Low risk countries

What constitutes a low risk country and what to do about it

A. Why do we distinguish low risk countries?

1. The code of conduct approach is one instrument for improving labour conditions through existing commercial relationships. Being an external intervention makes this approach less than ideal. However, when other means or institutions (trade unions, works councils, labour legislation and factory inspectorate) do not function sufficiently or are not available, the code of conduct approach has proven effective.
2. Monitoring the implementation of the FWF Code of Labour Practices is a costly and labour-intensive process. Prioritising and distinguishing between groups of countries, therefore, allows limited means to be spent where an intervention is most needed. One of the most intensive parts of the monitoring process are the factory audits; both for the internal monitoring carried out by the participating companies and for the verification carried out by FWF.
3. What is more, auditing is only one of the instruments we use. FWF attaches increasing importance to what happens before the audits are actually carried out (providing information to the management and staff), improvement projects after the audits (corrective action plans, follow-ups) and the constant monitoring activities that the participating companies can carry out themselves during factory visits or in discussions with the factory management.
4. Furthermore, audits in particular require a degree of legitimisation (what business is this of yours, is everything so perfectly organised in your country?). In certain countries, judging from the reactions of local people in for example Poland, Tunisia and Turkey, this legitimacy cannot be taken for granted.
5. Due to the issues raised in 1-4, it is not a foregone conclusion to carry out audits everywhere, and FWF already employs the policy of not making this compulsory in the countries of the former EU 25 + Switzerland, unless in countries with considerable risks of fundamental breaches of labour standards. There are also other countries or parts of countries – the so-called low risk countries – where FWF can waive the necessity of auditing.
6. The audit results for 2006 (and 2005) revealed a clear pattern: Average non-compliance issues per factory: China: 16 (19), India: 10 (13), Macedonia: 3.75 (12)1, Turkey: 6 (10), Tunisia: 6 (9), Poland: 4 (7).

B. What constitutes a low risk country?

7. Low risk countries are not primarily determined by the standard of the labour conditions, but by the presence and proper functioning of institutions (trade unions, works councils, labour legislation and labour inspection), which can guarantee the compliance with basic standards (compare for example the FWF policy with regard to living wage: in countries

[1] All 2006 audits in Macedonia concerned follow-up audits, which partially explains the drastically lower figure for 2006 compared with 2005.

where there is a freely negotiated CBA, the CBA initially determines the level of what we call a living wage. After all, only the local parties, freely negotiating, can determine the wage level that reflects the balance between living conditions, labour productivity and labour market relations).

8. There is often a relationship between the general prosperity level, the labour conditions and the proper functioning of institutions. [2]

9. Countries where freedom of association does not exist – statutorily or in practice – can never be low risk countries.

10. In every country, an informal economy exists where workers have no or much less protection. Workers in garment factories worldwide traditionally almost always belong to the weaker groups within the labour relations. For this reason alone there are no 'no risk countries'. When waiving certain monitoring activities in low risk countries, therefore, FWF is taking a calculated risk.

11. The question is whether the condition mentioned under B.1 should apply to the economy as a whole, or specifically for the garment industry in the region in question. If, for example, a country has a strong trade union, it does not automatically follow that this affects every garment factory.

12. If FWF requires that condition B.1 specifically applies to the garment industry in the region in question, then the Code of Labour Practices approach intervenes more strongly in internal relations than if condition B.1 is considered to be met when it applies to the economy as a whole. How most effectively to deal with this question depends on the reason why the existing institutions do not reach the garment industry. This may have something to do with specific government policy, trade union policy or resistance of employers. In that case one could argue that the solution cannot be found first and foremost in the implementation of a Code of Labour Practices, but rather through international initiatives of FWF stakeholders (the code of conduct approach seems most appropriate either in countries where the government has insufficiently laid down the labour rights, or in regions or sectors where the observance of the rights is insufficiently enforced. This may be, for example, due to a poorly functioning government or a structurally weak position of the workers, respectively).

13. Another option may be to determine per factory whether condition B.1 is met. This can be done through audits, but also through contact with local partners or through a visit to

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[2] The level of GDP per capita, according to many studies, is a key indicator for the level of compliance to international labour standards; the poorer a country, the less likely it is that it fully complies with international labour standards. This should not be interpreted as a simple causal relation. Drawing the analogy with governance, "a large body of research indicates that there is substantial causation in the other direction as well – better governance leads to higher incomes." (Kaufmann 2005a).

The Global Labour Survey (2004) shows that practices favourable to workers are more prevalent in countries with high levels of income per capita. The measurement of income inequality is also of importance since, according to the GLS, less income inequality correlates with effective pro-labour institutions. The Global Labor Survey also states that 'economies with more pro-worker "Labour Market Conditions" in terms of wage-setting institutions also tend to have greater "Freedom of Association & Collective Bargaining" and higher levels of "Employee Benefits". They also have a low "% informal sector", as well as high unionization and collective bargaining coverage rates.'

the institutions in question. However, a principal aim of determining which countries are low risk, is then largely lost: it does not save time or resources.

14. For the reasons mentioned under 5, 6 and 7, FWF will take the application of condition B.1 for the economy as a whole as a primary criterion to determine whether a region qualifies as 'low risk' (with the possibility to make a distinction between the regions of a country).

15. There are no substantial arguments to approach CEE countries within the former EU-25 differently than for example South-European countries.[3]

C. What is FWF's policy with regard to low risk countries?

16. In all countries the member company always sends the suppliers the Code of Labour Practices (with a contact for complaints, see 2.f below), which the suppliers need to post in the factory, as well as a questionnaire that they have to fill in and return.

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[3] On the basis of data of the ILO researcher Kucera it is concluded in the FWF Risk Assessment Study that "trade union rights are generally not a huge problem in the countries of our survey. Even Belarus and Russia, the worst performers score higher than South Korea (2.93) and Brazil (3.83) for instance. Note that Romania also scores relatively bad (4.29) but still better than the UK, with 4.14 the worst performer in the OECD. Ukraine (5.04) scores better than the USA (4.74). The second worst after the UK in the EU is Spain (8,05).

Bulgaria (6.24), Croatia (6.77), Hungary and Lithuania (6.84) all have modest scores (comparable to Japans 6.39). The best performers are Czech Republic (7.29), Estonia (8.05), Poland (8.2) and Latvia (9.1), comparable to Denmark (8.2).

Compare: the Trade union rights index, weighted for China and Vietnam is 0.0, for Turkey it is 0.68, USA 4.74, Netherlands 9.55. Ireland, Portugal and Austria are the only countries to score a full 10.

Several other relevant conclusions from the FWF Risk Assessment Study (2006):

On the basis of these outcomes there is no ground to exclude the new EU members from the 'low risk' category established by the 'old' EU members. The best new EU members do better on some dimensions than the worst or even average EU members. For instance on corruption here is substantial variation *within EU countries*. The long-standing EU members from southern Europe exhibit higher levels of bribery prevalence than the tigers of East Asia, or of some emerging countries in other regions, such as Slovenia and other new EU members from Central and Eastern Europe. The high variation within the EU is illustrated by the fact that the gap in the prevalence of bribery between the exemplary Nordic countries, on the one hand, and southern Europe, on the other, is larger than the gap between southern Europe and the average for all emerging economies.

Whether the same will be true for Bulgaria and Rumania after their accession to the EU remains to be seen. It could be necessary to continue doing social audits there at least for 1-3 years, and study recent data of the kind collected in this report to establish whether compliance to labour standards is up to general EU levels.

There is a great variance of outcomes within a country and between countries. This shows that there will be a sustained need for some form of monitoring per factory in all countries, especially taking into account the nature of the garment industry.

17. In *every* potential low risk country (that includes also all EU member states) with suppliers that work for FWF members and where the work plan determines that FWF is going to be active, the following takes place:

    a) FWF establishes contact with trade unions, employers' organisations and, if necessary, also public bodies such as the factory inspectorate; if necessary, FWF also gets in touch with NGOs to get an idea of the functioning of the institutions and of the existence of possible non-low risk regions within those countries. This is laid down in a report.

    b) FWF carries out (or has carried out) a country study into the indicators of the labour conditions/labour standards, as much as possible on the basis of international comparative research (criteria are: state capacity and corruption; labour legislation and protection; informal sector; trade unions and industrial relations; average income; poverty; inequality and minimum wages; gender gap; child labour; forced labour; working time; occupational health and safety. Internationally comparative indicators and databases are available of all these indicators).

    c) The country study will have a regional specification if trade unions, employers' organisations, NGO's and/or public bodies such as the labour inspection (see 2.a above), indicate that there are considerable regional differences.

    d) On the basis of the above (a, b, c,), FWF staff formulates its advice to the FWF Committee of Experts (CoE) for ascribing the low risk status.

    e) If the country/region is given the low risk status, the monitoring activities are carried out as much as possible by the recognised trade union. If this is problematic, for example because the trade union is highly fractured, an NGO can be called in for this work.

    f) The recognised trade unions in the garment industry are given the names of "FWF suppliers" in their country (without specifying the buyer companies) and are asked whether they know of any problems at those factories. They are also alerted to the possibility of using, should problems occur in the future, the instruments offered by FWF.

    g) The Code of Labour Practices, which has to be posted in the factories (see C.1), will also, after consultation with the relevant organisation, state the contact information for complaints (and addresses of the trade unions referred to under 2.c above and, if applicable, also of the labour inspection or relevant NGO(s)). This enables workers to submit complaints through local channel.

    h) Those local channels, i.e. mainly trade unions, are informed of the possibility of contacting FWF in the event of complaints at the factories in question.

18. In countries other than the EU 25 countries + Switzerland, FWF may also decide to propose certain regions for the low risk status. This will only be possible after a number of audits in that region. An advice as under C-2d will then be formulated regarding that country.

19. On the basis of the advice of the FWF staff, the CoE determines whether a country or region is low risk. This advice is substantiated through the above study, (reference to) studies and/or the results of a number of audits at various factories.

20. On account of the necessity to aim for an optimal use of limited resources, FWF aspires to establish as quickly as possible which countries and regions are low risk. The member companies and local stakeholders are informed of this.
21. FWF staff, the CoE or stakeholders can also propose removing the low risk status from a country or region. In that case the FWF staff similarly formulates a proposal to the CoE regarding taking away the low risk status as mentioned above under 2d.
22. This policy will be evaluated at the latest two years after determination and is adjusted if necessary.