



INVESTOR TOOLKIT

Human rights with a focus on supply chains

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1. ABOUT THIS INVESTOR TOOLKIT

PURPOSE AND SCOPE

The purpose of this toolkit is to help investors engage constructively with companies in order to encourage better practice, thereby reducing human rights risks in supply chains. This is the second edition of the toolkit, which was first produced in 2018.

This toolkit is not issue-specific and does not seek to outline all the various human rights issues that companies are facing in their operations and 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.

This toolkit focuses on points of practical engagement for asset owners and asset managers with companies, targeting a business rationale.

CONTEXT

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

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 Modern Slavery Act (MSA), which was introduced in Australia in late 2018 (shortly after the publication of the first edition of this toolkit). Without engagement by investors, there is a risk that companies will take a mainly legalistic view on human rights rather than being a conduit for positive change. The MSA requires organisations (including investors) with \$100 million or more in annual revenue to report on the risks of modern slavery in operations and supply chains, actions taken and how the effectiveness of those actions is measured¹. Two important points about the implementation of the legislation are worth reflecting on:

- First, early reporting has mainly focused on the risk assessment aspect only. Risk assessment per se does not move the dial on slavery but actions might, which is why this toolkit has been updated to provide ideas and examples of best practice.
- Second, while the MSA provides a legal definition of what constitutes ‘modern slavery’, sometimes there is a fine line between what modern slavery is technically and what is poor labour rights or human rights.

Investors should therefore take a wider view than the narrow definition of ‘modern slavery’ when engaging with companies they are invested in. While this toolkit can provide ideas for engagement on modern slavery issues, this second edition of the toolkit maintains the same scope of the first edition of this toolkit, i.e., broader human rights issues in the supply chain. Typically, modern slavery does not emerge out of thin air, but is a result of underlying labour rights or human rights issues.

Despite decades of regular factory audits, modern slavery and labour rights abuse remain widespread. This is partly due to the fact that audits have typically been limited to tier 1 suppliers whereas many of

¹ <https://www.legislation.gov.au/Details/C2018A00153>

the issues are found below tier 1 and partly related to the lack of effectiveness of many audits. At the time of publication for the first toolkit, the ILO estimated that there were more than 40 million people trapped in modern slavery conditions in the world². Since then, the COVID-19 pandemic has made workers even more vulnerable, due to increased job insecurity, restrictions of movement and indebtedness. In addition, the pandemic has made it more difficult for companies to audit factories. As a result, new methods of best practice are needed in addition to traditional methods. While there is no magic silver bullet, a number of practices can reduce the risk of modern slavery and human rights abuses in supply chains.

AUTHORS

This second edition of the **Investor Toolkit – human rights with focus on supply chains** has been prepared for the Human Rights Working Group of Responsible Investment Association Australasia (RIAA) in 2021 by the following experts:

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This second edition of the toolkit builds on the original that was prepared for the same organisation in 2018. The first edition of the toolkit can be found at <https://responsibleinvestment.org/wp-content/uploads/2018/09/HRWG-Investor-Tool-Kit.pdf>. Many of the recommendations made then still hold today while the second edition provides more recent examples of best practice and covers off recent regulatory developments.

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DISCLAIMER: The views expressed in this toolkit are those of the authors and not those of their organisations, nor that of RIAA. Investors, 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.

Information contained herein has been obtained from a range of third-party sources. While the information is believed to be reliable, the authors/RIAA have not sought to verify it independently. As such, the authors/RIAA make no representations or warranties as to the accuracy of the information presented and takes no responsibility or liability (including for indirect, consequential, or incidental damages), for any error, omission or inaccuracy in the data supplied by any third party. Further, the material contained in this document does not constitute a recommendation to buy or sell securities and/or any other financial instruments or products.

² https://www.ilo.org/global/publications/books/WCMS_575479/lang--en/index.htm

2. INVESTOR RELEVANCE OF HUMAN RIGHTS IN SUPPLY CHAINS

As outlined in the United Nations Guiding Principles on Business and Human Rights (UN GPs), companies have a responsibility to respect human rights in their operations and supply chains. Since the publication of the first edition of this investor toolkit, a number of case studies highlight the impact human rights and labour rights issues in supply chains can have on share prices as well as potential legal issues:

- The share price of UK-listed **Boohoo** halved between 30 June and 8 July 2020 and a number of retailers suspended sales of the brand following reports by the NGO Labour Behind the Label and the Sunday Times of labour rights abuses in the company's supply chains. It has been suggested that the share price impact was particularly harsh for Boohoo due to long-standing criticism by NGOs over Boohoo's human rights due diligence processes³.
- The Malaysian medical glove manufacturer **Top Glove's** share price suffered in March 2021 as the US Customs and Border Protection (CPB) ordered seizure of their goods stating it had sufficient information to believe that Top Glove used forced labour in production. Previously, the US had already banned products from two subsidiaries after accusations of debt bondage, excessive overtime and abusive working and living conditions⁴.
- In 2021, French prosecutors started an inquiry over suspected links to forced labour in China. Four companies were targeted in that inquiry: **Inditex, Uniqlo, Skechers and SMCP**⁵. The inquiry follows an April lawsuit filed against the same four companies by human rights groups and a Uyghur woman who said she had been imprisoned in Xinjiang.

These examples demonstrate that labour rights issues in the supply chain can have significant earnings and share price impacts, particularly in a world with increased regulatory focus, and should not be considered solely a matter of ethics and 'doing the right thing'.

As the first edition of the toolkit noted, 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:** companies with a strong focus on good labour practices, including respecting labour rights, can have a positive correlation with talent retention and enhanced productivity benefits.

³ <https://www.lexology.com/library/detail.aspx?g=bf3b67d2-11dc-4045-87f9-888b9c73fa1d>

⁴ <https://www.bbc.com/news/business-56572815>

⁵ <https://www.nytimes.com/2021/07/02/fashion/xinjiang-forced-labor-Zara-Uniqlo-Skechers.html>

- **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 investors can consider when identifying human-rights-related risks in supply chains. Many of these remain the same as in the first edition of the toolkit:

- 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 located in geographies with significant corruption (forced labour is typically linked with money laundering and other forms of corruption).
- 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), particularly where labour hire fees are used. This is illegal in Australia but legal in many Asian countries.
- 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 or into bank accounts they do not have full and sole control over. As slavery is commonly outlawed in most jurisdictions, much of the slavery conditions tend to occur in the cash economy which means there is a natural link between modern slavery and money laundering (although as money is becoming increasingly digital, modern slavery proceeds are not always in cash).

Modern slavery

The Australian MSA defines 'modern slavery' as slavery, servitude, the worst forms of child labour, forced labour, human trafficking, debt bondage, slavery like practices, forced marriage and deceptive recruiting for labour or services⁶.

In 2016, the UN's International Labour Organization (ILO) and the Walk Free Foundation estimated that 40.3 million people⁷ (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. Globally, prevalence of forced labour is particularly high in Asia. Forced labour is often hidden deep down in the supply chains, which means it can be difficult to detect.

However, as discussed above, the COVID-19 pandemic has exacerbated the problem of slavery and slave-like practices. For example, before the pandemic, what the Australian MSA defines as 'modern slavery' was less of an issue in Bangladesh's garment industry. But it has been reported that when the pandemic struck, many workers lost their income and became more vulnerable⁸. For instance, without sufficient collateral to obtain a bank loan, some turned to their employers as a last resort to take out loans. This put those workers into the category of 'bonded labour', which is included in the MSA's definition of modern slavery. This highlights why it makes sense for investors to take a broader human rights lens and not focus on

⁶ <https://www.homeaffairs.gov.au/criminal-justice/Pages/modern-slavery.aspx>

⁷ https://www.ilo.org/wcmsp5/groups/public/@dgreports/@dcomm/documents/publication/wcms_575540.pdf

⁸ <https://www.aljazeera.com/economy/2020/9/4/extreme-risk-coronavirus-is-worsening-modern-slavery-in-asia>

slavery in isolation. Sometimes there is a fine line between what constitutes slavery according to the MSA and poor labour practices.

In terms of industries, some of the well-known sectors reported as hot spots and 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, China (please see below) 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, cobalt 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.
- **Glove manufacturing**, particularly in Malaysia.

The Global Slavery Index (2018) by Walk Free provides further detail on those sectors and countries in which modern slavery conditions are particularly prevalent⁹. The Global Slavery Index 2018 estimates that on any given day in 2016, there were 15,000 living in conditions of modern slavery in Australia. In Australia, some of the reported key hotspots are often linked to migrant labour in the fresh food supply chain, nail salons, car washes and in the cleaning industry.

In recent years, a number of news organisations have reported on forced labour issues in China related to Uyghurs and other ethnic minorities, alleging hard, manual and forced labour in the province of Xinjiang. The Chinese government denies the claims, insisting that the camps are “vocational training schools” and the factories are part of a massive, and voluntary, “poverty alleviation” scheme. Because of China’s dominance in the textiles industry, the risk of links to Xinjiang applies to the entire fashion industry. For instance, clothes ‘made in Bangladesh’ might use textiles (and cotton) originating from Xinjiang, China. In addition, other industries have been suggested to have potential links to forced labour in China, including renewables (namely solar panels), electronics and more¹⁰.

In addition, investors need to consider a number of other important themes as part of the decarbonisation of the global economy. The acceleration of climate change as a global issue and the quest to find cheap renewable energy can also create tensions between environmental and social issues for investors. A significant proportion of polysilicon (for solar energy) is produced in regions subject to widespread allegations of forced labour, such as Xinjiang, China¹¹. According to Fair Supply¹², over 60% of the world’s supply of cobalt comes from the Democratic Republic of Congo (DRC), with about 45% coming from large-scale mining operations and the remaining 15% comes from small-scale mines in the DRC, where children and adults labour under harsh and dangerous conditions to extract ore by hand¹³. Action is being taken to address this: the U.S. Government has begun detaining solar panels at the border from producers that have associated allegations of human rights abuses¹⁴. Another factor to consider is that many of the key commodities that are expected to face significantly higher demand in a decarbonised world, such as copper and lithium, are found in countries with relatively high corruption risk. As modern slavery often occurs in the cash economy, there is a direct link between the level of corruption in a country and modern slavery.

⁹ <https://www.globallslaveryindex.org/>

¹⁰ <https://www.bbc.co.uk/news/extra/nz0g306v8c/china-tainted-cotton>

¹¹ <https://reneweconomy.com.au/could-australia-follow-us-ban-on-solar-panel-materials-linked-to-forced-labour/>

¹² <https://fairsupply.com.au/>

¹³ <https://www.ibm.com/blogs/blockchain/2020/12/blockchain-and-sustainability-through-responsible-sourcing/>

¹⁴ <https://www.bloomberg.com/news/articles/2021-11-02/top-solar-panel-maker-longi-may-be-next-china-target-in-u-s-ban>

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 of 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 allow suppliers to invest in improvements with confidence, which may include partnering with suppliers on innovation
Mainly use attestation approaches to supplier compliance. At best relies on external periodic audits.	Closely work with suppliers and reward those that improve with more business. Understand the limitations of traditional audits and explore alternative forms of oversight and monitoring.
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.
Heavy focus on risk assessment (particularly tier 1 only and high spend only), no or limited focus and transparency on actions to address risk.	Focus more on 'moving the dial' on modern slavery and seeking to drive positive change.
No collaboration with other stakeholders.	Have invested in traceability and are transparent when dealing with external stakeholders, including disclosure of supplier lists.
No whistle-blower / grievance mechanisms.	Active collaboration with peers, NGOs, unions, and other stakeholders. Robust grievance mechanisms that workers can use with confidence, such as worker voice initiatives.
No process for remediation of harm.	Clear protocols and remediation programs 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 caters for living wages.
Limited information about human rights policies and risk management processes available publicly.	Transparent, regular public communications on commitments, progress, and effectiveness.
Purely legalistic views on human rights and avoids direct accountability for labour rights	Goes beyond legal compliance.

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. The areas are broadly the same as in the first edition of this toolkit but with updated examples.

Table 2: Suggested areas for Investor Engagement on Human Rights

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

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. The food industry has also had to maintain robust traceability systems in order to be able to trace food safety, food crime and food quality issues that can occur deep in the supply chain.

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.

In this toolkit, the suggested engagement area includes: (a) business rationale (b) examples of company practice; and (c) suggested questions for engagement.

These examples 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. Companies mentioned in the examples vary and come from a range of industries and the authors are neither implying that all companies mentioned are leaders in responsible sourcing nor that companies not mentioned are laggards.

Some of the points discussed below 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.

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

BUSINESS RATIONALE / CONTEXT

Before any issues can be managed effectively, companies need to understand their supply chains, but global supply chains are complex and visibility can be poor, which is why so much attention is given to this section in the toolkit.

The COVID-19 pandemic has also resulted in additional challenges, including redrawn supply chains and more challenges to obtain visibility in a world with limited access to travel.

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 1 suppliers and then going beyond that level as far as possible (beyond tier 1 and deeper into the supply chain, where many of the issues are typically found). 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. The benefits of using blockchain for the purpose of responsible sourcing include having an audit trail that documents proof of initial ethical production (from raw materials to each transfer step to end production), secure storage of information, certificates and decentralised control (which promotes trust and ensures no entity can corrupt the process). It also lowers costs by reducing the need for audits, 'traceability exercises' and paper usage.

At the time of writing, very few companies subject to transparency and reporting regulation, such as the UK and Australian Acts, had reported on actual identified instances of modern slavery practices in their supply chains. This indicates the hidden nature of the issue but also that companies need to dig deeper and apply innovative methods to detect the issues. Without identification in the first place, the issues cannot be resolved.

Transparency is important raises awareness and can lead to change when media, NGOs and investors apply more pressure. Some large retailers have published factory lists, which has enabled NGOs to monitor factory conditions and alert companies to potential issues. It has also influenced other companies to become more transparent. Greater overall transparency is key to maintain or enhance the social license 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 (MSA) 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:

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 MSA report. In Australia, for instance, **Kmart** publishes a list of their factories including full addresses.
- **Decjuba Pty Ltd** notes in their MSA statement in 2020 that they've traced tier 1 suppliers and update the list as changes occur and they are working through tier 2 (inputs) and 3 (fabrics) and have taken steps with their tier 4 (raw materials) suppliers too.
- **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.

Use of innovative technology for traceability:

- **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.
- **The Responsible Sourcing Blockchain Network (RSBN)** was built on the IBM Blockchain platform and assured by RCS Global Group against standards and best practices set by the OECD and the Responsible Minerals Initiative¹⁴. It is used by, for example, Glencore Plc, which is one of the largest industrial cobalt producers.
- The **tex.tracer** platform is using block chain to trace origin in the garment industry enabling verification of each step in the supply chain. Each supply chain partner uploads product data, pictures and documents in the tex.tracer web-app. The platform has been used by, for example, Euretco and Baby Face.
- **Oritain** provides scientific verification services to brands, using 'origin fingerprints' to scientifically verify if the product is consistent with its claimed origin. While this is different to assessing the instances of poor labour practices, it can be a helpful tool to ascertain whether, for example, cotton has been sourced from a region notorious for labour rights issues. Examples of partners include the A2 Milk Company, Cone Denim, Myer and Country Road. Other companies the authors have spoken to have also trialled used Oritain; to make it cost efficient, they've used it on samples. These samples are collected from a supply chain and then products are tested against the fingerprints stored in the database and Oritain can see if the material comes from where the company claims it is from.

Using NGO insights to identify and mitigate risk:

- Before considering sourcing from Cambodia, Wesfarmers consulted with Oxfam about human rights issues in the country.
- Walmart reports that it is a member of the Seafood Task Force and its elected Board of Directors. As reported by Walmart: "STF is an international and multi-stakeholder initiative established by seafood processors, feed producers, merchants, retailers, suppliers and NGOs, to address risks of forced labor and illegal fishing in the Thai seafood supply chain. STF is working with government and industry stakeholders to enhance regulation and codes of conduct to improve labor conditions in seafood supply chains. In FY19, [Walmart's] Responsible Sourcing participated in multiple STF subgroups and helped develop farm-level training to build capacity of shrimp farmers in Thailand".

Supply chain risk assessment:

Individual companies apply various approaches to risk identification and categorisation. There is no one-size-fits-all approach but the main point is that companies have thought through the risk of modern slavery and human rights issues properly and used a tailored approach for their business. Examples include:

- Most companies that reported against the MSA in Australia for the first time made few comments about risks beyond tier 1. KMD says full visibility is currently limited to tier 1 suppliers (assembly,

¹⁴ <https://www.ibm.com/blogs/blockchain/2020/12/blockchain-and-sustainability-through-responsible-sourcing/>

cutting and sewing) while visibility into tier 2 (weaving, knitting, finishing, dyeing, printing, tanneries, etc) is limited and visibility into tier 3 (raw material processing) and tier 4 (raw material production) is very limited. KMD acknowledges that the risks of modern slavery is increasingly more prominent in the tiers 2, 3 and 4 due to less transparency and the fact that they're not part of KMD's auditing programs. However, KMD has tracked and identified all tier 2 indirect suppliers for their strategic tier 1 suppliers. They've also increased dialogue with some tier 2 suppliers, mainly fabric mills.

- **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.
- **Woolworths** (Australia) uses a risk-based approach based on the global slavery index and other key information sources as well as leverage (historical data and spend level). Bluescope Steel is another company that is taking a risk-based approach. Blackmores risk-map their portfolio based on risk to people (e.g. prevalence of migrant labour) and has a risk rating and prioritisation of engagement process. They also take a wider human rights perspective than just modern slavery (including living wages, working conditions, grievance mechanisms and freedom of association).
- **IKEA's IWAY** is a tool for risk assessment, development, compliance, and verification. The company's risk assessment approach can be summarised as follows: before on-boarding, potential suppliers are provided with the supplier code of conduct (IWAY) and contractual documents, including a preliminary individual risk assessment questionnaire to comply with expectations. Areas covered include whether the supplier works in shifts, overnight or seasonally, employment of young people, use of sub-contractors and whether prison workers or migrant workers are employed. The system also assesses IKEA's level of influence (level of spend). The answers to the questionnaire are assessed by procurement sustainability developers to allocate a risk rating, using IKEA's supplier risk rating tool. That tool is based on three datasets; responses to the questionnaire, records held about the supplier (including previous concerns) and advisory data provided by consultants (risk ratings based on industry and geographic location). Next local knowledge and experience are added to allocate a final risk rating.
- Many retailers (e.g. Universal Stores) are considering combating slavery as a multi-year journey (in line with the spirit of the MSA) and puts their main focus on private labels first (while this is not necessarily where the key risk to people is, it is the area where the company's brand damage would likely be the highest). Universal Stores is working on ways to spot potential red flags in the supply chain by identifying excessive working hours, use of labour hire fees, use of migrant workers, etc.
- While a common approach is to use the publicly available document the Global Slavery Index, some companies, such as Asaleo Care and Woolworths make use of the US Department List of Goods Produced by Forced Labour / the US Government's Withhold Release Orders to further inform their risk identification process. Asaleo Care's risk identification is presented in their MSA statement across a) identified sector-based risk, b) identified geographic-based risks and c) salient modern slavery and workers' rights issues, which gives a transparent overview of wider human rights risks.
- **Nike** is working towards mapping risks up the supply chain, expanding engagement with tier 2 suppliers. They've prioritised work on forced labour risks to focus on suppliers employing foreign migrant workers and is using Verité's CUMULUS Forced Labor Screen that identifies risks related to recruitment of foreign migrant workers at tier 1 and tier 2 levels.
- **ANZ's** risk assessment utilises a number of sources: the Global Slavery Index, The Mekong Club, Fintel Alliance, International Labour Organization, the Social Hotspots database and Transparency International. Their risk assessment pays particular attention to certain 'high-risk' sectors (e.g. agriculture, manufacturing, domestic work), certain countries with higher estimated numbers of victims than others, unskilled or low skilled work (eg. labouring, cleaning), vulnerable groups (e.g. migrant workers or children and women). Bingo Industries also uses a number of different sources for their risk assessment: proportion of unskilled labour - Exiobase (global database indicators), risk score for labour rights and decent work, health, safety, human rights, governance and community infrastructure - Social Hotspot Database (global database of indicators), prevalence and vulnerability country scores (the Global Slavery Index), child rights and due diligence response per country - Child Rights Index, as well as evidence of modern slavery issues cited in literature.

Reporting and transparency:

- A few years ago, H&M published a list of almost 99% of their suppliers' names and addresses on

their website and updates it on a quarterly basis. Target (Wesfarmers) is considering publishing all their tier 2 suppliers on their website. Adidas reports annually on social compliance performance ratings of their key strategic suppliers. Woolworths' disclosure on risk assessment is one of the good examples in Australia. Kathmandu (KMin its MSA statement provides a detailed overview of their geographical risk ratings (extreme, high, medium and low), including the key issues by jurisdiction.

- Examples of companies with relatively good reporting under the UK MSA 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).
- In terms of reporting against the Australian MSA, some specific points on best practice worth considering are:
 - Not assuming that Australian operations are automatically 'low risk' (estimates of modern slavery in Australia have ranged from 1,500 to 15,000, before Covid-19).
 - Risk map beyond tier 1 suppliers or have plans in place to do so.
 - Taking a whole-of-value chain perspective (i.e. not just the supply chain).
 - Making reference to the UN Guiding Principles (as per the guidance) and taking a wider human rights lens rather than a narrow modern slavery focus.
 - Target dates for future actions planned.
- However, the purpose of this toolkit is not to assess compliance against any Modern Slavery Act. For further analysis on reporting quality in Australia, please see, for instance, research by Monash University¹⁵ and ACSI/Pillar Two¹⁶. Nevertheless, examples of good reporting under the Australian MSA include Asaleo Care (comprehensive breakdown of tier 1 suppliers by geographic location, policy framework and governance / areas of responsibility as well as key risk areas identified to date) and Woolworths, which describes how they have dealt with instances of labour rights issues and reports comprehensively on Woolworths' approach on responsible sourcing.
- The Australian MSA does not include a provision for monitoring and assessment or reporting on risk at customer level; it focuses on operations and suppliers. However, some companies face significant risk at a customer level and have an approach / have reported on how this is managed, e.g. SEEK (e.g. risk of fake job ads or labour hire fees involved in job ads posted on their platform) or ANZ and how it deals with modern slavery risk attached to anti-money laundering risk in deposit taking. ANZ's Anti-Money Laundering (AML) and Counter Terrorism Financing (CTF) Program and Sanctions Program is directing ANZ's approach to identifying, managing and mitigating AML/CTF and Sanctions risk across ANZ globally. Their policies mandate minimum standards for screening and due diligence covering customer on-boarding, ongoing and enhanced due diligence, and also reporting obligations. ANZ applies an enhanced DD program in high-risk countries and sectors as determined by their Social Hotspots Database. For private customers, ANZ has Anti-money Laundering and Counter Terrorism obligations (AML/CTF) and they monitor customer accounts to identify unusual activity that may be related to a money laundering offence, including modern slavery risks. They investigate unusual account activity, using a range of indicators and typologies.

Specific areas of concern: COVID-19, modern slavery hotspots and sexual harassment

- **COVID-19:** The pandemic has led to a number of additional complexities and risks in global supply chains. At the very least, the additional risks should be acknowledged and ideally, risk assessments should be updated to reflect the new environment. Some companies have also explicitly carried out training to increase awareness of the vulnerability of workers as a result of COVID-19, for instance Abacus Property. Other companies have made adjustments to how they deal with customers, e.g. AGL providing short term support for small business suppliers such as quicker payment terms, which reduces the risk of underpaid workers at supplier level. COVID-19 also poses challenges for traditional audits (outlined below).
- **Modern slavery geographical hotspots:** Due to the complexity of global supply chains and the fact that cotton fibres often get blended and mixed at various stages, it is difficult for companies to give assurance that their cotton has no links to hot spots for forced labour. Also, suppliers themselves

¹⁵ <https://www.monash.edu/news/articles/identifying-modern-slavery-an-analysis-of-australias-largest-companies>

¹⁶ <https://acsi.org.au/research-reports/moving-from-paper-to-practice-asx200-reporting-under-australias-modern-slavery-act/>

might also face reprisals from local government for taking action. However, at the very least companies can acknowledge the risk in their MSA statements in an explicit way and also make explicit statements in their supplier codes of conduct that they want to avoid cotton from such regions.

- In year one of the Australian MSA, the search term 'Xinjiang' only showed up in a small percentage of the statements submitted. In statements where the term was mentioned, the discussion varies from for example, JB Hi-Fi, which has undertaken to 'build awareness', to Nike being 'deeply concerned about reports of forced labour in, and connected to, the XUAR' (Xinjiang Uyghur Autonomous Region). Nike states they do not source products from the XUAR and they say they've confirmed with their contract suppliers that they are not using textiles or spun yarn from the region. They also say they conduct ongoing diligence with suppliers to identify and assess risks related to employment of Uyghurs and other ethnic minorities from XUAR in other parts of China. Nike says it has taken steps to strengthen its audit program to identify risks related to potential labour transfer programs of Uyghurs from the XUAR. IKEA uses The Better Cotton Initiative, which decided to suspend their assurance services in Xinjiang and IKEA uses cotton experts and human rights experts to monitor the situation in other parts of China. Adidas has communicated to their Chinese suppliers strict prohibition on all forms of forced labour, including prison labour, and has conducted due diligence to ensure supply chain partners. Aristocrat Leisure has updated its supplier survey with questions to ascertain whether goods / raw materials / components used are directly or indirectly sourced, processed, manufactured, packaged or distributed in Xinjiang or other regions in China where forced or compulsory Uyghur labour may be used, as well as what steps suppliers are taking in that case.
- **Shipping:** For shipping, ALD uses a vessel vetting process using World Check, a third-party due diligence screening tool (owners screened for instances of adverse media or litigation), Maritime Labour Convention certificates, compliance checks against the Oil Companies International Marine Forum vessel inspection report and Port State Control reports.
- **Sexual harassment:** A significant part of the total number of people in modern slavery conditions are women and a big part of modern slavery relates to sex trafficking. CARE Australia has estimated that sexual harassment cost the Cambodian garment industry approximately US\$89m (e.g. through lost productivity) in 2017¹⁷. Sometimes there is a fine line between what's technically defined as 'modern slavery' and 'sexual coercion'. Key hurdles to overcome this include social norms and inadequate follow-ups or remediation taken by companies, which discourages whistleblowers. Leading practices include training. Among companies that have explicitly mentioned actions taken, awareness and training is a good starting point and best practice is allowing workers to express their concerns in a safe space as well as correcting misaligned pay structures. Sexual harassment is a largely under reported issue. At the very least, companies with high exposure to the risk of sexual harassment should acknowledge the risk. Kathmandu points out the issue of sexual harassment in the supply chain, e.g. in Indonesia, and make the point that women make up ~80% of the world's garment workers and are exposed to high levels of violence, including sexual harassment. Kathmandu acknowledges that traditional audits are inadequate to identify an issue like sexual harassment.

POTENTIAL QUESTIONS:

1. *How comprehensive is your supply chain mapping? How did you go about mapping out the supply chain?*
2. *Is your supply chain mapping going beyond tier 1 suppliers? If not, are you planning to extend to that level of mapping and if so, when?*
3. *Do you identify the main categories of products/services/parts/raw materials that feed into your products, and classify them by sourcing country, as part of your risk assessment?*
4. *Some listed retailers have published factory and supplier lists and some are planning to publish tier 2 factory lists, what needs to happen for you to be able to do the same?*
5. *Have you considered using blockchain or forensic analysis to trace the origin of your products as part of supply chain mapping?*
6. *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? What risk factors or indicators were used (e.g. country risk)?*
7. *Have you consulted with NGOs or human rights specialists about their views as part of your risk*

¹⁷ <https://www.care.org.au/blog/combating-sexual-harassment/>

assessment? If so, how have you factored in their views/data to your due diligence process and risk assessments?

8. Are there potential reputational or other financial risks related to human rights issues at customer level (i.e. not just in the supply chain) and if so, what steps are you taking to mitigate those?

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

BUSINESS RATIONALE / CONTEXT

It is vital to have robust governance on human rights / modern slavery in order to ensure that policies on human rights, working conditions and modern slavery are embedded in business operations. This is particularly important when companies switch supply chain strategies to increase direct sourcing, in order to obtain financial benefits, as opposed to using agents. To use an analogy, an occupational health and safety policy that is not embedded in operations will unlikely yield any tangible improvements on safety statistics. In a similar vein, policies on issues discussed in this toolkit need to be embedded in operations. Also, having robust governance helps companies to measure effectiveness and assists companies with their remediation.

Having policies in place reflects senior management buy-in and oversight. Leading companies see supplier codes of conduct not as a static documents but evolving ones and update them regularly. 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)

Access to effective remedy is a core component of the UN Guiding Principles on the Business and Human Rights (UNGPs). Guiding Principle 22 provides that where "business enterprises identify that they have caused or contributed to adverse impacts, they should provide for or cooperate in their remediation through legitimate processes".

When it comes to remediation, this can take many forms. For instance, while it may not be a core competency of a company that discovers a labour rights issue in the supply chain to provide remedy, such a company can partner or collaborate with an NGO or another organisation which does have this as their core competency.

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.
- **Ban on fees for labour hire companies** – while labour hire fees may be legal in some jurisdictions, they may be a precursor to modern slavery situations, particularly for migrant workers. Labour hire-specific codes of conduct and monitoring also help manage this high-risk area.

EXAMPLES:

Policy framework:

- **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’). Asaleo Care has had a responsible sourcing program based on the ETI base code since 2014 where they identify and screen suppliers' practices. They have an initial supplier screening process and are members of SEDEX which provides risk assessment, further enhanced by a SAQ inherent risk rating and previous audit findings.
- **IKEA** requires all their direct suppliers to comply with its supplier code of conduct (IWAY) and also requests direct suppliers to communicate the key requirements (e.g. child labour, forced and bonded labour, business ethics, severe environmental and safety issues, minimum wages and accident insurance) of that to their own suppliers. For critical sub-suppliers, IKEA’s direct supplier must confirm that the musts are adhered to due diligence / audits of supply chain and taking steps for continuous improvement. Major non-compliances must be fixed within 14 days and other issues within 90 days. IWAY was launched in 2000, is based on the core ILO conventions and the guidance of the Ten Principles of the UN Global Compact and has been updated on a regular basis.
- **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.”
- **SarinaRusso** has a restrictive petty cash procedure that responds to the risk that improper underpayments for goods and services are often facilitated by cash payments. This is an example of policies and controls that may appear only indirectly related to human rights risk but which nevertheless help manage risk.

Grievance mechanisms and remedy:

- 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).
- **Ulula** provides ‘worker’s voice’ solution using WhatsApp, e-mail, SMS, voice calls, Facebook, Owl App, Web, etc and reaches 1.3 million people across 30 countries. They are used by e.g. L’Oreal, Under Armour, Ecovadis, M&S, Sainsbury’s and CCX. Also, Ulula provides a country-wide grievance mechanism through Amfori: 46 countries, 27,000 suppliers and 700 factories in Vietnam with an accessible mechanism via Zalo and Web. This is anonymous and focuses on effective remediation (KPIs). Ulula is also strengthening Worker Voice (worker voice survey instrument and grievance line) in the palm oil sector (interesting case for engagement with e.g. COL and WOW...) with a partnership with RSPO, growers, buyers etc. Multi-stakeholder and multi-lingual. Buyers can access data and allocate more resources to remedy.
- A number of companies say in their MSA statements that they encourage staff and contractors to report suspicious cases through whistle-blower channels (ideally cater for anonymous reporting and in the language used by workers) although few report on actual cases of modern slavery identified. Best practice in terms of disclosure is a breakdown of the issues identified and actions taken on these. Woolworths’ disclosure is a case of good practice in this area, including details on how remediation has been undertaken.
- **Adidas** has a ‘Human Rights Complaints Process’ and supply chain workers have access to a dedicated operational grievance channel at factory level, which is an application-based ‘workers voice’ platform, effectively giving 450,000 workers across 111 factories access in 2020. Responses are tracked by Adidas, using KPIs and dashboard reviews, case satisfaction ratings and on-site

worker interviews.

- **Marks & Spencer** stated in its 2020 Modern Slavery Statement (UK MSA) that the charity Unseen's modern slavery helpline, launched in 2017, had taken 41,500 calls and online reports, indicating more than 16,500 potential victims of modern slavery. In 2019, 50% of the cases reported related to those in situations of forced labour. In 2019, Marks & Spencer extended their sponsorship of the helpline, becoming members of the Modern Slavery Helpline Business Portal, which has given them visibility for potential cases of modern slavery relating to Marks & Spencer and when required, cases are investigated by the Human Rights Manager with the support of Unseen and remediation provided where appropriate.
- **Blackmores** utilises a Corrective and Preventive Action protocol existing in their Supplier Relationship Management System to work with the supplier to better understand the cause of the concern as well as the action and timing to remediate.
- **Bluescope** has a whistle-blower hotline open to all stakeholders and has policies and processes in place to provide safe reporting. Boral has a FairCall external whistleblowing service that has been extended to its supplier base. Costa Group have a whistle-blower hotline available to all staff and contractors, which is bilingual.

Labour hire fees / migrant workers:

- **IKEA** is a founding member of the Leadership Group for Responsible Recruitment, focusing on three areas across the supply chain: creating demand for responsible recruitment by developing and sharing tools / insights for implementation; creating a supply of ethically sourced labour by supporting systems to identify ethical recruitment agencies; and protection of migrant workers through improved regulation. They also support the development of International Recruitment Integrity System, which is a voluntary certification scheme for labour recruitment agencies.
- With migrant labour (typically vulnerable to exploitation and loss of basic rights), a key problem is their lack of awareness of rights. An emerging best practice (Woolworths is an example) is to train migrant workers about their rights before departure.
- **SEEK** (Australia) mandates that recruitment fees in job ads placed with them are transparent and also have a whistleblower mechanism for reporting of suspicious ads. This is significant as excessive recruitment fees are a major cause of global slavery risk.

POTENTIAL QUESTIONS:

1. *Who is responsible for ethical sourcing? What level of reporting goes to executive management and the board?*
2. *What does your ethical sourcing policy cover and how do you communicate that policy to suppliers? What areas does your ethical sourcing policy not cover? What is 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 your ethical sourcing policy go over and beyond local legal minimum requirements? For instance, does your ethical sourcing policy refer to 'living wages' or simply the legal minimum wage? Does your ethical sourcing policy include grievance mechanisms?*
4. *How are you enforcing the policy at supplier level and beyond that?*
5. *What processes have you implemented for when your 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 policy is done internally and provided to external stakeholders?*
7. *What mechanisms have you implemented to ensure that your 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. *Do you request that your suppliers use certified labour hire companies only? Do you have a ban on labour hire fees, and follow the 'employer pays principle' (that no worker should pay for a job)?*

9. *How do you ensure that your suppliers are not cutting corners on pay when it is simultaneously putting price pressure on its suppliers?*
10. *How do you ensure you have the necessary in-house competence on labour rights to do direct sourcing (if switching from use of agents to direct sourcing)?*

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:

- **Supply chain consolidation:** In recent years, the Department Stores businesses of Wesfarmers have consolidated their supply chains, sourcing more from fewer suppliers, e.g. in Bangladesh and also harmonised the sourcing policies between Target and Kmart. Big W (Woolworths) has also rationalized its supplier base in Bangladesh. Adidas is another example of a company that has consolidated its supply chain, sourcing from fewer independent factories over time with the intention to work with fewer factories and provide them with more orders. In 2019 Adidas worked with 631 independent factories (vs 684 in 2018). Some companies are using the MSA and its risk identification as an opportunity to pursue vendor rationalisation. One of the key objectives of genU's Procurement Optimisation Program is to consolidate their supply chain, both to obtain cost efficiencies and to be better placed to manage supply chain risks, including modern slavery.
- **Know your supplier:** Kathmandu have used the same suppliers in China for many years and Super Retail Group has developed close relationships with Chinese suppliers and have identified cost savings in areas other than labour costs. Blackmores has focused on long-term relationships with their suppliers and is also engaging with the industry association to ensure other buyers are asking the same questions. City Chic (CCX) have maintained long-standing relationships with their suppliers. By the end of 2020, 61% of their strategic suppliers had worked with Adidas for more than 10 years and 30% for more than 20 years.
- **Working with suppliers to monitor risk further down in the supply chain:** LG Electronics 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. Adidas has adopted a strategy of a 'coaching role' for its strategic tier 1 and 2 suppliers. Whilst this mainly focuses on greenhouse gas emission reductions, it can also be applied to labour rights standards.

- **Understanding buyer behaviour and the impact on suppliers:** Better Buying is a 3rd party initiative where suppliers register and rate customers. The Better Buying Purchasing Index scores buyers from 1-5 and covers, for example, planning and forecasting, costs and negotiations, payment terms and CSR harmonization. Using this can empower suppliers to speak their mind and provide a reality check on supplier relationships and ultimately improve buyer-supplier relationships.

POTENTIAL QUESTIONS:

1. *What is the average tenure of your suppliers and how has this changed over time?*
2. *Has management visited the company's key strategic suppliers?*
3. *How do you ensure that suppliers are incentivised to comply with the ethical sourcing policy? Do you reward suppliers that comply with the responsible sourcing policy with more business and other means of cultivating long-term relationships with suppliers?*
4. *Have you considered building strong relationships with suppliers through consolidation of supply chains, sourcing more from fewer suppliers in order to improve alignment and practices, increase visibility and reduce complexity of supply chains?*
5. *Is there scope for supply chain consolidation to increase financial leverage but also increase leverage on human rights issues?*
6. *Do you incentivise suppliers to monitor conditions in the next tier of the supply chain, and to share information along the supply-chain to better map and manage risk?*
7. *Is exit from a supplier relationship (due to human rights concerns/violations) only considered in either: the most egregious cases where engagement will not have an impact; or after strong and persistent engagement, training, and steps to improve outcomes for workers?*
8. *Do you collaborate with other buyers from the same supplier on factory standards and human rights issues?*
9. *To what extent do you 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)*
10. *Many of the human rights issues in the supply chain are of a systemic nature. To what extent do you participate in multi-stakeholder initiatives on human rights?*
11. *Do you survey your own suppliers to identify behaviours that might contribute to labour rights issues at supplier level?*

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

BUSINESS RATIONALE / CONTEXT

Audits are recognised as a common responsible sourcing tool yet there are challenges that audits face which impact their effectiveness. Audits represent a snapshot of conditions on a particular day but the tool itself does not create change and can be costly for companies. There is a lack of standardisation of auditing processes, creating inconsistency between audits and audit providers, and causing confusion for suppliers. This has resulted in audits not producing the right answers if they weren't curated to ask the right questions. For instance, sexual harassment (see above) is often missed by audits. Another issue associated with the lack of standardisation is 'audit fatigue' which is a complaint often made by suppliers as they face different requirements from different buyers. Furthermore, 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. Even if access is available, the effectiveness of the audit may be limited by workers afraid to speak out when interviewed inside the factory. Companies are often encouraged to establish their own presence on the ground and work closely with suppliers (as per above), particularly in high-risk countries (such as Bangladesh).

For these reasons and others, leading companies are encouraged to explore other tools and practices beyond audits, such as worker voice, closer supplier relationships, NGO partnerships and establishing a larger buyer/company presence 'on the ground' in high risk areas. 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.

Despite concerns about the efficacy of audit programs, they are still widespread, and there few companies have phased out audits completely or found a complete replacement. Well designed and manager audit programs, paired with other forms of supplier monitoring can deliver value, as evidenced by the examples below, but poor quality audit programs should be questioned.

EXAMPLES:

- **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). Because Wesfarmers have added people on the ground in Bangladesh and India, they've been able to visit factories even during the pandemic and have not been completely restricted by the travel bans. Also, During the COVID-19 pandemic, Wesfarmers has used 'virtual audits' as an alternative to traditional in-person audits. Because of the presence on the ground (as opposed to having the entire buying team and responsible sourcing team based in Australia), Wesfarmers have also managed to visit factories during the pandemic.
- Adidas reports on the number of factory visits undertaken and reports on the number of training sessions and workshops for suppliers.
- **Realisation of limitations of over reliance on social audits as the only tool:** Woolworths says 'auditing alone will not be sufficient to resolve these issues in the long term' so in FY22, they will partner with strategic suppliers to explore the root cause of these issues and pilot improvement KPIs in an attempt to make progress on these industry-wide issues. Woolworths mentions, for instance in relation to the risk of forced labour in Malaysia that they're implementing requirements for pre-departure briefings for migrant workers before they leave their home country.
- KMD acknowledges the inadequacies of traditional audits to identify issues like workplace bullying, forced labour, modern slavery and other key issues. As a result, KMD has changed its mindset and focus from compliance and auditing to transparency and empowerment. This started with segmenting the supply chain: those KMD had a strong relationship with, those they had some influence with and those they had transaction supplier relationships with (and little influence). This enabled KMD to move away from a model focused on 'compliance' to greater ownership and investment by suppliers in their management systems and social processes. Worker Voice is one of the key tools for that.
- **Other examples:** Nestlé, 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.
- **Unified approach on sourcing:** Gap Inc have integrated compliance and sourcing teams. At Woolworths, human rights form part of the KPIs for the procurement team, not just the responsible sourcing team (just like safety is typically a KPI for more than the team directly responsible for the occupational health and safety program). **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. Universal Stores works towards greater understanding of ESG issues at the designer team and making ESG part of negotiations with suppliers by the product team. One such strategy is to incentivise the procurement team to achieve acceptance of the supplier code of conduct and getting suppliers to join SEDEX, which will ultimately give the company greater visibility. Woolworths is scaling up accountability and KPIs on sustainability for their procurement team, including ethical sourcing. Wesfarmers also says the procurement teams has the responsibility for labour rights issues as responsible sourcing teams.
- **Other: Dupli Envelope and Graphics (US)** recommend researching on potential suppliers' 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. Amcor uses 3rd

party certifications for issues like fair labour, mining activities, environmental controls, etc. Examples include Bonsucro (traceability of sugar cane sustainability claims along the supply chain from the farm to the end user), and the Aluminium Stewardship Initiative (ASI). Amcor is a member of SEDEX and Ecovadis for systemic risk management of labour rights issues in the supply chain.

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. *Have you appointed a supply chain auditor (internal or external) who has a track record of finding forced labour and human trafficking? Do they disclose the findings? How are you acting on audit findings?*
3. *How do you ensure auditors a) remain independent and b) cover the key risks in their audit assessments?*
4. *Do the audit practices include: non-scheduled unannounced visits; a review of relevant documents; off-site interviews with workers; visits to associated production facilities and related worker housing; and steps to ensure that suppliers below the first tier are monitored? How frequent are these audits?*
5. *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?*
6. *What KPIs do the procurement team and ethical sourcing team have and how are they aligned?*
7. *How is the true cost of labour being calculated and incorporated in the pricing negotiations?*
8. *Do you partner with any NGOs on audit programs?*
9. *Are human rights and labour practices issues monitored even during other types of site visits conducted by company staff (e.g. on prospective buying trips, ongoing quality monitoring trips from buyers, etc.)?*

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:

- **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.
- The MSA statements in Australia give several examples of companies pursuing training of procurement staff including using experts in slavery in their training

POTENTIAL QUESTIONS:

1. *How do you 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 do you respond when issues emerge? Have you considered the ETI base code for guidance?*
5. *Do you have plans to broaden understanding and uptake of its ethical sourcing and other human rights related policies throughout the organization?*

F. COLLABORATION WITH PEERS AND OTHER STAKEHOLDERS

BUSINESS RATIONALE / CONTEXT

Many human rights issues in supply chains are systemic in nature. However, there is significant scope for collaboration between peers and through multi-stakeholder groups. Leading companies are increasingly participating in multi-stakeholder initiatives, and engaging with NGOs and industry associations/ governments, adopting a multi-faceted approach rather than attempting to solve the issues on their own. In terms of engagement, companies with smaller footprints often contend that their size limits their influence over these issues. But companies can act together collaboratively. As highlighted in Section D, audits don't always identify the issues, can lead to counter-productive results, lead to audit fatigue and can also be costly with often the cost being passed down by the supplier / factory. This is why industry collaboration and shared audit data can be beneficial. Also, some areas might not be a natural core competence for most organisations and this is where collaboration with other stakeholders can be very beneficial. For instance, once issues have been detected, remediation can be difficult in practice for an organisation with no experience in that. In such cases, companies may find it beneficial to partner with NGOs or other organisations focused on that.

EXAMPLES:

- The Cleaning Accountability Framework (CAF)¹⁸ is a multi-stakeholder initiative aiming to improve labour practices in the cleaning industry, working with cleaners, tenants, contractors, property owners, facility managers as well as investors across the supply chain for cleaning in order to ensure ethical labour practices. The framework is based on the pillars of decent work (fair pay, freely chosen work and more), sustainable procurement (transparency and accountability) and best practice (CAF certification scheme).
- Industry collaboration can help companies significantly; sharing insights and research can help companies both identify and mitigate risks. Examples of industry collaboration around modern slavery include that of The Property Council of Australia and the Australian Banking Association.
- The property industry, where many companies have very similar supply chains, has collaborated on risk identification. A number of property companies identify high risk categories through their supply chains by applying The Methodology for the Development of Social Risk Ratings for the Property Council of Australia's Supplier Pre-selection Platform prepared by an external consultant. This method uses a data set to ascertain social risk ratings that most relevant to modern slavery issues in key procurement categories that are relevant to the property sector and a life cycle assessment to determine where modern slavery is most likely to be found. That method uses five social risk categories: labour rights and decent work, health and safety, human rights, governance and community infrastructure to prepare a social hot spot database to indicate the likelihood of an issue occurring in different industries and countries. Also, within the social risk categories impacts relating to modern slavery such as child labour, forced labour, excessive working time, safe working conditions, exploitation of migrant labour, and general human rights and governance were assessed. High risk areas identified have one or more of the following attributes within their operations: labour dependency, low-skilled labour, labour-intensive role, use of temporary, night-time or contractor works, manufacturing of building products that could result in supporting modern slavery, prevalence of work-related injuries and lack of bargaining rights and/or grievance mechanisms. The supplier portal of the Property Council of Australia allows members to request

¹⁸ <https://www.cleaningaccountability.org.au/>

high-risk suppliers to complete a questionnaire to gain insight and transparency, reducing administrative burden on suppliers, encourages industry education and reduces costs for suppliers, etc. Other industries in Australia where there has been collaboration includes the banking and mining sectors.

- The Australian Banking Association established a Modern Slavery Working Group that builds on individual banks' anti-money laundering and financial intelligence processes. The initiative includes 16 members aims to develop a common understanding of modern slavery risks and how to spot red flags.
- In 2020, Blackmores partnered with colleagues to form the complementary Medicines Australia Modern Slavery Working Group to develop an industry-wide approach to assessing human rights risk and there is also collaboration between some mining companies in Australia.
- As a relatively small firm compared to many of its suppliers, JB Hi-Fi participates in the Responsible Business Alliance to achieve leverage and collaborate with peers on responsible sourcing.
- Investors have also collaborated on modern slavery risks, for instance through RIAA's Human Rights Working Group (including investor toolkits, a guide on the MSA from an investor perspective in collaboration with ACSI), Investors Against Slavery and Trafficking – Asia-Pacific (investor statement and engagements) and others.

POTENTIAL QUESTIONS:

1. *Are you a member of any multi-stakeholder collaborations or industry initiatives related to human rights or modern slavery? Do you provide details of participation and commitments made as part of the multi-stakeholder group rather than just passive membership?*
2. *If not, are you a member of any general industry initiatives and have you considered how that group may be able to collaborate or take action on human rights and labour standards issues common to the industry, such as the formation of a modern slavery working group or forum, or the development of an industry code of practice?*
3. *To what extent are you collaborating with other stakeholders, such as unions, NGOs and peers on labour rights issues?*
4. *When instances of modern slavery have been identified, have you partnered with or involved NGOs and independent subject matter or local experts in the investigation and remediation process?*

APPENDIX 1

KEY UNDERLYING ISSUES

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 covers 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:

- 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.
- L'Oréal has announced a commitment on living wages by 2030: ‘Building on our commitment to secure a living income for all our employees, we will ensure that by 2030, all of our strategic suppliers’ employees are also paid a living wage, in line with best practices”¹⁹ and has partnered with the Fair Wage Network.
- Outland Denim has, as one of its four pillars, the concept of living wages and calls it ‘integral’ to their processes. They define a living wage as a wage that ensures workers have enough income to not only afford a decent standard of living by covering necessary expenses (food, housing, healthcare, and education, just to name a few), but also to prepare and save for unexpected events.
- In 2021, the German supermarket chain Aldi made a statement on living wages in their supply chain when they published an International Position Statement on Living Wages and Living Incomes in which it states that “Living wages and living incomes are an integral part of human rights and are essential if we want to address inequality and eradicate poverty”.

POTENTIAL QUESTIONS:

1. *Have you 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. *Have you considered factoring in true costs of labour in its pricing methodology?*
3. *Have you considered joining other peers in their efforts to encourage governments to implement a living wage?*
4. *Have you engaged with / partnered with NGOs to establish and implement living wages?*

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:

- **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

¹⁹ <https://www.loreal.com/en/news/commitments/loreal-is-committed-to-achieving-living-wages-for-all/>

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 do you ensure that 'freedom of association' is being followed and is it part of the initial supplier assessment before trading commences?*
2. *How are you collaborating with other buyers from the same supplier to ensure freedom of association is respected?*

C) GRIEVANCE AND REMEDIATION

As discussed above, grievance mechanisms and remedy can take many forms. 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:

- **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 do you 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. *What processes do you have implemented for when issues emerge? Is there a documented policy or procedure for the investigation of incidents, and is worker safety put at the center of the investigation?*
4. *Where incidents are identified where human rights harm has occurred, are steps taken to understanding the company’s role in the incident (per the ‘caused, contributed, directly linked to’ framework provided by the UN Guiding Principles on Business and Human Rights), and taking the necessary steps to provide, support or encourage access to remedy?*
5. *Where the company has been involved in providing remediation: have you partnered with NGO’s and specialists in remediation relevant to the issue and the region?*
6. *Have you considered the Ethical Trading Initiative (ETI) base code for guidance?*
7. *Have you 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.

Also, as discussed above, while it is unlawful for labour hire companies to charge workers fees in Australia, it is legal in many countries in Asia. This is a major challenge for companies that apply a legalistic mindset as fees to labour hire companies can lead to bonded labour (part of ‘modern slavery’ as per the definition in Australia’s MSA). The Employer Pays Principle (EPP) dictates that no worker should pay for a job – the costs of recruitment should be borne not the by the worker but by the employer. This principle supports Principle 1 of the Dhaka Principles for migration with dignity, which calls for no fees to be charged to migrant workers

EXAMPLES:

- As of 2021, governments in Queensland, Victoria and South Australia have enacted labour hire licensing laws to protect workers from exploitation. There has been talk of a national scheme at federal government level. Some companies have stipulated that they only use certified labour hire companies.
- Woolworths and Costa Group both provide a transparent overview of its use of labour hire firms. Woolworths noted in their Australian MSA statement in 2021 that across the 532 sites using labour hire firms, 130 (51%) LHPs were identified as meeting the Requirements and of those, 81% have state-based labour hire licences, 17% have registered employer status on the Seasonal Worker Program, and 2% hold StaffSure accreditation.

POTENTIAL QUESTIONS:

1. *Do you require suppliers to use certified labour hire companies only?*
2. *Have you banned fees for labour hire firms in your contract? Do you formally support the Employer Pays Principle?*
3. *How do you ensure that your suppliers are not cutting corners on pay when you are simultaneously putting price pressure on your suppliers?*
4. *Does your supplier questionnaire and audit specifically cover and explore use of labour hire companies?*
5. *Does your supply chain program include engaging with, monitoring and auditing labour hire companies? Is the audit approach adapted specifically to labour hire companies?*

APPENDIX 2 UNITED NATIONS GUIDING PRINCIPLES ON BUSINESS AND HUMAN RIGHTS / UNITED NATIONS GLOBAL COMPACT

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 UN GPs can be found here: <https://www.unglobalcompact.org/library/2>.

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

THE FIRST EDITION OF THIS TOOLKIT:

RIAA's Investor Toolkit – Human Rights with focus on supply chains:

<https://responsibleinvestment.org/wp-content/uploads/2018/09/HRWG-Investor-Tool-Kit.pdf>

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?ppXz9ivoyynr1uTT05e.Z5n.ZHaQvQfN
- 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/
- 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
- Fair labour Association Workplace Code of Conduct and Compliance Benchmarks 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

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
- 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/>
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THE AUSTRALIAN MODERN SLAVERY ACT (2018):

- The Australian Modern Slavery Act: <https://www.legislation.gov.au/Details/C2018A00153>
- Guidance for the Modern Slavery Act: <https://www.homeaffairs.gov.au/criminal-justice/files/modern-slavery-reporting-entities.pdf>
- Guide for investors on the Australian Modern Slavery Act: <https://responsibleinvestment.org/wp-content/uploads/2019/11/ACSI-RIAA-Modern-Slavery-Reporting-Guide-for-Investors-November-2019-2.pdf>
- The Australian Modern Slavery Act registry: <https://modernslaveryregister.gov.au/statements/>

RESEARCH ON / ASSESSMENT OF MODERN SLAVERY ACT (AUSTRALIA) STATEMENTS IN 2020-2021:

- ACSI / Pillar Two: <https://acsi.org.au/research-reports/moving-from-paper-to-practice-asx200-reporting-under-australias-modern-slavery-act/>
- Monash University: <https://www.monash.edu/news/articles/identifying-modern-slavery-an-analysis-of-australias-largest-companies>

EXTRACTIVES INDUSTRY:

- International Council on Mining and Minerals Sustainable Development Framework: 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>