Social Audits as an Instrument for Inspecting Working Conditions

Discussion and recommendations in the context of public procurement

A study commissioned by the Procurement Office of the Federal Ministry of the Interior (BMI)

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Abstract

In context of international globalisation processes and dynamic supply chains, working conditions have increasingly become the focus of public attention in recent decades, for example as a result of field reports by NGOs.

The German government has committed itself to making a positive contribution to improving working conditions in supply chains with concrete programs and measures. In particular, the Supply Chain Act and the National Action Plan for Business and Human Rights (NAP)[1] address these challenges.

The NAP clearly states that contracting authorities are also expected to live up to their exemplary role by integrating human rights requirements into their procurement practices. Strengthened by political backing and in context of the development that public procurement is increasingly being used as an instrument for implementing strategic goals, some contracting authorities throughout Germany have already been integrating social standards into their practices for years. For this purpose, the BMI Procurement Office, with its Competence Centre for Sustainable Procurement (KNB), has taken a collaborative effort with Bitkom e.V., the German umbrella organisation of IT companies[2], to develop a model declaration, the Declaration of Commitment to Compliance with Labour and Social Standards in Public ICT Procurement[3], which can be widely used.

In practical implementation, however, challenges and fundamental questions also become apparent which clearly go beyond the implementation of award procedures in the narrower sense and are also regularly addressed to the KNB, since the competence centre advises public clients at all levels throughout Germany on sustainable procurement. These questions often relate to what can be demanded from companies and how company information can be verified, if necessary. In order to develop solutions for these questions, expertise is required with regard to human rights aspects in the corporate context. For this reason, a study was commissioned to assess the fundamental issues surrounding the verifiability of on-site working conditions in global supply chains.

This study focuses on the use of social audits and discusses audits in context of public procurement. Social audits are an instrument which, similar to quality or occupational safety, makes it possible to inspect working conditions on site, at least on a case-by-case basis. First pilots in public procurement are realised at an international level, for example in Sweden or by means of membership in the organisation Electronics Watch. A standardised and broad application of this approach is, however, currently not known. The present study aims at providing basic knowledge concerning social audits as well as at showing specific implementation approaches in public procurement.

In the first part of the report, the basics are reviewed to provide a comprehensive overview of the general functioning of on-site audits and in concrete terms concerning social audits. In chapter 5, models are used to discuss how an audit system could be implemented step by step in context of public procurement, how an internal implementation within the administration could be useful, and in what context cooperation with external organisations could provide added value. Based on this, concrete recommendations and implementation options for the public sector are formulated in chapters 6 and 7. Among other things, the report suggests that a multi-agency collaboration is sensible at specific stages in the procurement process. Furthermore, it is shown that social audits are used in corporate practice as one building block in sustainable supply chain management. In order to establish elements of audits in public procurement practice, additional steps require a process for practical implementation as well as a meaningful allocation of the corresponding resources. The report also points out that initial small steps can be taken for establishing an audit approach that builds up to a more comprehensive system.

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[1]   https://www.auswaertiges-amt.de/de/aussenpolitik/themen/aussenwirtschaft/wirtschaft-und-menschenrechte
[2]   http://www.nachhaltige-beschaffung.info/DE/Themen/2_2_2_VE_2019/2_2_2_VE_2019_node.html
[3]   https://ec.europa.eu/info/policies/public-procurement/tools-public-buvers/sector-specific-tools_en

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Glossary

The terms used in the present study in connection with inspections and standards systems are based on the definitions of the ISEAL Alliance (International Social and Environmental Accreditation). The nongovernmental organisation ISEAL Alliance has made it its business to promote sustainability standards. Since its establishment in the year 2000, ISEAL has become a credible reference frame for leading sustainability labels and standards. In addition, the ISEAL definitions are based on the relevant ISO standards (including, but not limited to ISO 17000, ISO 14000 and ISO 9000). The ISEAL Code of Practice[4] includes definitions, quality criteria and requirements for a credible standards system in the area of sustainability.

The following table shows definitions from the ISEAL Code of Practice, which play a central role in the study (the original ISEAL glossary is enclosed as Annex). ISEAL uses the term "audit" as a synonym for the terms "inspection", "evaluation", "verification". As the present study deals with the inspection of social criteria, the term "social audit" is another synonym for the term "inspection". The study mainly uses the term "audit".

All standards systems – such as RBA, BSCI TCO – are working with audits. The study refers to different methods of conducting audits as "types of audit".

Term	Definition
Third-party Assurance	Assurance activity that is performed by a person or body that is independent of the person or organization that provides the object of assurance and of user interests in that object (adapted from ISO 17000).
Assessment	The combined processes of audit, review, and decision on a client's conformance with the requirements of a standard or of the assurance provider's conformance with requirements for assurance.
Assurance	Demonstrable evidence that specified requirements relating to a product, process, system, person or body are fulfilled (adapted from ISO 17000).
Audit	A component of an assessment. A systematic, documented process for obtaining records, statements of fact or other relevant information and assessing them objectively to determine the extent to which specified requirements are fulfilled (adapted from ISO 17000). Audits conducted in the context of the Declaration of Commitment are used to monitor implementation of the labour and social standards defined in the Declaration of Commitment.
Supply Chain	The different tiers of the supply chain are defined in accordance with the Declaration of Commitment (Bitkom/Procurement Office, 2019).
Tier 1 Tier 2 Tier 3	Tier 1: The final production facility; in the event that products are only refined at the final production facility, also the final production facility's direct suppliers. Tier 2: All direct suppliers of tier 1 production facilities. Tier 3: All direct suppliers of tier 2 production facilities.

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[4]   ISEAL (2018): Assuring Compliance with Social and Environmental Standards V 2.0.

Term	Definition
Standards System	The collective of organisations responsible for the activities involved in the implementation of a (sustainability) standard, including standard setting, capacity building, assurance, labelling and monitoring.
Code of Conduct	A code of conduct (usually) defines social and/or ecological criteria to be implemented in a particular business. The code of conduct is part of every standards system.
Verification	Confirmation, through the provision of objective evidence, that specified requirements have been fulfilled (adapted from ISO 900).
Certification	The issuance of a third-party statement that fulfilment of specified conformance requirements has been demonstrated (adapted from ISO 17000).

Preface

Dear Readers,

Respecting and protecting human rights are the key to sustainable development. For many years, the German government has therefore been committed to improving the worldwide situation of human rights. The National Action Plan – Implementation of the UN Guiding Principles on Business and Human Rights (NAP) and Germany's National Sustainable Development Strategy for Implementing the Sustainable Development Goals of the United Nations are key instruments in this context. In addition, the German government has submitted a draft Supply Chain Act which will regulate by law the global commitment of the German economy and its companies.

The German government, using the above-mentioned instruments, contributes to improving the human rights situation worldwide and to considering social aspects in globalisation processes in line with the 2030 Agenda for Sustainable Development.

Respecting and monitoring human rights are of great significance in the complex supply chains of Information and Communication Technologies (ICT). Society is increasingly debating calls for inspections of working conditions in international production processes.

The Federal Ministry of the Interior and its Procurement Office, as the largest civilian procurement agency in Germany, are conscious of being role models and will lead by example. The KNB, which is part of our Federal Ministry, will impart knowledge of this range of issues to all contracting authorities and support them in applying that knowledge.

This study provides exciting insights into the issue of respect for human rights in the supply chain and the possibilities for their inspection in the context of procurement. Moreover, the study provides the public administration with practical advice and recommendations for implementing audits.

I wish you an exciting read!

Ralf Göbel (Ministerialdirigent, Directorate G I)
Departmental Coordinator for Sustainability in the Federal Ministry of the Interior, Building and Community

Foreword

Dear Reader,

This publication is meant to provide you with basic knowledge and information about social audits, which can be used as an instrument for monitoring compliance with human rights requirements in production facilities. To help you understand the text, the following paragraphs include some explanatory notes on the initial situation and the context of the report.

In the past few years, the issue of human rights in the supply chain has increasingly become the focus of public attention. Political programmes like the National Action Plan, the implementation of the UN Guiding Principles on Business and Human Rights and the consultations on the Duty of Care Act underline this development. Of course, the requirements for public procurement will be formulated in this context with the expectation that public institutions will move forward in a future-oriented manner and lead by example in this field.

For many years, the Procurement Office has been committed to monitoring compliance with human rights in the supply chains of the products purchased by the Office – particularly in the field of Information and Communication Technologies (ICT). For example, the Procurement Office developed the Declaration of Commitment to Social Sustainability in ICT Procurement, a widely applicable instrument which can be used as a model declaration in ICT contract award procedures. Throughout Germany and at international level, numerous other procurement agencies and organisations have likewise dealt with this issue for many years and developed additional possible approaches. Engaging with the issue of human rights in the supply chain also reveals, however, that this is a complex and challenging topic, regardless of whether it is viewed from the perspective of companies, people or contracting authorities. One of the greatest challenges certainly lies in credibly demonstrating and/or providing evidence of compliance with the requirements and of enabling a follow-up request or an inquiry or even a verification as required.

Against this backdrop, the KNB increasingly faced the question of how requirements for compliance with human rights can generally be inspected on site, particularly in order to press the demand for complying with human rights requirements in the supply chain in contract award procedures. Even a brief research revealed that conducting inspections is extremely complex in practice, and we concluded that this requires external expertise in the field of human rights and in a corporate context. Therefore, we are glad that we could commission BSD Consulting to prepare the report. Our joint work focused on the question of how to basically formulate an audit concept that includes in any case the element of an on-site audit of the situation and the question of which commercial-off-the-shelf instruments to use.

The cooperation with BSD Consulting quickly revealed that audits are such commonly used instruments and can thus be considered further. This report discusses fundamental questions and issues regarding the understanding of social audits, their possibilities and their practical implementation. The report is designed to contribute to reaching decisions when it comes to developing audit systems for the public administration or to integrating elements of existing audit systems into administrative processes.

In many places, the authors are indicating which considerations the administration should take into account or pursue. The report mainly focuses on experiences and perspectives from entrepreneurial practice. These experiences and perspectives cannot be directly transferred to public contract award procedures because they are in particular subject to the regulations and limitations of European contract award law. Requirements can only be formulated in relation to products and services specified in the respective contract. Contracting authorities must not impose such requirements on their suppliers' general corporate policies during the contract award procedure. This affects the "development of suppliers' capabilities", for example, because European public procurement law does not provide for long-term cooperation projects that are frequently practiced by companies.

The contents of this report will pose additional questions concerning implementation and application in the context of procurement and contract award procedures; these questions will be addressed both under the framework conditions set out by the relevant contracting authorities and at the political level. This includes questions of resources, e.g. budgetary aspects or personnel requirements, as well as questions about the legal form and admissibility of social audits (in accordance with procurement law). The work assignment did not focus on these perspectives in the following report and thus did not initially concentrate on them. However, it has turned out to be imperative to examine these perspectives before reviews can take hold in procurement practice. Additional (particularly legal) analyses, pilot projects and decisions are necessary so that reviewing human rights in the supply chain can become the standard in public procurement.

On this note, we wish you a good and stimulating read!

Dr Ruth Brand (President of the BMI Procurement Office)
and the Project Team

1 Introduction

Since the 1990s, companies have developed different approaches to assume responsibility for poor working conditions in their global supply chains.[5] Important milestones in this context were the UN Guiding Principles on Business and Human Rights, which the United Nations Human Rights Council formulated in 2011 and which substantiated the responsibility of companies for respecting human rights in their supply chains.[6] Particularly in consumer goods industries, like the ICT and electronics sectors, companies request their suppliers to implement the ILO Core Labour Standards and other ILO standards, and social audits are usually conducted to monitor implementation. However, the working conditions of workers in global supply chains continue to be criticised as poor, and social audits are playing a crucial role in this criticism.[7] This criticism partly relates to the fact that there are differences in detail when social responsibility is assumed, particularly with regard to questions such as which ILO standards does the company define as part of its social responsibility? Up to which point in the supply chain does the company assume social responsibility? Which methods does the company use to monitor whether the standards are complied with and how does it ensure that serious shortcomings identified will be remedied? This report is designed to help achieve this differentiation for social audits.

Issues of social responsibilities are also becoming more significant in the context of public procurement. Social aspects had long been regarded as "unrelated to the contract award procedure" in public procurement law, but all stages of the contract award procedure now enable their integration, both European and German legislative authorities see these aspects as desirable and contracting authorities expect them. At the same time, public procurement law does not provide for influencing the contractors' general corporate policies. However, this is a vital component in the effort to improve the working conditions in global supply chains. The restrictions of public procurement law render it difficult, and largely even impossible, for contracting authorities to request that social responsibility be assumed through supply chain management systems and developing suppliers' capabilities.

Nevertheless, numerous contracting authorities endeavour to establish minimum social standards and control regimes in accordance with public procurement law when awarding (individual) contracts. One example for this is the Declaration of Commitment to Compliance with Labour and Social Standards in Public ICT Procurement (Bitkom/Procurement Office, 2019[8], which obliges the contractors of ICT contracts to comply with the ILO Core Labour Standards and other minimum social standards in their supply chains. With this Declaration, in its third version, the Procurement Office, in cooperation with the Bitkom industrial association, has established a standard which also serves as a model for other contracting authorities. This Declaration requests contractors to comply with the ILO Core Labour Standards and other standards and specifies what documents for a plausibility check have to be submitted by what deadline. This Declaration of Commitment provides the framework and the context for the work of the Procurement Office with its KNB on this study.

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[5] At the time this report was prepared, the German Federal Cabinet adopted the draft Supply Chain Act, which is to regulate by law the handling of human rights violations.

[6] Geschäftsstelle Deutsches Global Compact Netzwerk (Secretariat of the Global Compact Network Germany) (2014): Leitprinzipien für Wirtschaft und Menschenrechte (Guiding Principles on Business and Human Rights). Available under: https://www.auswaertiges-amt.de/blob/266624/b51cl6faflb3424d7efa060e8aaa8130/un-leitprinzipien-de-data.pdf
For example, the first guiding principle of the corporate responsibility to respect human rights states: "Business enterprises should respect human rights. This means that they should avoid infringing on the human rights of others and should address adverse human rights impacts with which they are involved."

[7] A selection of scientific papers and other studies which have dealt with the criticism of social audits in the past 20 years is part of the list of references (*highlighted).

[8] German Association for Information Technology, Telecommunications and New Media (Bitkom) and BMI Procurement Office (represented by the KNB) (2019): Gemeinsame Erklärung zur sozialen Nachhaltigkeit im IT-Einkauf der öffentlichen Hand (Joint Declaration on Social Sustainability in the Context of the Public Procurement of Information Technology). Berlin, 7 May 2019.

Objective/question

The study intends to answer the following question: how can government agencies and contracting authorities verify that existing contractual relationships meet the minimum standards on working conditions contractually agreed beforehand? In this context, the focus is on final manufacturers and suppliers in the ICT sector. In addition, the study pursues objectives as specified in the work order:

(1) Indicating best practice approaches to verify ILO standards (of economic players, certification and inspection bodies).

(2) Coming up with model-based recommendations as to how to be able to implement the inspection of working conditions in the context of public procurement.

Background

Social audits[9] are usually conducted to monitor compliance with the contractually agreed minimum working standards in the supply chain on the companies' premises. A social audit means that a specially trained auditor or an audit team will visit a company (normally a business or factory) and check on site whether and to what extent the company complies with the working standards contractually specified in the code of conduct. In order to conduct an audit as uniformly and as intersubjectively verifiable as possible, the auditors will follow **audit guidelines**.[10] These guidelines explain how an audit should be conducted. In order to document a violation, various pieces of evidence must ideally lead to the same statement. Usually, the result of a social audit is presented in an audit report, which may vary depending on the form specified in the audit guideline. The following three backgrounds should at least be considered in order to understand the challenges of audits in the context of public procurement and in order to answer the question defined above:

1. Due to resources and personnel organisation, individual, often decentralised, contracting authorities in the public administration usually do not implement specific mechanisms for assuring compliance with working standards in third countries. Therefore, a code of conduct to be developed for the public administration should be based on existing audit and assessment models in order to benefit from synergy effects and ensure a successful review even with limited human resources. In order to tailor the code of conduct to the audit and assessment types available, the public sector needs a good overview of existing approaches, their strengths and weaknesses. This overview is provided in chapters 3 and 4.

2. In most industrial sectors, companies and other actors have developed a wide variety of assessments and/or audit types[11] to address working conditions in supply chains (including, but not limited to, internal company standards, standards initiatives like RBA, BSCI-amfori, Electronics Watch, factory standards like SA 8000, product certificates like the TCO certificate). All these assessments pledge a review of minimum social criteria (especially of the ILO Core Labour Standards), but in detail each model works in a slightly different way and, above all, there are sometimes considerable differences between the assessment models with regard to aspects like contents, scope of assessment and credibility. The most widely used models have been criticised for more than 20 years because they neither expose nor remedy simple violations of the codes of conduct.[12] The public sector should therefore have a good overview of the different assessment approaches which companies are using

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9   Audit: A component of an assessment. A systematic, documented process for obtaining records, statements of fact or other relevant information and assessing them objectively to determine the extent to which specified requirements are fulfilled (adapted from ISO 17000). Audits of social standards are called "social audits". Audits are also designated as "inspections".

10   These guidelines are referred to as "audit protocols" or "auditor guidance", among other names.

11   Assessment designates the combined processes of audit, review, and decision on a client's conformance with the requirements of a standard or on the assurance provider's conformance with requirements for assurance. This report mainly covers the sub-type of the audit which exists in numerous audit types.

12   Relevant sources are found in footnote 6 on the first text page.

in order to select the approaches that are in line with its own standards. This overview is provided in chapter 4.

3. In the past years, it has been found that labour rights violations in supply chains cannot be eliminated if companies only devise a code of conduct and have this code reviewed.[13] It must be ensured that violations or gaps identified through assessments will be remedied by corrective actions[14]. Therefore, companies are more and more often implementing a strategic sustainable supply chain management which comprehensively ensures actual compliance with minimum social standards in the supply chain. These connections are presented in chapters 2 and 3 and will later be considered in the different models.

Methods and persons involved

The study combines findings from scientific and grey literature with auditors' experience.[15] We interviewed actors who pursue best practice approaches. In addition, 15 different audit approaches, above all in the ICT sector, were analysed for the study (the results are presented in chapter 4).

Two men and one woman, all of whom have dealt with social standards, audits and sustainable public procurement for many years, wrote the study. **BSD Consulting** and its parent company **ELEVATE** have focused on sustainability issues in international supply chains for more than 20 years. ELEVATE conducts more than 18,000 assessments and audits annually, above all in the consumer goods sector. **Mark Starmanns** has been with BSD Consulting and worked on projects on the implementation of social standards in public and private procurement since his dissertation on Corporate Social Responsibility in Global Garment Production Networks (2005-2010). **Maren Barthel** has been implementing social standards in various companies and participated in the development of standards like BSCI since 1998. **Hendrik Mosel**, who has been Lead Auditor since 2016, has audited more than 300 factories (including, but not limited to, factories in the ICT industry) and participated in more than 100 training measures.

Structure of the study

Chapters 2, 3 and 4 will contextualise the topic of social audits of ILO standards as a basis for understanding the models described in chapter 5 and the recommendations specified in chapter 6. The first three chapters do not refer explicitly to public procurement, but generally to companies' practical approaches in supply chains. However, as already stated in the foreword, additional legal analyses and pilot projects are necessary in order to examine and test whether the company approaches can be transferred in detail to public procurement. **Chapter 2** introduces the topic of ILO standards, explains what ILO Conventions are and how and by what means the risks of violations of ILO standards can be identified and assessed. **Chapter 3** places the topic of "audits" in the context of "sustainable supply chain management". This is relevant to understand how companies try to improve social standards in the supply chain and which role audits are playing in this context. This helps us understand, and put into perspective, the limits of social audits. **Chapter 4** discusses social standards in detail and differentiates between various types of audits. In this context, chapters 4.1 to 4.3 discuss the basics (code of conduct, audit guidelines, auditors' qualification), which must be defined before conducting audit activities. Chapter 4.4 describes how to conduct an audit, and chapter 4.5 discusses the costs and the credibility of audits. **Chapter 5** examines how the audit systems defined previously can be used in public procurement. A total of eight process steps are proposed for how audits can be carried out in the context of public procurement. Three theoretical models, distinguished by whether the step should be implemented by the administration itself or externally, were developed for

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[13] Locke, R. M. (2013): The Promise and Limits of Private Power. Cambridge, MA; see also: Philips (2018): Supplier Sustainable Performance. Beyond auditing.

[14] These corrective actions are closely associated with the Corrective Action Plans (CAPs).

[15] Hendrik Mosel and his audit colleagues, who have been conducting audits for 30 years, introduced the auditors' perspective.

each process step. The first five steps are necessary to establish an inspection system for the administration, which is necessary as a basis for conducting audits. The process steps 6 to 8 will be executed in every procurement process if the suppliers of the contractors are to be audited. In addition, this chapter discusses cross-sectoral aspects and the implications for the market. Finally, **chapter 6** gives a recommendation for use in public procurement, which also includes the models and process steps described in chapter 5, while **chapter 7** presents a conclusion and an outlook.

2 ILO standards – basics and risk analyses

2.1 What are ILO standards?

The International Labour Organisation (ILO[16]) was founded in 1919 in Geneva. The organisation's main tasks include the formulation and enforcement of international labour and social standards (particularly core labour standards). The ILO instruments on labour and social standards are subdivided into conventions, recommendations and protocols. Conventions are instruments which create legal obligations if ratified by the government of an ILO member state. As a rule, however, the ratification of ILO standards by a state is voluntary. Ratification requires that these principles are transposed into national law and compliance with them is reviewed continually.[17] In accordance with the German Basic Law (Art. 59), international treaties can only become effective in Germany, for example, after approval by the legislative authority.[18] If a convention is adopted by an ILO member state, this state undertakes to submit the adopted convention to the legislative bodies within one year at the latest. If the government of a state recommends non-ratification, it must set out the reasons why.

Eight conventions are summarised as **Core Labour Standards**. They are derived directly from human rights and the following four fundamental principles which guide ILO actions:

(i)   *The freedom of association and right to bargain collectively,*

(ii)   *the abolition of forced labour,*

(iii)   *the elimination of child labour,*

(iv)   *the prohibition of discrimination in employment and occupation.*

Recommendations and protocols do not need to be ratified in contrast to conventions. They give specific assistance linked to the conventions and provide the political sector with information on the orientation of the ILO.[19] Since its establishment, the ILO has adopted 189 conventions and 205 recommendations. In addition to the eight ILO Core Labour Standards, Germany has ratified 85 conventions and two protocols: a total of 60 are currently in force.[20]

As part of public ICT procurements, the BMI Procurement Office requests compliance with selected ILO standards in the Declaration of Commitment[21] (Bitkom/Procurement Office, 2019). In this context, reference is made to the eight ILO Core Labour Standards and five additional ILO Conventions (see table 1). Like a company's code of conduct, the Declaration of Commitment defines which labour and social standards suppliers must comply with in the context of ICT procurement.

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[16]   The International Labour Organisation (ILO) is a specialised agency of the United Nations. It was founded in 1919 and is headquartered in Geneva. Its 187 member states are represented by governments, employees and employers in the ILO bodies.

[17]   Note: The ratification of a convention does not automatically mean that the convention will be implemented in all the companies of that country. Of course, companies in a country may comply with a convention even if that country has not ratified it.

[18]   ILO Website: https://www.ilo.org/berlin/arbeits-und-standards/lang—de/index.htm

[19]   ILO overview: https://www.ilo.org/berlin/arbeits-und-standards/

[20]   The current status of ratifications (as of 15 October 2020) is available under Normlex: https://www.ilo.org/dyn/normlex/en/f?p=1000:11200:0::NO:11200:P11200_COUNTRY_ID:102643

[21]   http://www.nachhaltige-beschaffung.info/DE/Themen/2_2_2_VE_2019/2_2_2_VE_2019_node.html (retrieved on 28 Apr. 2021).

Table 1: ILO Conventions listed in the Declaration of Commitment and countries which ratified them[22]

ILO Conventions	Core Labour Standard	Number of countries which ratified the standard	Ratified by Germany
ILO 87: Freedom of Association and Protection of the Right to Organise Convention	X	155	in force, 20 May 1957
ILO 98: Right to Organise and Collective Bargaining Convention	X	167	in force, 8 Jun. 1956
ILO 29: Forced Labour Convention	X	178	in force, 13 Jun. 1956
ILO 105: Abolition of Forced Labour Convention	X	176	in force, 22 Jun. 1959
ILO 100: Equal Remuneration Convention	X	173	in force, 8 Jun. 1956
ILO III: Discrimination (Employment and Occupation) Convention	X	175	in force, 15 Jun. 1961
ILO 138: Minimum Age Convention	X	173	in force, 8 Apr. 1976
ILO 182: Worst Forms of Child Labour Convention	X	187	in force, 18 Apr. 2002
ILO 155: Occupational Safety and Health Convention		69	not ratified
ILO 170: Chemicals Convention		22	in force, 23 Nov. 2007
ILO 131: Minimum Wage Fixing Convention (with special reference to developing countries)		54	not ratified
ILO 102: Social Security (Minimum Standards) Convention		59	in force, 21 Feb. 1958
ILO 1: Hours of Work (Industry) Convention (application of the principle of the 8-hours day or of the 48-hours week)		52	not ratified

2.2 Analysing social risks in supply chains

So-called risk analyses can be carried out to be able to better anticipate the social challenges in a supply chain. The results of these risk analyses are used especially if not every supplier is to be audited, but only selected suppliers most at risk of violating specified standards. The risks in the supply chains usually relate to countries or area categories below country level. They may also relate to individual sectors or raw materials.

In addition to audits and/or on-site assessments, companies usually adopt one of the following approaches in order to assess the risk of non-compliance with ILO standards in the supply chain:

1. **Risk assessment by experts:** In this case, the risk of violations will be evaluated based on expert knowledge about a country and/or a sector. This method is financially beneficial, but superficial.

2. **Risk assessment based on indicators or indices:** This method helps to classify countries above all into different risk categories. The Worldwide Governance Indicators (WGI) of the World Bank are among the best-known examples for this. These indicators are a meta index for measuring good governance.

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[22] The table shows that between 155 and 187 states ratified the respective core conventions. The remaining five ILO standards listed in the table, on the other hand, were only ratified by 22 to 69 states. Germany, for example, has not yet ratified three of the ILO Conventions listed in the table, but has implemented them in essence.

Worldwide Governance Indicators (WGI) are intended to measure the quality of a country's governance in relation to other countries and compared over time.[23] The amfori[24] list of risk countries, for example, is based on the Worldwide Governance Indicators (WGI). Other indices specifically assess individual risk categories. The Walk Free Foundation, for example, publishes country studies on human trafficking and slavery, which are used to determine the Global Slavery Index (GSI). By using this type of indices or combining several pieces of information, country risk profiles can be prepared. However, these risk profiles usually do not assess the risk that ILO standards are violated. Frequently, the indices cover several interrelated issues or only a single issue like forced labour or wages. Thus, different indicators must be combined in order obtain a comprehensive picture of the relevant ILO standards.

3. **Risk assessment based on more comprehensive databases** (for example the ELEVATE EiQ database or the VERISK Maplecroft database): These databases partly draw very specifically on information about violations of ILO standards in individual businesses and factories. The method for assessing risks by means of databases will be discussed later on.

Risk assessments and their challenges

Risk analyses present challenges with regard to data aggregation and assessment. For example, if a database contains audit results, the raw data differs in contents, volume and assessing the severity of the violation. Therefore, this data must be rendered comparable for use in the database. The ERSA (ELEVATE Responsible Sourcing Assessment) audit guideline, for example, distinguishes between four categories:

- **Minor:** An isolated failure or oversight which poses a low risk to employees. A minor violation is no systematic error and can usually be remedied immediately.

- **Moderate:** This violation of the standard or the local law poses a hazard to employees or violates their human rights.

- **Major:** Lack of a system or total collapse of the system for compliance with social standards; this systematic or substantive violation of the standard or the local laws is an immediate, but not life-threatening threat to the safety of employees or to human rights.

- **Critical:** This major violation of the standard or the local law poses an immediate or critical threat to the safety and lives of employees or is a critical violation of their human rights or of ethical business standards.

- In addition, many systems have a **"zero tolerance"** category, which is applied to major violations. Violations in this category will in most cases lead to an immediate termination of the supply relationship.

Moreover, systems may differ with regard to the assessment of individual questions. In most cases, the assessment of the violations is based on a combination of evaluating the degree of compliance and assessing the severity of the violation.[25] In addition, the questions and possible answers in the audit reports sometimes differed considerably. Therefore, information needs to be standardised for aggregation.

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[23] Six indicators are used for this purpose: Voice and Accountability, Political Stability and Lack of Violence, Government Effectiveness, Regulatory Quality, Rule of Law, and Control of Corruption.

[24] www.amfori.org

[25] While the audit questionnaires the early 1990s were mainly black-and-white checklists (yes/no, passed/failed), the questions and possible answers have become more and more sophisticated over the years. For example, the question as to whether a factory has a "sufficient number of fire extinguishers" could become a whole battery of questions inquiring about the number of fire extinguishers per unit (e.g. square meters, number of workers in the area, danger level of the factory section etc.) and requesting additional information on type of installation, inspection cycles, filling material, marking, and many more. Analogous to the above-described differentiation of batteries of questions, the possible answers to a question have become more and more sophisticated over the years. Here, too, there are differences within the individual systems but, in most systems, the answers to individual questions are based on the following possibilities: "observations/not fulfilled/not applicable". This is followed by differentiating whether any deviation refers to a legal norm or only to a programme item or to both.

It is also relevant to all three risk assessment approaches that they only consider inherent risks and are, thus, approximations of the real situation. In this context, a crucial question is whether the data collected is at all statistically representative for the businesses considered; this depends on the statistical population, on the one hand, and on the sample, on the other hand. Thus, an individual business in a country where the overall risk of non-compliance has been assessed as very high may, of course, also be a best-practice company without any violations. The other way round, an individual business in a country which received very good assessments with regard to non-compliance with ILO Conventions may score very badly.

Interim conclusion on risk analyses

Generally, risk analyses may help reduce the number of audits to be conducted so that the audits can focus on companies most at risk of violating ILO standards. Quality and validity of a risk analysis are determined by the quality of the data on which the analysis is based. It is not advisable to trust a risk analysis which is based on general and/or obsolete data.

2.3 Information sources for assessing the risks in the supply chain

Risks in supply chains can be analysed using numerous information sources and aids which have been developed by different organisations in the past years and which demand very different standards regarding the level of detail. The following list is not exhaustive:

- **BAFU relevance matrix:** The Swiss Federal Office for the Environment (BAFU) has developed the relevance matrix, an expert assessment which provides a clearly structured method for clarifying, prior to procurement, which issues/aspects of sustainability are relevant to the specific item to be procured. The relevance matrix is based on ISO Standard 20400 (2017) for sustainable procurement and on a primarily qualitative analysis. Its focus, however, is on environmental aspects and indicates priorities of individual sectors only in very general terms, which will not help with focusing of social audits.

- **Lists with high-risk countries:** Standards initiatives frequently provide their members free of charge with lists of identified high-risk countries. For example, BSCI amfori makes "The amfori Country Risk Classification" available free of charge to amfori members. This classification is a table based on the World Bank Worldwide Governance Indicators (WGI), showing countries and a three-level risk assessment (low/medium/high). The intention is that amfori members will focus on high-risk countries.

- **Social Hotspot Database:** NewEarth B is an independent, US-based consulting company for sustainability, which operates the Social Hotspot Database, a platform for sustainability and risk assessments. The Social Hotspot Database includes a Risk Mapping Tool, which uses publicly available data and indices. Sector-specific risks can be analysed for different areas and visualised on a map.

- **Risk reports on individual issues/countries:** Risk reports can also be prepared for producers, issues or countries. The National Secretariat Sustainable Public Procurement, which is responsible for sustainable procurement in Sweden, frequently uses individual risk reports.

- **Verisk Maplecroft (VM) as a database-based aid:** The VM Global Risk Dashboard GRiD is based on a large number of indices and allows statements on more than 150 risks in the areas of politics, human rights and environment in various countries and industrial sectors. The platform allows aggregated statements on risks along the supply chain. Filter options include geography, product group and type of risk or violation. The assessment is based on hundreds of thousands of index values (including, but not limited to, those of the ILO, the United Nations, UNICEF, the World Bank, etc.). Maplecroft does not use audit data.

- **ELEVATE EiQ Platform as a database-based aid:** The EiQ Platform is based on more than 500,000 index values of publicly accessible indices. These are supplemented by more than 12,5 million data points collected by ELEVATE from worldwide audits during the past ten years. The model differentiates between five categories: (1) Labour (wages, working hours, child and forced labour, discrimination,

etc.), (2) health and safety, (3) environment, (4) business ethics (corruption, transparency), (5) management systems. The EiQ Platform classifies risks on a scale from 0 to 10, with 0 being the worst and 10 being the best value on the scale. In addition, scorecards at the level of countries and production sites provide detailed information on the score in various categories and the development in the past five years. Figures 1 and 2 show examples of the results of the EiQ Risk Analysis.

Generally relevant to all the tools is that they use up-to-date information and are not too generic, if possible. For many aids, the topicality of the data used is a problem. Moreover, the methods used by the aids should be as transparent as possible so that assessments are comprehensible. If these tools are the basis for deciding to conduct audits, the question should be raised as to how statistically representative the data is (depending on the number of audits conducted and the degree of transparency of the production site). The EiQ Platform, for example, allows very reliable statements on China because many data points are available in this country due to the high number of audits; but regarding the production conditions in a country like Afghanistan, were only a few audits are conducted, the EiQ statements are only partially representative if based on audits. Based on the data situation, the EiQ Platform therefore makes percentage-based statements on the confidence level in the rating. In addition, each audit evaluates and rates the degree of transparency of the audited businesses and/or factories. There are varying degrees: transparent/inconsistent/inconclusive. It is recommended for making representative statements on specific issues, e.g. wages and working hours, that only transparent businesses/factories be included in the evaluation.

Figure 1: Global Risk Landscape filtered by the criterion of "Forced Labour"[26] (EiQ Platform, 2020)

Figure 2: Risk filtered by countries and sectors, taking China as an example (EiQ Platform, 2020)
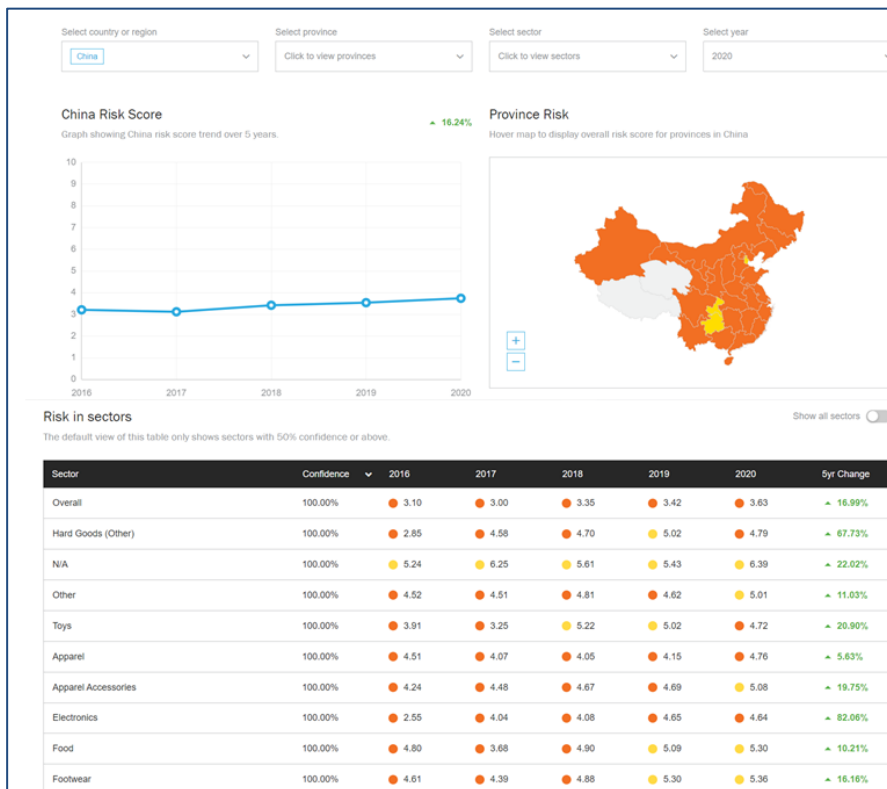
[26] This includes all the violations related to forced labour and the withholding of passports at a production site. In all figures, the risk level is indicated by colours as follows:

🔴 Extreme (0 - 2.49)　　🟠 High (2.50 - 4.99)　　🟡 Medium (5 - 7.49)　　🟢 Low (7.50 - 10)

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2.4   Conclusion: basics and risk analyses

From a social and political point of view, companies and public procurement agencies are responsible for implementing fair working conditions in the supply chains of the goods and services procured. In public ICT procurement, the Declaration of Commitment (Bitkom/Procurement Office, l2019) requires compliance with the eight ILO Core Labour Standards and five additional ILO Conventions.

Audits are common instruments to evaluate whether suppliers are adequately implementing the required ILO standards in the supply chain. However, audits are expensive and in certain regions, severe violations of ILO standards are unlikely. Therefore, many companies do not audit each individual supplier but select the suppliers to be audited according to specific criteria in "sustainable supply chain management" (see chapter 3). The selection is frequently based on a risk analysis.

The market offers numerous possibilities and/or aids for identifying the risks of non-compliance with ILO standards in a country. The analyses require varying amounts of time and money and have different strengths and weaknesses. A sound data basis is essential so that the analyses are as representative as possible for a business considered. Since assessments may quickly become misleading due to obsolete, over-simplified or inconsistent data, risk-based tools must use data which are as up-to-date and as consistent as possible. Otherwise, there is the inherent danger that a production plant will erroneously not be audited because the risk analysis did not identify any risk even though this company in particular is violating ILO standards. The following chapter shows how risk analyses and audits are integrated into "sustainable supply chain management".

3 Audits as part of sustainable supply chain management

Audits are one step in classical sustainable supply chain management which, in a corporate context, is usually a multi-stage process. Persons working in public procurement and dealing with the integration of ILO standards, need to understand how companies proceed with embedding ILO standards in their supply chains. Since this is where the challenges of demanding and checking compliance with human rights in public procurement begin: the "holistic" management approach pursued by the companies to ensure social responsibility in the supply chain does not fit into the strict regime of requirements that public procurement law imposes on contracting authorities. Particularly limiting factors are public procurement requirements that may be imposed on suitability (i.e. the point where public procurement law relates to general corporate policies). This leads to friction between what contracting authorities would like to demand in the procurement procedure in relation to human rights – because it is marketable and can be fulfilled by the companies – and what can be implemented under procurement law. It is important to understand this friction in order to find ways in public procurement law to balance both sides.

Figure 3: Process steps in sustainable supply chain management[27]

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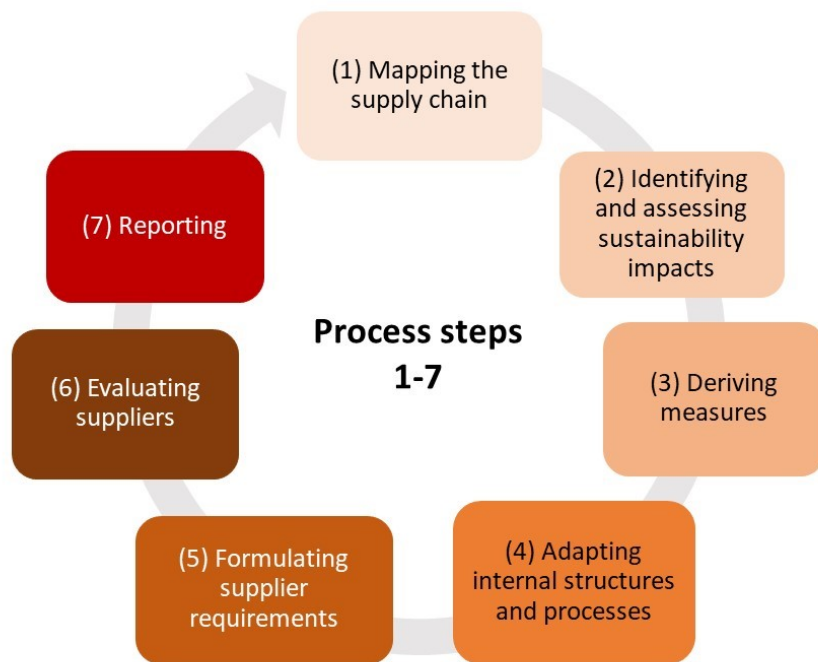
[27] Own representation based on Federal Ministry for the Environment, Nature Conservation, Building and Nuclear Safety & Federal Environment Agency (BMUB) (2017): Schritt für Schritt zum nachhaltigen Lieferkettenmanagement. Praxisleitfaden für Unternehmen (Step-by-Step Guide to Sustainable Supply Chain Management. A Practical Guide for Companies) Berlin. https://www.bmu.de/fileadmin/Daten BMU/Pools/Broschueren/leitfaden_nachhaltige_lieferkette bf.pdf (retrieved on 20 Nov. 2020)

The most important steps are illustrated and described below (see also figure 3):[28]

- Steps 1 & 2: Mapping the supply chain, identifying and assessing sustainability impacts and/or risks (see chapter 3.1)

- Steps 3 & 4: Formulating measures and requirements and incorporating them internally (see chapter 3.2)

- Step 5: Formulating supplier requirements (chapter 3.3)

- Steps 6 & 7: Reviewing and developing suppliers' capabilities and reports (see chapter 3.4). The audits are included in step 6 "Evaluating suppliers".

The individual process steps will be described briefly in the following paragraphs:

3.1 Steps 1 & 2: Analysis (mapping the supply chain & and assessing risks)

Mapping the supply chain is the basis for all further measures in sustainable supply chain management. The knowledge of the supply chain is also an essential prerequisite for assessing significant sustainability impacts or risks. As the assessment of sustainability impacts involves considerable expenditure and has methodological constraints, companies frequently make do with assessing the social and ecological risks in the supply chains instead of analysing the individual actual impacts.

3.2 Steps 3 & 4: Deriving measures and embedding them internally

Based on the first analysis, the companies will develop measures to be implemented in the supply chain. The corresponding documents are frequently designated as *policies*. These measures must be embedded internally in such a way that objectives do not conflict. This is a continuous process.

One conflict of objectives that frequently occurs in procurement is that the sustainability department introduces a code of conduct, but the procurement department does not take into account that implementing the code will be associated with costs for the supplier, which means that the purchase prices would have to rise. An ILO study[29] found, for example, that in 39 per cent of cases examined, suppliers accepted an order, although the prices paid were not economically viable. If the supplying companies are only requested to implement social standards, without taking account of prices and non-financial requirements, there is the danger that the supplying companies will not be able to implement the required social measures without exploiting their workers. As businesses and factories do not want to lose their contracts, the risk is increasing that they will manipulate audits. This is true for the relation between a company and its suppliers but also for the relation between public procurement agencies and companies in the supply chain.

Some standards initiatives request their member firms to harmonise their purchasing practices with the requirements of the code of conduct in order to achieve coherence between the requirements for social

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[28] Practice-oriented approaches to sustainable supply chain management normally include four elements: Analysis, definition of strategy, definition and implementation of measures, control and reporting. In detail, the approaches vary slightly. See, for example, the following resources: BMUB (2017): https://kompass.wirtschaft-entwicklung.de/, https://kmu.kompassnachhaltigkeit.ch/umsetzung/umsetzungsprozess (retrieved on 22 Nov. 2020). WBCSD (2016): Sustainable Supply Chain Management Guide for Procurement Leaders. The approach adopted in a BMUB study was taken as an example for this study.

[29] Vaughan-Whitehead, D & L Pinego Caro (2017): Purchasing practices and working conditions in global supply chains: Global survey results. INWORK Policy Brief No. 10. Geneva. (retrieved on 22 Nov. 2020). More than 1,400 suppliers from 87 countries replied to the questionnaire.

standards and a company's general purchasing policy. Meanwhile, the Better Buying Organisation is regularly publishing a report on this issue, which evaluates companies' purchasing policies.[30] The Brand Performance Checks of Fair Wear Foundation (FWF) are good practical examples for coherence between purchasing policy and requirements for social standards. The Brand Performance Check is a tool for assessing the activities of the FWF member firms by examining to what degree the individual member companies have integrated social standards into their core business practices. This means assessing the management practices of the member companies.[31] Members of the Fair Wear Foundation also include semi-public companies, as for example the Swiss Post.

3.3   Step 5: Formulating supplier requirements

As part of their sustainable supply chain management, companies usually formulate supplier requirements and will later evaluate compliance with these requirements (step 6). The requirements will generally be formulated in the form of codes of conduct. Some companies are adopting the social code of conduct of a standards initiative by becoming a member of that initiative. For example, BSCI-amfori is a very large standards initiative. A company which becomes a member undertakes to apply to its own supply chain the same code of conduct as the other more than 2,000 members.[32] The Responsible Business Alliance (RBA) functions in a similar way. In addition, many larger companies like Apple, IBM, HP etc. are developing their own social codes of conduct to be implemented in their supply chains.

The contents of most social codes of conduct of companies, standards, certificates or standards initiatives overlap in different areas because the codes all refer to the same globally agreed human rights and ILO standards. Generally, they include the ILO Core Labour Standards and other standards which refer to wages, working hours, job security, occupational safety and health of staff. Detailed information on the great variety of standards and the differences between them can be retrieved from platforms like www.siegelklarheit.de or www.standardsmap.org.

The requirements formulated in the code of conduct are relevant to inspections and audits, because they co-determine how extensively the business will be audited on site. Whether only the ILO Core Labour Standards are audited or whether the audit also includes additional issues like wages, working hours and health hazards, will make a clear difference in expenditure, for example.

The ILO standards defined in the Declaration of Commitment (Bitkom/Procurement Office, 2019) are an example of supplier requirements defined in public procurement. ICT suppliers of the contractor using the model declaration must fulfil the standards of the Declaration of Commitment. However, a contractor's code of conduct may deviate in detail from the standards defined in the Declaration of Commitment. If the standards in the Declaration are less comprehensive than the supplier's code, this is no problem. If it is the other way round, there is the danger that an audit report prepared by the supplier will not cover all areas of the Declaration of Commitment. Various codes of conduct are analysed for their equivalence.

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[30]   Better Buying (2020): Index Report 2020. Purchasing Practice Performance in Apparel, Footwear, and Flousehold Textile Supply Chains.

[31]   The Fair Wear Foundation calls this the Brand Performance Check (https://www.fairwear.org/programmes/brand-performance-checks, retrieved on: 2 Nov. 2020), which includes a comprehensive (more than 100 pages) guide: https://api.fairwear.org/wp-content/uploads/2020/03/F\A/F   BrandPerformanceCheckGuide-DEF.pdf (retrieved on 1 Nov- 2020)

[32]   Most private standards initiatives accept that their members' suppliers will implement the codes of conduct by and by. For example, if a company is a member of amfori BSCI, this does not mean that this member's suppliers must have implemented the requirements; amfori regards its Code of Conduct as a goal to be pursued. "The principles set out in the amfori BSCI Code of Conduct represent the aspirational goals and minimum expectations that amfori BSCI Participants have with regard to their supply chains' social conduct". Thus, amfori members strive for improvements in the supply chain, but members will not be sanctioned if the improvements have not yet been made.

3.4 Steps 6 & 7: Reviewing suppliers and developing their capabilities; complaints and reporting

Review by means of audits

Suppliers are normally subject to audits.[33] An audit examines on site in a company to what extent a code of conduct was implemented in a business (discussed in detail in chapter 4). The audit identifies the standards where "non-compliances" (NCs) exist, which should then be remedied. However, social audits have been criticised from the beginning. In the years between 2000 and 2010, when most social standards programmes set up by companies and standards (BSCI, EICC, TCO etc.) were still in their early stages, everybody firmly believed in compliance-based audit approaches, according to which poorly rated suppliers were delisted and contracts were awarded to other companies. In recent years, more and more companies have changed their approach (see Philips Case Study in box 1). Firstly, these companies recognised that the working conditions in the supply chain are often not good and that, moreover, the situation frequently will not be changed simply at the buyer's request. Secondly, it was recognised that a company is also responsible for improving the situation in the supply chain. This happened, above all, with the introduction of the UN Guiding Principles on Business and Human Rights. This changed sustainable supply chain management in that the supplier is seen as a partner in the joint effort to improve the situation in the supply chain. The emphasis is thus on developing suppliers' capabilities. The change of focus from auditing to developing suppliers' capabilities is also due to the fact that an audit can report on a status, but will not cause any changes. The extensive criticism of audits shows, however, that not even the status is always reported correctly. Frequently, auditors do not have enough time for conducting high-quality audits. Therefore, trailblazers are now trying to avoid investing too many resources into audits and, instead, to improve the situation with regard to labour and human rights by developing suppliers' capabilities.

Box 1: Philips case study: from auditing to developing suppliers' capabilities

> Until 2017, Philips conducted audits in accordance with the RBA Standard. In 2017, the company realised that, after corrective actions had been taken, the same problems occurred in the following audit phase several years later. This gave Philips the idea that its type of auditing was not helping improve suppliers' capabilities. They analysed the causes of these problems and recognised that, for example, some non-conformities (e.g. working times in China) could not be remedied, that the criteria for selecting the suppliers to be audited were too simple, that data administration was incomplete and did not enable monitoring and that the frequency of monitoring was too low, without the suppliers having adequate intrinsic motivation for improvement. As a result, Philipps implemented their own system which focused on developing suppliers' capabilities, particularly with regard to the so-called "root causes" of violations.

Taking corrective actions and developing suppliers' capabilities in the long term

After the supplying companies have been reviewed, the focus will shift to remedying serious shortcomings quickly and developing suppliers' capabilities in the longer term. The corrective actions determined by the audit indicate the necessary adaptations which must be conducted rapidly. Developing suppliers' capabilities means that the buyer will ideally support the suppliers in the longer term in their further development. This is frequently the most expensive part of sustainable supply chain management because suppliers will incur higher costs when making these improvements. In the field of developing suppliers'

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[33] Some companies and standards initiatives request self-declarations of the company before, or instead of, conducting an audit. Questionnaires, which a supplier has to complete, are frequently used for this purpose. These questionnaires, which are completed by the factory itself, are intended to give a first insight into the local situation. However, the critical weakness of self-declarations is that they can be completed incorrectly and the purchasing agencies can actually only detect this misinformation by means of an audit. Therefore, self-declarations of companies are frequently used only as a first indication to be able to judge whether the factory management understands the required issues at all.

capabilities, cooperative approaches are becoming increasingly relevant if profound improvements are to take place.

Complaints and reporting

In addition to supplier reviews by means of audits, complaints procedures are used which enable workers to proactively submit a complaint. Complaints procedures improve the possibilities for those concerned of making their voices heard. Against the background of the challenges generally involved in audits, this plays an important role, particularly in the field of social standards.

Finally, the company reports on the implementation of sustainable supply chain management, which may differ considerably in the degree of detail.[34] In the context of this study, reporting plays a subordinate role.

3.5 Conclusion: audits as part of a sustainable supply chain strategy

This chapter has shown that improving social standards in global supply chains requires a multi-stage and iterative process in sustainable supply chain management. This process is based on analysing the supply chain and the existing risks. On this basis, requirements for the supplying companies will be defined (including, but not limited to, a code of conduct). As the approaches differ in detail, equivalence analyses are helpful to compare the approaches with each other. In the context of sustainable supply chain management, the review of supplying companies by means of audits is regarded as a process for improving supplier performance and/or developing suppliers' capabilities.

This chapter ends with a brief summary of the aspects companies need to consider to implement sustainable supply chain management:

1. Companies do not normally audit each supplier but focus their audits on those suppliers with the highest sustainability risks. In order to assess the risks in the supply chain, the supply chain must be transparent.

2. The sustainability requirements placed on suppliers frequently compete with economic requirements regarding price, delivery time etc. The requirements must be coherent so that sustainability requirements can be satisfied.

3. When companies dealt with the issue of corporate social responsibility for the first time, most of them used compliance-based audit approaches. By now, more and more companies have been regarding audits only as a part of the solution and are sharing responsibility for actually improving the working conditions in the supply chain. Practice shows that an approach which treats suppliers as partners is the most sustainable way of implementing social standards.

4. The audit results and the corrective action plan will initiate a process which is aimed at eliminating existing violations of social standards and correcting them for the future.

5. The audits are complemented by a well-established complaints procedure which ensures that workers can make their voices heard against labour rights violations. Mechanisms of this type may contribute to reducing the companies' reliance on audits.

6. Purchasing organisations cannot expect the supplying companies to implement all the ILO standards in the audit results within a short period of time. Instead, the implementation of social standards is a long-term process during which the companies will ideally accompany and support their suppliers.

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[34] As a rule, it is relevant that the company has determined parameters and goals and that the reporting transparently indicates what progress has been achieved and what still needs to be done.

4 Audits: basics, process, costs and credibility

The following chapter shows the differences between the various **types of audit** to examine social criteria.[35] An audit examines on site in a company to what extent the criteria of a predefined code of conduct are being implemented at a certain point in time. The results of this audit are normally recorded in writing in an audit report. However, opinions differ as to which approaches and methods are necessary to draw up an audit report truthfully presenting a company's situation regarding the ILO standards.

This chapter is based on an analysis of a total of 15 commercial audit types used above all in the ICT sector for checking the implementation of social criteria (see box 2). This includes, on the one hand, the companies' internal audits (including, but not limited to, audits of relevant companies in the ICT sector) and, on the other hand, audits which are part of a sustainability standard system, e.g. RBA, SA 8000, TCO.

Box 2: Methodological note on transparency

> Methodological note on transparency: many of the social audits analysed are not transparent to the public and auditors are requested to sign a non-disclosure agreement (NDA). Therefore, the actual audit approaches cannot be published in detail in this report and they cannot be linked to the names of the companies and firms/standards behind them. As the study is aimed at illustrating the range of different inspection types for various aspects, this can be pursued without specifically indicating who is behind which approach. In some cases, the names of standards are indicated, because they are publicly accessible, for example.

Table 2 lists "Other types of assessment" which complement social audits, as commissioned, and are also used for monitoring compliance with a company's code of conduct. In contrast to social audits, however, this assessment does not have to be carried out on site at the companies to be assessed. As the focus of this study is on social audits and some of these alternative assessment types work differently, they will be listed separately and be included later, where appropriate.

Table 2: "Other types of assessment" for monitoring compliance with a code of conduct

Type of assessment	Description
Self-declaration	Self-declarations are normally made in the form of questionnaires, which are completed by the suppliers themselves. This method can provide first indications as to how the suppliers themselves evaluate and deal with this issue. However, there is a risk of false statements.
Remote audits	If an on-site audit is impossible or unnecessary, some service providers have been offering remote audits, particularly since the outbreak of the COVID-19 pandemic, which are conducted per video communication. The complete audit is not necessarily shorter than an on-site audit. Potential savings may be made on travel expenses. There are several possibilities for conducting remote audits. In practice, two options in particular have become widely accepted: desktop verification and remote audit. A desktop verification means that the supplier will receive an exclusive link to a detailed questionnaire, the replies to which will afterwards be discussed and verified in an online meeting of several hours with factory representatives. Prior to this online meeting, the supplier moreover has to upload a number of specific documents. A remote audit means that the auditors conduct an audit as comprehensively as possible, but are not present at the auditee's location. The persons in charge of the factory normally do a factory tour with a camera and follow the instructions of the auditor. Remote audits do not replace the conventional assessment on site but are intended to assess the suppliers' performance as accurately as possible if auditors cannot be on site (e.g. during the COVID-19 pandemic).

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[35] In this context, the term "audit" is used as a synonym for "inspection". As this text focuses on social criteria, the term "social audits" will be used. A social audit examines the implementation of social criteria in a business. All these terms come under the generic term "assessment".

	One advantage of remote audits is that no travel expenses are incurred. In addition, risk of infection by direct contact by is minimised in times of COVID-19. A disadvantage is that, due to the lack of direct contact, implementing many instruments is much more complicated and, for example, interviews with workers may be less informative than interviews conducted face-to-face. Even if the all the interrelated issues are audited, some of them cannot be covered completely either. When it comes to discrimination, forced labour, freedom of assembly, etc., for example, it is difficult to make comprehensive statements from a distance. Except for the travel time saved, a remote audit is no less time consuming than an on-site audit, and requires auditors to have considerable experience.
Complaints procedures	A complaints procedure is a system which ensures that workers always have the possibility of submitting complaints to a specific agency. Frequently, these complaints focus on working conditions or human rights. Such a procedure will ensure a systematic registration and monitoring of complaints. If the complaint is justified, a process will be initiated involving the business concerned as well as the buyer. In this context, the person submitting the complaint will be protected. A complaints procedure does not require a visit to the factory, but it needs points of contact close to the workers. The work of the Electronics Watch standards initiative is based above all on complaints procedures. No regular audits are conducted, but there is a well-established system instead which records and processes complaints.
Surveys	Worker involvement by doing surveys is regarded as an additional fundamental and valuable instrument for identifying and reducing risks. During the past few years, the use of advanced technologies has become generally accepted. Thanks to the omnipresent mobile technology, employees can report anonymously on their actual working conditions. Thus, very many workers are reached and feedback is obtained on critical issues, such as discrimination. Surveys are conducted via mobile phones or tablets; they can be integrated into audits or conducted independently of an audit.
Segmentation approaches	Sustainable supply chain management also uses instruments like segmentation approaches which, based on specific parameters (often risks and leverage), decide whether a factory audit will be conducted or not. This is an audit conducted in the form of a preliminary decision.
Instead of an audit, focus on developing suppliers' capabilities.	Finally, due to the high costs and disadvantages of audits, there is a trend in the entire industry for companies to shift their focus from conducting many audits to facilitating the development of suppliers' capabilities – i.e. to cooperate with their suppliers on improving the situation. Philips strongly advocates this position, for example.
Human rights due diligence checks	Companies use human rights due diligence checks as one approach to ensure that violations of human rights in the supply chain are identified, remedied and compensated. In contrast to audits, which focus on a business, human rights due diligence checks focus on the company (the contractor in public procurement). The Swedish administration[36] uses a type of supplier audit in order to check whether an appropriate system has been established. Compliance with ILO standards can thus be monitored indirectly.

[36] Sustainable public PROCUREMENT – A collaboration of the Swedish regions (2019): SUSTAINABLE SUPPLY CHAINS. Guidelines contractual terms (retrieved on 3 Jan. 2021)

The following chapters present the differences between the existing audit types. Figure 4 provides an overview of the chapters and which questions are answered in these chapters:

A.   Basics (chapters 4.1 to 4.3): At first, specific basics must be defined before it is even possible to conduct an audit; these basics cover a code of conduct, audit guidelines and the quality of the auditors. These basics are normally defined once by an organisation and will be updated every couple of years.

B.   Audit process (chapter 4.4): The audit process describes the conduct of the audit as well as preparation and audit follow-up. In this context, the rules defined for the basics will apply.

Figure 4: Approach to differentiation of social audit systems
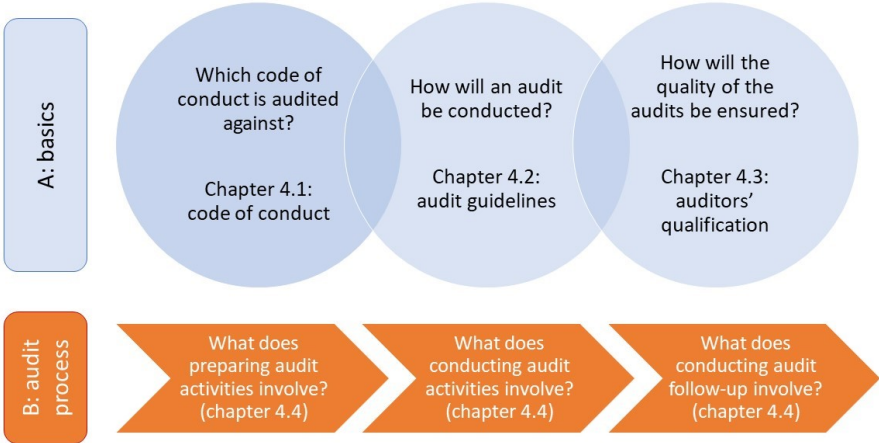
Finally, chapter 4.5 examines costs and credibility of audits. These are determined by the basics and the process. In this context, it is relevant to consider that lower costs tend to be associated with low credibility and vice versa. The three areas are explained in greater detail in the following chapters.

4.1 Code of conduct: definition of social standards

A code of conduct defines the criteria to be met by a company. With regard to audits, a code of conduct is important because it defines two central issues:

1. Which issues are covered and how comprehensive is the code of conduct? Some standards cover social, ecological and other issues while other standards are limited to a range of issues only.

2. Which details does the code of conduct require on individual interrelated issues? At first glance, the codes of conduct seem to be similar, but a closer examination shows differences in detail. Many codes of conduct differ from each other in two aspects: While some social standards require that minimum wages be paid, other standards require that living wages be paid. In addition, the maximum permissible working hours are defined in different ways in German and US standards (max. 48 or max. 60 hours per week permissible).

It is estimated that at least 20 to 30 codes of conduct, which can be roughly divided into five groups, are used in the ICT sector (see table 3). The groups are differentiated based on the following logic:

- Form of the code of conduct, i.e. does the code come from a company, a standards initiative, etc.?

- Who has developed the code of conduct (companies or business associations, above all, which represent the interests of the employers, or civil society organisations, which represent the interests of workers, or a combination of these bodies)?

- To which sectors does the code of conduct refer: some types of inspection refer only to one sector (e.g. the Fair Wear Foundation (FWF) deals only with sewn products, RBA focuses on ICT), while other types are cross-sectoral.

Table 3: Differentiation of the code of conduct according to type

	Type of code of conduct	Who has developed the audit type?	Sector	Examples	Public audit guidelines?
1:	Company's code of conduct	Companies	Company-specific	This includes all codes developed by companies in the ICT sector. Most larger companies have their own code.	No
2:	Standards initiative code of conduct	Companies/business associations	Cross-sectoral ICT Toys	BSCI-amfori RBA (EICC) ICTI-Int. Council of Toy Industries; ICS Initiative for Sustainability & C.	Yes Yes No No[37]
		various[38]	ICT	Electronics Watch (EW)	Yes
		Companies & civil society (multi-stakeholder)	Cross-sectoral Sewing factories Cross-sectoral ICT	Fair Labour Association (FLA) Fair Wear Foundation (FWF) Ethical Trading Initiative (ETI) IDH Electronics Programme	No Yes Partly No
3:	Code of a factory certificate	Companies & civil society (multi-stakeholder)	Cross-sectoral	SA 8000	Yes
4:	Code of a product certificate	various	ICT ICT	TCO Blauer Engel, EPEAT	No No[39]
5:	Others	Companies	Cross-sectoral	SMETA, ERSA[40]	Partly no

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[37] A Factory Manual is available online, which does not conform to the audit guidelines, however: https://ics-asso.org/resources/
[38] Civil society/universities/public procurement sector
[39] The award criteria for the *Blauer Engel* (Blue Angel) eco-label are publicly available. However, there is no audit guideline on the *Blauer Engel* website. In the ICT sector, the *Blauer Engel* label does not include any social criteria.
[40] SMETA by SEDEX https://www.sedex.com/our-services/smeta-audit/smeta-documents/; ERSA: ELEVATE Responsible Sourcing Assessment

Within each of the five groups, the individual codes of conduct differ in detail. For example, scope and contents of Apple's corporate code of conduct differs from the codes of HP or Dell, and the RBA code differs from the code of BSCI amfori.

A so-called "equivalence analysis" can be carried out to differentiate these variations. This analysis compares criterion by criterion to determine if the contents of other codes of conduct covers the same issues as the own code. The following paragraphs will explain the five different codes of conduct according to "type of code of conduct".

4.1.1   Company's code of conduct

The greatest variety of codes of conduct, and thus also of types of inspection, is found among company-based codes of conduct, where ICT companies themselves define the code of conduct (and thus the type of inspection). Most company-based codes of conduct are similar, but differ in detail.

There is no detailed overview showing which companies adopt their own codes of conduct. However, it can be assumed that most large companies (including, but not limited to, Apple, IBM, Dell, HP, Phillips, Amazon) adopt their own codes of conduct.

4.1.2   Code of conduct of a standards initiative

Standards initiatives, in which companies can participate, have been set up due to the great variety of existing corporate codes of conduct. A standards initiative usually defines a joint code of conduct, the audit guidelines and additional instruments for implementing the code of conduct. Currently, companies in the ICT sector can select from various common standards initiatives (for example RBA, BSCI, FLA, ETI, ICTI, ICS, Electronics Watch). Each standards initiative works with its own audit system. Standards initiatives aim at achieving standardisation to simplify the procedures for all the companies in the supply chain. Frequently, the use of a joint standard will generate synergy effects.

Companies can become members of a standards initiative (for example BSCI or FWF). Membership involves the obligation to act in accordance with, and implement, the rules of the initiative. In most cases, members must see to it within a specified period of time that their suppliers will implement the code of conduct. This does not mean, however, that all the member company's suppliers will have implemented the code of conduct automatically. Having all the suppliers implement the code of conduct is normally a long-term process for a company. Public procurement agencies are rarely members of a standards initiative. Exceptions include semi-public companies, for example the Swiss Post (member of FWF) or the Swiss Federal Railways (SBB) (member of BSCI). Another exception is the "Electronics Watch" initiative because mainly public procurement agencies become members and thus commit themselves to implementing the code of conduct of the initiative in the procurement process.

4.1.3   Code of a factory certificate

Some codes of conduct have their origin in so-called factory certificates, which attest that a specific factory complies with specified standards. Factory certificates are awarded for ecological and social criteria. As a rule, they also have corresponding audit guidelines. The most common factory certificate for social criteria is SA 8000 which, however, is not widely used in the ICT sector.

One advantage of factory certificates is that they make transparent whether a factory is in line with the certificate or not (in the case of audits, the result of the audit is not externally accessible). However, factory

certificates may also be beset with problems. In the past years, there have been repeated cases of SA 8000 certified factories/businesses which burnt down or collapsed.

4.1.4   Code of a product certificate

Another type of certification is the product certificate. In this case, the inspection certifies that a specific product complies with the standard defined in the code of conduct. Product certificates are more frequently awarded for ecological than social criteria. Exceptions are the Fairtrade International and TCO certificates, both of which focus on social criteria.

One advantage of product certificates is that they normally ensure traceability, which will enable a procurement agency to find out in which factory a product was produced.

4.1.5   Codes of other origins

Most audit companies, as for example SGS, Control Union, BV, ELEVATE, also developed their own codes of conduct under which they can audit businesses and/or factories. In addition, there are SMETA audits, which are part of the SEDEX platform. These audits monitor the Base Code of the Ethical Trading Initiative (ETI) and additional SMETA elements.[41]

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[41]   SMETA audits distinguish between 2-pillar and 4-pillar audits. The SMETA 2-pillar audit comprises the ETI Base Code (Ethical Trading Initiative) requirements and additional SMETA elements (e.g. Responsible Recruitment, Entitlement to Work & Immigration, Sub-Contracting and Home Working). The SMETA 4-pillar audit comprises the same requirements as the 2-pillar audit (i.e. ETI Base Code plus listed additional SMETA elements); in addition, it includes more comprehensive and more profound requirements (Environment, Business Ethics).

4.2   Audit guidelines

This chapter discusses guidelines for factory audits. Every code of conduct whose implementation is to be audited inevitably requires an audit guideline because an audit is arbitrary without the guideline. The guidelines consist of one or several documents which will ensure that situations are interpreted as uniformly as possible and that audits are conducted in a standardised manner. The audit guidelines include, for example, audit protocols or field instructions[42].

- Audit protocols normally consist of large Excel spreadsheets including hundreds of questions answered in the audit.

- Field instructions specify the audit procedure and the scope of the audit; they are the working instructions for the auditors and will be prepared by the organisation conducting the audit. They list unique assessment requirements, provide an insight into reference documents/assessment standards, discuss the sampling for interviews and personal documents, stipulate what should be photographed and provide information on the calculation of staff days.[43] They also explain the procedures for writing the report or the procedure to be followed if access to documents or the factory itself is denied.

The audit guidelines of corporate codes of conduct are often not publicly accessible. This aspect is a problem for credibility, because the quality of the audit depends largely on the relevant guidelines, and the quality of the audit reports cannot be reviewed without the guidelines. In contrast, some audit guidelines of sustainability standards are publicly accessible (table 4 provides an overview).

Table 4: Examples for audit guidance

Standard	Audit guideline	Is the guideline transparent?
Apple	Apple publishes a 100-page interpretation of the 6-page "Apple Supplier Responsibility Standards"[44], but no additional audit guidance.	No
BSCI-amfori	Audit Guidance (approx. 360 pages)[45]	Yes
Electronics Watch	Monitoring Methodology Guidance, 2020 (30 pages)[46]	Yes
RBA	RBA Validated Assessment Program (VAP) Operations Manual Revision 6.1.0 – January 2020 (30 pages)[47/48] Operations Manual Revision 6.1.1 – August 2020[49]	Yes
SA 8000	Audit requirements for Accredited Certification Bodies for the SA 8000[50]	Partly
TCO	Not available online	No

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[42]   Depending on the audit format, there are additional documents to support the auditors (e.g. audit guidance).
[43]   A "staff day" is the working day of an auditor (8 working hours) invoiced to the client. The audit costs per day differ from assurance provider to assurance provider.
[44]   https://www.apple.com/supplier-responsibility/pdf/Apple-Supplier-Responsible-Standards.pdf
[45]   https://www.amfori.org/sites/default/files/Part%20l%2F%20VR-jtt-Updated%20%28006%29_de-DE_0.pdf
[46]   Electronics Watch (2020). Monitoring Methodology Guidance 1.0.
[47]   https://www.responsiblebusiness.org/media/docs/AuditeePreparation.pdf
[48]   https://www.responsiblebusiness.org/media/docs/AuditeeCAPmgt.pdf
[49]   https://eiccoalition.sharefile.com/share/view/sl9489el5b204e45a
[50]   http://www.saasaccreditation.org/sites/default/files/u4/SAAS_Procedure_200_v%204.2_March.2020.pdf

Audit guidelines can be differentiated based on five questions:

- Frequency: when to conduct audit activities? (see chapter 4.2.1)

- Scope: what does the audit cover? (see chapter 4.2.2)

- Methods and instruments: how to conduct audit activities? (see chapter 4.2.3)

- Report: which findings will be made transparent? (see chapter 4.2.4)

- Corrective Action Plan (CAP): does a CAP exist and what is its contents? (see chapter 4.2.4)

These questions have been identified based on the 15 audit types analysed. The following chapters (4.2.1 to 4.2.4) will discuss the five above-mentioned questions and indicate the key differences between the audit types. The differences are relevant because they will affect the conduct of an audit as well as its costs and credibility.

4.2.1 Frequency: when to conduct audit activities?

As a rule, the buyer will decide when to conduct audit activities, for example before awarding a contract to a new supplier. However, standards systems also define when an audit is carried out. Table 5 lists the usual procedures for determining whether and/or when to conduct audit activities.

If an audit has already been completed, the audit guidelines define when the next audit (re-audit or next audit interval) is required. In most cases, the audit interval is defined based on periods of time (frequently 1 to 3 years). Re-audits are conducted within shorter periods to check whether the Corrective Action Plan, prepared after the audit and derived from the audit report (see chapter 4.2.4), has been implemented.

The frequency of an inspection depends primarily on the risk-taking attitude of the organisation commissioning the audit. The general rule on audits is that the less frequent an audit is conducted, the higher the risk that the code of conduct will be violated in the meantime. Thus, the organisation commissioning the audit must consider to what extent it is prepared to accept the risk that violations will not be discovered.

Table 5: Various procedures for determining whether and/or when to conduct audit activities

Standard	Audit guideline
Award of a contract (tender)	Many companies will audit any supplier with whom they have not yet cooperated prior to awarding the first contract. Thus, they try to rule out that the supplier violates the most important standards.
Purchasing volume	Sustainable procurement management sometimes defines the purchasing volume which is considered as threshold value for an audit.
Fixed period	Most standards initiatives, factory certificates and product certificates stipulate a period when to repeat a complete audit. This period ranges from one year to three years (e.g. BSCI: 2 years). Depending on the audit result, the validity of the audit may vary so that additional re-audits and follow-up audits will be conducted in this cycle. In the case of a critical audit result, for example, a re-audit may thus be required within a period of six months while the span will be 12 months if the result is moderate.
Random samples	It may also be determined at random when and where samples are to be audited. This procedure has the advantage that the number of audits, and thus the budget, can be defined exactly in advance. The risk is that using a random selection rather than a risk analysis is more likely to overlook suppliers with poor working conditions.
Company location	Some standards initiatives (e.g. BSCI, FWF) define low-risk countries where audits need not be conducted at all or audits are required less frequently.
Risk analysis	Companies with a strategic approach to sustainable supply chain management often use a segmentation approach. They divide suppliers into risk groups, for which they use risk analysis tools (see chapter 2).

Complaints	Some standards initiatives (Electronics Watch, Worker Rights Consortium) do not, per se, audit each supplier of a company but only if they have received complaints. A very good network in the producing countries is necessary to make this work. Complaints procedures are becoming increasingly relevant in the context of approaches based on the company's duty of care. In the case of Electronics Watch (EW), there is a network of local auditors and organisations which have close contact with workers. If workers in a factory (which is listed in the database of the standard) submit a complaint about the working conditions, the local organisation will check whether the factory is a supplier listed in the EW database. In addition, all the EW members as well as participating ICT companies enter complaints into the database. The larger the network, the more complaints will be discovered.
Audit results	The procedure is based on previous audit results and works in a similar way as the complaints procedures: an audit will be conducted if problems have been identified.

4.2.2 Scope: what does the audit cover?

Social audits differ in their scope, i.e. which of a company's divisions and operations an audit covers and which standards are to be checked. In tier 1 facilities (these are the suppliers), the entire code of conduct, including the code of conduct of their "subcontractors"[51], will be audited. Audits can also focus on specific issues. Tier 2 facilities (these are the suppliers' suppliers) are frequently not included in the audit. Table 6 lists some aspects regarding scope where the audit formats frequently differ.

Table 6: Scope of an audit

Aspect	Question
Tiers in the chain	Does the audit only include the auditee – or will its suppliers be audited as well (tier 2, tier 3)?
Subcontractor	Does the audit include all subcontractors?
Personnel	Does the audit also include temporary agency workers, kitchen personnel, guard personnel etc.?
Shifts	Does the audit include one shift, two shifts or also the night shift?

The question of scope is relevant because a greater scope of the audit will increase expenditure and costs.[52] Organisations commissioning an audit should ensure when comparing prices that the audits compared have the same scope.

4.2.3 Instruments: how to conduct audit activities?

An audit examines compliance with the requirements of a code of conduct and with the applicable laws and regulations. Four to five instruments are normally used for this purpose:

- Tour of the factory with photographic evidence (chapter 4.2.4.1)

- Interviews with workers (chapter 4.2.4.2)

- Document evaluation (chapter 4.2.4.3)

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[51] Tier 1 is the final production facility. In the event that products are only refined at the final production facility, this tier also includes the final production facility's direct suppliers. Subcontractors are factories to which parts of a production are outsourced or which perform the complete production of one part of the contract. A contract will normally be outsourced if the factory to which the contract was awarded does not have the capacity to completely fulfill the contract.

[52] With other conditions remaining the same.

- Discussions with management (chapter 4.2.4.4)

- Discussions with local worker representatives (chapter 4.2.4.5)

Finally, the results will be recorded in an audit report and the necessary corrective actions in a Corrective Action Plan (chapter 4.2.4). The audits are based on various instruments and information sources because the audit teams will "triangulate" (see box 3).

Box 3: Triangulation as a research strategy for quality assurance

In empirical social research, triangulation is a research strategy designed to ensure valid results. Triangulation applies different methods and perspectives to the same phenomenon or uses different data for studying a phenomenon in order to exploit the strengths and compensate for the weaknesses of the various individual instruments. In order to document a violation, various pieces of evidence must ideally lead to the same statement to avoid that, for example, an employee's false statement during an interview will produce wrong results. It is up to the audit team to decide how the triangulation will be conducted.

In order to properly assess the validity of audit results, it is important to understand that an audit, in its approach, is not designed to identify all violations in a factory. This is due to the fact that most audit instruments are based on samples. The point is to achieve the best possible picture of the situation in the audited company by gathering information. Therefore, interviews will only be conducted with a few selected workers and documents will only be examined based on a sample. A negative result can thus also be due to the fact that the sample was not representative, i.e. that employees who do not have any problems were by chance selected during the sampling.

Even though most audit types use the same four to five main instruments, there are very relevant differences in detail, which is why each of the five instruments will be described briefly below.

4.2.3.1 Tour of the factory with photographic evidence

A tour of the factory will give the auditors an insight into the factory. During a tour of the factory, obvious problems can be identified and documented photographically (for example blocked escape routes and emergency exits, fire hazard caused by loose cables, cleanliness of sanitary facilities). Most audit types include a tour of the factory.

A tour of the factory is always only a snapshot of a specific condition. Sometimes, audits are not announced to avoid that the factory has been well prepared for inspection. However, this does not happen often because an unannounced audit may be very ineffective (for example, management may be absent during the visit, documents may not be prepared etc.). Instead, an appointment for a visit will be made in most audit types, or the business will be provided with a time window of 1 to 4 weeks during which the visit will take place. The second option has the advantage that it is not that easy to prepare the factory for the inspection.

4.2.3.2 Interviews with workers

As part of social audits, interviews with workers are a very important information source because, in the end, workers can best identify and describe potential problems at the workplace. However, the audit types differ significantly with regard to quantitative and qualitative aspects.

Quantitative aspects

The audit approach specifies the number of workers to be interviewed depending on factory size. Table 7 lists as examples the number of interviews required under two audit types. The general rule is that the

more interviews are conducted, the more likely it will be that the results are not random but representative – but the more interviews are conducted, the more expensive the audit will become.

Electronics Watch (EW) takes a slightly different approach from that of the mainstream audits. Generally, EW recommends drawing a representative sample if all aspects in a business are to be analysed. Its guidance refers to the method of "scientific sampling"[53] which, for example, recommends 278 interviews for a staff of 1,000 with a margin of error of 5% and a confidence level 95%. In practice, however, EW, like RBA as well, frequently resorts to the risk-based statistical approach (square root of the number of workers) (if it is difficult to find interviewees). In addition, the standard allows half of the interviews to be conducted in group discussions.

Table 7: Number of interviews to be conducted with workers in different types of inspection

Number of employees	RBA	BSCI
< 100	< 20: all	< 50: 5-10 51-100: 10-15
100-499	≤ 400: 20 > 400: Square root of the number of workers	101-250: 15-20 251-550: 20-25
500-999	500: 22 (square root of the number of workers) 999: 32 (square root of the number of workers)	551-800: 25-30 801-1200: 30-35
> 1.000	Square root of the number of workers	> 1.201: > 35

Qualitative aspects

Even if the number of interviews during an audit can ensure the statistical representativity of the interview results, it is still an open question whether the results obtained are correct and reflect reality. The two key problems are the questions as to whether workers tell the truth during the interview and whether they talk about all the problems in the factory. There are numerous scientific and practice-oriented reports which show that relevant violations are frequently not identified in interviews because the interview method was not effective. Table 8 lists the central challenges of interviews with workers.

Table 8: Central challenges of worker interviews as information source

Challenge	Description
Workers do not like to talk about sensitive issues	Many social issues are highly sensitive and frequently associated with stigmatisation, e.g. discrimination, sexual harassment or violence at the workplace. Even under normal conditions, the persons concerned therefore are very inhibited about addressing these issues. It is normally very difficult or even impossible to identify these problems in interviews conducted during audits.
The workers do not describe labour rights violations to the auditors because of a lack of trust	Many workers in businesses/factories do not trust their management. Some of them think that the audit teams are part of management. Because many workers have already made this experience, they are afraid of being dismissed if they cast a bad light on the factory and/or its management. Therefore, workers frequently do not mention their real problems. Particularly in cases of sensitive issues (as for example forced labour), it will take a lot of time to establish a relationship of trust with the workers and to obtain relevant information in an interview. However, depending on the type of audit, not much time is scheduled for the interviews.
Workers are trained to give specific answers	It has been reported again and again that businesses/factories train employees in what to say in interviews with auditors. Therefore, the statements of the workers frequently do not correspond to the truth.

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[53] Scientific sampling depends on the margin of error and the confidence level. See: www.checkmarket.com/sample-size-caiculator

Due to the challenges listed in the table, interviews can only contribute to a limited extent to identifying actual labour rights violations in a factory. In the worst case, interviews, if they are not conducted carefully, may even give a wrong impression of the conditions in the factory.

In order to better cope with the interview situation, best practice approaches for audits, such as the approaches of the Fair Wear Foundation (FWF) or Electronics Watch, pursue the following strategies, among others:

- Interviews with workers will not be conducted in the factory but in the workers' own home or at another place which the workers regard as "safe".

- Auditors with local roots, who are ideally interacting continuously with the workers and have therefore already established a relationship of trust with the workers to be interviewed will conduct the interviews.

- Women will interview women.

4.2.3.3 Document evaluation

A document evaluation differs with regard to details and level of evaluation. Most audit approaches evaluate similar documents.[54] The audit programme may require not only a standards documentation but also additional documents such as, a diversity and inclusion policy including measures implemented, and monitoring that the objectives defined have been achieved. Certain documents may only be viewed and requested under certain conditions. For example, if a Works Council exists, the minutes of recent meetings are to be reviewed.

A particular challenge in practice is the review of documents, which is requested only rarely, however, concerning temporary employees and the review of documents concerning contracting partner companies working on the premises, e.g. security firms. The companies can frequently provide time sheets, but employment contracts and payroll records are often not available.

A criticism of the instrument of document evaluation is that documents may be manipulated. Management can use software to generate two data sets for working time – one manipulated data set for the audit team and one real data set for management itself. In order to counteract this risk, for example, payroll records will be compared with documented working time records and contracts, with the audit team selecting the relevant persons.[55] Finally, the information gathered from the documents will be triangulated with the interviews which also deal with working hours.

4.2.3.4 Discussions with management

In most audit types, the discussions with management are similar.[56] They include an opening meeting and a closing meeting and various discussions conducted at different points in time.

In the opening meeting, procedure and scope of the audit will again be explained to the relevant management personnel (Human Relations, Health & Safety, Environment, etc.). In particular, the interview procedures, the selection of the interviewees and the review of the workers' personal documents will be discussed. The opening meeting will also deal with the role of the audit team. In this context, it is important

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[54] This includes, for example, entries into the Commercial Register, payroll records of the last 12 months (in most cases 3 to, rarely, 6 months as selected by the auditor; preceding month/peak month/low month, if available), working time records of the last 12 months, employment contracts, age verification documents, manuals for employees, documented accidents, risk analyses, advanced education and training plans and confirmation of successful participation (occupational safety and health, first aid, firefighting and protection), evacuation exercises, emergency plans, guidelines and procedural instructions for various issues as, for example, discrimination, forced labour, complaint management, etc.

[55] The auditor will select three of the last twelve months and request access to the documents. By default, the last month, the month with the most working hours ("peak month") and the month with the least working hours ("low month") will be selected.

[56] Only Electronics Watch does not hold discussions with management.

to emphasise that the audit is conducted on a voluntary basis, that the audit team is neither a state authority nor the police and that the team will not dictate to the company how to proceed. The audit team is tasked with understanding the reality of the factory and with comparing the occurrences and facts obtained with programme requirements and legal standards. Finally, data protection rules as well as aspects of confidentiality and corruption prevention will also be discussed.

During an audit, the relevant management personnel will be present and interviewed according to the agenda. The management interviews will be conducted throughout the entire audit process and will be connected with the document evaluation and the tour of the factory. Only during the interviews with workers will management representatives not be allowed to be present. The workers should be given the opportunity to talk as freely as possible. The management interviews and the document evaluation will be conducted down to various levels, depending on programme requirements.[57]

The closing meeting is intended to sum up and conclude the audit. The audit days will be summarised and management will receive feedback on positive aspects. Overall, there will be no great surprises during the closing meeting because any deviation from the code of conduct has already been discussed in the course of the audit. The Corrective Action Plan prepared by the auditor will aggregate the deviations identified with respect to the requirements of the code of conduct and with respect to the law. Finally, both parties will sign the CAP.

In dealing with management, there are significant differences between the cooperative audit approach, which focuses on cooperation between both actors, and the compliance-oriented approach, which is designed to detect violations committed in the business. As compliance-oriented approaches are about passing the audit, they may motivate management to deceive the audit team. For this reason, too, the creation of a cooperative working atmosphere in the discussions with management is an important prerequisite for a successful audit.

4.2.3.5 Involving worker representatives

Civil society organisations are demanding that audit approaches be improved by involving local worker representatives and/or trade unions much more in the audits, because they normally have a good overview of the local situation.

In most audit formats, the audit teams will therefore talk to worker representatives who are tasked with promoting the interests of the employees. In Germany, the Works Council represents these interests. At other production sites, management frequently appoints worker representatives, who are therefore not independent. Therefore, trade unions are demanding that an independent union whose members are elected by staff should represent the workforce.

During audits, these representatives, if available, will be selected for interviews. Relevant documents will also be reviewed. In the case of trade unions, collective agreements will be perused, for example. If a Works Council exists, the auditors will ask to review the minutes of recent meetings.

Some standards – for example Electronics Watch or the Fair Wear Foundation – very systematically involve local resources (including, but not limited to, worker representatives or auditors). In addition, FWF provides country reports which were written by civil society organisations and describe the most relevant problems in a region.

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[57]For example, the difference between the SMETA 2-pillar audit and the SMETA 4-pillar audit is that the 4-pillar audit complements the scope of the 2-pillar audit with the issues of Environment (extended version) and Business Ethics. The 2-pillar audit only reviews basic aspects like compliance with local laws and environmental requirements of the clients. The 4-pillar audit, on the other hand, requires more extensive measures to be taken by the company, such as identifying and measuring the impact on the environment and designating a person responsible for improving the environmental performance.

4.2.4 Audit report and CAP: what is included in the reports?

The audit report and the Corrective Action Plan are based on the contents of the code of conduct, but differ significantly in detail from audit type to audit type.

Audit report

The audit report gives a summary of corporate reality at the time of the audit. On the one hand, audit reports contain general information (including, but not limited to, size of the area; breakdown of staff, partly including nationalities; start of production; information on personnel accommodation; existence of messing facilities/a cafeteria; concrete information on a potential outsourcing of production; breakdown of temporary employment agencies hired). Audit reports allow a precise feedback on different aspects such as the interviews conducted with staff and management. Some audit formats require detailed information on all of the several hundred questions in the audit report, no matter whether a deviation has been found or not. Most reports contain a textual description of violations, which is different in scope. In most cases, the information sources for the violations identified must also be indicated. FWF audit reports, for example, have a reputation for describing the findings in great detail while other reports are based on very long lists of yes/no answers. Preparing the first draft report will often be very expensive and will mostly take one to three days. These expenditures are normally included in the audit days. In order to ensure that the auditors have enough time for conducting a high-quality audit and preparing the audit report, the number of audit days to be expected and the form of the audit report to be submitted should be defined very clearly in the statement of work. The quality of the report will be assessed in detail by the companies' own review teams who will often submit additional questions and reformulation requests to the audit team. This process may be repeated several times and take several days.

Contents and scope of most conventional audit reports are very similar, but depth and orientation of some issues are different. Standard audits always cover the same issues (see box 4). Differences mainly exist with regard to evaluating the degree of compliance, which may have two scores (passed/failed) or three scores (failed/passed/in need of improvement).

Box 4: Standard contents of an audit report

A standard audit report covers the following contents:

- Forced labour/involuntary employment/voluntary employment
- Trade union freedom/freedom of association
- Health and safety/work environment
- Child labour
- Wages
- Working hours
- Discrimination
- Employment agencies/temporary employment agencies
- Harassment
- Abuse
- Business ethics, e.g. corruption
- Subcontractors/next-tier suppliers and/or contractors, e.g. security services
- Dormitories/accommodation provided by the company
- Environment/environmental management

Corrective Action Plan (CAP)

The Corrective Action Plan is one of the most important parts of an audit. The CAP is a small excerpt of the report and its contents are part of the audit report. The CAP lists all the observations and deviations identified in the audit as well as comments from management. Management is responsible for deciding whether to take corrective actions and, if yes, which actions will be taken and how concrete will they be. The CAP will normally include general notes on compliance (recommendations) and a timeframe for taking the relevant action (immediately, 30, 60 or 90 days). Many deviations are regarded as zero tolerance issues (e.g. confirmed child labour or forced labour) whose correction clients will normally request before continuing cooperation.

The CAP results, on the one hand, from reviewing the respective code of conduct and the audit guidelines and, on the other hand, from the requirements posed by the relevant legal standards in the respective country. Therefore, most audit reports and CAPs differ in detail. Corrective actions (CA) will normally be derived from the audit report, but sometimes they will be generated automatically.

Whether a CAP specifies during which period the requirements will have to be met varies from audit format to audit format. The differences between reports and CAPs can be differentiated as follows:

- ***Which parts of the CAP are mandatory? What is the period within which non-conformities must be remedied?*** As a rule, the CAPs are mandatory, but there are differences in detail, particularly with regard to the question by when corrective actions must be taken. BSCI does not prepare a CAP but a Findings Report, which will be discussed at the closing meeting. Based on this report, the company audited by BSCI may prepare a Corrective Action Plan within 60 days, but this is not mandatory.

- ***Do audit reports include ratings?*** Many of the reports include a rating for each individual criterion, some of the interrelated issues are rated together. However, some issues are deliberately not rated at all. The ratings normally consist of three to four levels. The BSCI rating, for example, comprises the levels A to E for individual areas, but not for each individual criterion. Deviations are normally rated in accordance with programme-specific guidelines (see, for example, SMETA's NC Guidance[58]) or according to client specifications. Sometimes the auditor has insights into the significance to be assigned to the deviations, sometimes the contracting companies themselves will attach the significance. The CAP is only ever a draft. The final version will be produced only after a review process and verification by the contracting authority. Thus, the client may change ratings or adapt the allocation of deviations.

- **What is the period within which CAPs must be implemented?** The CAP is usually submitted in writing and discussed during the closing meeting. In one of the cases analysed, the CAP is only presented orally. The deadlines for implementing the CAPs normally vary between 30 and 180 days.

- **Are the root causes analysed?** A root cause analysis will examine the reasons for a violation of the code of conduct. This may be helpful because the analysis contributes to ensuring that the companies audited will be able to remedy not only the symptoms but also the root causes. A good CAP will include these analyses and, in addition, corrective actions and preventive actions, but the analysis is not included in every CAP.

- **To what extent are approach and method of an audit transparent?** The audit reports are usually the property of the parties who bear the audit costs (for costs, refer to paragraph 4.5.2), i.e., normally of the auditees themselves, but partly also the buyers and the brand companies. In most cases, audit types are not transparent to procurement agencies.

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[58] Access for Sedex members only.

4.3   Auditor qualification and audit quality

Chapter 4.2 shows that the audit guidelines also determine the quality of the audit results. In view of the auditors, two additional mechanisms ensure the quality of audit results: the accreditation and the selection of the audit teams (see chapter 4.3.1) as well as training courses and advanced training (see chapter 4.3.2). Furthermore, other aspects have an impact on the audit quality: the composition of the audit team (see chapter 4.3.3), the knowledge of laws/customs and local languages (see chapter 4.3.4). Finally, "shadowing" is another method to improve the quality of audit results (see chapter 4.3.5).

4.3.1   Accreditation

Many audit types involve an accreditation body, an organisation that accredits audit firms or auditors.[59] Accrediting is designed to create confidence in the auditors. DIN EN ISO/IEC 17011 determines the requirements for accreditation bodies which accredit conformity assessment bodies, such as inspection and certification bodies. This standard defines the term "accreditation" as "third-party attestation related to a conformity assessment body conveying formal demonstration of its competence to carry out specific conformity assessment tasks".

Existing accreditations are based on this ISO standard, but differ in detail. Within the scope of auditor accreditation, membership of social auditors in the new organisation APSCA (Association of Professional Social Compliance Auditors) has become increasingly mandatory in recent years (see box 5). If properly implemented, an accreditation can improve the quality of auditors, but in any event it is not a condition for high-quality audits.

Not all of the audit types involve external accreditation under ISO; worker representatives assess many audit types which do not work with accreditation as "best practices" (for example, FWF, Electronics Watch, Worker Rights Consortium).

Box 5: APSCA

Only a few years ago, the "Association for Professional Social Compliance Auditors" (APSCA) was founded to officially enhance professionalism, consistency and credibility of individual auditors and organisations performing independent social compliance audits, and to promote the use of independent social compliance audits as an instrument to advance workplace conditions for workers globally. The APSCA certification process is to ensure in theory that auditors have demonstrated competences that are standard requirements in comparable professional auditor associations. The auditors are obliged to pass three exams as stages of the certification process. However, in reality, the exams have not yet been fully developed and have only been available in a few languages up to now. Structures, processes and exam criteria thus far are not yet transparent enough.

4.3.2   Training courses and advanced training

At the beginning of their careers, auditors will attend a number of training courses before conducting on-site audits as lead auditors. Initially the training courses are more general in nature, later becoming more specific. Training courses last between one and two weeks on average. For example, the SA8000[60] Introduction and Basic Auditor Training is a five-day course. After that, a second course must be completed which is slightly shorter. As a new auditor is not able to efficiently execute high-quality audits after a two- or three-week training course, some audit types require the auditors to "observe" colleagues during audits before they are allowed to carry out audits independently. The SA8000 Standard requires auditors to

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[59] "Accredere" is derived from Latin and means "to give credit to sb.".
[60] SA8000 = Social Accountability 8000, standard developed by the US NGO "Social Accountability International" (SAI).

participate in three audits before they are allowed to do audits independently. The training courses for individual audit programmes will be on a smaller scale than at the beginning of the auditor training (apart from a few exceptions such as for the RBA, which requires regular, periodic, time and cost-intensive training courses and tests[61]).

Audit clients use different advanced training tools for their own programmes. The selected measures depend on the contracting authority concerned. Online training is often offered, but live communication via Internet is also possible to train auditors on the specifics of individual programmes.

However, experience plays a vital role besides training, because all auditors steadily learn from and seek continuous improvement through their growing experience in auditing.

4.3.3   Selection of audit teams

Frequently, the auditee selects the auditing company from a list of accredited providers. The auditing company then decides on the composition of the audit team. In the event of one-day audit programmes, there is often only one auditor who will automatically be the lead auditor. If an audit is scheduled for several days, there may be two or more auditors who share out the work between them. For example, the RBA audit team must always consist of one lead auditor, one auditor and, if required, one so-called provisional auditor with at least 2 years of work experience.

4.3.4   Knowledge of the local laws/customs and languages

Most of the audit types analysed require audits to be conducted in the local language.[62] This makes sense because in practice it is very difficult to conduct an audit together with a translator. Auditors who do not speak the local language are not able to verify written records and often are not familiar with local laws/customs. It is much more complex to interview workers and the results are not the same, because in this case it is much more difficult to gain the workers' confidence in an interview. They are not able to talk to workers or other persons, which is relevant to the triangulation of the results and thus to the quality. Working with local auditors is advisable for financial reasons as well. Furthermore, the auditor must be prepared to cope with situations in which some foreign workers do not speak the national language (this is often the case, for example, in Switzerland or the Netherlands). Even in these situations, the auditing firm must ideally find a solution to interview these persons accordingly.

4.3.5   Shadowing/verification

Several audit formats require audits to be "shadowed". This means that a second (independent) auditor accompanies the commissioned auditor during an audit and checks whether the audit is conducted according to the rules.

Several audit types (e.g. FWF, FLA) conduct so-called "verification audits". This means that both organisations have another audit team conduct a second audit to verify some audits. This is to identify weaknesses in the audit and to improve the quality of audit results.

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[61]   The RBA Standard distinguishes between "initial training", "re-validation" of training and "renewal process": „Initial Training: New Auditors with required experience must attend RBA in-person training (4-days) and pass the test for Labor & Ethics, EHS discipline to get approved as qualified RBA auditor. The Validation period for RBA certificate is 24 months. Re-validate training: All auditors are required to re-validate their certification every 36 months. In-person training and test are required. Renewal process: On a 24-month basis, all auditors must have completed three RBA audits for each discipline and collect at least 24 hours of Continual Professional Development (CPD) hours to get renewed.

[62]   A couple of audit approaches allow the use of translators.

4.4 Audit process: preparing and conducting audit activities, conducting audit follow-up

Audit management in a company is nearly always similar: As a rule, each audit includes phases of preparing and conducting audit activities and of audit follow-up. The following three sections show relevant differences between the audit types in the three phases. What is important here is that the audit always aims at reviewing the degree of compliance with the relevant code of conduct and legislation.

4.4.1 Preparing audit activities

Table 9 shows the individual steps for preparing audit activities. In the preparation phase, an audit team is formed and an appointment for a visit is made with the auditee.[63] Ideally, the auditee is prepared prior to the audit in such a way that the audit can be carried out smoothly. An "invitation letter" from the company commissioning the audit may be helpful. Several audit formats provide for an awareness meeting in preparation for the audit. Sometimes, audit reports that are already available are reviewed before the audit is conducted, but only very few audit formats recognise such audit reports so that a new audit is conducted in most cases. Several audit formats require the auditee to conduct a self-assessment as part of the preparation (often using questionnaires).[64] The expenditures for preparing audit activities depend on the steps to be taken. It should be noted that it is easier to conduct an audit if it has been well prepared.

As Electronics Watch does not visit any businesses, the preparation phase concentrates on preparing interviews with workers, which is also very complex. Prior to the interviews with workers, for example, the firm and its environment are reviewed to place the statements in a better context.

Table 9: Steps for preparing audit activities

Step	Specification depending on audit format
Composition of audit team	Based on the audit guideline, the audit team is formed depending on region, number of staff[65] and availability of auditors.
Scheduling	Scheduling is sometimes done by the audit company (back office), sometimes by the audit client.
Preparing the auditee	The terminology is sometimes clarified with the auditee beforehand/sometimes not.
Examining existing audits	Audit reports already available are sometimes/sometimes not requested by audit types. The auditors look through them prior to the audit. The field instructions of some audit programmes point out that audit reports already available are not to be read. This is to enable the auditors to make an assessment that is as unbiased as possible.
Recognising existing audits	Most of the audit formats do not recognise already existing audit reports. Only one of the fifteen audit formats analysed recognises selected audit reports so that conducting another audit is no longer necessary.
Self-assessment	Only a few audit formats require a self-assessment (usually questionnaires).

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[63] This can be a fixed date or, if the audit is not announced, a period of time or no date at all.
[64] An internal audit may help give a rough estimate of how well the business masters the relevant issues. However, this must be critically assessed because the information is not validated and may be false.
[65] The factory area is usually not considered which may result in time pressure during the tour of the factory.

4.4.2   Conducting audit activities

An audit is now carried out in a relatively standardised manner. An audit usually starts with an opening meeting with management to address fundamental questions (e.g. audit procedure). The duration of the meeting may differ greatly between the audit formats.

Usually four typical steps will then be taken (which are also the audit instruments, see chapter 4.2.3). Tour of the factory, interviews with staff, interviews with management, document evaluation and sometimes worker representatives are involved or interviewed. When all indications of violations were collected using these instruments, a Corrective Action Plan (CAP) will be developed. This important element summarises the "non-conformities" identified in the course of the audit and the recommendations which seem relevant to remediation activities. Several audit formats set deadlines for corrective actions in the CAP. Relevant differences exist mainly with regard to the details (see 4.2.4). An audit usually ends with a closing meeting in which the CAP is discussed and signed. Table 10 summarises the most important steps:

Table 10: Steps for conducting audit activities

Step	Specification depending on audit format
Opening meeting	Almost all audits start with an opening meeting with management, which takes up to 90 minutes. Some audit clients provide for several preliminary discussions particularly for remote audits. An awareness meeting to prepare the business for the audit (scope of audit, list of documents etc.) is required for a few audit types and will be held on the first audit day prior to the opening meeting.
Tour of factory and photos	By default[66], an audit includes a tour of the factory. Photos of visible non-compliances are generally taken with a digital camera. For details, see para. 4.2.3.1.
Interviews with workers	Almost all[67] audit formats include interviews with workers. The main differences lie in two questions: 1. How many interviews are conducted? 2. How and where are the interviews conducted? For more details, see 4.2.3.2.
Document evaluation	Usually similar documents are evaluated. Some types of audit require a closer examination of, for example, environmental issues (e.g. SMETA 4-pillar). The main difference lies in the size of the chosen sample, especially with respect to personal documents (payrolls, employment contracts etc.) from the personnel department. For details, see para. 4.2.3.3.
Discussions with management	Most audit formats provide for discussions with management, mainly with the HR and OHS management as well as with the persons responsible for environmental matters. For differences in detail, see para. 4.2.3.4.
Involving worker representatives	Some approaches, e.g. that of Electronics Watch (EW), consider it essential that audit teams talk to local trade unions and worker representatives on site. These discussions help, for example, to understand the underlying problems on site. The EW audit teams therefore hold such discussions or are closely linked to local trade unions. FWF has had background reports produced for those countries in which it operates. These reports address such issues. These discussions are not held in most other audit formats for reasons of time. For details, see para. 4.2.3.5.
Drawing up a CAP	A CAP will be drawn up. CAP differ in detail (see para. 4.2.4).
Closing meeting	A closing meeting with management usually takes place to discuss the CAP. Management is requested to sign the CAP (including deadlines, if required). However, signing the CAP does not necessarily mean that the company will implement corrective actions for the listed non-conformities (NC). The concrete rating of the individual NCs and the final outcome of the audit will be communicated to management in the closing meeting, because the CAP and the report are always a draft and are both are subject to quality control.

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[66]   In a few rare cases, however, (e.g. certain remote desktop assessments) there will be no tour of the factory.
[67]   In a few rare cases, no interviews will be held (e.g. certain remote desktop assessments).

4.4.3   Conducting audit follow-up

The auditors will prepare the audit report in the follow-up phase after the audit. The report is mostly reviewed again internally before it is submitted to the audit client. Several standards initiatives, such as the FWF or FLA, have their own team conduct an additional audit on a sample basis for quality assurance purposes. According to the FWF, the outcome of this audit may differ greatly from the outcome of the first audit.

After the audit, the auditees will be requested to comment on the deviations identified and to define specific corrective actions. Ideally, the necessary corrections will then be made, which can require considerable expenditure (of time and money) depending on the state of the factories. After a certain period of time and depending on the number and severity of the deviations, a follow-up audit (usually referred to as verification audit) will be carried out. Table 11 shows a list of the most important steps of the follow-up phase. Almost all audit guidelines define the intervals at which production facilities must undergo an audit and differentiate between the various audit types (e.g. initial audit, re-audit and follow-up audit, annual audit).[68] How seriously and consistently the correction of the identified deficiencies is addressed matters a lot. In production facilities with a serious and complex CAP management, it will be less likely that the same violations of the audited norms and standards are identified again or the severity of non-compliance will decrease over time. As a rule, corrective actions are followed by developing suppliers' capabilities (see chapter 3.4).

Table 11: Steps of the follow-up phase

Step	Specification depending on inspection type
Preparing the audit report	Following the visit to the company, the audit team will prepare the report. The expenditure differs significantly from audit report to audit report. For more details, see 4.2.4.
Internal audit review	In most cases, the completed audit report will be reviewed internally for quality control purposes. Sometimes the report will be reviewed several times before the final version is submitted to the audit client.
Corrective actions/development of factories	The CAP includes general recommendations for correcting deviations. However, it does not refer to best practices, as the auditors are not allowed to provide consulting services. The company will define concrete actions in the follow-up phase. Management may not accept individual NCs and makes a statement explaining why certain issues should not be implemented.
Follow-up audit	Sometimes on-site in the business or factory/sometimes via desktop. These follow-up audits (also referred to as verification audits) are to prove the rectification of NCs from the CAP.
Developing suppliers' capabilities	After the non-compliances have been corrected, the buyer may help the supplier to develop their capabilities in the longer term and to improve on sustainability.

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[68]   The focus of the follow-up audit after six months at the latest will be on the NCs.

4.5 Costs and credibility of audits

The differences discussed in chapters 4.1 to 4.3 as well as the type and conduct of an audit will affect the audit costs and the credibility of the audit results. As a rule, we can assume that a higher audit quality will be more expensive, which is not necessarily true. Chapter 4.5.1 explains of what audit costs consist and chapter 4.5.2 discusses the credibility of audit results.

4.5.1 Audit costs

The analysed audit types include costs in three areas: costs of the audit (see chapter 4.5.1.1), travel and/or out-of-pocket expenses (see chapter 4.5.1.2); other costs of conducting more complex assessments may accrue (see chapter 4.5.1.3). The credibility of the audit depends very much on important question of who pays for an audit? (see chapter 4.5.1.4).

4.5.1.1 Audit expenditure

Most audit types define the maximum number of audit days ("staff days") to be paid for an inspection. The maximum number of paid staff days also depends on factors such as region, country or audit service provider. This includes preparation and follow up as well as the conduct of the audit. Writing the audit report and the CAP are also included in the expenditures. Table 12 provides an overview of the staff days defined by different audit formats, according to the number of employees of the auditee.

Table 12: Audit days according to various inspection forms (examples)

Number of employees	BSCI	RBA Low risk	RBA High risk
1-100	1 - 1.5 staff day/s	2 staff days	3 staff days
101-500	101 - 250: 2.5 staff days 251 - 550: 4 staff days	3 staff days	4 staff days
501-1.000	551 - 800: 3.5 staff days 801 - 1200: 4 staff days	4 staff days	6 staff days
> 1.000	801 - 1.200: 4 staff days >1,00: 4.5 staff days	1,001 - 5,000 6 staff days	1.001 - 5.000: 8 staff days
		5.000 - 10.000: 8 staff days	10 staff days
		10,000 40,000 10 staff days	12 staff days

The audit costs per day differ in particular according to the country or region in which the audit is conducted. The audit cost per day is roughly between $500 and $2,000.[69] It is possible to reduce the costs by cooperating with local NGOs as audit firms, which provide their services at significantly lower prices. Electronics Watch takes this approach.

4.5.1.2 Out-of-pocket/travel expenses

In addition to that, travel and out-of-pocket expenses have to be paid for the auditors. These expenses increase when a whole team conducts the audit. Travel expenses also vary greatly from country to country. For example, ELEVATE estimates costs per person and day from $30 to more than $1,500.

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[69] Audit costs vary significantly between the audit service providers.

Two factors play an important role in reducing the travel expenses: (1) Is there an auditor on-site? The bigger the network of available auditors, the more money can be saved. (2) Can an auditor conduct several audits in the same region or does the person travel for a single audit only?

As the client normally does not pay travel times to the company, it is in the interest of the auditing organisation to coordinate the audit dates as efficiently as possible.

4.5.1.3   Other costs incurred as part of a standards initiative/certificate

Apart from the costs referred to above, some audit types will involve additional costs. If a company becomes a member of a standards initiative, a membership fee will be due. In the case of Electronics Watch, the procurement agency is a member paying an annual contribution of 0.1% of the annual purchase order value of ICT products. This contribution covers the membership fees and the audit costs on which the system is based. The company is then allowed to use the initiative's tools. In the case of other standards initiatives (e.g. BSCI-amfori, RBA, FWF), the buyer is a member of the initiative and pays an annual membership fee. In the case of product certificates, the company may have to pay license fees.

Finally, costs are incurred for facilitating the development of suppliers' capabilities. The companies will normally bear these costs; sometimes the buyers contribute to the costs. A central question about improving the workers' situation is often whether the buyer is willing to adjust purchase prices upwards when suppliers are required to implement extensive measures.

4.5.1.4   Intermediate conclusion

Building an audit system from scratch results in initialisation costs necessary for audits to be conducted in the first place. The initialisation costs include the "Basics" discussed in chapters 4.1, 4.2 and 4.3, i.e. developing the code of conduct, audit guidelines and ensuring the auditors' qualification (accreditation, training courses). Developing these basics can take several years.

4.5.2   Who pays for the audits?

Three different models exist as regards the payment of audit costs:

- **The auditee pays for the audit services**: In many cases, the auditee pays for the audit because the buyer can pass on the costs. The company normally selects an auditor from a list. This approach can be challenged on the lack independence of its results, because the auditors are interested in auditing in favour of the auditee.

- **The buyer pays for the audit services**: In some cases, the buyer pays for the audit services. This model's interests differ from those of the first model, as the buyers are usually interested in results reflecting the actual situation.

- **A standards system pays for the audit**: There are several standards initiatives (e.g. FWF, FLA) where the standards system pays for the verification audits conducted for quality assurance. The member firms pay for these audits in the form of contributions. This payment is indirect, which the standards initiatives considers more independent.

The buyer and the auditee sometimes share the costs. In order to classify and assess payment models, some background information is necessary. First of all, most audit models, especially companies' own audits, do not make transparent to others how the implementation of the code was verified. In general, the results are not transparent to the public either. Therefore, the audit results must be relied on if they cannot be verified by means of a second audit or another measure. Furthermore, audit companies compete fiercely with each other. These framework conditions (lack of transparency, competition) may encourage auditors to produce the result favoured by the client. If the paying organisation is seriously interested in obtaining

correct results, this will be less problematic, because the organisation will then assume the costs. If the organisation is interested in avoiding further costs, this will clearly be more problematic. In this respect, the basic question is: "Who audits the auditors?"[70]

4.5.3 Credibility of audit results

An audit report outlines which non-compliances were found against a certain code of conduct in a certain company at a certain point in time by means of a certain method. During the last 20 years the extent to which audit results reflect the reality in the audited companies or the extent to which social audit results are generally reliable has been intensively discussed.[71] The essential point of this discussion is that there are considerable differences in the credibility of audit results. This becomes clear when different audit reports of the same factory can be compared. A direct comparison often shows that the results of the individual reports are very different.

That is why it is important to consider which approaches should be avoided and which are particular relevant to a credible and high-quality audit report. Many of these criteria have already been discussed and highlighted in the previous chapters.

Table 13 summarises the most important aspects discussed in chapter 4 which impact on the quality and credibility of social audits. This summary is based on a personal assessment of the team of authors, i.e. on 10 to 20 years of working intensively with audit systems in both theory and practice.

Table 13: Aspects which strongly influence the quality of audit results

Aspect	Description
Objectives of the audit/audit approach used	It makes a big difference with what aims audits are demonstrating the current status of working conditions:
	(1) In order to decide whether cooperation with the business should continue if the outcome is not sufficient;
	(2) to jointly reflect on how which issues can be better dealt with and on how the buyer can be of use.
Scope/time/costs: to what extent can the audit team address real problems?	A central question is how comprehensively the audit must address different issues within the specified time. If an audit must address all issues of the code of conduct, the audit team will be unable to go into detail about individual issues.
	For this reason, it may be a good idea to focus on the relevant issues rather than to carry out a complex audit. This can be achieved by dealing in advance with issues relating to the country, region or sector (e.g. by means of risk analyses, sector analyses, discussions with stakeholders, especially worker representatives). This focus can also be achieved by means of a complaints procedure (approach followed by Electronics Watch).
Time/costs: time required for audit/sample/scope/focussing	In principle, the outcome of an audit is based on a sample. The question is always whether the sample is representative for the factory. Furthermore, there is generally not enough time to analyse the relevant issues in greater depth. In addition, auditors compete with

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[70] This question has recently been asked by the New York Times against the background of various scandals linked to financial auditors: https://www.nytimes.com/2017/04/14/opinion/auditing-the-auditors.html. It is no coincidence that the same question also emerged in the social audit sector, because at the end of the 90s the first social audits had been conducted by companies like PwC, whose main business were financial audits and which transferred the methods taken from the finance industry to the auditing of factories. See for example: O'Rourke, Dara (2000): MONITORING THE MONITORS: A CRITIQUE OF PRICEWATERHOUSECOOPERS (PWC) LABOR MONITORING. http://www.bollettinoadapt.it/old/files/document/18107ROURKE_2000.pdf. See also: Powers, Michael (1994): The Audit Society. Rituals of Verification. Oxford. Oxford University Press.

[71] Locke, Richard M., Qin, Fei and Brause, Alberto (2007) Does monitoring improve labor standards? Lessons from Nike. Industrial and Labor Relations Review, 61 (1). pp. 1-31. CCC (2019): Fig Leaf for Fashion. How social auditing protects brands and fails workers. Amsterdam; CCC (2005): Looking for a quick fix. How weak social auditing is keeping workers in sweatshops. Amsterdam.

	each other and their offers must therefore be as favourable as possible, which must be compensated elsewhere. In most cases, the time needed for a complete audit is too short.
	One possibility of correcting this is that auditors focus increasingly on aspects that really matter and ignore the others (see: case study: procurement in Sweden).
Interviews with workers	Workers are be the focus of an audit. The other instruments are used to triangulate the data. As interviews cannot detect specific issues when done on-site, best practice approaches provide for off-site interviews with workers (which is more complex). The composition of audit teams must be such that only certain persons interview workers about critical issues. For example, a man should not interview a female worker about sexual discrimination.
Audit team: selection/quality assurance	New auditors often are not yet sufficiently experienced and therefore may not be able to conduct a good audit. A number of factors are relevant to the quality of audits. Training courses and a good accreditation may help improve the audit quality. Other approaches, pursued, for example, by FWF or Electronics Watch, do not include any accreditation criteria but select auditors who are closer to the workers, for example from NGOs,
Audit team: does the audit team itself cover all spoken languages?	Some auditors work with translators because they do not speak the local language thus making it almost impossible to establish a relationship of trust with the workers. This may also lead to problems with fully understanding the laws.
Costs: funding of audits	The entity that bears the costs of an audit may influence the audit result, especially because the results lack transparency and the audit firms possibly keep one eye on subsequent contracts. In general, an audit will be the more credible the less its funding depends on the auditee.
Report and CAP	Some audit reports include an assessment of the results. Other audits, such as FWF, intentionally do not use ratings for psychological reasons, because a description of the current situation shows that it is possible to improve the situation. In contrast, a rating is often very absolute and unshakeable.

In addition, table 14 presents an external perspective on social audits, namely those of the Clean Clothes Campaign (CCC). Many of the CCC examples are from the textile sector, but the audit problems are very similar to those of the ICT sector. The two tables contain overlapping data. Both tables may be used to define quality criteria for audits.

Table 14: Problems of social audits (source: Clean Clothes Campaign, 2019)

Problem	Problems of audits taken from a report of the Clean Clothes Campaign[72]
Fraud is not detected	Falsified documents, bribing of auditors and coached worker interviews are very common and social auditors often do not have enough time or training to uncover instances of fraud.
Violations are not detected	Occupational safety and health: Poor understanding of occupational health and safety hazards to workers is common among auditors due to lack of even basic training and field experience in OHS. This practice leads to false reassurances that workers' right to a safe and healthy workplace – which is commonly evaluated with a brief, incomplete checklist by unqualified auditors – is upheld, and that national OHS regulations and international standards are being met, often with fatal consequences.
	Freedom of Association: poor understanding of Freedom of Association is common among auditors and leads to false reassurances in audit reports that this right – which cannot be monitored by a simple checklist approach – is upheld, even in countries that legally restrict the right to unionise and where union members are evidently detained, tortured and murdered on a regular basis.
Lack of transparency	Audit reports are not made publicly available and are therefore not accessible to workers (as a group affected by deficiencies and violations) or other stakeholders, such as other buyers from the factory, but to the paying party only. Therefore, this leaves the decision on whether to follow up on the findings to a limited group of stakeholders and risks

[72]Clean Clothes Campaign (2019): Sozial-Audits-wie sie Unternehmen schützen und Arbeiter*innen im Stich lassen (Fig leaf for fashion – how social auditing protects brands and fails workers). https://saubere-kleidung.de/wp-content/uploads/2019/11/Factsheet_Sozialaudits_November-2019_CCC-DE.pdf (retrieved on 2 Feb. 2021).

	perpetuating violations if those stakeholders decide to cut and run or ignore rather than remediate the findings.
Cheap and quick audits	Audits often have to be carried out quickly, in a minimum number of days in order to limit costs. This does not allow for more time-intensive practices, such as off-site worker interviews.
Worker engagement	Audit practices often do not offer enough space for genuine worker engagement, for example instead of off-site interviews, they conduct worker interviews on-site and in view of the management. Interviews with unions and non-governmental organisations with close links to workers are rare.
Failing accountability	Social audit systems remain voluntary, do not contribute to building up state-based monitoring regimes, and are not held accountable when they fail to uncover and remedy grave and often fatal violations.
Focus on factory level only	Auditing is usually limited to the situation in the factory and does not dive deeper into the root causes of violations, such as the purchasing practices (cost and lead time squeeze) by the brand or retailer that commissioned the audit.

4.6   Conclusion: auditing best practices

Finally, we will draw some conclusions on how to conduct social audits. We will describe the most important process steps to be followed when using audits. Furthermore, we will highlight best practices. Suppliers' compliance with a code of conduct cannot be ensured if an arbitrary social audit is requested from suppliers. This is due the differences existing between the codes of conduct on which the audits are based (see chapter 4.1) and the requirements of the audit guidelines (see chapter 4.2). If audits are to be used to rate suppliers, it will be necessary first to define the basics to serve as a yardstick for this rating. The basics can be summarised using three questions (cf. table 15):

(1)   **Defining the code of conduct:** Which ILO standards and/or working standards are to be audited? A code of conduct is the basis for each audit. Best practice approaches go beyond the ILO Core Labour Standards and include issues such as wages, occupational safety and health, corruption etc. Furthermore, it is helpful to do an equivalence analysis of one's own code of conduct with reference to other codes so that the equivalence of the codes provided does not have to be verified again for every procurement.

(2)   **Defining audit guidelines:** How are the factories to be audited? Each audit is based on a different guideline so that audit results are not always comparable. An audit guideline is therefore necessary or, at least, must define the most important elements.

(3)   **Defining qualification criteria:** Which qualifications must auditors hold? The qualification of auditors is relevant and can be ensured in various ways. On the one hand, through accreditation and training courses, and, on the other hand, by close contact and access to workers.

These three questions have a significant impact on audit costs and credibility.

Table 15: Best practices in the context of audits

Issue	Step	Best practices
Defining the basics	Defining the code of conduct	• Code goes beyond the ILO Core Labour Standards. • Equivalence analyses are available for companies and procurement agencies.
	Defining the audit guideline	• The focus of the guideline is on the relevant issues instead of addressing all issues in a comprehensive way. • Sample sizes reflect the desired significance of the results. • The scope of the audit is clearly defined so that offers from audit firms can be compared. • Interviews with workers take place off-site. • Worker representatives are involved in the audits as comprehensively as possible. • Functioning complaint systems complement the audit results. • Equivalence analyses of audit guidelines are available for companies and procurement agencies.
	Defining auditor qualifications	• Auditors have sound experience.

Audit process for conducting audits

Audits can be conducted at the supplier's site as soon as the basics of the audits used have been defined. Alternatively, it can be decided based on the basics established whether existing audits will be accepted.

The process for conducting a factory audit is largely standardised. The details on how to conduct the audit have already been defined. The process is based on the audit guideline. This is why good practices (such as

conducting off-site interviews with workers) were discussed in the appropriate chapter. These differences impact on the costs and credibility of the results. The three phases are summarised below.

Preparing audit activities: a central aspect of preparing audit activities is the composition of the audit team. According to best practice approaches, auditors are familiar with the local languages, laws and customs and audit teams, depending on the country, consist of men and women. Instead of agreeing on a precise date, arranging a period of time may be an approach leading to more unbiased results.

Conducting audit activities: an audit team will conduct the audit and the time available for the audit is a decisive factor for the quality of the results. Especially conducting off-site interviews with workers improves the quality of the results.

Conducting audit follow-up: it is important for the follow-up that the report and the CAP are available to all those concerned. Defining the correct measures and starting the development of suppliers will only be possible on this basis (see chapter 4.4.3). Here, best practices are approaches where the companies define action plans in cooperation with the firms and jointly implement these plans.

Table 16: Best practices in the context of audits

Issue	Step	Best practices
Conducting audit activities	Preparing audit activities	• Risks are analysed as a basis for focussing the audit and selecting the audit team. • The audit team speaks the local languages. • A period of time is announced in which the audit will take place.
	Conducting audit activities	• Sufficient time is allowed for the audit so that the survey will be representative and there will be enough time for off-site interviews with workers.
	Conducting audit follow-up	• Implementation of the CAP will be verified. • Joint development of suppliers' capabilities will take place within the scope of a cooperative partnership.

5 Models for preparing and conducting audits in an administrative context

According to the 2nd objective of the study[73], this chapter describes three models used to conduct audits in an administrative context. Based on these models and the previously established basics, chapter 6 provides recommendations for conducting audits in the context of public procurement.

Each model consists of a total of eight steps (see tables 17 and 18). These steps are divided into two parts:

(1) The inspection system that defines the basics of the audit process.

(2) The audit process that takes place for each audit.

Inspection system (see table 17)

The public administration applies the inspection system to define the basics in steps 1-5 once at the beginning[74] to be able to use audits systematically and efficiently later in the procurement process. These basics are necessary so that the contracting authority can conduct or have audits conducted in the desired quality during contract performance; or to assess whether audits submitted by the supplier can be accepted. Establishing these basics is discussed in chapter 5.1[75] (the inspection system tables are shown in blue).

Table 17: Building an inspection system (basics of auditing)

Inspection system: establish the basics of supplier auditing (happens only once)		
1	Defining the code of conduct	Chapter 5.1.1
2	Defining the decision-making basis for conducting audits	Chapter 5.1.2
3	Defining the audit guideline	Chapter 5.1.3
4	Defining auditor qualifications	Chapter 5.1.4
5	Defining the guideline for handling CAPs	Chapter 5.1.5

Audit process (see table 18)

The audit process (steps 6 to 8) takes place whenever an audit is conducted and consists of three phases: preparing and conducting audit activities and audit follow-up. Whether an audit should be carried out or not will be considered during preparation, among other things. This is followed by the conduct of the audit. In the follow-up phase, care is taken to correct the violations identified in the audit. These three phases are discussed in chapter 5.2 (the audit process tables are shown in orange).

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[73] 2nd study objective: "Demonstrate, by means of and based on models, recommendations and estimates concerning the following question: how inspections can be carried out in an administrative context, i.e. in connection with the public administration?"

[74] To be checked at regular intervals, however, for currency and to be revised as necessary.

[75] The basics refer to the prerequisites for conducting audit activities presented in chapters 4.1, 4.2, 4.3.

Table 18: The audit process

Audit process: preparing and conducting audit activities, conducting audit follow-up (for each procurement)		
6	Preparing audit activities	Chapter 5.2.1
7	Conducting audit activities	Chapter 5.2.2
8	Conducting audit follow-up	Chapter 5.2.3

Assumptions and structure of the three models

Subchapters 5.1 and 5.2 have the same structure and briefly explain each step, before models A, B and C are compared and address the following questions: What is it about? (Description) What is the outcome of this step? What should be borne in mind? What are the strengths/opportunities, challenges/risks related to the individual models?[76] How high are expenditures/investments?

The following assumptions are made in the models:

- **Model A:** the process steps are executed completely within the administration by its own personnel.

- **Model B:** the administration largely outsources the individual process steps to external institutions and coordinates them.

- **Model C:** the relevant process steps are an alternative to A and B, independent of the question of who executes the process steps.

The expenditures/investments involved are rough estimates. Information on the number of days indicates person-days and includes time and money spent on preparation rather than on internal administrative coordination and decision-making processes etc., which are usually time-consuming.

5.1 Inspection system: defining the basics of supplier auditing

Chapter 5.1 deals with setting up an inspection system and/or establishing the basics for conducting audits. Contracting authorities must later be able to resort to the system and basics when conducting audits in the context of procurement. Otherwise, audits cannot be conducted or commissioned. These basics must be defined only once.[77]

This chapter deals with the following five steps which must be defined by an administration wishing to use social audits:

- The code of conduct is defined in step 1 (see chapter 5.1.1).

- The basis for making a decision on whether an audit is to be conducted is defined in step 2 (see chapter 5.1.2).

- The audit guideline is defined in step 3 (see chapter 5.1.3).

- The necessary qualification of auditors is defined in step 4 (see chapter 5.1.4).

- A guideline for the handling of CAPs is developed in step 5 (see chapter 5.1.5).

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[76] As to opportunities and challenges, attention is primarily paid to aspects of quality, expenditure and feasibility.

[77] Of course, they must be adapted at regular intervals, as required.

5.1.1   Step 1: defining the code of conduct

Before an audit is conducted, the criteria to be verified in the audit must be defined. They are normally defined using a code of conduct (see chapter 4.1). The code defines which labour and social standards a supplier must comply with (including the supply chain, if appropriate). The code also defines the contents to be verified in the audit. A code of conduct is normally part of a contract concluded with a supplier. It is a condition for contract performance under public procurement law.

Table 19: Defining the code of conduct (step 1)

	Model A	Model B	Model C
Description	**The administration's own personnel defines a code of conduct which applies to all providers in all sectors.**	**A code of conduct which applies to all providers in all sectors is defined externally on behalf of the administration.**	**The administration refers to the code of an existing standard (for example, SA 8000, RBA, BSCI).[78]**
Result	A code of conduct for the procurement process to which audits must refer. This code normally has approximately ten pages.		
What should be borne in mind?	Performing an additional equivalence analysis[79] according to the commonly accepted standards per sector helps the contracting authorities assess the evidence provided. Without an equivalence analysis, the contracting authority does not know whether the evidence provided by the service provider is in line with its own code of conduct.		
Strengths/opportunities	The code can be tailored to individual needs.		This requires less expenditure because the code already exists and does not have to be drawn up.
Risks/challenges	Suppliers may be critical of such an additional code and point out that suppliers' codes should be applied, if any.		There are only a few cross-sectoral standards. This is why sector-specific solutions would have to be found.
Expenditure/investments	< 5 days required to define the code	< 5,000 EUR required to define the code	The selection of the standard/code requires relatively little expenditure.
	About 20-30 days required for an equivalence analysis of ten standards/codes.	About 10,000-25,000 EUR required for an equivalence analysis of ten standards/codes.	

5.1.2   Step 2: defining the decision-making basis for conducting audits

It is not necessary to conduct a social audit for each supplier. Criteria as a basis for decision-making are required to be able to decide during the contract period which supplier is audited. Chapters 2.2 and 2.3 discussed different approaches to analysing social risks in supply chains as well as possible information

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[78]   Important note: a general reference to an existing audit system is not permissible under public procurement law. The contracting authority can only adopt the code one to one and also accept all other evidence referring to codes which meet these criteria.

[79]   An equivalence analysis compares codes of conduct (or guidelines) with each other and indicates similarities and differences. Such an analysis shows which of the verified codes comply in substance with one's own code.

sources. To understand the models described in table 20 it needs to be appreciated that the risks can be assessed indirectly by analysing the way in which the suppliers themselves are dealing with risks in their supply chains. This may be appropriate when the contractors do not manufacture the products themselves, but have outsourced production. Optionally or alternatively, risks can be assessed directly in the producing country via an analysis of the production site. Complaints procedures can also be used optionally or alternatively. Finally, selection criteria unrelated to the supplier or the supply chain (e.g. selected randomly) can be used as well. All approaches allow conducting a simple or comprehensive analysis.

Table 20: Defining the decision-making basis for conducting audits (step 2)

	Model A	Model B	Model C
Description	**The basis for decision-making is risk-based and provided by the administration's own personnel. The risks are analysed in the audit process (step 6) at the level of the contractor.**	**The basis for decision-making is risk-based and provided externally.** **The risks are analysed in the audit process (step 6) at the level of the contractor.**	**The basis for decision-making is a sole criterion which does not have to be established. Criteria may include order volume, random selection, list with high-risk countries, information by external third parties.[80]**
	Optionally, the risks of producing countries can also be used as a basis in each model by means of a more comprehensive tool (see chapter 2.3).		
	Optionally, an existing complaints procedure can be added to each model (e.g. via Electronics Watch in the ICT sector).		
What should be borne in mind?	The expenditure for using the decision-making basis should be proportionate to the outcome. The aim should be to reduce the expenditures on audits without reducing social requirements too much.		
Result	An aid to conduct a risk analysis with regard to suppliers (and their supply chain, as appropriate). This aid helps the contracting authorities to decide whether an audit is to be conducted or not.		A single criterion which determines whether an audit will be conducted. Optionally, different criteria can be combined.
Strengths/opportunities	The risk analysis of the contractors provides the administration with a profound information basis to decide whether a factory audit is to be conducted or not. If the risks are low, an audit may not be necessary. Using the aid helps save costs and relieve the supplier/producer. As the risks are considered from the point of view of the contractor rather than the producer, the problems are assessed indirectly. However, the producer would also be responsible for addressing these shortcomings.		Its implementation is relatively simple.
Weaknesses/challenges	This means additional expenditure for a short time as the basics for the risk-based approach must be established. A risk analysis of the contractor means additional expenditure for the contractor. Since the contractor is considered, the problems are assessed indirectly. As a result, problems might be overlooked.		As the analysis based on a single criterion is not very well founded by comparison, the results can be grossly disproportionate to reality. Suppliers could feel discriminated against in cases where lists of high-risk countries are used.
	The administration therefore needs qualified personnel.		
Expenditure/investments	30-50 days plus testing period required for drawing up a guideline for the risk analysis of the contractors.	15,000.00-35,000.00 EUR required for drawing up the guideline for the risk analysis of the contractors.	Less time (< 3 days) is spent on researching the definition of the criterion.

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[80] It would be important that the administration can resort to the up-to-date basis and does not have to provide and/or renew this basis.

5.1.3   <u>Step 3:</u> Defining the audit guideline

An audit guideline is necessary to be able to verify in a standardised manner that the requirements of the supply chain laid down in the code are met. Without an audit guideline, the auditors would subjectively assess whether a situation observed in a company violates the code of conduct or not. In addition, there would be no consistent definition of the threshold values for passing an audit. Without an audit guideline, an audit may assess a situation as "compliance" whereas an audit conducted by another audit team would assess the same situation as "non-compliance" – only because the basics for conducting the audit (audit guidelines) are different. Chapter 4.2 provides more details on the audit guidelines.

Table 21: Defining the audit guideline (step 3)

	Model A	Model B	Model C
Description	**The administration's own personnel defines an audit guideline.**	**The administration defines an audit guideline through an external service provider.**	**The administration defines minimum criteria on the basis of which it assesses existing audit guidelines.[81]**
What should be borne in mind?	An equivalence analysis of their own and other audit guidelines helps the contracting authorities assess which audit guidelines are equivalent to their own guideline and/or criteria.		
Result	An audit guideline (of about 100 pages).		10-20 criteria used to invite tenders for audits (< 5 pages).
Strengths/opportunities	One's own guideline can best be adapted to individual needs.		Comparatively low expenditure.
	All models may help circumvent the weaknesses of commercial audits and to improve the audit quality.[82]		
	One's own guideline is necessary in cases where the administration's personnel conduct an audit.	An external organisation can draw on more experience in audit guidelines than the administration.	The market already provides many approaches which can be used instead of developing a new audit guideline.
Weaknesses/challenges	The development of a new, own guideline is very complex and requires several years of development work. There exist numerous proven audit guidelines. For this reason, it is questionable whether it is necessary to develop one's own guideline. In order to conform to ISO standards, the guideline would have to be defined by a body which has not defined the code of conduct.		It is a challenge to define robust criteria which will be met by different audit guidelines. Finally, audits cannot be compared with each other without any audit guideline.
	The audit guideline or minimum criteria should be defined in such a way that they comply with existing best practice audit formats (e.g. FWF, EW). If the focus is on standard ISO formats here, this will probably not be the case.		
Expenditure/investments	30-90 days required for an initial draft of the audit guideline. As this protocol is new and untested, a development phase of 1-2 years is to be expected before the protocol will prove fully practicable.	20,000.00-50,000.00 EUR required for developing the guideline. The administration would observe the test phase.	Time spent on preparing the set of criteria is < 7 days.
	About 20-30 days required for an equivalence analysis of ten audit guidelines.	10,000.00-25,000.00 EUR required for an equivalence analysis of ten audit guidelines.	5-10 days required for verifying ten standards.

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[81]   The criteria would define good practices in auditing.
[82]   For example, the guideline could determine the quality criterion that interviews with workers must be conducted off-site.

5.1.4   Step 4: Defining auditor qualifications

This step defines what qualifications are required for auditors conducting an audit on behalf of the administration. The most common approaches to ensuring that auditors are qualified include accreditation (see chapter 4.3.1), training courses (see chapter 4.3.2) or their experience.[83]

Table 22: Defining auditor qualifications (step 4)

	Model A	**Model B**	**Model C**
Description	**The administration's own personnel train auditors. For this purpose, the administration develops its own training courses consistent with the desired qualification.[84]**	**The administration accepts auditors of certain audit programmes (e.g. SA 8000, RBA, TCO, EW).[85] There will be no additional training.**	**The administration defines a set of criteria for qualifications which auditors must have.** **There will be no additional training.**
What should be borne in mind?	Model A would only make sense with administration-specific audit teams. The administration needs training material and trainers conducting the training. In addition, there would have to be a procedure for proving on a regular basis that auditors still meet the requirements.	The quality assurance concepts of selected audit programmes are accepted. Audit programmes should be selected which meet the administration's own standards. The auditors are then selected according to the audit programmes.	The contracting authority itself later checks whether the qualifications are held using the set of criteria. Minimum qualifications are required for this purpose. They can stipulate accreditation, training courses, experience etc.
Result	The auditors have undergone training. There is an internal training programme and the trainers are qualified.	A list containing permissible standards and/or accreditation bodies.	A list containing about 10-20 criteria and a description of the evidence to be submitted.
Strengths/opportunities	The training can be tailored to individual needs. In this case, an accreditation is not required.	The solution is compatible with what is available on the market. The administration itself does not have to run training courses because the standards auditors have already been trained.	The set of criteria can combine the strengths of the offers available on the market.
Weaknesses/challenges	The expenditure is relatively high compared with other solutions.	Time is still needed to identify the correct standards and/or accreditation body and to verify equivalence.	Depending on the criteria selected, the number of possible overlapping criteria may shrink.
Expenditure/investments	4-8 weeks required to prepare a training programme if the administration had suitably qualified personnel. 1-2 weeks required to provide the training.	Costs of compiling the list (approx. 5,000.00-10,000.00 EUR per sector). One body responsible for verifying the submitted documents.	5,000.00-15,000.00 EUR required to define criteria. One body responsible for verifying the submitted documents.

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[83]   Chapter 4.3 lists further approaches to ensuring the auditors' qualification and the quality of audits. These are not taken into account in the model.

[84]   To master the basics, auditing personnel needs to do a training course lasting at least 1 to 2 weeks.

[85]   As many accreditation programmes have already been developed, the administration draws on these programmes.

5.1.5 Step 5: Defining the guideline for handling CAPs

An audit describes the violations of the code of conduct in the audited company. An audit is no guarantee that the rules of the inspected code of conduct will be observed. A CAP will be established following the audit. The CAP lists which non-compliances (NCs) still exist in the audited company. The auditee must implement this. The audit guideline defines how and when the next check will take place.

This means that the organisation which has commissioned the audit must keep an eye on whether or not the NCs were remedied. This is governed by different rules and different verification methods exist, depending on the violation committed.[86] The implementation of CAPs is complex. Therefore, a government agency should always draw up a guideline as an aid to interpretation.

Table 23: Defining the guideline for handling CAPs (step 5)

	Model A	Model B	Model C
Description	**The administration's own personnel develop a guideline for handling CAPs.**	**The administration has a guideline for handling CAPs developed externally.**	**The administration uses the CAP without any additional guideline and/or interpretation.**
Result	A short document to aid interpretation. It describes how to handle a CAP, when to interact with the contractor, which additional evidence is necessary and when an additional audit will be required.		
Strengths/opportunities	The guideline supports the administrative personnel in interpreting the CAPs which otherwise might be difficult to understand.		No additional expenditure.
Weaknesses/challenges	Drawing up the guideline involves additional expenditure.		The administrative personnel must be able to understand the CAPs.
Expenditure/investments	Time for qualified personnel is < 7 days.	Approximately 5,000.00-15,000.00 EUR.	There will be no investment for a guideline. The personnel must know how to handle a CAP by gaining the necessary qualifications.

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[86] Depending on the violation committed, this will be done via desktop review or audit.

5.2 Audit process: preparing and conducting audit activities, conducting audit follow-up

This chapter deals with the audit process (preparing and conducting audits and audit follow-up) under existing contracts. This process will be repeated each time, but it may already be terminated after step 6:

- The audit will be prepared in step 6. The basis for decision-making defined in step 2 helps decide whether a supplier will be audited (see chapter 5.2.1).

- In step 7, the audit will be conducted in accordance with the inspection system defined in steps 1, 3 and 4 (see chapter 5.2.2).

- Step 8 will be performed after an audit has been conducted. Based on the guideline defined in step 5, step 8 verifies whether the corrective actions taken at a specified point in time are sufficient (see chapter 5.2.3).

5.2.1 Step 6: preparing audit activities (decision as to whether an audit will be conducted)

Under existing contracts with contractors, the administrative agency can decide whether the suppliers, or possibly their supply chain, should be audited to monitor compliance with the ILO standards. How much time and money is spent on this decision depend on the decision-making basis used (see chapter 5.1.2). The decision will be made after the contractor has been specified.

Table 24: Deciding on an Audit

	Model A	Model B	Model C
Description	**On the basis for decision-making, the administration will decide with its own personnel whether to conduct an audit.**	**On the basis for decision-making, an external organisation will decide whether to conduct an audit.**	**The decision will be made on the basis for decision-making, which includes only one criterion (see model C, step 2).**
What should be borne in mind?	The basis for decision-making has been defined in chapter 5.1.2 (model A, B and C).		
	Step 6 is not necessary in two cases: A. In the event that each supplier is to be audited. B. In the event that at no time is an audit to be conducted.[87]		
Result	A decision has been made as to whether an audit should be conducted or not.		
	Supplementary information on the situation is available. This information can be used to focus the audit.		
Strengths/opportunities	The administration retains control of the decision.	The administration does not need to acquire any necessary additional knowledge.	The expenditure is very low.
Weaknesses/challenges	If an analysis conducted by the contractor is used as a basis, this will increase expenditure. The interpretation of data requires appropriate personnel.	Outsourcing the decision process for each procurement is relatively complex.	Wrong decisions may be taken.
Expenditure/investments	Approximately 2 to 3 days per decision.	< 2,000 EUR per decision.	Minimal expenditure per decision.

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[87] In indirect procurement, for example, it is possible to only inspect the purchasing strategy of the direct supplier instead of conducting an audit at the production site.

5.2.2   Step 7: Conducting audit activities

Conducting audit activities is the central step of the entire process – in the end, all steps discussed previously have just been preparing this step. The models distinguish between a comprehensive audit conducted by the administration's own personnel (model A) or by external personnel (model B). Model C proposes conducting a shortened and focused audit. A focused audit will reduce costs and can also analyse the suspected problems in more detail.

Table 25: Conducting audit activities

	Model A	Model B	Model C
Description	**The administration's own personnel will conduct a comprehensive audit.**	**The administration will task external auditors with conducting a comprehensive audit with reference to its own code of conduct.**	**The administration will conduct (internally or externally) a focused and shortened audit. The focusing will be based on available audit reports and/or risk analyses (see chapter 5.2.1).**
What should be borne in mind?	It must have been decided in step 6, that a factory audit is to be conducted.		
	The administration needs a code of conduct (step 1), audit guidelines (step 3), the definition of the necessary qualifications of the auditors (step 4).		
	The administration needs auditors and/or personnel who will coordinate the assignments of the auditors.		
			The audit can be conducted internally, i.e. by the administration's own personnel, or externally, i.e. by companies tasked with the audit.
Result	An audit report and a Corrective Action Plan (CAP).		
Strengths/opportunities	If internal audit teams are employed, the audits can be conducted just as desired. This may increase the quality. If a great number of audits have to be conducted annually, this approach will be more cost-effective.	There are numerous providers of standards audits. If the administration wants to conduct only a few audits (<10) annually, this approach will probably be more cost-effective.	Resources (including resources of the audited companies/businesses) will be saved because a complete audit will not be conducted again. Instead, the audit focuses on the violations identified so far. It is generally reasonable to focus an audit. However, information which can give the audit reasonable focus must be available.
Weaknesses/challenges	In order to be able to conduct audits in all countries, the administration needs many auditors with local roots. There are already numerous audit organisations which may be employed.	Worker representatives criticise many of the existing audit systems.	The administration should employ auditors who are prepared to follow its own audit guidelines.
Expenditure/investments	1 to 10 days for conducting an audit (depending on the audit guideline used, the quality of the auditors and the size of the factory). Personnel are on permanent standby and are trained regularly. The audits are organised internally.	1 to 10 days for conducting an audit (depending on the audit guideline used, the quality of the auditors, the size of the factory and the contractor).	1 to 3 days for conducting a focused audit.
		Approximate costs per auditor and per day: China: 550 - 750 EUR; Japan: 1,250 - 1,450 EUR; Poland: 850 - 1,050 EUR.[88]	
	Travel expenses/out-of-pocket expenses, which may vary between $30 and $1,500 per day depending on the country. The travel expenses also depend on the scheduling of the audits.		

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[88]   The figures are based on prices of ELEVATE audits.

5.2.3   Step 8: Conducting audit follow-up: ensuring corrective actions

This step is about remedying non-compliances identified in the audited company during the audit within a specified period of time. As most audits identify non-compliances, this step is relevant if the working conditions in the audited factory/business are to comply with the code of conduct.[89]

The auditee will normally define a plan for implementing the necessary corrective actions.[90] Ideally, the root causes of the problems will also be analysed and remedied because the same problems will return after some time if only the symptoms are dealt with. It happens that not all the non-compliances are remedied as part of a CAP because the auditees do not want to take corrective actions. The correction of non-compliances will be negotiated between the client who commissioned the audit and the audited production company. In this case, the contracting authority must decide how to handle this. In the case of a longer contract period, the administration should review the situation in the factory at regular intervals (e.g. annually) by conducting an audit.

Table 26: Ensuring that corrective actions are taken

	Model A	Model B	Model C
Description	**Based on the guideline for handling CAPs, the administration's own personnel will check whether the contractors have implemented the CAP.**	**Based on the guideline for handling CAPs, an external organisation will check whether the contractors have implemented the CAP.[91]**	**The administration will monitor implementation of the CAP without using the guideline.**
What should be borne in mind?	This step is necessary in order to remedy the non-compliances. Frequently, however, a re-audit has to be conducted after six months.		
Result	After this step has been taken, the code of conduct should be implemented completely. However, it cannot be expected that all violations will be remedied at that time because the audit results will be implemented at the discretion of the companies. Corrective actions may also be about ensuring that the purchasing organisations – by means of their purchasing policy – create framework conditions which will enable the suppliers to provide their goods and services without having to violate the ILO standards for structural reasons.		
Strengths/opportunities	The administration keeps track of the implementation.	The model is simpler for the administration.	It is not necessary to define a guideline in step 5.
Weaknesses/challenges	The expenditure is quite high. The administration needs qualified personnel for implementation.	The administration makes itself dependent on an external organisation.	Every CAP has a different structure. An interpretation by administrative personnel could be complex.
Expenditure/investments	The costs of implementing the improvement measures will depend very much on the corrective actions identified and taken, the adaptation or training courses, and the attitude of the company. It should be specified who will bear these costs.		
	For a medium-sized factory (1,000 employees) and some violations, a potential re-audit can be conducted within approximately 1 to 3 days.	The costs of a potential re-audit – for a medium-sized factory (1,000 employees) and some violations – will amount approximately to 1,000 to 5,000 EUR.	

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[89]   In the event that there is no other system for ensuring this.
[90]   The necessary corrective actions should normally be taken within a period of six months.
[91]   As a rule, the auditors on site will monitor implementation by telephoning the factories and/or companies.

5.3   Summary: three models for audit system and audit process

Tables 27 and 28 once more summarise the five steps of the inspection system and the three steps of the audit process. The five steps for building the inspection system will be executed once. The three steps in the audit process will be executed for existing contracts.

Table 27: The three inspection system models (establishing basics)

Step		Model A	Model B	Model C
1:	Defining the code of conduct	The administration's own personnel defines a code of conduct which applies to all providers in all sectors.	A code of conduct which applies to all providers in all sectors is defined externally on behalf of the administration.	The administration refers to the code of an existing standard (for example SA 8000, RBA, BSCI, if required, specific to the sector.
		Code equivalence analysis	Code equivalence analysis	Equivalence analysis
2:	Decision-making basis for conducting audits	The basis for decision-making is risk-based and provided by the administration's own personnel. The risks are analysed at the level of the contractor.	The basis for decision-making is risk-based and provided externally. The risks are analysed at the level of the contractor.	The basis for decision-making is a sole criterion which does not have to be established. Criteria may include order volume, random selection, list with high-risk countries.
3:	Defining the audit guideline	The administration's own personnel defines an audit guideline.	The administration defines an audit guideline through an external service provider.	The administration defines minimum criteria for accepting existing audit guidelines (approximately 10 to 20 criteria).[92]
		Audit guideline equivalence analysis	Audit guideline equivalence analysis	Audit guideline equivalence analysis
4:	Qualifications Quality of auditors	The administration's own personnel train auditors. For this purpose, the administration develops its own training courses consistent with the desired qualification.[93]	The administration accepts the accreditation of certain audit programmes (e.g. SA 8000, RBA, TCO, EW).[94] There will be no additional training.	The administration defines a set of criteria for qualifications which auditors must have. There will be no additional training.
5:	Define the guideline for handling CAPs	The administration's own personnel develop a guideline for handling CAPs.	The administration has a guideline for handling CAPs developed externally.	The administration uses the CAP without any additional guideline and/or interpretation.

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[92]   The criteria would define good practices in auditing.
[93]   To master the basics, auditing personnel needs to do a training course lasting at least 1 to 2 weeks.
[94]   As many accreditation programmes have already been developed, the administration draws on these programmes.

Table 28: The three models for the audit process (preparing and conducting audit activities, conducting audit follow-up)

Step		Model A	Model B	Model C
6:	**Preparing audit activities**	On the basis for decision-making, the administration will decide with its own personnel whether to conduct an audit.	On the basis for decision-making, an external organisation will decide whether to conduct an audit.	The decision will be made on the basis for decision-making, which includes only one criterion (see model C, step 2).
7:	**Conducting audit activities**	The administration's own personnel will conduct a comprehensive audit.	The administration will task external auditors with conducting a comprehensive audit with reference to its own code of conduct.	The administration will conduct (internally or externally) a focused (shortened) audit. The focusing will be based on available audit reports and/or risk analyses (see chapter 5.2.1).
8:	**Conducting audit follow-up**	Based on the guideline for handling CAPs, the administration's own personnel will check whether the contractors ensure implementation of the improvement measures defined in the CAP.	Based on the guideline for handling CAPs, an external organisation will check whether the contractors ensure implementation of the improvement measures defined in the CAP.[95]	The administration will monitor implementation of the CAP without using the guideline.

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[95] As a rule, the auditors on site will monitor implementation by telephoning the factories and/or companies.

5.4 The Declaration of Commitment in the context of the models

This study focuses on the ICT sector. The BMI Procurement Office developed the above-mentioned Declaration of Commitment in cooperation with industry (represented by Bitkom) for this sector. The Declaration of Commitment is a model declaration which different contracting authorities can apply to all products of the ICT sector. The Declaration of Commitment is attached to the contract award documents. Tenderers declare when bidding for a tender that they will comply with the obligations arising from the Declaration during contract performance. If awarded the contract, they will have two months to submit documents which enable contracting authorities to conduct a plausibility check on whether the requested rights were respected. Contractors are requested to submit a catalogue of documents and state in reply to key questions concerning every ILO standard what they will do to respect the requested rights during performance of the contract. In addition, they will have to indicate which documents they will submit upon request to substantiate their explanations (Option 1). Alternatively, contractors may submit specific certificates (Option 2). Companies can obtain these certificates for their company locations if they have implemented certain management systems for complying with the ILO standards.

In addition, the contracting authority has the following rights under the Declaration of Commitment: The contracting authority may request current and substantiating documents and conduct and/or initiate on-site inspections at any time.[96]

Against this backdrop, it is important to understand which steps in the models and in what way the Declaration of Commitment covers. The following two tables show that the current Declaration of Commitment for the ICT sector already includes many basics included in the models.

Table 29: Connection between the Declaration of Commitment and process steps 1 to 5 of the model

Process step	Declaration of Commitment
1: Defining the code of conduct	The Declaration of Commitment specifies which social and labour standards must be complied with during performance of the contract. The Declaration is a contractual basis.
	The Declaration of Commitment serves the same purpose as the code of conduct recommended here. However, the Declaration of Commitment only refers to the ICT sector.
	For some standards, the equivalence with the Declaration of Commitment was stated.
2: Defining the decision-making basis for conducting audits	A comprehensive risk analysis is not part of the Declaration of Commitment.
	Option 1 of the Declaration of Commitment examines how a contractor will ensure the implementation of the agreed labour and social standards. This overlaps with the contents of a risk analysis (contractor).
3: Defining the audit guideline	When a contract has been awarded, certificates from an independent third party (external audit) can be submitted. This certificate must meet specific criteria (a to e/i to iii). In addition, audits of selected standards will be recognised.
4: Defining the qualification of auditors	The Declaration of Commitment accepts specific social standards and quality labels as evidence. The accreditations and/or training courses specified by these standards are accepted indirectly with this.
	The Declaration of Commitment (4.) requests the following from auditors: *"The qualified social auditor must prove that they have been trained in the inspection of ILO standards (e.g. in accordance with the IRCA standard for social audits or comparable) or have relevant practical experience."*
5: Defining the guideline for handling CAPs	The Declaration of Commitment does not define the handling of CAPs. In the case of significant deficiencies, however, the submission of a re-audit demonstrating that the significant deficiencies have been remedied is requested, see also step 8 below.

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[96] Additional information on the Declaration of Commitment is available online at: http://www.nachhaltige-beschaffung.info/DE/Themen/2_2_VE_2019/2_2_VE_2019_node.html

Table 30: Connection between the Declaration of Commitment and process steps 6 to 8 of the model

Step		Declaration of Commitment
6:	**Preparing audit activities**	Option 1 of the Declaration of Commitment examines how a contractor intends to ensure the implementation of the agreed labour and social standards. This is comparable to a risk analysis (contractor). The Declaration of Commitment does not include comprehensive risk analysis.
		In accordance with the Declaration of Commitment (Section 4), the contracting authority shall have the right: "to perform inspections in the production facilities of the parties involved regarding the compliance with the labour and social standards agreed in this Declaration. Such inspections can be performed at any time by the Contracting Authority or third parties commissioned and bound to secrecy by the Contracting Authority." The Declaration of Commitment does not define under which conditions the contracting authority can assert this right.
7:	**Conducting audit activities**	In accordance with the Declaration of Commitment (Section 4), the contracting authority shall have the right to have audits conducted. In this case, the contracting authority or the third party shall be accompanied by a qualified social auditor (or must be able to provide proof of quality). *"The qualified social auditor must prove that they have been trained in the inspection of ILO standards (e.g. in accordance with the IRCA standard for social audits or comparable) or have relevant practical experience."*
8:	**Conducting audit follow-up**	Declaration of Commitment, Option 1: *"During the term of the contract, the Contractor shall at regular intervals, but at least annually, present the measures it has taken to comply with the labour and social standards pursuant to this Declaration."* Declaration of Commitment, Option 2: *" iii) If any significant deficiencies have been identified in individual areas, it shall be demonstrated that a corrective action process has been started. In this case, the Contractor shall submit a certificate from an independent third party within six months, according to which the deficiencies have been remedied."* If this certificate is not submitted, sanctions may enter into force (cf. Declaration of Commitment, Section 5). In the case of Option 2, the contractor shall not be obliged to submit a certificate of an independent third party – if he/she submits one of the following pieces of evidence: SA 8000, RBA platinum/gold and TCO certified. RBA silver and BSCI Audits are also regarded as evidence if they certify that no significant deficiencies have been identified.

5.5   Cross-sectoral aspects

Social standards are violated in every sector. We can identify at least three reasons for violations which are independent of the sector: (1) factory management, (2) structures linked to the producing country (3) power structures and purchasing practices in the supply chain.

In a sector-specific context, the production in a factory (industry) can be distinguished from extraction of raw materials, production on farmland (agriculture) and provision of services. The risks in **industrial enterprises** are often similar, and social audits can normally be applied easily to other industrial sectors. The extraction and/or production of raw materials in **mines** or in the **agricultural sector** is sometimes more difficult to monitor, because there are less similarities in these sectors. When it comes to social standards in the agricultural sector, smallholders must be distinguished from employment relationships on plantations, for example. In agriculture, there are therefore landscape[97] audit approaches which present a comprehensive view on the situation and are less comparable with factory-focused approaches. For this reason, factory audits often cannot be conducted in the same way in the agricultural sector. Mines frequently require more capital than personnel resources, but if many people are involved, a mine will rapidly be regarded as a high-risk sector. The risks are often lower in the **service sector**, but there are also services where violations of ILO standards occur.

There are no studies which provide a brief overview as to which sectors present high risks of non-compliance with ILO Core Labour Standards. There are numerous studies and information sources, however, which assess the risks of a sector and can be used instead. Table 31 lists sources rating sectoral risks, among other things.

Table 31: Information sources rating sectoral risks

Information source	Description	Prominent sectors
Corporate Human Rights Benchmark (CHRB)	The CHRB is a programme which regularly determines benchmarks for human rights performance in selected sectors. Investors and civil society organisations support this programme. www.corporatebenchmark.org	Agriculture, clothing, raw materials, ICT
KnowTheChain	This initiative, which is similar to CHRB, assesses business practices in the field of human rights. It is supported by the organisations Business & Human Rights Resource Centre, Sustainalytics, Humanity United, Verite. www.knowthechain.org	Clothing and footwear, food, ICT
ILO sector analyses	The ILO prepares studies which analyse the sector with regard to ILO standards for the most relevant sectors. www.ilo.org/global/industries-and-sectors/lang--en/index.htm	As the list of sectors is comprehensive, it cannot be used to identify sectors which are particularly relevant in the context of ILO standards.
RepRisk[98] **Verisk Maplecroft Elevate EiQ** **Social Hotspot Database**	Commercial, restricted platforms through which risks can be analysed in different ways. See also chapter 2.3.	

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[97]   Organisations try to scale audit approaches efficiently with "landscape" approaches: Landscape approaches involve collaboration of stakeholders in a landscape to reconcile competing social, economic and environmental objectives. The term implies the Implementation of 'integrated landscape management', a multi-stakeholder approach to landscape management that takes place across different economic sectors. See for example: ISEAL & WWF (2019): CREDIBLE ASSURANCE AT A LANDSCAPE SCALE.
https://www.isealalliance.org/sites/default/files/resource/2019-03/Credible-Landscape-Assurance-Discussion-Paper_WWF_ISEAL_03_2019.pdf

[98]   www.reprisk.com

Information source	Description	Prominent sectors
Sustainability standards	Some sustainability standards apply to various sectors. The following standards are widely used in the ICT sector: RBA, TCO, SA 8000, EW, amfori-BSCI, FLA	These list which of these standards are also applied to other sectors: SA 8000, BSCI, FLA

Finally, the following table 32 shows which of the steps proposed in the models are sector-specific.

Table 32: Which steps are sector-specific?

Step		Model A	Model B	Model C	Sector-specific?
1:	Defining the code of conduct	The administration's own personnel defines a code of conduct which applies to all providers in all sectors.	A code of conduct which applies to all providers in all sectors is defined externally on behalf of the administration.	The administration refers to the code of an existing standard (for example SMETA, SA 8000, RBA, BSCI).	Code in models A and B is not sector-specific. Model C - depending on the selected standard.
		Code equivalence analysis	Code equivalence analysis	Equivalence analysis	The selection of comparative codes is sector-specific.
2:	Defining the decision-making basis for conducting audits	The basis for decision-making is risk-based and provided by the administration's own personnel. The risks are analysed at the level of the contractor.	The basis for decision-making is risk-based and provided externally. The risks are analysed at the level of the contractor.	The basis for decision-making is a sole criterion which does not have to be established. Criteria may include order volume, random selection, list with high-risk countries.	Independent of the sector (unless the criterion in model C is sector-specific)
3:	Defining the audit guideline	The administration's own personnel defines an audit guideline.	The administration defines an audit guideline through an external service provider.	The administration defines an audit guideline through an external service provider.	May partly be cross-sectoral; specific audit guidelines would have to be prepared for some sectors.
		Audit guideline equivalence analysis.	Audit guideline equivalence analysis.	Audit guideline equivalence analysis.	The selection of the comparative audit guideline is sector-specific.
4:	Defining auditor qualifications	The administration's own personnel train auditors. For this purpose, the administration develops its own training courses consistent with the desired qualification.	The administration accepts the accreditation by well-experienced audit companies or in accordance with certain audit programmes (e.g. SMETA, SA 8000, RBA, TCO, EW).[99] There will be no additional training.	The administration defines a set of criteria for qualifications which auditors must have. There will be no additional training.	A and C are not sector-specific. B is partly sector-specific.
5:	Defining the guideline for handling CAPs	The administration's own personnel develop a guideline for handling CAPs.	The administration has a guideline for handling CAPs developed externally.	The administration uses the CAP without any additional guideline and/or interpretation.	Not sector-specific

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[99]   As many accreditation programmes have already been developed, the administration draws on these programmes.

Table 33: Which steps are sector-specific?

Step	Model A	Model B	Model C	Sector-specific?
Step 6: preparing audit activities	On the basis for decision-making, the administration will decide with its own personnel whether to conduct a factory audit.	On the basis for decision-making, an external organisation will decide whether to conduct a factory audit.	The decision will be made on the basis for decision-making, which includes only one criterion (see step 2 model C).	Independent of the sector (unless the criterion in model C is sector-specific)
Step 7: conducting audit activities	The administration's own personnel will conduct a comprehensive factory audit.	The administration will task external auditors with conducting a comprehensive audit with reference to its own code of conduct.	The administration will conduct (internally or externally) a focused (shortened) audit. The focusing will be based on available audit reports and/or risk analyses.	Depends on the audit guideline
Step 8: conducting audit follow-up	Based on the guideline for handling CAPs, the administration's own personnel will check whether the providers ensure implementation of the improvement measures defined in the CAP.	Based on the guideline for handling CAPs, an external organisation will check whether the providers ensure implementation of the improvement measures defined in the CAP.[100]	The administration will monitor implementation of the CAP without using the guideline.	Depends on the guideline for handling CAPs

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[100] As a rule, the auditors on site will monitor implementation by telephoning the factories and/or companies.

5.6 Impact on the market

In conclusion, this chapter will briefly highlight, without giving too much detail, how selection and use of one of the models presented will affect the tenderer landscape. The following background information is meant to help with evaluating the impact:

1. Germany has approximately 30,000 procurement agencies, all of which possibly want to find a way to handle audits.

2. Numerous different assessments and/or audit types are available on the market. Generally, all the audit models described above can be implemented in the market. Whether a procurement agency using a specific audit model will find tenderers will, among other things, depend on the additional expenditures incurred by the tenderer and on whether the prices will cover this additional expenditures. If the procurement agency requests additional expenditure, it is to be expected that the prices offered will reflect this and that prices may rise.

3. In individual sectors, certain audit approaches may be more widespread than others. However, the more common approaches are frequently not best practices.[101]

When selecting an audit approach, procurement agencies should consider three possible effects.

Efficiency will decrease considerably without harmonisation

If each of the 30,000 procurement agencies chooses which audit approach to adopt, a great variety of approaches will be used. This would be very inefficient for the procurement agencies in general and for the tenderers in particular, because they would have to prepare for very different standards of very different procurement agencies.

In order to establish an efficient audit system, a procurement agency should consider whether to adopt already existing approaches. The models presented in this study were generally developed in such a way that they are based, if possible, on what is available on the market. In terms of efficiency, model C is normally rated best because this model is orientated most strongly towards what is available on the market. Model A – the implementation of an internal approach by administrative personnel – always entails the risk of different approaches being developed.

If each of the 30,000 procurement agencies selects its own audit system, this will almost inevitably lead to a great diversity of approaches. If the development of inspection systems is coordinated, this can increase the efficiency considerably.

Will there be enough tenderers if one model is selected?

The question as to whether there will be enough tenderers if a specific model is selected is relevant for the contracting authority. It is impossible to give a general answer to this question because it depends on the sector, the demands on audit quality, the selected approach, etc.

Generally, it is safe to assume that most larger companies have their own system which they use to audit and manage the supply chain. In the ICT sector, most larger companies work with their own standard or with a standard like RBA or TCO. In smaller companies, there is no data indicating whether the companies audit and manage ILO standards in the supply chain.

Generally, all the audit models described above can be implemented in practice.[102] The suppliers will incur additional costs for some of the models. A high audit quality will generally entail additional costs. However, the business and/or supplier will also incur costs when taking the measures identified in the audit. If the

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[101] The high-quality approaches are more expensive, and often will not prevail in the market.
[102] In order to conduct a due diligence analysis, the supply chain must be known.

supplier of the contractor has to bear the additional costs alone, it is uncertain whether the supplier will actually implement the measures requested by the contractor.

For example, if the administration requests in the audit guidelines marks of quality not included in standards audits – such as the quality criterion of "Interviews must be conducted off-site" – the standards audit must be amended to include this mark of quality, which will cause costs. Alternatively, companies can cooperate with a standard like Electronics Watch, which implements requirements.

Whether the market can meet the audit requirements also depends on the supply chain tier to be audited. If only the producers are to be audited, it can be assumed that at least larger companies producing in high-risk countries, such as in Asia, will implement a system or at least conduct audits o manage the risks of the ILO Core Labour Standards being violated. If the producers' suppliers (tier 2) are to be audited as well, there must be checks on whether the contractors know and manage the supply chain down to tier 2 (for a laptop, this would include the businesses producing hard disks, boards, processors, etc.). Despite all the restrictions, audits offer an opportunity to at least spot-check the working conditions on site. This is more than each individual procurement agency alone can accomplish (e.g. by means of a self-declaration), it is a signal to the market and a component of the duty of care.

Contribution to social acceptance of high-quality or low-quality audit approaches

Public procurement with its exemplary role can particularly influence the market by selecting and accepting specific models and/or approaches. If only high-quality audits are accepted, this will be a signal to the market. If public procurement accepts low-quality audits, these recognised audit results will lull the contracting authorities into a false sense of security, and in the end the administration will set a benchmark for acceptance of low-quality audit approaches in the market. The use of high-quality assessments, which are usually more expensive, is most likely to be accepted in the market if the requirements of the public sector are coordinated, are as uniform as possible and incorporate approaches already existing in the market.

6 Recommendations for implementation in an administrative context

This chapter will give recommendations on how a procurement agency can implement the models presented in chapter 5 and at what level which decisions on implementation can be taken. In this context, chapter 6.1 deals with decisions that a government agency or an administrative unit at a superior level take to be able to use audits in procurement. The related expenditures are usually incurred once, while the developed instruments should of course be regularly updated. Chapter 6.2 deals with the decisions that the relevant contracting authority will then take as part of a procurement process. Most of these expenditures are incurred in every procurement process.

For every process step, the relevant recommendations are given in two contexts:

1. The focus is on the ICT sector, taking into account the Declaration of Commitment by the Procurement Office.[103]

2. The government agency works at a multi-agency level and for various product groups.

Ideally, the government agencies will co-operate in establishing the basics.

Figure 5: Overview of all process steps

Establishing the basics for using audits
The blue process steps will be implemented once.

Process step for conducting audit activities: The process steps shown in orange will be executed in every audit.

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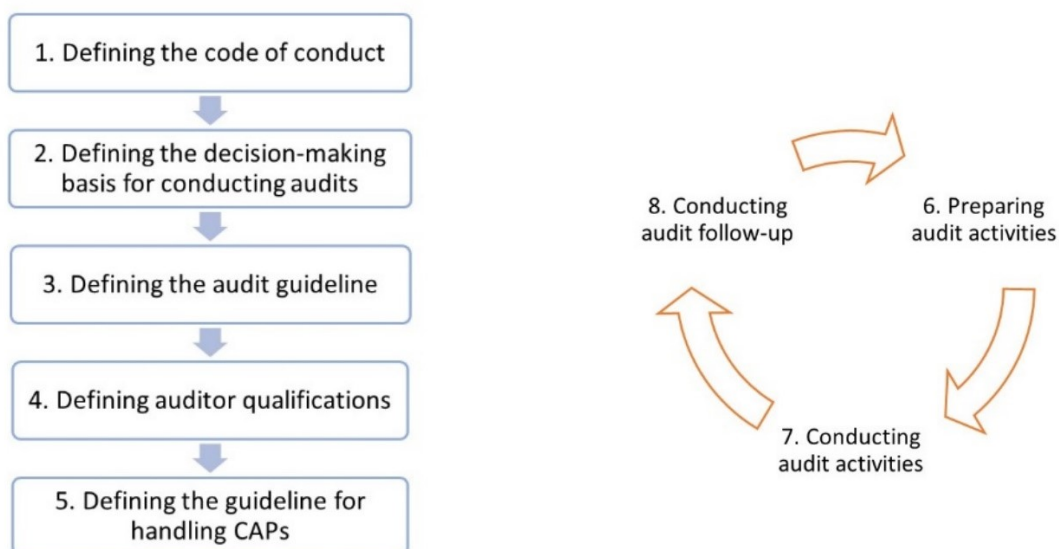
[103] This level is relevant because the sectoral focus of the study is on the ICT sector, where the Declaration of Commitment already constitutes a comprehensive approach to the handling of audits.

6.1 Establishing the basics for using audits

If a government agency wants to work increasingly with audits as a demonstration of compliance with ILO standards, the relevant basics should be established first. The basics ensure that the audits are conducted uniformly in different sectors and they also later simplify the handling of audits for the contracting authority. The basics (the inspection system) consist of the five steps presented above, for which recommendations are described in chapters 6.1.1 to 6.1.5.

6.1.1 Defining the code of conduct (step 1)

If a decision has been taken that the government agency will verify the implementation of ILO standards by means of audits, the agency will need a code of conduct as a basis for auditing. The code of conduct will determine which standards are to be verified in an audit. The code of conduct of a government agency should always include the ILO Core Labour Standards. A government agency can add further ILO standards as done for the Declaration of Commitment.

If an equivalence analysis is additionally performed, a contracting authority can verify relatively easily when inviting tenders for products or services whether the social standard applied by a service provider complies with its own code of conduct.[104]

A: ICT sector, referring to the Declaration of Commitment

The Declaration of Commitment already contains a list of ILO standards which can be used as a basis for defining a code of conduct. A government agency could extract these standards and rework them into a code of conduct. By doing so, a government agency would have a code that would comprise further ILO standards apart from the ILO Core Labour Standards.

In addition, the government agency could commission a systematic equivalence analysis of the code, with reference to the most common standards/codes in the sector (e.g. of RBA, Apple, Dell, HP, Lenovo, etc.).[105] This will later help evaluate in the procurement process whether the evidence provided by the service provider is in line with the agency's own code.

Expenditure (one-time):

- The government agency itself can prepare the code of conduct from the Declaration of Commitment. 1 to 3 working days are spent on preparation alone, provided that the person concerned has the appropriate qualification and previous experience.

- The expenditure just to prepare the equivalence analysis depends on the number of codes compared. Per code, the time to be expected is approximately 1 working day, provided that the person concerned has the appropriate qualification and previous experience.

B: For various product groups (multi-agency if applicable)

A government agency can also use the same code of conduct for other product groups. The government agency should check whether ILO standards that exceed the ILO Core Labour Standards can be adopted from the Declaration of Commitment or whether other priorities are to be set (for example, because, other issues are important in other sectors).

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[104] Provided that this standard was part of the equivalence analysis.
[105] The Declaration of Commitment comprises a list of standards which it recognises (e.g. SA 8000, RBA VAP platinum/ gold, TCO certified, and to a limited extent: BSCI). This list does not include the company's own codes, however, which are very widespread.

In addition, the government agency can conduct an equivalence analysis. The more sectors are to be covered, the more standards should be compared.

Expenditure (one-time):

- In principle, the contents of the Declaration of Commitment can be adopted. Should the code deviate from the Declaration, the expenditure will depend on the demands. The external expenditure just for preparation is estimated at roughly EUR 5,000.

- The expenditure just for the equivalence analysis depends on the number of codes compared. Per code, the time to be expected is approximately 1 working day.

6.1.2   Decision-making basis for conducting audits (step 2)

If a contracting authority does not want to conduct an audit for every service provider, a basis will be needed on which the contracting authority can decide whether to conduct an audit or not.

The criteria of the basis for decision-making will depend entirely on the demands of the contracting authority and/or the superior authority. A criterion like "order volume" or "information by external third parties" would be very simple. By contrast, developing a criterion like "country risks" would be more complex, because the data basis would have to be determined and data would have to be gathered. The development will be most complex, if the criterion of the decision-making basis is to consider not only the country risks, but also the risks emanating from the contractor. The implementation in this case also requires the most work by the contracting authority. However, a thorough risk analysis of the contractor can contribute to reducing the frequency of audits as a whole.

A: ICT sector, referring to the Declaration of Commitment

In accordance with the Declaration of Commitment, "the winning bidder [...] shall throughout the performance of the contract undertake to" comply with the ILO standards listed there (for the main objects of the contract). The contractor himself must provide evidence on a regular basis.[106]

In accordance with the Declaration of Commitment, the contracting authority ("the Contracting Authority") shall have the right "to perform inspections in the production facilities of the parties involved regarding the compliance with the labour and social standards agreed in this Declaration. Such inspections can be performed at any time by the Contracting Authority or third parties commissioned and bound to secrecy by the Contracting Authority". However, the Declaration does not specify under what conditions the contracting authority should exercise this right. If an external audit has already been completed, it would be obvious to perform an audit only in particular cases. Overall, however, the Declaration of Commitment leaves this decision to the procurement agency.

If the contracting authority chooses Option 1 of the Declaration of Commitment, the contractor must, for a plausibility check, submit documents upon request describing how compliance with the ILO standards is ensured. The plausibility check could be based on the contractor's risk analysis.

For the ICT sector, it is recommended to check whether a government agency could become a member of the Electronics Watch (EW) standards initiative and whether the necessary framework conditions are met. This initiative also helps contracting authorities in the risk analysis.[107]

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[106]   As per Option 1 of the Declaration of Commitment, the service provider can submit documents, or the certificate of an external audit as per Option 2.

[107]   The standard permits its members to use various tools, such as a database that provides information on the factories and/or businesses used by other members and a complaints procedure that would complement complaint-based information for the audit decision.

B: For various product groups (multi-agency if applicable)

The basis for deciding for or against conducting an audit can be simple or complex, which depends very much on the demands of the government agency. Simple solutions should not be the norm, however, as they bring about unreliable results and are hence disputable. In several product groups, the basis for decision-making may contain country risks and, in addition, specific sector risks. The database systems discussed in chapter 2 are capable of doing this.

Expenditure for A&B (once):

- The administration can itself define quickly and simply (< 3 days) a simple basis for a decision based on a single criterion (e.g. order volume).

- In the case of a more complex, risk-based basis for decision-making, it is advisable to work with external partners. The cost of external development starts at approximately EUR 10,000. In addition, the database would have to be updated regularly – or a database system like EiQ is used directly, where data is automatically updated.

- The risk analysis of the contractor (after the award of contract) describes, among other things, which measures the contractor takes to ensure that the required ILO standards are implemented (starting at approximately EUR 15,000 for such a system).

- EW membership costs a proportion (0.1%) of the annual turnover.

6.1.3 Defining the audit guideline (step 3)

Since developing one's own audit guideline is very complex, a government agency could alternatively define criteria by means of which the audit guideline used (from audit guidelines already existing in the market) will then be chosen.

An equivalence analysis can help a contracting authority assess whether the audit submitted by a service provider is in line with one's own demands.[108]

A: ICT sector, referring to the Declaration of Commitment

The Declaration of Commitment contains no audit guideline as described in chapter 4.2. Option 2 of the Declaration of Commitment defines "minimum standards"[109] for external audits. This specifies a publicly accessible code of conduct as an audit benchmark (which is already part of step 1 in the model, see chapter 5.1.1). In addition, it is demanded that an external audit must not find any "significant deficiencies"; the explanation of "significant deficiency" is only defined in general terms.[110] The Declaration of Commitment recognises certain standards in the ICT sector – and hence also indirectly its audit guidelines. A government agency could adopt the list of recognised standards from the Declaration of Commitment and hence also its audit guidelines for the ICT sector.

If these standards do not meet the requirements of the government agency, it can develop additional minimum criteria (as described under model C).

Expenditure:

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[108] The equivalence analysis could also be conducted during the contract award procedure when choosing an auditor.

[109] (a) The agreed standards are part of the audit standard used. (b) The certificate shows that the audit has not found any significant deficiencies in the implementation of the labour and social standards. (c) The audit benchmark must be disclosed in a transparent manner. (d) The audit standard has been specified irrespective of the auditee and its production site. The audit was conducted by an independent expert or independent organisation.

[110] The crux is that every audit guideline defines a "significant deficiency" slightly differently.

If the standards are adopted from the Declaration of Commitment, a team member of the government agency should take a close look at the Declaration of Commitment (1-2 working days).

B: For various product groups (multi-agency if applicable)

A government agency should first define minimum criteria for audits (or have them defined) which comprehensively reflect its own demands on audits and which can then also be used for the equivalence analysis. A competent person in the agency would have to accompany the development. The equivalence analysis would compare the criteria of different audit guidelines in an abridged manner, or could also be conducted later.

Expenditure (one-time):

- External cost of developing the criteria: approximately EUR 10,000.

- Cost of an equivalence analysis dependent on the number of verified audit guidelines (approximately ½ working day per audit guideline).

6.1.4 Defining the qualification of auditors (step 4)

As a basis for the use of audits, a government agency should, in addition, define its own quality standards with regard to the auditors. This does not need to be an accreditation; the quality can be defined differently (see chapter 5.1.4). The contracting authority will then use these criteria when inviting tenders for the auditor services. Without such quality criteria, the administration runs the risk of accepting audits of dubious quality. Or it cannot categorise offers for audits, and ultimately pays too much for an audit because it has not clearly defined the "audit" service.

A: ICT sector, referring to the Declaration of Commitment

With regard to the quality of auditors, the Declaration of Commitment defines: "the social auditor must prove that they have been trained in the inspection of ILO standards (e.g. in accordance with the IRCA standard for social audits or comparable) or have relevant practical experience."

The government agency can develop additional minimum criteria for the quality of auditors (as described under model C), if this does not meet its requirements.

Expenditure (one-time):

- If the government agency wants to adopt the specifications from the Declaration of Commitment, little time will have to be spent (1 working day).

- If additional criteria are defined, the external expenditure for preparation will be at least EUR 5,000.

B: For various product groups (multi-agency if applicable)

In combination with step 6.1.3, the government agency can have a set of criteria prepared for the necessary qualification of auditors as an additional basis.

Expenditure (one-time):

The external expenditure for this would start at approximately EUR 5,000.

6.1.5 Defining the guideline for handling CAPs (step 5)

Contracting authorities that choose to track the obligations from the CAPs will usually need a guideline for handling CAPs. That will give the contracting authority an idea of how to handle the audit report. Since most

government agencies do not have any detailed knowledge of audits, it is recommended to have the guideline prepared externally.

A: ICT sector, referring to the Declaration of Commitment

Option 1 of the Declaration of Commitment demands that the contractor "outlines the measures taken to ensure implementation of the agreed labour and social standards by the involved parties pursuant to the catalogue of documents and lists the evidence documents from the catalogue of documents it intends to submit to prove compliance with the agreed obligations during the performance of the contract". Option 2 defines that external audits will only be accepted as a certificate if the audits "did not reveal any significant deficiencies in the implementation of these labour and social standards".[111]

Accordingly, the Declaration of Commitment assumes that no "significant deficiencies" exist during contract performance, and that the ILO standards are already complied with, unless the submitted evidence proves otherwise. In such cases, it is demanded that a corrective action process has been started. Then a re-audit which proves that the identified significant deficiencies have been corrected is to be submitted after 6 months.

Under Section 4, a contracting authority can decide to conduct an audit during performance of the contract. If the results are other than "no significant deficiencies", there are no regulations on how to handle such cases. Accordingly, the contracting authority needs a guideline in the event that the audit reveals "significant deficiencies".

Expenditure (one-time):

- If the rules of the Declaration of Commitment on the handling of submitted evidence are also adopted for audits under Section 4 (Declaration of Commitment), little time will have to be spent (1 working day).

- Expenditure of at least EUR 5,000 for the external development of a guideline for handling CAPs.

B: For various product groups (multi-agency if applicable)

A general guideline for handling CAPs which is applied irrespective of the relevant sector can be specified.

Expenditure (one-time):

The cost of external development of a guideline starts at EUR 5,000.

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[111] However, the Declaration of Commitment defines "significant deficiencies" only in general terms, rather than specifically for each criterion.

6.2 Process steps for conducting an audit as part of a procurement process

A government agency should first take the five steps described in chapter 6.1 as a basis, so that a contracting authority can work with audits at all. Audits can then be awarded and assessed on this basis. Audit reports submitted by contractors can also be assessed on this basis.

The relevant contracting authority would then carry out the next three steps – preparing and conducting audit activities and conducting audit follow-up – during the term of the contract.

6.2.1 Preparing audit activities (step 6)

First of all, a contracting authority should decide whether an audit is to be conducted at all. This will take place on the decision-making basis defined above and the information provided by the contractor.

The expenditure will depend on which basis for decision-making is used (e.g. order volume, risk analysis with regard to producing country/sector, risk analysis with regard to the service provider).

If a risk analysis of the contractor is used as a basis for decision-making, this will require the highest expenditure from the contracting authority and specialist personnel will be needed for evaluation. In addition, it must be ensured that the contractor completes the questionnaire. The questionnaire must then be interpreted appropriately. Depending on the expertise available, it may be helpful for a contracting authority to seek support at least initially.

A: ICT sector, referring to the Declaration of Commitment

The Declaration of Commitment gives the contracting authority the right to have an audit conducted "at any time", which is not specified further. So the contracting authority will decide at its own discretion when to exercise this right.

The decision tree below can help take such a decision. First of all, the question is: **Has an audit been submitted?**
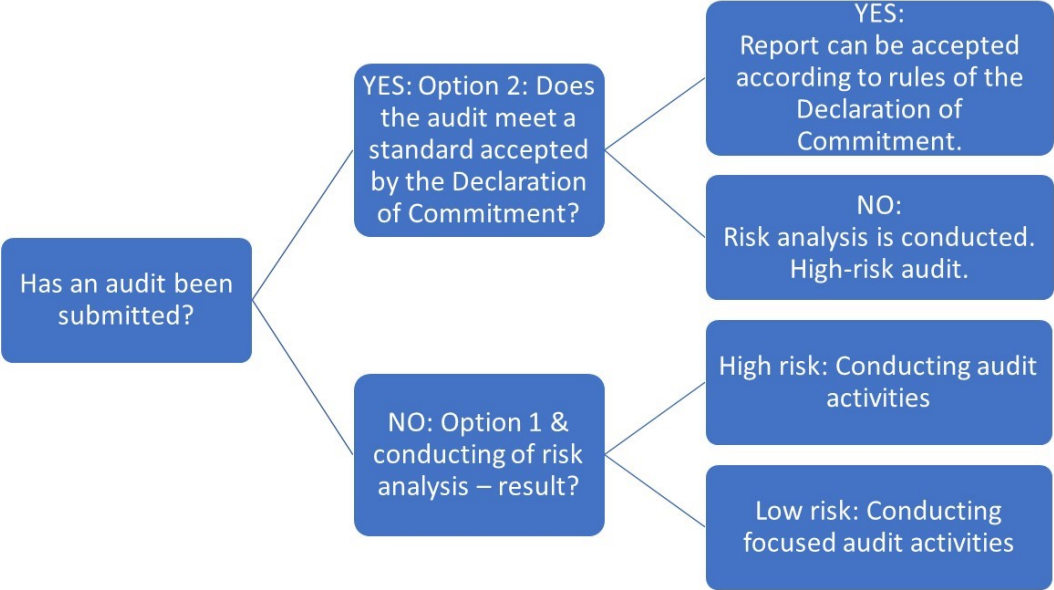
- If an audit is available, **Option 2** of the Declaration of Commitment will apply. The contracting authority will then examine whether the audit complies with the rules of the specification and whether it is based on one of the accepted standards. If this is the case (YES), the rules of the Declaration of Commitment will be accepted for the audit and no further audit would have to be conducted. If the audit does not comply with the rules of the Declaration of Commitment, a follow-up request would initially have to be made for the documents required under the Declaration, because they must be submitted subject to sanctions. In addition, a risk analysis could then be conducted. Based on the result, it could be decided whether an audit is to be conducted.

- If no audit is available, **Option 1** of the Declaration of Commitment will apply. The bidding company must submit documents to "outline how it ensures that the involved parties will comply with the required ILO standards". The contracting authority must then assess whether the submitted documents convincingly explain that the required ILO standards are implemented and whether to request the underlying documents.

  The application of a risk analysis in accordance with model B (see chapter 5.1.2) facilitates the interpretation because it predetermines a structure and a framework of interpretation for submission and assessment of the documents. If the risk analysis indicates a **high risk** of violations, a complete audit should be conducted. If the **risk is low**, a focused audit is a possible alternative (see chapter 4.2.2).

Consequently, the contracting authority will need a basis for decision-making to be able to take an efficient decision (see Step 2).

B: For various product groups (multi-agency if applicable)

Whether this is implemented in one sector or for various product groups can be noticed in the definition of basics, but not during performance.

Expenditure:

- Analysis of the risks in the producing country: little time spent (a few hours).

- Analysis of the service provider's risks: The service provider must be examined; the results should be evaluated (2 to 3 days).

6.2.2   Conducting audit activities (step 7)

If the conduct of an audit was defined in step 6, the contracting authority will task an external audit team with conducting the audit. In the tender procedure for the audit, the bids should be compared on the basis defined by the government agency (steps 1, 3, 4: code of conduct, audit guidelines, qualification of auditors).

The external audit team will then prepare an audit report with a Corrective Action Plan (CAP), on the basis of which the auditee must correct the violations identified.[112]

Whether this is only implemented in the ICT sector or for various product groups can be noticed in the definition of basics, but not in step 7.

Expenditures:

- The cost of conducting the audit depends on many different factors (audit guidelines, producing country, size of the auditee, audit service provider, quality standards with regard to the audit). You have to expect 1-10 audit days plus travel expenses and out-of-pocket expenses (see chapters 5.2.2 and 4.5.1).

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[112]   If the auditee is an indirect supplier, the contracting authority should consider handling the tracking via the direct supplier.

- The contracting authority will possibly invite tenders for the audit. In this context, the contracting authority should find an efficient way to avoid having to repeat invitations to tender for an audit every time. For example, a framework agreement can be prepared for conducting audits.

6.2.3 Conducting audit follow-up (step 8)

Subsequently, both after a period of time and by means of a method defined in step 5, the contracting authority will examine whether non-compliances identified in the audit have been remedied during performance of the contract. In step 5, the consequences to be taken in the absence of corrections should also be defined. The audit guidelines specify when the next audit after completion of the CAP should be conducted.

A: ICT sector, referring to the Declaration of Commitment

The Declaration of Commitment defines that the contractor must either describe at least on an annual basis which measures he has taken to comply with the ILO standards or that, if "significant deficiencies" have been found, he has to demonstrate that a corrective action process has been started. The Declaration does not define how to deal with the results of an audit conducted and/or the CAP; it demands that a CAP be implemented within 6 months. However, it is defined in Section 5 that a contracting authority may require the contractor "to correct a situation within a reasonable period of time set by the contracting authority, if, during the execution of the contract, it is demonstrably established ... that the contractor or any other parties involved" have violated the defined ILO standards. If the situation is not corrected within this period of time, the contracting authority may impose a contractual penalty and, at worst, terminate the contract. In addition, contractors can be excluded from the contract award procedure for three more years.

In line with the guidelines defined in step 5, the contracting authority should monitor the correction of the NCs and ensure that the re-audit has been conducted after the significant deficiencies have been corrected. The experience with CAP implementation can, in turn, affect the risk analysis.

B: For various product groups (multi-agency if applicable)

In line with the rules defined in step 5, the contracting authority will check whether the requirements have been implemented. Consequences can follow, provided that this was stipulated in the contract as part of the tender procedure. After a period of time defined in the audit guidelines, a (re-)audit should be conducted.

Expenditures:

- The expenditure for verifying the implementation of the measures will depend on the number and severity of the violations and on the swiftness of implementation by the service provider. It may be done in a very short period of time (1h) or take several days.

- The re-audit and the next audit will usually be less expensive than the initial audit, because the re-audit can focus on the points previously identified as critical.

- If there are consequences for the contractual relationship with the contractor, considerable expenditures may be required.

In summary, the expenditures for process steps 1 to 8 for options A and B are listed in table 33. Expenditures for steps 1 to 5 are one-time expenditures once while those for steps 6 to 8 are incurred per audit.

Table 34: Summary of roughly estimated expenditures

STEP	OPTION A REGARDING DECLARATION OF COMMITMENT	OPTION B VARIOUS PRODUCT GROUPS	
1	1–3 working days for code	EUR 5,000 for code	One-time expenditures
	1 working day per code for the equivalence analysis		
2	< 3 working days		
	EUR 10,000 basis for decision-making (external)		
	EUR 15,000 risk analysis of contractor		
3	1–2 working days	EUR 10,000 development of criteria (external)	
		½ working day per audit guideline for equivalence analysis	
4	1 working day for adopting requirements from Declaration of Commitment	EUR 5,000 set of criteria for qualification (external)	
	EUR 5,000 definition of more advanced criteria		
5	Adoption of rules from Declaration of Commitment: 1 working day	Starting from EUR 5,000 for guideline (external)	Expenditures per audit
	EUR 5,000 guideline for handling CAPs (external)		
6		Analysis of risks in producing country (hours)	
		Analysis of service provider's risks (hours)	
7	1–10 audit days plus travel and out-of-pocket expenses		
	Expenditure on awarding the audit		
8	Expenditure for verifying the implementation of measures (depending on the item)		
	Cost of re-audit		
	Expenditures, if applicable, should audits lead to consequences for contractual relationships		

7 Conclusion and outlook

The present study analyses the question of how government agencies can, for existing contractual relationships, verify compliance with working conditions contractually agreed beforehand. The study indicates best practices and, by means of models, produces recommendations on how audits can be put into practice in the context of public procurement. Monitoring compliance with social standards and the associated improvements will certainly become even more important politically and at the international level.

7.1   Summary of findings

Chapters 2, 3 and 4 provide the basis for understanding audits and recommendations by explaining how inspections work during audits and as part of sustainable supply chain management in companies. In summary, the following findings are relevant:

- Companies understand **sustainable supply chain management as a process** in which different steps are followed. This process will never be fully completed because the supply chains are changing dynamically over time. This creates the need to check the condition of the supply chain continuously or at regular intervals.

- As part of their sustainable supply chain management, companies do not usually audit their suppliers every year. Rather, **the suppliers to be audited are selected based on risk**, by rating the level of risk that the producer violates the ILO standards relevant to them. Best practice is based on risk assessment data that is as up to date and accurate as possible. Government agencies can take recourse to numerous aids existing in the market.

- The producers themselves do not necessarily need to be assessed. **Appropriate analyses of the contractor** help rate the approaches adopted by the contractor to ensure that his suppliers implement social standards. This can reduce the number of audits.

- The **responsibility of companies** for complying with ILO standards in the supply chain is defined very differently (in codes of conduct). These differences are to be taken into account using appropriate inspection methods. By means of equivalence analyses, government agencies can in principle examine which codes of conduct widespread in the market are in line with their own code of conduct. This saves time when monitoring compliance with the contract performance provisions during the term of the contract.

- An audit as a central verification procedure is always only a snapshot of a situation in the past. It can be used to identify violations of the defined code of conduct. Strategic sustainable supply chain management will first of all start an **improvement process**, which can take months and sometimes even years. Good practices will monitor this process and focus on its real implementation. What parts of such a supply chain management a government agency could adopt would have to be subject to further evaluation and is not the object of this study.

- The buyers play an important part in the improvement process. The buyers are taking purchasing decisions that define the framework conditions under which the suppliers work. Good **purchasing practices** take into account that the decision-making level within a company supports the process of improving the working conditions, but by no means impairs it.

- In order to be able to compare audits and/or their results with one another, companies take recourse to **basics such as codes of conduct and precisely formulated audit guidelines** which provide the framework for and contents of audits.

- There are great **differences in the quality and costs of audits**. Many providers of audit services try to cover too much in too little time and therefore the results delivered are not well founded. Audit guidelines and quality requirements provide for clarity.

How can government agencies handle audits in the context of public procurement?

Since the issue is very complex, it is recommended that government agencies clearly define and outline their **basics for audits**. The present study indicates five steps towards this. Government agencies which have clear specifications can compare quality and costs and have the necessary certainty of decisions should they invite external tenders for audits.

When the basics have been defined, audits can be conducted and assessed efficiently. The study also indicates that for a start government agencies do not need to build up a comprehensive inspection system. They can initially select a simple option and subsequently improve or extend it step by step.

Within the scope of conducting audit activities during contract performance, two things are to be observed:

1. **Preparation:** The contracting authority does not need to audit every supplier. Instead it makes sense to focus the audits on those suppliers particularly at risk of violating ILO standards.

2. **Follow-up:** Working conditions will not be improved by an audit alone. Therefore, the contracting authority must see to it that the corrective actions in the context of audits are indeed implemented.

7.2   Outlook: the ideal path towards an inspection system

The study shows that government agencies and contracting authorities need basics in order to have audits conducted in a uniform and comparable manner, or to be able to interpret audits and other evidence submitted by contractors in a uniform manner. The first five steps (steps 1 to 5) proposed show the ideal type of a verification system for monitoring social sustainability requirements during contract performance for government agencies and contracting authorities. Three further steps (Steps 6 to 8) show that, once the basics have been set, audits are relatively easy to implement.

Because there is not just one correct way of conducting reviews, government agencies and contracting authorities can use these eight steps as a tool to develop a solution of their own on this basis. In the ICT sector, the Declaration of Commitment could be integrated as a basis into internal systems.

In view of the fact that there are more than 30,000 contracting authorities in Germany, it will not be very efficient if every authority/contracting authority develops its individual system. The «ideal way» is co-operation between government agencies. Such co-operation would be centrally co-ordinated in the ideal case. A government agency could develop some of the steps and/or tools and provided to other agencies, for example, the bases for decision making in step 2 and especially the risk analysis tools. It would also make sense if, for example, the many equivalence analyses required were not repeated by several government agencies.

The challenge of this co-ordination is that many of the steps depend on the selected code of conduct and the selected audit guidelines. It would therefore be advisable if government agencies and/or contracting authorities could agree on one model of a code of conduct and audit guidelines. If this were the case, many of the other steps could continue to be organised decentrally although they refer to the same system. This method could not only efficiently shape the build-up of a good inspection system for government agencies, but would also prevent extra work especially for bidders and/or contractors.

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*Reference to footnote 6.

Annex: Definitions

These definitions are from the ISEAL organisation from the ISEAL Code of Good Practice.[113]

Assessment: The combined processes of audit, review, and decision on a client's conformance with the requirements of a Standard or of the assurance provider's conformance with requirements for assurance.

Assurance: Demonstrable evidence that specified requirements relating to a product, process, system, person or body are fulfilled. (adapted from ISO 17000)

Assurance provider: Body responsible for performing the assessment of clients.

NOTE: In the context of this Code, an accreditation body is considered an oversight body rather than an assurance provider.

Audit: A component of an assessment. A systematic, documented process for obtaining records, statements of fact or other relevant Information and assessing them objectively to determine the extent to which specified requirements are fulfilled. (adapted from ISO 17000)

Certification: The issuance of a third-party statement that fulfilment of specified conformance requirements has been demonstrated. (adapted from ISO 17000)

Client: The person or enterprise that is seeking assurance of their conformance with the requirements in a standard.

Conformity: Demonstration that requirements of a standard are fulfilled.

Equivalence: An assessment that different assurance processes achieve functionally equivalent results.

External Assessment: In group assurance, the systematic inspection and review of the internal management system performed by the assurance provider.

Internal audit: An internal, systematic, documented process for obtaining records, statements of fact or other relevant Information and assessing them objectively to determine the extent to which specified requirements are fulfilled to support the objectives of an assurance system. (adapted from ISO 17000)

Non-compliance: An identified occurrence of non-conformance with one requirement of a standard, identified as part of an assessment. Synonym: non-conformity

On-site assessment: An assessment occurring on the physical site of a client's operations.

Oversight: Assessment of an assurance provider's demonstration of competence to carry out specific assurance tasks. (adapted from ISO 17000)

Oversight body: Body responsible for performing the assessment of assurance providers.

Reassessment: An assessment conducted for the purpose of renewing a certificate.

Self-declaration: A statement issued by a client, on behalf of itself, and based on its own determination, that states its status against specified conformance requirements of a standard, (adapted from ISO 14001)

Standards system: The collective of organisations responsible for the activities involved in the Implementation of a standard, including standard setting, capacity building, assurance, labelling and monitoring.

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[113]   ISEAL (2018): Assuring Compliance with Social and Environmental Standards ISEAL Code of Good Practice (3.3.2021). A glossary with additional definitions translated from the German study can be found in the opening pages.

Third-party assurance: Assurance activity that is performed by a person or body that is independent of the person or organization that provides the object of assurance and of user interests in that object. (adapted from ISO 17000)

Verification: Confirmation, through the provision of objective evidence, that specified requirements have been fulfilled. (adapted from ISO 900)