

# Variation between draft Jo-In Code and Codes of Conduct of organizations participating in the Joint Initiative













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# Background

# Variation between draft Jo-In Code and Codes of Conduct of organizations participating in the Joint Initiative

After extensive consultation with a broad range of stakeholders, the organizations participating in the Joint Initiative have determined the following workplace standards as priorities for the trials:

- 1.) Freedom of association and the right to collective bargaining
- 2.) Wages
- 3.) Hours of Work

These workplace standards have been prioritised because they are considered to be priority issues in the garment sector. They are also those where there is no consensus about their interpretation or where not enough is known about their implementation.

The Joint Initiative agreed to a draft Jo-In code of labour practice for the purpose of the trials. This the highest standard across the different initiatives. The code elements on freedom of association and collective bargaining, wages and hours of work in the draft Jo-In Code will be tested during the trials in Turkey. These code elements will be refined during the course of the trials with the intention of developing a Jo-In Code of labour practice with common workplace standards and guidelines for the implementation of these code elements.

The key differences between the organizations involved in the Joint Initiative in respect of the three code elements that have been identified as priorities are as follows:

### Freedom of Association & collective bargaining

All require companies to recognise and respect right of all workers to form or join trade unions of their choice and to bargain collectively. This has been included in the draft Jo-In Code.

WRC language requires that no employee be subject to harassment, intimidation or retaliation in their efforts to freely associate. CCC, ETI, FWF and SAI codes have similar language requiring that workers' representatives are not discriminated against and have access to carry out functions in workplace.

CCC and ETI language requiring companies to adopt a positive approach towards the activities of trade unions and organisational activities of workers has been included in the draft Jo-In Code.

ETI, FWF and SAI codes contain language referring to circumstances where the right restricted by law. In these instances the employer is required to facilitate, and not hinder, the development of parallel means for independent and free association and bargaining. CCC, FLA and WRC do not explicitly refer to parallel means but their policies require that companies not collaborate with the State to prevent workers from organizing. This notion has not been included in the draft Jo-In Code.

## **Wages**

The draft Jo-In Code uses the language in the WRC, CCC, ETI, FWF and SAI codes referring to the payment of a 'living wage' (for the SAI 'meet basic needs and provide a discretionary income'). FLA requires employers to pay as a floor, at least the minimum wage or the prevailing industry wage, whichever is higher.

Only the CCC, ETI, FWF and SAI codes use the language in the draft Jo-In Code that disallows deductions as disciplinary measure or for reasons not provided by national law except with permission of the worker.

### **Hours of Work**

All codes require that maximum working hours per week not to exceed 48 hours on a regular basis; 1 day off in 7. Most require overtime to be voluntary and not exceed 12 hours per week, not be demanded on regular basis and compensated at premium pay (if not defined, then at least one and one half of their regular hourly compensation rate). WRC does not include maximum overtime hours.

ETI, WRC and FWF codes require that companies comply with national laws and benchmark industry standards, whichever offers greater protection.

Attached is a table outlining the various code elements on workplace standards in the draft Jo-In Code and those of the different organizations involved in the Joint Initiative.

The limitation of such a comparison is that it does not say anything about the differences in interpretation of a workplace standard in its implementation. The guidance document of each of the organizations and policy directives of their boards provide important information on how these standards are interpreted by the organization concerned. For example, the fact that the FLA code is silent on 'parallel means' does not imply that this is not a policy of that organization in circumstances where freedom of association and the right to collective bargaining are restricted by law.

The discussion of these policies and the different ways in which the code elements are interpreted in the implementation of their codes by the organizations concerned will be the subject of discussion at the MIT meeting in Boston in July 2005. This will define the questions and 'protocols' to be developed for the trials in Turkey.

Table 1: Variation between draft Jo-In Code and Codes of Conduct of organizations participating in the Joint Initiative

	Draft Jo-In	ccc	ETI	FLA	FWF	SAI	WRC
Workplace							
Standards							
Child Labour	Minimum age 15 or	Minimum age 15 or	No recruitment of a	Minimum age 15; or	Minimum age 15 or	Minimum age 15; or	Minimum age 15;
ILO C138,	above compulsory	above compulsory	child (person less	14 if country of	above compulsory	14 if meets	or 14 if consistent
C182	school age	school age (C138).	than 15 years) unless	manufacture allows;	school age	developing country	with ILO practice in
ILO R146,			law stipulates higher	or age for completing		exemption; or local	developing
R190	Adequate	Adequate	age for work or	compulsory education	No forms of slavery or	minimum age if higher	countries
	transitional and	transitional and	mandatory schooling		practices similar		
	economic	economic	unless law set at 14 in		to slavery, such as	Not expose children	
	assistance	assistance	accordance with		the sale and	or young workers to	
	provided to any	provided to any	developing country		trafficking of children,	situations that are	
	replaced child	replaced child	provisions of C138.		debt bondage and	hazardous, unsafe, or	
	workers	workers.			serfdom and	unhealthy.	
			Adequate transitional		forced or compulsory		
	Not expose young		and economic		labour.		
	workers under 18		assistance provided				
	to situations likely		to any replaced child		Children and young		
	to jeopardise their		workers		people under 18 not		
	health, safety or				employed in		
	morals, including		Definition: Children		hazardous conditions		
	night work		and young people				
			under 18 not				
			employed in				
			hazardous conditions.				
Non-	No discrimination in	Equality of	No discrimination in	No discrimination in	Recruitment, wage	No discrimination in	No discrimination in
discrimination	hiring,	opportunity and	hiring, compensation,	hiring, salary,	policy, admittance to	hiring, compensation,	employment,
ILO C100,	remuneration,	treatment	access to training,	benefits,	training programs,	access to training,	including hiring,

	Draft Jo-In	CCC	ETI	FLA	FWF	SAI	WRC
<b>C111</b> , C183	access to training,	regardless of race,	promotion,	advancement,	employee promotion	promotion,	salary, benefits,
ILO R90, R111	promotion,	colour, sex,	termination or	discipline, termination	policy, policies of	termination or	advancement,
	discipline,	religion, political	retirement based on	or retirement, on	employment	retirement based on	discipline,
	termination of	opinion, nationality,	race, caste, national	basis of gender, race,	termination,	race, caste, national	termination or
	employment or	social origin or	origin, religion, age,	religion, age,	retirement shall be	origin, religion,	retirement, on the
	retirement based on	other distinguishing	disability, gender,	disability, sexual	based on the principle	disability, gender,	basis of gender,
	race, colour, sex,	characteristic	marital status, sexual	orientation,	of equal opportunities,	sexual orientation,	race, religion, age,
	religion, political	(C100 & C111)	orientation, union	nationality, political	regardless of race,	union membership or	orientation, political
	opinion or affiliation,		membership or	opinion, or social or	colour, sex, religion,	political affiliation.	opinion, or social or
	national extraction		political affiliation.	ethnic origin.	political affiliation,		ethnic origin.
	or social origin,				union membership,	No interference with	
	caste, marital				nationality, social	the exercise of the	Women's Rights:
	status, sexual				origin,	rights of workers to	a. Women workers
	orientation, trade				deficiencies or	observe tenets or	will receive equal remuneration,
	union membership,				handicaps.	practices, or to meet	including benefits;
	disability or age.					needs relating to all of	equal treatment; equal evaluation of
						the above criteria.	the quality of their
	No interference with						work; and equal opportunity to fill all
	the exercise of the					Not allow behaviour,	positions open to
	rights of workers to					including gestures,	male workers.
	observe tenets or					language and physical	b. Pregnancy tests
	practices, or to meet					contact, that is	will not be a condition of
	needs relating to all					sexually coercive,	employment, nor
	of the above criteria.					threatening, abusive or	will they be demanded of
						exploitative.	employees.
	Equal remuneration,						c. Workers who
	equal evaluation,						take maternity
	and equal						leave will not face dismissal nor threat
	opportunities for						of dismissal, loss of seniority or

	Draft Jo-In	ccc	ETI	FLA	FWF	SAI	WRC
	women  The right of all individuals to make decisions						deduction of wages, and will be able to return to their former employment at the same rate of pay and benefits.
	concerning reproduction free of discrimination,						d. Workers will not be forced or pressured to use contraception.
	coercion and violence  Workers shall have all entitlements and protection provided in national law and						e. Workers will not be exposed to hazards, including glues and solvents that may endanger their safety including their reproductive health.
	practice with respect						f. Licensees shall
	to maternity.						provide appropriate
							services and
							accommodation to
							women workers in
							connection with
							pregnancy.
Freedom of	Recognise &	Recognize right of	Workers without	Recognize right of	Recognize right of	Recognise & respect	No employee shall
association and	respect right of all	workers to join	distinction have right	workers to join trade	workers to join trade	right of all workers to	be subject to
collective	workers to form or	trade union and	to join trade union of	union and bargain	union and bargain	form or join trade	harassment,
bargaining	join trade unions of	bargain collectively	own choosing and	collectively	collectively	unions of their choice	intimidation or
ILO C87, C98,	their choice and to	(C87 & C98)	bargain collectively.			and to bargain	retaliation in their
C135, C154	bargain collectively			Where the right is	Where right restricted	collectively	efforts to freely
ILO R143		Workers'	Workers'	restricted by law,	by law, employer		associate.

	Draft Jo-In	ccc	ETI	FLA	FWF	SAI	WRC
	Recognise the trade	representatives not	representatives not	employer should not	facilitates, and does	Where right is	
	union(s) of the	subject to	discriminated against	seek state assistance	not hinder,	restricted by law,	
	workers' choice.	discrimination &	and have access to	to prevent workers	development of	employer facilities,	
		access to	carry out functions in	exercising right to	parallel means for	parallel means for	
	Adoption of a	workplaces to carry	workplace.	FoA	independent and free	free association and	
	positive approach	out representative			association and	bargaining.	
	towards the	functions (C135 &	Employers adopt an		bargaining.		
	activities of trade	C143)	open attitude to			Workers'	
	unions and		activities of trade		Workers'	representatives not	
	organisational	Employers adopt a	unions and their		representatives not	discriminated against	
	activities of workers.	positive approach	organizational		discriminated against	and have access to	
		to trade unions and	activities.		and have access to	carry out functions in	
	Workers'	positive attitude to			carry out functions in	workplace.	
	representatives not	their organizing	Where right restricted		workplace		
	discriminated	activities.	by law, employer				
	against and have		facilitates, and does				
	access to carry out		not hinder,				
	functions in		development of				
	workplace.		parallel means for				
			independent and free				
			association and				
			bargaining.				
Forced labour	No use of forced	Employment is	Employment is freely	No use of forced	Employment is freely	Not engage in or	No use of forced
ILO C29, C105	labour, including	freely chosen.	chosen.	labour, prison labour,	chosen	support the use of	prison labor,
ILO R35	involuntary prison,			indentured labour,	No use of forced,	forced labour, nor	indentured labor,
	indentured or	No use of forced,	No forced, bonded or	bonded labour or	including bonded or	shall personnel be	bonded labor or
	bonded labour	including bonded or	involuntary prison	otherwise	prison, labour.	required to lodge	other forced labor.
		prison, labour (C29	labour.			'deposits' or identity	
	Workers shall not be	& C105).				papers upon	

	Draft Jo-In	ccc	ETI	FLA	FWF	SAI	WRC
	required to lodge		Workers not required			commencing	
	'deposits' or identity	Workers shall not	to lodge "deposits or			employment with the	
	papers with their	be required to	their identity papers			company.	
	employer and shall	lodge "deposits" or	with employer and are				
	be free to terminate	identity papers with	free to leave employer				
	their employment	their employer.	with reasonable				
	after reasonable		notice.				
	notice.						
	No restrictions on						
	freedom of						
	movement (from						
	factory or employer						
	controlled						
	residences) of						
	workers						
Health and	Safe and hygienic	Safe and hygienic	Safe and hygienic	Safe and healthy	Safe and hygienic	Safe and hygienic	Safe and healthy
safety	working	working	working environment	working environment	working environment	working environment	working
	environment –	environment.	<ul><li>knowledge of</li></ul>	required. Standard	Promote best	<ul> <li>knowledge of</li> </ul>	environment
	knowledge of	Promote best	industry and specific	also applies to	occupational health	industry and specific	required to prevent
	industry and	occupational health	hazards.	employer operated	and safety –	hazards.	accidents and
	specific hazards.	and safety –		facilities part from	knowledge of industry		injury to health.
		knowledge of	Workers receive	production facilities	and specific hazards.	Take adequate steps	
	Take adequate	industry and	regular and recorded	(e.g. housing)		to prevent accidents	Ensure that its
	steps to prevent	specific hazards.	health and safety		Effective regulations	and injury, by	direct operations
	accidents and injury,		training.	Take adequate steps	shall be implemented	minimising the causes	and those of
	by minimising the			to prevent accidents	to prevent	of hazards	subcontractors
	causes of hazards		Access to clean	and injury, by	accidents and		comply with all

Draft Jo-In	ccc	ETI	FLA	FWF	SAI	WRC
		facilities and portable	minimising the causes	minimise health risks	Responsibility for	workplace safety &
Not expose workers		water, and if	of hazards	as much as possible	heath and safety	health regulations
to hazards which		appropriate, sanitary			assigned to senior	established by the
may endanger		facilities for food			management	national
reproductive health.		storage.			representative.	government where
						production facility is
Responsibility for		Accommodation,			All Workers shall	located, or with
heath and safety		where provided, meet			receive regular and	Title 29 CFR of the
assigned to senior		basic needs of			recorded health and	Federal Code of
management		workers.			safety training	Regulations,
representative.						enforced by
		Responsibility for			Establish systems to	Federal OSHA,
All Workers shall		heath and safety			detect, avoid or	whichever is more
receive regular and		assigned to senior			respond to potential	health protective.
recorded health and		management			threats to the health	
safety training		representative.			and safety	Ensure that its
						direct operations
Establish systems to					Access to clean	and subcontractors
detect, avoid or					facilities and portable	comply with all
respond to potential					water, and if	health and safety
threats to the health					appropriate, sanitary	conventions of the
and safety					facilities for food	International Labor
					storage.	Organization (ILO)
Access to clean						ratified and
facilities and					Accommodation,	adopted by the
portable water, and					where provided,	country in which
if appropriate,					meets basic needs of	the production
sanitary facilities					workers.	facility is located.
for food storage.						

	Draft Jo-In	ccc	ETI	FLA	FWF	SAI	WRC
	Accommodation,						
	where provided,						
	meets basic needs						
	of workers.						
Wages	Workers shall have	Workers must be	Living wage paid.	Legal or prevailing	Wages shall always	Wages shall always	Legal minimum
	the right to a living	paid a living wage.	Local minimum,	industry wage, and	comply with all	comply with all	wage and benefits.
	wage.	Wages and	national legal	meets basic needs /	applicable laws,	applicable laws,	WRC code requires
		benefits meet at	standards or industry	provide discretionary	regulations and	regulations and	pay a "living wage"
	Wages shall always	least legal or	benchmark standards	income.	industry minimum	industry minimum	
	comply with all	industry minimum	whichever is higher.		standards and shall be	standards and shall be	Wages shall
	applicable laws,	standards and be			sufficient to meet basic	sufficient to meet basic	always comply with
	regulations and	sufficient to provide	Workers provided with		needs of workers and	needs of workers and	all applicable laws,
	industry minimum	some discretionary	information about		their families and	their families and	regulations and
	standards and shall	income.	wages before enter		provide some	provide some	industry minimum
	be sufficient to meet		into employment and		discretionary income.	discretionary income.	standards and shall
	basic needs of	No deductions	about particulars of				be sufficient to
	workers and their	without express	wages each time		No deductions as	No deductions as	meet basic needs
	families and provide	permission of	paid.		disciplinary measure	disciplinary measure	of workers and
	some discretionary	worker concerned.			or for reasons not	or for reasons not	their families.
	income.		No deductions as		provided by national	provided by national	
			disciplinary measure		law except with	law except with	
	No deductions as		or for reasons not		permission of worker.	permission of worker.	
	disciplinary measure		provided by national				
	or for reasons not		law except with		Adequately and	Workers provided with	
	provided by national		permission of worker.		clearly inform	information about	
	law except with		Disciplinary measures		employees about the	wages before entering	
	permission of		recorded.		specifications of	into employment and	

Draft Jo-In	ccc	ETI	FLA	FWF	SAI	WRC
worker.				their wages including	about particulars of	
				wage rates and pay	wages each time	
Workers provided				period.	paid.	
with information						
about wages					Remuneration either in	
before entering into					cash or check form, in	
employment and					a manner convenient	
about particulars of					to workers.	
wages each time						
paid.					Wages paid on a	
					regular and timely	
Remuneration either					basis.	
in cash or check						
form, in a manner						
convenient to						
workers.						
Wages paid on a						
regular and timely						
basis.						

	Draft Jo-In	ccc	ETI	FLA	FWF	SAI	WRC
Hours of work	Comply with	Maximum hours	Comply with national	Maximum hours per	Hours of work shall	Maximum hours per	Not be required to
ILO C131	national laws and	per week not to	laws and benchmark	(except in	comply with	week not to exceed	work more than the
	benchmark industry	exceed	industry standards,	extraordinary	applicable laws and	48 hours; 1 day off in	lesser of (a) 48
	standards,	48 hours; 1 day off	whichever offers	business	industry standards	7	hours per week or
	whichever offers	in 7.	greater protection.	circumstances); 1 day			(b) the limits of
	greater protection.			off in 7	Maximum hours per	Overtime voluntary	regular hours
		Overtime voluntary	Maximum hours per		week not to exceed	and not exceed 12	allowed by the law
	Maximum working	and not exceed 12	week not to exceed	All overtime work	48 hours on a regular	hours a week, not	of the country of
	hours per week not	hours a week, not	48 hours on a regular	reimbursed at a	basis; 1 day off in 7	demanded on regular	manufacture, and
	to exceed	demanded on	basis; 1 day off in 7	premium rate.		basis and	be entitled to at
	48 hours on a	regular basis and		12 hours; premium	Overtime voluntary	compensated at	least one day off
	regular basis; 1 day	compensated at	Overtime voluntary	pay	and not exceed 12	premium rate.	every seven day
	off in 7	premium rate.	and not exceed 12		hours per week, not		period, as well as
			hours per week, not		demanded on regular		holidays and
	Overtime voluntary		demanded on regular		basis and		vacations.
	and not exceed 12		basis and		compensated at		
	hours per week, not		compensated at		premium pay		Overtime not to
	demanded on		premium pay				48 hours; 1 day of
	regular basis and						in 7 plus holidays
	compensated at						No restriction;
	premium pay (if not						premium pay
	defined, then at						
	least one and one						
	half of their regular						
	hourly						
	compensation rate)						
Harassment	Every worker	Physical abuse,	Physical abuse or	No employee shall be	Physical abuse,	No corporate	No employees shall
and abuse	treated with dignity	threats of physical	discipline, threat of	subject to any	threats of physical	punishment, mental or	be subject to any

	Draft Jo-In	ccc	ETI	FLA	FWF	SAI	WRC
	and respect.	abuse, unusual	physical abuse,	physical, sexual,	abuse, unusual	physical coercion or	physical, sexual
		punishments or	sexual or other	psychological or	punishments or	verbal abuse. No	psychological or
	Not engage in or	discipline, sexual	harassment and	verbal harassment or	discipline,	sexually coercive or	verbal harassment
	support the use of	and other	verbal abuse or other	abuse	sexual and other	exploitative behavior	or abuse. No
	corporal	harassment, and	forms of intimidation		harassment, and		corporal
	punishment, mental	intimidation	prohibited.		intimidation by the		punishment
	or physical coercion,	prohibited.			employer is strictly		
	threats of physical				prohibited.		
	abuse, unusual						
	punishment or						
	discipline, sexual or						
	other harassment,						
	intimidation and						
	verbal abuse.						
Employment	Work performed	Not avoid	Work should be		Not avoid obligations	Not avoid obligations	
relationship	must be on the	obligations under	performed on basis of		under law through use	under law through use	
	basis of a	law through use of	recognized		of labour-only	of labour-only	
	recognised	labour-only	employment		contracting	Contracting or false	
	employment relationship	contracting	relationship		arrangements or	apprenticeship	
	established	arrangements or	established through		apprenticeship	schemes	
	through national	apprenticeship	law and national		schemes.		
	law and/or	schemes.	practice.				
	practice.				Give opportunity to		
	Not avoid		Not avoid obligations		younger workers to		
	obligations under		under law through use		participate in		
	law through use of		of labour-only		education and training		
	labour-only		contracting, sub-		programmes.		
	contracting, sub-		contracting or home-				

	Draft Jo-In	ccc	ETI	FLA	FWF	SAI	WRC
	contracting or		working arrangements				
	home-working		or apprenticeship				
	arrangements or		schemes.				
	apprenticeship						
	schemes.						
	Nor shall any such						
	obligations be						
	avoided through the						
	excessive use of						
	fixed-term contracts						
	of employment.						
Qualifiers		Provisions	Provisions constitute	Companies should		When national and	Companies should
		constitute minimum	minimum and not	apply the higher		other applicable law,	apply the higher
		and not maximum	maximum standards.	standard (the Code of		other requirements to	standard (the Code
		standards or as the	Companies expected	conduct or the		which the company	of conduct or the
		only conditions	to comply with	applicable law of		subscribes, and this	applicable law of
		permitted to serve	national law, and /or	country) in case of		standard address the	country) in case of
		as the basis for any	apply provision that	difference or conflict.		same issue, that	difference or
		claim as to what	affords greater			provision which is	conflict
		standards or	protection.			most stringent	
		conditions of				applies.	
		employment should					
		be provided.					
		Outcomes of	Freedom of	FLA Monitoring	FWF manuals and	Guidance document	Principles in
Guidance on		workshop	association and	Guidance and	auditing guidelines	2005	founding document
standards		proceedings, pilots	collective bargaining	compliance		Auditor Training and	of the Consortium

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Draft Jo-In	ccc	ETI	FLA	FWF	SAI	WRC
	and issue papers.	Guidance Document.	benchmarks.		SAI courses.	and opinion issued
						which articulates
						the de facto policy
						of the organization.

Notes:

ILO Conventions highlighted are fundamental conventions.