

# INVESTOR TOOLKIT

## Human rights with focus on supply chains



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# 1. ABOUT THIS INVESTOR TOOLKIT

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## PURPOSE

The purpose of this toolkit is to help investors to engage constructively with the intention to encourage better practice from companies, thereby reducing human rights risks in supply chains. This toolkit focuses on practical engagement points with a business rationale.

## CONTEXT

Human rights issues in supply chains can be very complex and frequently these issues occur beyond the visibility of investee companies, sometimes despite the best intentions of investee companies to manage these.

The authors are of the opinion that engagement helps improve company behaviours and companies should be encouraged to identify, disclose and mitigate human rights risks; not be unduly punished for identifying and reporting on incidences. This is particularly important in the context of the introduction of a Modern Slavery Act (MSA) in Australia. If not, there is a risk that companies will take a mainly legalistic view on human rights rather than being a conduit for positive change.

## SCOPE OF THIS TOOLKIT

The toolkit is not issue-specific and does not seek to outline all the various human rights issues that companies are facing in their supply chains. It does not seek to outline international conventions and laws on the subject, nor does it seek to make any ethical references. A list of resources can be found in Appendices 2 and 3 for further background reading on key topics discussed in the toolkit.

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*DISCLAIMER: The views expressed in this toolkit of those of the authors and not those of their organisations, nor that of RIAA. Investor, or any other party referring to, or using this toolkit in part or whole, should undertake their own research before commencing engagement with investee companies. All care has been taken in the preparation of this toolkit, but the contents of it cannot be relied upon.*

## 2. INVESTOR RELEVANCE OF HUMAN RIGHTS IN SUPPLY CHAINS

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Supply chains are becoming increasingly global, dynamic and complex and, as a result, companies are increasingly exposed to business risks stemming from human rights issues embedded in or associated with their supply chains. These include, for instance:

- **Earnings volatility and earnings sustainability:** investors prefer stable earnings. A business model that relies on underpaid workers, weak regulation and / or weak enforcement of labour laws will unlikely be sustainable over time and might be subject to sudden cost increases.
- **Brand impact (external and internal):** brands are key assets and adverse human rights findings in a company's supply chain can lead to brand damage which can be costly and time-consuming to rectify. Unmanaged human rights risk can also be a major distraction for management, as well as negatively impacting staff morale and productivity. These risks apply to both consumer-facing businesses as well as business-to-business models. Increased and ongoing media and NGO interest in the topic continues to drive this forward.
- **Business disruption from social unrest / industrial action:** unsafe working conditions and underpaid workers can result in social unrest and / or industrial action at supplier level which can result in operational disruption ultimately affecting the whole value chain. It can also lead to high staff turnover which can impact productivity and product quality.
- **Productivity:** some studies suggest companies with a strong focus on good labour practices, including respecting labour rights, have a positive correlation with talent retention and enhanced productivity benefits.
- **Increased regulatory focus on labour rights:** globally, there is increased regulatory focus on labour rights, including disclosure initiatives. Failure to comply can result in sanctions and impact a company's social licence to operate.

### WHAT TO LOOK FOR – SPOTTING RED FLAGS

In addition to consulting country or region human rights ratings, below are red flags to consider when identifying human-rights-related risks in supply chains:

- Oligopolistic industries where the main players are competing on price and have transactional relationships with suppliers, which means a risk of buying companies putting excessive price pressure on suppliers and suppliers responding by cutting corners on labour rights.
- Industries where the pressure on shorter lead times is high, which increases the risk of sub-contracting and longer working hours.
- Industries where wage inflation is not keeping pace with general inflation means a risk of underpaid workers.
- Complex and long supply chains with several intermediaries along the chain.
- Supply chains where workers are predominantly migrant workers and or minorities / indigenous groups, which are typically relatively more vulnerable to exploitation.
- Supply chains where workers are recruited by an agent (as opposed to direct employment)
- Industries where labourers are illiterate or do not speak the working language, have high proportions of migrant workers lacking residential security, or other characteristics which might increase susceptibility to exploitation.

- Companies entering high-risk sourcing areas with no previous experience, particularly when combined with a decision to move from sourcing through an agent to direct sourcing.

Other risk flags include absence of unions, lack of grievance mechanisms and workers paid cash in hand.

On slavery specifically, (in 2016) the UN’s International Labour Organization (ILO) and the Walk Free Foundation estimated that 40.3 million people (including 10 million children) were victims of modern slavery, of which 24.9 million were trapped in forced labour. Half of the latter were in debt bondage. Geographically, the risk is the highest in Asia (47% of forced labourers are estimated to be in Asia). Forced labour is often hidden deep down in the supply chains, which means the issues can be difficult to detect.

In terms of industries, key hot spots / high risk areas include:

- **Agricultural and fishing industries**, e.g. coffee from Latin America and Africa, fish from Thailand, Cambodia, Indonesia and various African countries, palm oil from Sierra Leone and south-east Asia, rice from Brazil, India, Kenya, tea from east Africa, tobacco from various countries in South America and Africa.
- **Apparel industry** e.g. cotton from Uzbekistan, Egypt, Turkey, Turkmenistan as well as several African and other Asian countries. Leather from Pakistan, India and Bangladesh and textiles from Bangladesh. Also, garment production in e.g. Malaysia, China, India, Turkey and Jordan.
- **Construction and building materials industry**, e.g. bricks manufacturing in Asia and South America, coal production in some Asian countries and construction in the Middle East.
- **Mining industry**, particularly, e.g. copper, gold, tin, coltan and tungsten from the Democratic Republic of the Congo (DRC) in Africa as well as several other West African countries, Indonesia and South America.
- **Electronics and electronics recycling industry**, particularly China.

## WHAT TO LOOK FOR – COMMON TRAITS FOR LEADERS VERSUS LAGGARDS IN HUMAN RIGHTS RISK MANAGEMENT

Table 1 shows a high-level summary of common traits for laggards and leaders on human rights risk management in the supply chain. Both risk assessment and engagement are critical to assessing and recognising good practice.

Table 1: Common Traits of Human Rights Risk Management Laggards and Leaders

LAGGARDS	LEADERS
Highly transactional relationships with suppliers.	Build long-term relationships with suppliers and allows suppliers to invest in improvements with confidence.
At best rely on external periodic audits.	Closely work with suppliers and reward those that improve with more business.
Ethical sourcing policy focuses on legal compliance.	Ethical sourcing policy goes beyond legal compliance, e.g. addresses living wages.
Poor traceability (internally) and poor transparency (externally).	Have invested in traceability and are transparent when dealing with external stakeholders, including disclosure of supplier lists.
No collaboration with other stakeholders.	Active collaboration with peers, NGOs, unions and other stakeholders.
No whistle-blower / grievance mechanisms.	Robust grievance mechanisms that workers can use with confidence.
No process for remediation of harm.	Clear protocols for addressing identified human rights impacts.
Disconnect between ethical sourcing standards (if any) and procurement KPIs.	Pricing of final goods and costing in procurement is aligned with ethical sourcing standards and cater for living wages.
Limited information about human rights policies and risk management processes available publicly.	Transparent, regular public communications on commitments, progress and effectiveness.

### 3. SUGGESTED ENGAGEMENT AREAS

Section 3 covers suggested areas for investor engagement with companies and practical steps to mitigate the business risks discussed in Section 2 and to encourage best practice.

Table 2: Suggested areas for Investor Engagement on Human Rights

A	<b>Know your supply chain:</b> transparency, traceability, complexity and risks
B	<b>Adopt a robust ethical sourcing policy</b> or ‘responsible procurement’ policy and demonstrate senior management buy-in, focus on underlying issues (living wages, freedom of association, labour hire/agency workers and grievance procedures)
C	<b>Know your supplier</b> and build closer relationships with suppliers including incentives
D	<b>Adopt a unified auditing approach</b> and increase presence on the ground in key locations
E	<b>Provide training</b> on human rights to staff and suppliers

Many of the suggested areas for investor engagement on human rights are generic and apply across a wide range of industries. However, some are more relevant to particular industries than others. Many suggested engagement areas come from the experience of the global apparel industry. This industry has been subject to a number of events impacting human rights, which have catalysed a wide range of developments that can also apply to other industries.

Importantly, the suggested engagement areas aim to assist companies in progressing towards industry leading-practice. Naturally, as companies are at different stages of this journey, the suggested engagement areas apply differently to individual companies. How the company is developing its approach to human rights risks in its supply chain offer a snapshot of their current practice.

Each suggested engagement area includes (a) business rationale / rationale; (b) examples / leading practice; and (c) suggested questions for engagement.

The purpose of these examples is to demonstrate what is possible and support constructive engagement with investee companies rather than simply pointing out the issues.

The suggested engagement areas should not be treated as exclusive but are generally key areas identified where win-win scenarios can be achieved. While each industry and each supply chain is different, the suggested engagement areas are broad enough to apply across a wide range of sectors.

Some of these points can be raised at management / board level, while some of the detailed questions are best suited for sustainability and/or procurement professionals in the company due to their detailed nature. The questions serve as a guide only and significant discussion around the key points based on the described rationale is encouraged.

#### Collaboration is key

Many human rights issues in supply chains are systemic in nature. In terms of engagement, companies with smaller footprints often contend that their size limits their influence over these issues. However,

in our view, there is significant scope for collaboration between peers and through multi-stakeholder groups. Leading companies are increasingly participating in multi-stakeholder initiatives, engaging with NGOs and industry associations/ governments, adopting a multi-faceted approach rather than attempting to solve the issues on their own.

## A. KNOW YOUR SUPPLY CHAIN: TRANSPARENCY, TRACEABILITY, COMPLEXITY AND RISKS

### BUSINESS RATIONALE / CONTEXT

Many companies operate with complex global supply chains and in some cases might encounter human rights issues (including labour rights) of which they are not aware. Many companies still have poor visibility over their supply chains. As a starting point of the due diligence process, companies are encouraged to map out their supply chains as far down the chain as they can, starting with tier one suppliers and then going beyond that level as far as possible. Companies should also interrogate the data they collect on suppliers, and whether they have sufficient and consistent information in order to be able to identify human rights risk.

Once mapped out, companies are encouraged to identify key risk areas of human rights issues in the supply chain. By mapping out the supply chain and maintaining strong traceability, companies are better able to identify key risk areas of human rights issues and can consult with country experts or use resources like human rights indices and NGOs all professionals with expertise in human rights. In addition, companies may be able to identify inefficiencies and potential areas for economies of scale, for instance in transportation, which is a key cost in the supply chain.

Companies are also encouraged to take advantage of new and innovative technologies to better map out and understand supply chains and potential opportunities for better efficiency, such as blockchain. This can help identify human rights issues and also identify efficiencies or synergies with existing risk management processes.

In recent years, many large retailers have published factory lists, which has enabled NGOs to monitor factory conditions and alert companies to potential issues. Greater overall transparency is also key to maintain or enhance the social licence to operate. Companies and brands will likely be judged on the accuracy and detailed knowledge of their supply chain. This means that identifying risks and understanding the supply chain can protect brand value. For example, while it is possible to comply with the UK Modern Slavery Act by simply issuing a board-endorsed statement saying that the company has done very little on slavery, brands will likely be judged thereafter by special interest groups on the content of the statements, and expose themselves to campaigns that could damage the brand.

### EXAMPLES / LEADING PRACTICE:

- **Supply chain mapping and transparency:** **LG Chem** (the materials arm for LG Corporation) has completed mapping of all cobalt suppliers through their supply chains and performed and attended audits on its major cobalt suppliers. **Charoen Pokphand Foods Public Company Limited** (a global food company) in response to investor pressure changed its agricultural supply chain process and developed a Sustainable Sourcing Policy which maps the supply chain and initiates dialogue with its customers. **ASOS** (UK) provides a breakdown of its supply chain structure with details of 5 different tiers in its UK Modern Slavery Act report. In Australia, for instance, **Kmart** and **Woolworths** publish a list of their factories including full addresses.
- **Supply chain risk assessment:** **Marks & Spencer** (UK) documents the risks posed by its operations as well as mechanisms for identifying risk. They have an internal governance structure on modern slavery and human rights at operational and leadership levels.
- **Using NGO insights to identify and mitigate risk:** Before considering sourcing from Cambodia, **Wesfarmers** (Australia) consulted with Oxfam about human rights issues in the country.
- **Traceability and use of technology:** **Inditex** (Spain) outlines in detail how it has established the components of its supply chain and makes efforts to ensure traceability and monitor all levels of production. Inditex also prohibits work being sub-contracted to third parties without authorisation by Inditex and has traceability audits. **Hyperledger Sawtooth** (an enterprise blockchain platform for

building distributed ledger applications and networks) has a blockchain-technology driven solution that can be applied to the seafood industry to increase transparency and aims to create a level playing field that rewards good practices. **Provenance** (UK) is piloting a blockchain solution to improve traceability and to help eradicate illegal, unsustainable fishing and human rights abuses. **Coca-Cola** (US) has also announced they will use blockchain to prevent labour rights abuses in its supply chain.

- **Reporting:** Examples of companies with relatively good reporting under the UK Modern Slavery Act include **Marks & Spencer** (comprehensive but concise document, signed by the CEO, acknowledging the issue of slavery, outlining policies and contractual controls in place, the due diligence and audits of suppliers and assessment of modern slavery within their supply chain as well as training and other steps taken to prevent slavery) and **Burberry** (describes the types of raw materials acquired from suppliers).

#### POTENTIAL QUESTIONS:

1. *How comprehensive is your internal supply chain mapping? At this stage, how prepared are you for disclosure on your supply chain structure in relation to the likely Australian Modern Slavery Act reporting requirements? How did you go about mapping out the supply chain?*
2. *How have you identified key risk areas for potential human rights issues in the supply chain? On what basis did you prioritise these as being key risk areas?*
3. *Have you consulted with NGOs or human rights specialists about their views as part of your risk assessment? If so, how have you factored in their views/data to your due diligence process and risk assessments?*
4. *Other listed retailers have published their factory lists already, what needs to happen for you to be able to do the same?*
5. *In preparation for a Modern Slavery Act in Australia, have you considered what leaders in the UK, such as M&S, have done? What other steps are you taking to prepare for the likely introduction of a Modern Slavery Act in Australia?*

## B. ADOPT A ROBUST ETHICAL SOURCING POLICY COVERING UNDERLYING ISSUES AND GRIEVANCE PROCEDURES

### BUSINESS RATIONALE / CONTEXT

Having policies in place reflects senior management buy-in and oversight. Buying companies need to clearly articulate their expectations in relation to labour rights and human rights risk management at the supplier level and further down the supply chain. This may include the use of certified labour hire companies which widely support fresh food supply chains in Australia. Key issues include pay and living wages, working hours, freedom of association, health & safety and grievance / whistle-blower mechanisms. However, in order to avoid being complicit in rights violations and subsequent supply chain disruption, companies should go above and beyond minimum regulatory requirements where these are weak, and instead look to international standards and good practice. One such example is pay, where many ethical sourcing policies refer to 'local minimum wage', which can be significantly below what constitutes a living wage.

Importantly, the company should provide training to relevant staff and be in a position to enforce the ethical sourcing policy without conflicts of interest (see below for further discussion on this). It is recommended that companies adopt and embed the corporate responsibility to respect human rights as set out in the United Nations Guiding Principles on Business and Human Rights. Participating in voluntary initiatives such as the United Nations Global Compact can assist with driving company maturity on human rights. (Please see Appendix 2)

Key underlying issues which exacerbate human rights risks in the supply chain include absence of the following protections (please see Appendix 1 for more details):

- **Living wage** – a wage of an amount that an individual needs to cover the basic cost of living which includes a family's basic expenses in their community i.e. food, shelter and clothing.

- **Freedom of association** – the right to freedom of association with others, including the right to form and join trade unions for the protection of one’s interests.
- **Grievance mechanisms** – companies should establish or participate in effective operational-level grievance mechanisms for individuals and communities who may be adversely impacted.

#### EXAMPLES / LEADING PRACTICE:

- **The ETI** (Ethical Trading Initiative) base code provides key elements for a robust ethical sourcing policy. Many retailers have adopted this and others are ‘basing’ their ethical sourcing policy on it, although often with slightly different provisions around wages (the ETI stipulates ‘living wages’).
- **H&M** established a roadmap towards living wages by 2018 and now reports on wage progress at H&M group supplier factories (average monthly wages in USD, split by sourcing country).
- **Fujitsu** (Japan) has Global Business Standards of which the first one is respect for human rights and states they will not employ people against their will, knowingly use or tolerate child labour or intentionally breach employment laws in the countries in which it operates.
- **Brambles** (Australia) adopted a set of policies and principles on slavery and human trafficking. It is guided by the Universal Declaration of Human Rights and includes: “it prohibits – in Brambles’ operations as well as those of its suppliers – the use of forced, bonded or compulsory labour, human trafficking or other kinds of slavery.”
- **Debenhams** (UK) has detailed policies addressing modern slavery, including incident reporting, due diligence procedures, whistle-blowing and more.
- **Wesfarmers** has created their own statement on policies and processes to ensure human rights of employees and their supply chain.
- According to Fashion Revolution’s 2017 Fashion Transparency Index, 29 out of 100 brands in the benchmark include reference to grievance mechanisms in their supplier code of conduct. Some examples include **Gap Inc** (US), **Marks & Spencer** (UK), **Nestlé** (Switzerland), **Mars** (US) and **Sodexo** (France).

#### POTENTIAL QUESTIONS:

1. *Who is responsible for ethical sourcing in the company? What level of reporting goes to executive management and the board?*
2. *What does the ethical sourcing policy cover and how does the company communicate that policy to suppliers? What areas does the ethical sourcing policy not cover? What’s in place to enable labour and human rights more broadly to be managed in those areas not directly covered by your own ethical sourcing policy?*
3. *To what extent does the ethical sourcing policy go over and beyond local legal minimum requirements? For instance, does the ethical sourcing policy refer to ‘living wages’ or simply the legal minimum wage? Does the ethical sourcing policy include grievance mechanisms?*
4. *How is the company enforcing the policy at supplier level and beyond that?*
5. *What does the company have in place that covers off when their own suppliers use sub-contractors to fulfil part of or an extra-ordinary supply service to your company?*
6. *What frequency and level of training on the ethical sourcing code is done internally and provided to external stakeholders?*
7. *What has the company put in place to test that the grievance mechanism is actually being used by individuals, communities and other stakeholders such as suppliers? What data exists to build confidence that this is in fact the case?*
8. *Does the company require suppliers to use certified labour hire companies only?*
9. *How does the company ensure that its suppliers are not cutting corners on pay when it is simultaneously putting price pressure on its suppliers?*

## C. KNOW YOUR SUPPLIER AND BUILD CLOSER RELATIONSHIPS WITH SUPPLIERS

### BUSINESS RATIONALE / CONTEXT

While a company might have a robust ethical sourcing policy, it needs to be in a position where it has leverage over its suppliers to enforce it. This can be achieved by higher volumes and closer and more strategic relationships. To that end, companies are encouraged to become less transactional and instead focus more on building strategic relationships with key suppliers and to consolidate their supply chains as far as possible. In other words, source more from fewer suppliers which will also increase the likelihood of loyalty from suppliers. This can reduce supply chain complexity and incentivise suppliers to comply with the ethical sourcing policy (a company sourcing 10% of the volume from a supplier will have more influence over labour rights at factory level than a company sourcing only 1% of the volume). Many suppliers feel a lack of loyalty where buyers play suppliers against each other on price, but with stronger relationships and by rewarding suppliers to comply, suppliers can invest in factory improvement with greater confidence.

Increased influence over suppliers can also result in better financial leverage as well as giving suppliers an incentive to better monitor labour rights conditions further down in the supply chain where the main issues might be. Companies are also encouraged to increase their visibility over tiers beyond direct suppliers. Where possible, this may include shortening supply chains as much as possible; as a general rule of thumb, the longer the supply chain the more difficult it is to manage human rights risks.. Stronger relationships between buyers and suppliers can lead to suppliers being able to invest in factory improvements with greater confidence.

Another related and common issue is potential misalignment between the ethical sourcing team on the one hand and the procurement team on the other. An ethical sourcing team demanding improvements on labour rights, such as higher factory worker pay, followed by demands for lower prices by a procurement team that works independently from the ethical sourcing team with different KPIs can reduce the level of trust. It can also lead to a supplier sub-contracting the work to another supplier, outside the control of the buyer and where labour rights issues are worse.

### EXAMPLES / LEADING PRACTICE:

- **Supply chain consolidation:** In recent years, the Department Stores businesses of Wesfarmers (Australia) have consolidated their supply chains, sourcing more from fewer suppliers, e.g. in Bangladesh and also harmonised the sourcing policies between Target and Kmart.
- **Know your supplier:** Kathmandu (Australia / NZ) have used the same suppliers in China for many years and Super Retail Group (Australia) has developed close relationships with Chinese suppliers and have identified cost savings in areas other than labour costs.
- **Working with suppliers to monitor risk further down in the supply chain:** LG Electronics (South Korea) has a lot of its minerals sourced from the Democratic Republic of Congo indirectly and was concerned about supporting armed groups in this country. To reduce this LG asks its suppliers to identify the smelters from which the metals are sourced. Identified smelters are asked to join the Conflict-Free Smelter (CFS) programme, requiring them to obtain certification.
- **Dupli Envelope and Graphics (US)** recommend researching on potential supplier's history of violations, consulting with trade associations and/or Dunn and Bradstreet credit reports. Other factors to investigate include location i.e. high-risk areas prone to human rights violations due to lax or non-existent regulation, financials and disclosures as well as staff turnover.

### POTENTIAL QUESTIONS:

1. *What is the average tenure of the company's suppliers and how has this changed over time?*
2. *Has management visited the company's key strategic suppliers?*
3. *How does the company ensure it is in a position where suppliers are incentivised to comply with the ethical sourcing policy?*
4. *Is there scope for supply chain consolidation to increase financial leverage but also increase leverage on human rights issues?*

5. *Does the company collaborate with other buyers from the same supplier on factory standards and human rights issues?*
6. *To what extent does the company collaborate with other buyers from the same supplier on ethical sourcing standards? (a common push-back is that companies are too small to make a difference on their own)*
7. *Many of the human rights issues in the supply chain are of a systemic nature. To what extent does the company participate in multi-stakeholder initiatives on human rights?*

## **D. ADOPT A UNIFIED AUDITING APPROACH AND INCREASE PRESENCE ON THE GROUND**

### **BUSINESS RATIONALE / CONTEXT**

Audits can be costly for companies and there is currently a lack of standardisation of auditing processes. Suppliers often complain about 'audit fatigue' and face different requirements from different buyers. There is scope for better collaboration between buyers as already discussed and greater standardisation of ethical sourcing requirements. This can reduce auditing costs and ultimately lead to better factory compliance outcomes. Also, there is a risk that companies have an over reliance on external auditors and auditing frameworks (some of which are only based on self-assessments). In some areas there are issues with corrupt auditors and in some high-risk jurisdictions, the auditors' reach might be limited, which means that companies are encouraged to establish presence on the ground and work closely with suppliers (as per above), particularly in high-risk countries (such as Bangladesh). The effectiveness of audits can also be limited by workers afraid of speaking out when interviewed inside the factory.

### **EXAMPLES / LEADING PRACTICE:**

- **Increased presence on the ground and less reliance on 'audits':** some companies use a mix of external and internal auditors and others, such as **H&M** are moving away from annual audits to more regular factory visits (in line with building closer relationships with suppliers).
- **Unified approach on sourcing:** Gap Inc have integrated compliance and sourcing teams. **Inditex's** purchasing teams have ongoing collaboration with sustainability teams and purchasing decisions depend on fulfilment of sustainability criteria. **Coles** (Australia) also has some sustainability criteria as KPIs for the procurement team.
- **Other examples:** **Nestlé** (Switzerland), a producer of oil products, require all suppliers to be members of the Roundtable on Sustainable Palm Oil – third party auditors review the procedures of their operations including human rights performance. **Pacific Ruibales Energy**, a Colombian oil and gas and exploration company which had concerns over social unrest in particular disputes between guerrillas and paramilitary groups, created a labour committee of locals who, along with government officials, negotiated agreements and maintained strong local focus. This included a Corporate Social Responsibility Policy for the company.

### **POTENTIAL QUESTIONS:**

1. Who carries out the audit of suppliers and how often are these audits carried out? What are the main findings and how is the company acting on those?
2. How does the company ensure auditors a) remain independent and b) cover the key risks in their audit assessments?
3. How many company people are on the ground in key sourcing locations and how often do they visit factories? If the company doesn't do this directly, on which organisations does it rely for this activity?
4. Are factory visits / audits always pre-announced and does the company interview workers outside the factory?
5. What KPIs do the procurement team and ethical sourcing team have and how are they aligned?
6. How is the true cost of labour being calculated and incorporated in the pricing negotiations?

## E. PROVIDE TRAINING ON HUMAN RIGHTS TO STAFF AND SUPPLIERS

### BUSINESS RATIONALE / CONTEXT

In addition to aligning ethical sourcing policies with pricing, companies need to provide regular training on human rights issues to staff and other business partners (including suppliers and auditors) to ensure the ethical sourcing policy is well understood and adhered to (both to the letter and the spirit of the policy). Failure to do so can result in ethical sourcing efforts becoming a box-ticking exercise only. Again, management buy-in is key for the implementation of the human rights risk framework (lack thereof is often cited as a key obstacle by companies that are laggards on ethical sourcing).

### EXAMPLE / LEADING PRACTICE:

- **Marks & Spencer** details in its Modern Slavery Statement how they have trained key staff in Modern Slavery and human rights using an expert 3rd party consultancy and then used that consultancy to support each business area in mapping, risk assessment and developing mitigation response. It has also developed Ethical Trade training, which has been rolled out across the business.
- **Wesfarmers** delivers training on ethical sourcing requirements to staff, 3rd party auditors, suppliers and factories to ensure they understand ethical sourcing risks and the standards expected.
- **Newcrest Mining** ensures all security employees and contractors are trained on the principles of the Universal Declaration of Human Rights and the United Nations Guiding Principles on Security and Human Rights.

### POTENTIAL QUESTIONS:

1. *How does the company communicate the ethical sourcing policy to staff and suppliers? What training is carried out and who is trained? What gives you confidence that the policy is well understood by staff and suppliers alike? How frequently is the training refreshed?*
2. *What organisations (e.g. NGOs, consultants or other experts) is the company using to up-skill staff, suppliers, business partners and workers in the supply chain on human rights?*
3. *Are grievance mechanisms clearly articulated to the worker in training and in written material throughout the workplace in the local language? Do sites have a 'worker hotline' and if so, is it operated by the business or independently?*
4. *How does the company respond when issues emerge? Has the company considered the ETI base code for guidance?*
5. *What has the company planned to do on broadening understanding and uptake of its ethical sourcing and other human rights related policies?*

# APPENDIX 1

## KEY UNDERLYING ISSUES

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Key underlying issues which exacerbate human rights risks in the supply chain include absence of the following protections:

### A) LIVING WAGES

This is a key underlying (and inter-related) supply chain issues across many industries and countries, particularly in Asia. A living wage requires someone to be paid an income sufficiently high to meet their basic needs. From an investor perspective, absence of the payment of living wages may have negative business impacts, including:

- *Earnings sustainability*: a business model that relies on weak regulation / weak enforcement of regulation and or underpaid workers will likely not be sustainable over time and companies that fail to proactively address the living wage issue might be subject to sudden and unexpected cost increases;
- *Business disruption from social unrest / industrial action*: failure to provide a living wage can lead to social unrest and / or industrial action, which can result in operational disruption in the company's own operations or in its supply chain. It can also result in high voluntary staff turnover and sunk costs related to training and development;
- *Productivity*: providing a living wage can have a positive impact on retention of talent and know-how, reduce staff turnover and result in higher productivity. In many industries, wages are a small proportion of the costs of goods sold, which means closing the gap between minimum wage and living wages can have a very minor impact on the final retail price, which can be offset by the higher worker productivity that results from the provision of a living wage; and
- *Brand impact*: brands' reputations tarnished by revelations about underpaid workers can be costly and time-consuming to restore. Brand damage can result in loss of sales and / or reduced ability to win contracts).

Companies are encouraged to take the following steps to minimise the risks outlined above:

- Understand the supply chain and potential risk areas (mapping out the supply chains as far as possible).
- Understand current wage practices and understand what constitutes a 'living wage' in the supply chain. While there is no universally accepted methodology for calculating a living wage and living wages can differ materially even within a region, there are various living benchmarks provided by NGOs, such as the Global Living Wage Coalition and the Asia Floor Wage Index. Also, the Anker methodology provides guidance on how to calculate a living wage.
- Increase collaboration with peers and other stakeholders. Living wages are often a systemic issue and typically need a multi-stakeholder approach to make progress. Leaders collaborate with peers and NGOs and companies can also speak to workers directly to understand their financial needs.
- Adopt a model that aligns pricing of goods and services with living wages in the supply chain.

The living wage issue is also often closely related to other labour rights issues, such as child labour. One of the key reasons why children are employed is that their parents are not earning enough to sustain a family. A living wage, which is recognised under the Universal Declaration on Human Rights, constitutes a take-home pay that cover basic expenses, which can often be very different from the local minimum wage to which ethical sourcing policies often refer. From an investor perspective, a business model that relies on underpaid workers is subject to earnings volatility risk and is potentially unsustainable.

#### EXAMPLES / LEADING PRACTICE:

- The Anker Methodology is the most generally accepted methodology to calculate a living wage and provides assistance for companies (a common push-back point from companies is the difficulty to establish what a living wage constitutes).
- The “[Tailored Wages Report](#)” by the Clean Clothes Campaign provides examples on how different companies in the apparel industry have attempted to address the living wage issue.

#### POTENTIAL QUESTIONS:

1. *Has the company established what a living wage constitutes in key sourcing regions and what steps have been taken by the company towards implementation of living wages?*
2. *Has the company considered factoring in true costs of labour in its pricing methodology?*
3. *Has the company considered joining other peers in their efforts to encourage governments to implement a living wage?*

## B) FREEDOM OF ASSOCIATION

Lack of freedom of association can result in major business risks, e.g. many of the factory disasters seen in the garment supply chains have had one thing in common: the lack of union representation at factory level. Similarly to lack of living wages, lack of freedom of association is closely associated with other human rights issues and is often a key obstacle to progress on human rights at the supplier level. The issue can have cultural roots (e.g. Bangladesh) or be prevented by law (e.g. China where there is only one major workers’ union). However, companies can still have an important voice and act to mitigate risk. While many companies might be too small to have an impact on their own, they can join other companies seeking progress.

#### EXAMPLES / LEADING PRACTICE:

- **H&M** (Sweden), **ASOS** (UK) and **Gap Inc** (USA) have urged the Cambodian government to implement industry reform and expressed their concerns about controversial labour laws and ongoing court cases against unionists.
- In 2016, **H&M**, the ILO and SIDA collaborated on industrial relations in a public private development partnership in Cambodia. They also partnered with the Swedish union IF Metall, which conducted a series of training programs building capacity of employers, workers and their representatives in Cambodia.
- ACT (Action, Collaboration, Transformation) is a coalition between global brands, manufacturers and global unions, which aims to address the issue of living wages in the garment and textile industry. ACT aims to improve wages in the industry by establishing industry collective bargaining.

#### POTENTIAL QUESTIONS:

1. *If a company’s ethical sourcing policy captures ‘freedom of association’, how does the company ensure this is being followed and is it part of the initial supplier assessment before trading commences?*
2. *How is the company collaborating with other buyers from the same supplier to ensure freedom of association is respected?*

## C) GRIEVANCE MECHANISMS

Companies that get involved in remedying harm when human rights issues are found in the supply chain can strengthen their ties with suppliers, reduce the risk of re-occurrence and potentially create positive goodwill with external stakeholders, such as NGOs. The risks of not doing so are high. Buying companies need to proactively identify human rights issues to avoid adverse brand impacts and / or production disruption. As discussed above, the effectiveness of audits can be limited, particularly when they are pre-announced and in some cases, factory workers do not dare to speak up. When issues emerge, companies can respond in different ways, e.g. do nothing, issue a corrective action plan or terminate the supplier relationship. Terminating the business relationship does not necessarily mean that the company escapes the brand damage, particularly when sensitive issues like child labour have been discovered, and does not necessarily lead to an improvement for workers either.

Companies typically have grievance policies for their own direct employees. In the supply chain, the legal responsibility for dealing with grievances of workers lies with the supplier, i.e. the employer. However, buying companies can assist with overarching grievance procedures for workers in the supply chain and work with suppliers to build local grievance handling capacity. Workplace-level grievance mechanisms should be included in ethical sourcing policies. However, it is important to ensure such mechanisms are effective, appropriate, available in the relevant languages, meet other accessibility requirements and that workers are aware of them.

Grievance mechanisms can help buying companies to identify and resolve issues before they escalate into potentially costly disputes. Examples of grievance mechanism contact points include the ethical sourcing team but independent worker hotlines or direct relations with trade unions (if such exist) should be preferred. To be effective, companies need to have clear policies on how complaints are dealt with and escalation channels. Access to remedy can have both procedural and substantive aspects and in order to minimise these business risks, companies are encouraged to a) have processes and procedures in place for workers to effectively raise concerns and b) have appropriate corrective plans in place. Effective grievance mechanisms can include external whistle-blower channels where anonymity is guaranteed and where workers can speak in confidence and alert the buying company. Combined with increased training on labour rights to workers, 'worker hotlines' can identify issues proactively.

### EXAMPLES / LEADING PRACTICE:

- **Gap Inc** works jointly with the ILO-IFC Better Work Programme on grievance handling where a training-of trainers approach helps workers and managers jointly to resolve workplace issues. Other companies, such as **Adidas** (Germany), **PepsiCo** (US) and **Wilmar International** (Singapore) have established global supply chain grievance mechanisms where they receive complaints directly from affected workers.
- Some standards, such as the Sustainable Agriculture Network (SAN) Standard, Utz Codes' of Conducts for individual, multi-site and group farms, the Fair Labor Association's (FLA) Code of Conduct and Compliance Benchmark, or the SA International's SA8000 Standard require provision of grievance procedures for workers in their certification criteria.
- The publication "[Access to remedy – operational grievance mechanisms – An issues paper for the ETI](#)" provides several case studies on how companies have tackled the issue and the outcomes from these.
- The Alliance for Bangladesh Worker Safety has established the Alliance Worker Helpline (Amader Kotha), which is a 3rd-party reporting channel where workers can report safety concerns anonymously.
- Woolworths (Australia), as a signatory to the 2015 Australian Business Pledge against Forced Labour, acknowledges the responsibility to identify and address confirmed instances of forced labour in the supply chain and state that effective remedy requires multi-stakeholder engagement; Woolworths is currently working together with other Pledge signatories to examine best practice approaches to remedy.
- The ETI has a base code guidance on child labour, which provides practical guidance for brand companies on how to respond when child labour is identified.

#### POTENTIAL QUESTIONS:

1. *Does the ethical sourcing policy include a provision for grievance mechanisms? If not, how does the company ensure that workers can blow the whistle and that suppliers comply with the ethical sourcing policy outside regular factory audits?*
2. *Do factories have a 'worker hotline' and if so, who operates that?*
3. *How does the company act when issues emerge?*
4. *Has the company considered the ETI base code for guidance?*
5. *Has the company considered joining the 2015 Australian Business Pledge against Forced Labour and work towards effective remedy plans with peers?*

#### D) USE OF CERTIFIED LABOUR-HIRE COMPANIES

In the Australian fruit and vegetable supply chain, there are major issues with underpaid workers, particularly around migrant workers and labour hire companies. While supermarkets are increasingly building stronger relationships with suppliers to compete with international entrants, the pricing pressure means suppliers might be cutting corners on labour rights (particularly pay). To mitigate the risks, companies are encouraged to use suppliers that are using certified labour hire companies.

#### EXAMPLES / LEADING PRACTICE:

- At the time of writing, there are existing or proposed labour hire licencing schemes in certain states, but there is nothing at the national level. Some companies have stipulated that they only use certified labour hire companies.

#### POTENTIAL QUESTIONS:

1. *Do you require suppliers to use certified labour hire companies only?*
2. *How do you ensure that your suppliers are not cutting corners on pay when you are simultaneously putting price pressure on your suppliers?*

## APPENDIX 2

# UNITED NATIONS GUIDING PRINCIPLES ON BUSINESS AND HUMAN RIGHTS / UNITED NATIONS GLOBAL COMPACT

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Established frameworks can provide useful guidance to companies willing to improve their supply chain risk management. The UN Guiding Principles on Business and Human rights seeks to give a global standard for preventing and addressing the risk of adverse human rights impacts linked to business activity. The framework promotes a principles-based approach to doing business and meeting fundamental responsibilities in the areas of human rights and labour and encourages companies to adopt the same values and principles wherever they have a presence. The Guiding Principles can be found [here](#).

Another voluntary initiative that can help companies to establish a framework for leading practice on human rights and related issues are the ten principles of the UN Global Compact, which are derived from the Universal Declaration of Human Rights, the International Labour Organization's Declaration on Fundamental Principles and Rights at Work, the Rio Declaration on Environment and Development, and the United Nations Convention Against Corruption. Six of the ten principles relate to human rights and labour:

### HUMAN RIGHTS

- Principle 1: Businesses should support and respect the protection of internationally proclaimed human rights;
- Principle 2: make sure that they are not complicit in human rights abuses.

### LABOUR

- Principle 3: Businesses should uphold the freedom of association and the effective recognition of the right to collective bargaining;
- Principle 4: the elimination of all forms of forced and compulsory labour;
- Principle 5: the effective abolition of child labour; and
- Principle 6: the elimination of discrimination in respect of employment and occupation.

So far, practical implementation of the corporate responsibility to respect human rights has been driven by other mechanisms, including domestic regulation requiring increased transparency and human rights reporting. There remains a big gap between leaders and laggards. This toolkit offers investors key information and questions to commence a dialogue with companies about their progress on human rights risk management in their supply chain.

# APPENDIX 3

## RESOURCES FOR FURTHER READING

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### LIVING WAGES:

- Anker methodology: <https://www.elgaronline.com/view/9781786431455/chapter02.xhtml>
- Action, Collaboration, Transformation (ACT): <https://actonlivingwages.com/>
- Global Living Wage Coalition: <http://www.globallivingwage.org>
- Tailored wages: <https://cleanclothes.org/livingwage/tailoredwages>

### THE ETHICAL TRADING INITIATIVE (ETI): <https://www.ethicaltrade.org/>

- Ethical sourcing policies (the ETI base code): [https://s3-eu-west-1.amazonaws.com/www.ethicaltrade.org/files/shared\\_resources/eti\\_base\\_code\\_english.pdf?ppXz9ivoyynr1uTTo5e.Z5n.ZHaQvOfN](https://s3-eu-west-1.amazonaws.com/www.ethicaltrade.org/files/shared_resources/eti_base_code_english.pdf?ppXz9ivoyynr1uTTo5e.Z5n.ZHaQvOfN)
- Base code guidance on child labour: <https://www.ethicaltrade.org/resources/base-code-guidance-child-labour>

**REMEDY:** insightful case studies on remedy: [https://ethicaltrade.org/sites/default/files/shared\\_resources/ergon\\_-\\_issues\\_paper\\_on\\_access\\_to\\_remedy\\_and\\_operational\\_grievance\\_mechanims\\_-\\_revised\\_draft.pdf](https://ethicaltrade.org/sites/default/files/shared_resources/ergon_-_issues_paper_on_access_to_remedy_and_operational_grievance_mechanims_-_revised_draft.pdf)

### MULTI-STAKEHOLDER INITIATIVES ON RESPONSIBLE SOURCING / LABOUR RIGHTS:

- The Bangladesh Accord on Fire and Building Safety (multi-stakeholder initiative between retailers, unions and NGOs was established after the Rana Plaza Building Collapse). In 2018 this was extended with the Bangladesh Transition Accord, which operates on a 6-month rolling basis, intended to be in place for a further 3 years:
  - <http://bangladeshaccord.org/>
- The Retailer & Supplier Roundtable in Australia's Pledge against Forced Labour is a collaborative network between Woolworths, Coles, Simplot, Goodman & Fielder, Ingham, Officeworks and Big W: [http://www.retailersupplierroundtable.org.au/page/Working\\_Groups/Sustainability\\_Council/Anti-slavery\\_Pledge/](http://www.retailersupplierroundtable.org.au/page/Working_Groups/Sustainability_Council/Anti-slavery_Pledge/)
- The Cleaning Accountability Framework: <https://www.cleaningaccountability.org.au/howcafworks>

### LABOUR RIGHTS (ILO AND FLA) AND INTERNATIONAL CONVENTIONS:

- ILO conventions and core labour standards: <https://cleanclothes.org/issues/faq/ilo>
- ILO-IFC Better Work Programme [http://www.ilo.org/global/programmes-and-projects/WCMS\\_084616/lang--de/index.htm](http://www.ilo.org/global/programmes-and-projects/WCMS_084616/lang--de/index.htm)
- Fair labour Association Workplace Code of Conduct and Compliance Benchmarks [http://www.fairlabor.org/sites/default/files/fla\\_complete\\_code\\_and\\_benchmarks.pdf](http://www.fairlabor.org/sites/default/files/fla_complete_code_and_benchmarks.pdf)
- The universal declaration of human rights: <http://www.un.org/en/universal-declaration-human-rights/>
- UN Global Compact: <https://www.unglobalcompact.org/what-is-gc/mission/principles>
- UN Guiding Principles on business and human rights: [https://www.ohchr.org/Documents/Publications/GuidingPrinciplesBusinessHR\\_EN.pdf](https://www.ohchr.org/Documents/Publications/GuidingPrinciplesBusinessHR_EN.pdf)

**INVESTOR PERSPECTIVES ON LABOUR RIGHTS:** Further reading on investor relevance and case studies:  
PRI: Investors and responsible labour practices in the apparel industry: <http://pripodcasts.libsyn.com/how-can-investors-help-move-the-needle-on-responsible-labour-practices-in-the-apparel-industry> and <https://www.unpri.org/social-issues/moving-the-needle-on-responsible-labour-practices-in-the-apparel-industry/472.article>

#### MODERN SLAVERY:

- Responses to the UK Modern Slavery Act (leaders and laggards): [http://corporate-responsibility.org/wp-content/uploads/2017/06/Core\\_ExamplesFINAL.pdf](http://corporate-responsibility.org/wp-content/uploads/2017/06/Core_ExamplesFINAL.pdf)
- The UK Modern Slavery Act – link for transparency and guidance: <https://www.gov.uk/government/publications/transparency-in-supply-chains-a-practical-guide>
- The Inquiry into establishing a Modern Slavery Act in Australia: <https://www.aph.gov.au/modernslavery>
- The Bali Process Government and Business Forum: <https://www.baliprocess.net/bali-process-government-and-business-forum/>
- Global slavery index: <https://www.globalslaveryindex.org/>

#### EXTRACTIVES INDUSTRY:

- International Council on Mining and Minerals Sustainable Development Framework: [www.icmm.com/our-work/sustainable-development-framework/10-principles](http://www.icmm.com/our-work/sustainable-development-framework/10-principles)
- The Responsible Minerals Assurance Process: <http://www.responsiblemineralsinitiative.org/responsible-minerals-assurance-process/>
- OECD Due Diligence Guidance for Responsible Supply Chains of Minerals from Conflict-Affected and High-Risk Areas: <http://www.oecd.org/corporate/mne/mining.htm>

#### CERTIFICATION OF WORKFORCE SERVICE PROVIDERS:

- The Recruitment, Consulting and Staffing Association (RCSA) <http://www.staffsure.org/>
- National Union of Workers agreement with Woolworths: <https://www.nuw.org.au/farm-worker-protections-supply-chain>