraging human rights due diligence in Bangladesh. With regard to local Japanese companies which are mainly responsible for production to Japan, there are some cases where hybrid (online and face-to-face) type study meetings for Japanese companies with different EPZs and information exchange meetings on the system operation of each company are held on a regular basis because, for example, it is not easy to interpret and properly operate Bangladesh's EPZ Labor Act in Export Processing Zones (EPZ).³⁰⁷

Many Japanese companies take pride in providing generous protections to their workers, especially in terms of employment, and there is no doubt that Japanese companies operating in Bangladesh will increasingly give consideration to the human rights of their workers.

7.2 Cambodia

Based on the results of JETRO's 2022 Survey on Business Conditions of Japanese Companies Operating Overseas (Asia and Oceania)³⁰⁸, this section will like to outline the assessment of the business environment in

305 JETRO, "2022 Survey on Business Conditions of Japanese Companies Operating Overseas (Asia and Oceania)", December 2022. https://www.jetro.go.jp/ext_images/en/reports/survey/pdf/2022/EN_Asia_and_Oceania_2022.pdf :62.

306 Ibid, 55.

307 From an interview with Japanese companies operating in Bangladesh, December 2022

308 A survey conducted by JETRO between August and September 2022 targeting Japanese companies operating in 20 countries and regions in Asia and Oceania. Out of a total of 14,290 companies, valid responses were received from 4,392 companies (valid response rate: 30.7%). In ASEAN, 9,841 companies were requested to respond, and responses were received from 2,486 companies (valid response rate: 25.3%). In Cambodia, 77 companies responded (valid response rate: 26.6%). https://www.jetro.go.jp/ext_images/en/reports/survey/pdf/2022/EN_Asia_and_Oceania_2022.pdf

Cambodia by Japanese companies operating there.

When Japanese companies operating in Cambodia were asked their evaluation of the overall business environment in the country, 4.6 per cent of respondents said they were “satisfied” and 31.8 per cent said they were “somewhat satisfied,” resulting in a total of only 36.4 per cent indicating satisfaction. On the other hand, 63.9 per cent reported dissatisfaction, including “dissatisfied” (22.7 per cent) and “somewhat dissatisfied” (40.9 per cent) (66 valid responses).³⁰⁹

7.2.1 Benefits and risks of the business environment

Next, the survey listed factors representing the local business environment and asked whether these would have a “positive impact” (benefits) or a “negative impact” (risks) on the companies’ local operations (with multiple responses allowed).

For factors that Japanese companies in Cambodia consider to have a positive impact on their management (benefits), “market growth potential” received the highest response rate (67.2 per cent). According to the Asian Development Bank (April 2023), Cambodia’s real economic growth rate is expected to be 5.5 per cent in 2023 and 6.0 per cent in 2024, making it the third highest in Southeast Asia after Viet Nam and the Philippines.³¹⁰ Although Cambodia has a small population of 15.55 million,³¹¹ the prospect of stable economic growth encouraged Japan’s Aeon Mall to open its third store in the country (and the largest of its malls in ASEAN) in 2022.³¹²

Next was “ease of language and communication” (46.6 per cent), which was more than 5 per cent above the ASEAN average. Khmer is the official language of Cambodia, but the background for this ease of communication is likely to be the large number of people who can speak English, especially in the capital city of Phnom Penh, and the environment in which Thai and Vietnamese are used near the borders with Thailand and Viet Nam as a base for division of labour. In addition, when it comes to “the ease of hiring the human resources and employees sought by the company,” 37.9 per cent of respondents agreed that “general workers, staff and clerical workers” were benefits (ASEAN average: 37.3 per cent), and 27.6 per cent agreed that “professional and technical workers” were benefits (ASEAN average: 23.2 per cent). The above merits of the Cambodian business environment may be impacted by the relative ease of hiring human resources. On the other hand, the “visa and work permit issuance process” was perceived by 43.1 per cent of respondents as a benefit; Cambodia’s process is much easier than that of some countries, such as Singapore and Malaysia, that rigorously screen visa and work permit applications by foreign nationals. This figure is well above the ASEAN average (18.4 per cent), indicating that work permits for foreign nationals, including those in the service sector, are widely appreciated by the Japanese companies in Cambodia.

On the other hand, when it comes to the factors considered to have a negative impact on business management (risks) (multiple answers permitted), 62.7 per cent of respondents cited both “efficiency in

309 JETRO, “2022 Survey on Business Conditions of Japanese Companies Operating Overseas (Asia and Oceania)”, December 2022.

310 Asian Development Bank (ADB), “Asian Development Outlook April 2023”. <https://www.adb.org/outlook>

311 National Institute of Statistics, Ministry of Planning, “General Population Census of the Kingdom of Cambodia 2019 – National Report on Final Census Result”, October 2020. <http://www.nis.gov.kh/nis/Census2019/Final%20General%20Population%20Census%202019-English.pdf>

312 AEON MALL (Cambodia) Co., Ltd. <https://www.aeonmallcambodia.com/2023/03/16/aeon-mall-mean-chey-opening-ceremony/>

administrative procedures (such as licensing)” and “efficiency in the tax system and tax procedures.” This, together with high-ranking items such as “legal system development (favourable treatment and regulation of foreign capital, etc.)” (50.8 per cent) and “transparency in the operation of systems and policies (industrial policy, energy policy, regulation of foreign capital, etc.)” (44.8 per cent), shows that many companies regard inefficiency and opacity related to administrative procedures and systems as a risk to Cambodia’s business environment. In particular, the top two categories, “administrative procedures” and “tax system and tax procedures,” are 15 to 20 per cent percentage points higher than the ASEAN average. In Cambodia, a joint Cambodia-Japan public-private sector meeting has been set up, consisting of the Cambodian Government, the Embassy of Japan in Cambodia, the Japanese Business Association of Cambodia, JICA and JETRO, to discuss developing and improving the investment environment in Cambodia, with the aim of increasing the number of Japanese companies operating in Cambodia (held twice a year). Improving tax procedures, such as accelerating the process of refunding value-added tax (VAT), has become a major theme.

Additionally, the majority of companies (55.2 per cent) responded with “development of electric power infrastructure.” In Cambodia, demand for electricity is increasing in line with economic development. Traditionally, the country relied on coal-fired and hydroelectric power for much of its electricity, but in the dry season with low rainfall, the capacity of dams decline, and in 2019, this led to severe power shortages that resulted in massive blackouts.³¹³ Cambodia has set a goal of achieving decarbonization by 2050, and while it is rushing to promote the introduction of renewable energy such as solar power, it has also announced the suspension of new permits and approvals for coal-fired power generation projects, making it a major issue to secure a stable power supply over the long term.³¹⁴ However, the power situation in Cambodia has improved considerably in recent years, as the country has worked to ensure a stable supply of electricity by building new power plants and importing electricity from Thailand, Viet Nam and Laos. As a result, blackouts are no longer perceived as a major problem.

In contrast to this, in labour-related categories, the “level of turnover” was 49.3 per cent, which is 7.7 percentage points higher than the ASEAN average of 41.6 per cent.

In addition, though many companies said that the ease of recruitment of “general workers, staff and clerks” and “professional and technical positions” was a benefit, when it comes to “managers and executives,” 46.3 per cent (more than 10 percentage points above the ASEAN average) said that it has a negative impact on their management, indicating that the difficulty of hiring for such positions is perceived as a risk. While Cambodia is said to have a general shortage of middle managers, it is difficult to recruit management-level employees from the labour market, and human resource development at the corporate level is a challenge. There is a perception that the situation is improving at large companies as they strive to develop candidates for management positions.

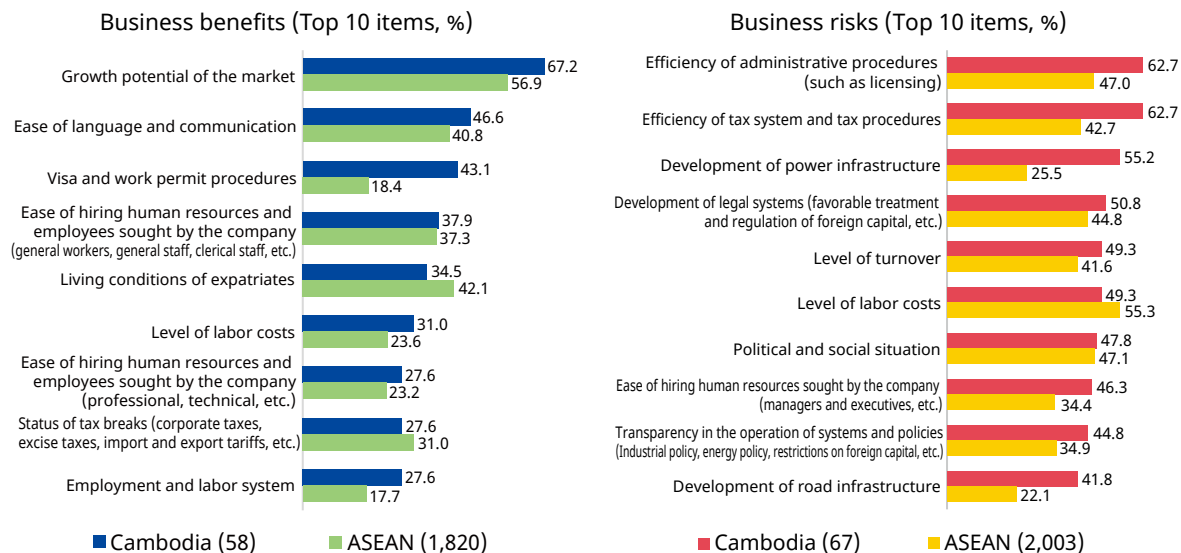
Although 49.3 per cent of companies responded that the “level of labour costs” was a risk, that was not as high as the ASEAN average (55.3 per cent), and as mentioned above, 31.0 per cent of companies responded that the level of labour costs would have a positive impact on their management, indicating mixed reviews. Cambodia’s minimum wage applies to the sewing and shoemaking industries, but there is a tendency for other industries to follow this minimum wage as well. The minimum wage rose sharply between 2013 and

313 Ryota Inoue, “Decarbonizing Cambodia to Promote Solar Power.” JETRO, 17 May 2021. <https://www.jetro.go.jp/biz/areareports/special/2021/0401/27e294db3f095481.html>

314 Yusuke Taguchi, “Expectations of Other Countries to Contribute to Decarbonization (Cambodia, Laos, Myanmar)”, JETRO, 17 April 2023. <https://www.jetro.go.jp/biz/areareports/2023/ecab4158936b653d.html>

2015 (31.1 per cent in 2013, 25.0 per cent in 2014, and 28.0 per cent in 2015) and continued to rise at around 10 per cent thereafter until 2018 (9.4 per cent in 2016, 9.3 per cent in 2017, and 11.1 per cent in 2018). While this has led to an improvement in the working environment, it has also exposed the challenge of productivity growth being unable to keep pace with the growth in the minimum wage, which has also contributed to a slowdown in manufacturing investment in Cambodia.

► Figure 7-4 Assessment of the local business environment by companies in Cambodia (benefits and risks)



Note: Many items were tied for 10th place of business benefits, so they have been omitted from the graph.

Source: JETRO, 2022 Survey on Business Conditions of Japanese Companies Operating Overseas (Asia and Oceania), December 2022.

7.2.2 Management problems

Next, we examine the management problems of Japanese companies in Cambodia.³¹⁵ “Increased wages for employees” was the top answer, the same as for other ASEAN countries, but it was more than 10 percentage points lower than the ASEAN average. This is believed to be due to the fact that the minimum wage has been rising at a slower rate since the pandemic began. Further, “difficulty in hiring managers and executives” ranked ninth, but the response rate was 42.9 per cent, indicating that it is a major management problem for many companies. On the other hand, the percentage of companies reporting “quality of employees” was 50.8 per cent, 10 percentage points higher than the ASEAN total. Japanese companies are striving to develop human resources through post-employment education and training, partly because many workers have moved from rural areas to work in urban areas and do not have adequate basic or vocational education.

When the management problems were narrowed down to employment and labour-related items and compared with other ASEAN countries, besides the aforementioned “employee quality” and “difficulty in hiring managers and executives,” “difficulty in hiring general staff, clerks and workers,” “difficulty in hiring engineers,” and “difficulty in localizing managers and field managers” exceeded the ASEAN average. In response to the question on the benefits of the business environment mentioned in the preceding paragraph,

315JETRO, “2022 Survey on Business Conditions of Japanese Companies Operating Overseas (Asia and Oceania)”, December 2022. https://www.jetro.go.jp/ext_images/en/reports/survey/pdf/2022/EN_Asia_and_Oceania_2022.pdf :33

the number of companies that answered it was “easy to hire human resources sought by the company” for general workers, staff and office clerks, as well as professional and technical positions, exceeded the ASEAN average. This suggests that the level of human resources sought by Japanese companies varies, and that different companies have different views on the ease of recruiting such human resources.

With regard to other items, as mentioned in the previous paragraph about risks in the business environment, many problems were pointed out regarding administrative procedures and the operation of laws and systems. In addition, 45.7 per cent of Japanese companies operating in Cambodia cited difficulties in local procurement of raw materials and parts. This is because the country’s manufacturing base is fragile and dependent on imports from abroad for parts and raw materials needed for local production. In the same survey, Japanese companies operating in Cambodia were asked about their suppliers of parts and raw materials, and of the 26 manufacturing companies that responded to this question, 10 said they had some type of local procurement. On the other hand, the average local procurement rate for manufacturing companies was only 6.0 per cent. In terms of sources for local procurement, 42.4 per cent were local companies and 47.2 per cent were foreign companies (excluding Japanese companies) with local operations (of which 44.6 per cent were Chinese companies), while only 10.4 per cent were Japanese companies with local operations.³¹⁶

► Figure 7-5 Problems in management of Japanese companies operating in Cambodia (Top 10 items, multiple answers permitted) (%)

	ASEAN total		Cambodia	
1st	Increased wages for employees	73.7	Increased wages for employees	61.9
2nd	Increased procurement costs	71.0	Complicated customs clearance procedures	55.8
3rd	Exchange rate fluctuations	66.8	Growing market shares of competitors (in terms of cost/price)	55.8
4th	Complicated customs clearance procedures	53.2	Tax burdens (corporate tax, transfer pricing tax, etc.)	53.2
5th	Growing market shares of competitors (in terms of cost/price)	49.8	Quality of employees	50.8
6th	Lack of progress in finding new customers	45.5	Increased procurement costs	50.0
7th	Tax burdens (e.g. corporate taxes, transfer pricing taxes)	42.5	Difficulty in developing new clients	48.1
8th	Insufficiency of informing companies of laws and regulations	41.3	Difficulties in local procurement of raw materials and parts	45.7
9th	Quality of employees	40.6	Difficulty in hiring human resources (managers and executives)	42.9
10th	Difficulties in local procurement of raw materials and parts	38.9	Insufficiency of informing companies of laws and regulations	41.9

Note: The response rate for each item related to management problems refers to the percentage of responses within each of the following categories: Sales and Marketing, Finance and Exchange, Employment and Labor, Trade System, and Production and Procurement.

Source: JETRO, “2022 Survey on Business Conditions of Japanese Companies Operating Overseas (Asia and Oceania)”, December 2022.

► Figure 7-6 Management problems of Japanese companies in ASEAN (employment and labour aspects)
(Multiple answers permitted, %)

	ASEAN	Singapore	Malaysia	Thailand	Indonesia	Philippines	Viet Nam	Cambodia	Laos	Myanmar
	(2,023)	(329)	(197)	(454)	(284)	(126)	(487)	(63)	(19)	(64)
Increased wages for employees	73.7	81.5	78.7	71.4	82.8	61.1	75.2	61.9	47.4	28.1
Quality of employees	40.6	28.6	47.7	46	46.1	34.1	37.8	50.8	47.4	39.1
Difficulty in hiring managers and executives	37.6	40.7	39.1	37.9	38.7	32.5	34.5	42.9	47.4	34.4
Employee retention rate	36.1	38.6	52.8	28.6	19.7	43.7	45.8	33.3	21.1	15.6
Difficulties in hiring general staff, clerks and workers	27.6	43.8	42.1	17.8	7.0	23.8	33.5	39.7	26.3	10.9
Difficulty in hiring engineers	25.8	21	38.1	28.9	19.7	34.1	23.2	28.6	31.6	17.2
Difficulty localizing managers and field managers	23.4	20.7	17.8	27.1	25.7	17.5	24	23.8	10.5	28.1
Restrictions on layoffs and staff reductions	18.7	4.9	18.8	19.2	40.5	27	14.8	7.9	15.8	14.1
Restrictions on the issuance of visas to Japanese seconded officers and employees (expatriates)	17.5	45.3	24.4	4.4	14.4	10.3	15.2	1.6	10.5	7.8
Difficulty in hiring IT engineers	14.1	15.5	18.3	11.2	12.7	24.6	12.9	12.7	15.8	9.4
Effects of local and foreign government policies	3.1	1.8	2.5	1.3	5.3	2.4	1.2	6.4	15.8	21.9
Other issues	1.8	0.6	2.5	1.8	1.8	1.6	1.4	6.4	0	6.3

Source: JETRO, "2022 Survey on Business Conditions of Japanese Companies Operating Overseas (Asia and Oceania)", December 2022.

► Chart 7-7 Wage trends of employees of Japanese companies in Cambodia³¹⁷

Year-on-year salary increase (%)	2022/2021	2023/2022
All industries	4.4	4.7
Manufacturing	3.0	4.3
Non-manufacturing	5.0	4.9
Average salary (USD)	Monthly base salary	Annual salary
Worker (manufacturing)	246	3,541
Engineer (manufacturing)	497	6,980
Manager (manufacturing)	885	12,184
Staff (non-manufacturing)	547	8,394
Manager (non-manufacturing)	1,303	18,406

Note 1: The definitions of each term are as follows. Rate of increase: Nominal rate of increase in base salary (average for all job types), excluding salaries that depend on individual performance such as performance-based pay. Base salary: Monthly base salary excluding various allowances (as of August 2022). Annual salary: Total cost for each employee (annual total of base salary, benefits, social security, overtime, bonus, etc., excluding retirement benefits) <2022 (FY)>. Worker: A general worker (with about three years of work experience). Engineer: A full-time, mid-level engineer who is a vocational school/college graduate or higher, and has about five years of work experience. Manager: A full-time section manager in charge of sales with at least a college degree and about 10 years of work experience. Staff: Regular full-time employment with about 3 years of work experience.

Note 2: Average wages in local currency converted to US dollars at the average exchange rate in September 2022.

Source: JETRO, "2022 Survey on Business Conditions of Japanese Companies Operating Overseas (Asia and Oceania)", December 2022.

7.2.3 Implementation status and challenges of human rights due diligence

According to JETRO's 2022 Survey on Business Conditions of Japanese Companies Operating Overseas (Asia and Oceania), 55.7 per cent (39 companies) of Japanese companies in Cambodia (70 responding companies) said they recognize human rights issues in their supply chains as a management issue (average for the nine ASEAN countries: 55.9 per cent).³¹⁸ On the other hand, only 25.8 per cent (17 companies among 66 valid responses) of companies said that they conduct human rights due diligence in their actual business activities.³¹⁹ On average, 22.2 per cent of companies in the nine ASEAN countries reported conducting human rights due diligence, with Cambodia ranking fifth behind Laos, Myanmar, Malaysia and the Philippines. By industry, 50 per cent were in textiles and clothing, 57.1 per cent in transportation, and 83.3 per cent in trading and wholesale (for industries with five or more companies responding). By enterprise size, 32.4 per cent were large enterprises and 18.8 per cent were small and medium-sized enterprises. Only 25.5 per cent (12 companies among 47 valid responses) of companies who said that they do not conduct human rights due diligence said they plan to do so in the future.

Among companies conducting human rights due diligence, 75.0 per cent (12 companies among 16 valid responses) said that they require suppliers to comply with human rights policies in their supply chains, and 50.0 per cent (5 companies among 10 valid responses) said that they require suppliers of their suppliers

³¹⁷Ibid, 60-63.

³¹⁸Ibid, 53.

³¹⁹Ibid, 55.

to comply with human rights policies.³²⁰ On the other hand, 23.8 per cent (15 companies among 63 valid responses) of companies responded that they had been asked by their delivery destinations to comply with human rights policies in their supply chains.

In addition, companies that responded that they were conducting or planning to conduct human rights due diligence were asked about challenges of addressing this topic (26 valid responses; multiple responses permitted). According to their responses, “understanding contents of human rights particularly important for companies” (53.9 per cent), “involvement of senior executives and management” (42.3 per cent), and “conducting follow-up surveys on prevention and remedial measures” (34.6 per cent) ranked as the top three, followed by “preventing and addressing high-priority human rights risks (shutting down businesses and reviewing business partners)” (26.9 per cent), “establishing a grievance mechanism for those exposed to risks,” and “implementing remediation” (both 23.1 per cent). At large companies, 50.0 per cent of respondents answered “involvement of senior management and executives” and “understanding contents of human rights particularly important for companies,” while at small and medium-sized companies, 58.3 per cent answered “understanding contents of human rights particularly important for companies.”³²¹

In addition, several Japanese companies in Cambodia cited workers’ ages as a concern for human rights risks, including ensuring that they do not mistakenly employ underage workers due to worker age fraud. Companies are also taking precautionary measures, for example by checking against identity documents.

320The survey asks, as three separate questions, (1) whether the companies implement human rights due diligence; (2) whether they require compliance of the procurement company for their own human rights policy; and (3) whether they require compliance for the supplier of the procurement company for their own human rights policy. A certain number of companies did not respond to all three questions. There are discrepancies in the number of valid responses to each question because the number of companies that did not respond to the question is subtracted from the number of target companies for each question.

JETRO, “2022 Survey on Business Conditions of Japanese Companies Operating Overseas (Asia and Oceania)”, December 2022. https://www.jetro.go.jp/ext_images/en/reports/survey/pdf/2022/EN_Asia_and_Oceania_2022.pdf : 57

321JETRO, “2022 Survey on Business Conditions of Japanese Companies Operating Overseas (Asia and Oceania)”, December 2022. https://www.jetro.go.jp/ext_images/en/reports/survey/pdf/2022/EN_Asia_and_Oceania_2022.pdf : 56

7.3 Viet Nam

Based on the results of JETRO's 2022 Survey on Business Conditions of Japanese Companies Operating Overseas (Asia and Oceania),³²² this section will outline the assessment of the business environment in Viet Nam by Japanese companies operating there.

When Japanese companies operating in Viet Nam were asked their evaluation of the overall business environment in the country, 5.8 per cent of respondents said they were "satisfied" and 56.1 per cent said they were "somewhat satisfied," resulting in more than 60 per cent of companies indicating satisfaction. On the other hand, 38.1 per cent expressed dissatisfaction (501 valid responses), with 4.2 per cent "dissatisfied" and 33.9 per cent "somewhat dissatisfied".

7.3.1 Benefits and risks of the business environment

Next, the survey listed factors representing the local business environment and asked whether these would have a "positive impact" or a "negative impact" on the companies' local operations (multiple responses). The former is considered as a benefit in the business environment and the latter as a risk.³²³

As factors that Japanese companies in Viet Nam consider to have a positive impact on their management (benefits), "market growth potential" received the highest response rate (74.1 per cent), followed by "current market size" (46.1 per cent). This is well above the ASEAN average. With a population of 98.51 million,³²⁴ Viet Nam ranks third in the ASEAN region behind Indonesia and the Philippines and has enjoyed long-term, stable economic growth. This is due to the fact that, although all major ASEAN countries suffered negative growth during the pandemic, Viet Nam maintained positive growth, and it is gaining a reputation as a market.³²⁵

In addition, Viet Nam also was rated higher in "living conditions for expatriates" (43.2 per cent), "political and social conditions" (34.4 per cent) than the ASEAN average. Viet Nam has traditionally been viewed as having an extremely stable domestic political and social situation and an environment in which foreigners can live in peace. On the other hand, while 40.8 per cent of respondents across ASEAN cited "ease of language and communication" as a benefit, only 22.0 per cent did so for Viet Nam. Although the promotion of English education in the country has led to an increase in the number of people who understand English in large cities such as Ho Chi Minh City and Hanoi, the need for interpreters between employees, business partners and government authorities has not changed. The shortage of workers and rising labour costs in these regions, as well as the steep rise in the price of land for factories, have become noticeable in recent years, and since an increasing number of companies are choosing to open or expand new factories in rural areas, it seems that more and more companies are finding it difficult to communicate.

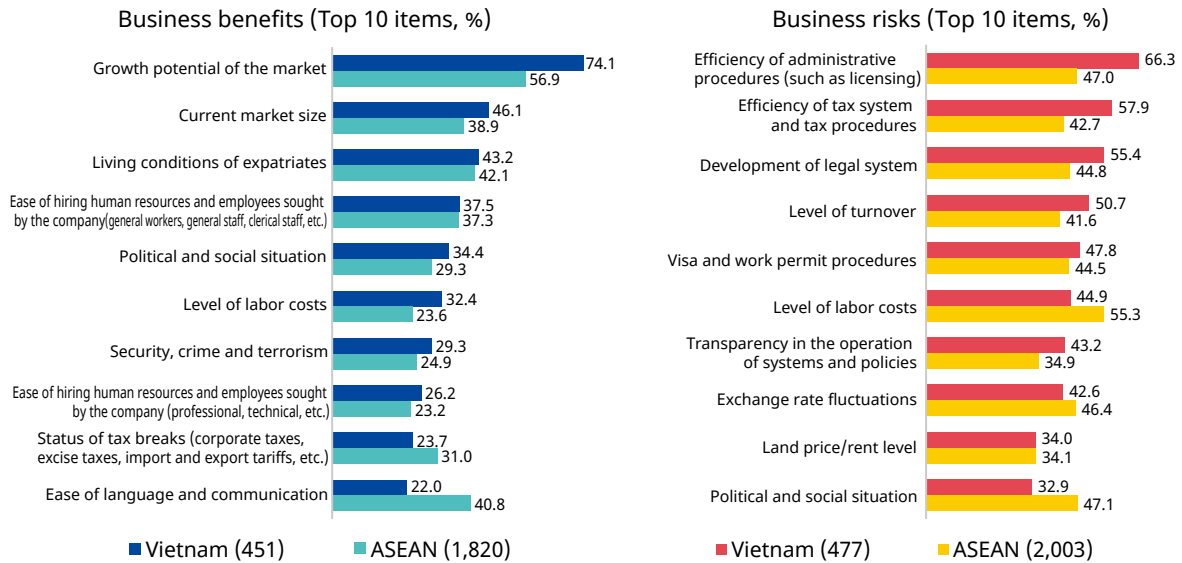
322 A survey conducted by JETRO between August and September 2022 of Japanese companies operating in 20 countries and regions in Asia and Oceania. Out of a total of 14,290 companies, valid responses were received from 4,392 companies (valid response rate: 30.7 per cent). In ASEAN, 9,841 companies were requested to respond, and responses were received from 2,486 companies (valid response rate: 25.3 per cent). In Viet Nam, 603 companies responded (valid response rate: 33.2 per cent). https://www.jetro.go.jp/ext_images/en/reports/survey/pdf/2022/EN_Asia_and_Oceania_2022.pdf

323 JETRO, "2022 Survey on Business Conditions of Japanese Companies Operating Overseas (Asia and Oceania)", December 2022.

324 General Statistics Office (GSO) of Viet Nam, "Statistical Yearbook of Viet Nam 2021". <https://www.gso.gov.vn/wp-content/uploads/2022/08/Sach-Nien-giam-TK-2021.pdf>

325 Asian Development Bank (ADB), "Asian Development Outlook April 2023". <https://data.adb.org/media/10551/download>

► Figure 7-8 Assessment of the local business environment by companies in Viet Nam (benefits and risks)



Source: JETRO, “2022 Survey on Business Conditions of Japanese Companies Operating Overseas (Asia and Oceania)”, December 2022.

On the other hand, in terms of local factors that negatively affect business management (risks), the top three factors were institutional problems that impede efficient business management, such as “efficiency of administrative procedures (licensing)” (66.3 per cent), “efficiency of the tax system and tax procedures” (57.9 per cent), and “development of legal systems” (55.4 per cent), all of which exceeded half of the responding companies (multiple responses permitted). Together with “visa and work permit procedures” (47.8 per cent), which ranked fifth, and “transparency in the operation of systems and policies (industrial policy, energy policy, regulation of foreign capital, etc.)” (43.2 per cent), which ranked seventh, the response rate of these for companies operating in Viet Nam is much higher than the ASEAN average.

In the employment and labour-related category, 50.7 per cent of companies said the level of employee turnover was a risk. It ranked second only to Malaysia (55.4 per cent) among ASEAN members as the biggest labour risk to Japanese companies. In addition, 44.9 per cent perceived the level of labour costs as a risk. In Viet Nam, stable economic development and the continued increase of foreign companies in the country have tightened supply and demand for human resources, and wage levels continue to rise.

According to JETRO’s 2022 Survey on Business Conditions of Japanese Companies Operating Overseas (Asia and Oceania), both monthly base salaries and annual salaries, including monthly base salaries and various allowances, of manufacturing workers in Viet Nam exceed those of the Philippines.³²⁶ The legal minimum wage in Viet Nam (revised 1 July 2022) is set in four groups according to the stage of development of the region. In Region 1, which includes large cities such as Hanoi and Ho Chi Minh City, the minimum wage is 4.68 million Vietnamese dong (approximately \$200) per month, and in Region 2, which includes semi-large cities such as Da Nang City, it is 4.16 million dong (approximately \$180). In Region 3, which includes rural urban areas, the monthly wage is 3.64 million dong (approximately \$155), and in the other regions of “Region 4,” it is 3.25 million dong (approximately \$140). There is a gap of approximately \$60 between Region 1 and Region

326 JETRO, “2022 Survey on Business Conditions of Japanese Companies Operating Overseas (Asia and Oceania)”, December 2022. https://www.jetro.go.jp/ext_images/en/reports/survey/pdf/2022/EN_Asia_and_Oceania_2022.pdf

4.³²⁷ There is also a lack of space for industrial parks in large cities, and foreign industrial park developers and operators are developing new industrial parks on the outskirts of large cities and in rural areas, indicating a tendency toward dispersal into rural areas among new entries into Viet Nam and expansion of investments by existing companies.

7.3.2 Management problems

Next, we will examine the management problems of local Japanese companies (Figure 7-5).³²⁸ According to the results of JETRO's latest survey conducted from August to September 2022, the top three issues cited by Japanese companies operating in Viet Nam as management problems were "increased wages for employees" (75.2 per cent), "increased procurement costs" (66.1 per cent), and "exchange rate fluctuations" (62.8 per cent), which were in line with the ASEAN totals. As mentioned above, institutional inefficiencies, such as undeveloped administrative procedures and legal systems, are recognized as a risk to the business environment in Viet Nam. Whereas, in terms of management problems, the percentage of respondents who answered "complicated customs clearance procedures" (57.6 per cent), "tax (corporate tax, transfer pricing tax, etc.) burden" (49.8 per cent), and "insufficiency of informing companies of laws and regulations" (45.1 per cent) were higher in Viet Nam than in ASEAN as a whole. In contrast, 37.8 per cent of companies answered "quality of employees," which is below the ASEAN average of 40.6 per cent, while 45.8 per cent answered "employee retention," which is more than 10 percentage points higher than the ASEAN average of 36.1 per cent.

► Figure 7-9 Management problems of Japanese companies operating in Viet Nam (Top 10 items, multiple answers) (%)

	ASEAN total		Viet Nam	
1st	Increased wages for employees	73.7	Increased wages for employees	75.2
2nd	Increased procurement costs	71.0	Increased procurement costs	66.1
3rd	Exchange rate fluctuations	66.8	Exchange rate fluctuations	62.8
4th	Complicated customs clearance procedures	53.2	Complicated customs clearance procedures	57.6
5th	Growing market shares of competitors (in terms of cost/price)	49.8	Tax burdens (corporate tax, transfer pricing tax, etc.)	49.8
6th	Difficulty in developing new clients	45.5	Growing market shares of competitors (in terms of cost/price)	46.6
7th	Tax burdens (e.g. corporate taxes, transfer pricing taxes)	42.5	Employee retention rate	45.8
8th	Insufficiency of informing companies of laws and regulations	41.3	Insufficiency of informing companies of laws and regulations	45.1
9th	Quality of employees	40.6	Difficulty in developing new clients	44.7
10th	Difficulties in local procurement of raw materials and parts	38.9	Difficulties in local procurement of raw materials and parts	44.7

Note: The response rates listed for each of the management matters refer to the percentage of responses within the questions "sales and marketing", "financial affairs, financing, or foreign exchange", "labour or employment", "foreign trade system" and "production and procurement."

Source: JETRO, "2022 Survey on Business Conditions of Japanese Companies Operating Overseas (Asia and Oceania)", December 2022.

³²⁷ Ministry of Labour - War Invalids and Social Affairs of Viet Nam, "Regional Minimum Wage to Increase Starting in July", 13 June 2022. <https://english.molisa.gov.vn/topic/231500> Dezan Shira & Associates, "Viet Nam Briefing". <https://www.VietNam-briefing.com/doing-business-guide/VietNam/human-resources-and-payroll/minimum-wage>

³²⁸ JETRO, "2022 Survey on Business Conditions of Japanese Companies Operating Overseas (Asia and Oceania)", December 2022. https://www.jetro.go.jp/ext_images/en/reports/survey/pdf/2022/EN_Asia_and_Oceania_2022.pdf

What about hiring local workers and employees? This section analyses items related to employment and labour based on the survey results (see Figure 7-6). Looking at local workers and employees by job title, the percentage of companies reporting difficulty in hiring general staff, clerks and workers was higher than the ASEAN average at 33.5 per cent, while the percentages of companies reporting difficulty in hiring managers and executives (34.5 per cent), engineers (23.2 per cent) and IT engineers (12.9 per cent) were lower than the ASEAN averages. As mentioned above, the difficulty in recruiting general staff, clerks and workers can be attributed to the shortage of workers, especially in large cities. Wage levels in Viet Nam have continued to rise due to increased investment by foreign companies and the stable development of the domestic economy. While improvements in Viet Nam's national income have led to improvement in people's living standards and expectations of the country's current and future market size, leading to new business opportunities for foreign companies, they also show that it is becoming more difficult to recruit quality talent at the previous wage rates. On the other hand, since 45.8 per cent of the Japanese companies operating in Viet Nam reported that the retention rate of employees is a problem in their management, some Japanese companies have said that because of how common it is for young employees to change jobs, even if a company trains its workers, they often end up changing jobs anyway. This can be interpreted to mean that the frequent retirement of personnel who had undergone development through training and workplace education casts a shadow on stable management. The following opinions were notable: (1) that, because of the strong need to recruit English-speaking IT talent and mid-level managers, there is competition with other companies, resulting in significant wage increases; and (2) that manufacturing is not seen as an appealing line of work because IT jobs have high pay levels and a lot of room for subsequent raises and start-ups, and that specifically, many highly skilled workers who have studied abroad and come from relatively affluent families tend to choose industries with high salaries from the start.

While it is quite normal to move to a workplace with better pay levels and benefits, it is not sustainable for wages to rise faster than improvements in labour productivity and performance. Against this backdrop, some Japanese companies have made efforts to improve employee retention by improving non-salary incentives and offering career paths. It is urgently necessary for companies to establish medium- and long-term human resources management systems, including the introduction of performance evaluation systems, the clarification of promotion and salary increase systems, and the presentation of future career paths, as well as the enhancement of continuous training and human resources development systems.

► Figure 7-10 Wage trends of employees of Japanese companies in Viet Nam

Year-on-year salary increase (%)	2022/2021	2023/2022
All industries	5.8	5.9
Manufacturing	5.5	5.5
Non-manufacturing	6.1	6.3
Average salary (USD)	Monthly base salary	Annual salary
Worker (manufacturing)	277	4,783
Engineer (manufacturing)	540	9,023
Manager (manufacturing)	1,114	18,400
Staff (non-manufacturing)	729	11,064
Manager (non-manufacturing)	1,529	23,433

Note: The definitions of each term are the same as in Figure 7-7.

Source: JETRO, "2022 Survey on Business Conditions of Japanese Companies Operating Overseas (Asia and Oceania)", December 2022.

7.3.3 Implementation status of and challenges in human rights due diligence

According to JETRO's 2022 Survey on Business Conditions of Japanese Companies Operating Overseas (Asia and Oceania), 55.7 per cent (284 companies) of Japanese companies in Viet Nam (510 responding companies) said that they recognize human rights issues in their supply chains as a management issue (average for the 9 ASEAN countries: 55.9 per cent).³²⁹ On the other hand, only 21.6 per cent (109 companies among 505 valid responses) said that they conduct human rights due diligence in their actual business activities.³³⁰ The percentage of companies reporting that they are conducting human rights due diligence is even lower than in Cambodia, which was covered in the previous section. By industry, companies where at least 30 per cent were conducting human rights due diligence (industries with 5 or more companies responding) were in the industries of rubber, ceramics, and stone and clay (46.2 per cent), precision machinery and medical equipment (44.4 per cent), and electrical and electronic components (31.8 per cent), and construction (35.5 per cent). By enterprise size, 27.8 per cent were large enterprises and 15.2 per cent were small and medium-sized enterprises, indicating a small difference. Of companies who said that they do not conduct human rights due diligence, only 15.8 per cent (60 companies among 380 valid responses) said that they plan to do so in the future.

Of the companies conducting human rights due diligence, 60.8 per cent (62 companies among 102 valid responses) said that they require suppliers to comply with human rights policies in their supply chains, and 71.2 per cent (42 companies among 59 valid responses) said that they require the suppliers of their suppliers to comply with human rights policies.³³¹ On the other hand, 25.5 per cent (125 companies among 490 valid

³²⁹JETRO, "2022 Survey on Business Conditions of Japanese Companies Operating Overseas (Asia and Oceania)", December 2022. https://www.jetro.go.jp/ext_images/en/reports/survey/pdf/2022/EN_Asia_and_Oceania_2022.pdf :53.

³³⁰Ibid, 55.

³³¹The survey asks, as three separate questions, (1) whether the companies implement human rights due diligence, (2) whether they require compliance of the procurement company for their own human rights policy, and (3) whether they require compliance for the supplier of the procurement company for their own human rights policy. A certain number of companies did not respond to all three questions. There are discrepancies in number of valid responses to each question because the number of companies that do not respond to the question is subtracted from the number of target companies for each question.

JETRO, "2022 Survey on Business Conditions of Japanese Companies Operating Overseas (Asia and Oceania)", December 2022. https://www.jetro.go.jp/ext_images/en/reports/survey/pdf/2022/EN_Asia_and_Oceania_2022.pdf :57

responses) of companies responded that they had been asked by their delivery destinations to comply with human rights policies in their supply chains.

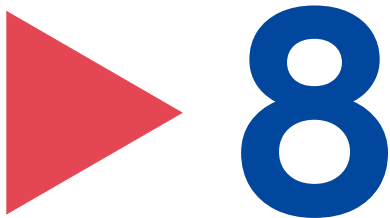
However, when companies that responded as conducting or planning to conduct human rights due diligence were asked about challenges of addressing this topic (148 valid responses, multiple responses), the top three challenges in the survey were “understanding contents of human rights particularly important for companies” (64.2 per cent, 148 valid responses), “identifying and assessing negative impacts of business on human rights (human rights risks)” (41.2 per cent) and “involvement of senior executives and managers” (37.8 per cent), followed by “preventing and addressing high-priority human rights risks (shutting down businesses and reviewing business partners)” (27.0 per cent) and “conducting follow-up surveys on prevention and remedial measures” (25.0 per cent). For both large and small/medium companies, the most common response was “understanding contents of human rights particularly important for companies” (59.8 per cent and 72.6 per cent, respectively), indicating that promoting awareness and understanding of basic information is a common challenge for companies of all sizes in undertaking human rights due diligence.³³²

Several Japanese companies in Viet Nam responded that they recognized child labour, excessive labour, and unfair labour practices at suppliers, business partners, and partner companies as potential risks. In addition, many Japanese companies answered that they themselves comply with local laws and regulations regarding working hours, working conditions and working environment; health and safety considerations in the workplace; and prevention of harassment and discrimination (nationality, gender and age). In response to these potential risks, some companies said that they have taken preventive measures, such as regular surveys and audits of suppliers, audits of suppliers at the start of transactions, establishment of internal reporting points, implementation of compliance and human rights education for employees, conclusion of appropriate labour contracts, and selection of raw materials and preparation of work standards to prevent health hazards.³³³

332 JETRO, “2022 Survey on Business Conditions of Japanese Companies Operating Overseas (Asia and Oceania)”, December 2022. https://www.jetro.go.jp/ext_images/en/reports/survey/pdf/2022/EN_Asia_and_Oceania_2022.pdf :56

333 Ibid, 59.

- ▶ Responsible Business Conduct and Human Rights Due Diligence:
Good practices of Japanese Companies Operating in Bangladesh, Cambodia and Viet Nam, Trade,
Investment and Labour Nexus and a Way Forward



Employers' Organizations' Efforts in Japan on Business and Human Rights and Responsible Business Conduct



8.1 Business and Human Rights Initiatives by Employer Organizations

This chapter introduces the initiatives related to business and human rights by employers' organizations in Japan, which bring together Japanese enterprises and employers (management)³³⁴. The employers' organizations discussed in this chapter promote management that takes into account ESG (environmental, social and governance), and takes initiatives to address various issues related to CSR, such as establishment of working groups, formulation and dissemination of guidelines, and cooperation to provide a grievance mechanism. These initiatives take into account the size of the organization's member companies and industry-specific supply chain characteristics, among others.

Based on the scope of this report, the employers' organizations and their initiatives that this chapter focuses on are the Japan Business Federation (Keidanren) as a cross-sector employers' organization, and as the sectoral level associations, the Japan Auto Parts Industries Association (JAPIA), the Japan Electronics and Information Technology Industries Association (JEITA), and the Japan Textile Federation (JTF).³³⁵

8.2 Initiatives of Keidanren (Japan Business Federation)

Keidanren is a comprehensive economic organization with a membership comprised of 1,512 Japanese enterprises, 107 nationwide industrial associations and the regional economic organizations for all 47 prefectures (as of April 2023)³³⁶. As its key initiatives for business and human rights, Keidanren has formulated and published a Charter of Corporate Behavior, Implementation Guidance on Charter of Corporate Behavior, and a Handbook for Management that Respects Human Rights, requiring its member companies to conduct businesses that respect human rights.

The Charter of Corporate Behavior, which sets out principles of action required to be observed upon admission to Keidanren, was established in 1991 and has since been revised five times in response to changes in the business environment. When the Charter of Corporate Behavior was fully revised in 2017, based on the principle of "the achievement of SDGs through the realization of Society 5.0", the fourth principle of "conduct business that respects the human rights of all persons" was newly established as a separate article on human rights.³³⁷

According to the results of a 2020 survey conducted by Keidanren, only 36 per cent of enterprises are pursuing initiatives based on the UNGPs,³³⁸ underscoring the need for awareness regarding business and human rights. Therefore, in 2021, Keidanren strengthened the section on respect for human rights in the Implementation Guidance on Charter of Corporate Behavior, which is a reference material for voluntary implementation of

334 The ILO MNE Declaration provides guidelines to employers' organizations in areas such as employment, training, conditions of work and life, and industrial relations. (MNE Declaration, Paragraph 7). The MNE Declaration also requires governments to provide support and guidance to employers (Paragraphs 24 and 31, etc.).

335 Employers' organizations include those formed by groups of employers and companies at regional, industrial, and national levels. Ministry of Health, Labour and Welfare, Employers' Organizations. https://www.mhlw.go.jp/stf/seisakunitsuite/bunya/koyou_roudou/roudoseisaku/shiyoushadantai/index.html (in Japanese)

336 Keidanren, About Keidanren. <https://www.keidanren.or.jp/en/profile/pro001.html>

337 Keidanren, Table of Contents of Implementation Guidance on Charter of Corporate Behavior (Version 9). <https://www.keidanren.or.jp/en/policy/csr/tebiki9.html>

338 Keidanren, Key Findings of Questionnaire Survey on the Implementation of Keidanren's Charter of Corporate Behavior in the COVID-19 Era. https://www.keidanren.or.jp/en/policy/2020/098_summary.pdf

the principles of the Charter of Corporate Behavior, and enhanced it from the following three perspectives: initiatives in line with the UNGPs, conducting human rights due diligence, and preventing and remedying human rights violations³³⁹. In addition, Keidanren has published a “Handbook for Management that Respects Human Rights,” which provides specific information that will be useful in practical work for officers in charge and those in charge of practical work. The content includes an overview of business and human rights, methods of practice, examples of risks in the supply chain of each industry, examples of negative impact for each rights holder, examples of initiatives, examples of corporate initiatives, references and websites, and trends surrounding business and human rights³⁴⁰. Furthermore, in 2022, the Handbook was reviewed to coincide with a full revision of the Implementation Guidance on Charter of Corporate Behavior, and a section on engagement with labour unions was added based on dialogue with the Japanese Trade Union Confederation and the Japan Council of Metalworkers' Unions.

As a result, in the 2023 survey, 76 per cent of companies have implemented initiatives based on the UNGPs, an increase of 40 points since the previous survey, and voluntary initiatives are making steady progress.

8.3 Initiatives of JAPIA (Japan Auto Parts Industries Association)

JAPIA is an industry association that represents Japanese automobile parts industry. As of June 2023, there were about 413 member enterprises manufacturing and selling automobile parts in Japan³⁴¹, about half of which are small and medium-sized enterprises.³⁴²

As part of its support for its member enterprises' CSR activities, JAPIA released its CSR Guidebook and CSR Check Sheet in May 2008 and revised them in April 2010 as guidelines for their efforts to address challenges such as safety and quality, environmental issues, human rights issues, labour issues, and reducing disparities.³⁴³ One of the association's initiatives is the launch of the ESG Management Working Group in March 2022. The working group holds lectures and seminars with the aim to bolster the initiatives of ESG management for member companies and contribute to strengthening their brands, and ascertain the challenges and needs of the members regarding ESG management and chart a course of action.

At the time of writing, June 2023, the working group is in the process of providing information to member enterprises through lectures. In fiscal 2022, a lecture on ESG was held on the theme of “Promoting, Managing and Supervising ESG Management, and Initiatives for Internal Penetration”. In addition, several lectures on the topics of Business and Human Rights and human rights due diligence were held in fiscal 2022. In November 2022, in response to requests from member enterprises, a briefing session was held on the Guidelines on Respecting Human Rights in Responsible Supply Chains with 120 members participating and a lecturer invited from the Business and Human Rights Policy Office of the Ministry of Economy, Trade and Industry.³⁴⁴

339 Keidanren, Revision of Contents of Implementation Guidance on Charter of Corporate Behavior (Version 9). <https://www.keidanren.or.jp/policy/cgcb/2022kaitei.pdf> (in Japanese)

340 Keidanren, Handbook for Management that Respects Human Rights. <https://www.keidanren.or.jp/policy/cgcb/2021handbook.pdf>

341 Japan Auto Parts Industries Association (JAPIA), member companies. <https://www.japia.or.jp/en/whoweare/membercompanies/>

342 From remarks made at an opinion exchange meeting with JAPIA (14 March 2023)

343 Japan Auto Parts Industries Association (JAPIA), On Corporate Social Responsibility (CSR) efforts | Japan Auto Parts Industries Association, <https://www.japia.or.jp/work/csrbcp/csr>

344 Japan Auto Parts Industries Association (JAPIA), ESG Management WG, from remarks made at an opinion exchange meeting, 14 March 2023.

8.4 Initiatives of JEITA (Japan Electronics and Information Technology Industries Association)

JEITA is an industry association in the Japanese IT/electronics industry³⁴⁵ with 343 full members and 36 associate members as of February 2023.³⁴⁶ Its mission is to create a platform that connects all industries and stakeholders with a particular focus on the electronics and information technologies industries so as to resolve social issues for Society 5.0.³⁴⁷

The association established its CSR Committee in 2018. Until 2018, its Procurement Committee, which is responsible for the association's procurement, had been working to standardize questionnaires and prepare guidebooks for supplier companies, but growing public demand for CSR led the association to establish the CSR Committee. The purpose of the committee's activities is to address common industry issues related to CSR, as well as to research, study, disseminate information, and provide external recommendations from a professional perspective on CSR.

The committee's main activities fall into four categories. First, it identifies the latest trends for awareness-raising and enlightenment on CSR through study groups and other opportunities. Second, it shares issues related to CSR procurement among committee members and considers and implements solutions. Third, it establishes a grievance mechanism for the industry. Fourth, it works with and responds to the government and CSR-related organizations and institutions.

As examples of the second category of activities in sharing challenges related to CSR procurement and considering and implementing solutions, the committee formulated "Responsible Business Conduct Guidelines -Promoting Responsible Business Conduct in the Supply Chain-" in March 2020 and a self-assessment questionnaire for supplier companies based on these guidelines in March 2021, with Japanese, English, and Chinese versions. The Guidelines are available free of charge on the association's website.³⁴⁸ They were developed in light of the unique challenges of the industry, namely the complex and long supply chains established in all regions of the world, the significant differences between enterprises in their understanding of and the approach on their activities, and the difficulty of achieving a deeper common understanding and communication on CSR with suppliers.³⁴⁹ The ILO Office for Japan provided technical advice in developing these guidelines. Since their formulation in 2020, the Guidelines have been reviewed once a year (checking the need for revisions and revising as needed) and have been used to raise awareness among supplier companies. In addition, engagement with global CSR promotion organizations (such as the Responsible Business Alliance: RBA³⁵⁰) has been strengthened to share and address issues related to CSR procurement.

Regarding the third category of activities in establishing a grievance mechanism for the industry, a grievance

345 Japan Electronics and Information Technology Industries Association, Outline. <https://www.jeita.or.jp/english/about/overview/index.html>

346 Japan Electronics and Information Technology Industries Association, JEITA Members. https://www.jeita.or.jp/cgi-bin/member_e/list.cgi

347 Japan Electronics and Information Technology Industries Association, Outline. <https://www.jeita.or.jp/english/about/overview/index.html>

348 Japan Electronics and Information Technology Industries Association. "JEITA Develops Guidelines for Responsible Business Conduct - Presents Guiding Principles for Supply Chains to Embody CSR -". <https://www.jeita.or.jp/japanese/topics/2020/0331.pdf>

349 Ibid.

350 See RBA website for more details. Responsible Business Alliance. <https://www.responsiblebusiness.org/>

mechanism working group was established under the CSR Committee in April 2021. JEITA and Business and Human Rights Lawyers Network (BHR Lawyers) took the lead in the establishment of the Japan Center for Engagement and Remedy on Business and Human Rights (JaCER), integrating and accumulating the achievements and findings of the working group and the Engagement and Remedy Project, which consisted of BHR Lawyers and others. Since October 2022, JaCER has been providing the Engagement and Remedy Platform, a non-judicial grievance mechanism, to JaCER member enterprises (enterprises from various industries not limited to JEITA members can join JaCER). The aim is to provide professional support to member enterprises in handling grievances and, through engagement with stakeholders, to help them build corporate grievance mechanisms that are highly reliable for whistleblowers.^{351, 352} The list of cases is open to the public in anonymized form and is updated regularly so that the details and progress of the reported cases can be confirmed.³⁵³

8.5 Initiatives of the Japan Textile Federation

JTF is an organization that promotes activities aimed at strengthening the competitiveness of the supply chain of the entire textile industry, including synthetic fiber making, spinning, weaving, knitting, dyeing, and apparel and sewing, with a basic policy of “creation and reliability” for the development of the textile industry in Japan.³⁵⁴ As of March 2023, there were 28 main textile organizations, 17 branches in the main textile-producing areas, and 47 supporting companies³⁵⁵.

Efforts by the JTF for respecting human rights were initiated out of a sense of crisis over the business environment surrounding the Japanese textile industry, with a view to strengthening international competitiveness and maintaining sustainable development. According to JTF, while the global textile industry continues to transform itself for growth, catching the tide of the Fourth Industrial Revolution such as the digital revolution and the networked production structure, Japanese textile industry faces challenges such as a decline in clothing consumption due to a shrinking population, a shortage of labor centered on young workers due to a decline in the working population age, and an increase in business closures due to a lack of successors. Under these circumstances, Japanese textile industry has employed around 24,000 foreign technical interns in fiscal 2019 to respond to the labour shortage³⁵⁶, however, there have been reported cases of violations of the laws and regulations and concerns related to the compliance³⁵⁷. In order to survive as an industry, Japanese textile industry needed to promote initiatives for both domestic and overseas supply chains, particularly when exporting to overseas markets where expectations of responsible business conduct was higher³⁵⁸.

351 Japan Electronics and Information Technology Industries Association, “Initiatives on Grievance Mechanisms”. <https://home.jeita.or.jp/csr/news/pdf/20221012.pdf>

352 JaCER, About JaCER. <https://jacer-bhr.org/en/about/index.html>

353 JaCER, Grievance list. <https://jacer-bhr.org/en/application/list.html>, Report a Grievance. <https://jacer-bhr.org/en/application/index.html>

354 Japan Textile Federation, Outline of the JTF. <https://jtf-net.com/english/info/outline.htm>

355 Ibid.

356 Organization for Technical Intern Training, FY2019 Operational Statistics (March 2023). <https://www.otit.go.jp/files/user/docs/201002-1-4.pdf>

357 Immigration Service Agency, Japan, Non compliances in 2008. https://jtf-net.com/news/PDF/191101Sensanjigyogyokikai%208/63_nyuukanshiryou.pdf

358 Japan Textile Federation, “Information Session Held on the Guidelines for Responsible Corporate Conduct in the Textile Industry on September 22, 2022”. <https://www.jtf-net.com/news/200220922seminarRBCguideline.htm>

Against this background, JTF published the Guidelines for Responsible Business Conduct in the Textile Industry in August 2022 with the aim of strengthening efforts to respect human rights based on international labor standards throughout the industry and, through this, to strengthen the value chain and improve international competitiveness³⁵⁹. The guidelines are based on the characteristics of Japanese textile industry, of which the majority are small and medium-sized enterprises, and focuses on being a contractor at the end of the supply chain. The guidelines, for example, include a list of specific issues for each company to check, and the hope is that small and medium-sized business owners will use this list to understand their own circumstances³⁶⁰. In formulating these guidelines, the Committee for Formulating the Guidelines for Responsible Corporate Conduct was established in September 2021 by 13 group members that make up the supply chain, and with the cooperation of the ILO office in Japan, there was a workshop organized by experts, and discussions were held through a labor-management dialogue with UA Zensen, an industrial labor union.

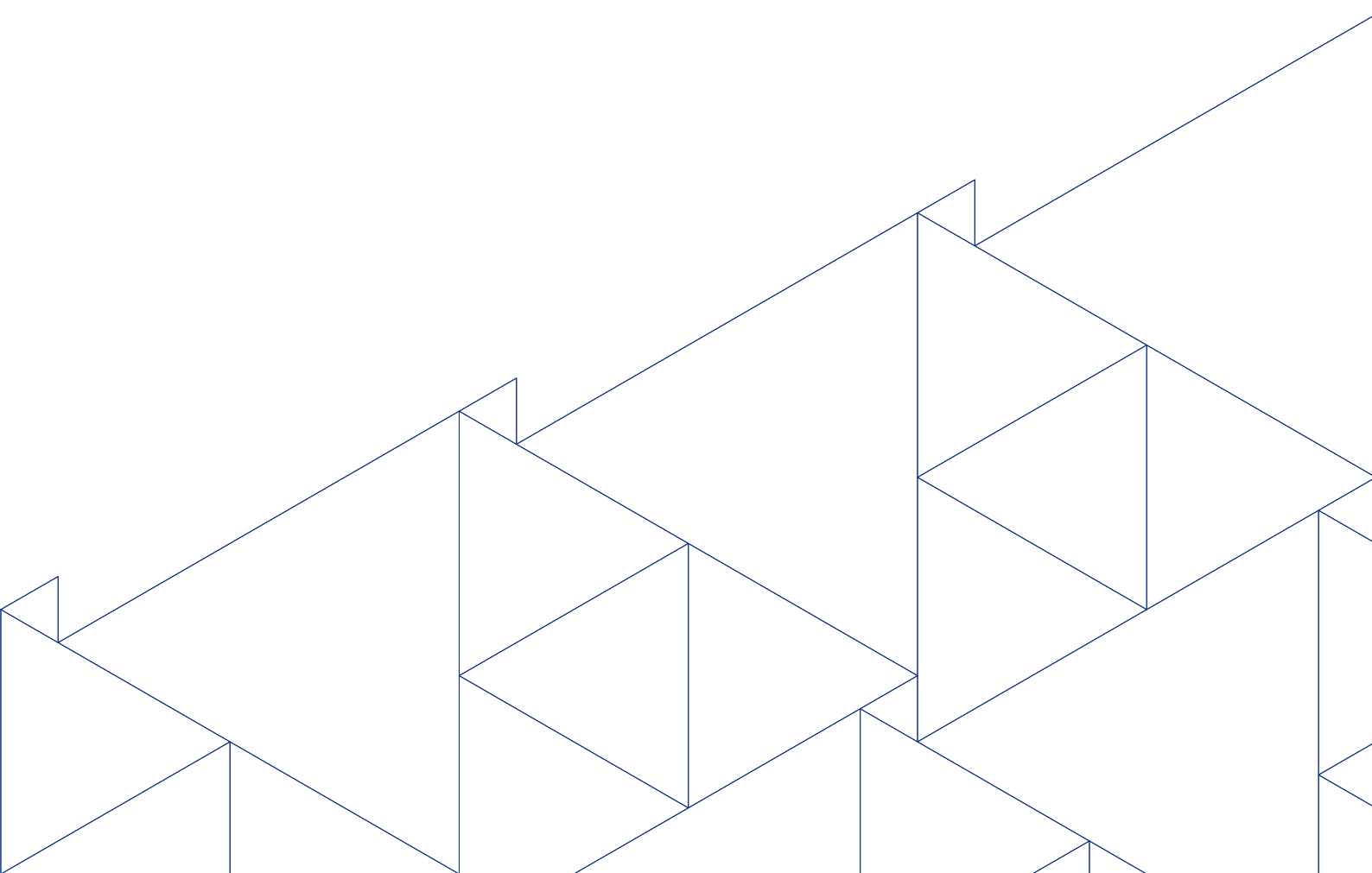
Aiming to popularize the guidelines, JTF held a briefing session on the Guidelines for Responsible Corporate Conduct in the Textile Industry for group members in November 2022, followed by other briefings in major production areas, etc. JTF is also preparing an English version of the guidelines, which it aims to disseminate to overseas suppliers. Finally, the Japan Textile Federation will develop a framework to promote consultation with outside experts on responsible business conduct in a way that would benefit the industry as a whole, which is mostly comprised of small and medium-sized enterprises. In light of this, the Japan Federation of Labor and Social Security Attorney's Associations is working with the ILO Japan Office and JTF to train Labor and Social Security Attorneys who can advise on business and human rights.

359 Japan Textile Federation, "Guidelines for Responsible Corporate Conduct in the Textile Industry was Published". <https://www.jtf-net.com/news/200220831RBCguideline.htm>

360 Japan Textile Federation, "Information Session Held on the Guidelines for Responsible Corporate Conduct in the Textile Industry on 22 September, 2022". <https://www.jtf-net.com/news/200220922seminarRBCguideline.htm>



Good Practices at the Company Level



This chapter introduces examples of human rights due diligence initiatives by Japanese enterprises engaged in manufacturing, including textiles, electronics and electronic parts. While centred on initiatives by head offices in Japan, this chapter also focuses on the initiatives of subsidiaries in countries where production is carried out (Bangladesh, Cambodia or Vietnam) and cooperation with local business partners.

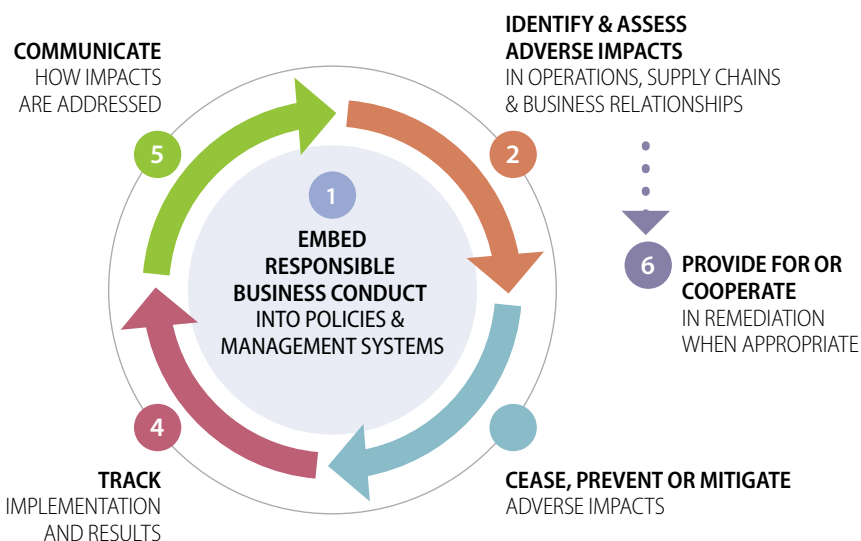
First, this introduces an overview of the human rights due diligence by enterprises required by the international documents used as a framework for analysing corporate cases (9.1). These include the UNGPs, the OECD Guidelines for Multinational Enterprises on Responsible Business Conduct and the OECD Due Diligence Guidance for Responsible Business Conduct, and the ILO MNE Declaration. The ILO MNE declaration provides guidance on responsible and sustainable labour practices based on principles derived from international labour standards, and an overview of the principles addressed to enterprises will be presented (9.2). This will be followed by examples of good practices by the enterprises (9.3).

9.1 Overview of human rights due diligence

The UNGPs, the ILO MNE Declaration and the OECD Guidelines call on enterprises to respect internationally recognized human rights (including, as a minimum, human rights expressed in the International Bill of Human Rights³⁶¹ and the fundamental rights of the ILO's core labour standards set out in the ILO Declaration on Fundamental Principles and Rights at Work).

As shown in Figure 9-1 below, human rights due diligence, required to be carried out for enterprises to fulfil their responsibility to respect human rights, consists of six steps: [1] embed responsible business conduct into policies and management systems; [2] identify and assess adverse human rights impacts; [3] cease, prevent and mitigate adverse impacts; [4] track implementation and results; [5] communicate how impacts are addressed; and [6] Provide for or cooperate in remediation when appropriate. Of course, these steps ([1] to [6]) present a broad framework for human rights due diligence, and enterprises need to consider specifically and implement appropriate handling based on their own circumstances.

► Figure 9-1 Steps in human rights due diligence



Source: OECD Due Diligence Guidance for Responsible Business Conduct

³⁶¹ Universal Declaration of Human Rights, International Covenant on Civil and Political Rights, International Covenant on Economic, Social and Cultural Rights, https://www.mofa.go.jp/fp/hr_ha/page25e_000303.html

Stakeholder engagement (dialogue and collaboration) is important in all processes of steps ([1] to [6]) discussed above. For example, feedback from stakeholders could help to identify industry-specific risks and solutions, and lead to the improvement of the human rights due diligence process.

Stakeholders are individuals or groups of people whose interests are affected or may potentially be affected by an enterprise's activities. Not all stakeholders necessarily have an equal interest in enterprise activities. Engagement with stakeholders whose human rights are or may be negatively affected (rights holders)³⁶², in particular, workers and the workers' organizations that represent their interests, is particularly important. In addition, stakeholder engagement should also involve meaningful consultations to identify existing and potential issues which may violate human rights, and seek solutions and means of prevention.

9.1.1 Embed responsible business conduct into policies and management systems (UNGPs 16, OECD Guidelines [1])

Enterprises should aim to establish responsible business conduct by embedding responsible business conduct into corporate policies and management policies.

For example, enterprises could formulate a human rights policy committing publicly to respect human rights. Human rights policies should be established through dialogue and consultation with stakeholders, including workers and trade unions, and by obtaining expert advice and knowledge internally and externally, and approval of top management is expected.

The content of the human rights policy could then be integrated into operational level instruments including supply chain management policies and procurement guidelines. Systems related to initiatives to respect human rights could be developed by assigning responsibility for implementing the initiatives to the appropriate departments.

9.1.2 Identify and assess actual and potential adverse impacts associated with the enterprise's operations, products or services. (UNGPs 18, OECD Guidance [2])

Enterprises should identify and assess the adverse impacts that they already have or may have on human rights throughout their operations. Specifically, enterprises, in consultation with both internal and external stakeholders and experts, should investigate, identify and assess any actual or potential adverse human rights impacts in their supply chain, including those of their suppliers.

9.1.3 Cease, prevent and mitigate adverse impacts. (UNGPs 19, OECD Guidance [3])

Enterprises should cease, prevent and mitigate adverse human rights impacts if they cause or contribute to them. Furthermore, enterprises should use their influence with suppliers and other business partners to cease, prevent and mitigate actual or potential adverse human rights impacts if the adverse human rights impacts are directly linked to their operations, etc.

³⁶²Examples of rights holders include workers engaged by the enterprises, subsidiaries and business partners, trade union and labour representatives representing employees and their interests, consumers, local residents and indigenous people.

It is also expected that such responses will be implemented by assigning responsibility for preventing or mitigating the identified adverse impacts to the appropriate departments, and that internal decisions and budget allocations will be made to implement such responses.

9.1.4 Track implementation and results (UNGPs 20, OECD Guidance [4])

Enterprises should track and assess the initiatives implemented at each step to verify that adverse human rights impacts are being addressed. Tracking and assessing should be implemented based on appropriate qualitative and quantitative indicators, and it is expected that enterprises will use feedback from both internal and external stakeholders, including affected stakeholders.

9.1.5 Communicate how impacts are addressed (UNGPs 21, OECD Guidance [5])

Enterprises should publicly disclose information about their human rights due diligence initiatives through effective and easily accessible communication channels. Receiving feedback from stakeholders to whom information has been disclosed enables further dialogue and collaboration between enterprises and stakeholders, which can be used to improve human rights due diligence. Information disclosure is not required to wait and be implemented after human rights due diligence has been completed but is rather expected to be carried out periodically during the process³⁶³.

9.1.6 Take corrective action or cooperate for correction if appropriate (UNGPs 22, OECD Guidance [6])

If it is clear that an enterprise has caused or contributed an adverse human rights impact, it is required to provide or cooperate with remediation. Means of enabling remediation could include establishment of a grievance mechanism involving the concerned stakeholders, participation in a grievance mechanism established by an industry association, etc., or cooperation with the judicial system.

Specific examples of remediation could include apologies, restitution, rehabilitation, financial or non-financial compensation, etc., but it is important that appropriate remediation is provided from the perspective of the adversely impacted stakeholders³⁶⁴. It is useful to design and operate a grievance mechanism system based on engagement (dialogue and collaboration) with the stakeholders who include its users, such as employees of the enterprise and its business partners, and their trade unions.

9.2 Overview of the principles directed at enterprises in the ILO MNE Declaration

The ILO MNE Declaration aims to encourage the positive contribution which multinational enterprises can make to economic and social progress and the realization of decent work for all; and to minimize and resolve the difficulties to which their various operations may give rise. The MNE Declaration provides governments,

³⁶³Japan Textile Federation, (2022). Guidelines for Responsible Business Conduct in the Textile and Apparel Industry, p. 59.

³⁶⁴Policy Promotion and Liaison Conference of Related Government Agencies on the Implementation of the National Action Plan on Business and Human Rights (2022), Guidelines on Respect for Human Rights in Responsible Supply Chains, p. 29.

employer organizations, worker organizations and multinational enterprises guidance on responsible and sustainable labour practices and social policies, based on principles derived from the International Labour Standards.

An overview of the principles addressed to companies is as shown in Figure 9-2. This chapter also introduces examples of initiatives concerning these principles.

► Figure 9-2 List of the principles directed at enterprises in the ILO MNE Declaration

General policies	<ul style="list-style-type: none"> ○ Respect the sovereign rights of States, obey the national laws and regulations, give due consideration to local practices and respect relevant international standards. [8] ○ Contribute to the realization of the ILO Declaration on Fundamental Principles and Rights at Work. [9] ○ Conduct due diligence taking account of the central role of freedom of association and collective bargaining as well as industrial relations and social dialogue. [10] ○ Consult with government and employers’ and workers’ organizations so that the business activities of the enterprise are in harmony with the development priorities of the country. [11]
Employment	<ul style="list-style-type: none"> ○ Strive to enhance employment opportunities and raise employment levels in consideration of government employment policies and policy objectives. [16] ○ Before commencing activities, consult the competent authorities and national employers’ and workers’ organizations in order to keep employment plans, as far as practicable, in harmony with national social development policies. [17] ○ Give priority to the employment, occupational development, promotion and advancement of nationals of the host country. [18] ○ Use technologies which generate employment, both directly and indirectly, and adapt technologies to the needs and characteristics of the host country. [19] ○ Build partnerships with local enterprises through procurement in the area where business activities take place, the use of local raw materials and the local manufacture of parts and equipment. [20] ○ Contribute to the transition from an informal to a formal economy. [21] ○ Complement public social security systems and help to stimulate further their development. [22] ○ Take immediate and effective measures within the competence of the enterprise to secure the prohibition and elimination of forced or compulsory labour in operations. [25] ○ Respect the minimum age for admission to employment and take immediate and effective measures to secure the prohibition and elimination of the worst forms of child labour. [27] ○ Make qualifications, skill and experience the basis for the recruitment, placement, training and advancement of staff at all levels in accordance with the principle of non-discrimination. [30] ○ Endeavour to provide stable employment for workers and observe obligations concerning employment stability and social security resulting from free negotiations, provide reasonable notice of changes in business activities, and avoid arbitrary dismissal. [33-34]
Training	<ul style="list-style-type: none"> ○ Provide training for all levels of employed workers to meet the needs of the enterprise as well as the development policies of the country. [38] ○ Participate in programmes that encourage skill formation, lifelong learning, skill development as well as vocational training, and develop skilled technicians. [39] ○ Provide opportunities within the enterprise as a whole to broaden the experience of local management. [40]

Conditions of work and life	<ul style="list-style-type: none"> ○ Provide wages, benefits and conditions of work that are not less favourable to the workers than those offered by comparable employers in the host country, taking into account the general level of wages in the country, the cost of living, social security benefits, economic factors and levels of productivity. [41] ○ Maintain the highest standards of workplace safety and health, make known to those concerned any special hazards and related protective measures associated with new products and processes, provide information on good practices in other countries and play a leading role in the examination of causes of industrial safety and health hazards. [44] ○ Cooperate with national and international organizations, the competent safety and health authorities, workers and their organizations with regard to safety and health, and incorporate matters relating to safety and health in agreements with the representatives of workers. [45-46]
Industrial relations	<ul style="list-style-type: none"> ○ Observe standards of industrial relations throughout operations. [47] ○ Respect the freedom of association and the right to collective bargaining, and provide the facilities and information required for meaningful negotiations. [48, 57 and 61] ○ Support representative employers' organizations. [50] ○ Engage in regular consultations on matters of mutual concern. [63] ○ Encourage business partners to provide effective means for remediation. [65] ○ Examine grievances pursuant to an appropriate procedure. [66] ○ Seek to establish voluntary conciliation machinery in cooperation with workers' representatives and workers' organizations. [68]

Source: Prepared based on the ILO MNE Declaration³⁶⁵

9.3 Good Practices by Japanese companies

This section presents good practices by companies at each step in human rights due diligence. The summary of initiatives by enterprises are as below, and is followed by a detailed description of each initiative. Enterprises need to consider specifically and implement appropriate actions of human rights due diligence based on their own circumstances, so human rights due diligence should be carried out in many different ways for different companies. Therefore, please note that the following initiatives are intended to give enterprises ideas on how they can conduct human rights due diligence in their own companies and their supply chains. In light of this, please refer to the OECD Due Diligence Guidance for Responsible Business Conduct and the relevant industry guidelines when considering specific initiatives because they can also be a useful guide for enterprises to identify their development path and the specific actions they should take.

1. Embed responsible business conduct into policies and management systems

Formulation and dissemination of policies

- Formulation of its Human Rights Policy in dialogue with various stakeholders and with reference to international documents. [ASICS]
- Systematic development of various internal policies, including a human rights policy and procurement policy, under the group Standards of Conduct. [Toshiba]
- Efforts to disseminate a human rights policy by preparing and distributing handbooks in the local official language. [Canon]

³⁶⁵ILO, Tripartite Declaration of Principles concerning Multinational Enterprises and Social Policy, https://www.ilo.org/empent/Publications/WCMS_094386/lang--en/index.htm

Development of internal systems

- ▶ Promotion of company-wide initiatives through a human rights promotion secretariat and risk management committee. [Canon]
- ▶ Establishment of Responsible Value Chain Subcommittee to promote group-wide efforts to respect human rights. [Brother]
- ▶ Development of systems that promote cross-functional cooperation through Sustainability Committee, CSR Procurement Committee, etc. [Wacoal]

Training and Awareness-raising

- ▶ Promotion of internal understanding of the handling of CSR procurement through role-playing workshop training, etc., where employees can deepen their understanding proactively. [Teijin Frontier]

2. Identify and assess actual and potential adverse impacts associated with the enterprise's operations, products or services

Ensuring opportunities for dialogue

- ▶ Implementation of labour-management dialogue dedicated to human rights, separate from the Worker/Management

Conference, to grasp employees' concerns about human rights. [Canon]

- ▶ Implementation of factory audits while engaging in dialogue and taking into account characteristics of foreign workers, such as conducting interviews in their native language. [Miki Shoko]

Establishment of systems and means for understanding human rights issues

- ▶ Efforts to grasp the working conditions at local factories through various means such as weekly reports and factory visits. [Kojima Iryo]
- ▶ Comprehensive support by Headquarters for self-assessments by each group company to grasp its human rights and labour-related issues. [Panasonic]
- ▶ Provision of multiple mechanisms to collect feedback from employees at factories to identify potential adverse impacts at early stages. [Canon]

Establishing supply chain traceability

- ▶ Efforts to ensure traceability up to fourth level suppliers, prioritizing specific raw materials. [ASICS]
- ▶ Efforts to ensure traceability through confirmation of supply chain from direct suppliers at the product planning stage. [Fast Retailing]

3. Cease, prevent and mitigate adverse impacts

Preventing and mitigating adverse impacts through dialogue

- ▶ Promotion of the fostering of a culture of occupational safety and health through dialogue with local employees on Health and Safety Committee established within a factory. [Panasonic]
- ▶ Reduction of the risk of industrial accidents through dialogue with employees. [Wacoal]
- ▶ Efforts to ensure that technical intern trainees are not burdened with recruitment fees for being sent from their home countries through payment of the fees by the company and through confirmation with technical interns. [Teijin Frontier]

Promoting and supporting the efforts of business partners

- ▶ Requests and provision of support for initiatives at suppliers based on the Policy of Engagement. [ASICS]
- ▶ Use of information obtained through a grievance mechanism to grasp priority issues and support the prevention and mitigation of adverse impacts at production partners. [Fast Retailing]
- ▶ Promotion of compliance with CSR procurement guidelines by suppliers through incentives. [Miki Shoko]
- ▶ Encourage the prevention and mitigation of adverse impacts at suppliers through feedback on the results of CSR questionnaires and individual interviews. [Brother]

Collaboration among companies

- ▶ Collect information on local labour laws and regulations in collaboration with other companies through local study groups and other opportunities to protect and promote employees' rights [Maruhisa]

4. Track implementation and results

Use of monitoring results to prevent and mitigate adverse impacts

- ▶ Promotion of the occupational health and safety management system and investigating and analysing the circumstances of serious occupational accidents, which is utilized for preventing reoccurrence. [Panasonic]
- ▶ Use of existing indicators collected by HR department, such as working hours, to evaluate the effectiveness of measures taken in human rights due diligence [Canon]

Use of monitoring results to improve HRDD methods

- ▶ Self-assessment of its Hotline for supplier employees in accordance with UNGPs and addressing issues identified. [Fast Retailing]
- ▶ Efforts to improve the human rights due diligence process such as promoting the proactive initiatives of production partners and using the evaluation tools of an industry-common framework based on issues in previous practices. [Fast Retailing]
- ▶ Regular surveys on the compliance with procurement policies by suppliers, and strengthening and improving monitoring methods. [Toshiba]

5. Communicate how impacts are addressed

Efforts to improve information disclosure

- ▶ Efforts to disclose both qualitative and quantitative information, in a manner that is easy for stakeholders to understand. [Toshiba]
- ▶ Disclosure of information in a comprehensive manner by focusing on "salient human rights risks" identified within the group and providing descriptions of the state of responses and policies about each salient risk. [Canon]

Detailed information disclosure

- ▶ Proactive disclosure of related information such as the number and breakdown of reports towards ensuring the transparency of the grievance mechanism. [Panasonic]
- ▶ Disclosure not only of an overview of initiatives in workplace monitoring, but also of the results of evaluations and explanations of the evaluation categories in an easy-to-understand way. [Fast Retailing]

Commitment through information disclosure

- ▶ Commitment to company's own efforts and the promotion of further initiatives by suppliers through the disclosure of a list of suppliers. [Wacoal]

6. Provide for or cooperate in remediation when appropriate

Establishment and improvement of grievance mechanisms

- ▶ Efforts to ensure the effectiveness of a global hotline through various measures, including informing the status of responses to the person who reports complaints. [Panasonic]
- ▶ Efforts to make the system predictable for users through disclosure of the operating process and timeline of the grievance mechanism. [Fast Retailing]
- ▶ Improvement of access to remedy through the establishment of a grievance mechanism and participation in the mechanism of an external group. [Brother]

Cooperation with and support for business partners

- ▶ Enabling of prompt responses when problems including human rights violations occur by using the Crisis Analysis Report with suppliers and building an information-sharing framework. [ASICS]
- ▶ Support for suppliers in the introduction of a grievance mechanism and the resolution of problems raised through the mechanism. [Miki Shoko]

Other good practices: ILO MNE Declaration

- ▶ Creation of opportunities for employees at overseas factories to assume higher positions through the provision of training programmes. [Kojima Iryo]
- ▶ Encouragement for suppliers to participate in the Better Work programme and the promotion of worker-management dialogue at suppliers. [Fast Retailing]

9.3.1 Embed responsible business conduct into policies and management systems.

9.3.1.1 Formulation of human rights policies based on dialogue undertaken with various stakeholders [UNGPs 16, OECD Guidance 1.1, MNE Declaration Preface] (ASICS)

ASICS formulated policies concerning its supply chain in 2004. These policies, however, did not previously cover a wide range of stakeholders (including employees and customers), who could have been adversely impacted through the company's business activities. Therefore, ASICS formulated its human rights policy³⁶⁶ in June 2022 to focus not only on the prevention and mitigation of adverse impacts, but also on the promotion of positive impacts on human rights, such as respect for diversity and the promotion of decent work. With the goal of formulating a policy aimed at bringing to fruition a sustainable society, ASICS reviewed international documents, referenced them when undertaking their efforts, and undertook engagement with various stakeholders.

In addition to the UNGPs and the OECD Guidelines, ASICS referenced the ILO MNE Declaration, which mentions positive contributions made by enterprises (including recommendations provided to multinational enterprises in relation to their contributions aimed at advancing decent work). ASICS also reviewed other

³⁶⁶ASICS, ASICS Human Rights Policy, <https://corp.asics.com/en/csr/respect-for-human-rights>

sources, such as human rights reports issued by governments, to gain a better understanding of major human rights challenges in countries relevant to the company's operations.

ASICS held internal interviews with those working in Human Resources & General Affairs, Production, Customer Service, Marketing and other departments, as well as with its European and American offices. Dialogues were also undertaken with the trade unions representing ASICS workers as a part of stakeholder engagements to understand the human rights challenges at the workplace.

A human rights policy will make a commitment regarding enterprise efforts to respect human rights and will incorporate responsible corporate behaviour into corporate policies and internal systems. In its formulation, it is important to refer to international instruments and to discuss it with internal and external stakeholders. When ASICS formulated its human rights policy, it referred to several international instruments, and the company held discussions with internal and external stakeholders situated in various positions in order to identify and understand salient issues for the company which helped to ensure that the human rights policy reflects the concerns of the potentially affected rights holders.

9.3.1.2 Systematic development of internal policies, including human rights policies [UNGPs 16, OECD Guidance 1.1] (Toshiba)

Toshiba has long been committed to respecting human rights, as stipulated in Article 1 of the Standards of Conduct for Toshiba Group³⁶⁷. Given recent global trends, Toshiba decided to establish a clear human rights policy, recognizing the need to publicly declare its aspirations regarding human rights both inside and outside its group. Thus, Toshiba's first human rights policy was formulated in March 2022, known as the Toshiba Group Human Rights Policy³⁶⁸.

The Toshiba Group Human Rights Policy complements the Standards of Conduct for Toshiba Group and the Toshiba Group Sustainability Policy. An overview of each policy is given in Table 9-3.

³⁶⁷Toshiba, Standards of Conduct for Toshiba Group, <https://www.global.toshiba/ww/sustainability/corporate/standards-of-conduct.html>

³⁶⁸Toshiba, Toshiba Group Human Rights Policy, https://www.global.toshiba/content/dam/toshiba/ww/sustainability/corporate/performance/social/pdf/human-rights-policy_en.pdf

► Table 9-3 Toshiba Group Policies

Name	Overview	Subject themes
Standards of Conduct for Toshiba Group	This set of standards serves to give form to the group's management philosophy ("Committed to People, Committed to the Future.") and stipulates behavioral guidelines when it comes to conducting business activities that are fair, honest, and transparent, and for the purpose of having the enterprise be one which serves to contribute to the formation of a sustainable society.	General
Toshiba Group Sustainability Policy	This policy serves to strengthen activities involving contributions geared toward the sustainability of society. It supports efforts aimed at finding solutions for societal issues that Toshiba has undertaken thus far. These efforts are based on a long-term view of the societal impacts resulting from its corporate activities as a member of a society facing various challenges (such as energy shortages, resource depletion, and climate change).	Sustainability as a whole
Toshiba Group Human Rights Policy	Respect for human rights is stipulated in Article 1 of the Standards of Conduct for Toshiba Group, and this policy was established to further clarify the Toshiba Group's stance and efforts being undertaken in relation to human rights.	S (Human Rights)

Source: Standards of Conduct for Toshiba Group (Toshiba Website)

Furthermore, recognizing that it is important to make thorough efforts to respect human rights not only within the Toshiba Group but also across the group's supply chains, the Toshiba Group has formulated the Toshiba Group Procurement Policy³⁶⁹ as well as a document titled Requests to Suppliers, which serves to issue requests for compliance with human rights considerations and to confirm the state of compliance through CSR surveys.

In the recent past, the Toshiba Group established the Toshiba Group Responsible Minerals Sourcing Policy for certain minerals (tin, tantalum, tungsten, gold and cobalt). The group has been conducting research, providing education, undertaking external collaboration and educational activities to promote responsible mineral procurement. These efforts were in response to the increased potential for risks in the Democratic Republic of the Congo and in neighboring countries, as well as conflicts in other high-risk areas, human rights violations in general (including child labour), and corruption, in mineral procurement.

Embedding responsible business conduct into corporate policies and internal systems is required as the first step to undertaking efforts aimed at respect for human rights. Based on the Standards of Conduct for Toshiba Group, the Toshiba Group formulates and discloses various policies concerning responsible corporate conduct. Amid these efforts, the Toshiba Group is striving to incorporate initiatives related to human rights into its corporate policies and management systems.

³⁶⁹Toshiba, Toshiba Group Procurement Policy, <https://www.global.toshiba/ww/procurement/corporate.html>

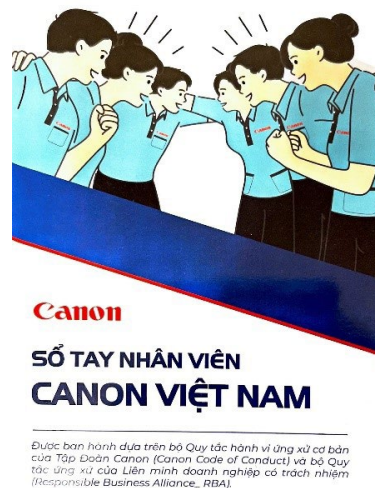
9.3.1.3 Efforts to disseminate a human rights policy by preparing and distributing handbooks in the local official language [UNGPs 16, OECD Guidance 1.1] (Canon)

Canon published the Canon Group Human Rights Policy,³⁷⁰ established in 2021, in both Japanese and English languages. The policy has been disseminated among employees and stakeholders in each country and region via its website. Canon also communicates its human rights policy and related information in the official languages of the countries and regions where its sales companies and factories are located.

Canon Vietnam, for example, has prepared a handbook in Vietnamese which describes the company's human rights policy, the Canon Group's corporate philosophy, its code of conduct and other such policies. The handbook is given to employees when they join the company and efforts are made to ensure that everyone is aware of its contents.

The handbook provides information on a whistleblower system (contact email address) which allows local employees to report illegal or unethical behavior. It also provides information concerning an employee helpline (telephone number for a hotline) which allows for closer communication in worker's mother tongue of Vietnamese when it comes to matters that include requests for improvements in the workplace environment, demonstrating that attempts are being made to respond promptly to occurrences such as human rights issues and other concerns.

► Figure 9-4 Canon Vietnam handbook



Source: Canon Vietnam

³⁷⁰Since Canon's founding in 1937, all employees have been treated the same on a fair and equal basis, without any discrimination due to status, gender, age or occupation. This stance was based on a complete respect for humanity. Following half a century of operations, Canon adopted the corporate philosophy of kyosei in 1988. Kyosei is the aspiration to create a society in which all people, regardless of race, religion or culture, live and work together for the common good. It sets the goal of human happiness and prosperity above the profits earned by any single company or nation. Under these circumstances, Canon has examined the nature of its human rights policy internally in light of recent social demands, and has formulated it once again as a human rights policy in order to align it with international standards as required by the Guiding Principles on Business and Human Rights.

Canon, Respecting Human Rights, <https://global.canon/en/csr/people-and-society/labor/human-rights.html>

It is important not only to formulate human rights policies, but also to ensure that people are aware of them and to put them into practice. Canon Vietnam distributes a handbook on human rights policies and related information to employees in the official language of the country when they join the company to make them aware of not only the existence of human rights policies, but also to make them aware of the specific human rights and workers' rights which are to be protected. The handbook also provides information on the whistleblowing system and the contact point for consultations, making it easier to respond promptly to occurrences such as human rights issues and concerns which arise in relation to such issues.

9.3.1.4 Promotion of company-wide initiatives through a human rights promotion secretariat and risk management committee [OECD Guidance 1.2] (Canon)

Canon promotes group-wide efforts to respect human rights as described below. Canon achieves this by utilizing both its Risk Management Committee, established in accordance with a resolution of the Board of Directors, and the promotion system of the Human Rights Promotion Secretariat, which is comprised of the Sustainability Division, Legal Division, and Human Resources Division, and is headed by the Executive Vice President (who is the executive responsible for human rights).

First, the Human Rights Promotion Secretariat oversees matters related to the entire Canon Group with its goal being to promote initiatives based on the Canon Group Human Rights Policy throughout the Group. It formulates overall plans for efforts relating to respect for human rights, including policies for activities related to human rights due diligence. Head office divisions and group companies are to undertake actions such as human rights due diligence in accordance with the determined plans concerning initiatives relating to respect for human rights. The results of these initiatives are evaluated annually by the Risk Management Committee³⁷¹ and reports are then provided to the CEO and the Board of Directors. The Human Rights Promotion Secretariat reflects elements such as the issues identified based on the series of initiatives to plans for initiatives relating to respect for human rights in the following fiscal year and beyond.

The Human Rights Promotion Secretariat is responsible not only for drawing up plans as described above, but also for undertaking actions such as the development and operation of grievance mechanism, the raising of awareness concerning human rights policies, and the planning and implementation of stakeholder engagement.

³⁷¹ Since 2022, the Risk Management Committee identified the risk of human rights violations as a significant risk, and the results of human rights due diligence, etc., are now subject to evaluation by the Committee.

► Figure 9-5 Human rights risks identification workshop in business units



Source: Canon

Since enterprises are required to respect human rights throughout their value chains, there are many issues which need to be addressed in cooperation with the respective entities involved, such as head offices and group companies. The Human Rights Promotion Secretariat at the Canon Group's headquarters, which is responsible for risks related to human rights, both manages and supports the identification, prevention, and mitigation of human rights risks at each division of the headquarters and at each group company, thereby working to promote group-wide initiatives aimed at respect for human rights.

9.3.1.5 Establishment of Responsible Value Chain Subcommittee to promote group-wide efforts to respect human rights [OECD Guidance 1.2] (Brother)

Brother Industries (hereinafter referred to as “Brother”) has established a Sustainability Committee chaired by the Representative Director and President to promote various activities globally centered on the materiality initiatives based on the Basic Policy on Sustainability, and to promote management with a focus on sustainability. Brother has established six subcommittees under the Sustainability Committee to promote management that focuses on sustainability across divisions (Figure 9-6).

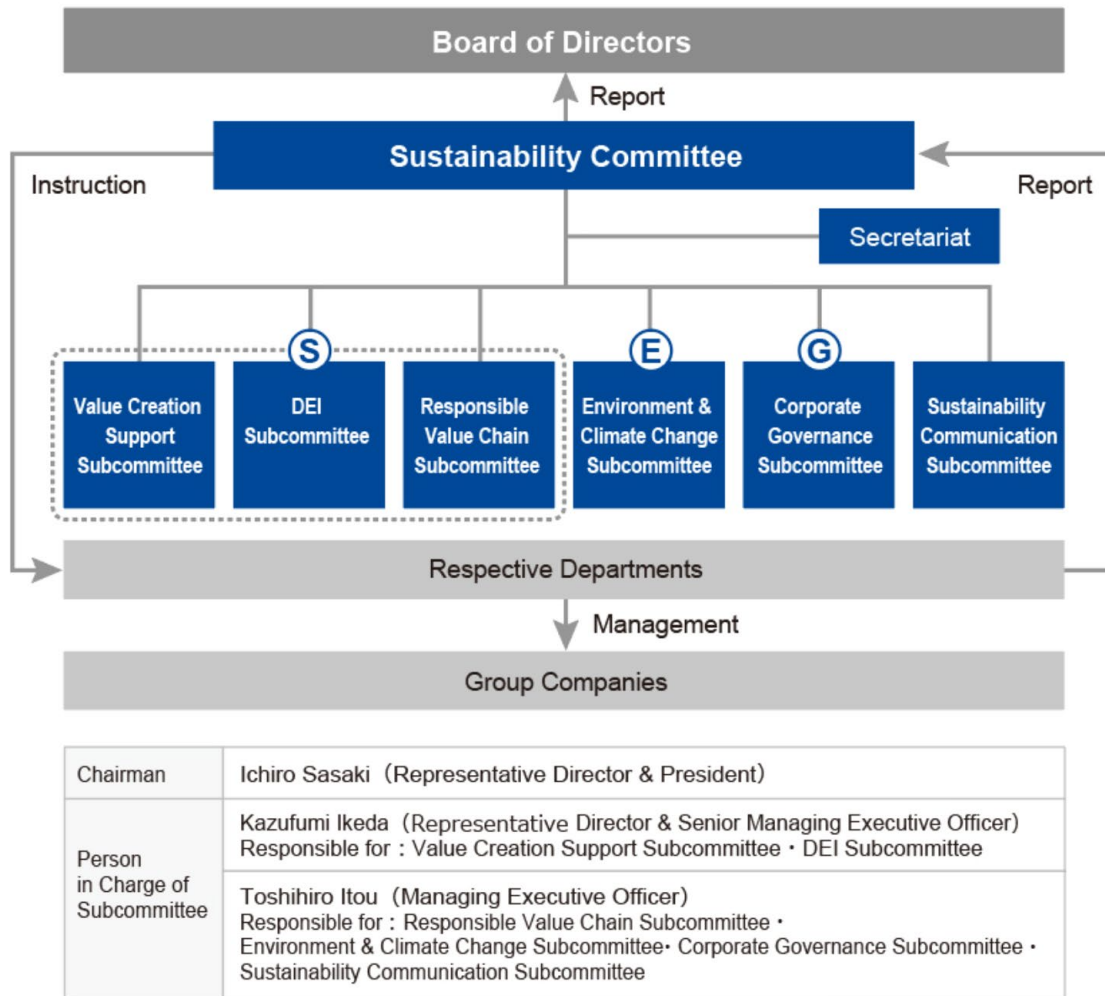
Among these subcommittees, the Responsible Value Chain Subcommittee plays the role of promoting activities to ensure the respect of human rights for people involved in the group’s business and to provide safe and secure workplaces to workers in the group’s value chain. Centered on the Legal Division, Purchasing Division and CSR Division, the subcommittee is leading the group overall in promoting initiatives for the identification of human rights issues and the mitigation and prevention of adverse impacts.

Specifically, for example, the Social Subcommittee³⁷², the predecessor of the Responsible Value Chain Subcommittee, was central in the preparation of the draft of the Brother Group Human Rights Global Policy, which was newly established and released on January 30, 2023, following discussion and approval by the Sustainability Committee to strengthen respect for human rights and the handling of notable human rights issues throughout the group and to prevent adverse impacts on human rights throughout the value chain.

Further, the Responsible Value Chain Subcommittee is devising ways to implement initiatives more efficiently as the suppliers for each business and group company are different. For example, the format of the questionnaire for suppliers has been made uniform. In addition, a questionnaire focused on matters such as forced labour by the Responsible Value Chain Subcommittee and a CSR questionnaire (see 9.2.3.7) from the perspective of CSR procurement by Purchasing Department have been integrated. Such efforts are leading to the appropriate identification, prevention and mitigation of adverse impacts by reducing the administrative burden of supplier questionnaires in a rational way.

³⁷²In April 2023, the Social Subcommittee was reorganized into the Subcommittees on S of ESG (Value Creation Support Subcommittee, DEI Subcommittee and Responsible Value Chain Subcommittee) shown in Figure 9-6.

► Figure 9-6 Brother’s framework for the promotion of management that emphasizes sustainability



Source: Brother website: Promotion of Management with a Focus on Sustainability³⁷³

Brother has established the Responsible Value Chain Subcommittee under its Sustainability Committee, which is chaired by the Representative Director and President and reports to the Board of Directors. Under the subcommittee (including its predecessor organization), Brother has formulated a Human Rights Global Policy as a group and streamlined questionnaires so it can advance initiatives as the group overall.

³⁷³Brother, Promotion of Management with an Emphasis on Sustainability, <https://global.brother/en/sustainability/csr/management>

9.3.1.6 Development of systems that promote cross-functional collaboration through the Sustainability Committee and other subcommittees [OECD Guidance 1.2] (Wacoal)

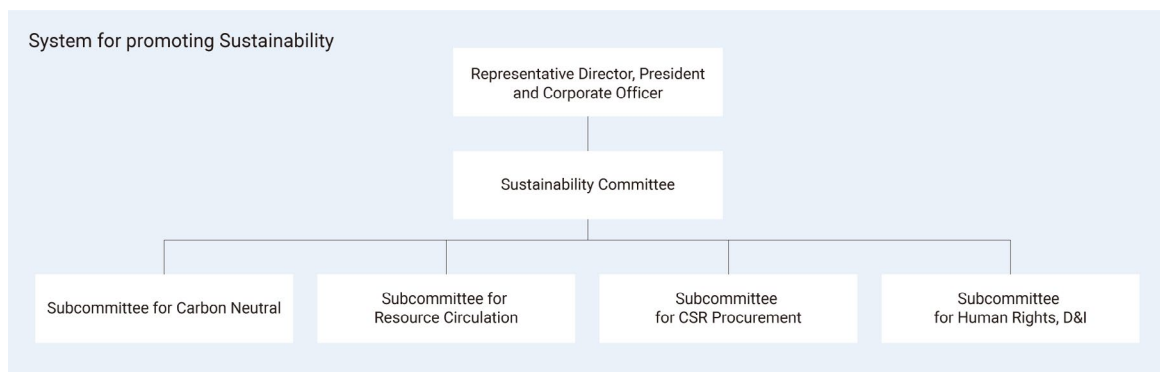
In April 2022, Wacoal established a Sustainability Committee headed by its Representative Director, President and CEO, and created a system for the provision of reports and recommendations to the Board of Directors on initiatives undertaken in relation to sustainability agenda facing the group. Regarding business and human rights, Wacoal also established two subcommittees, one for CSR Procurement and another for Human Rights, D&I³⁷⁴. These subcommittees operate under the Sustainability Committee (See Chart 9-7).

The Subcommittee for CSR Procurement is headed by the Representative Director, Vice President and Executive Officer and CFO. It is comprised of a Promotion Secretariat (Legal/Compliance Dept., Corporate Planning Dept., Global Division, Business Administrative Dept.) and each business unit. The Promotion Secretariat discusses and formulates specific plans for CSR procurement undertaken by the Wacoal Group together with subcommittee chairs while considering the opinions provided by the business units and other stakeholders. Each of the business units, including Wacoal Group companies, undertake the CSR procurement initiatives in accordance with the plans. The results of efforts undertaken by each business unit are reported to the Subcommittee for CSR Procurement, which then provides feedback to each of the business units, including with respect to improvements to be made in the future.

Furthermore, Sustainability Promotion Officers have been appointed at the Corporate Communications Department to promote efforts relating to sustainability issues faced across the group. The Corporate Communications Department participates as a member not only of the Subcommittee for CSR Procurement, but also as a member of other committees such as the Subcommittee for Human Rights, D&I. It allows the Wacoal Group to communicate appropriately and smoothly with both internal and external stakeholders (including investors and NGOs) in relation to its sustainability initiatives.

Business and human rights issues, of course, need to be also considered from perspectives other than procurement. For that reason, Wacoal established its Subcommittee for Human Rights, D&I (refer to Chart 9-7) to conduct educational and awareness-raising activities related to the protection of human rights and to provide advice and recommendations concerning the implementation of human rights due diligence.

► Chart 9-7 Sustainability Promotion System at Wacoal Holdings



Source: Wacoal Holdings Website³⁷⁵

³⁷⁴D&I is an abbreviation for Diversity and Inclusion.

³⁷⁵Wacoal Holdings, System for promoting Sustainability, <https://www.wacoalholdings.jp/en/sustainability/system/>

It is necessary to establish a system which allows for cross-functional efforts to be undertaken since initiatives aimed at respect for human rights are required in various aspects of business activities. Wacoal established its Subcommittee for CSR Procurement underneath its Sustainability Committee to promote cross-functional cooperation among various departments. Wacoal also promotes this cross-functional initiative by appointing a Sustainability Promotion Officer at the Corporate Communications Department to enable appropriate communication with external organizations when it comes to initiatives relating to CSR procurement.

9.3.1.7 Promotion of internal understanding of CSR procurement measures: [OECD Guidance 1.1] (Teijin Frontier)

Teijin Frontier has formulated a CSR Procurement Basic Policy, which consists of a basic procurement policy³⁷⁶ and a procurement policy concerning human rights, labour, and environment³⁷⁷ and CSR procurement standards. The company distributes the CSR Procurement Standards to selected domestic and overseas suppliers based on internal standards and works to gain understanding and cooperation from the suppliers regarding the company's CSR Procurement Basic Policy.

► Figure 9-8 Teijin Frontier Supply Chain CSR seminar for suppliers



Source: Teijin Frontier

On the other hand, it is important that not only external stakeholders, such as suppliers, but also internal stakeholders, who are responsible for implementing the CSR Procurement Basic Policy, understand the policy. To achieve this, Teijin Frontier is also promoting education for internal stakeholders. For example, the company delivers education on CSR procurement in e-learning format. Moreover, the company provides training workshops to promote a more proactive understanding among employees. This training is conducted by Teijin Frontier's Environment, Safety and Quality Assurance Department, while utilizing the specialist materials provided by a multi-stakeholder initiative.

³⁷⁶It consists of five items: compliance with the law, fair and equitable transactions, selection of appropriate business partners, cutting off relations with anti-social forces, and co-existence and co-prosperity with society.

Teijin Frontier, CSR Procurement, <https://www2.teijin-frontier.com/english/sustainability/procurement/>

³⁷⁷It consists of three sections: respect for human rights, ensuring occupational health and safety and preservation of the environment.

For example, at the introductory level of the workshop training, a simulation exercise is organized in which “human rights issues have been identified at a company in the supply chain in Southeast Asia related to raw materials used in Teijin Frontier products”. Participants are divided into the various stakeholders in the supply chain, such as, the company’s first-tier suppliers of the raw materials, the retailers who sell those products and the Teijin Frontier shareholders. The participants are then asked to role-play how each stakeholder is expected to act in their respective positions.

At the intermediate level, the training incorporates a role-playing game from a corporate management perspective. During the games, assuming that each of the participants became a corporate executive, participants undertake budget allocation tasks for both capital investment for normal business operations and investment aimed at addressing human rights issues, etc., in the supply chain. The training aims to develop a comprehensive understanding of increasing corporate profits while balancing the two key themes.

To prevent and mitigate adverse impacts on human rights, it is necessary to promote understanding of efforts to respect human rights among internal employees. Teijin Frontier not only provides online self-guided learning but also incorporates role-playing to allow employees to take more initiative and deepen their understanding.

9.3.2 Prevention and mitigation of adverse human rights impacts

9.3.2.1 Implementation of labour-management dialogue dedicated to human rights separate from Worker-Management Conference to ascertain employees’ concerns about human rights [UNGPs 18, OECD Guidance 2.1, MNED 10(e), 61, 63] (Canon)

Canon believes that engagement with stakeholders, who may be subject to actual or potential adverse impacts, is an essential component of human rights due diligence.

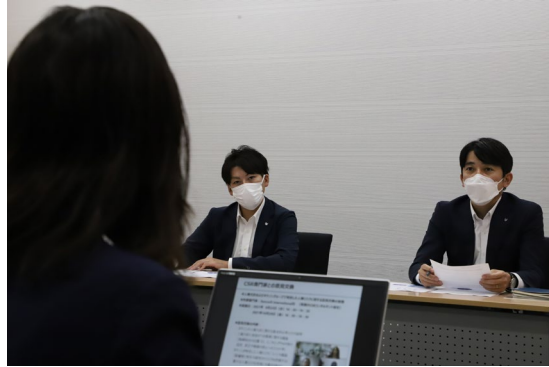
As such, for identifying salient human rights risks³⁷⁸ as part of its human rights due diligence, Canon conducts human rights-related dialogue with its labour union in addition to regular labour-management consultations. During the dialogue held in 2021, the discussion included a wide range of risks to human rights, while also confirming the trade union’s perspectives, on topics particularly pertinent to human rights risks for employees such as discrimination based on race, sex, religion and other such attributes, harassment, overwork, occupational health and safety, and the protection of privacy.³⁷⁹ During the exchange of views, the trade union raised concerns about overwork and about occupational health and safety, and Canon reiterated its recognition that these are among the important issues being faced at the Canon Group.

Canon identifies and evaluates the salient human rights risks which it faces based on these stakeholder perspectives and opinions (See 9.3.5.2).

³⁷⁸Salient human rights risks generally refer to the risks that rights-holders are exposed to in terms of risks involving serious adverse impacts faced in the course of the activities of their company and during the course of their business relationships.

³⁷⁹Canon believes that the foundation that is in place thanks to labour and management having worked together to address employee issues (including those related to human rights) over the course of the group’s long history of labour-management consultations, that meaningful exchanges of views are being successfully undertaken.

► Figure 9-9 Dialogue with Canon Workers' Union on human rights



Source: Canon

It is not always easy to properly ascertain adverse impacts on human rights that can arise through business activities from a corporate perspective alone, so dialogue with stakeholders is important. Canon, for example, undertakes labour-management dialogue that is specific to human rights in addition to ordinary labour-management consultations when going about identifying adverse impacts on human rights. By incorporating the perspectives of stakeholders, and not just the perspectives of enterprises, Canon strives to better ascertain actual or potential adverse impacts.

9.3.2.2 Implementing factory audits while engaging in dialogue and taking into account characteristics of foreign workers [UNGP 18] (Miki Shoko)

From 2018 to 2019, together with an NGO with specialist expertise, Miki Shoko implemented audits of the domestic garment factories of 25 suppliers who were in a direct contractual relationship with the company (Tier 1) and employing foreign technical intern trainees, focusing on the work environments of the foreign technical intern trainees.

In 2020, due to the impact of the spread of COVID-19 infections, the company had no choice but to suspend the audits of the factories temporarily. However, it resumed the audits in 2021, and since then, the scope has been expanded to include domestic dyeing factories, which are secondary suppliers (Tier 2) of Miki Shoko.

In audits implemented jointly with this kind of specialist external organization, the company confirms documents related to foreign technical intern trainees to confirm their working hours, the details of the labour contracts, and wages are being paid properly. It also checks occupational safety and health, such as the securing of evacuation routes and the appropriate management of chemicals, and inspects the work sites of foreign technical intern trainees to confirm whether the work environment is appropriate and whether safety management is being carried out appropriately. Moreover, the company interviews foreign technical intern trainees in their native languages and inspects dormitories to confirm whether any situations have occurred in which forced labour would be suspected based on international standards³⁸⁰ from the perspective of the work environment and treatment of foreign technical intern trainees.

³⁸⁰The ILO indicators of Forced Labour (https://www.ilo.org/wcmsp5/groups/public/---ed_norm/---declaration/documents/publication/wcms_203832.pdf) describe eleven indicators of suspected forced labour. Example indicators include withholding of wages, debt bondage, abusive working and living conditions, and excessive overtime.

In these audits, rather than focusing on checking the specified items using checklists, the company emphasizes dialogue with people in the factories including management, General Affairs divisions, workers and foreign technical intern trainees, so that it can find out the actual working conditions of factory employees and the situation around occupational health and safety.

Dialogue with stakeholders is important to identify adverse impacts. In its audits, Miki Shoko does not limit itself to using checklists, but also gives consideration by emphasizing dialogue with the people in the factories, including management, General Affairs divisions, workers and foreign technical intern trainees. Moreover, it implements factory audits based on the characteristics of foreign workers, such as interviewing them in their native language and confirming whether curfews and rules associated with the restriction of movement, which could be judged to be forced labour, are applied in dormitory life.

9.3.2.3 Efforts to ascertain the working conditions at local factories through various means such as weekly reports and field visits [UNGP 18, OECD Guidance 2.2, MNE Declaration 9] (Kojima Iryo)

Kojima Iryo is working to improve the working environment in its own local factories in cooperation between its head office in Japan and the local factories. For example, at its factory in Bangladesh, the company makes efforts to understand and improve the working environment mainly through (1) weekly reports, (2) field visits, and (3) regular interviews.

- (1) Weekly reports: In order to understand the working environment and local employees' opinions, such as requests for improvements related to their working environment, all overseas representatives are required to prepare weekly reports after interviewing locally hired group leaders and vice group leaders. The person in charge of each representative's work group confirms the content of the weekly reports within the group and shares it with the head office.
- (2) Field visits: Once every two to three months, personnel from the head office in Japan visit its overseas factories and conduct field inspections.³⁸¹ During the visits, in addition to confirming whether there are any problems with the adequacy or safety of the working environment in the factory, they also confirm whether there are any problems with the living environment of the employees through dialogue with them. In this way, by conducting factory site visits and engaging in direct dialogue with the employees, taking into account the opinions of those concerned about local conditions, such as culture and religion, they are making efforts to avoid a situation where employee dissatisfaction, if any, is not reported to the head office.
- (3) Regular interviews with factory employees: Factory executives conduct interviews with the employees about once a month from the perspective of whether there are any problems with their working or living environments. They proactively gather firsthand opinions from the employees through the interviews and share them with the head office in Japan.

³⁸¹ Except for the periods when movement restrictions were in place due to the COVID-19 pandemic.

Based on the information obtained from the activities described in (1) to (3), Kojima Iryo makes sure that the head office confirms whether there are any issues in the working environment of the factory. Corrective measures will be considered and implemented once an actual problem is identified. If, despite the implementation of corrective measures, similar problems continue to be communicated through weekly reports or other such means, the company will deem that the measures are not working and take further action.

Due to factors such as the distance from the head office in Japan, compared with domestic factories, it is generally not easy to ascertain adverse human rights impacts in overseas factories in particular. Kojima Iryo is using a variety of methods to try to understand the working environment of workers in overseas factories.

9.3.2.4 Comprehensive support by Headquarters for self-assessments by each group company to ascertain its human rights and labour-related issues [UNGPs 18, OECD Guidance 2.1/2.2, MNE Declaration 9] (Panasonic)

In order to identify and evaluate adverse impacts on human rights in the course of human rights due diligence, the Panasonic Holdings Corporation (hereinafter referred to as “Panasonic Holdings”), since FY2022 (fiscal year ended March 31, 2022), has been requesting that group manufacturing companies operating overseas (which hereinafter refers to group companies located overseas which are in charge of manufacturing of products for the group) undertake a “self-assessment related to human rights and labour compliance” (hereinafter referred to as self-assessment) in order to provide a bird’s-eye view of human rights and labour issues.

During the “self-assessment related to human rights and labour compliance”, each company that receives a request for implementation thereof, will autonomously investigate the existence of any adverse impact on human rights, including worker’s rights, and take suitable measures when such issues are identified. In order for self-assessment to be fully implemented, it is necessary for the group companies to properly gain an understanding of the meaning behind self-assessment and how it is to be approached. Therefore, Panasonic Holdings asks each group company to appoint a person in charge of overseeing the implementation of the self-assessment when requesting to conduct the self-assessment. In conjunction with this, Panasonic Holdings provides support to group companies, such as introductory briefings, and communicates closely with them to ensure the implementation of the self-assessment. As a result, Panasonic Holdings was able to collect the results of self-assessment from all group companies in FY2022.

Through the self-assessment implemented in FY2022, Panasonic Holdings recognized that more specific understanding of the issues was necessary to take corrective measures swiftly among group companies, and therefore revised questions on the self-checklists. After making improvements based on the experience of the FY2022 self-assessment, the company conducted the self-assessment in FY2023, adding some domestic manufacturing sites to its scope.

The abovementioned self-checklists were prepared referencing materials produced by an industry organization, as well as international standards such as ILO Fundamental Principles and Rights at Work. In doing so, Panasonic Holdings devised ways, including tailoring and rephrasing the wording, to make it

easier for group companies to respond. Furthermore, there is a plan to provide awareness and education to relevant employees in the future so that the employees of group companies can correctly understand the meaning of the questions on the lists, and identify and rectify issues autonomously.

Even if a group company has been provided with a request to undertake human rights due diligence, there is the possibility that the response undertaken at the group company ends up being merely formalities if they lack the required human resources, a basic knowledge and understanding of the necessity, and the meaning behind human rights due diligence. In this case, the Panasonic Group strives to appropriately grasp the situation in the group companies through the self-assessment, which constitutes a part of human rights due diligence, and has made various creative efforts, including the appointment of focal persons and holding prior briefing sessions to support group companies. Furthermore, the use of the ILO's Fundamental Principles and Rights at Work and documents produced by an expert organization, as well as the improvement of checklists based on the results of previous efforts, can lead to more effective identification of adverse impacts on human rights.

9.3.2.5 Provision of multiple mechanisms to collect feedback from employees at factories to identify potential adverse impacts at early stages [UNGPs 18, OECD Guidance 2.1] (Canon)

Through various channels used to collect complaints, Canon aims to quickly identify and resolve workplace concerns which have the capacity to inflict adverse impacts on the human rights of employees.

For example, Canon Vietnam, the production base where the largest number of Canon Group employees work, has three factories. Each of those factories has multiple consultation channels available to employees. In addition to the system available to employees (which involves interviews with supervisors, an HR and general affairs consultation hotline, an internal reporting system, and letter boxes set up at factories), the company issues an online survey for all employees once a year as a way to proactively take a look at employee concerns and their situations. This online survey asks employees to answer about one hundred questions about their job satisfaction, events related to their employee benefits, workplace environments and other such matters.

Canon Vietnam reviews various concerns and consultations and considers the responses to be undertaken through these channels. For example, there was an instance wherein feedback was collected through online surveys about concerns regarding room temperatures in the workplace. Canon Vietnam confirmed that the temperatures in Vietnam are high on many days in the summer, so even if the air conditioning system is running, the temperature does not reach the proper temperature in some places. Work in such an environment may cause ill health and other adverse effects. Therefore, in order to prevent and mitigate adverse effects, Canon Vietnam has taken measures such as installing ceiling fans and air conditioners, adding ventilation pipes and providing chilled lemon water to prevent heatstroke.

► Figure 9-10 Canon Vietnam Factory Manager responds to the concerns raised by employees



Source: Canon

Efforts to prevent and mitigate risks before adverse human rights impacts materialize increase the likelihood of avoiding human rights violations. Canon is trying to ascertain as wide a range of employee concerns as possible by providing various channels for collecting complaints.

9.3.2.6 Effort to ensure traceability up to Tier 4 suppliers, prioritizing specific raw materials [OECD Guidance 2.2] (ASICS)

ASICS recognizes that it has an important role to play in the supply chain and believes that greater transparency is an essential duty the company has to all of its stakeholders. With this in mind, ASICS publishes a list of supplier factories with which the company has a direct contractual relationship (Tier 1) and the main suppliers (or supplier factories) of Tier 1 suppliers (Tier 2).

Moreover, ASICS has started conducting investigations on specific raw materials on a priority basis so that it can identify Tier 2 suppliers, Tier 3 suppliers, and even Tier 4 suppliers by requesting inquiries to intermediary agents which support the transactions with Tier 1 suppliers. When issuing such requests to intermediary agents, ASICS carefully explains traceability needs to be ensured, along with a worksheet for the data aggregation to help the intermediary agents understand and collect the required data effectively.

Tracing all direct and indirect suppliers in broad-ranging supply chains is a difficult undertaking. ASICS is striving to ensure transparency of its supply chain by prioritizing specific raw materials and working with intermediary agents to identify suppliers up to Tier 4 suppliers.

9.3.2.7 Efforts to ensure traceability through confirmation of supply chain from direct suppliers at the product planning stage [OECD Guidance 2.2] (Fast Retailing)

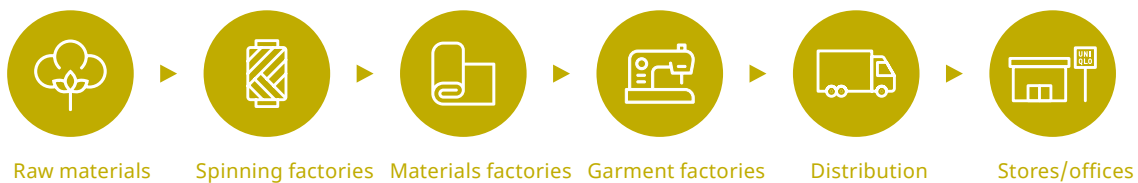
Fast Retailing is working with its production partners on matters such as respect for human rights, improvement of work environments and environmental protection throughout its supply chain. The company is making efforts to increase transparency and fulfill its responsibilities in the supply chain by publishing a list

of its production partners³⁸².

In order to disclose production partners, it is necessary to first identify them. In general, the apparel industry has complex supply chains. In the upstream of garment factories that are the direct business partners of clothing manufacturers and distributors (Tier 1), there are fabric factories (Tier 2), spinning factories (Tier 3), and so on. Also, there are cases where garment factories procure fabrics from different fabric factories (Tier 2) each season via a fabric trading company, and in such cases it becomes difficult to track Tier 2 suppliers onwards.

► Chart 9-11 Fast Retailing's supply chain process

Supply Chain Process



Source: Fast Retailing Integrated Report 2022³⁸³

Given such circumstances, Fast Retailing works with garment factories (Tier 1) to identify the source of procurement of materials, such as fabric, at the product planning stage. This approach stabilizes the production and quality of products that the company will ultimately purchase. Furthermore, the company strives to identify Tier 2 and Tier 3 production partners as far as possible so that it can implement long-term human rights initiatives with its production partners.

When companies conduct human rights due diligence, there are many cases where it is difficult for the company to grasp indirect business partners (Tier 2, Tier 3, etc.). Given industry's complexity, Fast Retailing works to ensure the traceability of indirect suppliers by consulting with its direct suppliers (Tier 1) to confirm and manage their indirect suppliers.

9.3.3 Cease, prevent and mitigate adverse impacts

9.3.3.1 Promotion of a culture of occupational health and safety through dialogue with employees [UNGP 19, OECD Guidance 3.1, MNE Declaration 44] (Panasonic)

Based on the Panasonic Occupational Safety and Health Policy³⁸⁴, Panasonic Industrial Devices Vietnam

³⁸²As of September 2022, all sewing factories planned for ongoing transactions, fabric factories that continuously produce fabrics for Fast Retailing products, and factories to which sewing factories outsource some processing processes (washing, printing, etc.) are disclosed. Note that "sewing factories" refers to factories that produce the final products and includes both direct and indirect trading partner factories.)

³⁸³Fast Retailing, Integrated Report 2022, https://www.fastretailing.com/eng/ir/library/pdf/ar2022_en.pdf

³⁸⁴Panasonic, Panasonic Occupational Safety and Health Policy, <https://holdings.panasonic/global/corporate/sustainability/social/health-and-safety/policy.html>

(hereinafter “Panasonic Vietnam”), which is one of the group’s manufacturing companies located overseas, believes that it is important for employees to be able to think about their health and safety and discuss problems among themselves to ensure the safe and healthy working conditions at the factory and subsequently to prevent and mitigate potential adverse impacts such as injury and death. As such, the company has established a system to foster such a culture.

Specifically, a Health and Safety Committee has been set up at the factory, and employees who are members of the Committee discuss prevention of incidents and industrial accidents. Based on these discussions, the Committee has identified the following as the means to foster a safety culture: (1) management and supervision, (2) risk assessments and countermeasures, (3) rules and training, and (4) a zero-accident mindset. The Committee has formulated an implementation plan including a list of specific activities for items (1) through to (4) and has set KPIs³⁸⁵ to monitor progress (Figure 9-12). The above activity plan is communicated by the leaders of each department to their subordinates to provide opportunities to consider health and safety and raise awareness.

► Figure 9-12 Target of Safety Innovation Activities



Source: Prepared based on documents provided by Panasonic Vietnam

In addition, risk assessment training is regularly conducted to discuss high-risk processes and other elements that can cause accidents resulting in injury or death, while viewing videos related to specific work. These efforts also contribute to fostering the safety culture described above.

In addition, Panasonic Industry provides support for the health and safety activities of its subsidiary Panasonic Vietnam. For example, Panasonic Vietnam conducts what are called “monthly safety patrols”, which are activities purposed with periodically evaluating measures implemented to ensure the occupational safety of employees. Panasonic Industries receives reports from Panasonic Vietnam and provides advice to it so that occupational safety can be further improved upon.

³⁸⁵ KPI stands for key performance indicator.

Building safety and health systems and fostering a culture of safety and health on site are important measures to prevent and mitigate adverse impacts on human rights due to incidents and other such occurrences. It is also important to fully engage in dialogue with employees and other stakeholders to prevent and mitigate such adverse impacts. Panasonic Vietnam engages employees in various ways with activities aimed at improving health and safety with its Health and Safety Committee and promotes a culture of health and safety while undertaking dialogue with employees.

9.3.3.2 Reduction of the risk of industrial accidents through dialogue with employees [UNGPs 19, OECD Guidance 3.1, MNE Declaration 44] (Wacoal)

Underneath its Sustainability Committee, Wacoal has established the Subcommittee for CSR Procurement, which is responsible for planning and monitoring progress of CSR procurement undertaken by the group (See 9.3.1.6). This subcommittee has been monitoring the state of compliance with the Wacoal Group CSR Procurement Guidelines through actions such as self-assessments conducted by manufacturing factories and suppliers of raw materials. The group has also encouraged problem solving at factories, for example, by conducting on-site audits of factories deemed to be at high risk based on information obtained through monitoring.

When undertaking these initiatives, Wacoal also attaches much importance to undertaking dialogue in relation to occupational health and safety with the employees of factories to which production is contracted. For instance, regarding occupational safety, employees sometimes wear iron gloves to protect their hands from machine blades during the fabric-cutting processes. However, performing detailed work wearing iron gloves can be difficult. As such, Wacoal has been working together with employees to improve quality through trial and error, such as developing and promoting the use of protective fingertip equipment and blade covers that prevent blade exposure.

In sewing processes involving sewing machines, the usage of finger guards was attempted, but the equipment ended up hardly being used. Thus, Wacoal is aiming to mitigate the occurrence of industrial accidents arising during sewing processes by not only utilizing commercially available finger guards, but also by developing and deploying its own finger guards while taking into account the opinions of employees. This effort is being made so that factories can take measures which prioritize safety and staff can engage in work safely without reducing work efficiency.

Stakeholder engagement is important when it comes to preventing and mitigating adverse human rights impacts. Worker-Management cooperation is essential especially in the area of occupational safety and health. To resolve the concerns of employees, Wacoal is using the results of engagement to better prevent and mitigate adverse impacts, which includes the adoption of different protective equipment and the development of new ones.

9.3.3.3 Efforts to ensure that foreign technical intern trainees are not burdened with recruitment fees for being sent from their home countries [UNGPs 19,22, OECD Guidance 3.1, 3.2] (Teijin Frontier)

A subsidiary of Teijin Frontier employs foreign technical intern trainees (hereafter foreign technical intern trainees). There were news reports that technical intern trainees were falling into the situation of having to work to repay debts as a result of coming to Japan by borrowing money and paying large recruitment fees to the sending organizations³⁸⁶ in their home countries. Given such reports, Teijin Frontier conducted an internal survey at its subsidiary, and found that some of the technical intern trainees at the subsidiary had paid large fees to sending organizations in their home country to come to Japan.

Considering this situation, Teijin Frontier thought it was important to ensure that technical intern trainees do not bear the burden of paying recruitment fees and related costs to the sending organization at the sending countries. Consequently, the company consulted with the subsidiary that employs technical intern trainees, and the subsidiary formulated a “Code of Conduct Concerning Foreign Workers”. The subsidiary then sent this Code of Conduct to the supervising organization³⁸⁷, requesting that the supervising organization pay attention so that the technical intern trainees do not bear the burden of their recruitment fees and related costs at the sending countries.

In order to ensure that technical intern trainees do not pay recruitment fees, since FY 2019, the subsidiary started to bear such fees after the sending organizations disclosed the amount of recruitment fees collected from technical intern trainees. Also, by directly checking with technical intern trainees that they have not paid fees for undertaking the traineeship, the company confirms with certainty whether or not technical intern trainees have paid fees. This additional check ensures that trainees have not paid any fees even if there are errors in the information disclosed by sending organizations.

The situation of having no choice but to work to repay debts can constitute one of those elements that underlie the assessment of forced labour, one of the serious adverse impacts on human rights. Teijin Frontier takes careful measures to prevent such situations from occurring by paying the fees to the sending organization at the subsidiary that accepts technical intern trainees, and confirming the facts directly with the technical intern trainees.

386 The term “sending organization” under the technical intern training system in Japan means an organization that can mediate job applications relating to technical intern training from persons who wish to become technical intern trainees on behalf of supervising organizations in Japan and satisfy the requirements set forth in Article 25 of the Ordinance for Enforcement of the Act on Proper Technical Intern Training and Protection of Technical Intern Trainees. (<https://www.jitco.or.jp/ja/regulation/send/>)

387 Under the supervising organization system, which is one of the methods for accepting technical intern trainees, a supervising organization means a non-profit organization such as business cooperative and chamber of commerce and industry that accepts technical intern trainees when technical intern training is implemented at an affiliated company, etc. (implementing organization). [based on the description of the supervising organization system at <https://www.jitco.or.jp/ja/regulation/>]

► Figure 9-13 A technical intern trainee working in a factory



Source: Teijin Frontier

9.3.3.4 Requesting and supporting supplier initiatives based on Policy of Engagement [UNGPs 19, OECD Guidance 3.2] (ASICS)

ASICS has developed a Policy of Engagement (hereinafter referred to as its “ASICS Policy of Engagement”)³⁸⁸, which sets out the minimum compliance standards for business partners. The partners are also required to submit written statements to the effect that their representatives accept the ASICS Policy of Engagement (and its application).

The ASICS Policy of Engagement covers six major categories and has established its “Employment Standards” as a standard related to human rights. It consists of eight subsections: (1) Prohibition of Forced Labour; (2) Prohibition of Child Labour; (3) Prohibition of Harassment and Abuse; (4) Non-Discrimination; (5) Freedom of Association and Collective Bargaining; (6) Compensation; (7) Hours of Work and Overtime; and (8) Health and Safety.

It is stipulated that if a Business Partner violates the ASICS Policy of Engagement, ASICS may request an immediate remedy, the termination of the contract, or both. When a violation is confirmed, ASICS will first request and provide guidance for corrections to be undertaken. If no improvements are observed after a certain period of time, the business unit involved will consider further measures, including termination of the relevant contract.

In the past, for example, a supplier was found to have violated the ASICS Policy of Engagement for not having provided proper overtime payments³⁸⁹. However, this case was attributable to a lack of awareness and misinterpretation of local laws and regulations. The ASICS business unit involved held direct conversations with the supplier to encourage improvements. The supplier paid overtime retroactively to workers in accordance with the ASICS Policy of Engagement, and revised its method of calculating overtime pay to bring it into line with the ASICS policy. As a result of these actions, there are no business partners with whom ASICS has terminated contracts for violating the ASICS Policy of Engagement to date.

³⁸⁸Suppliers (including manufacturers), contractors (subcontractors), brokers, advertising agencies, consultants and other service providers are collectively referred to as “business partners.”

ASICS, Policy of Engagement, <https://corp.asics.com/en/p/asics-policy-of-engagement>

³⁸⁹ASICS Policy of Engagement stipulates that “Business partners ... shall pay employees, in addition to remuneration for normal working hours, for overtime hours worked at a premium rate at least as determined by applicable law or, in countries where no applicable law exists, at a rate of at least 25% of the normal hourly rate of pay.”

Preventing and mitigating adverse impacts at suppliers is generally not as easy as it is at ASICS itself or at group companies. ASICS has formulated and requires compliance with the ASICS Policy of Engagement to strive toward resolving issues, including through direct interaction with suppliers rather than immediately terminating contracts when violations are identified.

► Figure 9-14 Production in a supplier factory



Source: ASICS

9.3.3.5 Use information obtained through grievance mechanisms to support production partners [UNGPs 19, OECD Guidance 3.2] (Fast Retailing)

Fast Retailing analyzes cases of consultation received from the employees of production partners through its own grievance mechanisms, including the above-mentioned hotline (see 9.3.6.2), and supports the prevention and mitigation of adverse impacts by production partners. For example, if analysis suggests a recurring pattern of consultation cases occurring in a particular country or region, the company offers support to production partners in that area for the prevention and mitigation of such adverse impacts.

For example, having analyzed the details of consultation received by Fast Retailing and country risks, the company identified the elimination and prevention of harassment at factories in Bangladesh as an important issue. As one of the measures, the company has cooperated with local NGOs since 2019 to advance a project to establish complaint processing committees at factories (production partners). These complaint processing committees formulate policies and guidelines on the prevention of harassment and play the roles of investigating harassment and engaging in mediation. They are comprised of at least five members; the chair and a majority of the members are women, and two of the members must be invited from outside the factory.

On the above project, Fast Retailing is supporting the factories (production partners) so that they can make these complaint processing committees function in a substantial sense. In fiscal year 2022, it implemented training for the managers, workers, and complaint processing committee members of eight newly contracted factories.

While companies are required to respond to the complaints submitted to their grievance mechanisms, the perspective of using complaints to prevent and mitigate future adverse impacts is also important. Fast Retailing analyzes complaints received through its grievance mechanisms and supports production partners towards the prevention and mitigation of adverse impacts based on the results.

9.3.3.6 Promote compliance with CSR procurement guidelines by suppliers [UNGP 19, OECD Guidance 3.2] (Miki Shoko)

In 2017, Miki Shoko formulated the Miki Shoko CSR Procurement Policy, the Policy on Human Rights for Suppliers³⁹⁰, and the Code of Conduct for Suppliers. Based on these policies, Miki Shoko formulated the Miki Shoko CSR Procurement Guidelines (first edition) and in 2020, and revised them (second edition) by adding the Miki Shoko Environmental Policy for Suppliers and Miki Shoko Policy on Migrant Worker for Suppliers. At the time of formulation of the first and second editions, the company held CSR procurement briefings for each supplier and made efforts to make suppliers aware of the content, and obtained agreement from suppliers that they would comply with the CSR procurement guidelines.

On the other hand, suppliers may perceive complying with CSR Procurement Guidelines as lacking in direct merit if such requests are made only by Miki Shoko, and efforts at suppliers may not progress sufficiently. To encourage suppliers to make efforts and build good long-term relationships, when suppliers support and agree on CSR procurement, including monitoring through third-party audits, and show commitment to make corrections in case of any issue, Miki Shoko takes it into consideration as positively as possible when placing orders.

For example, the company's Production Division strives to give consideration so that such suppliers can secure the number of orders required for stable operation of their plants throughout the peak and low seasons by placing additional product orders ahead of schedule on top of the regular orders to use the low season effectively.

Companies need to exercise their influence and strive to prevent and mitigate adverse impacts by suppliers. Miki Shoko asks suppliers to comply with the CSR Procurement Guidelines, and in certain cases, such as when suppliers support CSR procurement and show significant progress or commitment to improve, Miki Shoko provides economic incentives to the suppliers that can be considered positive when placing orders, by, for instance, smoothing production by placing orders farther in advance. This policy coherence across the enterprise, from top management down to procurement practices, signals Miki Shoko's commitment to work with suppliers and support their progress in respecting workers' rights.

³⁹⁰Recognising the need for a comprehensive approach to its human rights policy, not only for its suppliers but also for the company itself, Miki Shoko partially revised the content of its policy as a group and published it as the MIKI HOUSE Group Human Rights Policy in October 2023. Mikihouse, CSR procurement, <https://www.mikihouse.co.jp/en/pages/corporate-csr-procurement>

9.3.3.7 Promote supplier initiatives based on CSR questionnaire results [UNGPs 19, OECD Guidance 1.3 and 3.2, MNE Declaration] (Brother)

Brother requires its suppliers to comply with its Procurement Policy and CSR Procurement Standards. It also confirms the state of that compliance through regular CSR questionnaires and other means. Moreover, Brother requests and supports improvements by suppliers based on the results of that confirmation and monitors progress through audits.

For example, based on the evaluation criteria of Figure 9-15, the company rates each supplier from the perspective of high or low risk.

► Table 9-15 Evaluation criteria for CSR questionnaire

Risk rating	Score	Description
Low risk	85 pts or higher	Meets the “CSR Procurement Standards” requested by Brother
Middle risk	65 to 84 pts	Some areas require improvement, but voluntary improvements can be made.
High risk	64 pts or lower	Has areas that require improvement, and needs immediate improvement and monitoring.

Source: Brother website: Social (S) Responsible Supply Chain³⁹¹

Also, Brother gives feedback on the evaluation results, including the above scores, to all suppliers who undertake the CSR questionnaire, implements individual interviews with suppliers in accordance with the evaluation results, and requests improvements. Moreover, when it is considered necessary, Brother not only requests improvements, but also implements audits at suppliers’ production bases to confirm the state of improvements.

Attempts to identify and assess adverse human rights impacts through questionnaire surveys are carried out widely but identified problems will not necessarily be corrected by the questionnaire survey alone. Brother, therefore, follows up so that identified problems are corrected by various methods, including feedback to suppliers, individual interviews and audits.

► Figure 9-16 Brother explanatory meeting for suppliers, which includes explanations on human rights initiatives



Source: Brother website: Social (S) Responsible Supply Chain³⁹²

391 Brother, Social(S) Responsible Supply Chain, <https://global.brother/en/sustainability/social/supply-chain>

392 Brother, Social(S) Responsible Supply Chain, <https://global.brother/en/sustainability/social/supply-chain>

9.3.3.8 Collect information in collaboration with other companies to prevent and mitigate adverse impacts [UNGPs 19, OECD Guidance 3.1] (Maruhisa)

Maruhisa Co., Ltd. (hereinafter referred to as “Maruhisa”) is working with other companies to prevent and mitigate adverse human rights impacts as it develops its sewing business in overseas factories as an apparel OEM³⁹³.

For example, in Bangladesh, where the company has its own factory, the local labour laws and regulations provide for the protection of workers’ rights and freedoms considering the country’s circumstances, so strict compliance with such laws and regulations is a starting point in the prevention and mitigation of adverse human rights impacts on workers.

In Bangladesh, it is not always easy for foreign companies including Japanese companies to respond promptly to changes in labour laws and regulations because their revisions are published in the country’s official language of Bengali, and it takes time for the government to publish English translations. Maruhisa has relatively limited resources compared with globally operating companies with local bases in the region.

Therefore, to properly understand and strictly comply with local labour laws and regulations, including their amendments, Maruhisa holds study groups with companies located in the same export processing zone (EPZ)³⁹⁴ and uses the Japan-Bangladesh Chamber of Commerce and Industry as a forum to exchange information. In doing so, in addition to exchanging information on the revision of labour laws and regulations, the company collects information on other companies’ responses to labour laws and regulations which translates to prevention and mitigation of adverse human rights impacts, and it uses this information as a reference for its own efforts.

A company’s compliance with the laws and regulations that are applicable at its site of operation can be a starting point for the prevention and mitigation of adverse human rights impacts. In particular, compliance with labour laws and regulations is important from the perspective of protecting workers’ rights. Maruhisa makes good use of opportunities to exchange information with other companies while first trying to strictly comply with local labour laws and regulations.

9.3.4 Track implementation and results

9.3.4.1 Investigate and analyze the occurrence of serious industrial accidents and use the results to prevent re-occurrence [UNGPs 20, OECD Guidance 4.1] (Panasonic)

Panasonic Group is working toward gaining external certification ISO 45001, regarding a management system for Occupational Safety and Health, and implements risk assessments on machinery, equipment and hazardous substances at least once a year in accordance with the management system, striving to reduce the potential risk of occupational accidents and illnesses latent in the workplace.

³⁹³ OEM stands for “Original Equipment Manufacturer,” which refers to companies that manufacture products under the brands of other companies globally, and in principle, obliges sites to report all non-minor accidents. In particular, a report is required within 24 hours in cases of critical industrial accidents with a residual disability or serious industrial accidents in the Export Processing Zone.

in which multiple people are hurt simultaneously. Panasonic Group raises the elimination of such serious, critical industrial accidents as the most important issue and has investigated and analyzed the backgrounds and causes of the critical accidents that have occurred in the past. As a result, it was found that the main cause of critical accidents was fingers getting caught in the hazard source because work was carried out without stopping equipment during irregular work, such as the adjustment and maintenance of production equipment. Such accidents accounted for about 70% of the overall total and occurred often with old equipment with insufficient safety measures in particular.

Consequently, Panasonic Group decided to update the guidelines for the preparation of equipment safety standards annually, taking into account previous accidents and incorporating the latest international standards. Based on these guidelines, the group is promoting equipment safety measures, including old-style equipment. Furthermore, Panasonic Group is working to realize the elimination of critical accidents by developing resource persons who understand the guidelines and can support the development and implementation of safety skills and take root as good practices in the workplace.

Even if various measures are taken, it is difficult to avoid adverse impacts from occurring completely. Panasonic Group monitors the state of occurrence of industrial accidents, carries out research and analysis on the causes and backgrounds of critical accidents with residual physical disabilities as a priority issue, and uses the results in future safety measures.

9.3.4.2 Use of existing monitoring indicators collected by HR department for human rights due diligence [UNGPs 20, OECD Guidance 4.1] (Canon)

Canon has been implementing measures to prevent and mitigate various risks identified through human rights due diligence. When evaluating the effectiveness of proposed measures for addressing adverse impacts on employees, Canon uses indicators including those that have been managed in the operations of its human resources department.

As an example of this, Canon began to address human rights by introducing labour guidelines for subsidiary manufacturers in Asia in 2015 as one of the measures to prevent and mitigate the risk of overwork by employees. Subsequently, in 2022, these guidelines were revised to conform to the standards of industry-wide organizations, and uniform standards were then introduced for all manufacturing companies within the Group, both in Japan and abroad.

For evaluating whether these efforts are effective in preventing and mitigating the adverse impacts of overwork risks, Canon uses the actual number of hours worked as a monitoring indicator which has been used by its human resources department.

There are some initiatives which can be utilized as part of human rights due diligence for preventing and mitigating adverse impacts on human rights, even if they were not originally designed for this purpose. Canon is working to utilize management indicators used at the human resources department, such as the management of working hours, in conjunction with human rights due diligence. In doing this, it is striving to evaluate the effectiveness of its efforts aimed at respect for human rights in a more comprehensive manner.

9.3.4.3 Self-evaluate the functioning of a grievance mechanism and work on the issues confirmed [UNGPs 31, OECD Guidance 4.1, 6.1] (Fast Retailing)

Fast Retailing has established and operates a hotline that can also be used by the workers of production partners (see 9.3.3.5), but it has been confirmed that differences have occurred in the state of use of the hotline depending on factors such as the country where the production partner is located. In response to this, the company implemented a self-evaluation of the hotline function based on the eight criteria³⁹⁵ presented in the UNGPs for grievance mechanisms. This evaluation aimed to investigate the background and causes of this problem and make improvements if issues were confirmed.

As a result, it was identified that there were challenges with the hotline being “accessible” and “equitable” among the eight requirements. The more specific meaning of each requirement is shown in the table below.

Accessible	Being known to all stakeholder groups for whose use they are intended, and providing adequate assistance for those who may face particular barriers to access
Equitable	Seeking to ensure that aggrieved parties have reasonable access to sources of information, advice and expertise necessary to engage in a grievance process on fair, informed and respectful terms

In response to this, Fast Retailing implemented measures based on the results of self-evaluation. Specifically, in relation to the requirement “Accessible”, the company prepared posters in multiple languages so that it could provide guidance in the native languages of the migrant workers for better awareness of the hotline. In relation to the requirement “Equitable”, in order to organize a system in which hotline users can directly obtain expertise from a specialist when they need it, with the support of International Organization for Migration (IOM), Fast Retailing selects NGOs which can support migrant workers when they use the hotline while employed at factories or when they return to their home countries.

A grievance mechanism can help in preventing and mitigating potential adverse impacts on human rights, and it is also important to implement follow-ups to see whether such means are functioning effectively. Fast Retailing has implemented a self-evaluation for its hotline system and is striving to overcome the identified issues, including accessibility.

³⁹⁵The eight requirements are: justifiable, accessible, predictable, fair, transparent, consistent with rights, a source of continuous learning, and based on engagement and dialogue. (See 9.1 for more information.)

9.3.4.4 Initiatives aimed at the improving workplace monitoring methods [UNGPs 20, OECD Guidance 4.1] (Fast Retailing)

Fast Retailing believes that it is important for each production partner to act proactively, not passively, in its initiatives to respect human rights. It has transformed its workplace monitoring program gradually since September 2020 to strengthen voluntary working environment management processes by factories.

Specifically, the company is promoting the transition from unannounced audits by third-party organizations to a system under which factories ascertain and improve risks and issues in the working environment proactively through the tools of an industry-common framework³⁹⁶. Moreover, the company is advancing the introduction of improved workplace monitoring based on the industry-common framework at all garment factories and major material factories.

Traditional workplace monitoring centered on audits had a challenge that multiple brands carry out unique audits of the same factory and it often results in creating an excessive burden which hinders efficient improvements. In addition, there was a challenge that production partners' measures tended to be passive, focusing on corrective actions for issues found through audits.

Given such challenges, the company is trying to move towards a system where production partners implement self-evaluations using the evaluation tool, undergo third-party verification, and work on improvements. By doing so, Fast Retailing expects that a cycle will be established within production partners in which they will ascertain issues in the working environment proactively through their own mechanisms and implement improvements.

While audits are an effective means for confirming the state of human rights at suppliers, it is difficult to encourage proactive initiatives among suppliers. The burden on suppliers who receive requests for similar audits from multiple parties is heavy, and they may even fall into a situation where they are not sufficiently able to prevent or mitigate adverse human rights impacts. Fast Retailing is trying to improve the human rights due diligence process by overcoming the shortcomings of audit methodology by encouraging proactive initiatives of production partners and using evaluation tools of an industry-common framework.

► Chart 9-17 A worker in Fast Retailing's production partner factory



Source: Fast Retailing Integrated Report 2022³⁹⁷

³⁹⁶The assessment tool includes indicators to strengthen the working environment management system, including policies, internal structures, procedures and their dissemination, and review and improvement of implementation, for each of the working environment assessment items.

³⁹⁷Fast Retailing, Integrated Report 2022, https://www.fastretailing.com/eng/ir/library/pdf/ar2022_en.pdf

9.3.4.5 Regular surveys on the compliance with procurement policies by suppliers [UNGPs 20, OECD Guidance 4.1] (Toshiba)

Toshiba requests its suppliers to pay attention to CSR based on the Toshiba Group Procurement Policy (see 9.3.1.2), and when it initiates new procurement transactions, Toshiba checks whether the supplier's manufacturing sites, management systems, state of compliance with laws and regulations on the environment, human rights, labour and safety, and the state of management comply with the Toshiba Group Procurement Policy. Moreover, Toshiba implements regular surveys on the state of compliance with the Toshiba Group Procurement Policy by suppliers (in other words, whether or not the measures in response to Toshiba's request to comply with the procurement policy are functioning from the viewpoint of preventing and mitigating adverse impact at suppliers) ("site monitoring" below). In fiscal year 2021, Toshiba surveyed 2,764 suppliers from a human rights and labour perspective and 3,002 suppliers³⁹⁸ from a health and safety perspective (see 9.3.5.1).

Toshiba requests that its suppliers improve or provides guidance and support to them if requests for compliance with the Toshiba Group's Procurement Policy are not functioning sufficiently and cases of violations or concerns are found in such monitoring. For example, Toshiba provides guidance on the proper use of protective equipment to protect the body or on safety and health management systems at work sites.

In fiscal year 2021, Toshiba started surveys of suppliers from the perspectives of human rights, occupational safety and health, environment, ethics, and BCP ("Sustainable Procurement Survey" below) under the leadership of Toshiba headquarters from the perspective of strengthening ESG initiatives, including supply chain monitoring in a form more in line with international standards. [Based on the issues identified in the process of these surveys, Toshiba is preparing a document to distribute to suppliers explaining the ILO conventions and other international standards as a part of its corrective guidance to suppliers.]

Based on the issues identified in the process of these surveys, Toshiba is preparing a document to distribute to suppliers explaining the importance of addressing these issues and how they relate to principles in international labour standards and other international standards.

Human rights due diligence requires enterprises to track and evaluate whether their initiatives are working, including the prevention and mitigation of adverse impacts, and then take action for improvements based on the results. Toshiba requests suppliers to comply with its procurement policy, implements surveys regularly to see whether the requests (encouragement to prevent and mitigate adverse impacts at suppliers) are functioning, and strives for improvements based on the results of surveys at individual suppliers. Furthermore, Toshiba is also seeking to strengthen monitoring methods and information provision to suppliers.

³⁹⁸These are the total numbers of companies, and 'survey' here includes self-inspections using a self-assessment questionnaire (SAQ), auditing by a third party, and surveys or audits based on proprietary standards.

9.3.5 Communicate how impacts are addressed

9.3.5.1 9.3.5.1 Efforts to disclose both qualitative and quantitative information in a manner that is easy for stakeholders to understand [UNGPs 21, OECD Guidance 5.1, MNE Declaration 30 and 44] (Toshiba)

Toshiba makes public the Toshiba Group Human Rights Policy (See 9.3.1.2) and discloses qualitative information on its progress in implementation. Toshiba also discloses quantitative information in order to provide the progress of measures taken by the company in a way that is easy to understand for stakeholders.

For example, one concrete example consists of the figures for actual results shown in Table 9-18. Toshiba has been undertaking (1) the issuance of requests to suppliers, (2) the monitoring of responses made in relation to the requests, and (3) the provision of requests and guidance for corrections and support, for the implementation of the Toshiba Group Procurement Policy (See 9.3.4.5). Table 9-18 shows the actual results related to (1) and (2), and Table 9-19 shows the actual results related to (3).

► Table 9-18 Number of suppliers participating in briefings and those covered by monitoring on site (FY2021, Toshiba Group, cumulative³⁵⁷)

Topic	Participation in briefings	Surveys (Note)	On-site audit (Note)
Human rights and labour	2,514 companies	2,764 companies	232 companies
Health and safety	2,951 companies	3,002 companies	303 companies
Environment	3,630 companies	5,103 companies	112 companies

Source: Promote Sustainable Procurement (Toshiba Website)³⁹⁹

► Table 9-19 Number of suppliers subject to guidance and support or suspension of transactions upon monitoring on site (FY2021, Toshiba Group, cumulative)

Topic	Guidance and support	Suspension of transactions
Human rights and labour	218 companies	0 companies
Health and safety	286 companies	1 company
Environment	66 companies	1 company

Source: Promote Sustainable Procurement (Toshiba Website)

It is important that information disclosure, which is a prerequisite for stakeholder dialogue, be provided in a form that is easy for the intended recipient to understand. Toshiba discloses qualitative descriptions of its efforts to respect human rights and other efforts, as well as quantitative information which serves to quantify status of its efforts and strives to disclose information that is easy for stakeholders to understand.

³⁹⁹Toshiba, Promote Sustainable Procurement, <https://www.global.toshiba/ww/sustainability/corporate/performance/social/procurement.html>

9.3.5.2 Disclosure of the group’s status of responses and policies with a focus on salient human rights risks [UNGPs 21, OECD Guidance 5.1] (Canon)

As described in 9.3.2.1 above, Canon has identified salient human rights risks within the Canon Group (See 9.3.2.1), which are disclosed in the Respecting Human Rights section of its website. Specifically, the details are as outlined in Table 9-20 (“Salient Human Rights Risks at Canon”). Canon recognizes the importance of stakeholder engagement in identifying human rights risks and engages in dialogue with the trade union, its employee representative.

In the chart, salient human rights risks in terms of the Canon Group are listed on the vertical axis, and “•” is assigned to the stakeholders exposed to each risk. For each risk, there are links to web pages that describe Canon’s policies for responses and the status of responses undertaken.

► Table 9-20 Salient Human Rights Risks at Canon

		Rights-holders				Measures taken by Canon
		Suppliers/ Contractors	Canon employee	Customers/ Consumers	Local communities	
Salient human rights risks associated with Canon’s business activities	Discrimination based on race, sex, religion, etc.		•			Diversity and Inclusion
	Harassment		•			Prevention of Harassment
	Child labour	•				Respect for Human Rights in the Supply Chain
	Forced labour	•				Respect for Human Rights in the Supply Chain
	Unpaid wages/ Low wages	•				Respect for Human Rights in the Supply Chain
	Excessive overtime work	•	•			Prevention of Excessive Overtime Work Respect for Human Rights in the Supply Chain
	Occupational health and safety	•	•			Occupational Safety and Health Management
	Protection of privacy		•	•		Protecting Personal Information
	Procurement of conflict minerals				•	Addressing the Issue of Responsible Minerals Sourcing
	Noise and environmental pollution at business sites				•	Protection and Conservation of the Global Environment
	Health damage or accident caused by product			•		Product Responsibility

Source: Sustainability > Respecting Human Rights > Salient Human Rights Risks for Canon (Canon Website)⁴⁰⁰

400Canon, Respecting Human Rights, <https://global.canon/en/csr/people-and-society/labor/human-rights.html>

Since human rights due diligence involves a wide range of content, it is no easy task to disclose information in a way that is easy for stakeholders to understand. Canon is working to disclose information in a comprehensive manner by focusing on “salient human rights risks” found within the group and providing descriptions of the status of responses and policies in relation thereto.

9.3.5.3 Disclosure of information to ensure transparency in terms of grievance mechanism [UNGPs 21, OECD Guidance 5.1] (Panasonic)

The Panasonic Group has established a Global Hotline for employees of the group and employees of external business partners to use as a global contact point. The main purpose of this Global Hotline system is to address complaints concerning adverse impacts against human rights at early stages and to enable remedies to be provided. An overview of how the Global Hotline works is presented in section 9.3.6.1.

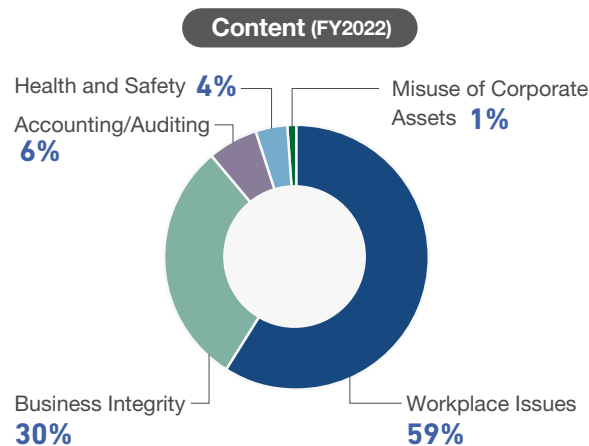
In addition to establishing and operating the Global Hotline system, the Panasonic Group discloses various kinds of information, such as the number of reports provided to the hotline, as shown in the Table 9-21 and 9-22 below.

► Table 9-21 Number of Reports Provided to the Global Hotline (FY 2022)

Number of reports, etc. (FY 2022): Approximately 640	
Percentage of reports, etc., which were provided via the Global Hotline	About 80%
Percentage of substantiated cases (excluding anything still under investigation as of May 31, 2022)	About 25%

Source: Panasonic Sustainability Data Book 2022⁴⁰¹

► Chart 9-22 Breakdown of the Number of Reports Provided via the Global Hotline (FY 2022)



Source: Panasonic Sustainability Data Book 2022

In order to gain trust in the grievance mechanism from stakeholders, the transparency of said mechanisms is important. The Panasonic Group discloses various kinds of information in an easy-to-understand manner with respect to its Global Hotline, one of its grievance mechanisms.

⁴⁰¹ Panasonic, Sustainability Data Book 2022, <https://holdings.panasonic/global/corporate/sustainability/pdf/sdb2022e.pdf>

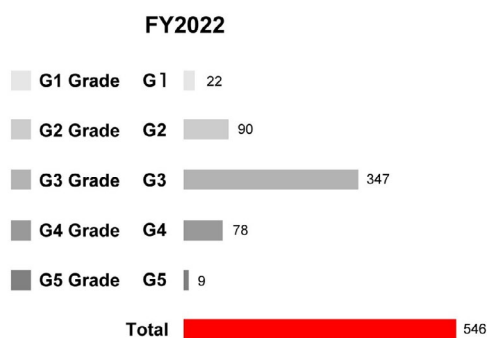
9.3.5.4 Disclosure of the outline and evaluation results of initiatives related to workplace monitoring in an easy-to-understand way [UNGPs 21, OECD Guidance 5.1] (Fast Retailing)

Fast Retailing has established pages on its website titled “Respect for Human Rights” to summarize and transmit various information concerning its initiatives to respect human rights. The specific major areas are the Fast Retailing Group Human Rights Policy, the Human Rights Committee, Human Rights Education, Human Rights Due Diligence, Hotlines and Remedial Measures, Respecting Human Rights of Our Employees, Respecting Human Rights in the Supply Chain, and Respecting Women’s Rights, with detailed information provided on each major area.

Of these areas, the workplace monitoring of the Respecting Human Rights in the Supply Chain area has been described in detail (see 9.3.4.4, 9.3.6.2). Specifically, the workplace monitoring mechanism is disclosed as in Figure 9-25, and the results of workplace monitoring include an overview of the evaluation categories G1 through G5 with statistical information on the evaluation results of the garment factories. This data allows understanding of the types of confirmed adverse human rights impacts. Moreover, this is also explained in combination with the status of improvements and the policies thereto for garment factories that receive a G4 or G5 evaluation.

These are also disclosed on the English-language website.

► Figure 9-23 Workplace Monitoring Result of Garment Factories



Source: Fast Retailing website: Sustainability, Monitoring and Evaluation of Production Partners⁴⁰²

► Table 9-24 Descriptions of evaluation grades for workplace monitoring results

Grade	Description
G1 Grade	No violations identified
G2 Grade	Relatively low-risk violations (e.g. improper use of personal protective equipment such as masks and gloves, lack of occupational safety training for all employees)
G3 Grade	Potential violations of human rights (e.g. obstacles on the evacuation route, lack of regular evacuation drills, inadequate recording of time-in and time-out)
G4 Grade	Major violations of human rights and the Code of Conduct for Production Partners (e.g. no statutory leave provided, excessive working hours, underpayment or insufficient payment of retirement benefits, no or incomplete employment contracts)
G5 Grade	Major violations of the Code of Conduct for Production Partners including child labour, forced labour, non-payment of minimum wages, lack of emergency preparedness (e.g. locked emergency exit)

Source: Fast Retailing website: Sustainability, Monitoring and Evaluation of Production Partners

⁴⁰²Fast Retailing, Monitoring and Evaluation of Production Partners, Workplace Monitoring Results, <https://www.fastretailing.com/eng/sustainability/labor/partner.html>

Disclosing the status and results of initiatives for the respect of human rights is an essential process in human rights due diligence. Fast Retailing, for example, has attempted to disclose in a format that is easy for stakeholders to understand, and also made available in English. This includes details about workplace monitoring, including the methods used to investigate the adverse impacts on human rights, type of identified problems, and the measures taken to address them.

9.3.5.5 Promote further efforts by the company and suppliers through disclosure of a list of suppliers [UNGPs 21, OECD Guidance 5.1] (Wacoal)

Since May 2018, Wacoal has been maintaining a published list of the names and addresses of its factories on its website⁴⁰³ in order to fulfill its societal responsibilities including its responsibility to the respect for human rights together with its supplier manufacturers. It has done this after gaining the endorsement of its manufacturing partner factories for this effort, which aims to continuously work on improvements of items stipulated within the Wacoal Group CSR Procurement Guidelines.

The disclosing of this list means that direct supplier factories will become recognized by various stakeholders as entities which are striving toward compliance with the Wacoal Group CSR Procurement Guidelines and other such rules. As such, the Wacoal Group believes that the disclosure of this list will not only serve as Wacoal's public commitment to its efforts of ensuring compliance by direct supplier factories to its CSR Procurement Guidelines, but that it will also raise awareness among these factories regarding their own responsibility in the same respect.

Companies need to promote efforts aimed at respect for human rights not only at their group companies, but at their suppliers as well. By having direct manufacturing contractors endorse the Wacoal Group CSR Procurement Guidelines and disclosing the list of the names of those manufacturing contractors, Wacoal is working to encourage the efforts made by those manufacturing contractors.

⁴⁰³Wacoal Holdings, List of factories entrusted with the manufacturing of products (as of June 2023), <https://www.wacoalholdings.jp/en/sustainability/csr/list/>

9.3.6 Take corrective action or cooperate for correction if appropriate

9.3.6.1 Establishment of a Global Hotline and efforts to ensure its effectiveness [UNGPs 31, OECD Guidance 6.2] (Panasonic)

The Panasonic Group recognizes that it is important to establish a system to have information from workplaces shared promptly in the event a problem arises. As described in 9.3.5.3, it has established a Global Hotline⁴⁰⁴ for use by employees of the group and employees of external business partners.

The hotline supports 32 languages so that employees can provide a report in their native language wherever possible. Furthermore, the company strives to ensure the confidentiality of the report using an external and independent system so that the whistleblower can remain unidentified. Moreover, internal regulations stipulate that whistleblowers are not to be subjected to retaliation or disadvantageous treatment owing to the issuance of their report.

In addition, the Panasonic Group is working to inform all officers and employees in the group (as well as the external business partners concerned) through its website, internal personnel training, posters, and other avenues, that any cases of non-compliance or suspected non-compliance should be reported to the “Global Hotline”.

In practice, the Legal Department operates and manages the Global Hotline, and within a certain period of time after receiving a report, it investigates the facts, etc., and then reports the status of responses undertaken to the whistleblower. Additionally, the whistleblower can check on the progress of their case on the website periodically using the report number and password assigned to them. Furthermore, all reports received through the hotline are centrally managed by the Legal Department. Results of analyses on those reports are reported to management on a regular basis and used to prevent and mitigate similar adverse impacts.

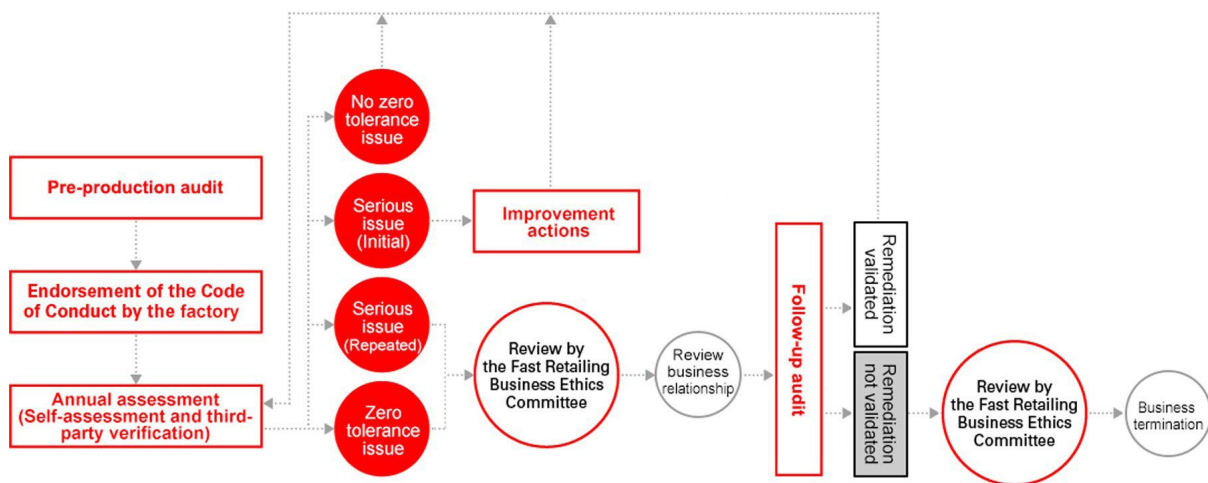
Although many companies have already established an internal whistleblowing system for their own employees, the Panasonic Group has established a mechanism that is available for employees of external business partners as well. Efforts have also been made to ensure the effectiveness of the Global Hotline through various measures, such as efforts to facilitate accessibility through multilingual support and awareness-raising activities, clear specification of internal regulations that strictly protect confidentiality and prohibit retaliation, and disclosure of the status of responses undertaken in relation to reports.

⁴⁰⁴Panasonic, WELCOME TO EARS, THE PANASONIC GLOBAL COMPLIANCE HOTLINE, <https://secure.ethicspoint.eu/domain/media/ja/gui/104773/index.html>

9.3.6.2 Improve the predictability of the grievance mechanism through the disclosure of operating processes and timelines [UNGPs 31, OECD Guidance 6.2] (Fast Retailing)

Fast Retailing formulated a “Code of Conduct for Production Partners” in 2004 and confirms the state of compliance with the Code of Conduct at all garment factories and major material factories through workplace monitoring (Figure 9-25). Specifically, the company undertakes unannounced audits by third-party entities and assessments using frameworks common to the apparel and footwear industry to evaluate working environments at factories; and to implement improvement activities in accordance with the severity of risks.

► Figure 9-25 Workplace monitoring system (excludes factories implementing Better Work audits)



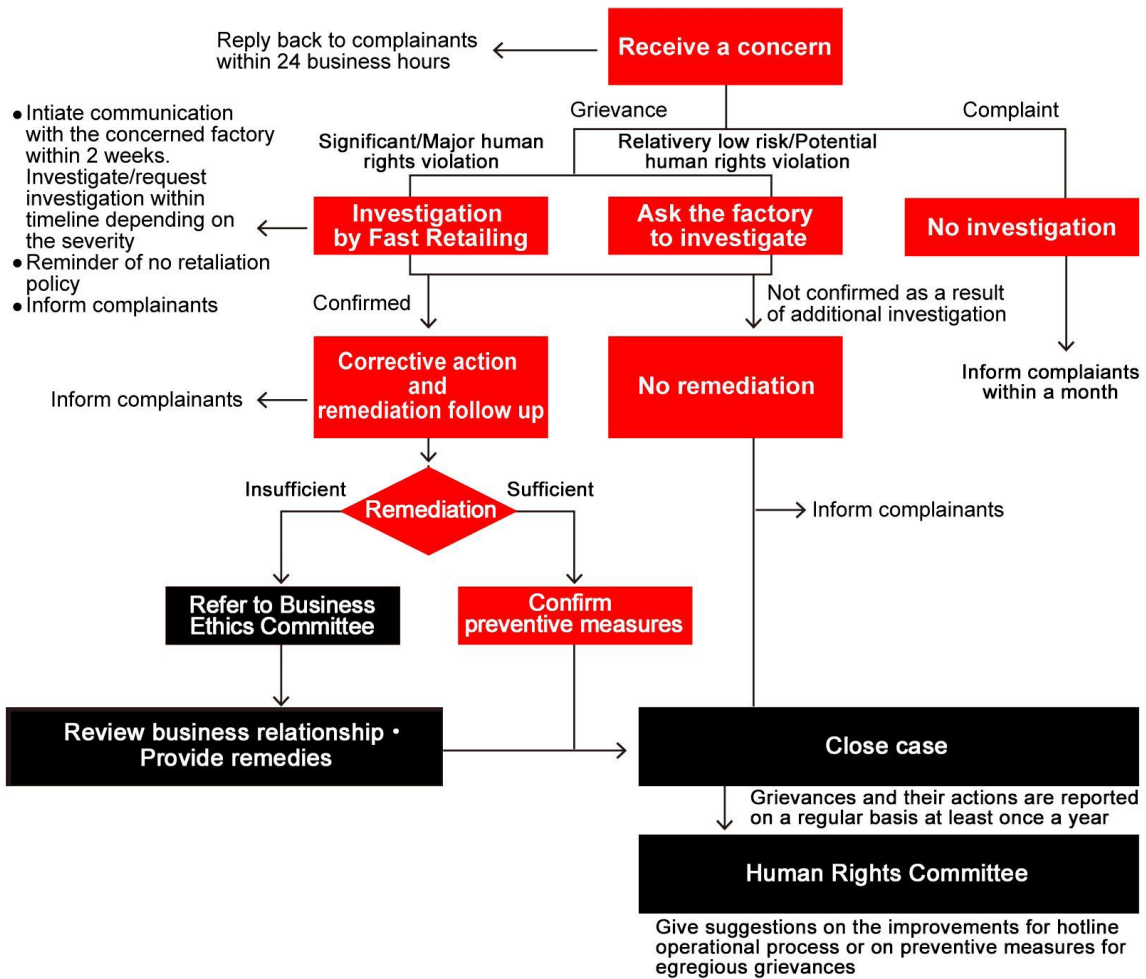
Source: Fast Retailing website: Monitoring and Evaluation of Production Partners⁴⁰⁵

In addition to handling at normal times like this, Fast Retailing requires production partners to introduce mechanisms to handle employee grievances and operate based on the standards of the UNGPs and industry initiatives. Moreover, the company has established hotlines in Shanghai, Ho Chi Minh City, Jakarta, Dhaka and Tokyo, enabling employees and employee representatives of garment factories and materials factories to consult directly with Fast Retailing, anonymously and in their native languages.

Also, the operation process, including a timeline, is made available as shown in Figure 9-26 in case there has been a complaint to the hotline. For example, it is specifically explained here the kind of situation in which the person who consults will be contacted.

⁴⁰⁵Fast Retailing, Monitoring and Evaluation of Production Partners, Workplace Monitoring Results, <https://www.fastretailing.com/eng/sustainability/labor/partner.html>

► Figure 9-26 Fast Retailing Hotline Communication Flow



Source: Fast Retailing website: Monitoring and Evaluation of Production Partners

Grievance mechanisms are required to be predictable based on the UNGPs. Fast Retailing not only established a grievance mechanism, but also publishes data on its operational processes and response timelines on its website and strives to make the grievance mechanism system predictable for users.

9.3.6.3 Improve access to remedy through the establishment of a grievance mechanism and participation in the mechanism of an external group [UNGPs 31, OECD Guidance 6.2] (Brother)

Brother established internal grievance mechanisms and participates in a system established by an external group.

The internal mechanisms include an internal Employee Helpline for Compliance Issues as a system for employees at the company both in Japan and overseas, as well as an internal Employee Helpline for Harassment Issues dedicated to handling sexual harassment, power harassment and other acts of harassment. Through these measures, the company strives for the prevention, early handling and non-recurrence of human rights violations.

In addition, the company participates in a grievance mechanism established by an external organization. This mechanism allows, in addition to Brother Group's suppliers, Brother Group suppliers and its employees, customers, investors and all other stakeholders and rights holders to report human rights concerns. The mechanism supports responses by member companies by sharing information and providing advice based on expert knowledge to related member companies while protecting the anonymity of the reporters of received complaints. If there has been a report to this mechanism, Brother will investigate the facts promptly and, if an adverse impact on human rights or human rights risk is confirmed, will work on its correction.

The establishment of a grievance mechanism is one way of dealing with adverse impacts on human rights. For Brother, this includes a reporting helpline for general grievances, and a dedicated line for addressing harassment issues within the company, and the company works on corrective measures on the identified issues. Brother is also participating in a mechanism, in which stakeholders, including supplier employees and other external stakeholders, can indirectly report human rights concerns related to Brother and Brother can receive expert guidance on the issues raised and assistance in determining the validity of the claims.

9.3.6.4 Use of Crisis Analysis Reports at the Headquarters and cooperation with the crisis management system on the supplier side [UNGPs 19, OECD Guidance 3.2] (ASICS)

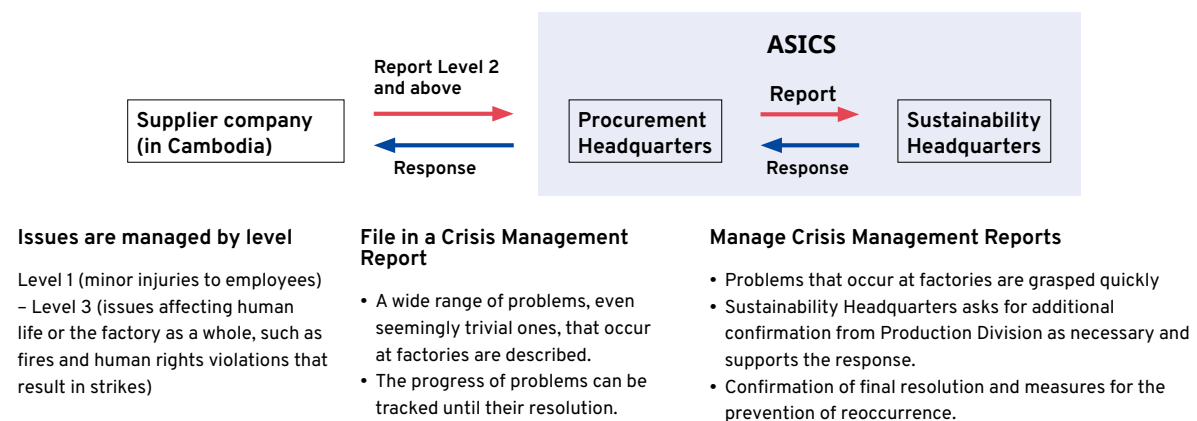
ASICS requires supplier factories to contact Production Division at its Head Office if human rights violations occur at a factory. Production Division summarizes the information it has received on a Crisis Analysis Report, a standard form ASICS uses internally and reports to the Sustainability Department.

Because it is difficult to judge accurately whether a report is necessary at contracted factories, ASICS encourages them to share information widely, even including seemingly trivial issues, as soon as something occurs, such as human rights violations, accidents and injuries.

After receiving a Crisis Analysis Report, based on the content of the report, the Sustainability Department asks the Production Division for additional confirmation as required, supports the response, and confirms the final resolution of the problem and the measures taken to prevent reoccurrence.

In addition, ASICS encourages suppliers to establish a crisis management system to facilitate information sharing with ASICS Production Division. For example, one supplier in Cambodia has adopted the problem classification levels used in ASICS Crisis Analyst Report (level 1: minor injuries to employees, etc., to level 3: problems affecting human life or the entire factory, such as fires, and human rights violations that result in strikes); and reports problems of level 2 or higher to ASICS, and, by doing this, ASICS strives to receive information from suppliers promptly so that it may take appropriate action to support the supplier to solve the problem. ASICS has built a system for wide-ranging information sharing with the company. In case problems such as human rights violations occur at a supplier, the related information is shared with the Sustainability Department so that its employees who are well-versed in sustainability matters, including human rights, can quickly address the problems and prevent their reoccurrence.

► Figure 9-27 Use of Crisis Analysis Reports



Source: Prepared based on interviews with ASICS and a supplier in Cambodia

9.3.6.5 Introduction of an external NGO system emphasizing dialogue in remediation mechanisms [UNGPs 29, 31, OECD Guidance 6.1, 6.2] (Miki Shoko)

Miki Shoko adopted an application (hereinafter referred to as “the app”) developed by a Japanese NGO to help employees of its suppliers’ production factories to register complaints directly with a third party outside of the company. The app currently operates at 175 domestic and overseas supplier locations (also including indirect suppliers).⁴⁰⁶

The app is made available to employees to support them, regardless of their nationalities, to lodge complaints directly with the third party outside of the company (i.e. the NGO) when human rights violations occur. This system can be used through installing the dedicated app on each employee’s smartphone, and is available in eight languages. Miki Shoko pays the costs associated with operation of the app.

With the cooperation of the NGO, Miki Shoko provides support to employees who submit complaints and encourages suppliers to do the same regarding the complaints and consultations received on the app. For instance, an employee used the app to inquire about differences between labour and management in the understanding of overtime payments. The problem was resolved through dialogue between the complainant, the factory manager, Miki Shoko and the NGO.

Prior to the rollout of the app, Miki Shoko updated the CSR Procurement Guidelines (second edition) to include an explanation of the grievance mechanism, provided suppliers with a set of related tools (a guidebook on operation of the app, a handbook on the app usage distributed to employees, and posters with a QR code for installation of the app), all prepared in Japanese, English, Chinese and Vietnamese. The company also asked its suppliers to make the information known to their employees, including putting up posters at easily visible locations such as factory side doors.

In many cases, it is not easy to establish and operate a grievance mechanism at each company. Miki Shoko recommends its business partners introduce an app developed by an NGO, and it pays the costs related to operation of the app and provides support such as participating in dialogue to resolve complaints received.

⁴⁰⁶Although some suppliers are considered to have a large number of employees who are not involved in the production of Miki Shoko’s products, Miki Shoko recommends that all suppliers, regardless of the percentage of Miki Shoko’s own products in their production volume, introduce this application at their factories.

9.3.7 Other Good Practices

9.3.7.1 Create opportunities for employees in overseas factories to assume senior positions through the provision of training programs [MNE Declaration 16, 18, and 38] (Kojima Iryo)

Kojima Iryo invites its Bangladeshi factory employees to Japan and offers them career promotion opportunities. Specifically, it offers a one-year training programme for up to four employees a year who meet certain conditions. The program includes three months of Japanese language training by an external professional organization and nine months of practical experience training at the head office.

So far, 15 employees have taken the training programme. After completing the programme, the trainees are expected to return to Bangladesh for key positions such as group leaders of production lines or quality inspection lines. The program is an opportunity for the employees of the Bangladeshi factory to improve their skills and working conditions.

Kojima Iryo considers the implementation of the programme to be beneficial for the company as well. By improving the remuneration of employees who have taken the programme and improved their skills, the company has increased employee retention and secured top talent. In addition, those employees returning from training have taken up middle positions and communicate directly with Japanese manufacturers' representatives and local staff in Japanese and Bengali respectively, leading to more efficient plant operations.

Paragraph 38 of the MNE Declaration states that multinational enterprises should provide training for workers employed by them in the host country, as appropriate, and to the extent possible, such training should develop generally useful skills and promote career opportunities and lifelong learning. Kojima Iryo offers a one-year training program for qualified employees from overseas factories. Those who have completed the programme are expected to take key positions in their home countries and increase their earnings to reflect their increased responsibilities. The company is devising ways to offer employees at its overseas factories the opportunity to take up senior positions while the company also enjoys the benefits of talent retention and efficiency in factory operation management.

9.3.7.2 Promotion of labour-management dialogue at supplier companies [MNE Declaration 40, 63] (Fast Retailing)

Fast Retailing has been a partner company⁴⁰⁷ of a joint programme between the ILO and the International Finance Corporation (IFC), “Better Work”, since 2015, and promotes participation in Better Work programmes by its production partners (factories).

Better Work is a comprehensive programme that supports improvement of working conditions, including through the establishment and operation of bilateral committees at production factories, involving both factory management and employees. These committees promote the improvement of the working environment through effective dialogue between labour and management. For example, a Cambodian supplier that is a production partner of Fast Retailing and participates in Better Work holds six labour-management dialogues voluntarily annually, in addition to the six annual labour-management dialogues supported by Better Work, holding discussions on issues such as working conditions and occupational health and safety.

Further, Fast Retailing has received training at the Better Work Academy since 2020 to provide support using methods of Better Work at factories in countries and regions where Better Work is not operating, and Fast Retailing has been supporting the establishment and effective operation of bipartite labour-management committees composed of labour and management representatives among its suppliers. In providing such support, Fast Retailing ensures it can obtain the cooperation of production partners by explaining the significance of continuous dialogue between labour and management to the stability of factory operations and the improvement of productivity, and has introduced this method in China, Vietnam, Bangladesh and Indonesia so far.

Paragraph 40 of the MNE Declaration states that multinational enterprises should afford opportunities within the enterprise as a whole to broaden the experience of local management in suitable fields such as industrial relations, and Paragraph 63 states that workers and their representatives should provide for regular consultation on matters of mutual concern. Fast Retailing supports the promotion of labour-management dialogue by its production partners based on its experience as a partner buyer in the Better Work programme.

⁴⁰⁷ Better Work, a joint programme between the ILO and the International Finance Corporation (IFC), aims to improve the work environment and productivity in apparel supply chains, and is cooperating with global apparel brands toward this goal. Apparel companies that participate in Better Work as partners commit themselves to: 1) the discontinuation of overlapping audit and improvement processes; 2) support for a single improvement process focused on matters such as social dialogue, management systems, gender equality and learning, from which long-term effects are expected; 3) avoidance of immediate termination or reduction of orders based on compliance violations; and 4) reviews of purchasing practices that may have an impact on compliance violations.

Column – The State of Human Rights Due Diligence Practice by Selected Japanese Firms from a JETRO Survey

The following is an overview of the state of implementation of human rights due diligence as of 2022 based on the results of the Survey on the International Operations of Japanese Firms⁴⁰⁸ (hereinafter referred to as the “JETRO Survey”) conducted by JETRO from November to December 2022. Of the respondents to the JETRO Survey, 85 per cent were small and medium-sized enterprises (SMEs) and micro-businesses, and the proportion of responses from large-scale enterprises in particular was limited in the survey sample. The industries concerned were wide-ranging, from manufacturing to non-manufacturing, and the scope of this JETRO survey was not limited to the target countries and industries of this ILO-JETRO joint research.

Key findings from the survey

■ About 50 per cent of large-scale enterprises implement human rights due diligence

The term “human rights due diligence” itself is relatively new in Japan, and many business people say it is unfamiliar to them. According to the OECD’s Due Diligence Guidance, which describes the practice of human rights due diligence, the process consists of six steps: (1) embed responsible business conduct into policies and management systems; (2) identify and assess actual and potential adverse impacts associated with the enterprise’s operations, products or services; (3) cease, prevent and mitigate adverse impacts; (4) track implementation and results; (5) communicate how impacts are addressed; and (6) provide for or cooperate in remediation when appropriate (see Chapter 9.1). In addition, enterprises are required to run the cycle not only once but continuously and repeatedly.

In 2022, the JETRO Survey asked for the first time about the state of implementation of human rights due diligence. From the results, it was understood that only 10.6 per cent of enterprises had implemented human rights due diligence, while the remaining approximately 90 per cent had not. Looking at the breakdown of these enterprises that had not implemented human rights due diligence, 46.2 per cent, or about half, answered that they are not planning to do so, while more than 40 per cent are aware of the need for human rights due diligence and are considering implementation, either planning implementation within one year (3.3 per cent) or considering implementation within a few years (39.9 per cent).

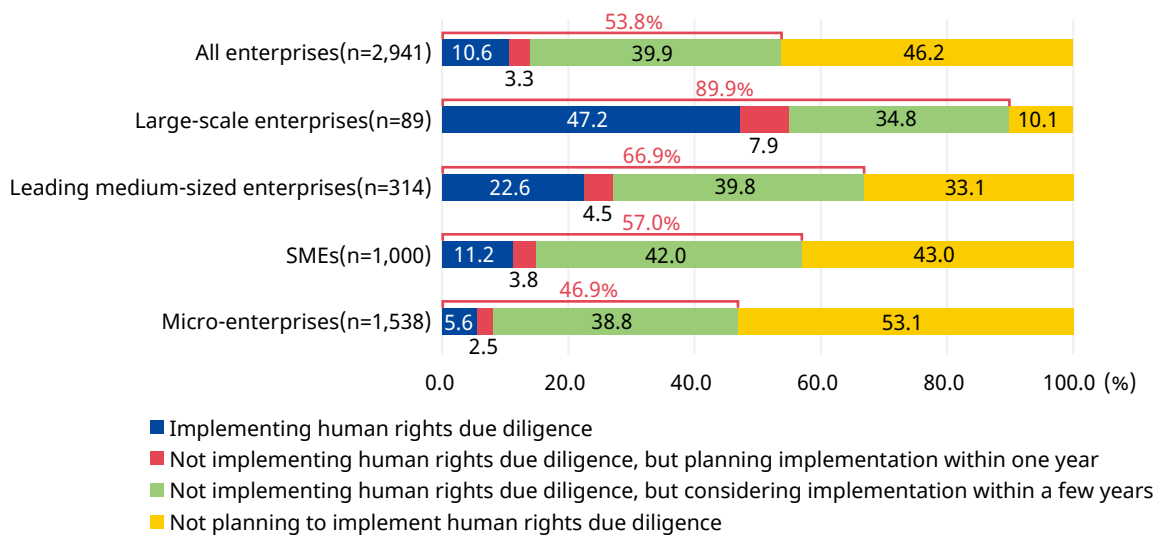
Looking at the data by enterprise size, about half of large-scale enterprises (47.2 per cent)⁴⁰⁹ answered that they had implemented human rights due diligence, compared to 22.6 per cent of leading medium-sized

408 The JETRO Survey was conducted from 17 November to 20 December 2022 among 9,377 Japanese enterprises with experience using JETRO services that are highly interested in overseas business, and 3,118 enterprises responded (valid response rate: 33.0 per cent ; with SMEs comprising 85.1 per cent of respondents). <https://www.jetro.go.jp/news/releases/2023/cd4069a125176423.html> (Press release) <https://www.jetro.go.jp/world/reports/2023/01/d3add687bd7a74cc.html> (Report in Japanese) <https://www.jetro.go.jp/en/reports/survey/> (Reports in English)

409 The definition of large-scale enterprises in this JETRO survey is enterprises other than leading medium-sized enterprises, SMEs and micro-businesses, which are defined in footnotes on the next page.

enterprises⁴¹⁰, 11.2 per cent of SMEs⁴¹¹ and 5.6 per cent of micro-businesses⁴¹². There are significant differences in the state of implementation based on enterprise size (see Figure 1). On the other hand, comparing the ratio of enterprises planning implementation within one year and enterprises considering implementation within a few years by enterprise size, the result is 42.7 per cent for large-scale enterprises (80.8 per cent of the enterprises that have not implemented human rights due diligence), 44.3 per cent for leading medium-sized enterprises (57.2 per cent of the same), 45.8 per cent for SMEs (51.6 per cent of the same), and 41.3 per cent for micro-businesses (43.8 per cent of the same). Shown together with the enterprises that answered that they have implemented human rights due diligence, it can be said that 89.9 per cent of large-scale enterprises, 66.9 per cent of leading medium-sized enterprises, 57.0 per cent of SMEs, and 46.9 per cent of micro-businesses have the desire to implement human rights due diligence, either having done so already or having plans to do so within one year (see Figure 1).

► Figure 1 State of implementation of human rights due diligence by enterprise size



Note: n is the number of responding enterprises.

Source: JETRO FY 2022 Survey on the International Operations of Japanese Firms

410 The definition of leading medium-sized enterprises in this JETRO survey is as follows. For manufacturing and other industries, capital or total investment of more than 300 million yen to 1 billion yen or less, or more than 300 to 3,000 employees or fewer. For wholesale enterprises, capital or total investment of more than 100 million yen to 300 million yen or less, or more than 100 to 1,000 employees or fewer. For retail enterprises, capital or total investment of more than 50 million yen to 300 million yen or less, or more than 50 to 1,000 employees or fewer. For service enterprises, capital or total investment of more than 50 million yen to 300 million yen or less, or more than 100 to 1,000 employees or fewer.

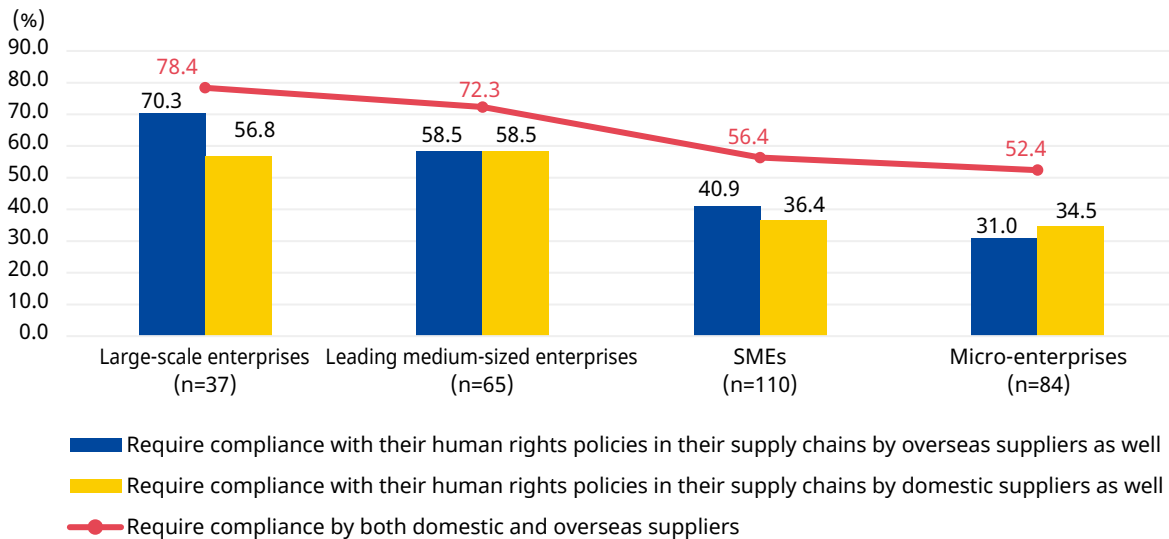
411 The definition of SMEs (excluding micro-businesses) in this JETRO survey is as follows. For manufacturing and other industries, capital or total investment of 300 million yen or less, or 300 employees or fewer. For wholesale enterprises, capital or total investment of 100 million yen or less, or 100 employees or fewer. For retail enterprises, capital or total investment of 50 million yen or less, or 50 employees or fewer. For service enterprises, capital or total investment of 50 million yen or less, or 100 employees or fewer. To simplify the discussion, in this column, the definition of the SMEs excludes the micro-businesses as defined in the below footnote.

412 The definition of micro-businesses in this JETRO survey is as follows. For manufacturing and other industries, capital or total investment of 50 million yen or less, or 20 employees or fewer. For wholesale, retail and service enterprises, capital or total investment of 10 million yen or less, or 5 employees or fewer.

■ About 80 per cent of large-scale enterprises that implement human rights due diligence require compliance with their human rights policies by suppliers

Enterprises are expected to conduct human rights due diligence to cover not only the entity's own activities but also its supply chain. It is noteworthy that 78.4 per cent of large-scale enterprises that implement human rights due diligence indicated that their human rights due diligence includes requiring both domestic and foreign suppliers to comply with their policies on human rights in the supply chain. This figure was 72.3 per cent even among leading medium-sized enterprises, which suggests a significant spillover effect (see Figure 2).

► Figure 2 State of requests for compliance with human rights policies by domestic and overseas suppliers by enterprise size among enterprises that implement human rights due diligence



Note: n is the number of responding enterprises.

Source: JETRO FY 2022 Survey on the International Operations of Japanese Firms

Conversely, the percentage⁴¹³ of large-scale enterprises required to comply with their customers' policies was 51.9 per cent, which together with those where related inquiries and surveys were carried out (7.8 per cent) reaches 59.7 per cent. The percentages for such requests from customers to address human rights from customers were 32.1 per cent for SMEs and 15.9 per cent for micro-businesses, which together with the proportions for SMEs and micro-businesses where related inquiries and surveys were carried out (12.2 per cent and 8.5 per cent respectively) yields 44.3 per cent and 24.4 per cent, respectively. More than 40 per cent of SMEs are required to comply with the human rights policies of customers or have received related inquiries, indicating that this is no longer unusual. In the future, if the percentage of companies implementing human rights due diligence increases, even only among large-scale enterprises, it is expected that requests from large-scale enterprises to SMEs is likely to accelerate.

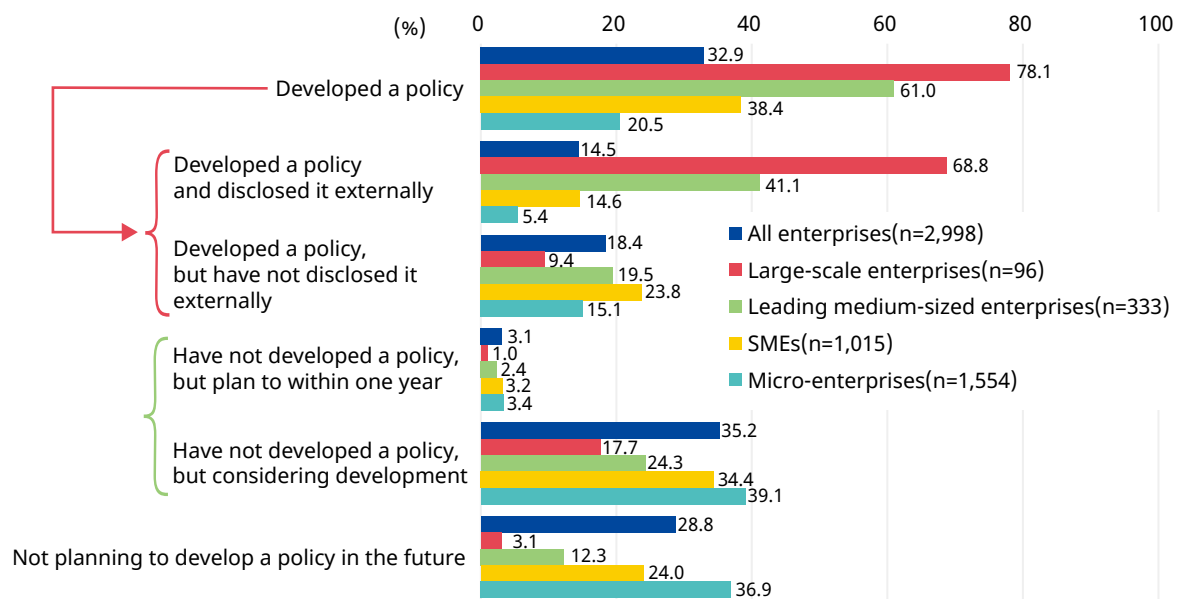
⁴¹³The proportion of enterprises that chose either "compliance is required and measures such as improvement instructions or the suspension of transactions if there is a problem have been clarified", "compliance is required, but the situation is only checked through inquiries or surveys, and measures such as improvement instructions or the suspension of transaction have not been clarified", or "compliance is required, but the actual situation is not checked". The number of valid responses was 2,916, with no responses excluded.

■ Even if they have already established human rights policies, more than 60 per cent of enterprises have not disclosed them, especially SMEs.

The first step in human rights due diligence is to embed responsible business conduct into the policies and management systems of the enterprise, which is Step 1 of the OECD Due Diligence Guidance. A practical example of Step 1 is the formulation of a human rights policy, but 32.9 per cent of enterprises have formulated a human rights policy, and 38.3 per cent are at the stage of planning to do so within one year or considering the formulation of a policy in the future (within a few years) (see Figure 3). On the other hand, 28.8 per cent of enterprises that answered they were not planning to formulate a policy in the future.

By enterprise size, 78.1 per cent of large-scale enterprises have formulated human rights policies, while 61.0 per cent of leading medium-sized enterprises have done so. On the other hand, only 38.4 per cent of SMEs and 20.5 per cent of micro-businesses have done so, clarifying that there are big differences in the formulation of human rights policies based on size.

► Figure 3 State of formulation of policies on respect for human rights



Source: JETRO FY 2022 Survey on the International Operations of Japanese Firms

The JETRO Survey did not include a definition of human rights policy so it is possible that the formulated human rights policies may not be in line with global standards, depending on the respondent enterprise. Conversely, it is also possible that many of the “no” respondents actually do have a partial human rights policy but refer to it by another name (for instance, “Code of Conduct on Workers’ Rights for Suppliers”). For example, the 16th principle of the United Nations Guiding Principles on Business and Human Rights states that enterprise policy requirements include, in addition to approval at the most senior level of the business enterprise and being informed by relevant internal and/or external expertise, that the policy must be publicly available, or in other words, disclosed externally.

Looking at the results of the JETRO Survey based on that point to see whether or not enterprises disclose their policies externally, the percentage of enterprises that have formulated and disclosed their human rights

policies is only 14.5 per cent. However, among 75 large-scale enterprises that have formulated human rights policies, 66 enterprises (88.0 per cent), disclosed their policies. Among 203 leading medium-sized enterprises that have formulated policies, 137 enterprises (67.5 per cent) disclosed their policies. On the other hand, 37.9 per cent of the 390 SMEs (148 enterprises) having formulated their human right policies and 26.3 per cent of the 319 micro-businesses (84 enterprises) have formulated human rights policies, disclosed them. So non-disclosure constitutes the majority. This is to be expected for a variety of reasons. SMEs and micro-business generally do not have an obvious venue to disclose as most SMEs do, and micro-enterprises do not publish annual ESG reports or integrated reports, which is the typical means of public disclosure. Furthermore, it is unlikely that stakeholders are demanding that they disclose as SMEs and micro-business are rarely targeted in activist campaigns because human rights due diligence is still often thought of as an obligation of large enterprises, particularly multinational enterprises.

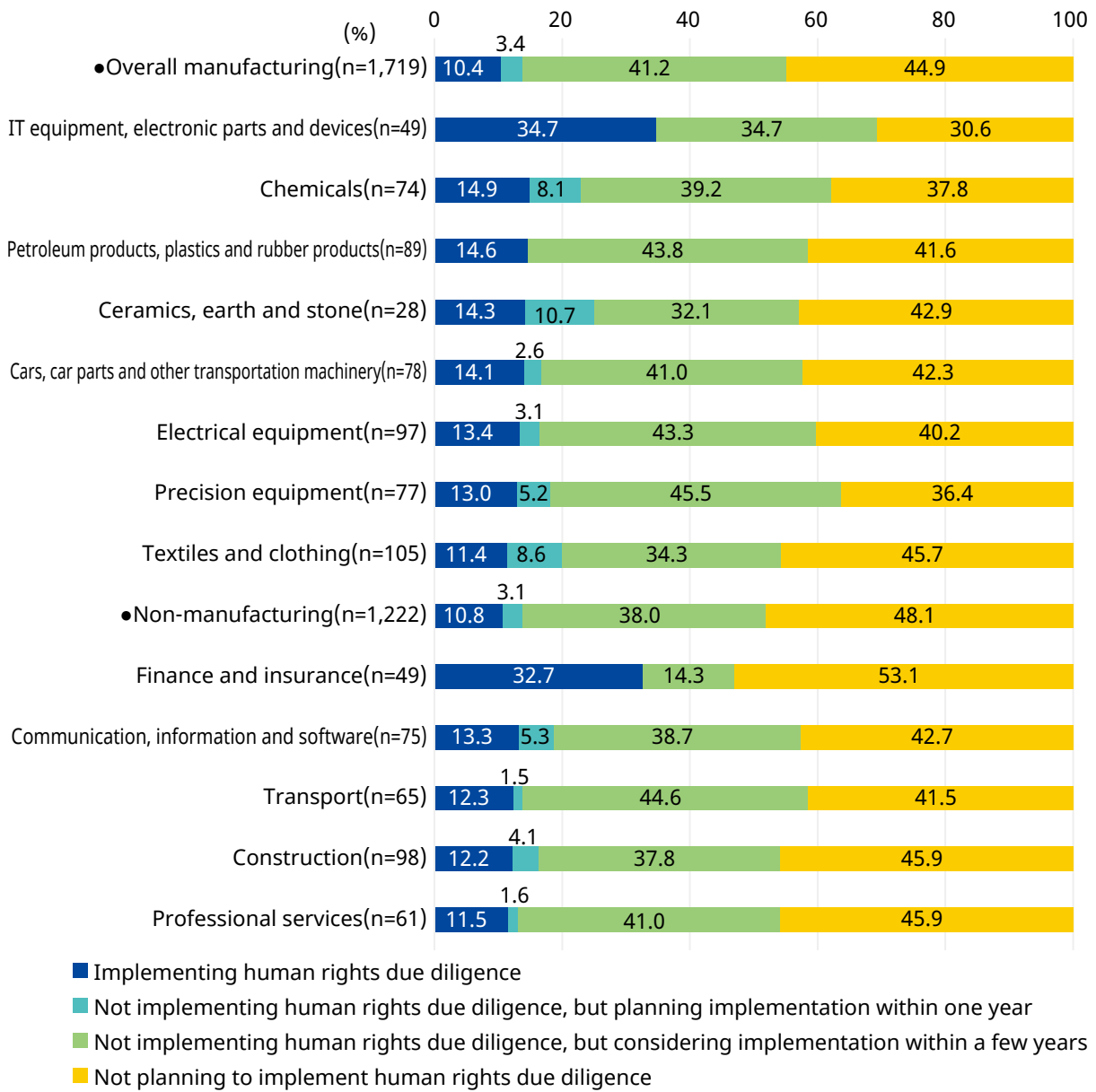
However, although the means by which enterprises fulfil their responsibility to respect human rights may differ between SMEs and large-scale enterprises with greater resources and experience, all enterprises have a responsibility not only to formulate human rights policies but also to disclose those policies.

■ Leading human rights due diligence initiatives in the IT and electronics fields

By industry, 34.7 per cent of enterprises in the IT equipment, electronic parts and devices field (hereinafter referred to as “IT and electronic equipment”) subject to the ILO-JETRO joint survey, answered that they have implemented human rights due diligence. Among large IT and electronic equipment enterprises specifically, 100 per cent had implemented human rights due diligence. In the IT and electronic equipment field, the global division of labour in industry has advanced, and transactions with overseas enterprises are very common, so it is conceivable that this result may be due in part to Japanese enterprises being easily influenced by the industry in Europe and the United States, which are ahead of other regions in terms of management that respects human rights. For example, there are active movements to implement due diligence to carry out responsible mineral procurement, to join international expert associations that promote social responsibility, and to reference their codes of conduct. In addition, the Japan Electronics and Information Technology Industries Association (JEITA), whose members are electronics and electronic equipment enterprises, has issued Guidelines for Responsible Business Conduct and self-evaluation sheets based on those guidelines. In addition, the grievance processing platform that JEITA also helped to establish is being used across industries, and the association is attracting attention as a leader promoting responsible business conduct.

On the other hand, the percentage of enterprises in the automobiles, automobile parts and other transportation machinery field that answered they have implemented human rights due diligence was only 14.1 per cent, and the percentage of enterprises in the textiles and clothing field that answered they have implemented human rights due diligence was only 11.4 per cent. In the textiles and clothing field, the total of SMEs and micro-businesses accounted for 95.2 per cent of respondents, which impacted the rate of implementation of human rights due diligence. The results for the combined percentage of enterprises planning implementation within one year or considering implementation within a few years were 43.6 per cent in the automobiles, automobile parts and other transportation machinery field; 42.9 per cent in the textiles and clothing field; and 34.7 per cent in the IT and electronic equipment field. These results are promising for future efforts.

► Figure 4 State of implementation of human rights due diligence by industry



Note: n is the number of responding enterprises. Only fields where the rate of implementation is 10% or higher are listed

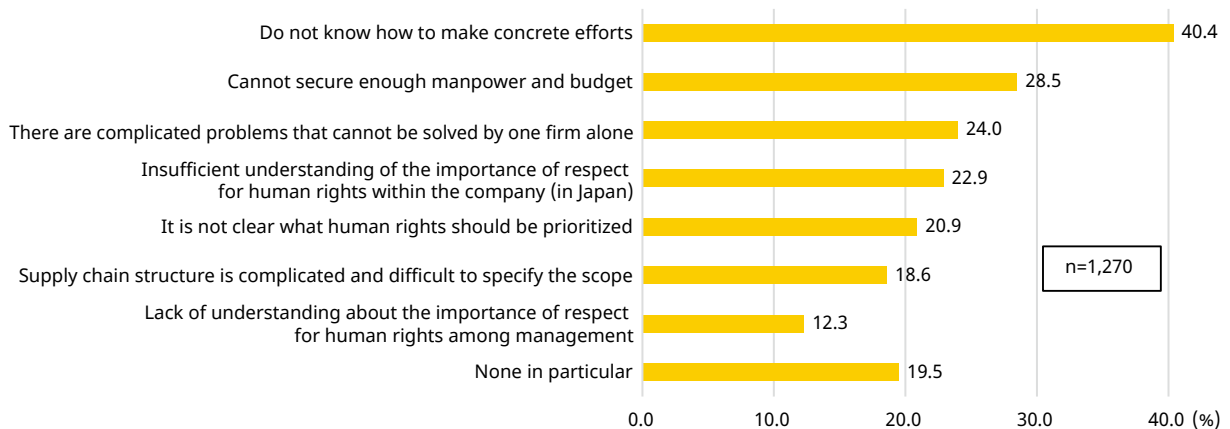
Source: JETRO FY 2022 Survey on the International Operations of Japanese Firms

Among enterprises that implement human rights due diligence in the IT and electronic equipment field, 76.5 per cent require their domestic and overseas suppliers to comply with their policies on human rights. In addition, regardless of whether or not they have implemented human rights due diligence, one in two enterprises (50.0 per cent) in the IT and electronic equipment field were required to comply with the human rights policies of their customers. If human rights due diligence also becomes widespread in other industries in the future, it is likely that a high percentage of suppliers will be required to address respect for human rights, the same as in the IT and electronic equipment field.

■ New issues become clear at enterprises that implement human rights due diligence

When asked in the JETRO Survey about the issues in building a supply chain that is considerate of human rights overseas, the most common answer among the enterprises that are planning or considering the implementation of human rights due diligence (1,270 enterprises) was not knowing how to make concrete efforts (40.4 per cent), followed by being unable to secure enough manpower and budget (28.5 per cent), and that there are complicated problems that cannot be solved by one company alone (24.0 per cent). The replies confirm that even when enterprises understand the concept and importance of implementing human rights due diligence, impediments make it difficult for them to do so in practice. These impediments include not only budget issues but also expertise inside or outside the organization.

► Figure 5 Issues in building a supply chain that respects human rights at enterprises that are planning or considering the implementation of human rights due diligence (Top 7)



Note: n is the group of 1,270 enterprises planning or considering the implementation of human rights due diligence.

Source: JETRO FY 2022 Survey on the International Operations of Japanese Firms

In addition, it was also understood that the enterprises (311 enterprises) that were already implementing due diligence faced other issues in the process of implementing initiatives. At the top of those raised was that there are complicated problems that cannot be solved by one company alone (32.8 per cent), followed by having a complicated supply chain structure that makes it difficult to specify the scope (22.2 per cent), and having insufficient manpower and budget (20.9 per cent).

► **Figure 6 Issues in building a supply chain that respects human rights at enterprises that implement human rights due diligence (Top 7)**



Note: n is the 311 enterprises that implement human rights due diligence

Source: JETRO FY 2022 Survey on the International Operations of Japanese Firms

■ Steadily advancing initiatives for the respect of human rights, guidelines and practical reference materials provided

As we have seen, Japan is also making gradual but steady progress domestically towards management that respects human rights. It is difficult to imagine that this trend will reverse, and further progress can be expected going forward.

In response to issues such as enterprises not knowing how to make concrete efforts or not knowing which human rights should be prioritized, the Government of Japan formulated and published its Guidelines on Respecting Human Rights in Responsible Supply Chains⁴¹⁴ in September 2022. In April 2023 the Ministry of Economy, Trade and Industry published its Reference Material on Practical Approaches for Business Enterprises to Respect Human Rights in Responsible Supply Chains⁴¹⁵ which explains the details of human rights due diligence initiatives in a more concrete and practical manner. There are also some efforts to promote human rights due diligence by industry through similar guidelines, including by the Japan Electronics and Information Technology Industries Association (JEITA), which produced the Responsible Business Conduct Guidelines: For the Promotion of Responsible Business Conduct in Supply Chains,⁴¹⁶ and by the Japan Textile Federation (JTF), which developed Guidelines for Responsible Business Conduct in the Textile Industry.⁴¹⁷

414 Ministry of Economy, Trade and Industry, Japan, "Guidelines on Respecting Human Rights in Responsible Supply Chains". https://www.meti.go.jp/english/press/2022/0913_001.html.

415 Ministry of Economy, Trade and Industry, Japan, "Reference Material on Practical Approaches for Business Enterprises to Respect Human Rights in Responsible Supply Chains". https://www.meti.go.jp/english/press/2023/0404_004.html.

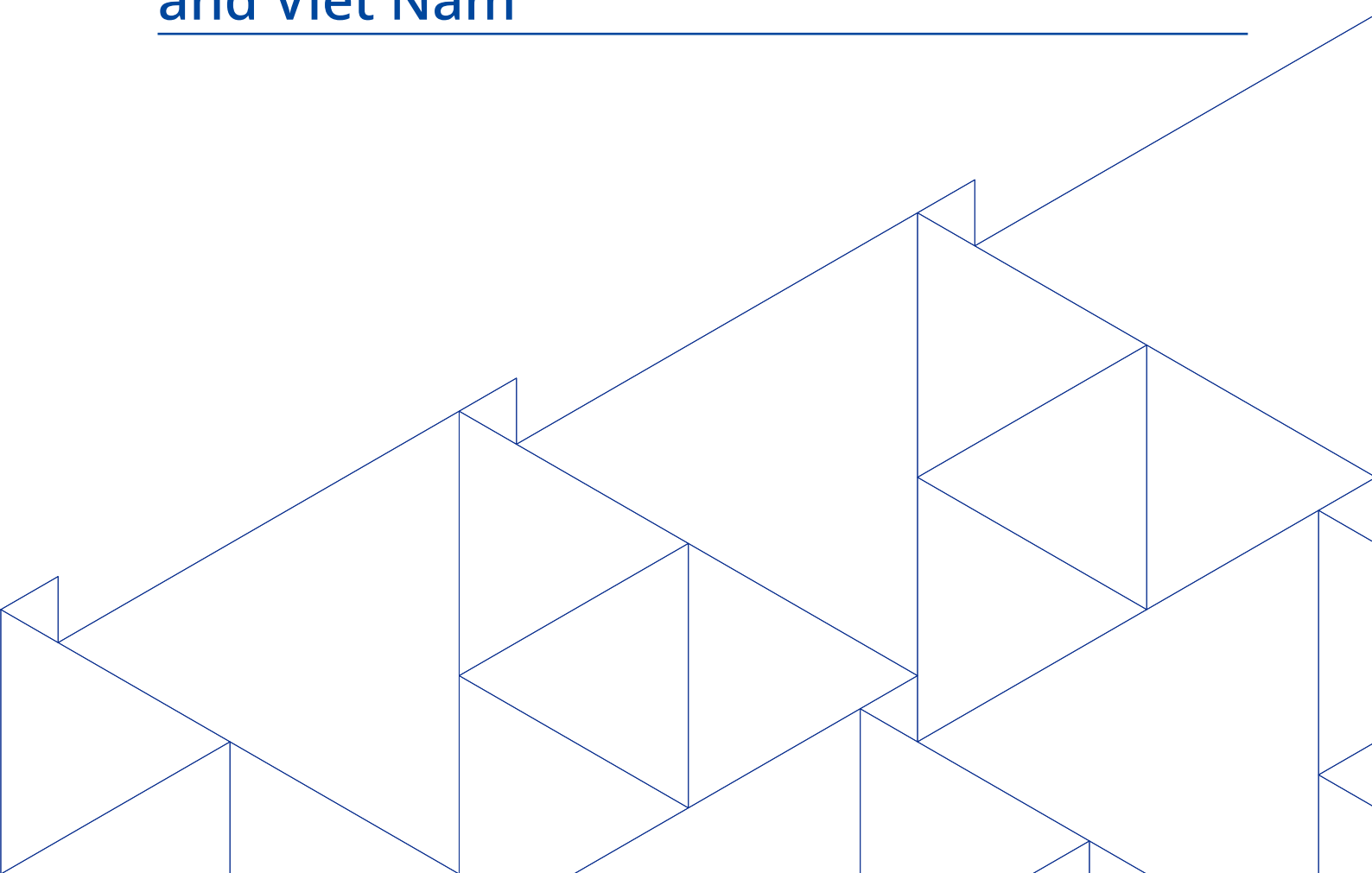
416 Japan Electronics and Information Technology Industries Association, "Responsible Business Conduct Guidelines". <https://www.jeita.or.jp/japanese/pickup/category/2020/200331.html>.

417 Japan Textile Federation, "Guidelines for Responsible Business Conduct in the Textile Industry". <https://www.jtf-net.com/download-center/>.



10

Stakeholder Responses on Human Rights Due Diligence in Bangladesh, Cambodia and Viet Nam



This chapter briefly discusses on how human rights due diligence is perceived in the partner countries, based on interviews with governments, workers' organizations and employers' organizations in Bangladesh, Cambodia and Viet Nam⁴¹⁸, as well as Japanese companies and their suppliers that have operational bases or business partners in these countries. While relevant laws and regulations in Western countries as well as the Japanese guidelines are being established, there are shared recognition that companies are required to implement human rights due diligence. At the same time, support for small and medium-sized enterprises and awareness-raising for the meaningful involvement of trade unions have been raised as needs in promoting initiatives for the respect of human rights. Further, opinions were also confirmed the need for both sides of business, buyers and suppliers, take responsibility for promoting responsible business conduct, as well as the need to create a fair competitive environment.

Governments expressed their past efforts and future intentions to bring domestic laws in line with international standards, including international labour law. While requiring companies operating in their countries to observe domestic labour laws as a basis, there was also a recognition that for companies to export, they need to follow the regulations of destination countries and the requirements of business partners, including human rights due diligence.

On the other hand, concerns have been raised that there are different requirements and expectations from laws and guidelines related to human rights due diligence from the EU, the United States, Japan and other countries, which would be a burden for companies in their own countries. Hopes were expressed that the various requirements on human rights due diligence will become more harmonized to reduce the burden on companies. In addition, it was also pointed out that efforts to implement human rights due diligence in supply chains should be undertaken at the mutual responsibility of both the buyer and the supplier, also including reflection in transaction prices, rather than placing a burden solely on the supplier side.

Furthermore, while large companies, as well as companies in export industries such as textiles and electronics, accustomed with compliance and audit requirements based on supplier codes of conduct by their business partners, even these have not been directly referred as 'human rights due diligence', the viewpoint was presented that the support is needed to raise awareness among SMEs on human rights due diligence and its implementation.

Many **workers' organizations** commented that understanding about human rights due diligence itself as well as about how trade unions can be involved in human rights due diligence has not been sufficient and awareness-raising would be the first step. In addition, some unionists also welcomed human rights due diligence from the perspective that it could promote the protection of workers' rights and provides an opportunity to appeal to the outside world when violations of workers' rights occur.

418 Cooperation with interviews was obtained from October to December 2022. Bangladesh: Ministry of Labour and Employment, Ministry of Commerce, Bangladesh Employers' Federation (BEF), Bangladesh Garment Manufacturers and Exporters Association (BGMEA), Knitwear Manufacturers and Exporters Association (BKMEA), National Coordinating Committee for Workers' Education (NCCWE). Cambodia: Ministry of Labour and Vocational Training, Ministry of Commerce, The Cambodian Federation of Employers and Business (CAMFEBA), Garment Manufacturers Association of Cambodia (GMAC: now TAFTAC), Cambodia Federation of Independent Trade Unions (CFITU), Trade Union Workers Federation of Process Democracy (TUWFPD), Coalition of Cambodian Apparel Workers Democratic Union (C. CAWDU), Collective Union of Movement of Workers (CUMW). Vietnam: Ministry of Labour, War Invalids and Social Affairs (MOLISA), Vietnam Chamber of Commerce and Industry (VCCI: Hanoi Headquarters and Ho Chi Minh Office), Vietnam Electronics Industry Association (VEIA), Vietnam General Confederation of Labour (VGCL).

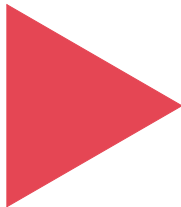
On the other hand, concerns were also raised about whether promoting human rights due diligence would lead to less attention being paid to basic issues such as freedom of association among those concerned, given that there are still many challenges to the protection of basic labour rights, including freedom of association.

Employers' organizations, as similar to the views from governments, expressed the hope that requirements of different countries on human rights due diligence would become more harmonized. They also indicated the need for support for small and medium-sized enterprises in promoting human rights due diligence. With regard to cooperation between buyers and suppliers, there were suggestions to promote dialogue between them which would facilitate the understanding on buyer expectations in the implementation of human rights due diligence. It was also pointed out that efforts on responsible business conduct need to be reflected in transaction prices. For example, an employers' organization in Bangladesh stated that problems occur when a buyer that accounts for only a portion of a certain company's sales requires that company to implement human rights due diligence at a high level, and other buyers that accounts for the majority of that company's remaining sales is indifferent to respect for human rights and do not bear the burden of human and financial costs to implement handling human rights due diligence. It would be difficult for the supplier company to secure profits, because it has to deal with costs related to human rights due diligence at its own expense for a client that accounts for only a part of its sales. However, they also stated that laws on mandatory human rights due diligence would address this issue, at these will make more companies to work on human rights due diligence.

Furthermore, there were requests for the provision of information on what is required of companies as laws and guidelines, etc., on human rights due diligence have impacts not only on the the multinational enterprises in the home countries where they are enacted, but also on their business partners in supply chains. In the same vein, there were expectations for discussions and opinion exchanges prior to the formulation of laws, guidelines, etc., in the home countries of multinational enterprises. It should be noted that Paragraph 12 of the ILO MNE Declaration calls on home and host governments to promote good social practices among multinational enterprises in accordance with the Declaration, and to have consultations with each other whenever the need arises.

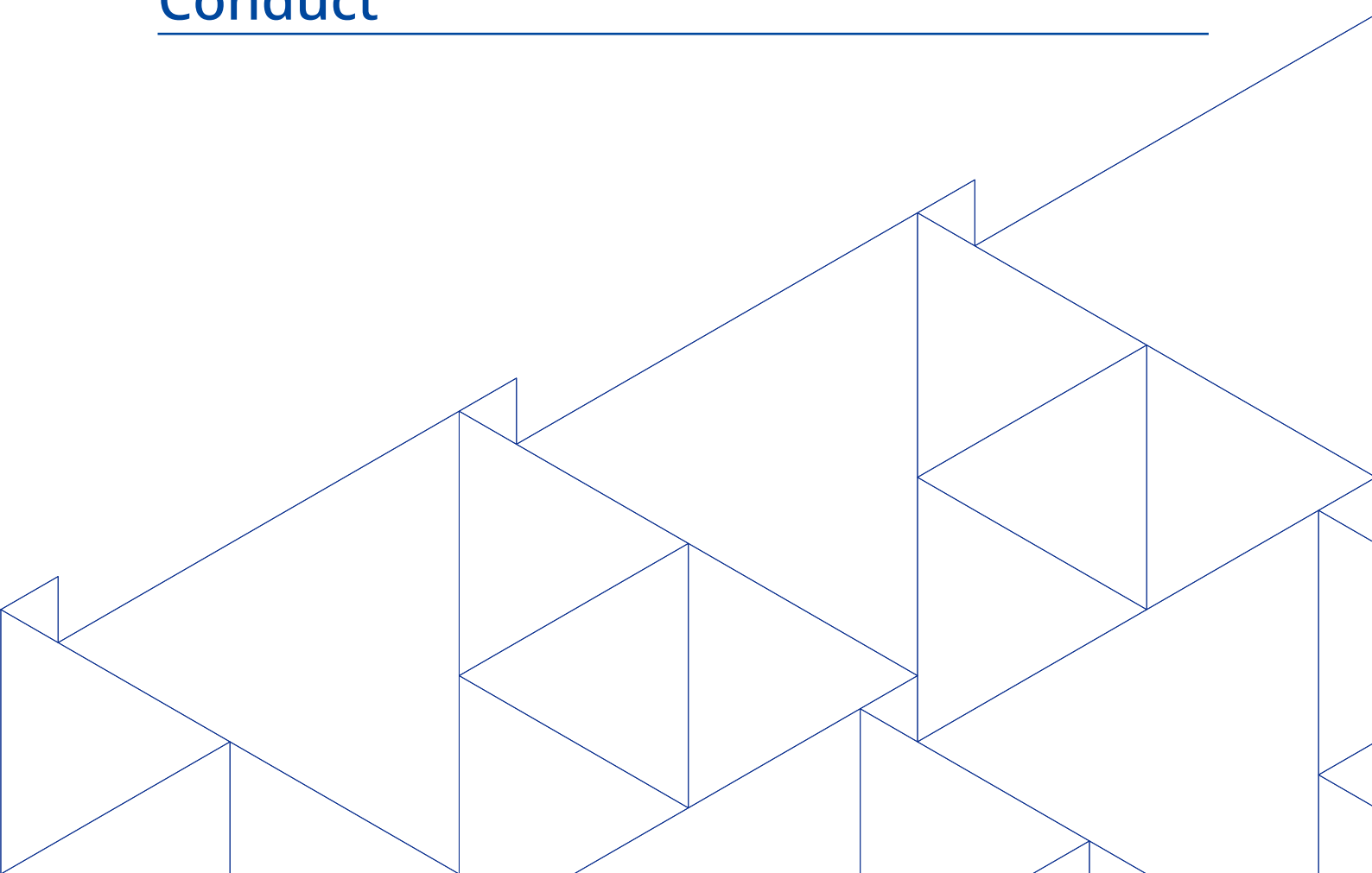
Japanese companies operating in the three countries shared their opinions calling for securing of a level playing field and the harmonization of requirements on human rights due diligence among different countries. There were also some confusions about how far they should require their business partners to implement the international standards beyond domestic laws if there are differences between the domestic laws and business practices of a country where they carry out business activities, and the international standards. With regard to securing a level playing field, taking overtime as an example, if a company manages overtime hours strictly in accordance with the law, while another company that does not uphold the law and allow their workers to perform overtime beyond the legal limit, the former will suffer competitive disadvantage as the latter will be able to produce with fewer personnel. There were opinions of expectations of the role of government in strengthening legal enforcement, and creating an enabling environment in which companies can compete on a fair playing field. In addition, some companies also suggested that the Japanese government to encourage its trade partner countries to ratify labour and human rights treaties through inclusion of such ratification of labour and human rights treaties in preferential tariff conditions and free trade agreements, as the EU does.

- ▶ Responsible Business Conduct and Human Rights Due Diligence:
Good practices of Japanese Companies Operating in Bangladesh, Cambodia and Viet Nam, Trade,
Investment and Labour Nexus and a Way Forward



11

A Way Forward for the Further Promotion of Responsible Business Conduct



This chapter presents potential steps governments, businesses, and employers' and workers' organizations can take to further promote responsible business conduct.

Governments

■ Promoting a level playing field

In order for companies to act responsibly, it is important that states first fulfil their obligations to protect human rights and play their role in creating a level playing field.

Stronger alignment of national laws with international standards including international labour standards and its enforcement will enable companies to compete on a level ground. In such an environment, it is hoped that responsible business conduct by companies will lead to a virtuous circle of respect for human rights and economic growth.

■ Information provision and support for the implementation of responsible corporate behaviour

Governments should set out clearly the message that businesses should fulfil their responsibility to respect human rights and promote responsible business conduct, thereby promoting their country's own economic growth. Governments efforts can also raise the level of supply chains through provisions of information on what should be done at the enterprise level in light of recent global developments, implementation of measures that encourage responsible business conduct in accordance with the circumstances of each country, and support for small and medium-sized enterprises with limited resources.

The Japanese government

■ Information exchanges and coordination aimed at more coherent policies

The Japanese government should develop measures based on international standards, including core labour standards. Moreover, it should actively exchange information and engage in dialogue with other governments to promote mutual understanding of measures concerning human rights due diligence and with the aim to harmonize of requirements for the companies in the future. Such efforts will ultimately reduce the burden on companies by facilitating the coherence of requirements for companies and by enhancing the predictability of measures.

■ Dialogue, outreach and information exchanges with partner countries affected by human rights due diligence

Due diligence in a supply chain affects not only companies in Japan, but also companies in other countries in the supply chains. From this perspective, it is conceivable that by engaging in dialogue, outreach, and information exchanges with major trading partner countries, the Japanese government could obtain understanding of other parties for the promotion of policy implementation, or use the results of dialogue with partner countries in the consideration of future policies. Paragraph 12 of the ILO MNE Declaration calls on home and host governments to promote good social practices in the operations of multinational enterprises in accordance with the Declaration, and to have consultations with each other whenever the need arises.

Technical support for partner governments and industries, and the promotion of tripartite dialogue between government, workers and employers

In promoting a level playing field and encouraging a virtuous cycle of respect for human rights and economic growth, the Japanese government can provide support including the sharing of knowledge and experience with partner countries and industries, and promoting dialogue between governments, workers and employers both within and between countries including through international organizations.

Employers' organizations

■ Promotion of industry-wide initiatives

With regards to human rights due diligence, employers' organizations can play a significant role on issues that are difficult to be addressed by a single company, such as the establishment of traceability and efforts to reduce the duplication of social audits. Industry association can play a leading role in taking in long-term initiatives such as the establishment of industry-wide guidelines, the creation of systems to share information such as audit results, and intra-industry cooperation beyond national borders.

■ Provision of information to member companies (e.g.: establishment of a help desk)

A better understanding among companies, including SMEs, on actions required at the company level with regard to various human rights due diligence laws and guidance is essential to promote respect for human rights across companies in the supply chain. In Cambodia, for example, the European Chamber of Commerce (EuroCham) established a help desk for business in collaboration with the Textile, Apparel, Footwear and Travel Goods Association in Cambodia (TAFTAC) and German Development Cooperation (GIZ). Such initiatives for providing information can promote understanding among companies on actions they may take and the information they should disclose.

Workers' organizations

■ Awareness-raising and capacity building for more meaningful worker involvement in human rights due diligence

Workers who shoulder business activities and trade unions who represent them are important stakeholders in promoting business and human rights initiatives. Nevertheless, there is much room to promote understanding of how workers and their representatives can be involved in human rights due diligence and the significance of them doing so as well as its approaches. Further awareness-raising and capacity-building are hoped for so that trade unions can play an active role as partners in companies' efforts to respect human especially in identification and response to the adverse impacts on human and labour rights, as well as in remediation.

Enterprises

■ Securing of internal resources for the promotion of responsible business conduct

In order to embed responsible business conduct in the business operations and to promote initiatives along the supply chain, it is necessary for enterprises to establish a system involving various departments within the company, including business units, allocate appropriate resources and create a buy-in for initiatives aimed at promoting respect for human rights. Securing the commitment of the company's top management and promoting awareness within the company is important to secure internal resources.

■ Greater cooperation between buyers and suppliers

Where possible, building long-term business relationships between buyers and suppliers, sharing information and providing appropriate incentives can contribute to promoting responsible business conduct for respect for human rights. In addition, the human and economic costs of human rights due diligence need to be shared appropriately among companies, rather than being borne excessively on the supplier side.

■ Further dialogue with stakeholders

Dialogue with stakeholders is essential in human rights due diligence for companies to identify adverse impact on human rights accurately and respond to them. In particular, workers who shoulder business activities and trade unions are important stakeholders. In addition to the ongoing internal labour-management dialogue, companies can more actively engage with workers and trade unions within supply chains, incorporate their opinions so that workers and trade unions can contribute effectively to human rights due diligence.



This document was developed with the funding of the Government of Japan through Building Responsible Value Chains in Asia through the Promotion of Decent Work in Business Operations Programme.

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