

NEGOTIATING WSR AGREEMENTS WITH BUYERS

This document is one of five concept briefs published by the Worker-driven Social Responsibility (WSR) Network. The briefs are for practitioners who seek to understand and implement the WSR model. Since the concepts and elements described in these briefs must be implemented as an interlocking and self-reinforcing system, the briefs are not intended for use outside of the WSR context. Taken individually, these concepts do not constitute the WSR model, which requires full implementation of all of these elements together. Additionally, the Network is engaged in an ongoing process to further develop and expand the WSR paradigm and as the model expands to new sectors and workplaces, this will inform our understanding of its implementation.

OVERVIEW

For a worker organization, negotiations are indispensable to reaching a WSR Agreement with a Signatory Buyer. The WSR Agreement commits the Buyer to enforce worker-driven standards in its supply chain and make compliance with the program a condition of being a Supplier. It will also require the Buyer to provide financial support to help defray the additional costs of compliance with the program's labor standards. (Some examples of how those payments could be structured include a price premium, negotiated higher prices, long term commitment of orders and/or financial contributions such as licensing fees, support payments for monitoring, or direct payments for work facility improvements.)

Because the Signatory Buyers will be entering legally binding agreements with serious long-term implications for its business, the negotiations are likely to be difficult and complex. Because of the underlying and unequal power dynamics between global corporations and worker organizations, the only agreement a corporation is likely to agree to, in the absence of detailed and substantive negotia-

tions, is one that is weak, unenforceable and ineffective in bringing about real change.

Ideally, the worker organization will already have some experience negotiating settlements or other types of agreements. If not, the organization must be willing to develop this capacity internally or obtain it externally. Mentorship and support from organizations with relevant experience may be helpful. A wealth of training resources* for negotiations exists in the public domain, and it is not the purpose of this document to summarize that material. Instead, what follows are recommendations specific context to the WSR context.

RECOMMENDATIONS

1. The worker organization must know its bottom line.

Before a word is spoken, the worker organization must know exactly what it needs to achieve through the WSR Agreement. This includes core WSR elements such as enforceable obligations for the Buyer, market consequences for Suppliers, genuinely independent inspections and

*For example, see www.pon.harvard.edu/

monitoring, and outcomes that bring meaningful gains for workers. The worker organization needs to enter negotiations with at least a basic architecture of required elements and outcomes and should be prepared to walk away from the table if the Buyer refuses to make the necessary commitments. Any short-term temptation to sign a weak agreement must be resisted as this will undermine the development of a strong WSR program in the long term.

2. The worker organization must have sufficient power.

Deep power imbalances exist within global supply chains, and ultimately, there is no negotiating “trick” that will offset the worker organization not having sufficient power to secure an Agreement. The most proven strategy for the worker organization to build that necessary power is through a public campaign driven by a broad alliance of workers, consumers and other allies. In the absence of such a campaign, it is generally impossible for a worker organization to negotiate a sufficiently strong agreement with a corporation. Therefore, if the negotiations have stalled well short of the worker organization’s bottom line, that is likely an indication that the worker organization still has insufficient power and that further campaigning will be necessary before the

negotiations can be successfully resolved. A corollary of this concept is that the worker organization should not terminate a campaign before agreement is reached, no matter how well the negotiation appears to be going.

3. Keep in mind that you might succeed.

Once the WSR Agreement has been signed, a functional working relationship will be necessary to oversee implementation. Therefore, it is important to maintain a professional tone during the negotiations. Be careful and precise with the use of emotional inflection points and avoid personal attacks. Understand that companies often assume “activist” organizations are more interested in symbolic victories than achieving their stated goals. Recognize that while companies may not bargain in good faith, they may have legitimate needs and constraints of their own that the worker organization may be able to accommodate without sacrificing the bottom line. The worker organization should therefore place the negotiations in a practical, results-oriented frame, remaining firm with regard to the core principles of its program, but flexible to the extent possible. Such a professional working relationship during the negotiation will likely yield a better WSR Agreement than would be possible with a purely adversarial approach.