

# **Due Diligence Guidance for Responsible Supply Chains in the Garment and Footwear Sector**

Draft for consultation | September 2015



## Draft for consultation

### Context

The OECD is developing a Due Diligence Guidance for Responsible Supply Chains in the Garment and Footwear Sector intended to support the development of a common understanding of supply chain due diligence in the garment and footwear supply chains; and clarify the expectations of enterprises in the design and implementation of effective risk-based due diligence.

### Invitation to contribute

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Government, business and civil society representatives, international organisations, and participants of the OECD Roundtable on Due Diligence in the Garment and Footwear Supply Chain taking place on 1-2 October 2015 are invited to contribute comments to the current draft of this Guidance.

**Sections 1 and 2** are ready for comment.

**Section 3** is in the process of development in collaboration with stakeholders. Stakeholders are encouraged to provide relevant resources and inputs for any of the chapters under Section 3.

All feedback should be sent to Jennifer Schappert, [Jennifer.Schappert@oecd.org](mailto:Jennifer.Schappert@oecd.org) by **23 October 2015**.

Comments received will inform the next draft of the Guidance which will then be the subject of an online public consultation in late 2015

### Contact

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If you have any questions regarding the consultation, please email [Jennifer.Schappert@oecd.org](mailto:Jennifer.Schappert@oecd.org).

To find out more about OECD work on responsible supply chains in the textile and garment sector please see:

<http://mneguidelines.oecd.org/responsible-supply-chains-textile-garment-sector.htm>

## OECD Guidelines for Multinational Enterprises

The OECD Guidelines for Multinational Enterprises (the OECD Guidelines) are the most comprehensive set of government-backed recommendations on what constitutes responsible business. They provide principles and standards of business conduct in areas of information disclosure, human rights, employment and industrial relations, environment, bribery and corruption, consumer interests, science and technology, competition, and taxation.

The Guidelines are one of four instruments of the OECD Declaration on International Investment and Multinational Enterprises, a policy commitment to provide an open and transparent international investment environment. They are addressed by governments to multinational enterprises operating in or from the adhering countries. 46 countries - 34 OECD and 12 non-OECD economies – currently adhere. Each adhering country sets up a National Contact Point to further the effectiveness of the Guidelines by undertaking promotional activities, handling inquiries, and contributing to the resolution of issues that arise from the alleged non-observance of the Guidelines in specific instances.

The Guidelines are the first international instrument to integrate the corporate responsibility to respect human rights as set out in the UN Guiding Principles on Business and Human Rights. The Guidelines are also the first international corporate responsibility instrument to incorporate risk-based due diligence into other major areas of business ethics related to adverse impacts, i.e. information disclosure, human rights, employment and industrial relations, environment, combating bribery, bribe solicitation and extortion, and consumer interests.

## **Introduction**

The garment and footwear sector is one of the largest consumer goods sectors in the world and provides employment opportunities to millions of workers worldwide, the majority of whom are women. Enterprises involved in the sector have the potential to generate growth, employment and skill development through their own operations and sourcing. However, in addition to these positive contributions, the garment and footwear sector holds risks of adverse human rights, labour and environmental impacts at various stages of the supply chain.

This Guidance provides a framework for risk-based supply chain due diligence as a basis for responsible global supply chains in the garment and footwear sector. This Guidance aims to help enterprises identify, mitigate and account for how they address their actual and potential adverse impacts in their supply chains and in doing so help enterprises contribute to sustainable development.

### **Purpose**

The purpose of this Guidance is to help enterprises across the entire garment and footwear supply chain conduct due diligence on matters covered by the OECD Guidelines in their supply chains. This Guidance serves to:

- Support the development of a common understanding of due diligence and responsible supply chain management in the garment and footwear sectors; and
- Clarify responsibilities of enterprises in the design and implementation of effective risk-based due diligence.

### **Target Audience**

This Guidance is intended to serve as a common reference for all enterprises in garment and footwear sector supply chain. As such, it applies to all enterprises operating in the supply chain, including but not limited to raw material and fibre producers, material manufacturers and processors (e.g. textile processors and manufacturers, rubber processors, etc.), components manufacturers (e.g. accessories manufacturers, heel and sole suppliers), footwear and garment manufacturers (e.g. cut-make-trim manufacturers), brands and retailers. This Guidance also applies to enterprises operating at various points along the supply chain including traders, buying agents, distributors, etc.

Additionally, the due diligence recommendations in this Guidance apply to industry-wide supply chain initiatives and multi-stakeholder initiatives that hold the objective of fulfilling collaborative due diligence.

### **Due Diligence**

All enterprises in the garment and footwear supply chain should carry out risk-based due diligence.

In the context of the OECD Guidelines ‘due diligence’ is understood as the process through which enterprises identify, prevent, mitigate and account for how they address their actual and potential adverse impacts. The OECD Guidelines concern those adverse impacts that are either caused or contributed to by the enterprise, or are directly linked to their operations, products or services by a business relationship<sup>1</sup>. Under the Guidelines, the due diligence provision uses the concept of “adverse impacts” to mean adverse impacts on matters covered by the Guidelines,

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1. The term ‘business relationship’ includes relationships with business partners, entities in the supply chain and any other non-State or State entities directly linked to its business operations, products or services. OECD Guidelines for Multinational Enterprises, Commentary on General Policies, Paragraphs 14.

unless explicitly excluded.<sup>2</sup> The term “risk” therefore refers to risks of adverse impacts on matters covered by the Guidelines, and not risk to the enterprise itself, although the two are often interrelated.<sup>3</sup>

Due diligence is understood as an on-going proactive and reactive process whereby enterprises take reasonable steps and make good faith efforts to identify and respond to risks of adverse impacts in accordance with this Guidance. In this context, it should be recognized that due diligence is an expectation of process not result. For example, failure to detect risk in one instance does not mean that the due diligence systems of an enterprise are not generally effective, but due diligence systems should include a process of learning when risks of adverse impact are brought to the enterprise’s attention and due diligence systems should be adjusted accordingly to make it more likely to identify similar risks in the future. This Guidance also promotes progressive improvement to due diligence practices through constructive engagement with business partners, workers and stakeholders.

Due diligence should be carried out throughout the entire life-cycle of a project. For example, due diligence should be conducted in connection with the contracting of a new supplier or business relationship as well as for ongoing activities. Furthermore it should be dynamic meaning that it can be tailored according to context or circumstances and should be applied with flexibility.

The OECD Guidelines recommend carrying out risk-based due diligence,<sup>4</sup> meaning that the level of due diligence applied corresponds with the level of risk. This ensures that the measures to prevent or mitigate adverse impacts are commensurate to the risks identified and resources are directed in accordance with priorities so that risks of severe adverse impacts receive the highest attention. Enterprises should apply the following principles when conducting risk-based due diligence:

- a. The severity of a potential adverse impact and the probability of the adverse impact are the most important factors in determining the scale and complexity of the processes the enterprise needs to have in place in order to know and show that it is acting responsibly. For human rights adverse impacts, severity of the adverse impact is the most important factor.<sup>5</sup>
- b. When enterprises have large numbers of suppliers, they are encouraged to identify general areas where the risk of adverse impacts is most significant and, based on this risk assessment, prioritise suppliers for due diligence.<sup>6</sup>
- c. A risk-based approach should not be designed to prohibit enterprises from engaging in certain contexts or with certain business partners, but should assist enterprises in effectively managing risks of adverse impacts in contexts that pose risks of adverse impacts.

In practice, enterprise due diligence includes a number of core processes incorporated into strong management systems. The OECD has incorporated these components into the following five-step framework for due diligence.

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<sup>2</sup> OECD Guidelines for Multinational Enterprises, Chapter II, paragraph A10; “The recommendation in paragraph A.10 applies to those matters covered by the *Guidelines* that are related to adverse impacts. It does not apply to the chapters on Science and Technology, Competition and Taxation.” OECD Guidelines for Multinational Enterprises, Chapter II, Commentary on General Policies, paragraph 14.

3 . OECD Guidelines for Multinational Enterprises, Commentary on General Policies, Paragraph 14

4 . OECD Guidelines for Multinational Enterprises, Chapter II, Paragraph A10

5 . UN Guiding Principle 24 states that “Where it is necessary to prioritize actions to address actual and potential adverse human rights impacts, business enterprises should first seek to prevent and mitigate those that are most severe or where delayed response would make them irremediable.”

6 . OECD Guidelines, Chapter II, Paragraph 16

#### **Five-step Framework for Risk-based Due Diligence**

- Step 1. Establish strong management systems for due diligence
- Step 2. Identify and assess risks of adverse impacts in the supply chain
- Step 3. Manage risks in the supply chain
- Step 4. Verify the effectiveness of the enterprise's due diligence
- Step 5. Report publicly and communicate

#### **Structure**

The structure of the Guidance draws from the OECD Due Diligence Guidance for Responsible Supply Chains of Minerals from Conflict-Affected and High-Risk Areas,<sup>7</sup> which clarifies how the OECD Guidelines apply to a specific supply chain.

This Guidance is organised into three sections and supporting annexes.

**Section 1** provides an overview of the unique characteristics of the garment and footwear supply chain which impacts the nature of the risks of adverse impacts inherent to the sector and the application of due diligence.

- Chapter 1: Characteristics of the garment and footwear supply chain relevant to the application of due diligence

**Section 2** provides a five-step framework for risk-based due diligence along the garment and footwear supply chain and supporting chapters on how to apply the framework to common business models found in the sector.

- Chapter 2: Five-step framework for risk-based due diligence
- Chapter 3: Recommendations for material manufacturers, component manufacturers, and garment and footwear manufacturers
- Chapter 4: Application of Five-step Framework for Due Diligence across sourcing models
- Chapter 5: Application of due diligence to subcontracting to homeworkers
- Chapter 6: Application of due diligence to purchasing practices
- Chapter 7: Application of due diligence to risks linked to raw material production

**Section 3** provides recommendations on how to apply the five-step framework for risk-based due diligence to risks of adverse impacts common in the garment and footwear supply chain

- Chapter 8: Child labour
- Chapter 9: Forced labour

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7. An OECD Recommendation on the Due Diligence Guidance for Responsible Supply Chains of Minerals from Conflict-Affected and High-Risk Areas was adopted by Council at Ministerial level on 25 May 2011 and subsequently amended on 17 July 2012 to include a reference to the Supplement on Gold [C/MIN(2011)12/FINAL].

- Chapter 10: Working hours
- Chapter 11: Freedom of association and collective bargaining
- Chapter 12: Wages
- Chapter 13: Discrimination
- Chapter 14: Occupational Health and Safety
- Chapter 15: General environmental due diligence
- Chapter 16: Environmental due diligence at textile processing
- Chapter 17: Environmental due diligence at cotton production
- Chapter 18: Environmental due diligence at tanneries
- Chapter 19 : Fraud and corruption

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Chapter 1

## Characteristics of the garment and footwear supply chain relevant to the application of due diligence

### Summary

The **objectives of this chapter** are to provide an overview of the unique characteristics of the garment and footwear supply chain that impact the nature of the risks of adverse impacts inherent to the sector and how due diligence is applied.

This section includes the following:

- Overview of the garment and footwear supply chain, including:
  - The global distribution of garment and footwear manufacturing
  - Characterisation of the garment and footwear supply chain
  - Sourcing models
- Overview of risks of adverse impacts in the garment and footwear sector supply chain
- Role of small-and-medium sized enterprises in the supply chain and the application of due diligence
- Role of women in the garment and footwear supply chain and the application to due diligence

### Overview of the garment and footwear supply chain

The garment and footwear supply chains include the entire production chain of transforming natural and man-made raw materials into end-user garment and footwear products. Prior to the 1990's, the production of materials and final goods took place relatively close to the end consumer and an enterprise's supplier base remained relatively stable. The garment and footwear sector experienced a significant shift in production in the 1990s, with garment and footwear manufacturing moving predominantly to Asia and Latin America. In the past 10 years, the garment supply chain has experienced another shift in production towards fast-fashion. The fast fashion system combines quick response production capabilities with enhanced product design capability to both design products that capture the latest trends and exploit minimal production lead times to match supply with uncertain demand. Short lead times are enabled through a combination of localized production, sophisticated information systems that facilitate frequent inventory monitoring and replenishment, and expedited distribution methods.<sup>8</sup> The primary components of fast-fashion relevant to a discussion of risks of adverse impacts in the sector are short-lead times, an increase in the number of collections per year, and an increase in the number of product lines per collection.

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8. Gerard P. Cachon, and Robert Swinney, *The Value of Fast Fashion: Quick Response, Enhanced Design, and Strategic Consumer Behavior*, Management Science, Vol. 57, No. 4, April 2011, pp. 778-798

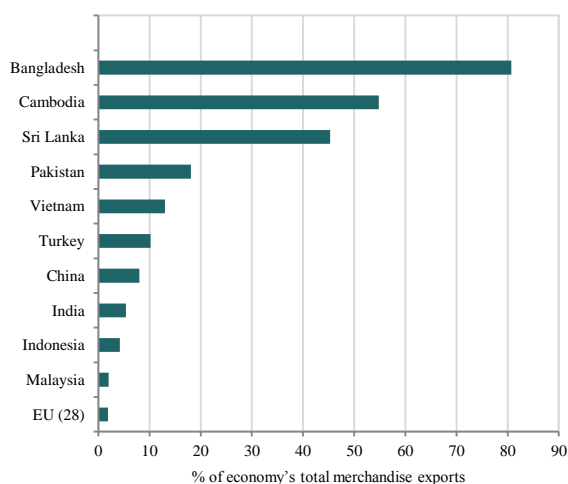


## Global distribution of garment and footwear manufacturing

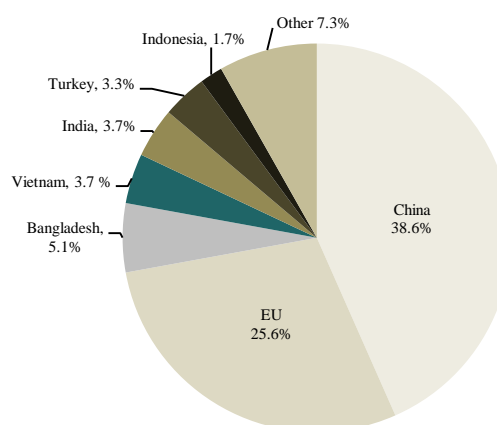
China is the leading exporter of textiles and garments with a 29 percent share in world exports of garments and a 35 percent share of textiles in 2013. The European Union is the largest importer of clothing, accounting for 38 percent of world imports in 2013 followed by the United States, which accounts for 19 percent of world garment imports. The garment sector is very important for a number of countries in terms of trade, GDP and employment. For example, in 2013 the garment industry accounted for 80.7 percent of total exports in Bangladesh, 54.8 percent in Cambodia and 45.3 percent in Sri Lanka.<sup>9</sup>

Asia remains the most important region for footwear manufacturing, accounting for 87 percent of footwear manufacturing. China is the largest footwear manufacturing country followed by Italy and Vietnam. Europe (4 percent), South America (5 percent), North America (2 percent) and Africa (2 percent) each account for 5 percent or less of global footwear production.<sup>10</sup>

**Figure 1. Garment exports: % of economy's total merchandise exports**



**Figure 2. Share of the world garment exports**



## Stages of the garment and footwear supply chain

The garment and footwear supply chain is generally divided into stages (also referred to as tiers).<sup>11</sup> Each stage consists of enterprises with the same general functionality. However, unique stages in the supply chain or tiers in the supply chain are not fixed; differentiation between tiers in the supply chain is often fluid and a single tier may consist of one or many enterprises.<sup>12</sup> Vertical integration, whereby a single enterprise owns and controls numerous processes within a single stage or across stages of the supply chain, is increasingly common in the garment supply chain. Furthermore, enterprise both the garment and footwear supply chains include a wide range of intermediaries operating at all stages of the supply chain, including buying agents, traders, etc. Generally, in the garment and footwear supply chain, demand for products originates at the brand or retailer and is transmitted upstream along the supply chain.

For the sake of simplicity, this Guidance characterises the garment and footwear supply chains into six stages (see Figure 3 and Figure 4 below). These stages of the supply chain are referenced throughout this Guidance.

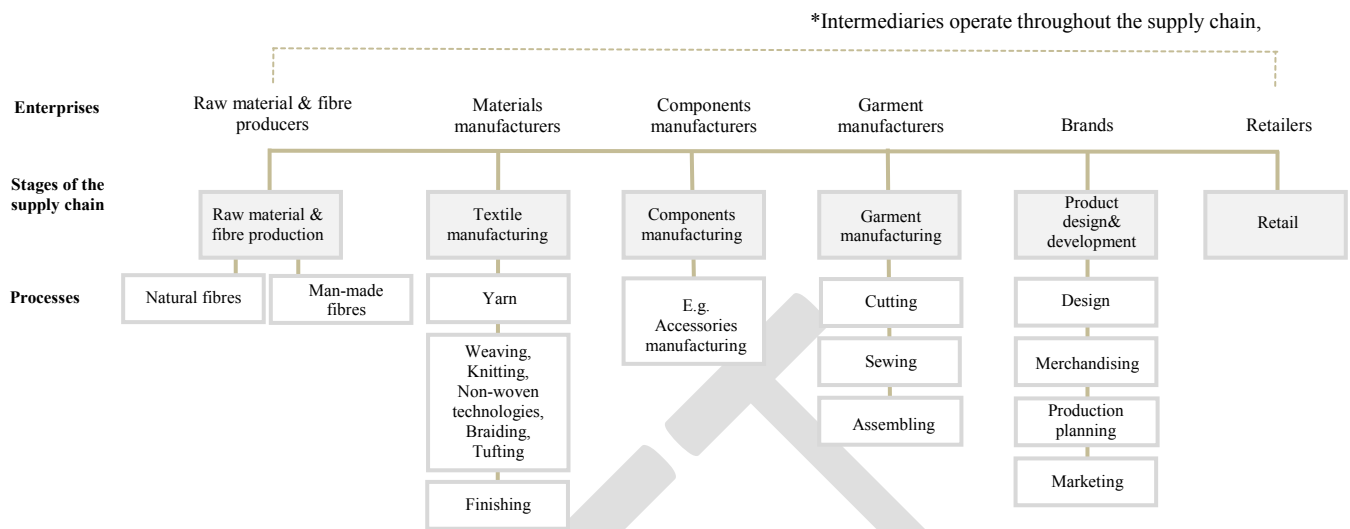
9 . World Trade Organisation, Statistics, Accessed at [https://www.wto.org/english/res\\_e/statistics\\_e/its2014\\_e/its14\\_merch\\_trade\\_product\\_e.htm](https://www.wto.org/english/res_e/statistics_e/its2014_e/its14_merch_trade_product_e.htm)

10 . What is the future of Technology in the Shoe Industry? Footwear technology forum, Milan October 14<sup>th</sup>-15<sup>th</sup>, Accessed at [ftp://arrow.delcam.com/pdf/crispin/ftf2014/1\\_1\\_Ars\\_Sutoria.pdf](ftp://arrow.delcam.com/pdf/crispin/ftf2014/1_1_Ars_Sutoria.pdf)

11 . This Guidance refers to “stages” and “tiers” interchangeably.

12 . Chandra, Charu, and Janis Grabis. *Supply Chain Configuration: Concepts, Solutions, and Applications*. Springer Publishing. (2007)

Figure 3. Simplified garment supply chain



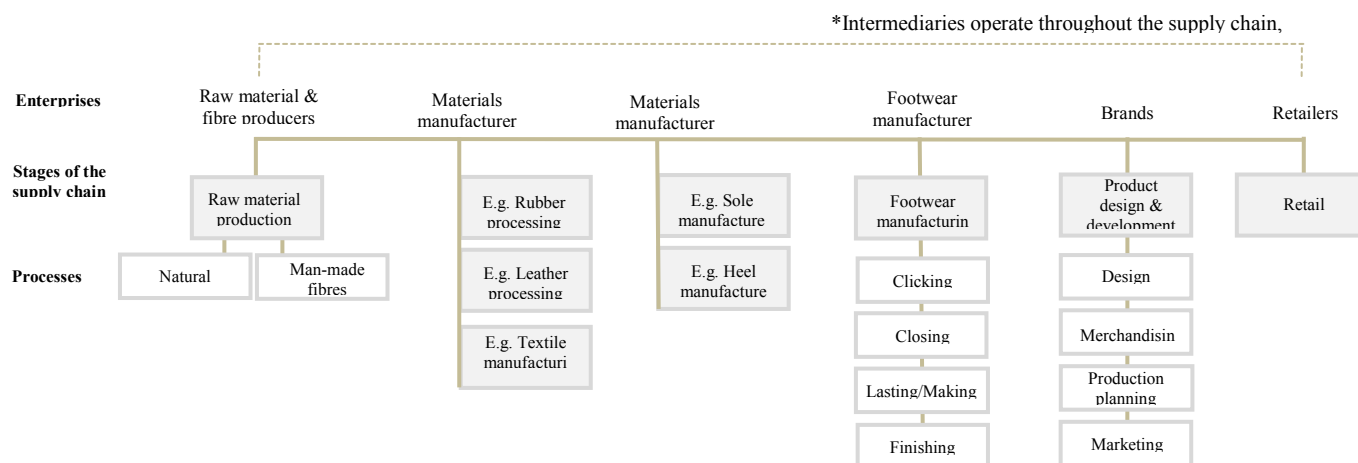
- a. **Raw material and fibre production:** There are two main sources of textile raw materials: natural fibre and man-made fibre. There are two sub types of natural fibres: plant or vegetable (cellulose) and animal fibre.<sup>13</sup> There are three types of man-made fibres: regenerated cellulosic, synthetic and inorganic. In man-made fibres of synthetic origin, the production process starts with the crude oil manufacturing process. There are many sub-processes between the crude oil manufacture and the preparation of chips and fibre manufacture. For man-made fibres, this Guidance only includes due diligence processes for fibre-production.
- b. **Textile manufacturing:** Raw materials are converted into spinnable fibres. Natural and man-made fibres are then converted into yarn in spinning mills. Yarn is converted into fabric, primarily through the knitting or weaving processes.<sup>14</sup> The final processes include dyeing, printing and finishing. See Annex 1 for more information on the textile manufacturing processes.
- c. **Components manufacturing:** Clothing accessories - such as zippers, buttons, sequins, etc. - are often incorporated into a product line. Such accessories are generally produced by supplier to the garment manufacturer.
- d. **Garment manufacturing:** The pre-assembly stage involves designing, grading, marking of patterns and cutting of textiles into individual components. It has been revolutionised through the application of computer-aided design (CAD) and computer-assisted methods (CAM) systems. By contrast, the assembly stage, also termed cut-make-trim (CMT), remains highly labour-intensive and involves delicate handling and sewing operations that do not lend themselves to automation. In the garment industry, CMT is often sub-contracted.
- e. **Product design & development:** In global garment and footwear supply chain, brands are commonly involved in leading product design and overall development. For the purposes of this Guidance, the term “brand” refers to enterprises that design garment and footwear products under a unique label. While brands play an important role in the garment and footwear supply chain, product design and development may also be driven by other enterprises in the supply chain including retailers, garment and footwear manufacturers or intermediaries.

13 . Typical examples of plant fibres include conventional and organic cottons, rayon, linen, hemp, jute ramie and sisal. Wool, silk, mohair, cashmere, angora and alpaca are the main constituents of the animal fibre category.

14 . Other techniques include braiding and nonwoven fabrics.

- f. **Retailing:** Retail activities have changed significantly with the blurring of the traditional boundaries between retailers, brands and manufacturers. Retail is also highly diversified amongst department stores, speciality stores, online stores, etc.

**Figure 4. Simplified footwear supply chain**



The footwear sector is diverse and covers a wide range of materials (e.g. textile, plastics, rubber, leather and foam) and end products from different types of men's, women's and children's footwear to more specialised products, such as sports footwear and protective footwear. This diversity of end products corresponds to a number of industrial processes, enterprises and market structures.<sup>15</sup> Product design and development and retail follow similar processes as the garment supply chain.

- Raw material production:** Footwear includes a range of raw materials including both natural raw materials (e.g. rubber, leather, fur, cotton, wood, cork, etc.) and man-made materials (e.g.
- Material production:** Each of the raw materials used in footwear include a unique production process.
- Footwear manufacturing:** There are four main departments connected with manufacturing within a footwear company and the components follow a progressive route through each of these departments to produce the finished shoes. The departments are, Clicking, Closing, Lasting/ Making, Finishing/ Shoe Room.<sup>16</sup> The manufacturing of the shoe often includes a diverse range of component suppliers including heel, sole and leather suppliers.

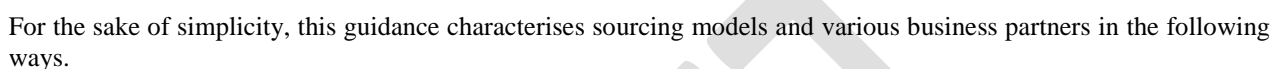
### Sourcing models

For the sourcing of end products, retailers and brands in the garment and footwear sector use a range of sourcing models and suppliers. An enterprise's sourcing model impacts how it applies due diligence. **Chapter 4, Application of Five-step Framework across sourcing models** for more information on application of due diligence across sourcing models.

15 . European Commission, Overview of the footwear industrial sector, [http://ec.europa.eu/enterprise/sectors/footwear/index\\_en.htm](http://ec.europa.eu/enterprise/sectors/footwear/index_en.htm)

16 . British Footwear Association, How shoes are made, 2002. <http://www.britishfootwearassociation.co.uk/wp-content/uploads/2014/03/How-shoes-are-made.doc.pdf>

**Figure 5: Retailer and brand sourcing models**



- a. Direct sourcing model: An enterprise holds a direct contractual relationship with its supplier (e.g. raw materials producer and processor, materials manufacturer or processor, component manufacturer, garment or footwear manufacturer).
- b. Indirect sourcing model: An enterprise sources products (e.g. raw materials, garment and footwear finished goods) from an intermediary. For example, agents may place orders with garment and footwear manufacturers on behalf of the retailer or brand.

- a. Suppliers: For the purposes of this Guidance, the term “suppliers” refers to all enterprises that supply products and are directly linked to an enterprise’s operations through a business relationship. It therefore includes both direct and indirect manufacturers and intermediaries. It does not include licensees.
- b. Direct suppliers: Manufacturers that have a direct contractual relationship with their customers (e.g. brands or retailers).<sup>17</sup>
- c. Subcontractors: A person or business that performs some service or activity necessary for the performance of another’s contract. In the garment and footwear supply chain, manufacturing is often subcontracted at the following stages: components manufacturing, garment and footwear manufacturing.
- d. Intermediaries: For the purposes of this Guidance, intermediaries are business-to-business enterprises that buy and sell goods and/or services that facilitate or contribute to the production of finished products. Intermediaries may include:
  - Agents: Independent companies that source and/or manage the manufacturing and delivery processes for and on behalf of a retailer or brand.
  - Collectors and Traders: The main role of the collector is financing producers and other collectors down the chain and providing transportation.
  - Distributors: An entity that buys noncompeting products or product lines, warehouses them, and resells them to retailers or directly to the end user or customer.

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- Logistics providers and freight forwarders: Also known as a forwarder, forwarding agent, or a non-vessel operating common carrier (NVOCC), is a person or company that organizes shipments for individuals or corporations to get goods from the manufacturer or producer to a market, customer or final point of distribution.
  - Importer: Any entity in the supply chain who is the first in a supply chain to make a good (e.g. commodity, material or final product), that has been manufactured in another country or jurisdiction, available in the country or jurisdiction where it is to be marketed.
- e. Licensees: Independent companies which manage the design, production and distribution of specific products, under licence to the retailer or brand.

### Overview of risks of adverse impacts in the garment and footwear sector supply chain

The risks of adverse impact in the garment and footwear supply chain are well documented. While risks are found throughout the full lifecycle of a product, some risks are expected to be more prevalent than others at different stages of the supply chain. Furthermore, the nature of risks varies greatly across contexts. Companies should carry out due diligence for all matters covered by the Guidelines, unless exempted.<sup>18</sup> Below is a non-exhaustive list of some of the most common risks of adverse impact in the footwear and garment sector supply chain.

- a. **Forced labour:** Forced labour is defined as all work or service which is exacted from any person under the menace of any penalty and for which the said person has not offered himself voluntarily.<sup>19</sup> Forced labour takes a number of forms (e.g. human trafficking, debt-induced, coercion in employment, and exploitive labour contracts, and prison labour) and can be found at different stages of the garment and footwear supply chain.
- b. **Child labour:** The characteristics of the garment and footwear sector supply chains –reliance on low-skilled labour in low and middle income countries—increases the risk of child labour at all stages of the supply chain. However, efforts at mitigating the risks of child labour have
- c. **Freedom to association and collective bargaining:** Both are fundamental rights and they are linked. Restrictions to freedom of association and collective bargaining are a challenge throughout many producing and importing countries. While challenges are well known, little headway has been made in the last 20 years in the sector.
- d. **Wages:** Wages in the garment and footwear sector remain reportedly low. In-fact, global average wages at garment manufacturing and textile manufacturing stages are 35 percent and 24 percent lower than the manufacturing industry average wage.<sup>20</sup> In some production countries the minimum wage remains below the national subsistence minimum.<sup>21</sup>
- e. **Discrimination:** The term discrimination includes any distinction, exclusion or preference made on the basis of race, colour, sex, religion, political opinion, national extraction or social origin, which has the effect of nullifying or impairing equality of opportunity or treatment in employment or occupation.<sup>22</sup> Approximately 80 percent of workers in the garment sector are women. Gender discrimination remains a

<sup>18</sup> It does not apply to the chapters on Science and Technology, Competition and Taxation.” OECD Guidelines for Multinational Enterprises, Chapter II, Commentary on General Policies, paragraph 14.

<sup>19</sup> 1 Art. 2, para.1 of the ILO Convention on Forced Labour n° 29, adopted in 1930.

<sup>20</sup> ILO: Global Wage Report 2012/13: Wages and Equitable Growth, Geneva (2013)

<sup>21</sup> Vaughan-Whitehead: How “fair” are wage practices, Global Assessment in 2010-2011

<sup>22</sup> Convention concerning Discrimination in Respect of Employment and Occupation (Entry into force: 15 Jun 1960) Adoption: Geneva, 42nd ILC session (25 Jun 1958) - Status: Up-to-date instrument (Fundamental Convention)

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challenge in many of the countries where garments and footwear are manufactured and manifests itself in sexual harassment, physical abuse, lack of professional advancement, and lower wages.<sup>23</sup>

- f. **Working hours:** Excessive working hours are defined as work hours that exceed legal limits or the 60-work hours per week standard put forth by the ILO. Many diverse factors contribute to excessive working hours, including supplier-driven factors, worker-driven factors and customer-driven factors. As a consequence, understanding the operating context is a crucial first step in developing effective due diligence measures. This Guidance focuses recommendations on the garment manufacturing stage of the supply chain; however recommendations may be applied to other stage of the supply chain where risks of adverse impacts arise.
- g. **Occupational health and safety:** Occupational health and safety remains one of the key challenges in the garment and footwear sectors at each stage in the supply chain. Risks of adverse impacts are well documented and include risks related structural integrity, fire safety, chemical hazards, and air quality amongst others.
- h. **Environment:** Each stage of the garment and footwear sector supply chain has an impact on the environment; however, due to the wide variance in processes, inputs and outputs, the extent and nature of that environmental impact varies greatly from one stage to the next. Cotton fibre production, leather production and textile finishing are known to be three of the most serious abusers in relation to adverse environmental impacts.
  - **Cotton fibre production:** Freshwater withdrawal in cotton fibre production can challenge annual renewable freshwater resources, which in turn can lead to a long-term depletion of freshwater resources.<sup>24</sup> Cotton production also uses agricultural chemicals heavily and therefore offers a significant risk of pollution of freshwater ecosystems with nutrients, salts and pesticides.<sup>25</sup> Most pesticides used in cotton production are hazardous.
  - **Leather production:** The tanning industry is considered to be a major source of pollution and emissions to water are a particular concern. Tanning industry wastes contains a range of pollutants including chromium and chlorinated phenols and poses a serious environmental impact on water.<sup>26</sup>
  - **Textile finishing:** The chemical input in textile finishing is up to 1 kg chemicals/kg processed textile. Usually only the colorants, the finishing agents including coating, binders and other auxiliaries in case of pigment printing remain on the textile substrates, whereas most of the other applied substances, are emitted to a great part to the waste water. Air emissions are minor but not negligible source of pollution. Concerning the organic load, 20-100 g organic carbon/kg processed textiles are emitted, which is 15-250 time higher than emissions to air. Thus emissions to water are predominant.<sup>27</sup>
- i. **Fraud & Corruption:** *[to be developed after further research]*

### Role of small and medium-sized enterprises in the supply chain and the application of due diligence

Small and medium-sized enterprises (SMEs) are prevalent in the garment and footwear supply chain. SMEs are non-subsidiary, independent firms which employ fewer than a given number of employees. This number varies across countries. The most frequent upper limit designating an SME is 250 employees, as in the European Union. However, some countries set the limit at as few as 200 employees or as high as 500 employees (e.g. United States). Small firms

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23 . The Equal Remuneration Convention, 1951 (No. 100), and the Discrimination (Employment and Occupation) Convention, 1958 (No. 111), provide the necessary protection to women against the elimination of any sources of discrimination and other abusive practices.

24. WWF, *Background Paper, The Impact of Cotton on Fresh Water Resources and Ecosystems, A Preliminary Synthesis* (1999)

25. WWF, *Background Paper, The Impact of Cotton on Fresh Water Resources and Ecosystems, A Preliminary Synthesis* (1999)

26 . M. Mwinyihija, *Ecotoxicological Diagnosis in the Tanning Industry, Main Pollutants and Environmental Impacts of the Tanning Industry* (2010)

27 . OECD, *OECD Series on Emission Scenario Documents, Number 7, Emission Scenario Document on Textile Finishing* (2004), pg. 38.

are generally those with fewer than 50 employees, while micro-enterprises have at most 10, or in some cases 5, workers.<sup>28</sup>

SMEs face the same risks of adverse impacts in their supply chain as any other enterprise. However, while many companies in the supply chain struggle when it comes to implementing new and emerging due diligence expectations, SMEs face particular hurdles. One key challenge is that the resources, knowledge and capacity to implement due diligence may be more limited in SMEs compared to larger multinationals. At the same time, due diligence for SMEs can often be more straightforward, since by definition they have smaller operations and fewer suppliers for due diligence.

The Guidance outlines recommendations that all companies should take to implement due diligence using reasonable steps and good faith efforts, regardless of their size. At the same time, the Guidance also recognises that due diligence presents practical challenges and that flexibility is needed in the application of due diligence, which is particularly important for SMEs. The nature and extent of due diligence that is appropriate will depend on individual circumstances and be affected by factors such as the size of the enterprise, the location of its activities, the situation in a particular country, the number of business relationships it has, the sector and nature of the products or services involved.

Given these challenges, the Guidance promotes cooperation amongst stakeholders and within industry. The challenges that SMEs face can be met in a variety of ways including, but not limited to, cost-sharing within industry for specific due diligence tasks, participation in initiatives on responsible supply chain management and cooperation between industry members who share suppliers. The Guidance also promotes cross-recognition of industry programmes to limit costs and redundancies.

This Guidance can be used to build capacity on due diligence for SMEs and help them prioritize due diligence with limited resources. SMEs should strive to progressively implement all the recommendations contained in this Guidance.

### **Role of women in the garment and footwear supply chain and the application to due diligence**

Women account for a majority of the labour force in the garment and footwear supply chain across stages of supply chain, although there are disparities across countries, sub-sectors and stages of the supply chain.<sup>29</sup> Risks of adverse impact often differ for men than women, for example women are more likely to be paid lower wages than men. The unique position of women within a particular context therefore should be systematically considered at all stages of due diligence, but is most important for *Step 2. Identify and assess risks of adverse impacts in the supply chain* and *Step 3. Manage risks in the supply chain*.

Examples on how to ensuring that the circumstances of women are considered and women are not excluded in the due diligence process, include:

- a. Identify the key gender issues facing the country or region during Step 2 risk assessment of high-risk locations in the supply chain
- b. Ensure that all consultative processes include women and men's voices

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28 . Financial assets are also used to define SMEs. In the European Union, a new definition came into force on 1 January 2005 applying to all Community acts and funding programmes as well as in the field of State aid where SMEs can be granted higher intensity of national and regional aid than large companies. The new definition provides for an increase in the financial ceilings: the turnover of medium-sized enterprises (50-249 employees) should not exceed EUR 50 million; that of small enterprises (10-49 employees) should not exceed EUR 10 million while that of micro firms (less than 10 employees) should not exceed EUR 2 million. Alternatively, balance sheets for medium, small and micro enterprises should not exceed EUR 43 million, EUR 10 million and EUR 2 million, respectively .

29 . For example, women account for 80 percent of workers in the garment and textile manufacturing stages of the supply chain.

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- c. Ensure that sex-disaggregated indicators are incorporated into risk assessment and ongoing monitoring, where relevant<sup>30</sup>
- d. Ensure that women are adequately represented in worker committees or decision making bodies for the monitoring and mitigation of risks of adverse impacts

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30 . This is not intended to be a comprehensive list.



## Section 2

Section 2 provides a five-step framework for risk-based due diligence along the garment and footwear supply chain and supporting chapters on how to apply the framework to common business models found in the sector.

- Chapter 2: Five-step framework for risk-based due diligence
- Chapter 3: Recommendations for material manufacturers, component manufacturers, and garment and footwear manufacturers
- Chapter 4: Application of Five-step Framework across sourcing models
- Chapter 5: Application of due diligence to subcontracting to homeworkers
- Chapter 6: Application of due diligence to purchasing practices
- Chapter 7: Application of due diligence to risks linked to raw material production

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Chapter 2

## Five-step framework for due diligence

This chapter provides principle based guidance for conducting risk-based due diligence for matters covered by the OECD Guideline along a five-step framework for due diligence.

It is important to recognise that due diligence is an on-going, proactive and reactive process, and therefore this Guidance promotes progressive improvements to due diligence practices. In practice, this means that enterprises may not be able to implement all of the recommendations in this Guidance immediately, but over time should systematically work towards their full application. Enterprises should be transparent on their existing due diligence practices and their plans for progressive improvement. In all cases, the nature and extent of due diligence that is appropriate will depend on individual circumstances and be affected by factors such as the size of the enterprise, the location of its activities, the situation in a particular country, the number of business relationships it has, and the sector and nature of the products or services involved.

Enterprises are encouraged to cooperate to carry out due diligence, particularly in the implementation of Steps 2-4; however enterprises retain individual responsibility for their due diligence and should ensure that all joint work adheres to this Guidance. Examples of methods for cooperative due diligence include:

- a. Industry-wide cooperation in building capacity to conduct due diligence;
- b. Participation in multi-stakeholder initiatives;
- c. Cost-sharing within industry for specific due diligence tasks (e.g. on-site context assessment, risk mitigation, etc.);
- d. Participation in initiatives on responsible supply chain management;
- e. Cooperation between industry members who share suppliers;
- f. Cooperation between actors at different stages of the supply chain (e.g. retail and traders);
- g. Building partnerships with workers, international organisations and civil society;
- h. Partnership with financial institutions for favourable financing options for supplier upgrading.

While the recommendations in this chapter are relevant for all enterprises operating along the garment and footwear supply chain, this Guidance recognises that implementation may be challenging for raw material producers, material manufacturers, component manufacturers, and garment and footwear manufacturers operating in the garment and footwear supply chain, particularly small and medium-sized enterprises (SMEs). *Chapter 3: Recommendations for material manufacturers, component manufacturers, and garment and footwear manufacturers* therefore provides specific recommendations for producers and manufacturers operating at these stages of the supply chain, to help them prioritize risks in their own operations and immediate suppliers. Larger suppliers operating at the above stages of the supply chain are encouraged to apply the following guidance regarding their own internal operations in addition to the recommendations in the 5-step Framework for Due Diligence.

## Step 1. Establish strong management systems for due diligence

### Summary

The **objective of Step 1** is to ensure that the enterprise's management systems are capable of supporting effective risk-based due diligence.

The **recommended steps** for meeting these objectives include:

- **Step 1.1** Adopt, or integrate into existing processes, an enterprise policy for responsible business conduct along the supply chain
- **Step 1.2** Structure internal management to support supply chain due diligence
- **Step 1.3** Establish information management systems to support due diligence
- **Step 1.4** Establish or participate in operational level grievance mechanisms
- **Step 1.5** Engage with suppliers on the enterprise RBC policy
- **Step 1.6** Establish processes to engage with worker organisations
- **Step 1.7** Establish processes to engage with relevant stakeholders

### Due diligence processes

#### **Step 1.1 Adopt, or integrate into existing processes, an enterprise policy for responsible business conduct along the supply chain**

Enterprises should adopt a clear enterprise policy on responsible business conduct pertaining to their own operations and the enterprise's supply chain (hereafter the enterprise RBC policy).<sup>31</sup> It can consist of one single policy or several stand-alone policies; however, the enterprise RBC policy should address all matters covered by the OECD Guidelines for which due diligence applies: disclosure, human rights, employment and industrial relations, environment, combating bribery, bribe solicitation and extortion and consumer interests. If long-standing policies are in place, a gap analysis can determine gaps in comparison with the OECD Guidelines and existing policies can be updated accordingly.

- a. The enterprise RBC policy should:
- b. Stipulate the enterprise's expectations of employees, suppliers and other parties directly linked to their operations, products or services by a business relationship;
- c. Clearly articulate the enterprise's practices to identify, prevent, mitigate and account for how it address its actual and potential adverse impacts as an integral part of decision-making and risk management systems, consistent with the recommendations in this Guidance;

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31 . The enterprise RBC policy provides a framework for how the enterprise deals with risks of adverse impacts and provides a starting point from which the enterprise can better leverage responsible business conduct in its business relationships.

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- d. Explicitly reference the international standards, including the OECD Guidelines for Multinational Enterprises, the UN Guiding Principles on Business and Human Rights, and this Guidance;
- e. Be approved at the most senior level of the enterprise. Senior level responsibility should be assigned for its implementation;
- f. Be informed by relevant internal and external expertise, and as appropriate, stakeholder consultations;
- g. Be publicly available and communicated to all employees, business partners and other relevant parties;
- h. Be reflected in operational policies and procedures necessary to embed it throughout the enterprise;<sup>32</sup> and
- i. Be reviewed and adapted on a regular basis in light of the increasing knowledge about risks in the supply chain and international standards.

In addition to the above, enterprises should incorporate into their RBC policy their expectations of their direct suppliers regarding use of subcontractors and homeworkers in the supply chain. See **Chapter 4, Application of Five-step Framework across sourcing models**; See **Chapter 5, Application of due diligence to subcontracting to homeworkers** for more information

### Step 1.2 Structure internal management to support supply chain due diligence

Enterprises should assign authority and responsibility to senior staff with the necessary competence, knowledge and experience to oversee the implementation of the enterprise RBC policy. Senior management should ensure that the required attention and support is given to due diligence and allocate resources accordingly.

Enterprises should secure adequate staff time and ensure that those who work on supply chain due diligence have the competence to perform their duties. For example, staff managing the implementation of due diligence should have strong practical knowledge of and experience in the effective implementation of the RBC policy, and knowledge of how adverse impacts can be mitigated. Staff members with obligations regarding supply chain due diligence should be trained on: risks of adverse impact identified in Step 2; the enterprise strategy to manage risks in the supply chain as developed in Step 3; the responsibilities and processes for reporting and communication on the enterprise's due diligence, Step 5

Any modifications to the enterprise's RBC policy and due diligence practices should be communicated and supported by training to relevant staff.

### *Functional alignment and decision making*

Supply chain planning is a cross functional process. Due diligence should be integrated from the start in processes related to supply chain management across business units. Enterprises should seek to establish functional alignment between business units, particularly in cases in which the incentives of one business unit contradict the RBC policy. Functional alignment may lead to a greater probability of risks that the enterprise causes or contributes to adverse impacts being identified and mitigated. The following includes example processes which may promote functional alignment within an organisation.

- a. Ensure that information provided to decision makers is adequate and appropriate. For example, not all organisational functions require the same information in order to make or be comfortable with a decision and the same information may need to be presented differently to different functions.
- b. Include multiple business units in validating a decision. This type of engagement has been demonstrated to lead to more thorough information collection and generally more clear presentation of data.<sup>33</sup>

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32 . OECD Guidelines, IV, Commentary 44; UN Guiding Principles, para. 16.

- c. Facilitate feedback and learning between business units.
- d. Integrate KPIs related to the enterprise's RBC policy across business units.<sup>34</sup>

### **Step 1.3 Establish information management systems to support due diligence**

Enterprises should establish (or participate in) information management systems<sup>35</sup> that are capable of storing the full extent of information necessary to conduct effective risk-based due diligence. Information should be maintained in a way that is accurate, current, clear, user-friendly and enable all intended users to access information.<sup>36</sup>

It is recommended that information management systems facilitate external cooperation and collaboration through data sharing, with due regard to competition law, with the purpose of: improving the access to information on risks of adverse impact linked to business relationships, reducing the duplication of assessments, and facilitating the collaboration between enterprises and business relationships, workers and stakeholders on the prevention and mitigation of adverse impacts in the supply chain.

Due diligence is an on-going, proactive and reactive process, and therefore information may be collected and progressively built with the quality progressively improved through various steps in this Guidance. See Box X for example information to be collected and stored.

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33 . See more at HBS, <http://www.hbs.edu/faculty/Publication%20Files/07-001.pdf>

34 . This approach has its limits. For managers, functional differentiation is a natural response to a limited span of surveillance that forces them to focus on only a portion of their total environment or the needs of only certain stakeholders. Losing this focus on legitimate stakeholders' needs could be detrimental to organizational performance. See HBS, <http://www.hbs.edu/faculty/Publication%20Files/07-001.pdf>

35 . Informational management systems may be either internal or shared.

36 . Due diligence is an on-going process. Enterprises may not be able to collect all information initially but should continually work towards increased information and effective management systems.

**Box X. Example Data to be collected and stored**

The following information should be updated on a regular basis. Timestamps should indicate when information was updated.

- a. Create internal documentation and records of supply chain due diligence processes, findings and resulting decisions.
- b. Maintain and continuously update product information, including Bill of Materials, structure of each product supply chain, potential unique risks linked to product lines, potential sourcing countries for each product or product line.
- c. Maintain country risk classification, including ranking of sourcing countries as low, medium or high risk across risk categories. Information should likewise include country-specific risks and justification for the ranking.
- d. Maintain **KYC information** for all pre-qualified direct suppliers and subcontractors. Under this Guidance, “**KYC information**” refers to, at a minimum:
  - Official name and ownership structure of suppliers;
  - Address of suppliers
  - Site ID
  - Contact details of manager
  - Number of facilities
  - Number of workers
  - Function of facilities
  - Relationship between suppliers (e.g. direct sourcing, indirect sourcing, etc.)
- e. Maintain information collected during Step 2, Step 3 and Step 4.
  - a. Maintain list of red-flags in the supply chain that trigger further risk assessment; Integrate a system to update information regarding red-flags at country-level and business partner level.

**Step 1.4 Establish or participate in an operational-level grievance mechanism**

Enterprises should have processes in place to enable remediation<sup>37</sup>; in many instances the most effective and efficient way to provide access to remediation is through an operational-level grievance mechanism. An operational-level grievance mechanism is a formalized means through which individuals or groups can raise concerns about the impact an enterprise has on them and can seek remedy.<sup>38</sup> Enterprises may provide such a mechanism directly, or through

37 . OECD Guidelines, Commentary on Human Rights, Paragraph.46.

38 . United Nations Human Rights office of the High Commissioner, *The Corporate Responsibility to Respect Human Rights, An Interpretive Guide*, pg. 68.

collaborative arrangements with other companies or organisations, or by facilitating recourse to an external expert or body (i.e. ombudsman).<sup>39</sup>

### Step 1.5 Engage with suppliers on the enterprise RBC policy

Enterprise should:

- a. Establish a pre-qualification process for all potential suppliers, including subcontractors and intermediaries operating at high-risk locations as identified in Step 2.<sup>40</sup>
- b. Aim to establish long-term sourcing relationships with direct suppliers.<sup>41</sup>
- c. Communicate to suppliers and other business partners the enterprise's expectation of due diligence.
- d. Incorporate the expectations and requirements of suppliers and licensors regarding responsible business conduct into commercial contracts and/or written agreements which can be applied and monitored.<sup>42</sup> Such agreements should include:
  - Supplier commitment to develop and implement policies aligned with the OECD Guidelines, ILO Tripartite Declaration of Principles Concerning Multinational Enterprises and Social Policy, and the UN Guiding Principles on Business and Human Rights across all business ethics.
  - Enterprise's policy on subcontracting and relevant procedures in the event that subcontracting is permitted. See Commentary X for recommendations on due diligence of subcontractors.
  - Expectations regarding disclosure of information
  - Commitment from both the supplier and enterprise to factor the cost of compliance into price negotiations. See Annex X for more information on due diligence for purchasing practices; See Chapter 12 for more information on Wages.
- e. Consider ways to support and build capabilities of suppliers to improve performance and conform to the enterprise RBC policy.<sup>43</sup>

### Step 1.6 Establish processes to engage with worker organisations

Enterprises are encouraged to engage with and consult worker organisations throughout the due diligence process. Enterprises should establish processes for engaging with worker organisations in the design and implementation of their due diligence processes. Example engagement strategies include:

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39 . There are numerous resources available to enterprises on how to establish or participate in effective grievance mechanisms, for example see the UN Global Compact, *Rights compatible grievance mechanisms: A guidance tool for companies and their stakeholders*.

40 . For the purpose of this Guidance, stages in the supply chain that are considered likely or very likely for severe adverse impacts in particular geographic locations are considered to be **high-risk locations**.

41 . Enterprises that have direct *and* long-term sourcing relationships with their suppliers are best positioned to identify and mitigate risks in their supply chain because their knowledge of the main supplier, the sourcing context and the risks of adverse impact associated with both is increased over time. For example, enterprises are more capable to establish partnerships with main suppliers by which the supplier and enterprise tracks impact of risk mitigation over time, leading to improved risk mitigation strategies. Furthermore, in instances in which an enterprise has direct and long-term sourcing relationships with its main suppliers, the main supplier is more likely to have greater business security and therefore greater incentive and capacity to mitigate risks over time. See Chapter 6.

42 . See Annex X for guidance on information to be included in contracts based on an enterprise's sourcing model.

43 . See Step 3

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- a. Include international and/or local worker organisations systematically in the consultation of risk identification and assessment under Step 2
- b. Participate in multi-stakeholder initiatives for collaborative due diligence which include worker organisations
- c. Participate in a national or international protocol for freedom of association and collective bargaining<sup>44</sup>
- d. Participate in a global framework agreement (GFA)<sup>45</sup>

### Step 1.7 Establish processes to engage with relevant stakeholders

Civil society and external experts are valuable resource for information regarding risks of adverse impacts at particular stages of the supply chain or within particular operating contexts. Enterprises should establish systems to engage with relevant international and local civil society in addition to external experts.

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44 . See Chapter 11 on due diligence of freedom of association and collective bargaining; See also Honduras Labour Framework and Indonesia Protocol and the Indonesian Freedom of Association Protocol as an example;

45 . GFA is an instrument negotiated between a multinational enterprise and a Global Union Federation in order to establish an ongoing relationship between the parties and ensure that the enterprise respects the same standards in all the countries where it operates.



## Step 2. Identify and assess risks in the supply chain

### Summary

The **objectives of Step 2** are to:

- **Prioritise** stages in the enterprise's supply chain and geographic sourcing locations for further due diligence (i.e. on-site risk assessment and risk management) based on the likelihood of the risk and likely severity of the adverse impact.<sup>1</sup>
- **Understand the nature of risks of adverse impacts** including: root causes and contributing factors to the presence or severity of the risk of adverse impact. Understand if and how an enterprise's own activities (act or omissions) cause or contribute to adverse impacts in its supply chain.
- **Identify actual adverse impacts and risks of adverse impacts** linked to the enterprise's business relationships operating at stages of the supply chain that are high-risk.
- **Identify and assess existing risk mitigation efforts** for example by the supplier itself, industry, workers, multi-stakeholder initiatives, government, etc.

The **recommended steps** for meeting these objectives include:

- **Step 2.1** Map the structure of the supply chain for each product line
- **Step 2.2** Classify likelihood of adverse impacts based on the stage of the supply chain and sourcing location
- **Step 2.3** Classify likely severity of adverse impact based on the stage of the supply chain and sourcing location
- **Step 2.4** Conduct, commission or review an existing on-site assessment of high-risk locations in the supply chain

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### Introduction

It may not always be possible for an enterprise to address all adverse impacts in its supply chain. If adverse impacts cannot reasonably be addressed all at once, the focus must be on those that would cause the greatest harm to people or the environment. In practice, this means prioritising those adverse impacts that are, or would be, most severe in their scope or scale or where a delayed response would render them irremediable. As soon as the most severe adverse impacts are addressed, the enterprise should turn to those with the next greatest severity and so on.

To ensure a systematic and comprehensive approach to identifying the most severe adverse impacts in an enterprise's supply chain, this Guidance recommends that each enterprise first conduct a broad supply chain risk assessment to identify and assess the potential adverse impacts in its supply chain from raw-materials to its own operations. Based on the findings of the supply chain risk assessment, the enterprise should then prioritise stages of the supply chain for further risk assessment based on the likelihood of the risk and the severity of the adverse impact. This process enables an enterprise to take a risk-based approach to due diligence and systematically hone-in on the most severe risks of adverse impacts in its supply chain.

In addition to taking a risk-based approach, this Guidance recognises that most risks of adverse impacts are a result of root causes linked to the nature of the sector (e.g. short-lead times), the characteristics of the stage in the supply chain (e.g. chemical use in textile finishing processes) and/or the particular operating context (e.g. socio-economic factors, regulatory framework, protection of human rights, etc.). Understanding such root causes, and drivers of adverse impacts is imperative to developing an effective risk management strategy in Step 3. Therefore, this Guidance recommends that as a critical component of Step 2, identification and assessment of risks, enterprises take steps to understand the root factors, or drivers of adverse impacts in stages and operating contexts prioritised for further risk assessment. Assessments of suppliers should then be tailored to information learned during the broader context assessment.

### Due diligence process

#### Supply chain risk assessment

Enterprises should review their supply chain risk assessment (i.e. 2.1-2.4) every 2-years at a minimum. However, due diligence is not a static process. As such, enterprises should continuously update the information feeding into their supply chain risk assessment (e.g. KYC information for new suppliers) and should account for changing circumstances of the supply chain on an ongoing basis (e.g. every new product cycle).

#### Step 2.1 Map the structure of the supply chain for each product line

##### **Box X: KYC information**

- |  |                                  |
|--|----------------------------------|
| – Official name and ownership structure of suppliers | – Number of facilities           |
| – Address of suppliers                               | – Number of workers              |
| – Site ID  | – Function of facilities         |
| – Contact details of manager                         | – Size of each facility          |
|  | – Relationship between suppliers |

Enterprises in the garment and footwear supply chain operating at retailing, product design and development (e.g. brands), garment manufacturing, components manufacturing, materials manufacturing and processing:

- a. Map **KYC information** for all suppliers operating at the following stages of the supply chain: garment and footwear manufacturing, components manufacturing, and materials manufacturing and processing. The

mapping should include subcontractors, including stages in the supply chain where work is outsourced to homeworker.<sup>46</sup>

- b. Map country of origin or likely country of origin for raw material and fibre producers. See Box X for more information on how to map likely country of origin.

Enterprises operating at raw material and fibre production stages should map **KYC information** for all upstream suppliers.

**Box. Map likely country of origin for raw materials**

It can be challenging for enterprises to map the country of origin of raw materials when the enterprise is situated numerous tiers away from the production of the raw material. In such cases, enterprises should map to likely country of origin:

- Where information exists, enterprises may identify trade flows of raw-materials to determine the likely country of origin of raw materials being sold to material processors in their supply chain (e.g. map where the majority of cotton is purchased for spinners operating in a given country).
- For commodities that are traded by large multinational enterprises, enterprises may seek to map to international traders (e.g. cotton traders) and ask for information on where they source their raw materials that are then sold in the country where the enterprise's material processors are located (e.g. Where does commodity trader X source cotton that is sold in country X?).

**Step 2.2. Classify likelihood of adverse impacts based on the stage of the supply chain and sourcing location**

Step 2.2. and Step 2.3 are intended to enable enterprises to prioritise risks in the supply chain so that the resources are allocated to stages in the supply chain and geographic locations where risks of adverse impact are most severe.

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46 . Enterprises are not expected to map individual homeworkers, but should be able to identify first stages in the supply chain where homeworking is employed and individual suppliers which outsource to homeworkers. See Chapter 5 for more information.

### Box X: Proposed methodology for Step 2.2 and Step 2.3

In many cases, enterprises may rely on desktop research for Steps 2.2 and 2.3. However, where gaps in information exist, enterprises should consult experts and stakeholders on the ground. In instances in which there are major gaps in information (new sourcing country), enterprises should commission or participate in an on-the-ground assessment. A Rapid Assessment is one research methodology which may be useful in understanding the likelihood and severity of labour and human rights risks of adverse impact. See Annex X for more information on Rapid Assessment Methodology. See **Section 3** for further information on how to classify specific adverse impacts at different stages of the supply chain and in different sourcing locations.

#### Example sources of information

##### *Desktop research*

- Reports and other material provided by international organisation, NGOs, government agencies, trade unions, or employer and business associations concerning risks of adverse impact; Supplier audits, inspections, or assessments;
- Studies of specific occupations or population categories, including racial, ethnic, and religious minorities, where relevant, if these factors might have a bearing on child labour;
- Newspaper and magazine articles;

##### *Key-informant interviews*

- Local and regional government and public officials in various capacities;
- Local and international trade unions and representative worker organisations;
- Local and international civil society focused on mitigating the risk of adverse impact;
- Academics and local experts

Enterprises should classify the **likelihood** of adverse impacts (for all matters covered by the OECD Guidelines) at each stage of the enterprise's supply chain (e.g. manufacturing, components manufacturing, materials manufacturing, raw materials) based on the sourcing location. Enterprises should consider the following when assessing the likelihood of adverse impacts, however, none of the below factors should be considered in isolation. Rather enterprises should consider the following factors together to gain a more thorough picture of the risk of adverse impact.

- a. Risks of adverse impact inherent to the stage in the supply chain (e.g. chemical use in textile processing; use of seasonal labour)
- b. Social factors which may contribute to an increased likelihood of risks (e.g. high rates of migrant labour; cultural views of women or children)
- c. Effectiveness of government policies at mitigating risks of adverse impacts (e.g. regulations; effectiveness of labour inspectors; effectiveness of environmental inspectors).

See **Section 3** for recommendations on how to classify the likelihood of risks of adverse impact for specific risks in the supply chain.

Enterprises should base risk classification on existing evidence and expert knowledge. See Table X for an example of evidence which supports the risk classification of very likely, somewhat likely and unlikely.

**Table X: Classification of risk of adverse impact**

Classification	Example evidence.
Very likely	<ul style="list-style-type: none"> <li>• Credible reports of multiple instances of adverse impacts within the last 3 years by workers, industry associations, civil society, government, international organisations, auditors, etc.;</li> <li>• Government has not implemented controls (e.g. regulation, inspections...etc.); or existing controls have been demonstrated to be ineffective at mitigating adverse impacts;</li> <li>• Societal factors exist which have been demonstrated to contribute to adverse impacts;</li> <li>• Workers and stakeholders (e.g. experts, civil society, etc.) consider the adverse impact to be very likely;</li> </ul>
Somewhat likely	<ul style="list-style-type: none"> <li>• Credible reports of some instances of adverse impacts within the last 3 years by workers, industry associations, civil society, government, international organisations, auditors, etc.;</li> <li>• Government has implemented some controls (e.g. regulation, inspections...etc.), however controls have been demonstrated to be ineffective in many cases;</li> <li>• Societal factors exist which have been demonstrated to contribute to adverse impacts;</li> <li>• Workers and stakeholders (e.g. experts, civil society...etc.) consider the adverse impact to be somewhat likely;</li> </ul>
Unlikely	<ul style="list-style-type: none"> <li>• No recent reports of instances in the sector; (e.g. within the last 3 years) by workers, industry associations, civil society, government, international organisations, audit reports...etc.;</li> <li>• Government has controls (e.g. regulation, inspections...etc.) in place which have been demonstrated to be effective in mitigating the risk;</li> <li>• Workers and stakeholders (e.g. experts, civil society...etc.) do not consider the adverse impact likely.</li> </ul>

**Table X: Example risk classification**

Country	Stage	Child labour	Forced labour	Low wages	Excessive Working hours	Harmful Water use	Harmful Emission Water
Country X	Manufacturing-Direct contractors	Unlikely	Likely	Very likely	Very likely	Unlikely	Likely
	Manufacturing-Subcontractors	Very likely	Likely	Very likely	Very likely	Likely	Likely
	Finishing	Likely	Likely	Very likely	Unlikely	Likely	Very likely

### Step 2.3 Classify severity of adverse impacts based on the stage of the supply chain and sourcing location

Enterprises should apply the following recommendations on sourcing locations and stages in the supply chain classified as “somewhat likely” or “very likely” in Step 2.2.

Enterprises should classify risks of adverse impact by their severity. The severity of an impact is understood as its scale, scope and irremediable character.

- *Scale* refers to the gravity of the adverse impact.
- *Scope* concerns the number of individuals that are or will be affected.

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- *Irremediable character* means any limits on the ability to restore those affected to a situation at least the same as, or equivalent to, their situation before the adverse impact.<sup>47</sup>

It is not necessary for an impact to have more than one of these characteristics to be reasonably considered “severe”, although it is often the case that the greater the scale or the scope of an impact, the less it is “remediable”.<sup>48</sup>

In most cases, enterprises will need to rely on existing research and worker and stakeholder engagement to assess the severity of adverse impacts. However, where gaps in information exist, enterprises should consult experts and stakeholders on the ground. In instances in which there are major gaps in information (new sourcing country), enterprises should commission or participate in an on-the-ground assessment. See Box X for more information.

**Table X. Example risk classification – Severity of adverse impacts**

Severe adverse impact		Non-severe adverse impacts					
Country	Stage	Child labour	Forced labour	Low wages	Excessive Working hours	Harmful Water use	Harmful Emission Water
Country X	Manufacturing-Direct contractors	Unlikely	Likely	Very likely	Very likely	Unlikely	Likely
	Manufacturing-Subcontractors	Very likely	Likely	Very likely	Very likely	Likely	Likely
	Finishing	Likely	Likely	Very likely	Unlikely	Likely	Very likely

For the purpose of this Guidance, stages in the supply chain that are considered likely or very likely for **adverse impacts** in a particular geographic locations are considered to be **high-risk locations**. Enterprises should prioritise high-risk locations for further due diligence by the severity of the adverse impact.

### Assessment of high-risk locations in the supply chain

#### Step 2.4 Conduct, commission or review an existing on-site assessment of high-risk locations in the supply chain

The objective of Step 2.4 is to identify sufficient information to develop an effective risk management strategy in Step 3. The recommendations in this section are focused high-risk locations. While enterprises should prioritise risks of severe-adverse impacts first, the recommendations below should gradually be applied to all high-risk locations

During this step, enterprises should seek to understand the following:

#### *Operating context (i.e. context assessment)*

- Understand **root causes and contributing factors** to adverse impacts including: social, economic, and cultural dynamics that have led to adverse impacts, keeping in mind that the dynamics may differ for men and women and across cultures;

47. The Corporate Responsibility to Respect Human Rights, pg. 19

48. The Corporate Responsibility to Respect Human Rights, pg. 24

- b. For labour adverse impacts, understand the degree to which the rights to associate and collective bargaining are protected by the state and respected by business; and understand the extent to which trade unions are effectively operating within the context.<sup>49</sup>
- c. Identify local and national initiatives focused on risk mitigation. Such initiatives may be led by government, civil society, industry association, trade unions, multi-stakeholder initiatives, international organisations, etc. Mapping existing initiatives, their objectives, and their general impact will help an enterprise to understand how it can feed into existing strategies to mitigate risks of adverse impacts in its own supply chain.

#### ***Risks linked to business relationships (i.e. supplier assessment)***

- a. Identification of existing adverse impacts linked to business relationships (e.g. instances of child labour; instances of chemical emissions to water, etc.)
- b. Assessment of the supplier's management systems and prevention mechanisms to mitigate risks of adverse impacts.
- c. Identification of existing grievance mechanisms, including those established by trade unions. Enterprise should also seek to understand the effectiveness of existing grievance mechanisms.

In all cases, assessments of business relationships should be tailored to the local context and build off of learnings from the supply chain risk assessment and context assessment.

Not all business relationships should be subjected to the same level of due diligence. Due diligence may be carried out by the party being investigated (i.e. self-assessment) for non-severe risks of adverse impacts, by the enterprise itself (i.e. first-party assessment), by a third party with whom the enterprise has a business relationship or by a third party with whom the enterprise does not have a business relationship (i.e. government inspector, multi-stakeholder initiative). The level of due diligence should correspond to the level of risk (i.e. severity of risk). If enterprises rely on existing on-site assessments, they should review the quality and credibility of such assessments.

While the specific methodology used to assess business relationships should be context specific, assessments for labour and human rights adverse impacts should rely heavily on qualitative data (e.g. worker, management and stakeholder interviews). Traditional interviews may not be effective at gleaning sensitive information. In these cases, participatory methods of assessment should be used.

#### ***Frequency of assessment***

Assessments of business relationships should provide added value and therefore should build on rather than duplicate what has already been conducted. Less duplication and overlap will ensure better use of resources and minimise burden on suppliers, intermediaries, etc. Enterprises should therefore determine if a credible assessment has already been conducted in the last year. Credible in this case refers to assessments that meet the recommendations of this Guidance. If an assessment has already been conducted, enterprises should review the findings of the assessment and move on to Step 3, Risk management.

#### ***Risk assessment of business relationships for severe adverse impacts***

The individuals conducting due diligence for severe adverse impacts should demonstrate the following competencies.

- a. Demonstrate **expertise** of the adverse impact (e.g. forced labour) including extensive knowledge on red flags for the risk, the best methodology for identifying potential and actual adverse impacts (e.g. through on-

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49 . Freedom of association and collective bargaining are enabling rights. Therefore, understanding the extent to which these freedoms are protected, respected and effectively operating is important to informing risk management strategies in Step 3.

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site or off-site worker interviews), and understanding of root causes within the context that the business partner operates in;

- b. Demonstrate knowledge of **international and national standards** related to the adverse impact;
- c. Demonstrate expertise of the appropriate **tools and processes** for the assessment, e.g. technical inspection or testing, document review, worker interviews, focus group discussions, etc.
- d. Demonstrate capability to **design** assessments that are **targeted to the local context**. For engagement with workers, this means that gender dynamics, power dynamics and cultural sensitivities are fully taken into account in the design of the assessment.
- e. Demonstrate capability to **execute the assessment** within the local context. For example, the third party should have the appropriate language skills required. He or she should have demonstrated competencies in conducting the on-site assessment including worker interviews, technical inspections, etc.

It is not likely that one person will have all of the above competencies across all risk areas and across all contexts. In light of this challenge, third parties conducting due diligence may include teams that have, together, all of the above competencies.

The team involved in assessing risks linked to business relationships should be familiar with the operating context, knowledgeable about risks of adverse impacts, and preferably, already possesses a network of community contacts.<sup>50</sup> It is not always possible to find researchers and interviewers fluent in local languages. To understand the subject matter they will be required to translate, translators must be given some training regarding the research focus.

### *Methodology of assessment*

The methodology employed to assess suppliers should be tailored to the nature of the risk. For labour and human rights adverse impacts, however, assessment should rely heavily on worker engagement. See Box X for more information.

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50 . ILO and UNICEF, *Manual on Child Labour Rapid Assessment Methodology*, Statistical Information and Monitoring Programme on Child Labour (SIMPOC).



## **Methodology of assessment for labour and human rights adverse impacts**

The objective of assessment is to gain a thorough understanding of the risks of adverse impacts that workers face in a particular working environment. This Guidance recommends that assessments of suppliers related to labour and human rights adverse impacts rely heavily on individual interviews and focus group discussions, in addition to broader engagement with worker organisations. Such engagement should incorporate participatory methodologies (e.g. games, interactive activities, etc.) where more appropriate and more effective.

### ***General principles***

- a. **Triangulation:** It is best to use as many tools as possible while diversifying team members and data sources to cross check information and neutralise biases. By triangulating information, assessment teams are also able to capture a greater quantity of information.
- b. **Multiple Perspectives:** Assessment teams should value all participant perspectives. It is important to seek out diversity and analyse anomalies rather than to oversimplify complexity.
- c. **Context Specific:** Assessment methods should be tailored to the specific context. This is particularly true for worker engagement. The nature of the risk will dictate whether one-on-one interviews or focus group discussions are more appropriate and whether to engage workers onsite or offsite.

### ***Context specific considerations***

Assessment teams should consider power dynamics and cultural norms in the design and implementation of participatory assessments. Considerations in this regard include:

- a. Inequalities between women and men (the different roles assigned by society to women and men can lead to exclusion from decision-making opportunities and place women and girls in particular at a disadvantage in the family and community);
- b. Age (in certain societies, young and older people can be considered as having little to contribute and can be overlooked);
- c. Ethnicity (in relation to more dominant groups or in relation to host communities);
- d. Religion (especially when a minority);
- e. Health status (pregnant or lactating women, chronic illness, etc.);
- f. Educational level (literacy, skills, including language skills, non-school attendance) <sup>1</sup>

### ***Assessment methods***

Different methods of assessment are appropriate in different contexts. Focus groups are useful to explore group responses to a topic of common concern but inappropriate for sensitive topics. Semi-structured discussions, are appropriate for obtaining more personal, detailed information and analysing problems that will not easily emerge in a group discussion; participatory observation and spot checks will provide complementary information to more in-depth discussions and help visualize particular problems. If, during participatory observation, semi-structured, or focus group discussions with people of concern, sensitive issues emerge, or if team members feel that they need to find out more information about certain individual situations, they should discuss those subjects separately in a one-to-one setting with those individuals afterwards. <sup>1</sup>

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### *On-going risk assessment*

Enterprises should monitor red flags<sup>51</sup> which may indicate an increased likelihood or severity of risk of adverse impact at a given stage of the supply chain or sourcing location. Red-flags may be general to all risk areas in a given location (e.g. rates of corruption; gender inequality; high-rates of poverty) or may apply to specific risks of adverse impacts (e.g. increase of refugees in a country is a red-flag for forced labour). Sources of information which may feed into the identification of red-flags include new reports, grievance mechanisms, supplier, worker and stakeholder engagement, etc. See Section 3 for example red flags for specific adverse impacts. In cases in which red-flags are identified and corroborated, enterprises should repeat Steps 2.2 – 2.4.

Enterprises should likewise account for changing circumstances regarding the structure of its supply chain and product lines. For example, the release of a new product line should be incorporated into the supply chain risk assessment. Similarly, enterprises should repeat Steps 2.2-2.4 for all new sourcing locations.

#### **Step 2.4 Assess internal practices to identify if and how the enterprise is causing or contributing to adverse impacts.**

As part of their risk assessment, and to determine the appropriate risk management strategy, enterprises should assess their internal practices to identify if and how they may have contributed to adverse impacts. This will entail an analysis of the possible activities that either caused, facilitated or incentivized another entity (i.e. a supplier) to cause an adverse impact. **See Chapter 6: Application of due diligence to purchasing practices for more information on how to implement this step.**

#### **Adverse impacts: Assessing “cause”, “contribute” or “directly linked”**

Under the Guidelines, enterprises should (a) avoid causing or contributing to adverse impacts through their own activities; and (b) Seek to prevent or mitigate adverse impacts where they have not contributed to that impact, when the impact is nevertheless directly linked to their operations, products or services by a business relationship.<sup>1</sup> An enterprise ‘causes’ an adverse impact if there is causality between the operations, products or services of the enterprise and the adverse impact. Causation can occur through action as well as omissions, in other words, a failure to act. ‘Contributing to’ an adverse impact should be interpreted as a substantial contribution, meaning an activity that **causes, facilitates or incentivises another entity to cause an adverse impact**.<sup>1</sup> An enterprise can also “contribute” to an adverse impact if the combination of its activities and that of another entity result in an adverse impact.

In cases where enterprises cause an adverse impact, it is expected to take necessary steps to cease or prevent that impacts. In cases where an enterprise identifies a risk of “contributing to” adverse impacts, it should take necessary steps to cease or prevent that impact and use its leverage to mitigate any remaining impacts to the greatest possible extent. **In both cases, enterprises should account and address any actual impacts through remediation (see Step 3).**

An enterprise’s operations, products or services can also be ‘directly linked’ to an adverse impact through a business relationship. In such cases, enterprises are expected to use their leverage to seek to prevent or mitigate those impacts, but are not responsible for remediation.

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51 . Red flags are circumstances (e.g. increased political instability) or actions (e.g. late placement of orders) which may indicate a higher likelihood or severity of risks of adverse impacts in a given context.

## Step 3. Manage risks in the supply chain

### Summary

The **objective** of Step 3 is effectively mitigate risks in the supply chain.

The **recommended steps** for meeting these objectives include:

- **Step 3.1** Evaluate and report findings of Step 2
- **Step 3.2** Devise a strategy to manage risks in the supply chain with due consideration for internal risk management, supplier and worker engagement, government engagement, and community engagement.
- **Step 3.3** Determine level of supplier engagement during risk management
- **Step 3.4** Implement risk management strategy and monitor risks

### Introduction

Effective supply chain risk management generally requires a multi-prong approach by which enterprises balance between mitigating risks through direct engagement with suppliers and workers on specific issues, and addressing root causes and contributing factors to risks by engaging more broadly with government, workers, suppliers and at times the community. Identifying the most effective level of intervention (i.e. supplier and worker engagement or broader holistic engagement) can be difficult to determine and in many cases both may be required. In order to identify the most effective intervention point for risk mitigation, enterprises should consult with suppliers, workers, civil society and experts. It is important to note that effective risk mitigation may vary from context to context (i.e. what is effective in one context may not be effective in another). However, freedom of association and collective bargaining are considered to be enabling rights in they help support the respect for other labour rights. Therefore, respecting freedom of association and collective bargaining is considered to be an important step in mitigating risks of all labour adverse impacts (see Section 3, Chapter 11 for more information on due diligence for freedom of association). In all cases, enterprises are encouraged to partner with others in the mitigation of risks. This is particularly true for risks of severe adverse impacts and when addressing roots causes of risks.

In addition to determining how the enterprise will mitigate risks in its supply chain, the enterprises must make informed decisions whether to continue sourcing from a supplier during measurable risk mitigation, whether to suspend trade or disengage. This Guidance provides recommendations on how enterprises can determine their level of engagement with an individual supplier based on the severity of the adverse impact, the supplier's will to mitigate the risk, the enterprise and supplier's capacity to mitigate risk, and the enterprise's leverage over the supplier. In all cases disengagement should be a last resort.

An enterprise's risk management strategy should clearly articulate how an enterprise will mitigate risks of adverse impacts identified in Step 2 and its policy for engagement during such risk mitigation.

### Due diligence process

#### Step 3.1 Report on risks of adverse impact

Enterprises should report findings to designated senior management, outline the information gathered and the actual and potential risks identified during Step 2. Enterprises should also ensure effective internal controls to document decision-making, staff responsibility for risk management and follow up.

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### Step 3.2 Devise a strategy for risk management

#### Determine level of supplier engagement during risk management

Enterprises may manage risks in their supply chain while:

- a. Continuing to trade with the supplier throughout the course of measurable risk mitigation;
- b. Temporarily suspending trade with the supplier while the supplier pursues ongoing risk mitigation; or;
- c. As a last resort, disengaging with the supplier either after failed attempts at mitigation, or where the enterprise deems mitigation not feasible, or because of the severity of the adverse impact.<sup>52</sup>

When determining whether to continue engagement with a supplier through measurable risk management, temporarily suspending trade or disengagement from existing enterprise-supplier relationships, enterprises should consider the following factors:

- a. **Severity** - The more severe the adverse impact, the more quickly the enterprise will need to see change before it takes a decision on whether it should end the relationship.<sup>53</sup> The potential severity of the adverse impact (e.g. lost wages, unemployment) of suspending or disengaging with a supplier should likewise be considered.
- b. **Supplier's will to mitigate risks** - An enterprise cannot force a business partner to mitigate risks. Therefore, the enterprise should consider the business partner's demonstrated will to mitigate risks (e.g. its record of mitigating risks over time)
- c. **Leverage** - Leverage is considered to exist where the enterprise has the ability to effect change in the wrongful practices of the entity that causes the harm. The OECD Guidelines state that an enterprise may act alone or in co-operation with other entities, as appropriate, to use its leverage to influence its business partners. In the context of buyer-supplier relationships, an enterprise's leverage over an entity may be reflected in more than one factor, such as:
  - The proportion of business the enterprise represents for the supplier (i.e. buying power);
  - Whether the supplier is directly contracted by the enterprise, is a sub-supplier, or is contracted through a third-party.
  - The benefits of working with the enterprise to the entity's reputation and the harm to its reputation if that relationship is withdrawn;
  - The ability of the enterprise to incentivise the entity to improve its performance, for example through future business and capacity building if the enterprise does engage in more responsible conduct, or through the freezing of orders or withholding of payment if actual or potential adverse impacts are not mitigated.
  - The number of industry participants or financial service providers (i.e. other buyers, brands, industry associations, banks, investors, etc.) with common expectations for responsible business conduct in line with this Guidance.

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52 . OECD Guidelines, General Commentary, Paragraph 22.

53 . Commentary to UN Guiding Principle 19

In the garment and footwear sectors, the extent of an enterprise's leverage with its suppliers is also affected by its sourcing model, whether the enterprise is directly sourcing from the supplier or working through a buying agent and whether sourcing agreements are short term or longer-term.

- d. **Capacity to manage risks** - The enterprise and supplier should consider the cost and resources necessary to effectively mitigate risks.

These can be represented, in general terms, in the following decision matrix:

	Have leverage	Lack leverage
Crucial Business relationship	<p><b>A</b></p> <ul style="list-style-type: none"> <li>- Mitigate the risk that the abuse continues/recurs</li> <li>- If unsuccessful</li> </ul>	<p><b>B</b></p> <ul style="list-style-type: none"> <li>- Seek to increase leverage</li> <li>- If successful, seek to mitigate risk that the abuse continues/recurs</li> <li>- If unsuccessful, consider ending the relationship,* or demonstrate efforts made to mitigate abuse, recognising possible consequences of remaining</li> </ul>
Non-crucial Business relationship	<p><b>A</b></p> <ul style="list-style-type: none"> <li>- Mitigate the risk that the abuse continues/recurs</li> <li>- If unsuccessful : and severity of adverse impact is low, demonstrate efforts made to mitigate abuse, recognising possible consequences of remaining</li> </ul>	<p><b>D</b></p> <ul style="list-style-type: none"> <li>- Assess reasonable options for increasing leverage to mitigate the risk that the abuse continues/recurs</li> <li>- If impossible or unsuccessful, consider ending the relationship*</li> </ul>

\* Decisions on ending the relationship should take into account credible assessments of any potential adverse human rights impact of doing so.

An enterprise may also be considering entering into a *new* relationship with a third party which it identifies has been involved in human rights, labour or environmental adverse impacts in the past. In this case, the enterprise should first assess whether it is likely to be able to use its relationship to mitigate the occurrence of such abuse in connection with its own operations, products or services and try to ensure—through the terms of contract or other means—that it has the leverage to do so. If it assesses that this is possible, then the risks of entering the relationship may be deemed acceptable, provided the enterprise then pursues action to mitigate them. If it assesses that it will not be able to mitigate the risk of human rights abuses by the other party or that the risks to human rights are simply too high, it will be ill-advised to enter the relationship.<sup>54</sup>

**Box X. Responsible disengagement**

The OECD Guidelines recognise that there are practical limitations on the ability of enterprises to effect change in the behaviour of their suppliers.<sup>1</sup> In instances in which disengagement from a supplier is necessary, enterprises should take steps to ensure that disengagement is responsible, considering the social and economic impacts of disengagement. The enterprise's approach to disengagement should be planned, with clear rules, policies and commitments. In cases in which disengagement is necessary and the enterprise comprises a *substantial percentage* of a supplier's business, the enterprise should:

- a. Seek to involve local and international stakeholders at the earliest opportunity in the case of an intended supplier exit due to persistent non-compliance;
- b. Comply with national laws, international labour standards and the terms of collective bargaining agreements;
- c. Mitigate the effects of job losses over the short, medium and long-terms; if retrenchments become necessary, prioritise the hiring of affected workers to other suppliers;<sup>1</sup>
- d. Adopt a planned approach and work with the supplier concerned and with other buyers to mitigate the effects of a decision to withdraw;
- e. Conduct a risk assessment of the impact of a decision to withdraw orders from the supplier in question and provide remediation in proportion to their contribution to the outcomes of their disengagement;
- f. Give the contractor sufficient notice of the ending of the business relationship to allow for a retrenchment consultation procedure with the workforce, and monitor the consultation process;
- g. Provide detailed information supporting the business decision to management and to the union, where one exists;
- h. Where migrant workers are involved, work with the supplier and the governments concerned to ensure that the workers concerned enjoy equality of treatment the national workers and are redeployed within the country where possible, or if that is not possible, repatriated with all costs covered.<sup>1</sup>

**Design a strategy to mitigate risks**

Based on all of the known information acquired during Step 2, the enterprise should develop a risk mitigation strategy that outlines the enterprise's response to risks of adverse impact identified in Step 2.

### Box X. Effective risk mitigation

Enterprises should pursue a risk mitigation strategy that:

- a. **Results in the sustainable mitigation or prevention of the risk** (i.e. demonstrate impact). This implies that measures address root or contributing factors to risks.
- b. **Is tailored** to the local context (e.g. culture) and individual business partner's specific context.
- c. **Is timely in its impact**. The timeliness of the risk mitigation and prevention strategy (i.e. the length of time it takes to implement the strategy after the identification of the risk) should correspond to the severity of the risk.
- d. **Feasible**. Risk management should be feasible for both the enterprise and the supplier. This implies that risk management should be cost-effective.
- e. **Builds on existing initiatives**: In many cases, effective initiatives by government, trade unions, civil society, industry, and multi-stakeholder initiatives already exist to mitigate risks of adverse impact in a given location. Where initiatives already exist, and where such initiatives have been demonstrated to be effective, timely, and feasible, enterprises should seek to collaborate or coordinate with existing initiatives so as to reduce the burden on the supplier and increase the effectiveness of the initiatives.

In some cases, the most effective risk mitigation strategy is not immediately apparent. Enterprises and their suppliers should be willing to pilot different initiatives and track performance over time to determine the most effective means of mitigating risks. Existing research from international organisations, governments, trade unions and civil society should likewise feed into risk management strategies.

While there is no single formula for risk mitigation that can fit every situation, enterprises should generally mitigate risks in their supply chain through:

- j. **Internal risk management**: the enterprise makes adjustments to its own management systems in light of information learned in Step 2; In cases in which the enterprises has identified a risk of causing or contributing to an adverse impact, then it should take the necessary steps to cease or prevent that impact.
- a. **Supplier and worker engagement**: the enterprise seeks to mitigate risks in collaboration with the supplier, workers and stakeholders (as relevant) at the site-level (e.g. training, facility upgrading, management systems, and support for freedom of association).
- b. **Government engagement**: the enterprise engages with government to encourage the government's action towards mitigating/preventing the risk of adverse impact.
- c. **Community engagement**: the enterprise manages risk by addressing systemic factors (e.g. lack of access to education) which contribute to adverse impacts in the supply chain in collaboration with other stakeholders.

In many cases, a smart-mix of all four approaches is necessary, particularly for risks of severe adverse impacts. Enterprises should consult with suppliers, workers and stakeholders (e.g. government, civil society, experts) to identify the most effective means known for mitigating its risk of adverse impact in its supply chain, taking into consideration cost, local context, sustainability of impact, existing initiatives, and timeline required to implement the strategy. See Box X for more information.

See Section 3 for specific recommendations on when and how to mitigate risks through internal risk assessment (e.g. See Chapter 12, Wages), supplier and worker engagement, government engagement (e.g. See Chapter 12, Wages; See Chapter 8, Child Labour; See Chapter 17; Environmental due diligence at cotton production) and community

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engagement (e.g. See Chapter 8, Child Labour; See Chapter 9, forced labour; See Chapter 14, discrimination). The following provides further guidance on implementing the above risk mitigation strategies.

### *Internal risk management*

Enterprises should strengthen internal management systems (see Step 1) based on updated information collected during Step 2.

If an enterprise identifies in Step 2, that it has caused or contributed to an adverse impact it should provide for or participation in its remediation.

During Step 2 enterprises should have identified internal business practices which may cause or contribute to adverse impacts. Enterprises should mitigate the risk of continuing to cause or contribute to adverse impacts by:

- a. Seeking feedback from suppliers on how the enterprise might mitigate the risk of causing or contributing to adverse impacts and implement where feasible. See **Chapter 6: Application of due diligence to purchasing practices** for more information on how to mitigate risks caused or contributed to by an enterprise's own purchasing practices.
- b. Establishing internal processes to mitigate the risk of adverse impact (e.g. establish functional alignment between business units; provide training for business units involved in supply chain processes on risks of adverse impact, etc.).
- c. Identifying and tracking red-flags which signal an increased risk of causing or contributing to adverse impacts (e.g. Late placement of orders, Rushed orders placed during peak times or holiday in sourcing country). The presence of red-flags should trigger supplier engagement and further risk mitigation.

### *Supplier and worker engagement*

For the purpose of this recommendation, “worker engagement” engagement with workers for the mitigation of risks related to an individual or set of suppliers (i.e. rather than broader engagement on root causes of risk, e.g. wages).

Risk mitigation activities should be tailored to the individual supplier's context, but generally will include a combination of the following:

- a. **Training** – Training should cover workers, upper management and line-managers as necessary. Training should be tailored to the audience and include awareness raising and technical training on:
  - Enterprise and supplier policy related to the risk of adverse impact;
  - International and national standards related to the adverse impact;
  - Supplier management systems to manage on-site risks, responsibilities of management and workers in managing risk, and how workers can actively participate in the on-going monitoring of risks of adverse impact;
  - Enterprise grievance mechanisms to report adverse impacts;

Those directly involved in the mitigation of risks should receive comprehensive technical training.

Training may be conducted by trade unions or representative worker organisations, civil society, experts, supplier management or the enterprise itself depending upon the target audience of the training.

- b. **Facility upgrading** – In some instances, notably in relation to occupational health and safety and environmental adverse impact, facility upgrading is necessary to adequately manage risks of adverse



impacts. In these cases, enterprises should evaluate the cost of upgrading and help suppliers access funding (e.g. direct financial contribution, access to low-interest loans) where feasible.<sup>55</sup>

- c. **Strengthening of management systems** – In some cases, enterprises lack management systems to adequately identify and mitigate risks of adverse impacts on-site. Enterprises may contribute to the capacity development of suppliers, such as supporting the development of effective human resource management systems.
- d. **Respect for freedom of association and freedom of association** – Workers play an important role in managing risks on-site through collective bargaining agreements, on-going monitoring, and providing access to grievance mechanisms. For this reason, freedom of association and collective bargaining are considered enabling rights. Within this context, enterprises can manage risks broadly in their supply chain by ensuring that worker's rights (i.e. the right to organise and collective bargaining) are upheld in the workplace. See **Chapter 11 on Due Diligence of Freedom of Association and Collective Bargaining**.

See **Section 3** for more targeted recommendations for risk management of select risks of adverse impact.

### ***Government engagement***

While it is the role of businesses to act responsibly, it is the duty of government to protect against abuses by third parties, including business enterprises, through regulation, policymaking, investigation, and enforcement. In contexts in which the government is not fulfilling its duty to protect and risks cannot be effectively or sustainably managed through supplier engagement alone, enterprises should use their leverage with government (local or national) to encourage government to affect change. Example adverse impacts which may require government engagement include low wages, child labour, forced labour, discrimination, water use and emissions to water, land and air. Enterprises should consider the following when determining whether to use their leverage with governments to mitigate risks:

- a) Is the adverse impact systemic to the country or region?
- b) Could the adverse impact be mitigated through better government regulations or controls?
- c) Do international standards (e.g. ILO core conventions) exist related to the risk?
- d) Does the government demonstrate political will to establish controls over the adverse impact?
- e) Does the enterprise have leverage with the government, either alone or in collaboration with other businesses and stakeholders?
- f) Does the government participate in any relevant initiative or Forum (e.g. intergovernmental or multi-stakeholder) where these issues can be raised and possibly addressed?

Engaging in policy dialogues has an associated risk when not paralleled with transparency. Enterprises should disclose their intent in policy engagement with governments as well as the outcomes of the engagement itself. Enterprises may also consider joining multi-stakeholder initiatives focused on transparency and policy engagement, not only to benefit from shared expertise, but to send a very clear signal that the enterprises upholds and plans to maintain the highest ethical standards while engaging with government.

### ***Community engagement***

In some cases, notably in relation to risks of labour and human rights adverse impacts, socio-economic factors (e.g. cultural norms and beliefs, rates of poverty, access to education, gender norms) greatly contribute to the presence of

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55 . See the IFC's Global Trade Supplier Finance program as an example.

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risks of adverse impacts within a particular context. Within these contexts, a holistic approach to risk management is critical to sustainable risk management. Therefore:

- a. for risks of severe adverse impacts, enterprises should ensure that their risk management approach contributes to rather than detracts from existing initiatives to address socio-economic factors.
- b. where feasible, enterprise may seek to manage risks in the supply chain by directly contributing to community-level engagement. In this case, enterprises should not act alone, but should support existing initiatives to address systemic challenges. For example, enterprises may contribute funding to organisations which contribute to the mitigation of risks at the community level (e.g. civil society organisations that promote access to education in context with high rates of child labour).

### Step 3.4 Implement the risk management strategy

Enterprises should implement the risk management plan above, monitor and track performance of risk mitigation, report back to designated senior management and consider suspending or discontinuing engagement with suppliers after failed attempts at mitigation for risks of severe adverse impacts.

### Step 3.4 Monitor risk of adverse impacts

Enterprises should likewise monitor the **impact** of its risk mitigation strategy over time to test and demonstrate its effectiveness. Enterprises can employ a number of methods to track impact over time:

- a. Enterprises, in collaboration with suppliers and workers, may identify indicators of effective risk mitigation and track them over time. In many cases, supplier and workers can report directly to the enterprise on a regular basis. Asking both suppliers and workers to report helps to build confidence in the information being reported and builds worker-management relations.
- b. Effective grievance mechanisms can be a good indicator of potential and recurring adverse impacts.
- c. Context assessments provided by international organisations, civil society, government agencies, trade unions, or employer and business associations concerning the mitigation of risks of adverse impacts in a particular context (e.g. reports on reductions in child labour in a particular context);

## Step 4. Verify the effectiveness of the enterprise's due diligence

### Summary

The **objective of Step 4** is to ensure that risks in the enterprise's supply chain have been adequately identified and mitigated or prevented.

The **recommended steps** for meeting these objectives include:

- **Step 4.1** Verify that risks of severe adverse impacts identified in Step 2 have been mitigated
- **Step 4.2** Verify that collaborative due diligence aligns with this Guidance
- **Step 4.3** Verify that operational-level grievance mechanisms are achieving their purpose

### Introduction

For the purposes of this Guidance, verification is the process of establishing that an adverse impact has been effectively mitigated or is on-pace for effective mitigation. The extent of an enterprise's due diligence verification process should be proportionate to the level of risk.

### Due diligence process

#### Step 4.1 Verify that risks of severe adverse impacts linked to business relationships have been mitigated

This Guidance recommends that enterprises carry out verification for suppliers operating at high-risk locations in the supply chain. Verification measures should focus on the verification that severe adverse impacts. Verification should be tailored to the severe adverse impacts identified as likely or very-likely during Step 2.

Enterprises should verify that:

- a. There are no severe adverse impacts linked to business relationships;
- b. That risks of severe adverse impacts linked to business relationships are adequately mitigated or are on-track for mitigation<sup>56</sup>

### Verification tools

Verification is a process which may take a number of forms, for example inspection, environmental audit, social audit, management systems audit or assurance. However not all forms of verification are appropriate to for the evaluation of all risk areas. The verification process used should be tailored to the nature of the risk and be demonstrated to be effective in evaluating the mitigation of the adverse impact.

Verification should include site-level assessments, and may include the following activities:

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56. As an example, inspection of the structural integrity of a manufacturer should include verification that weight bearing is appropriate to the structure and that the enterprise has systems in place to monitor weight bearing. The inclusion of verification of risk mitigation measures is important in that it moves verification beyond a checklist approach.

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- a. Worker and management interviews and focus-group discussions: Interviews should be a core component of the evaluation of all labour and human rights adverse impacts. The interview methodology should be tailored to the context and take into consideration power dynamics, gender norms, age of participants, cultural sensitivities, etc.
- b. Observation; and
- c. Document review
- d. Inspections

For risks of adverse impact which require subjective determinations in their verification, multiple data points should be used to verify a finding of conformance or non-conformance. Corroboration helps ensure that findings are credible and defensible. One process for corroboration is triangulation, which involves the convergence of data from multiple data collection sources.

Qualified third-parties should carry out verification.

### Box. X Qualified third-parties

The individuals conducting due diligence for severe adverse impacts should demonstrate the following competencies.

- a) Demonstrate **expertise** of the adverse impact (e.g. forced labour) including extensive knowledge on red flags for the risk, the best methodology for identifying potential and actual adverse impacts (e.g. through on-site or off-site worker interviews), and understanding of root causes within the context that the business partner operates in;
- b) Demonstrate knowledge of **international and national standards** related to the adverse impact;
- c) Demonstrate expertise of the appropriate **tools and processes** for the assessment, e.g. technical inspection or testing, document review, worker interviews, focus group discussions...etc.
- d) Demonstrate capability to **design** assessments that are **targeted to the local context**. For engagement with workers, this means that gender dynamics, power dynamics and cultural sensitivities are fully taken into account in the design of the assessment.
- e) Demonstrate capability to **execute the assessment** within the local context. For example, the third party should have the appropriate language skills required. He or she should have demonstrated competencies in conducting the on-site assessment including worker interviews, technical inspections...etc.

It is not likely that one person will have all of the above competencies across all risk areas and across all contexts. In light of this challenge, third parties may include teams that have, together, all of the above competencies.

### Timing and frequency

The timing of verification should correspond to the severity and nature of the risk. Enterprises should consider the length of time necessary to sustainably mitigate risks of adverse impact.

Once an enterprise has been verified as mitigating severe adverse impacts, verification should only occur on an annual basis or when circumstances change that increase the likelihood or severity of adverse impact. Enterprises should recognise existing verification reports conducted by qualified third-parties.

### ***Negative results***

In instances in which the risk has not been mitigated or prevented, enterprises should repeat Step 2.4 to understand why this is the case. There are a number of reasons why a risk may not have been effectively mitigated, including that the risk mitigation strategy is not effective, inadequate time to mitigate risks, inadequate resources to mitigate risks or lack of will. Enterprises should incorporate the findings of Step 2.4 to revise the risk management strategy leading to verification again.

### **Step 4.2 Verify that collaborative due diligence aligns with this Guidance**

When engaging in collaborative due-diligence (e.g. through an industry association or multi-stakeholder initiative), the collaborative initiative should be reviewed for conformance with this Guidance. Reviewers may include a multi-stakeholder board of experts or an institutional body.

### **Step 4.3 Verify that operational-level grievance mechanisms are achieving their purpose**

Enterprises should take steps to verify that their grievance mechanisms are effective. Table X includes example indicators which can help an enterprise to determine whether its grievance mechanisms are effective. No single indicator can provide a full picture; but rather indicators should be considered in total to form a comprehensive picture of the strengths and weaknesses of the system or process.

If an enterprise participates in a third-party grievance mechanism, the grievance mechanism should be reviewed for its effectiveness. Reviewers may include a multi-stakeholder board of experts or an institutional body.

<b>Table X: Grievance Mechanism Indicators</b>	
<b>Indicator</b>	<b>Interpretation</b>
# of complaints or grievances brought to the mechanism in the period after its establishment	<ul style="list-style-type: none"> <li>- A high number of complaints indicate that the mechanism is publicised and accessible.</li> <li>- A high number of complaints may indicate that the mechanism is trusted.</li> <li>- A low number of complaints <i>may</i> indicate a lack of awareness of the mechanism's existence or a lack of confidence in the mechanism. Further investigation should be conducted to determine whether this is the case See the following two indicators.</li> </ul>
% of complainants that indicate an awareness of the mechanism's existence as reported to independent third party	- A high percentage indicates that the mechanism is publicised and accessible.
% of complainants that indicate the perception that the grievance mechanism provides a credible and worthwhile process.	- A high percentage indicates that the mechanism is trusted.
% of grievances that receive acknowledgement	- A high percentage (e.g. 95 or higher) indicates that the mechanism is predictable in terms of process. Enterprises should work towards 100%
% of grievances that receive a proposed course of action or interim update within the deadline set in the grievance mechanism.	- A high percentage (e.g. 95 or higher) indicates that the mechanism is predictable in terms of process. Enterprises should work towards 100%
% of cases that are resolved without recourse to arbitration or NCP mechanism	- This is a partial indicator of complainants' satisfaction with the company's grievance procedures and negotiation practices. This indicator does depend upon the complexity of the dispute.

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% of cases the complainants report to an independent party that they considered the process to be serious, fair and respectful.	- A high percentage indicates that the mechanism is working effectively (when accessed) even in cases where no settlement was reached. Watch for a correlation between instances where no settlement is reached and where the complainant does not feel the process was fair and restful.
# of changes made to the company's policies or processes based on learning (e.g. changes to the process for receiving and addressing complaints)	- No changes or few changes made to the company's policies may indicate that the enterprise is not adequately learning from its experiences.
Source: Adapted from <i>Rights-Compatible Grievance Mechanisms, A Guidance Tool for Companies and Their Stakeholders</i> , pg. 4; See also Assessing the Effectiveness of Company Grievance Mechanisms, CSR Europe's Management of Complaints Assessment (MOC-A) Results.	

## Step 5. Public reporting and communication

### Summary

The **objective** of Step 5 is to account for how the enterprise has identified and managed risks of adverse impacts in its supply chain through public reporting and other communication. Reporting is the mechanism enterprise's should use to demonstrate its good faith and reasonable efforts to identify, prevent and mitigate adverse impacts, and areas for progressive improvement.

The **recommended steps** for meeting these objectives include:

- **Step 5.1** Report publicly
- **Step 5.2** Be prepared to communicate externally when concerns are raised by, or on behalf of, affected stakeholders

The processes and results of Steps 1-4 provide the body of information an enterprise needs to have available in order to communicate as and when appropriate.

### Due diligence processes

#### Step 5.1 Report publically

Enterprises should make the Enterprise RBC Policy publicly available.

Enterprises should annually report on their due diligence for responsible supply chains, including in relation to the following:

- a. **Enterprise's due diligence management systems:** Enterprises should explain the management structure responsible for the enterprise's due diligence and who in the enterprise is directly responsible; describe the enterprise's database and record-keeping system as well as the system to follow-up with identified risks (See Step 1).
- b. **Enterprise's supply chain risk assessment:** Enterprises should describe their risk assessment methodology to evaluate risks in their supply chain. Enterprises should disclose general findings of adverse impacts in their supply chain (e.g. low wages, lack of respect for freedom of association); however enterprises are not expected to reveal publicly all specific issues identified in its ongoing assessments of adverse impacts. Enterprises should report formally on how they address severe adverse impacts. This is particularly relevant for human rights impacts.<sup>57</sup>
- c. **Enterprise's risk management strategy:** Enterprises should describe their risk management strategy, including a summary report on the enterprise's approach to risk mitigation (e.g. internal risk management; supplier and worker engagement; government engagement; community engagement). Enterprises should disclose their systems for monitoring and tracking performance over time. In cases in which enterprises have engaged with government as a means of mitigating risks of adverse impacts, enterprises should disclose their intent in policy engagement as well as the outcomes of the engagement itself.

Formal reporting should indicate both what has been achieved and future plans to improve or introduce new process.

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57 . See UN Guiding Principles Reporting Framework

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Formal reporting on the enterprise's risk-based due diligence may be reported independently, incorporated into the enterprise's reporting on responsible business conduct, or be incorporated into an integrated report on both financial and non-financial performance. Formal reporting should be conducted annually at a minimum and should be made publicly available.

### Instances of non-disclosure

Companies should report with due regard to commercial confidentiality and other competitive or security concerns.<sup>58</sup> There may be legitimate reasons for non-disclosure of information, notably:

- a. Potential risks to affected stakeholders or staff (including arising from the disclosure of personal information)
- b. The legitimate requirements of commercial confidentiality which may include, for example:
- c. Commercially-sensitive information during negotiations regarding a significant business transaction;
- d. Information legally protected against disclosure to third parties;
- e. Sensitive investigations and internal discussions regarding alleged involvement in adverse impacts<sup>59</sup>
- f. The confidentiality required by legitimate law enforcement operations

Where an enterprise judges it difficult to share information from its risk assessment (e.g. anti-bribery and corruption), the enterprise may provide assurance through other methods. Examples include:

- a. Invite an independent third party to review the enterprise's assessment processes and report them publicly or to a relevant multi-stakeholder initiative.
- b. Participate in a credible multi-stakeholder due diligence initiative.

### Step 5.2 Be prepared to communicate externally when concerns are raised by, or on behalf of, affected stakeholders

Enterprises should be prepared to communicate externally in order to account for how they address adverse impacts caused, or contributed to by the enterprise or directly linked to its operations, products or services by its business relationship with another entity when concerns are raised by, or on behalf of, affected stakeholders.

The form of the communication should fit the purpose. Beyond public and formal reporting, Communication can take a variety of forms, including in-person meetings, online dialogues, and consultation with affected stakeholders. Communication needs to be appropriate to the enterprise's impacts and audience in terms of its form, frequency, accessibility, and the adequacy of information provided.

Furthermore, informational needs may vary across stakeholder groups. Enterprises should engage with affected stakeholders to understand their specific informational needs.

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58 . Business confidentiality and other competitive concerns means price information and supplier relationships without prejudice to subsequent evolving interpretation.

59 . EU, ICT Sector Guide on Implementing the UN Guiding Principles on Business and Human Rights, pg. 66



## Recommendations for material manufacturers, component manufacturers, and garment and footwear manufacturers

### Audience

The recommendations in this chapter are relevant for material manufacturers, component manufacturers, and garment and footwear manufacturers operating in the garment and footwear supply chain (hereafter “manufacturers”), particularly small and medium-sized enterprises (SMEs). Larger enterprises operating at these stages of the supply chain are encouraged to apply the following guidance regarding their own internal operations in addition to the recommendations in the 5-step Framework for Due Diligence.

The following recommendations are not targeted towards raw material producers, however enterprises operating at this stage should see the FAO-OECD Guidance for Responsible Agriculture Supply Chains for agriculture-based raw materials.

### Introduction

All enterprises in the garment and footwear supply chain have a role to play in identifying and mitigating adverse impacts. Manufacturers operating along the garment and footwear supply chain are encouraged to begin this process by first applying due diligence to their own operations and the operations of their tier-1 suppliers in accordance with this Guidance. In doing so, manufacturers will contribute towards sustainable development in the context in which they are operating and will meet the expectations of their customers operating in global supply chains, as laid out in this Guidance. Manufacturers are encouraged to lead on due diligence in accordance with the following recommendations and proactively communicate their due diligence processes to their customers.

This Guidance will support manufactures to achieve level and regulatory compliance for doing business with jurisdictions that have enacted or are in the process of enacting legislation requiring due diligence for responsible garment and footwear supply chains and those enterprises in operating in or from OECD countries that adhere to the OECD Guidelines.

Other expected benefits to implementing companies include:

- a. Increased ability to meet expectations of customers and markets on responsible garment and footwear supply chains;
- b. Enhanced understanding, data collection and management on a company’s supply chains and sourcing strategies, to enable more informed and strategic decision-making;
- c. Improve reputation of participating companies and of the industry;
- d. Decreased disruptions in own operations and supply linked to risks on matters covered by the OECD Guidelines (e.g. labour, environment, human rights);
- e. Provide guidance for companies wanting to undertake supply chain due diligence in other supply chains

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### Due diligence processes

Manufacturers should prioritise the identification and mitigation of adverse impacts in their own operations first. They should then identify and addressing risks directly linked through their direct suppliers (i.e. tier 1 suppliers).

#### Step 1. Establish strong management systems for due diligence

Manufacturers should adopt a clear enterprise policy on responsible business conduct pertaining to their own operations and the enterprise's supply chain (hereafter the enterprise RBC policy).<sup>60</sup> The enterprise RBC policy should:

- a. Include a commitment to implement this Guidance and national and international standards related to human rights, labour and the environment;
- b. Clearly articulate the enterprise's practices to identify, prevent, mitigate and account for how it address adverse impacts in its own operations;
- c. Clearly articulate the enterprise's commitment to increasingly source from suppliers that meet the expectations of this chapter;
- d. Explicitly reference international standards, including the OECD Guidelines for Multinational Enterprises, the UN Guiding Principles on Business and Human Rights, and this Guidance;
- e. Be approved at the most senior level of the enterprise. Senior level responsibility should be assigned for its implementation;
- f. Be publicly available and communicated to all employees, business partners and other relevant parties (e.g. posted online);
- g. Be reflected in operational policies and procedures necessary to embed it throughout the enterprise;<sup>61</sup> and
- h. Be reviewed and adapted on a regular basis in light of the increasing knowledge about risks in the enterprise's own operations or the operations of its tier-1 suppliers.

Senior staff should oversee the implementation of the enterprise RBC policy and should demonstrate a strong commitment to the policy.

#### Step 1.2 Structure internal management to support supply chain due diligence

Manufacturers should clearly assign responsibilities to staff to identify and mitigate risks of adverse impacts. The nature of the risk should dictate who is responsible for its oversight. For example, those involved in the hiring and contracting of workers have an important role to play in the mitigation of labour-related risks. See Box X for an example of responsibilities which may be assigned to human resources in order to monitor human rights and labour adverse impacts. Box X is not intended to be comprehensive but to serve as an example.

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60 . The enterprise RBC policy provides a framework for how the enterprise deals with risks of adverse impacts and provides a starting point from which the enterprise can better leverage responsible business conduct in its business relationships.

61 . OECD Guidelines, IV, Commentary 44; UN Guiding Principles, para. 16.

**Box X.****Human resource manager, example due diligence responsibilities:**

- Ensure that all workers have formal contracts and employment contracts are legal and adhere to international standards regarding remuneration, working hours, overtime, etc.
- File copies of worker contracts on-site;
- Monitor and record data related to all employee's working hours. Alert upper management and production units if workers are at risk of working excessive hours.
- Monitor and record data related to child employment, including; number of hours worked, time of work (e.g. daytime shift), and primary responsibilities of child workers. Alert upper management if a child is at risk for working too many hours or being engaged in hazardous work.

**Step 1.3 Establish information management systems to support due diligence**

Establish systems to track data to gain an increased understanding of the root causes of adverse impacts, the frequency of adverse impacts, the severity of adverse impacts. For example, enterprises may seek to track:

- a. E.g. Working hours of each employee;
- b. E.g. Rates of unscheduled outsourcing to subcontractors

**Step 1.4 Engage customers on RBC**

Establish feedback mechanisms with customers to receive and provide feedback regarding the enterprise's RBC policy. Within this context, manufacturers should:

- a. Where appropriate, incorporate into contracts requirements related to late placement of orders, changes to orders...etc. to reduce the risk that such changes result in adverse impacts.
- b. Factor compliance with due diligence, environmental and social performance, into cost. See Chapter 12 on Wages for more information.

Manufacturers should be prepared to disclose the following information to their customers:

- a. Their own **KYC information**
- b. **KYC information** of direct suppliers
- c. In contexts that are high-risk for forced labour, manufacturers may also be requested to disclose **KYC information** of labour recruitment agencies
- d. Information on how risks have been assessed (i.e. internal processes, external assessment, etc.) and findings
- e. Manufacturing risk management strategy
- f. Disclose the use of sub-contractors to clients; Comply with client requirements regarding the outsourcing to sub-contractors.

**Step 2. Identify and assess risks in the supply chain**

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Manufacturers should establish systems to assess risks within their own activities.<sup>62</sup>

Participate in external assessment (of customers or multi-stakeholder initiatives) on an annual basis.

### Step 3. Manage risks in the supply chain

Risk mitigation activities should be tailored to the individual context, but generally will include a combination of the following:

- a. **Training** – Training should cover workers, upper management and line-managers as necessary. Training should be tailored to the audience and include awareness raising and technical training on:
  - Manufacturer policy related to the risk of adverse impact;
  - International and national standards related to the adverse impact;
  - Manufacturer management systems to manage on-site risks, responsibilities of management and workers in managing risk, and how workers can actively participate in the on-going monitoring of risks of adverse impact;
  - Manufacturer grievance mechanisms to report adverse impacts;

Those directly involved in the mitigation of risks should receive comprehensive technical training.

Training may be worker organisations, civil society, experts, supplier management or the manufacturer itself depending upon the target audience of the training.

- b. **Facility upgrading** – In some instances, notably in relation to occupational health and safety and environmental adverse impact, facility upgrading is necessary to adequately manage risks of adverse impacts. In these cases, the manufacturer should evaluate the cost of upgrading and collaborate with customers or international financial institutions to access financing (e.g. access to low-interest loans) where feasible.<sup>63</sup>
- c. **Strengthening of management systems** – In many cases, improved management systems will contribute to the mitigation of adverse impacts.
- d. **Respect for freedom of association and freedom of association** – Workers play an important role in mitigating risks on-site through collective bargaining agreements, on-going monitoring, and providing access to grievance mechanisms. For this reason, freedom of association and collective bargaining are considered enabling rights. Within this context, manufacturers can manage risks in their own operations by ensuring that worker's rights (i.e. the right to organise and collective bargaining) are upheld in the workplace.<sup>64</sup>

Enterprises are encouraged to cooperate with workers, customers, civil society, industry associations, multi-stakeholder initiatives, etc. in the implementation of the above.

### Step 4. Verify the effectiveness of the manufacturer's risk mitigation

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62 . There are numerous existing resources that provide guidance on how to identify and assess risks of adverse impact within the manufacturing context. See GSCP Reference Tools as an example.

63 . See the IFC's Global Trade Supplier Finance program as an example.

64 . See ILO reference guide on how employees can respect freedom of association in the workplace.

Manufacturers should participate in annual verification processes, e.g. audits, inspections, etc. of severe adverse impacts. The findings of the verification should be valid for one year (or until the next verification if conducted in less than one year) and should be disclosed to customers.

#### **Step 5. Public reporting and communication**

Enterprises should report and communicate on their due diligence practices in accordance with Step 5 of the Five-step Framework for Due Diligence.

#### **Due diligence processes for direct supplier (i.e. tier-1 suppliers)**

Manufacturers should systematically work towards due diligence of direct suppliers.

- a. Establish a pre-qualification process for all direct suppliers; the pre-qualification process should include a review of the direct-supplier's risk assessment;
- b. Communicate findings of risk assessment of direct-suppliers to direct-customers;

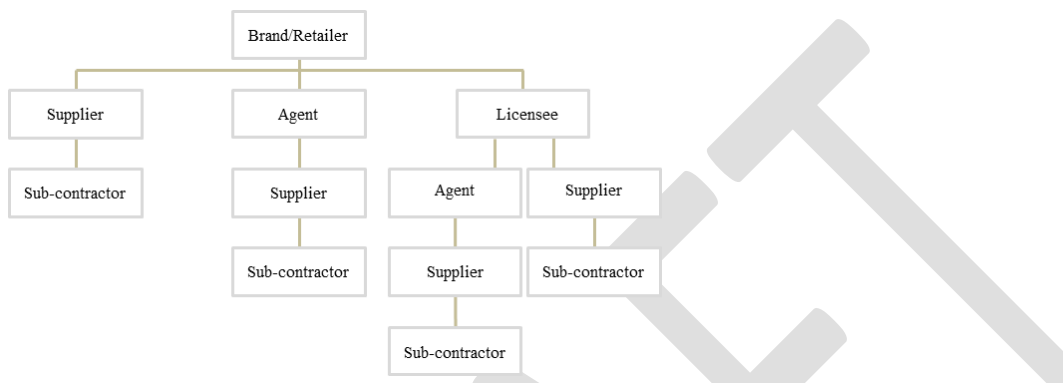
Enterprises should report on how they manage risks linked to direct-suppliers in their formal reporting.

## Chapter 4

### Application of Five-step framework across sourcing models

For the sourcing of end products, retailers and brands in the garment and footwear sector use a range of sourcing models and business relationships. An enterprise's sourcing model impacts how it applies due diligence.

Figure x: Retailer and brand sourcing models



For the sake of simplicity, this guidance characterises sourcing models in the following ways.

- c. Direct sourcing model: An enterprise holds a direct contractual relationship with its supplier (e.g. raw materials producer and processor, materials manufacturer or processor, component manufacturer, garment or footwear manufacturer).
- d. Indirect sourcing model: An enterprise sources products (e.g. raw materials, garment and footwear finished goods) from an intermediary. For example, agents may place orders with garment and footwear manufacturers on behalf of the retailer or brand.

For direct and indirect sourcing, the final decision to retain or not a business relationship (either directly contracted or through an intermediary) should be taken by the enterprise.

Enterprises that have direct *and* long-term sourcing relationships with their suppliers are best positioned to identify and mitigate risks in their supply chain because their knowledge of the main supplier, the sourcing context and the risks of adverse impact associated with both is increased over time. For example, enterprises are more capable to establish partnerships with main suppliers by which the supplier and enterprise tracks impact of risk mitigation over time, leading to improved risk mitigation strategies. Furthermore, in instances in which an enterprise has direct and long-term sourcing relationships with its main suppliers, the main supplier is more likely to have greater business security and therefore greater incentive and capacity to mitigate risks over time.

Intermediaries that have direct and long-term sourcing relationships with their suppliers are also more likely to be able to identify and mitigate risks of adverse impacts over time than their counterparts. In this context, enterprises sourcing through indirect sourcing models should seek to source through intermediaries that have established direct and long-term sourcing relationships with their main suppliers over time, as feasible.

## Direct sourcing

The following recommendations are relevant to *any* enterprise sourcing directly from a supplier, including brands, retailers, garment and footwear manufacturers, components manufacturers and processes, materials manufacturers and intermediaries.

Enterprises should:

- a) Establish and implement a prequalification process for direct suppliers. The prequalification process should assess actual adverse impacts and risks of adverse impacts linked to the supplier in accordance with Step 2. Based on all available information, i.e. the operating context as assessed during Step 2, the severity of the adverse impacts or risks of adverse impacts, the supplier's will to mitigate risks, the enterprise's leverage with the supplier and the capacity of the enterprise and the supplier to mitigate risks, determine whether to pre-qualify the supplier.

*The following recommendations should be applied to pre-qualified direct suppliers.*

- b) Integrate expectations of suppliers on matters covered by the OECD Guidelines into supplier contracts.
- c) Ensure capability to liaise directly with the supplier and workers regarding expectations on matters covered by the OECD Guidelines, risk identification, and risk mitigation.
- d) Ensure capability to monitor risk mitigation and red-flags regarding risks of adverse impacts over time: e.g. through on-the-ground staff, credible industry or multi-stakeholder initiatives, credible third-parties.
- e) Build leverage with direct suppliers by increasing orders for suppliers that perform well in relation to quality of production and responsible business conduct.
- f) Develop a partnership approach with direct supplier management and workers to mitigate or prevent adverse impacts.
- g) Where feasible, continuously increase percentage of resources (i.e. financing and staff time) allocated towards risk mitigation and prevention in comparison to risk assessment. (This implies that the enterprise's understanding of risk is fairly comprehensive in a long-term supplier relationship).
- h) Establish feedback loops between suppliers and the enterprise regarding ways that the enterprise may be contributing to risks (e.g. through short lead times).

Measure the effectiveness of risk mitigation and prevention strategies over time and revise risk mitigation strategies accordingly.

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### Indirect sourcing

The following provides recommendations on how enterprise can apply due diligence when sourcing indirectly (i.e. sourcing through intermediaries). The following is only relevant in instances in which the enterprise relies on the intermediary to conduct supply chain due diligence. In such cases, enterprises should evaluate the capability of the intermediary to apply due diligence in accordance with this Guidance.

Enterprises should:

- a. Establish and implement a prequalification process for intermediaries. The prequalification process should assess the intermediary's capability to apply due diligence on its own supply chain. Enterprises should seek to understand the following:
  - The intermediary is a legitimate company with a proper license;
  - Whether or not the intermediary has its own infrastructure or whether it outsources to another company;
  - The total number of suppliers that the intermediary sources from and the geographic location of its suppliers;
  - Frequency with which the intermediary visits suppliers and the staff member functions that visit suppliers;
  - The average length of time the intermediary holds a relationship with its suppliers;
  - Due diligence measures that the intermediary has in place to pre-qualify its suppliers and the alignment with the recommendations under "Direct sourcing models" above;
  - Due diligence measures the intermediary has in place to manage risks linked to business relationships.
  - Due diligence measures in place to verify that risks have been mitigated
  - Intermediary's track record for performance related to risk management, including client references.
  - Disclosure of family relations with any suppliers.<sup>65</sup>

*The following recommendations should be applied to pre-qualified intermediaries.*

- b. Integrate expectations of intermediaries on matters covered by the OECD Guidelines into contracts.
- c. Intermediaries should apply a pre-qualification process to their direct suppliers and intermediaries. The enterprise may prequalify supplier through the same processes as it employs for its direct suppliers, or the intermediary may prequalify suppliers. In instances in which the intermediary itself conducts the prequalification process for its suppliers, the enterprises should ensure that the prequalification process of the supplier aligns with this Guidance and the expectations of the enterprise.

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65 . If the intermediary does have a family relationship with the supplier, it should disclose this information and due diligence should be conducted by a third-party.



- d. The enterprise should be able to know at any time where its orders are currently located. Intermediaries should be prepared to disclose the following:
- Selection of pre-approved suppliers
  - Up-to-date KYC information of supplier
  - Intermediary supply chain due diligence process
  - Results of most recent supplier risk assessment and corresponding risk mitigation strategy; most importantly, intermediaries should alert the enterprise to the identification of any risks of severe adverse impacts linked to suppliers immediately.
- e. Where feasible, intermediaries should establish long-term relationships with their direct suppliers to support the ongoing identification and effective mitigation of risks of adverse impacts.
- f. Enterprises should take steps to ensure that an intermediary is conducting business partner due diligence in accordance with this Guidance. There are a number of ways that this can be accomplished:
- The intermediary undergoes a third-party assessment on an annual basis to identify strengths and weaknesses in its due diligence processes.
  - The intermediary participates in a multi-stakeholder initiative which is reviewed by a governing body for its adherence to this Guidance on due diligence.
  - The enterprise conducts assessments on a random sampling of pre-approved suppliers.

### Business to business subcontracting

The following recommendations are relevant to *any* enterprise sourcing directly from a supplier, including brands, retailers, garment and footwear manufacturers, components manufactures and processes, materials manufacturers and intermediaries.

A subcontractor is a person or business that performs some service or material necessary for the performance of another's contract. Un-authorised subcontracting increases the risk of poor working conditions, labour violations and human rights abuses. Within the garment and footwear supply chain, subcontracting is commonly found at cut-and-trim manufacturing stage and may include small-scale factories, vendors, middlemen, or unregistered household production units. The following regards subcontracting to factories. See **Chapter 5, Application of due diligence to subcontracting to homeworkers**.

Subcontracting arrangements between formal and informal suppliers are often conducted on a non-contractual basis. Generally, workers in these informal production units manufacture single components of finished garments, and/or perform functions such as labelling or tagging, affixing stickers, embroidery, button stitching, etc.<sup>66</sup>

If subcontracting is a common practice in an enterprise's supply chain, the enterprise should establish a clear requirements regarding transparency and the selection of subcontractors.

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66 . Naser, A. (2011). Exploration Research for Child Labor and Forced Labor in the Garment Industry in Bangladesh. Work carried out in April 2011 in Dhaka metropolitan area and Ashulia.; Direct quote from = <http://www.dol.gov/ilab/reports/pdf/2013GarmentBangladesh.pdf>

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### Subcontracting is not authorised:

Subcontracting enables an enterprise to respond quickly to customer demand without increasing overtime when orders cannot be filled with the current worker base. Therefore, if an enterprise chooses to prohibit subcontracting, the enterprise should put in place controls to ensure that subcontracting does not continue on an illegal basis to unauthorised suppliers or that the placement of orders does not result in forced overtime or other adverse impacts.<sup>67</sup> For example, in instances in which the enterprise changes the specifications of orders, the lead time should likewise be amended to reduce the risk of unauthorised subcontracting.

### Subcontracting is authorised:

If the enterprise permits subcontracting the enterprise should establish clear requirements for the selection of subcontractors and transparency.

**Prequalification of subcontractors:** The enterprise prequalifies subcontracts through the same processes as it employs for its direct suppliers. In instances in which the supplier itself conducts the prequalification process for its subcontractors, the enterprises should ensure that the prequalification process of the supplier aligns with this Guidance and the expectations of the enterprise. The subcontractor should disclose all KYC information as well as the processes that it is or will put into place to prevent, mitigate and monitor severe adverse impacts in its supply chain. Subcontractors should renew their approval process on an annual basis to stay on the approved sub-contractor list.

**Contract process:** Direct suppliers may subcontract out to previously approved subcontractors. The enterprise should be able to know at any time where its orders are currently located. Direct suppliers should be prepared to disclose the following:

- a. Intent to subcontract work
- b. Selection of pre-approved subcontractor
- c. Up-to-date KYC information of subcontractor
- d. Results of most recent subcontractor risk assessment; most importantly, direct suppliers should alert the enterprise to the identification of any risks of severe adverse impacts immediately.
- e. Size of contract allocation

Where feasible, direct suppliers should establish long-term relationships with their subcontractors to the ongoing identification and effective mitigation of risks of adverse impacts.

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67. In some instances, banning the use of sub-contracting may increase the likelihood that sub-contracting continues but on an illegal bases to un-authorised suppliers. Risks of adverse impact are increased in this instance.

## Application of due diligence to subcontracting to homeworkers

### Summary

This chapter aims to minimise the risk of the marginalisation of homeworkers, particularly the victims of extortion, while promoting responsible supply chains, thereby creating economic and development opportunities for homeworkers. This chapter proposes measures to build secure, transparent and verifiable garment and footwear supply chains from raw material to sale and enable due diligence for homeworkers to achieve these objectives, including through formalisation and legalisation efforts. This Guidance recognises that there are no quick fixes and on-size-fits-all solutions, it is also widely accepted that informality represents significant loss for the individual and his/her family.<sup>1</sup>

Governments, international organisations, donors, enterprises in the supply chain and civil society organisations may consider the opportunity to explore collaborative ways to make use of these suggested options or other complementary approaches as they deem appropriate in accordance with national laws.<sup>1</sup>

This Guidance recommends that enterprises, trade unions and civil society work at several levels to address the needs of homeworkers.

This Guidance is adapted from the following resources:

- OECD Due Diligence Guidance for Responsible Supply Chains of Minerals from Conflict-Affected and High-Risk Areas (2010)
- International Labour Organisation, Report V (1), Transitioning from the informal to the formal economy, International Labour Conference, 103<sup>rd</sup> Session (2014)
- Ethical Trade Initiative, ETI homeworker guidelines: recommendations for working with homeworkers

### Context

In many countries, homeworkers are an integral component of the textiles, garment and footwear supply chain. The ILO Convention 177 defines homework as “work carried out by a person in his/her home or on other premises of his/her choice, other than the workplace of the employer, for remuneration which results in product/service as specified by the employer; irrespective of who provides the equipment, materials or the other inputs used, unless this person has the degree of autonomy and economic independence necessary to be an independent worker under national laws, regulation or court decisions.”

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Few homeworkers have legal status as employees and are thus vulnerable to exploitation. The most common concerns related to homework are<sup>68</sup>:

- a. **Legal status**-In some countries, workers in the informal economy, including homeworkers are excluded either in part or entirely from the scope of application of labour legislation.<sup>69</sup>
- b. **Low pay**- most homeworkers are paid low rates and less than factory workers. Few homeworkers are paid the minimum wage and even fewer earn a living wage. Further, the rates decrease with the distance from the original place where work is given out. There are rarely systems for keeping records or determining quality, so rates of pay are further lowered through unfair deductions for quality, miscounting of pieces and so on. Delayed payment is another serious problem. Wages may be paid irregularly and in some cases only partial payments are made to keep the worker tied to the contractor.
- c. **Insufficient and irregular work**- very few homeworkers have enough work to occupy them on a full-time basis. Most are constantly hoping for more work. This lack of availability of work greatly weakens the position of homeworkers vis-à-vis their employers. As the work available is irregular, income and working hours vary widely from week to week. Sometimes there is no work and no income, at other times there are very long working hours and better incomes.
- d. **Employment status**- many homeworkers are unclear of their employment status. Very few are legally employees, and therefore most do not have employee status. Most legal systems do not recognise homeworkers. This informality leaves them officially invisible and thus open to exploitation.
- e. **Social security and benefits**- most homeworkers are not employees so they do not receive sick pay, holiday pay or maternity pay, and are rarely included in pension schemes.
- f. **Discrimination against women**- women are often relegated to lower paid work within the sector, with better paid work the domain of male workers. Women are often paid less for the same work than their male counterparts.
- g. **Child labour** - the participation of children to a greater or lesser extent is an inseparable part of homework. Recent views are that the problem is not so much that children work at home, but more that homework interferes with their education.

## Risk mitigation framework

The following provides information on the broader risk mitigation framework necessary for the mitigation of adverse impacts linked to homework. Enterprises should feed into the below framework when designing due diligence, however, enterprises are not responsible implement all of the below recommendations on their own. Rather the following should serve as a reference to all stakeholders involved in the mitigation of risks of adverse impacts to homeworking in the garment and footwear supply chain. Specific recommendations for enterprises are provided below.

## Formalisation of employment

Homeworkers, no less than other workers, should be formalised in order to achieve good terms and conditions of employment. Homeworkers should be viewed as an intrinsic part of the workforce entitled to receive equal treatment. In the context of this Guidance, formalisation is the process by which workers are transitioned from informal jobs to

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68 . Adapted from <http://www.ethicaltrade.org/sites/default/files/resources/ETI%20Homeworker%20guidelines,%20ENG.pdf>

69 . [http://www.ilo.org/wcmsp5/groups/public/---ed\\_norm/---relconf/documents/meetingdocument/wcms\\_218128.pdf](http://www.ilo.org/wcmsp5/groups/public/---ed_norm/---relconf/documents/meetingdocument/wcms_218128.pdf)

formal jobs.<sup>70</sup> Formalisation should be considered a process rather than a single step. Formalisation is therefore recommended through:

- a. Knowing the reasons for lack of formalisation in existing homeworker production systems in order to identify the best strategies for incentivising and enabling formalisation.<sup>71</sup>
- b. Providing technical assistance to help formalise homeworkers and other informal workers
- c. Acknowledging the diversity in the types and sizes of homeworkers activity
- d. Creating and participating in collaborative initiatives to establish the modalities and financing of support funds to assist with the formalisation process.<sup>72</sup>
- e. Promoting the legalisation of workers.

### ***Legalisation of operations***

Legal identity and recognition of worker and or entrepreneur status are often necessary first steps for the formalisation of worker<sup>73</sup>; however the causes of informality are many and are generally unrelated to legality. It would therefore be ineffective to pursue formalization through legislative reform alone.<sup>74</sup> Within this context, enterprises, CSOs and government can:

- a. Assist homeworkers to obtain contracts and other related authorisations through legitimate processes. Consider other regulatory measures to legalise operations of homeworkers.
- b. The legalisation of homeworkers should not impose expectations for homeworkers that cannot be met and therefore marginalise homeworkers further (e.g. the obligation to work in a particular centre may marginalise homeworkers who can only work from home).

### ***Organisation, representation and social dialogue***

Organising workers and entrepreneurs in the informal economy is the first step towards social dialogue and the development of tripartite solutions that take into account the contextual factors and diversity within the informal economy Homeworkers should be organised in order to achieve good terms and conditions of employment.<sup>75</sup> Given

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70 . The ILO/ICFTU international symposium on the informal sector in 1999 proposed that the informal sector workforce can be categorized into three broad groups: (a) owner-employers of micro enterprises, which employ a few paid workers, with or without apprentices; (b) own-account workers, who own and operate one-person business, who work alone or with the help of unpaid workers, generally family members and apprentices; and (c) dependent workers, paid or unpaid, including wage workers in micro enterprises, unpaid family workers, apprentices, contract labor, homeworkers and paid domestic workers.

71 . It is imperative that any formalisation scheme takes the local context into consideration. This is a critical first step before taking any other action. See also ETI Homeworker Guidelines.

72. When the applicable legal framework is not enforced, or in the absence of such a framework, the good faith efforts of homeworkers and enterprises to operate within the applicable legal framework (where it exists) as well as their engagement in opportunities for formalisation as they become available (bearing in mind that in most cases, homeworkers have very limited or no capacity, technical ability or sufficient financial resources to do so) should be taken into account.

73. Enabling transition to formality: multiple dimensions.  
[http://www.ilo.org/wcmsp5/groups/public/@ed\\_emp/@emp\\_policy/documents/meetingdocument/wcms\\_125489.pdf](http://www.ilo.org/wcmsp5/groups/public/@ed_emp/@emp_policy/documents/meetingdocument/wcms_125489.pdf)

74 . Transitioning from the informal to the formal economy, ILO, Reprot (V) 1

75 . Transitioning from the informal to the formal economy, ILO, Reprot (V) 1

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the unique needs and circumstances of homeworkers, the organisation of homeworkers may look differently from other organised workforces. Given the predominance of women homeworkers in the garment and footwear sectors, trade unions should promote the inclusion of women and women organisers.

Trade unions sensitize workers in the informal economy to the importance of collective representation and are making greater efforts to include them in collective agreements. They also focus on promoting the participation and representation of women, who are particularly numerous in the informal economy, and on accommodating their specific needs. In many countries, the special services provided by trade unions for informal economy workers include information on their legal rights, educational and advocacy projects, legal aid, medical insurance, credit and loan schemes and the establishment of cooperatives. There is also a need to develop positive strategies to combat all forms of discrimination, to which informal economy workers are particularly vulnerable.<sup>76</sup>

### **Recommendations for retailers, brands, intermediaries linked to homeworking through their sourcing practices and manufacturers that outsource to homeworkers.**

As a first step, retailers, brands and intermediaries should identify product lines which may include the involvement of homeworkers and sourcing countries which are known to have high rates of homeworkers during Step 2 of the due diligence process. Similarly, manufacturers should identify product lines that are outsourced to homeworkers.

When sourcing product lines that are known to include the use of homeworkers from countries that are known to have high rates of homework, retailers, brands and intermediaries are recommended to work directly with their suppliers to try to establish transparency within their supply chain and/or work directly with communities contributing to the enterprise's supply chain through homework.

### **Supplier engagement to establish transparency**

In instances in which retailers, brands, intermediaries or manufacturers source consistently from the same homeworkers (e.g. for luxury goods or artisanal work), retailers, brands, intermediaries and manufacturers should seek to establish transparency to identify homeworkers and assess conditions of employment. The enterprise should then apply Steps 2-4 to identified homeworkers.

### **Community engagement**

In some instances, identifying the specific homeworkers contributing to an enterprise's supply chain at any one given time is neither cost effective nor realistic. Homeworkers often contribute to a broad range of suppliers through intermediaries. In these instances, retailers, brands, intermediaries and manufacturers should take steps to identify communities of homeworkers known to be contributing to the enterprise's supply chain broadly.

- a. Identify communities of homeworkers that contribute to the enterprise's supply chain
- b. Identify local initiatives promoting the formalisation of homeworkers and their protection against exploitation. Local initiatives may focus on a number of areas important to the protection of homeworkers from exploitation including, but not limited to: rights training, skill training, and legalisation (e.g. through contracts), and service provision. Engage with (e.g. through financial support) credible initiatives where they exist and avoid duplication. Where no credible initiatives exist, collaborate with local government and/or local civil society to establish credible programming.
- c. Support the establishment of a grievance mechanism, and take steps to enable homeworkers to access this mechanism so that they may alert the enterprise and/or government authorities of adverse impacts.

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76 . Transitioning from the informal to the formal economy, ILO, Reprot (V) 1

## Engage with local and national government

Enterprises may also seek to engage with government to address root causes of adverse impacts. Enterprises may engage with the local or national government in a number of ways, examples include:

- a. Promote the coverage of the law to extend to workers in the informal economy<sup>77</sup>
- b. Draw attention to the underlying causes of informality and encourage government to remove underlying barriers to entry into mainstream economic and social activities.<sup>78</sup>
- c. Promote the extension of social security coverage, by promoting access to health care and education, to informal workers, including homeworkers where not already provided for. The formalities required for social security coverage can constitute a first step towards the formalisation of workers and the realisation of their civil, economic and social rights.<sup>79</sup>

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77. Transitioning from the informal to the formal economy, ILO, Reprot (V) 1

78. Transitioning from the informal to the formal economy, ILO, Reprot (V) 1

79. Transitioning from the informal to the formal economy, ILO, Reprot (V) 1

## Application of due diligence to purchasing practices

### Summary

The **objectives** of this chapter are to:

- a. Help retailers, brands and intermediaries **assess** if and how their purchasing practices are contributing to adverse impacts in their supply chain;
- b. Help retailers, brands and intermediaries **mitigate** risks of contributing to adverse impacts in their supply chain through their purchasing practices.

For information regarding wage negotiation see **Chapter 12, Wages**.

### Audience

This chapter is targeted towards retailers, brands and intermediaries. These recommendations apply to both direct and indirect sourcing models.

Purchasing practices are one of the most clear-cut ways in which retailers and brands contribute to adverse impacts in their supply chain. The following provides guidance on how enterprises can identify if and how they are contributing to adverse impacts in their supply chain through their purchasing practices and how to mitigate adverse impacts.<sup>80</sup>

### Step 1. Establish strong management systems for due diligence

- a. Ensure that management systems have the capability of tracking red-flags (as defined below);
- b. Ensure feedback loops are established so that the enterprise's suppliers can systematically provide feedback on how the enterprise's purchasing practices are contributing to adverse impacts; Anonymous feedback (e.g. through a survey or third-party) may be the most effective way to achieve honest results
- c. Establish functional alignment between business units engaged in purchasing and those with oversight of the enterprise RBC policy.

### Step 2. Identify and assess risks in the supply chain

Review the findings of the supply chain risk assessment and assessment of high-risk locations of the supply chain. Continue with the following recommendations if any of the following risks of adverse impact were identified:

- a. Low-wages

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80 . See Ethical Trade Initiative Norway, *Suppliers Speak up*, (2014) for more information on how to mitigate risks of contributing to adverse impacts through purchasing practices in the garment and footwear supply chain.



- b. Excessive working hours
- c. Unauthorised subcontracting
- d. Child labour

Engage with suppliers and workers to seek their feedback on how the enterprise's activities may be contributing to adverse impacts at the site-level.

Certain purchasing practices have been demonstrated to contribute to adverse impacts in some cases. Enterprises should track these practices (which may also be considered red-flags) to understand the extent to which such practices are common. Suppliers and workers may also flag other practices which may contribute to adverse impacts. These should be incorporated into the below.

### **Red-flags**

- a. Orders are placed late
- b. Orders are changed after order placement
- c. Rushed orders are placed.
- d. Rushed orders are placed during peak times or holidays in sourcing country
- e. Lead times are shorter than feasible production time
- f. The enterprise dictates the raw material providers or

If an enterprise identifies that the above practices are common, it should proceed with the below to further understand the root causes of the risk and mitigate the risk of contributing to adverse impacts in the supply chain

Enterprise should seek to determine **why** inefficiencies are occurring. (e.g. Why are orders being placed late? Why are rushed orders being placed during holidays?) In some cases, the answer may be simple (e.g. purchasing teams are unaware of national holiday schedules) and in other cases the answer may be far more complicated. Furthermore, poor practices may be primarily caused by the buyer or the supplier (e.g. due to poor communication). Teams responsible for the placement of orders should be included in the investigation.

### **Step 3. Manage risks in the supply chain**

Enterprises should seek to address root causes identified above to mitigate risks of contributing to adverse impacts. Enterprises should establish a risk mitigation strategy in collaboration with all business units involved and in consultation with suppliers and workers.

Enterprises should likewise develop policies and processes for purchasing teams to respond to in cases when red-flags are raised to reduce the risk of contributing to adverse impacts. Processes should help ensure that the enterprise's activity has not resulted in excessive overtime or illegal outsourcing. See **Table X** for example procedures in cases where red flags exist.

See Table X for example measures to mitigate risks of adverse impacts.

Table: Example KPIs and Risk mitigation

Process & Potential risk	Potential risks	Example KPI	Example risk mitigation
<b>Forecasting</b>	Lack of forecasting and information sharing from buyers delay supplier's ability to effectively plan production	- % of time suppliers are included in the forecasting process	- Share the purchasing plan with suppliers and communicate updates in sufficient time
<b>Order placement</b>	<p>Late placement of orders can result in overtime and subcontracting</p> <p>Changes made to orders after order confirmation increases the risk of production stop and delays</p> <p>Orders placed too late in peak season, late deliveries from material suppliers and delays in production sign-off may result in excessive overtime or forced overtime</p>	<p>- % of orders placed late</p> <p>- % of orders changed after order placement</p> <p>- # of days between the last change and shipment (ETD)</p>	<p>- Set final order placement dates with the supplier</p> <p>- Communicate the deadlines to everyone in the buying team</p> <p>- In instances in which orders are placed late, confirm capacity with the supplier.</p> <p>- In instances in which orders are changed after order placement or order are place date, evaluate the probability of adverse impacts, excessive or forced overtime. Mitigate risks by a) paying for rushed order delivery b) changing the delivery date or c) providing list of pre-qualified sub-contracts to fill a portion of the order</p>

## Application of due diligence to risks linked to raw material production

### Summary

The **objectives** of this chapter are:

- a. To clarify expectations of enterprises operating at raw material production and processing (including any enterprise directly sourcing from raw material producers and intermediaries trading or supplying raw materials) in relation to due diligence of adverse impacts linked to raw material production.
- b. To help retailers, brands, garment and footwear manufacturers, components manufacturers, and material manufacturers and processors and intermediaries operating at these stages of the supply chain conduct due diligence on severe risks of adverse impact linked to raw material production.

The production of raw materials, including natural fibres and rubber, is linked with severe adverse impacts in some contexts. Enterprises are not expected to conduct due diligence for all raw materials in their supply chain. Rather, enterprises should employ a risk-based approach and focus resources and due diligence on raw materials which may be sourced from red-flag locations for severe adverse impacts, as classified in Step 2. The following guidance *only* pertains to the due diligence of raw materials sourced from red-flag locations for severe adverse impacts.

### Expectations of enterprises operating at the raw material production and processing stage of the garment and footwear supply chain

All enterprises operating at the raw material production and processing stage of the supply chain, including intermediaries sourcing from raw material producers or trading raw materials and brands, retailers and large manufacturers directly sourcing from raw material producers, should conduct due diligence in accordance with the 5-step Framework for Due Diligence for all upstream suppliers to origin.<sup>81</sup>

### Expectations of retailers, brands, garment and footwear manufacturers, components manufacturers, material manufacturers and processors and intermediaries

Enterprises should seek to manage the risk that they are directly linked to severe adverse impact at the raw material production stages of the supply chain. The following guidance is intended to help enterprises manage risks but is not intended to be a standard. Other methods for managing risks linked to raw material production in an enterprise's supply chain may emerge over time.

The following methods may be effective in helping enterprises manage risks of severe adverse impact linked to raw material production.

### Engagement with “control points”

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81 . For agriculture raw materials, enterprises operating at this stage of the supply chain should also adhere to the FAO-OECD Guidance for Responsible Agriculture Supply Chains for agriculture-based raw materials.

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For the purposes of this Guidance, ‘control points’ in a supply chain are stages in the supply chain that generally include relatively few actors that process a majority of the commodity. For example, rubber processing factories may act as a natural control point in the rubber supply chain. Similarly, multinational traders may act as a control point in the cotton supply chain.

In this method of risk management, enterprises engage with control points operating at the raw material production and processing stage of the supply chain. Enterprises ensure that suppliers operating at these control points in their own supply chain have due diligence processes in place in accordance with this Guidance.

Example processes would therefore include:

- a. Enterprise identifies control points operating at raw material production and processing (e.g. rubber processing factories)
- b. Enterprise traces to the control points in its own supply chain that are sourcing from countries or regions that are known to have a medium or high likelihood of risks of severe adverse impacts at the raw material production and processing stage of the supply chain.
- c. Enterprise verifies (e.g. through management audits) that control points are effectively conducting due diligence, which would include site level assessment and risk management up to origin, in accordance with this Guidance.
- d. Enterprises direct sourcing towards control points in the supply chain that are effectively applying due diligence in accordance with this Guidance.

## Traceability

For the purposes of this Guidance, ‘traceability’ is considered to be the process by which enterprises track materials and products and the conditions in which they were produced (in relation to matters covered by the OECD Guidelines) through the supply chain. Enterprises may engage in traceability schemes to manage risks of adverse impacts linked to raw material production.

Traceability may be achieved through a number of mechanisms.<sup>82</sup>

- a. **Physical segregation:** Certified materials and products are physically tracked at each stage along the value chain.
- b. **Mass balance:** Certified and non-certified materials can be mixed. However, the exact volume of certified material entering the value chain must be controlled and an equivalent volume of the certified product leaving the value chain can be sold as certified. This is a common scheme for products and commodities where segregation is very difficult or impossible to achieve.<sup>83</sup>
- c. **Book and claim:** Book and claim does not seek to have traceability at each stage in the supply chain. Instead, the model relies on the link between the volumes of certified material produced at the beginning of the supply chain and the amount of certified product purchased at the end of the value chain. In this model, an enterprise can obtain a verification certificate for the volume of certified materials that it puts into the supply chain. Certified and non-certified materials flow freely throughout the supply chain. Certificates are then bought via a trading platform and can be issued by an independent body.<sup>84</sup>

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82 . For specific guidance on how to establish traceability mechanisms, see United Nations Global Compact’s A Guide to Traceability, A Practical Approach to Advance Sustainability in Global Supply Chains. (2014)

83. United Nations Global Compact’s A Guide to Traceability, A Practical Approach to Advance Sustainability in Global Supply Chains. (2014)

84. United Nations Global Compact’s A Guide to Traceability, A Practical Approach to Advance Sustainability in Global Supply Chains. (2014)

Enterprises are encouraged to participate in credible industry initiatives or multi-stakeholder initiatives to establish traceability where they already exist. Recognition of initiatives and harmonisation of traceability systems is an important element to enable data sharing between enterprises and across schemes, to avoid duplication assessments and reduce costs.

In many cases, multi-stakeholder initiatives have established mechanisms by which enterprises can establish traceability or direct sourcing towards mid-stream suppliers that have established traceability and conducted on-site assessments. However, both traceability and engagement with control points requires financial resources for their implementation. This Guidance recommends that enterprises build into supplier contracts an obligation to support supply chain due diligence of risks linked to raw material production where appropriate (e.g. obligation to direct sourcing towards control points that have demonstrated effective due diligence mechanisms). However, this Guidance does not recommend that enterprises mandate that suppliers engage in specific initiatives (e.g. specific multi-stakeholder initiatives) unless the enterprise is willing to absorb the cost of the supplier's participation and any associated premiums. Rather enterprises should accept a range of due diligence methodology so long as it conforms with this Guidance.

## Section 3

Section 3 provides recommendations on how to apply the five-step framework for risk-based due diligence to risks of adverse impacts common in the garment and footwear supply chain

- Chapter 8: Child labour
- Chapter 9: Forced labour
- Chapter 10: Working hours
- Chapter 11: Freedom of association and collective bargaining
- Chapter 12: Wages
- Chapter 13: General environmental due diligence
- Chapter 14: Discrimination
- Chapter 15: Occupational Health and Safety
- Chapter 16: Environmental due diligence at textile processing
- Chapter 17: Environmental due diligence at cotton production
- Chapter 18: Environmental due diligence at tanneries
- Chapter 19 : Fraud and corruption

**Note:** Section 3 is currently in development in collaboration with stakeholders. The following includes the current state of the draft 1-week before the OECD Roundtable on Due Diligence in the Garment and Footwear Sector. The OECD looks forward to engaging with stakeholders and experts during the month of October to further develop Section 3. Please feel free to contact Jennifer Schappert, [Jennifer.schappert@oecd.org](mailto:Jennifer.schappert@oecd.org) to provide resources or discuss particular chapters.

## Child labour

### Summary

- Enterprises should apply the recommendations in this chapter for stages of the supply chain that have been identified as high-risk for child labour in particular contexts during the supply chain risk assessment. **See Step 2**
- Child labour requires a holistic and coordinated approach. Enterprises are therefore encouraged to collaborate with national and local government, workers, and civil society to mitigate risks of child labour in the supply chain. Furthermore, enterprises are encouraged to identify and contribute to existing initiatives where such initiatives have been demonstrated to be effective.

### Background

An estimated 168 million children are in child labour, more than half of whom are in hazardous work.<sup>85</sup> There are a number of drivers of child labour with poverty being amongst the most important. Children often work to supplement their family's income, particularly in cases when a parent's wages are insufficient. Poor quality of education, a far distance to school, and barriers to schooling (e.g. school fees) also contribute to rates of child labour. Cultural factors, such as the value communities place on child education and the education of girls and their views of child labour, are likewise important contextual factors. Finally, government's action or in-action to stop child labour greatly contributes to the prevalence of child labour in a particular context.<sup>86</sup> Children work at all stages of the garment and footwear supply chain, however the nature of child labour varies significantly across countries, sub-sectors and stages of the supply chain.

### International standards

The ILO's Minimum Age Convention calls for the minimum working age to be set at no lower than the end of compulsory schooling, and in any case at not less than 15 (or 14 in developing countries as a transitional measure).<sup>87</sup>

However, light work may be permitted for those between the ages of 13 and 15 (or 12 and 14 in developing countries). The Convention defines light work for these children as that which is:

- a. Not likely to be harmful to their health or development, and
- b. Not such as to prejudice their attendance at school, their participation in vocational orientation or training programmes approved by the competent authority, or their capacity to benefit from the instruction received.<sup>88</sup>

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85 . ILO, Child Labour website, Accessed 2015 at <http://www.ilo.org/global/topics/child-labour/lang--en/index.htm>

86. ILO-IPEC Guidelines for Developing Child Labour Monitoring Processes (2005); Siddiqi, Faraaz and Harry Anthony Patrinos, Child Labour: Issues, Causes and Interventions. Human Capital and Development Operations Policy, HCO Working Papers.

87 . Most countries, including developing countries, have set the minimum working age at 15 or above.

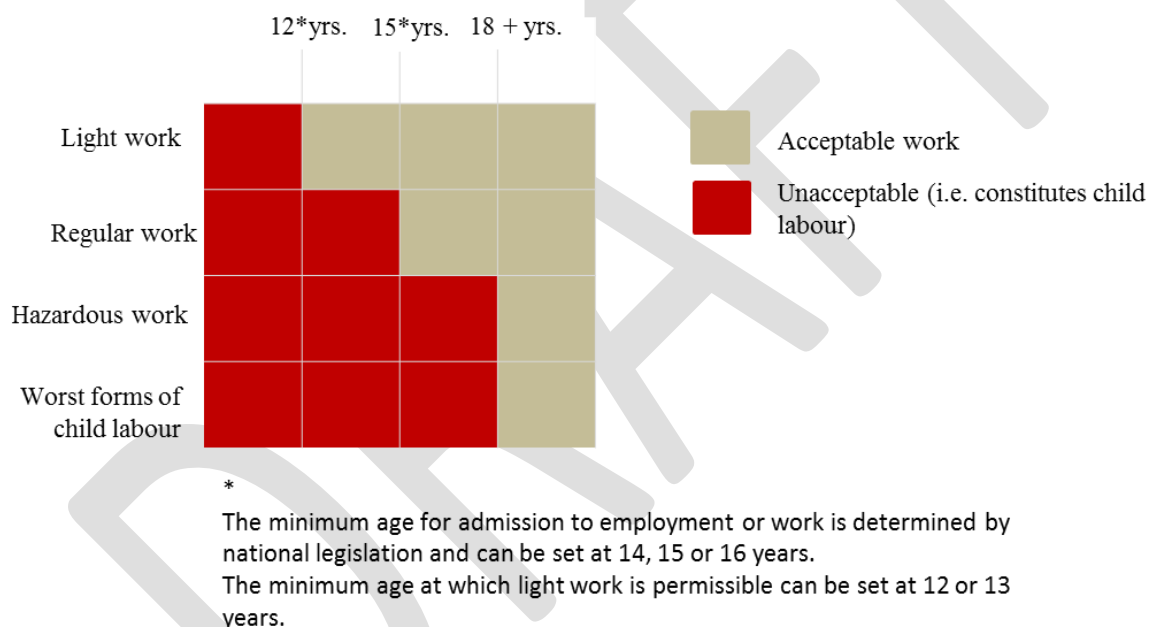
88 . ILO, *Guide One: Introduction to the issues of child labour*, p. 9.

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The ILO's Worst Forms of Child Labour Convention covers all children up to the age of 18. The Convention relates to particular types of work that children should not undertake. The Convention defines Worst Forms of Child Labour as:

- All forms of slavery or practices similar to slavery, such as the sale and trafficking of children, debt bondage, and serfdom, and forced or compulsory labour, including forced or compulsory recruitment of children for use in armed conflict.
- The use, procuring or offering of a child for prostitution, for the production of pornography or for pornographic performances
- The use, procuring or offering of a child for illicit activities in particular for the production and trafficking of drugs as defined in the relevant international treaties
- Work which, by its nature or the circumstances in which it is carried out, is likely to harm the health, safety or morals of children.<sup>89</sup>

**Figure X: Basic distinctions in ILO child labour standards<sup>90</sup>**



### Step 1. Establish strong management systems for due diligence

All enterprises in the supply chain, including raw material and fibre producers, material manufacturers and processors, components manufacturers, footwear and garment manufacturers, brands, retailers and intermediaries should clearly articulate their commitment to not use child labour in their own operations and to not tolerate the use of child labour in the operations of their suppliers.

The expectations regarding minimum age should be incorporated into supplier contracts, including contracts with buying agents and labour recruitment agencies.

89 . ILO, Guide One: Introduction to the issues of child labour, p. 9.

90 . Adapted from ILO, Guide One: Introduction to the issues of child labour, p. 9.



In instances in which national legislation is lower than international standards, enterprises should uphold international minimum age standards (see Standards above). In cases in which national law sets a higher minimum age than international standards, enterprises should defer to national law. These expectations should be clearly communicated with suppliers, including private employment agencies for recruitment.

## Step 2. Identify and assess risks in the supply chain

**All enterprises** should seek to understand the context that they are operating in or sourcing from in relation to child labour in order to assess the likelihood of adverse impacts (Step 2.2) and the severity of adverse impacts (Step 2.3).

a. **Regulatory environment** related to child labour

- National Action Plans against child labour
- Compulsory education laws
- Minimum age for regular work in the country
- School leaving age<sup>91</sup>
- Maximum weekly hours of work that can be undertaken legally by children at the minimum working age;<sup>92</sup>
- National lists of hazardous work, one of the “worst forms” of child labour
- Minimum age for light work, and
- Other legal requirements regarding child labour.<sup>93</sup>

b. **Prevalence of child labour**, including a preliminary understanding of:

- Prevalence of child labour in the sector and context;
- Age and sex distribution of working children; and
- Kinds of work performed by children.

Based on the above, enterprises should classify stages in the supply chain in a sourcing context by the likelihood of adverse impact (i.e. very likely, likely, unlikely). The risk of child labour is likely to differ across stages in the supply chain (e.g. CMT vs. spinning) and may differ across geographic regions.

If child labour is identified to be a likely or very likely at a given stage of the supply chain in a particular context, the enterprise should seek to understand the severity of adverse impact and root causes of the risk (See Step 2.4) in order to develop an effective approach to further due diligence. Enterprises should seek to:

- a. Understand the social, economic, and cultural dynamics that have led children into the work force, keeping in mind that the dynamics may differ for boys and girls;

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91 . Work should not interfere with a child’s attendance to compulsory education

92 . National law often sets hour limits for children who have reached the minimum age

93 . ILO, *Guide Two: How Employers Can Eliminate Child Labour*. Pg. X. (2007).

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- b. Ascertain the actual working conditions of children in a particular occupation, including: the work processes engaged in and their physical effects, hours, rates of pay, and the children's living conditions;
- c. Ascertain whether children are employed in formal or informal labour and whether they are involved in homework.
- d. Understand whether wages are paid piece-rate or hourly
- e. Learn about the children's households and communities, their migration history and the factors that led children into work;
- f. Investigate the relationship between school and work, the attitudes of boys and girls (and of their households) towards education, the feelings about the schools in the geographic region, and the availability and accessibility of the schools;
- g. Explore the roles of trade unions and local authorities with regard to the employment and lives of child labourers in the area;
- h. Gain information on the physical and psychological hazards to which many working children are exposed, the reasons they are exposed, and whether they work under bonded or forced conditions.<sup>94</sup>
- i. Understand the push and pulls of child labour, and whether child labour is demand driven (i.e. employers actively recruit children), supply driven (children actively seek employment) or both.
- j. Identify categories of actors involved in recruitment and employment of children (e.g. parents, recruitment agencies, employers...etc.) and the role of each actor.
- k. Identify local and national initiatives to combat child labour. Such initiatives may be government-led or civil society led, or both. Mapping existing initiatives, their objectives, and their general impact will help an enterprise to understand how it can feed into existing strategies to mitigate the risk of child labour in its own supply chain.

In many cases, enterprises may rely on desktop research for all of the steps above. See Box X for a list of potential resources. However, where gaps in information exist, enterprises should consult experts and stakeholders on the ground. In instances in which there are major gaps in information, enterprises should commission or participate in an on-the-ground assessment of child labour.<sup>95</sup>

Due diligence is an ongoing process. An enterprise may not be able to initially determine all of the above for each sourcing region flagged as likely or very likely for child labour; however, enterprises should work towards an increased understanding over time.

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94 . Adapted from the ILO and UNICEF, *Manual on Child Labour Rapid Assessment Methodology*, Statistical Information and Monitoring Programme on Child Labour (SIMPOC). p. 21

95 . See the ILO and UNICEF, *Manual on Child Labour Rapid Assessment Methodology*, Statistical Information and Monitoring Programme on Child Labour (SIMPOC) for more information.

## **Box X: Resources for supply chain risk assessment<sup>96</sup>**

### ***Desk-based research***

- a. Reports provided by international organizations, NGOs, government agencies, trade unions, or employer and business associations concerning the economy and the labour force (and, if possible, specifically concerning the child labour force);
- b. Studies of specific occupations or population categories, including racial, ethnic, and religious minorities, where relevant, if these factors might have a bearing on child labour;
- c. Newspaper and magazine articles for an understanding of the local, regional, and national social and political situation; and
- d. Information about national and local legal frameworks relevant to child labour and about the enforcement of laws and rulings at the local and regional levels.

### ***On-the-ground assessment***

- a. Local and regional government and public officials in various capacities, including, depending upon the kind of suspected child labour, the judiciary and police;
- b. Community activists and authorities, personnel of women's organizations, NGOs, local social-work agencies, trade unions, religious groups and charitable associations, former child labourers, children frequenting NGOs, and students;
- c. School and education departments for information about school attendance and absenteeism in the local child population, informed hypotheses about absenteeism, the size of the local child school-age population, and suggestions concerning the occupations in which working children are engaged and why;

### ***Methodologies***

- a. Mapping: making approximate drawings, or "maps", of the area to be researched, showing its physical layout and the relative locations of various types of child labour.
- b. Focus group discussions: discussions with small groups of adults and/or children. These may be pre-arranged or spontaneous.
- c. Individual interviews and conversations: interviews and conversations with working children and, where possible, with employers, parents, teachers, and others relevant to their work and life. Interviewing children requires special skills and a careful approach
- d. In-depth discussions with key informants: these are usually very important sources of information. To varying extents, they may serve as "interpreters" of the situation for the researchers. Their information must, like all data, be cross-checked for accuracy. Informants can be sought among the following groups: government officials and representatives, including at the district or local level; government labour inspectors; police officers; workers organisations, academics

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96 . Source: ILO and UNICEF, *Manual on Child Labour Rapid Assessment Methodology*, Statistical Information and Monitoring Programme on Child Labour (SIMPOC).

## Supplier assessment

For the purpose of this Guidance, stages in the supply chain that are considered likely or very likely for **adverse impacts** in particular geographic locations are considered to be **high-risk locations**.

Enterprises should assess suppliers operating at high-risk locations for child labour. Generally, a supplier assessment should include the following:

- a. Assessment of the supplier's human resource policies related to child labour.
- b. Identification of potential hazards within the workplace which legally-aged children should not be employed in (e.g. night-shifts, handling of hazardous chemicals, etc.)
- c. Assessment of the supplier's management systems and prevention mechanisms to ensure that children under the legal age are not employed and any children of legal age are engaged in safe work.
- d. Assessment of operational level grievance mechanisms (See Grievance Mechanisms below).
- e. Where relevant, the assessment of the business partner's due diligence of recruitment agencies to ensure that recruitment agencies do not recruit children.
- f. Identify instances of child labour on-site.

Business partner due diligence should be tailored to the context. For example, in contexts in which child labour is primarily supply-driven, (i.e. under-age children want to work and therefore actively seek employment) business partner due diligence should seek to evaluate the *capacity* of the supplier to identify and mitigate child labour. Conversely, in contexts in which businesses actively recruit and employ children, business partner due diligence should include an assessment of *how* and *why* suppliers recruit and hire children. Enterprises should seek to understand these drivers even in cases in which instances of child labour are not identified on-site.

While the specific methodology used in supplier assessment should be context specific, assessments should rely heavily on qualitative data (e.g. worker, management and stakeholder interviews). However, child interviews should be handled with care by experienced interviewers. See below for considerations when interviewing children.

The team involved in supplier assessment should be familiar with the operating context, knowledgeable about child labour, and preferably, already possesses a network of community contacts.<sup>97</sup> It is not always possible to find researchers and interviewers fluent in local languages. To understand the subject matter they will be required to translate, translators must be given some training regarding the research focus.

The following should be taken into consideration when interviewing children:

- a. All respondents, whether girls and boys or women and men, must understand what risks may be associated with being interviewed, and they must give their informed consent (even if verbally) before interviews begin.
- b. Interviewers must observe ethical constraints in not jeopardizing children's (and adults') safety or wellbeing in any way.
- c. Focus group discussions (FGDs) have been proven useful in investigating child labour; however, FGDs are not generally suitable for very young children.

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97 . ILO and UNICEF, *Manual on Child Labour Rapid Assessment Methodology*, Statistical Information and Monitoring Programme on Child Labour (SIMPOC).

- d. Same-sex or same-age respondent groups can prove effective. This is especially true regarding boys and girls, both because they have such different communication skills and because they often respond best in peer groups.
- e. Children have different competencies at different ages, and the interviewer's approach needs to be adapted accordingly. It cannot be assumed that the same questions apply to all children, and it is not recommended to interview children under 5 years of age. Attempts can be made to interview boys and girls in the age range of 5-9 years, asking open and simple questions, sometimes with the help of a "proxy" such as an older sister. Field experience shows, however, that children aged 10-17 years are more likely to be able to handle the interviews.
- f. It is essential to take into account that boys and girls working in worst forms of child labour (WFCL) will not necessarily fall into the same age-developmental stage (in terms of psychological maturity) as children who are not exploited in these ways. Experts should be consulted on interviewing children in WFCL.

Interviewers of children must be trained to cope with sensitive situations. Exchanges may touch on highly personal topics that arouse deep, sometimes upsetting, feelings in children (even in adolescents). When this happens, questioning must cease immediately and comfort should be offered to the child. A psychologically skilled counsellor should be available when needed — someone with professional experience must be included in the research team, especially if the research concerns such issues as bonded labour or child trafficking; children engaged in armed conflict; and CSE.

- a. It is ethically irresponsible for interviewers to arouse the painful emotions of a young girl or boy or an adolescent and then abruptly end the interaction, letting the young person remain in a situation where physical or psychological harm threatens.
- b. It is ethically irresponsible for interviewers to identify that a child is employed in worst forms of child labour without follow-up to help remove the child from the situation.<sup>98</sup>
- c. Traditional interviews are often not effective in engaging children. Rather, interviewers may seek to use participatory methods of assessment. For example:
  - role-play
  - asking the child to draw a picture and describe it;
  - showing the child photographs to elicit comments;
  - asking a child who knows how to write to share a narrative or account; and
  - showing the child a diagram or map and asking questions about it (always remembering that diagram and map reading are also learned abilities).<sup>99</sup>

Supplier assessment is an important component of an enterprise's supply chain due diligence strategy; it should not be confused with risk mitigation. Emphasis should be placed on effective on-going monitoring for child labour and comprehensive and coordinated risk mitigation.

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98 . Clear policies should be established prior to the assessment to determine steps to be taken in the event that a child is determined to be employed in child labour.

99 . Recommendations under paragraph 18 were adopted from the ILO and UNICEF, *Manual on Child Labour Rapid Assessment Methodology*, Statistical Information and Monitoring Programme on Child Labour (SIMPOC).

**Step 2.4 Assess internal practices to identify if and how the enterprise is causing or contributing to adverse impacts**

Raw material and fibre producers, material manufacturers and processors, components manufacturers, and footwear and garment manufacturers that directly employ workers in high-risk locations for child labour should conduct internal due diligence to ensure that they are not employing children in child labour.

All enterprises sourcing from medium and high risk contexts for child labour, should conduct internal due diligence to determine whether the enterprise's own sourcing policies may be contributing to the recruitment and hiring of child labour in its supply chain. For more information, see *Chapter X, Applying Due Diligence to Purchasing Practices*.

**Step 3. Manage risks in the supply chain**

Where feasible, enterprises should not act alone in the mitigation of risks. Child labour requires a coordinated and holistic approach across a broad range of stakeholders. As a last resort, enterprises should disengage from suppliers that continue to actively recruit and hire underage children or employ children in worst forms of child labour.

### Box X. Child Labour risk mitigation framework

The following provides information on the broader risk mitigation framework necessary for the mitigation of child labour. Enterprises should feed into the below framework when designing due diligence, however, enterprises are not responsible to implement all of the below recommendations on their own. Specific recommendations for enterprises are provided below.

While there is no single formula that can fit every situation, years of research have demonstrated that child labour is best addressed through a coordinated and holistic approach amongst a range of stakeholders. Effective risk management of child labour should seek to mainstream action against child labour through the following key interventions:

- a. **Regulatory framework and enabling environment:** It is ultimately the responsibility of the government to protect against human rights abuses by third parties, including business enterprises, through regulation, policymaking, investigation, and enforcement. Government should implement policy measures to support and enforce the ILO Minimum Age Recommendation No. 146 (supplementing the Minimum Age Convention No. 138) through:
  - Adequate facilities for education and vocational orientation and training;
  - Promotion of employment-oriented development in rural and urban areas;
  - Extension of economic and social measures to alleviate poverty, and to ensure family living standards and income that make it unnecessary for children to work;
  - Social security and family welfare measures aimed at ensuring child maintenance;
  - Facilities for the protection and welfare of children and young persons.<sup>1</sup>
- b. **Workplace**
  - Increase the capacity of employers to mitigate against hiring children or employing children in worst forms of child labour
  - Decrease the demand for child labour by addressing business needs
- c. **Education:** A lack of access to affordable quality education is one of the key drivers of child labour. Example interventions include:
  - Building school infrastructure and building the capacity of teachers;
  - Decreasing the costs of schooling (lowering or eliminating school fees and related expenses, providing stipends for children, etc.)
  - Providing transitional schools for children who have fallen behind their peer group
  - Offering vocational training programmes for older children
  - Establishment of informal schooling which enables a child to attend school while working (e.g. for example in the informal economy where children work at home);

- d. Community:** In many contexts, child labour is perceived as a necessity in light of real poverty. Community interventions should focus on raising awareness on the ills of child labour and the importance of child education as well as the provision of real economic opportunities. Example initiatives include:
- Set up child labour committees in the school to inform parents about issues related to child labour and to encourage school attendance and to monitor workplaces for child labour and refer affected children to services.
  - Additional outreach activities to inform parents and local authorities about the risks related to child labour and the benefits of education.
  - Organising credit and other income-generating activities for parents.

Enterprise should seek to mitigate risks of child labour in their supply chain by:

- a. Building capacity of suppliers to mitigate risk of child labour
- b. Identifying and reducing business incentives for child labour, paying particular attention to prices and lead times provided to suppliers
- c. Engaging in existing initiatives to reduce the supply of child labour.

#### **Build capacity of suppliers to mitigate risk of child labour**

Support the formalisation of suppliers

Build the capacity of supplier human resource management, including:

- a. Formalization of contracts is a first step in mitigating child labour alongside a range of other risks.
- b. Reasonable levels of age verification prior to the employment of workers, particularly those who appear to be under the age of 20.<sup>100</sup>
- c. Monitoring and recording of data related to child employment, including;
  - E.g. Number of hours worked
  - E.g. Time of work
  - E.g. Primary responsibilities
  - E.g. On-site hazards

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100 . HRM should also ensure that policies do not have unintended consequences of blocking the hiring of workers clearly over 20 who may not have sufficient documentation.



**Box. Example methodologies for verifying applicant age prior to employment**

- Multiple written documents and affidavits
  - Interviews (that are culturally adjusted) with employees and applicants who appear to be under the age of 20
  - School enrolment certificate
  - Local indicators of age such as the animal year of birth (e.g. Year of the Monkey, etc.) or number of years after a significant national event (e.g. 50 years after independence)
- Source: ILO and UNICEF, *Manual on Child Labour Rapid Assessment Methodology*, Statistical Information and Monitoring Programme on Child Labour (SIMPOC).

- d. Tailored training for workers on the company's commitment to not hire child labour and how workers can help monitor to ensure that children employed by the company (i.e. for light labour) are employed responsibly. In many cases, training may be conducted by trade unions or representative worker organisations.
- e. Tailored training for management and staff involved in the hiring of workers on national and international standards regarding child labour and importantly, the company's risk mitigation policies and processes.
- f. Tailored training for line managers and those overseeing the work of children on the enterprise's child labour policies and what constitutes hazardous labour for children within the workplace.

**Address business incentives for child labour**

Enterprises should partner with their suppliers to understand and directly address business drivers for child labour. Example risk mitigation strategies may include:

- a. Improve efficiencies in production and thereby reduce the supplier's demand for child labour.
- b. Move towards longer-term steady contracts to reduce fluctuations in orders and therefore reduce the demand for child labour during peak periods.
- c. Pay sustainable prices for goods, meaning that prices pay a return that enables suppliers to reinvest in their business and workers (thus reducing the demand for cheaper labour).

In instances in which an enterprise's purchasing practices contribute towards the hiring of child labour (e.g. due to rushed orders), enterprises should take immediate steps to mitigate this risk. See Chapter 6: Application of due diligence to purchasing practices.

In some instances, demand for child labour is driven by recruitment agencies rather than the final employers. In these cases, risk mitigation should include:

- a. Training of private employment agencies for recruitment on the company's policy regarding child labour
- b. Formalisation of contracts with private employment agencies for recruitment and then the incorporation of the expectations of recruitment into such contracts.
- c. The disengagement from private employment agencies for recruitment that continue to recruit and hire children, while ensuring that workers do not pay a fee for securing a job.

**Engage in multi-stakeholder initiatives to reduce the supply of child labour.**

In contexts in which child labour and worst forms of child labour are prevalent, enterprises, both customers and employers, should engage in existing initiatives that feed into the broader risk mitigation framework for child labour (see Box X). Where credible initiatives are already active, enterprises should not act alone. Enterprises may contribute to such initiatives in a variety of ways. Examples include:

- a. Contributing funding to initiatives which provide access to education, in coordination with government;
- b. Contributing funding to local civil society which promote community, educational or government initiatives;
- c. Engaging in policy dialogue to encourage government to meet regulatory gaps and promote an enabling environment for adherence to the ILO Minimum Age Recommendation No. 146 (supplementing the Minimum Age Convention No. 138); Engaging in policy dialogue to encourage government to strengthen their capacity to implement existing legislation.

**Box X. Identify key partners**

Example questions to ask about potential partner organizations:

- Which have most experience in child labour work?
- Which are responsible for coordination of social planning efforts?
- Which have the mandate and authority to act on enforcement of labour laws?
- Which are engaged in developing action plans and resource mobilization for social programmes and projects?
- Which institutions are working on education, health or community mobilization? How can you collaborate with employers' and workers' organizations?
- Are there existing processes and systems for information collection, can they be used for CLM and how? <sup>1</sup>

**Step 3.5 On-going monitoring**

Effective on-going monitoring of child labour is a crucial component of due diligence at high-risk locations for child labour.

Worker organisations that provide on-going monitoring of child labour in the workplace are one way to monitor child labour. Workplace committees should have specific tasks and mandates, including:

- a. Provide oversight of individual children in the workplace (e.g. review their working hours, tasks...etc.) to ensure that legally employed children are not employed in hazardous conditions).
- b. Report instances to management when children are being employed in child labour and raise official grievances, where necessary, through operational grievance mechanisms;
- c. Provide training to workers on the harms of child labour and types of work which constitute worst forms of child labour.

Workplace-based child monitoring committees should coordinate with existing community-level child monitoring programs where they exist.

### **Grievance mechanisms**

Children cannot be expected to access grievance mechanisms themselves. Grievance mechanisms should therefore be accessible to those who can raise incidences on behalf of the children, such as committees tasked with monitoring child labour, trade unions, community members, procurement staff who visit suppliers in the field, local civil society and government officials.<sup>101</sup>

To ensure that incidences of child labour are reported and can be effectively dealt with, employees, suppliers, service providers and other stakeholders should be informed about the available channels to report incidences and how child labour can be recognized. Outreach on the use of the grievance mechanism should be similarly incorporated into community training on child labour. In order to facilitate this, enterprise may provide training to local civil society on use of the grievance mechanism for civil society to then incorporate into their training.

### **Remediation**

Enterprises should provide for or co-operate through legitimate processes in the remediation of adverse human rights impacts where they identify that they have caused or contributed to these impacts.<sup>102</sup>

Immediately laying off children can be harmful to them and to the welfare of their families. Remediation should seek the betterment of the child and ensure that the child is not being pushed into a more precarious situation. The goal should be the progressive withdrawal from child labour and to ensure that alternatives are in place. Remediation should include consultation with the caregivers of the child and seek to enrol the child in school without damaging their welfare or that of their families. Examples of remediation include:

- a. The child is removed from the workplace and the enterprise pays the school fees of the child while the child is enrolled in school (until the minimum ages of schooling);
- c. The child is removed from the workplace and a member of the child's family is hired in his/her stead;
- d. The child is removed from the workplace and enrolled in a transitional schools for children who have fallen behind their peer group
- e. The child's family is enrolled in an existing program to help address root causes of child labour (e.g. income gaps).

Enterprises may seek to engage with initiatives that already exist in the community to help children make the transition from work to school.

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101 . Cocoa Initiative, *Child Labour Platform, Report 2010-2011*, p. 60.

102 . OECD Guidelines for Multinational Enterprises, Chapter IV, Human Rights, Paragraph 6.

**Additional resources**

- ILO, *Child Labour website*, Accessed 2015 at <http://www.ilo.org/global/topics/child-labour/lang--en/index.htm>
- ILO-IPEC Guidelines for Developing Child Labour Monitoring Processes (2005); Siddiqi, Faraaz and Harry Anthony Patrinos, *Child Labour: Issues, Causes and Interventions*. Human Capital and Development Operations Policy, HCO Working Papers.
- ILO, *Guide One: Introduction to the issues of child labour*, p. 9.
- ILO, *Guide Two: How Employers Can Eliminate Child Labour*. Pg. X. (2007).
- UNICEF, *Child Labour and UNICEF in Action: Children at the Centre*, Accessed at [http://www.unicef.org/malaysia/Child\\_Labour\\_and\\_UNICEF\\_in\\_Action.pdf](http://www.unicef.org/malaysia/Child_Labour_and_UNICEF_in_Action.pdf)
- ILO and UNICEF, *Manual on Child Labour Rapid Assessment Methodology*, Statistical Information and Monitoring Programme on Child Labour (SIMPOC).

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## Chapter 9

# Forced labour

### Summary

- Enterprises are expected to apply the recommendation in this chapter for stages of the supply chain that have been identified as high-risk stages for forced labour.
- For risks of forced labour that are linked to raw material production, enterprises are encouraged to apply the recommendations in **Chapter 7: Application of due diligence** to risks linked to raw material production.
- The supply chain risk assessment is a crucial component of the due diligence process. Enterprises should seek to gain an initial understanding of the context in which they are operating or sourcing from. Red-flags should then trigger further investigation to understand the severity of adverse impacts and potential drivers of forced labour. Supplier assessments should then be tailored to known information related to the local context. Without a thorough supply chain risk assessment, supplier assessment risks being ineffective.
- Forced labour requires a holistic and coordinated approach. Enterprises are therefore encouraged to collaborate with government, workers, civil society, and other businesses to proactively address forced labour in the supply chain.
- In order to actively facilitate a multi-stakeholder approach, industry associations within a particular context may seek to form organised consultations with stakeholders regarding the risk of forced labour within a particular context. This platform could prove beneficial for increasing information regarding the context, raising concerns related to particular business relationships, and identifying risk mitigation strategies.

### Background

#### International standards

The elimination of all forms of forced or compulsory labour is one of the four fundamental principles and rights at work covered by the 1998 ILO Declaration, reflecting the ILO core conventions, including the Forced Labour Convention, 1930 (No.29), the Abolition of Forced Labour Convention, 1957 (No. 105) and the Protocol of 2014 to the Forced Labour Convention, 1930 (No. 29).

Further guidance to end all forms of forced labour, including trafficking in persons and slavery-like practices is provided by the supplementary Recommendation No. 203

The 1998 ILO Declaration on Fundamental Principles and Rights at Work commits ILO Member States to respect and promote principles and rights in four categories, including the elimination of forced or compulsory labour. Non-ratifying member States are thus still required to participate in the annual reporting and review process set out in the Follow-up to the 1998 Declaration on Fundamental Principles and Rights at Work.

In addition to the due diligence provisions of the OECD Guidelines and the UN Guiding Principles, Article 2 of the 2014 ILO Protocol to the Forced Labour Convention states that the prevention of forced or compulsory labour entails “supporting due diligence by both the public and private sectors to prevent and respond to risks of forced or

compulsory labour”.<sup>103</sup> In addition, Article 3(j) of its accompanying Recommendation No. 203 adds “Members should take preventive measures that include [...] providing guidance and support to employers and businesses to take effective measures to identify, prevent, mitigate and account for how they address the risks of forced or compulsory labour in their operations or in products, services or operations to which they may be directly linked”.

### Definition of forced labour

The ILO defines forced labour as “all work or service which is exacted from any person under the menace of any penalty and for which the said person has not offered himself voluntarily.”<sup>104</sup>

The key elements of the definition of forced labour found in ILO Convention 29 include:

- a. **Menace of penalty.** The penalty may consist in a penal sanction or in the suppression of rights or privileges. Threats of retaliation may be realised in different forms, from the most blatant, which include the use of violence, physical obligations or even death threats, to the more subtle, often psychological, such as the threat to denounce an irregular migrant worker to the authorities.
- b. **Work or service undertaken involuntarily.** The principle that all work relations should be founded on the mutual consent of the contracting parties implies that both may leave the work relation at any moment, giving reasonable notice in accordance with national law or collective agreement. If the worker cannot revoke his or her consent, without fear of suffering a penalty, such a situation may be considered forced labour. The absence of a voluntary offer can be linked to external and indirect pressures, for example the withholding of a part of a worker’s salary or the seizure of a worker’s identity documents.
- c. **All work or service.** This includes all types of work, service and employment, regardless of the industry, sector or occupation within which it is found, and encompasses legal and formal employment as well as illegal and informal employment.
- d. **Any person.** This refers to adults as well as children, regardless of their nationality, and it is considered irrelevant whether the person is a national of the country in which the forced labour case has been identified.<sup>105</sup>

### Typology of forced labour

Forms of forced labour include:

- a. Forced labour imposed by the State (work exacted by the public authorities, military or paramilitary, compulsory participation in public works, forced prison labour)
- b. Forced labour imposed by private agents for sexual exploitation
- c. Forced labour imposed by private agents for labour exploitation, including bonded labour, forced domestic work, and work imposed in the context of slavery or vestiges of slavery.<sup>106</sup>

This chapter provides due diligence recommendations for forced labour imposed by private agents for labour exploitation, including bonded labour.

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103 . ILO Protocol of 2014 to the Forced Labour Convention, 1930 (No. 29), Article 2(e)

104 . 1 Art. 2, para.1 of the ILO Convention on Forced Labour n° 29, adopted in 1930.

105 . ILO (2015), *Combating Forced Labour: Handbook for Employers & Business* / International Labour Office

106 . ILO *Hard to see, harder to count Survey guidelines to estimate forced labour of adults and children*, p: 20. (2012)

## Vulnerability to forced and bonded labour

Certain categories of workers are more vulnerable to coercion than others:

- a. Workers who are part of a group that has suffered a long-standing pattern of discrimination, such as indigenous and tribal peoples in Latin America, low castes in south Asia and, in particular, women within these groups;
- b. Migrant workers, particularly those with an irregular status, whose vulnerability can be exploited through coercion;
- c. Women are more vulnerable to forced labour than men in certain sectors
- d. Workers employed in informal enterprises, including home-based workers and those in geographically remote rural regions, operating at the margins of the formal economy; and
- e. Young people and low skilled or illiterate workers who may be less aware of their legal rights<sup>107</sup>.

### Step 1. Establish strong management systems

All enterprises in the supply chain, including raw material and fibre producers, material manufacturers and processors, components manufacturers, footwear and garment manufacturers, brands, retailers and intermediaries should clearly articulate their commitment to not use forced labour in their own operations and to not tolerate the use of forced labour in the operations of their suppliers.

The expectations regarding due diligence for forced labour should be incorporated into supplier contracts including contracts with labour recruiters and private employment agencies.

### Step 2. Identify risks in the supply chain

By nature, forced labour is often hidden. The many forms of forced labour can also make it difficult to identify. Further complicating this, a situation of forced labour may not be the result of a single, easily identifiable abuse, but rather a series of circumstances and violation committed by different actors.<sup>108</sup>

The supply chain risk assessment (Step 2.1-2.3) is therefore a crucial component of the due diligence process. Enterprises should seek to gain an initial understanding of the context in which they are operating or sourcing from. Red-flags should then trigger further investigation to understand the severity and drivers of forced labour within the operating context. Business partner due diligence should *then* be tailored to known information related to the local context. Without a thorough supply chain risk assessment, business partner due diligence risks being ineffective.

All enterprises should seek to gain an initial understanding of the context that they are operating in or sourcing from in relation to forced labour.

- a. Enterprises should seek to understand the national policy environment in relation to forced labour, including:
  - Laws and regulations to prevent and eliminate forced labour and trafficking in persons
  - National Action Plans on combatting forced labour and trafficking in persons

107. ILO (2015), *Combatting Forced Labour: A Handbook for Employers & Business*, Booklet 1, p.:11

108. Verite, *Guidance for the Social Auditing of Forced Labor and Human Trafficking of Migrant Workers*. Accessed at <https://www.verite.org/helpwanted/toolkit/brands/strengthening-assessments-social-audits/tool-1>

## TRBC

- Laws regulating the entry, residence, work and exit of foreigners
  - Laws and regulations on the internal and cross-border recruitment of workers
  - Labour law/Code provisions regarding working and living conditions
  - National legislation regarding the collection of fees from workers for relevant sectors and relevant monitoring
- b. Enterprises should likewise identify red-flags in countries that they are operating in for various forms of forced labour. Red-flags do not necessarily indicate the presence of forced labour, but should flag contexts in which further assessment is necessary.
- Use of international migrant workers
  - Use of refugees as workers (legally or illegally)
  - Use of recruitment agencies for employment of workers
  - Prevalence of credit schemes linked to employment
  - On-site housing of workers
  - Known cases of forced labour in the region and/or sector (cases do not need to be sector-specific)

### **Context assessment**

In contexts in which red-flags are identified, enterprises should seek to gain a more complete understanding of the context in order to determine the likelihood of adverse impact and its severity. For example, if credit schemes are identified as being common to a particular stage in the supply chain in a given context, the enterprises should seek to understand if credit schemes are often exploitative and therefore linked with forced labour. The following includes example information to be collected in instances in which a red-flag is identified.

In some cases, existing research (e.g. reports published by international organisations) may be available. In other instances, however, enterprises will need to consult experts and stakeholders on the ground. Enterprises should commission or participate in an on the ground assessment where major gaps exist. A rapid assessment is one research methodology which has been demonstrated to be effective at determining the below information in various contexts. The following provides questions for enterprises to consider during a context assessment.

### ***Employment of international migrant workers***

- a. Who are the intermediaries (e.g. visa and passports intermediaries, travel agents, job and/or transport intermediaries, job placement agencies, direct recruitment through employer's office in the country of origin) that are generally used in the recruitment and hiring of migrants, either internal (e.g. rural-urban) or cross-border migration?
- b. Who organises the travel of the worker? For example, does the worker book travel himself or herself through an agent, or was travel booked through an intermediary?
- c. Do workers have contact with the final employer before departure?
- d. Who finances the travel? After how many month/year can the worker go back to his/her country?
- e. Does the worker have to pay recruitment fees or costs ?



- f. In cases where intermediaries finance the travel, what is the nature of the “credit” to cover expenses? What is the timeline for paying back credit? What is the interest rate? (see also questions for “Existence of Credit arrangements or debt”)
- g. Where are intermediaries based (i.e. sending country or host country)?
- h. Do workers hold valid documents?<sup>109</sup> How are travel documents generally obtained? Who guards documentation (i.e. worker, recruitment agency, final employer)?
- i. Was there assistance from friends in the trafficking? Is assistance accompanied by financial means?<sup>110</sup>

### ***Employment of refugees***

- a. Are refugees granted work permits?
- b. In cases in which refugees are not granted work permits, are they nonetheless being hired through informal means? What are the terms of such informal contracts?
- c. Are child refugees employed in the country broadly? Which sectors are child refugees being employed?

### ***Use of private employment agencies for recruitment and/or employment of workers***

- a. What is the length of the recruitment chain from recruitment to employment? Consider the geographical distance, the number of steps and number of intermediaries.
- b. Do workers hold a valid contract?
- c. What is the length of time of the contract between the worker and the recruitment agency?
- d. Are workers contracted to the recruitment agency or the final employer? In instances in which they are contracted with the recruitment agency, are they obliged to move jobs if requested by the recruitment agency?
- e. Are recruitment fees paid by workers?
- f. Are credit arrangements between the worker and the recruitment agency common? If yes, see also “Existence of credit-arrangements and debt”.
- g. Are recruitment agencies used in recruiting cross-border migrant labour? If yes, see also “Use of cross-border migrant labour.”

### ***On-site housing of workers***

- a. What percentage of workers live on-site? Is on-site housing mandated?
- b. What are the conditions of on-site housing?
- c. Is the entrance and exist of on-site housing guarded by security forces? Are workers free to leave the dormitory whenever they wish? Are curfews imposed?

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109 . Both victims of forced labour and successful cross-border migrants often enter the destination country clandestinely. As such, the lack of valid documents cannot always be used as an indicator of forced labour. However, it may be considered in the broader context of many other indicators.

110 . In many cases victims of forced labour are offered financial means for their travel; However, in some cases, assistance from friends or family already working abroad was a defining feature of successful migration experiences.

- d. Are workers required to pay rent? What is the nature of the rent?
- e. Does on-site housing have provisions for: separate gender accommodation? Adequate sanitary conveniences? Common dining rooms, canteens, rest and recreation rooms and health facilities, where not otherwise available in the community?<sup>111</sup>

***Existence of credit-arrangements and debt***

- a. Are credit arrangements between the workers and the employer (either recruiter or end employer) common?
- b. In instances in which credit arrangements are common, are workers obliged to work for the creditor?
- c. What does the credit-relationship look like?
- d. Do wage advances or loans provided to workers comply with national law?<sup>112</sup>
- e. What are the reasons that workers take loans?
- f. What are the conditions of the loans?
- g. What are the interest rates of the loans?
- h. Are wages commonly delayed, deferred or irregular?
- i. Who are the terms of loan repayment between?
- j. Is the credit feature an essential component of an employment contract, whether formal or informal?
- k. Are there differences in the wage rates or working conditions of workers who have and who have not taken out loans with employers?

Enterprises should likewise seek to:

- a. Identify whether governments have set-up the provision of effective remedies in accordance with ILO Recommendation No. 203.
- b. Understand the social, economic, and cultural dynamics that have led men and women into forced labour, keeping in mind that the dynamics may differ for men and women and across sub-sectors;
- c. Understand the roles of trade unions, local authorities and civil society with regard to the employment and lives of those working in forced labour;
- d. Identify local and national initiatives to combat forced labour. Such initiatives may be government-led or civil society led, or both. Mapping existing initiatives, their objectives, and their general impact will help an enterprise to understand how it can feed into existing strategies to mitigate the risk of forced labour in its own supply chain.

Due diligence is an ongoing process. An enterprise may not be able to initially determine all of the above for each sourcing region; however, enterprises should work towards an increased understanding over time. Due diligence

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111 . Workers Accommodation Process and Standards: A Guidance note by IFC and EBRD [http://www.ebrd.com/downloads/about/sustainability/Workers\\_accommodation.pdf](http://www.ebrd.com/downloads/about/sustainability/Workers_accommodation.pdf)

112 . ILO (2015), *Combatting Forced Labour: A Handbook for Employers & Business*, Booklet 1, p.7

should not be static. Contexts may change over time. The sudden presence of red-flags in a sourcing country should always trigger a re-evaluation of the enterprise's supply chain risk assessment, Step 2.

### Supplier assessment

Enterprises should assess suppliers operating in high-risk locations for forced labour. The methodology applied during the supplier assessment should be tailored to the local context and known risks as identified in the supply chain risk assessment and context assessment.

Worker interviews are the single most important source of information for investigating all forms of forced labour. However, interviewing workers who may be involved in forced labour should be handled with great care. The following should be taken into consideration when interviewing workers regarding forced labour:

- a. All respondents, whether girls and boys or women and men, must understand what risks may be associated with being interviewed, and they must give their informed consent (even if verbally) before interviews begin.
- b. Interviewers must observe ethical constraints in not jeopardizing worker's safety or wellbeing in any way.
- c. It is ethically irresponsible for interviewers to arouse the painful emotions of any interviewee and then abruptly end the interaction, leaving the interviewee in a situation where physical or psychological harm threatens.
- d. Traditional interviews may not be effective at gleaning sensitive information. Rather participatory methods of assessment may be used.
- e. Same-sex respondent groups may prove effective.<sup>113</sup>

See Annex for ethical considerations for interviewing women and children who have been trafficked.

### Step 3. Manage risks in the supply chain and provide for remediation

This Guidance recommends that enterprises continue to engage with suppliers through measured risk mitigation. However, in instances in which the supplier does not take measured steps to mitigate forced labour, this Guidance recommends that enterprises disengage as a last resort.

In cases in which an enterprises choses to continue engagement with suppliers through measured risk mitigation; **enterprises should pursue risk mitigation measures that directly correspond to the risk.** Furthermore, given the complex nature of forced labour, **enterprises should not act alone.** Forced labour requires a coordinated and holistic approach across a broad range of stakeholders. See Box. Forced Labour Risk Mitigation Framework for the broad framework which enterprises should feed into.

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113 . To be referenced by this Guide: The ILO is currently developing Qualitative Survey Guidelines which will contain a section on elements to be considered before interviewing a worker and ethical principles to be respected.

### Box X. Risk Mitigation Framework

The following provides information on the broader risk mitigation framework necessary for the mitigation of forced labour. Enterprises should feed into the below framework when designing due diligence, however, enterprises are not responsible to implement all of the below recommendations on their own. Specific recommendations for enterprises are provided below.

- a. **Regulatory framework and enabling environment:** It is ultimately the responsibility of the government to protect against human rights abuses by third parties, including business enterprises, through regulation, policymaking, investigation, and enforcement. Government should implement policy measures aligned with the Forced Labour Convention, 1930 (No. 29) and the 2014 Protocol to the Forced Labour Convention's main provisions:
  - Extend the coverage and enforcement of relevant laws to all workers and sectors.
  - Strengthen labour inspection and other services responsible for implementation of these laws
  - Address root causes and factors that heighten the risk of forced labour.
  - Establish effective measures for the identification, release, protection, recovery and rehabilitation of victims.
  - Protect victims from punishment for unlawful activities that they were compelled to commit.
  - Ensure victims' access to appropriate and effective remedies, such as compensation, irrespective of their presence or legal status in the territory.
  - Take specific measures against trafficking in persons for forced labour.
  - Develop a national action plan in consultation with employers' and workers' organisations.
  - Cooperate internationally to prevent and eliminate forced labour.<sup>1</sup>
- b. **Workplace**
  - Increase the capacity of employers to mitigate against recruiting and hiring workers in forced labour
  - Strengthen worker representation and collective bargaining agreements
  - Decrease the demand for forced labour by addressing business concerns
  - Move towards formalisation of the workforce
- c. **Community**
  - Establish public information campaign with the objective of increasing awareness amongst community members regarding the rights of workers and the risk of forced labour. Public information campaigns should be tailored to the local context and the nature of the risk.
  - Provide country specific information for potential migrant workers (e.g. general conditions of work and life; Trade union organisation; Minimum wages; benefits; Housing; Schooling...etc.)<sup>1</sup>

Given the diverse nature of forced labour, it is impossible to provide a standard set of risk mitigation measures. Risk mitigation should be tailored to the local context. However, in the majority of cases, enterprises' risk mitigation strategies should feed into the above framework. The following includes example risk mitigation strategies.

### *Supplier engagement*

Enterprises should:

- a. Use their leverage with suppliers to require all forms of forced labour to be stopped immediately.
- b. Build the awareness of their suppliers on forced labour, including what constitutes forced labour.
- c. Support trade unions and representative worker organisations to build awareness amongst workers on their rights in relation to contracts, working hours, freedom of movement, etc.
- d. Support tailored training for management and staff involved in the hiring of workers on national and international standards regarding forced labour and importantly, the company's risk mitigation policies and processes.
- e. Support suppliers to establish a pre-qualification process for private recruitment agencies for employment.<sup>114</sup>

Some measures can be implemented immediately to mitigate the risk of forced labour. Examples include:

- a. Formalization of contracts with workers;
- b. Payment of workers through automatic bank transfers;
- c. Formalization of credit-systems (where desired by workers) between employers and workers; Institute financial annual audit of credit-systems by trained third-parties.

Enterprises should partner with their suppliers to understand and directly address business drivers for forced labour. Example interventions may include:

- a. Improve efficiencies in production and thereby reduce the supplier's demand for forced labour.
- b. Pay sustainable prices for goods, meaning that prices pay a return that enables suppliers to reinvest in their business and workers (thus reducing the demand for cheaper labour).

In contexts in which forced labour is deeply rooted into existing systems, enterprises (both customers and employers) should engage in multi-stakeholder initiatives that feed into a broader framework for forced labour risk mitigation (see Box X). Enterprises may contribute to such initiatives in a variety of ways. Examples include:

- a. Contribute funding to local civil society which promote community awareness raising, monitoring, or capacity building;
- b. Engagement with government to meet regulatory gaps and promote an enabling environment for adherence to the ILO convention on forced labour.

In order to actively facilitate such engagement, industry associations may seek to form organised consultations with trade unions and stakeholders to ensure a coordinated and holistic approach to tackling forced labour. This platform could prove beneficial for increasing information regarding the context, raising concerns related to particular business relationships, and identifying risk mitigation strategies.

### **On-going monitoring**

Effective on-going monitoring of forced labour is a crucial component of due diligence in medium and high-risk contexts for forced labour. However, identifying the most effective monitoring mechanism within a particular context may take time. Furthermore, what works in one context may not work in another. Enterprises should partner with trade unions, business partners, and civil society to design an effective monitoring mechanism.

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<sup>114</sup> . The ILO is in the process of establishing an assessment of private recruitment agencies for employment

## TRBC

- a. Trade unions play a central role in monitoring and mitigating forced labour. Therefore, as a core component of due diligence, enterprises should support freedom of association within their workplace and supply chain. (See Chapter 11, Due diligence for Freedom of Association).
- b. Civil society can act as effective monitors of forced labour and raise red-flags where they observe them. Monitoring requires a coordinated approach amongst civil society and the clear division of tasks.
- c. Community members likewise can act as important informants of forced labour. However, a degree of community awareness is imperative for community-level monitoring to be effective. Awareness raising can be conducted through civil society, trade unions or government. Enterprises may support such initiatives, for example through grants or capacity building, etc.

In order to actively facilitate community-led monitoring, industry associations within a particular context may seek to form organised consultations with stakeholders regarding the risk of forced labour within a particular context. This platform could prove beneficial for increasing information regarding the context, raising concerns related to particular business relationships, and identifying risk mitigation strategies.

### **Grievance mechanisms**

To ensure that incidences of forced labour are reported and can be effectively dealt with, employees, suppliers, service providers and other stakeholders should be informed about the available channels to report incidences and how forced labour can be recognized. Outreach on the use of the grievance mechanism should be similarly incorporated into community training on forced labour.

## Ethical considerations for interviewing women and children who have been trafficked

### Ethical considerations for interviewing women who have been trafficked

Interviewing a person who has been trafficked raises a number of ethical questions and safety concerns.<sup>115</sup>

#### 1. Do no harm

Treat each woman and the situation as if the potential for harm is extreme until there is evidence to the contrary. Do not undertake any interview that will make a woman's situation worse in the short term or longer term

#### 2. Know your subject and assess the risks

Learn the risks associated with trafficking and each woman's case before undertaking an interview.

#### 3. Prepare referral information:

Do not make promises that you cannot fulfil. Be prepared to provide information in a woman's native language and the local language (if different) about appropriate legal, health, shelter, social support and security services and to help with referral, if requested.

#### 4. Adequately select and prepare interpreters and co-workers

Weigh the risks and benefits associated with employing interpreters, co-workers or others and develop adequate methods for screening and training.

#### 5. Ensure anonymity and confidentiality

Protect a respondent's identity and confidentiality throughout the entire interview process— from the moment she is contacted to the time that details of her case are made public.

#### 6. Get informed consent

Make certain that each respondent clearly understands the content and purpose of the interview, the intended use of the information, her right not to answer questions, her right to terminate the interview at any time and her right to put restrictions on how the information is used.

#### 7. Listen to and respect each woman's assessment of her situation and risk to her safety

Recognize that each woman will have different concerns and that the way she views her concerns may be different from how others might assess them.

#### 8. Do not re-traumatize a woman

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115 . Adapted from the World Health Organization (WHO)

Do not ask questions intended to provoke an emotionally charged response. Be prepared to respond to a woman's distress and highlight her strengths.

### **9. Be prepared for emergency intervention**

Be prepared to respond if a woman says she is in imminent danger.

### **10. Put information collected to good use**

Use information in a way that benefits an individual woman or that advances the development of good policies and interventions for trafficked women generally.<sup>116</sup>

### **Ethical considerations for interviewing children who have been trafficked**

UNICEF offers general guidelines applicable to all interviews with children who may have been trafficked.

- Interviews should take place as soon as possible after the allegation or suspicion of abuse emerges.
- The child should feel safe and supported during the interview.
- Girls and younger boys should be interviewed by female interviewers. Older boys can be interviewed by male interviewers.
- An adult that the child trusts should generally be present during the interview. This person's responsibility is to look after the child's best interests. It could be a guardian, a legal representative or, if neither has been appointed, a teacher or social worker.
- Interviews should take place in an informal setting and be conducted by interviewers trained to talk with children.
- Interviews should be in the child's own language. If this is impossible to organize, considerable care must be taken in arranging interpretation.
- If possible, interviews should not be too long to avoid tiring the child.
- The child's developmental stage and needs should be considered in planning the interview.
- The characteristics of the child, the child's family background and the interviewer should be considered in planning the interview.
- The children should be given an opportunity to tell their story in their own way, before they are asked explicit questions.
- The questions should begin with open questions and direct or leading questions should be reserved for the latter part of the interview.
- Props and cues may be used, but only with caution.<sup>117</sup>

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116. The World Health Organization (WHO),

117. UNICEF offers general guidelines applicable to all interviews with children who may have been trafficked



## Chapter 10

## Working time

### Summary

- Given known risks of adverse impacts related to working hours at garment manufacturing, this chapter focuses on due diligence of garment manufacturing. Principles from this guidance may be applied to other stages in the supply chain.
- The following recommendations are addressed to retailers, brands, and intermediaries sourcing from garment manufacturers.
- Enterprises are only expected to apply the recommendation in this chapter for contexts that have been identified as high-risk for adverse impacts related to working time.

### Background

Excessive working hours are defined as work hours that exceed legal limits or the 60-work hours per week standard put forth by the ILO (see *International Standards*). Research indicates that excessive hours of work adversely impact a workers' health, well-being and workplace safety.<sup>118</sup> Excessive working hours are often found at the garment manufacturing stage of the garment supply chain. This chapter therefore focuses its recommendations on garment manufacturing; the principles and processes found in this chapter, however, may be applicable to other stages of the supply chain and sub-sectors.

There are a number of factors which may contribute to excessive working hours at the factory.

- a. In many parts of the world, there is a significant link between low wages and excessive working time.<sup>119</sup> Within this context, excessive working hours is facilitated through the demands of workers; workers prefer to work overtime to earn an extra income. This has been demonstrated to often be the case in instances in which workers are rural-urban migrants with a responsibility of sending money home to their families.<sup>120</sup>
- b. In some instances the customer's actions (i.e. retailers, brands, intermediaries) may contribute to excessive overtime. Examples of this include last-minute style changes and the setting of unreasonable lead times, notably for re-orders. Some studies have found that the large number of different styles are linked to excessive working hours.<sup>121</sup>

118 . ILO, Wages and Working Hours. P 23.

119 . ILO, Working Time, Website accessed at (see email with link)

120 . <http://www.fairwear.org/ul/cms/fck-uploaded/documents/companies/CountryStudies/turkey-overtime-paper05.pdf>

121 . Nike found that one of the biggest root causes of excessive overtime in garment manufacturing is the large number of styles factories produce. Every time a factory has to change a style, it reduces productivity and

- c. In other instances, the factors contributing to excessive overtime are controlled by the supplier. For example, over-booking, poor production planning and inefficiencies in production may result in excessive overtime. Overbooking remains a challenge in the sector often due to the lack of consistency in orders. Suppliers may be reluctant to expand their production capacity without confidence that demand will remain high.<sup>122</sup> To account for this uncertainty, in some cases, suppliers hire a limited number of skilled workers as regular workers, and then rely on excessive working hours, temporary contract workers, and sub-contracting to manage the shifts in demand.<sup>123</sup>
- d. Further aggravating the above, labour legislation relating to working hours is often not enforced in many garment producing countries.

Given the diverse factors which contribute to excessive working hours, understanding the context is a crucial first step in developing effective further due diligence measures.

### International standards

The Hours of Work Convention, 1990 (No.1) introduced a maximum standard working time of 48 hours per week and eight hours per day, with the exception of limited and well-circumscribed cases. In 2011, the ILO Tripartite Meeting of Experts on Working-time Arrangements discussed the changes and new arrangements applicable to hours of work. The report for discussion at the meeting listed a set of principles that should be applied to regulate working time, which are highly relevant for the garment and footwear sectors.

ILO standards on working time most applicable to the garment and footwear sector:

- i. Hours of Work (Industry) Convention, 1919 (No.1)
- j. Weekly Rest (Industry) Convention, 1921 (No. 14)
- k. Forty-Hour Week Convention, 1935 (No. 47)
- l. Holidays with Pay Convention (Revised), 1970 (No. 132)
- m. Reduction of Hours of Work Recommendation, 1962 (No. 116)
- n. Night Work Convention, 1990 (No. 171) and its Recommendation, 1990 (No. 178)

Key principles on working-time arrangements include:

- a. Need for daily, weekly and perhaps annual limits on working hours;
- b. Importance of keeping overtime exceptional, limiting the number of additional hours and providing adequate compensation;
- c. Right to regular and uninterrupted weekly rest;

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overall efficiency placing pressure on hours of work. <http://www.nikebiz.com/crreport/content/workers-and-factories/3-3-1-our-approach.php?cat=excessive-overtime>

122 . Stoop, Sjef. *Overtime and excessive overtime, Legal requirements, compliance situations and opportunities for the Turkish (Istanbul) garment industry*. Fair Wear Foundation (2005).

123 . ILO, *Wages and Working Hours in the Textiles, Clothing, Leather and Footwear Industries*, Issues Paper for discussion at the Global Dialogue Forum on Wages and Working Hours in the Textiles, Clothing, Leather and Footwear Industries (Geneva, 23–25 September 2014).

- d. Right to paid annual leave;
- e. Need to keep night-time work exceptional and warranting special protection;
- f. Importance of enterprise's needs in respect of flexible working-time arrangements;
- g. Right to collective bargaining and the full and genuine consultation of employers 'and workers' representatives on working-time regulation;
- h. Need for an effective labour inspection system or other enforcement measures to prevent and punish abusive practices.<sup>124</sup>

### Step 1. Establish strong management systems

All enterprises in the supply chain should clearly articulate their commitment to adhere to national working hours and international ILO standards.

The expectations regarding working hours should be incorporated into supplier contracts. In instances in which national legislation and international legislation are not aligned, enterprises should adhere to the stricter of the two. These expectations should be clearly communicated with suppliers.

### Step 2. Identify risks in the supply chain

**All enterprises** should seek to understand the context that they are operating in or sourcing from in relation to working hours in order to assess the likelihood of adverse impacts (Step 2.2) and the severity of adverse impacts (Step 2.3).

- a. **National regulatory environment** related to working hours:
  - Limit on normal working hours in a week
  - Limits on overtime hours worked
  - Amount of rest period for a work day or during shifts
  - Amount of rest period in a week or month
  - Legally required holidays
  - Overtime compensation
  - Enforcement mechanisms and their effectiveness of national legislation
- b. **Role of trade unions and collective bargaining agreements**
  - Coverage of collective bargaining agreements
  - Who are the trade unions operating in the given context?

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124 . ILO, *Conditions of Work and Employment Programme, Working time in the twenty-first century*. Report for discussion at the Tripartite Meeting of Experts on Working-time Arrangements (17–21 October 2011)

- What role have trade unions played in relation to working-time regulation?
- Are there collective bargaining agreements on working-time that have been established through full and genuine consultation of employers and workers representatives?

c. **Prevalence of excessive working hours**, including a preliminary understanding of:

- Countries where excessive working hours have been identified as a known risk of adverse impact;
- Severity of adverse impact (i.e. within a given country or context, to what extent are workers working excessive working hours? On average, how many hours over the local or national standard, or 60 hours per week, are workers working?);
- Categories of workplaces (e.g. direct contractors, sub-contractors...etc.) that are at highest risk of adverse impact
- Business units at highest risk (e.g. stitching).

In many cases, enterprises may rely on desktop research. However, where information gaps exist, enterprises should consult experts and stakeholders on the ground. In instances in which there are major gaps in information, enterprises should commission or participate in an on-the-ground assessment. The World Health Organization (WHO) has developed a set of recommendations.

Based on the above, enterprises should identify high-risk locations for adverse impacts related to working hours.

**Context assessment**

Enterprises should seek to understand root causes and contributing factors to adverse impacts related to working hours in order to develop effective risk management systems in Step 3.

- a. What are the demographics of workers in the region or country? Specifically:
  - What proportion of workers are rural-urban migrant workers?
  - What proportion of workers are cross-border migrant workers?
  - What is the gender composition of workers?
- b. What are the general perceptions of working hours amongst workers?
- c. What are the general perceptions of working hours amongst management?

In many cases existing information on the above may not be readily available, In this case, enterprises should engage in discussions with factory management, workers, worker's organisations and key informants. In order to allocate resources efficiently, enterprises may seek to engage on the above collectively (e.g. through a local buyer's forum, industry association or multi-stakeholder initiatives). The results of the discussions should be shared amongst others operating in the context to the extent feasible.

The supply chain assessment should not be confused with an audit, but is rather a context assessment. The findings of the above research should inform the design of supplier assessments.

Due diligence is an ongoing process. An enterprise may not be able to initially determine all of the above for each sourcing region; however, enterprises should work towards an increased understanding over time. Due diligence

should not be static. Contexts may change over time. The sudden presence of red-flags in a sourcing country should always trigger further due diligence.

### Supplier assessment

Supplier assessments should seek to understand the following in relation to the garment manufacturer:

- a. Compliance with national legislation and ILO standards on working time in relation to:
  - Worker standard and overtime hours
  - Validity of any government-issued waivers (such as Comprehensive Working Hours System);
  - Regular and uninterrupted weekly rest
  - Paid annual leave
  - Rates of night-time work
  - Collective bargaining and the full and genuine consultation of employers ‘and workers’ representatives on working-time regulation;
- b. Evaluate the risk of adverse impacts related to working hours:
  - E.g. Is payment automated or provided in cash?
  - E.g. Are working hours properly recorded? Are records regarding working hours falsified? <sup>125</sup>
  - E.g. Evaluate facility management’s, line managers’, and workers’ understanding of the legal and international standards for working hours. <sup>126</sup>

Enterprises should engage<sup>127</sup> with management, workers, and trade unions in order to understand the perspectives of each. This component of due diligence should not be confused with audits. In contrast to verifying compliance, the purpose of this engagement is to identify root causes of non-compliance in order to inform effective risk mitigation strategies. Enterprises should seek to answer the following questions during this stage of due diligence:

- a. Are workers pleased with the current number of hours worked? If so, why? If no, why not?
- b. If workers are pleased with the current number of hours worked, what would be needed (e.g. % wage increase) in order for workers to prefer a working day compliant with national and international standards?
- c. Do gaps exist in current supplier management systems which may contribute to non-compliance?
  - E.g. Production planning
  - E.g. Tracking of worker hours

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125. EICC Coalition, Working Hours/Days Off Guidance

126. EICC Coalition, Working Hours/Days Off Guidance

127. Engagement may be carried out by the enterprise itself or by other organisations such as multi-stakeholder initiatives, industry associations...etc.

## TRBC

- E.g. Human resource practices (e.g. suppliers hire a limited number of skilled workers as regular workers, and then rely on excessive increased working hours to manage the shifts in demand).
- i. Do the enterprise's (i.e. customer's) own activities potentially contribute to non-compliance?
  - E.g. Short-lead times
  - E.g. Lack of supplier engagement during forecasting
  - E.g. Number of styles
- a. What are the views of trade unions regarding drivers of non-compliance of working hours? Explore the roles of trade unions and local authorities with regard to working hours.
- b. What are the views of management regarding drivers of non-compliance of working hours?

Initial supplier assessment may be conducted during the pre-qualification process and on an annual basis with current suppliers. All assessments should include worker interviews as a key component. However, those conducting the assessment should be aware that workers may be trained on information to provide. Assessment teams should therefore identify the most appropriate form of interview (e.g. focus groups, participatory methods of assessment) to learn about a worker's working day. In cases in which there are suspicions that interviews are not revealing accurate findings, the assessment team should revise their methodology. Appropriate methods of interviewing people vary across cultures. Such cultural factors should be taken into consideration in the design of worker interviews.

Assessment teams should stay alert to red-flags for forced labour (e.g. coercion to work overtime). Example red-flags include:

Note: For consultation with stakeholders and experts

Where such red-flags exist, assessment teams should conduct further due diligence in line with the Guidance found in the Chapter 9 on Due Diligence of Forced Labour.

Enterprises may find that non-compliance is a common trend amongst similar groups of suppliers in a given context. Within this context, enterprises may seek to engage with suppliers as a group in collaboration with other customers (e.g. retailers, brands, intermediaries) or through multi-stakeholder initiatives.

### Step 3. Manage risks in the supply chain

This Guidance recommends that enterprises continue to engage with suppliers during measured risk mitigation.

Risk mitigation should directly correspond to the drivers identified in Step 2. Possible risk mitigation measures are expanded upon below. In many cases, a multi-prong strategy is required.

## Supplier engagement

- a. **Changing production methods:** Changing the setup and engineering of the production system may limit the need for overtime. In an inflexible line system, bottlenecks easily occur, making planning more difficult. More flexible systems are better adapted to deal with small difficulties without hampering planning.<sup>128</sup>
- b. **Workers' rights training** should be a component of any risk mitigation strategy. Training should include an understanding of the legal limits regarding regular working hours, overtime and related compensation. Training should be provided to all workers on an annual basis. Trade Unions and representative worker organisations can play a key role in training workers, as can human resource management. While training is an important component of a rights-based approach, rights training is not sufficient in of itself.<sup>129</sup>
- c. **Human resource management:** In many cases enterprises do not know how many hours workers have worked. In these cases, a first step is to track the number of working hours per worker. This can be achieved through a number of mechanisms. Human resource representatives should be held responsible for flagging instances in which workers are at risk of working more than the permitted regular and overtime hours.<sup>130</sup>

## Internal management

Enterprises should take steps to address internal drivers of non-compliance. Examples include:

- a. Improve forecasting alignment, which involves coordination across geographies, categories and product engines to get the right information and decisions made at the right time.<sup>131</sup>
- b. Optimize sourcing base to handle fluctuations in capacity and to adopt and implement the technologies needed to respond to the demand for emerging styles and products.<sup>132</sup>
- c. Provide training across business units to increase awareness on internal drivers of non-compliance and mitigation strategies.
- d. In many cases increased coordination and communication between enterprises and their suppliers is essential to on-going monitoring and effective risk mitigation. Enterprises and suppliers should establish feedback mechanisms whereby suppliers provide honest feedback on buyer's practices which contribute to non-compliance. Systems should be established which enable constructive communication (e.g. reporting through a third-party).

## Due diligence on wages

In cases in which non-compliance is partially driven by workers' demands for more hours due to insufficient wages, enterprises should engage in due diligence on wages. See Chapter on due diligence of wages.

Risk mitigation should not put workers in a worse place than they were in before. For example, if workers are choosing to work excessive overtime due to low-wages, enterprises should not enforce working hours until the wages have been addressed.

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128. Stoop, Sjef. *Overtime and excessive overtime, Legal requirements, compliance situations and opportunities for the Turkish (Istanbul) garment industry*. Fair Wear Foundation (2005).

129. Stoop, Sjef. *Overtime and excessive overtime, Legal requirements, compliance situations and opportunities for the Turkish (Istanbul) garment industry*. Fair Wear Foundation (2005).

130. Stoop, Sjef. *Overtime and excessive overtime, Legal requirements, compliance situations and opportunities for the Turkish (Istanbul) garment industry*. Fair Wear Foundation (2005).

131. Sustainable Business Performance Summary, Nike Inc. FY10/11.

132. Sustainable Business Performance Summary, Nike Inc. FY10/11.

**Due diligence on collective bargaining and freedom of association (see Chapter**

Enterprises should conduct due diligence on collective bargaining and freedom of association in accordance with Chapter 13.

**On-going monitoring**

The enterprise and its supplier should identify KPIs to track working hours over time. Enterprises and their suppliers should likewise identify red-flags for working hours. Red-flags may include:

- a. Rushed orders
- b. National holiday

Note: For consultation with stakeholders and experts: What red-flags can enterprises and their suppliers track to identify increased risks of excessive working hours? What indicators can enterprises and their suppliers track to understand root causes of adverse impacts?

Trade unions and representative worker organisations play a central role in monitoring and mitigating non-compliance regarding working hours. Therefore, as a core component of due diligence, enterprises should support freedom of association within their workplace and supply chain. (See Chapter X, Due diligence for Freedom of Association).



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**Chapter 12**

## Wages

### Background

Living standards and the livelihood of wage earners and families depend on the level of wages, when and how they are adjusted and paid. Although minimum wage levels vary markedly across countries, globally, wages in the garment and footwear sector are reportedly low. For example, global average wages at garment manufacturing are 35 percent lower and at textiles manufacturing and processing 24 percent lower than the manufacturing industry average wage.<sup>133</sup>

There are two primary mechanisms for wage setting:

- National minimum wage fixing mechanisms
- Collective bargaining agreements (CBA)

Minimum wages are applied almost universally. However, minimum wage fixing mechanisms in many garment and footwear producing countries have not resulted in wages that meet the basic needs of workers and their families in many contexts. Sector-specific factors are often not considered in the minimum wage setting (e.g. working hours, non-wage benefits). The statutory minimum wage is not universal. For example homeworkers and informal workers are generally outside the scope of minimum wage provisions altogether; this includes the so-called “falsely self-employed”, who do similar work as regular employees but whose contracts are not protected by the same safeguards and regulations.<sup>134</sup>

Collective bargaining mechanisms remain weak in many countries where garment and footwear supply chains are based.

In light of ineffective mechanisms for wage setting, historically enterprises operating in the garment and footwear supply chain have sought to address low wages by auditing direct suppliers for payment of national minimum wage and by using their leverage with suppliers to encourage increased payment of wages in cases where the minimum wage is insufficient to meet the basic needs of workers and their families. The primary challenge to this approach is that it does not create a level playing field for suppliers operating within a given country. Without a level playing field, in a sector in which sourcing decisions are predominantly driven by price negotiations, individual suppliers may be unable to pay above the minimum wage without sacrificing their market competitiveness.

Minimum wages should be an instrument of social protection, to provide a wage floor for wages that meet the basic needs of workers and their families, but not as a permanent substitute for bargaining among social partners.

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133 . UNIDO: Industrial Development Report 2013: Sustaining Employment Growth: The Role of Manufacturing and Structural Change, Vienna, 2013.

134 . <http://www.oecd.org/social/Focus-on-Minimum-Wages-after-the-crisis-2015.pdf>

## International Standards

### *OECD Guidelines for Multinational Enterprises*

#### Chapter V, Paragraph 4.b

“When multinational enterprises operate in developing countries, where comparable employers may not exist, provide the best possible wages, benefits and conditions of work, within the framework of government policies. These should be related to the economic position of the enterprise, **but should be at least adequate to satisfy the basic needs of the workers and their families.**”<sup>135</sup>

#### *Definition*

There is no agreed upon calculation of **basic needs of workers and their families**. However, agreement on the wage necessary to meet the basic needs of workers and their families should be reached through collective bargaining between employers, workers and their representatives, preferably at national industry level.

#### *International Labour Organization*

The ILO has adopted twelve specific wage Conventions and Recommendations, of which the following concern the garment and footwear sector supply chain.<sup>136</sup>

- a. Protection of Wages Convention, 1949 (No. 95) and Recommendation, 1949 (No. 85)
- b. Minimum Wage Fixing Convention, 1970 (No. 131) and Recommendation, 1970 (No. 135)
- c. Protection of Workers' Claims (Employer's Insolvency) Convention, 1992 (No. 173) and Recommendation, 1992 (No. 180)

## Step 2. Identify and assess risks in the supply chain

Through the application of the steps detailed under Step 2, enterprises should identify **countries** in their supply chain where wages have been identified as not meeting the basic needs of workers and their families (i.e. high-risk countries). Where possible, enterprises should prioritise their engagements in countries with the greatest discrepancy between the actual wage and wage necessary to satisfy basic needs.

### **Box X. Assessment of wages (Step 2.2 – 2.3)**

Assessing adverse impact can be challenging. Countries often have several rates for minimum wages, which can vary by region, age of worker, economic activity or professional occupation. This can make it difficult to estimate one minimum wage level per country per sector.<sup>1</sup> Enterprises may consider the most relevant minimum wage, which is defined as the rate applicable to the largest number of workers within the sector in a given country.

Enterprises may also compare minimum wages to wages in the middle of the country wage spectrum (the so-called median wage<sup>2</sup>). Median rather than mean earnings provide a better basis for international comparisons as it accounts for differences in earnings dispersion across countries.<sup>1</sup>

135. OECD Guidelines, Chapter V, Paragraph 4.b

136. Other ILO standards also provide guidance on wage fixing. See ILO: *General Survey of the reports on the Minimum Wage Fixing Convention, 1970 (No. 131), and the Minimum Wage Fixing Recommendation, 1970 (No. 135)*, Report III (Part 1B), ILC, 103<sup>rd</sup> Session, Geneva, 2014, paras 13 and 14.

In order to assess the severity of adverse impact, enterprises should also take into considerations country-based factors which may exclude workers from accessing minimum or negotiated wages:

- a. Percentage of workers in the sector employed through the formal economy versus the informal economy
- b. Percentage of workers that are international migrant workers; Wage regulations for migrant workers versus domestic workers
- c. Existing disparities between men and women in the sector
- d. Percentage of workers employed through piece-rate versus hourly wage

Based on the above information, enterprises should classify countries in their supply chain where wages have been identified as not meeting the basic needs of workers and their families as **high-risk locations**. The following due diligence should be applied.

### Context Assessment

The objective of Step 2.4 is to identify sufficient information to develop an effective risk management strategy in Step 3.

Enterprises should seek to understand the number of workers who benefit from collective bargaining, or the “coverage” of collective bargaining. This is defined as the proportion of wage workers under a collective agreement. Coverage of collective bargaining is very difficult to measure and therefore there is relatively limited statistical information on coverage. In light of these challenges, enterprises will likely need to rely on data from trade unions.

For ease, enterprises may choose to classify coverage into four categories:

- a. Very low: Coverage is below 15 percent
- b. Low: Coverage is between 15 and 50 percent
- c. Medium: Coverage is between 51 and 70 percent
- d. High: Coverage is above 70 percent<sup>137</sup>

### Supplier assessment

Supplier assessments for wages should focus on understanding the following:

- a. Is the supplier paying the minimum legal wage or negotiated wage to workers?
- b. Do workers understand their wages and their rights?
- c. Do workers have access to collective bargaining mechanisms?

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137 . This methodology is adopted from the ILO, Global Wage Report.

**Note:** consultation with experts on what should be assessed during this stage. The purpose of assessment is to identify sufficient information to develop an effective risk management strategy.

**Assess internal practises to identify if and how the enterprise is causing or contributing to adverse impacts.**

Enterprises should review policies for price determination to understand how real labour costs, including negotiated or legal wages, are calculated into freight-on-board.

- a. Enterprises should flag to management instances in which price negotiations do not adequately account for minimum or negotiated labour wage.
- b. Enterprises should track the extent to which payments to suppliers are delayed. Late payments may contribute to the late payment of wages to workers.

**Step 3. Manage risks of adverse impact in the sector**

**Risk mitigation framework:**

The following provides information on the broader risk mitigation framework necessary for addressing risks of adverse impacts related to insufficient wages and poor enforcement of minimum wage. Enterprises should feed into the below framework when designing due diligence, however, enterprises are not responsible to implement all of the below recommendations on their own. Specific recommendations for enterprises are provided below.

Low wages should be addressed through:

- a. Collective bargaining agreements**
- b. National minimum wage mechanisms**

Minimum wages play an important role in setting a wage floor that is sufficient to meet the needs of workers and their families and should be set in accordance with this level and regularly reviewed in line with cost of living increases. Minimum wage mechanisms should involve social partners in the design of the wage system, its decision-making and monitoring. Legal minimum wages should be underpinned by an adequately resourced regulatory, inspection and legal system that ensures that no less than legal minimum wages are paid to workers.

CBA's and legal minimum wages should be facilitated by incorporating the true labour cost into price negotiations between suppliers and their customers.

At a minimum, enterprises should engage with their suppliers to build their capacity to provide the minimum wage or negotiated wage in high-risk locations. This Guidance recognises, however, that individual supplier engagement is unlikely to lead to sustainable risk mitigation within a given country. Enterprises are therefore also encouraged to engage more broadly at a national or sector-wide level to support effective wage fixing and enforcement mechanisms where likely to be effective (e.g. political will, enterprise leverage with government).

**Engage with suppliers**

At a minimum, enterprises should engage with their suppliers to:

- a. Incorporate legal or negotiated wages into contract requirements with suppliers;
- b. Promote automated payment systems which reduce the risk of fraud in payments (or equally effective mechanisms at reducing fraud in payments);

- e. Build the capacity of suppliers to calculate prices that factor in the true labour cost of wages and associated benefits; Build trust with suppliers to communicate real labour costs
- f. Support freedom of association and collective bargaining (see due diligence of FOA )

**Ensure that the enterprise's own price negotiations facilitate the payment of the legal or negotiated wage**

- a. Direct sourcing towards suppliers that have demonstrated that they are adhering to national minimum wages or negotiated wages;
- b. Factor costs of legal wages or minimum wages, overtime, premiums, and paid leave into FOB.
- c. Ensure that wages are paid on-time

**Broader engagement to support effective and sustainable wage mechanisms within the country**

For all risks of adverse impacts, enterprise should seek to pursue risk mitigation strategies that are effective and sustainable. Within the context of wages, there is evidence that bilateral engagement with suppliers in of itself is not a sustainable risks mitigation strategy in that it does not address root causes of risk (i.e. wage mechanisms).

Within this context, enterprises in consultation (and collaboration where appropriate) with trade unions and other businesses should consider whether to engage at a national or sector-wide level to demonstrate support for effective wage fixing and enforcement mechanisms. Enterprises should consider the following factors in making this determination:

- a. Severity of risk of adverse impact
- b. Political will of the government
- c. Existing wage-setting mechanisms
- d. Leverage of industry broadly with government (e.g. % of economy's total merchandise exports)
- e. Coverage of collective bargaining

Broader engagement may take a number of forms and the nature of engagement should reflect the specific context.

- a. Collaborate with other businesses to jointly engage government:
  - In support of minimum wage outcomes that uphold a wage that is
  - In support of enforcement mechanisms that
- b. Engage with suppliers to encourage them to negotiate towards a wage that meets basic needs
- c. Advocate with government that industry-wide collective agreements be registered and legally enforceable under national laws
- d. Commit to continued sourcing in a high-risk location if wages are negotiated and incorporated into national law to support wages that meet basic needs, taking into account the gap between the minimum wage and a living wage, cost of living increases, productivity and efficiency gains and the development of the skills of workers

Enterprises are encouraged to develop strategies for joint action in relation to the above.

## Freedom of association and collective bargaining

**Note:** This draft includes an outline for the chapter on due diligence of freedom of association and collective bargaining. A full chapter will be included in the next iteration. Feedback and inputs from government, business, trade unions and civil society are welcome.

Discussions at the OECD Roundtable on Due Diligence in the Garment and Footwear Supply Chain will feed into the next draft.

### Background

The right of workers to form or join trade unions is specifically included in all three instruments that comprise the International Bill of Human Rights: The Universal Declaration of Human Rights (Article 23); the International Covenant on Civil and Political Rights (Article 22); and the International Covenant on Economic, Social and Cultural Rights (Article 8). The ILO Declaration on Fundamental Principles and Rights at Work sets forth rights that all member states of the ILO must respect, promote and realise even if they have not ratified the relevant ILO conventions. The rights that are specified include freedom of association and the effective recognition of collective bargaining.

### Step 1. Establish strong management systems for due diligence

Enterprises should:

- a. Recognise and affirm a commitment to uphold the right to freedom of association as part of the body of universal human rights; Commit to uphold national laws as well as international laws in countries where the enterprise sources from.
- b. Recognise the existence of issues and problems in the implementation of freedom of association for workers in many contexts in the garment and footwear sector which impact upon workers' other rights;

### Step 2. Identify and assess risks in the enterprise's supply chain

Enterprises should seek to understand the following in relation to risks of adverse impact at the national level in countries where the enterprise is sourcing from:

#### *Understand the degree to which the right to associate is uphold*

- a. Assessment as to whether state mechanisms are adequate to protect Freedom of Association
- b. Identification of where States themselves may impose limitations on Freedom of Association, for example in special economic zones)
- c. Assessment of adjudication bodies to support Freedom of Association rights and provide effective remedy
- d. Understanding of composition of trade unions within the national context, including the percentage of workers covered by independent trade unions versus state-unions

e. Understanding of adverse impacts regarding the right to associate, examples include:

- E.g. Violence or threats of violence against trade unionists
- E.g. Coercion against trade unionists
- E.g. Physical intimidation
- E.g. Creating, circulating or using “blacklists” of trade union supporters<sup>138</sup>

Based on the above information, enterprises should classify sourcing countries based on the likelihood and severity of adverse impacts. Enterprises should prioritise high-risk context for further due diligence

### Context Assessment

The objective of Step 2.4 is to identify sufficient information to develop an effective risk management strategy in Step 3. Within this context, enterprises should seek to understand the following:

- a. E.g. Perceptions of trade unions from government, workers, civil society and reasons
- b. E.g. Average number of trade unions operating within a single supplier

**Note:** To be discussed at the OECD Roundtable and in consultation with experts

### Supplier assessment

Supplier assessments should seek identify anti-union practices.

Key components of a supplier risk assessment include:

**Note:** To be discussed at the OECD Roundtable and in consultation with experts

### Step 3. Manage risks in the supply chain

At a minimum, enterprises should engage with their suppliers to build their capacity to respect the freedom of association.

In countries where the freedom of association is not adequately supported by the regulatory framework, enterprises are also encouraged to establish protocols on freedom of association.

### Supplier engagement

- a. Enterprises are encouraged to continue sourcing through measurable risk mitigation. Enterprises should suspend orders, however, when severe adverse impacts are identified at an individual supplier. As a last resort, enterprises should disengage.

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138. For more information see Better Work Programme

## TRBC

- b. Enterprises should ensure that their own purchasing practices, notably price negotiations, do not undermine the supplier's ability to negotiate a collective bargaining agreement (See Chapter 7, Application of Due Diligence to Purchasing Practices; See Chapter 12, Wages)
- c. Enterprises should encourage their suppliers to enter into collective agreements with trade unions regarding (e.g. trade union access agreement)

### **Freedom of association protocol**

A freedom of association protocol details explicit expectations of enterprises, retailers, brands, and suppliers in upholding and respecting the rights to freedom of association and collective bargaining.



## General environmental due diligence

### Summary

- Enterprises are only expected to apply the recommendations in this chapter for stages of the supply chain that have been identified as high-risk locations for adverse environmental impacts in particular contexts during the supply chain risk assessment.
- For risks of adverse environmental impacts at raw material production, enterprises should apply the recommendations in **Chapter 7: Application of due diligence to risks linked to raw material production**
- In some cases, such as water management, environmental management requires a holistic and coordinated approach. Enterprises are therefore encouraged to collaborate through multi-stakeholder initiatives to mitigate adverse impacts.

### Background

The garment and footwear sector supply chains are particularly complex with numerous and diverse stages spread across many geographic locations. Even within a single sub-sector, diversified production lines exist based on factors such as the type of material used and the end product.<sup>139</sup> There are also numerous production techniques for different fibre types, yarn spinning systems, fabric and garment technologies. Each stage of the sector supply chain has an impact on the environment; however, due to the wide variance in processes, inputs and outputs, the extent and nature of that environmental impact varies greatly from one stage to the next. In general, over its entire life cycle a garment and footwear product requires the following inputs:

- a. Direct usage of land;
- b. Freshwater from various sources;
- c. Energy from renewable and non-renewable sources for production and transportation;
- d. Pesticides, fertilizers, chemicals and other inventories; and
- e. Packaging materials from different sources such as plastics and paper.

While each stage of the garment and footwear supply chain does hold risk for adverse environmental impacts, certain stages are known to hold higher risk acts than others. Specifically, production of natural fibres, notably cotton, leather production and textile finishing are considered to be three of the greatest stages in the supply chain.

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139 . Muthu, Subramanian Senthilkannan, *Assessing the Environmental Impact of Textiles and the Clothing Supply Chain*. The Textile Institute, Woodhead Publishing, (2014), pg. 2.

### Cotton production

Cotton accounts for approximately 33 percent of the fibre used to make clothing and other textiles worldwide. Many cotton regions are located in important river catchments and irrigated cotton is mainly grown in regions with Mediterranean, desert or near-desert climates.<sup>140</sup> In such climates, freshwater withdrawal can challenge annual renewable freshwater resources, which in turn can lead to a long-term depletion of freshwater resources.<sup>141</sup> Cotton production also uses agricultural chemicals heavily and therefore offers a significant risk of pollution of freshwater ecosystems with nutrients, salts and pesticides.<sup>142</sup> 2.5% of the world's cultivated land is used for cotton production and 16% of the world's insecticides are used on the crop. This is reported to be higher than the usage for any other single major crop.<sup>143</sup> Furthermore, most pesticides used in cotton production are hazardous.

### Textile finishing

Along the garment and footwear supply chain, textile finishing is one of the most significant stages in relation to emissions to the different environmental compartments. The chemical input in textile finishing is up to 1 kg chemicals/kg processed textile. Usually only the colorants, the finishing agents including coating, binders and other auxiliaries in case of pigment printing remain on the textile substrates, whereas most of the other applied substances, which are necessary to enable/enhance the pre-treatment, dyeing, printing, and finishing processes, are emitted to a great part to the waste water. Air emissions are minor but not negligible source of pollution. Concerning the organic load, 20-100 g organic carbon/kg processed textiles are emitted, which is 15-250 time higher than emissions to air. Thus emissions to water are predominant.<sup>144</sup>

### Tanneries

To be included in the next iteration

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- 140. WWF, *Background Paper, The Impact of Cotton on Fresh Water Resources and Ecosystems, A Preliminary Synthesis* (1999)
  - 141. WWF, *Background Paper, The Impact of Cotton on Fresh Water Resources and Ecosystems, A Preliminary Synthesis* (1999)
  - 142. WWF, *Background Paper, The Impact of Cotton on Fresh Water Resources and Ecosystems, A Preliminary Synthesis* (1999)
  - 143. Muthu, Subramanian Senthilkannan, *Assessing the Environmental Impact of Textiles and the Clothing Supply Chain*. The Textile Institute, Woodhead Publishing, (2014), pg. 10.
  - 144. OECD, *OECD Series on Emission Scenario Documents, Number 7, Emission Scenario Document on Textile Finishing* (2004), pg. 38.

## Step 1. Establish strong management systems

All enterprises in the supply chain, including raw material and fibre producers, material manufacturers and processors, components manufacturers, footwear and garment manufacturers, brands, retailers and intermediaries should clearly articulate their commitment to conduct their activities in a manner that contributes to the wider goal of sustainable development, in-line with the OECD Guidelines for Multinational Enterprises.<sup>145</sup>

## Step 2. Identify risks in the supply chain

### Supply chain risk assessment

The purpose of the supply chain risk assessment is to identify and understand the full extent of *potential* adverse impacts in the enterprise's supply chain. This information enables an enterprise to classify risks in its supply chain by stage of the supply chain and operating context (e.g. geographic location). Since not all stages in the garment and footwear supply chain hold the same level of risk of adverse environmental impact, this is an important step of risk-based supply chain due diligence.

During the supply chain risk assessment enterprises should seek to identify the following.

- a. For brands, retailers, intermediaries and manufacturers involved in the design of products: Identify product lines which are known to carry unique risks of adverse environmental impacts (e.g. due to the unique production processes required);
- b. Identify stages in the supply chain which are known to be linked with adverse environmental impacts.

When assessing potential environmental impacts linked to the enterprise's own operations as well as its product lines and supply chain, enterprises should consider both *inputs* (i.e. raw materials, water, energy, chemicals and other auxiliaries) and *outputs* (i.e. air emissions, water emissions, and emissions to land). There are a number of environmental assessments which may be used to help an enterprise assess risk across the full length of its supply chain. However, many of these methodologies are resource intensive. As such, enterprises are encouraged to rely on existing research concerning the environmental impacts of certain products and manufacturing processes where available to prioritise stages in the supply chain for further assessment.

Existing resources may be used in the identification of risks of adverse environmental impacts linked to the various stages of the garment and footwear supply chain. Based on the enterprise's findings, the enterprises should classify stages in the supply chain by the likelihood of adverse impact (i.e. very likely, likely, unlikely) and the potential severity of adverse impact. The classification of risks of adverse environmental impacts will differ across stages in the supply chain (e.g. CMT vs. finishing).

Enterprises should prioritise stages in the supply chains that are considered to be high-risk stages based on existing information for further assessment.

Under Step 2.1, enterprises in the garment and footwear supply chain operating at retailing, product design and development (e.g. brands), garment manufacturing, components manufacturing, materials manufacturing and processing are encouraged to:

- c. Map KYC information for all suppliers operating at the following stages of the supply chain: garment and footwear manufacturing, components manufacturing, and materials manufacturing and processing. The

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145 . See OECD Guidelines for Multinational Enterprises, Chapter VI Environment.

mapping should include subcontractors, including stages in the supply chain where work is outsourced to homeworker.<sup>146</sup>

- d. Map country of origin or likely country of origin for raw material and fibre producers. See Box X for more information on how to map likely country of origin.
- c. Enterprises operating at raw material and fibre production stages should map KYC information for all upstream suppliers.

Depending upon the enterprise's position in the supply chain, enterprise should identify **country of origin or likely country of origin for high-risk stages in its supply chain for adverse environmental impacts**. Enterprises should then classify the **likelihood** and **severity** of adverse impacts (for all matters covered by the OECD Guidelines) at high-risk stages of the supply chain. In doing so, enterprises should identify the following:

- a. What natural resource constraints, both scarcity risks and risks of excess exist (or may arise in the future)?
- b. What is the policy environment (broadly) in relation to environmental protection related to the sector?
- c. How and to what extent are policies implemented in practice?
- d. What are the specific regulations and permits required in relation to the sector?
- e. Have there been reports by government, inter-governmental organisations, civil society...etc. regarding the adverse environmental impacts of the sector in a particular country or region?

In many cases, enterprises may rely on desktop research for the above. However, where gaps in information exist, enterprises should consult experts and stakeholders on the ground.

Based on the above, enterprises should revise its classification of high-risk stages to consider both the likelihood and severity of adverse impacts at a given stage in the supply chain within a particular geographic location. If adverse environmental impacts are identified as medium or high risk in a particular location, the enterprise should seek to better understand the context, for example:

- a. Mapping of existing local and international initiatives (e.g. multi-stakeholder initiatives, industry initiatives, civil society...etc.) operating on the ground to mitigate risks of adverse impact;
- b. Understanding of how various groups of people are affected by sector-related adverse environmental impacts and how each groups, regulates and defends access to the environmental resources. This assessment should take into consideration indigenous populations, variance in occupational groups, impacts based on age or gender, and socioeconomic stratification.<sup>147</sup>

### Supplier assessment

Enterprises should prioritise suppliers for assessment that are operating at stages and locations in the supply chain that are considered **high-risk locations**. Supplier assessment should focus on the risks of adverse impact prioritised during the supply chain risk assessment and should be tailored to the supplier's position in the supply chain and the local context.

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146 . Enterprises are not expected to map individual homeworkers, but should be able to identify first stages in the supply chain where homeworking is employed and individual suppliers which outsource to homeworkers. See Chapter 5 for more information.

147 . Adapted from the *World Bank Environmental Assessment Sourcebook, Chapter 3, Social and Cultural Issues in Environmental Review (1999)*.

Many resources exist for conducting comprehensive supplier assessment for environmental adverse impacts. Enterprises should ensure that supplier assessments assess for both actual adverse impacts and risks of adverse impact.

### Internal due diligence

NOTE: This section will be included in the next iteration. Resources are welcome.

## Step 3. Manage risks in the supply chain

This Guidance recommends that enterprises continue to engage with suppliers throughout the course of measurable risk mitigation. However, where, during the environmental assessment, severe adverse environmental impacts are identified that pose an immediate danger to human health or threaten to cause an immediate significant adverse effect upon the environment, the relevant operations should be suspended during measurable risk mitigation.<sup>148</sup>

This Guidance recognises that different approaches to controlling emissions into air, water or soil separately may encourage the shifting of pollution from one environmental medium to another rather than protecting the environment as a whole. Therefore, it is appropriate to provide for an integrated approach to prevention and control of emissions into air, water and soil, to waste management and to energy efficiency.<sup>149</sup>

Based on the supplier assessment and the supply chain risk assessment, enterprises should prioritise areas for risk mitigation based on the severity of the adverse impact on the environment or affected stakeholders. Enterprises may also seek to focus resources towards “quick wins” or risks which require limited investments.

Enterprises should establish a clear risk management plan which articulates how the enterprise will engage with its suppliers, stakeholders and government to mitigate risks of adverse impacts in its supply chain.

### Supplier engagement

Risk management should be tailored to the adverse impacts. In most-cases a smart-mix of the below risk mitigation strategies is necessary; in the case of severe adverse environmental impacts, locally identified Best Available Techniques (BAT) should be adopted for risk mitigation where feasible. Enterprises should support their suppliers in the implementation of the following:

- a. Objective setting: Suppliers should establish measureable objectives and, where appropriate, targets for improved environmental performance and resource utilisation. Targets should be consistent with relevant national policies and international environmental standards.
- b. Management systems: Where gaps exist, enterprises should support improved management systems such as well-documented procedures for equipment maintenance, chemical storage, handling, dosing and dispensing.
- c. Measurement: A good knowledge of the process inputs and outputs is a prerequisite for identifying priority areas and options for improving environmental performance. Therefore it is beneficial to implement a monitoring system for process inputs and outputs, including inputs of raw material, operational resources

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148. Directive 2010/75/EU of the European Parliament and the of the Council of 24 November 2010 on industrial emissions (integrated pollution prevention and control), Accessed at <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2010:334:0017:0119:en:PDF>

149. Directive 2010/75/EU of the European Parliament and the of the Council of 24 November 2010 on industrial emissions (integrated pollution prevention and control), Accessed at <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2010:334:0017:0119:en:PDF>

(auxiliaries, chemicals, dyes etc.), energy and water, and outputs of product, waste water, air emissions, sludge, solid wastes and by-products. Ideally, this input/output analysis is done at the site-level as well as for individual processes.<sup>150</sup>

- d. Staff training: All relevant site-level staff<sup>151</sup> should be trained on the site-level risks of adverse environmental impacts, national and international standards, workplace hazards and risk mitigation procedures. Furthermore, users of technical equipment (machines in production as well as abatement and recovery devices) should be trained on proper maintenance of equipment. Training should be resources, process and machinery specific.<sup>152</sup>
- e. Substitution of inputs: In some cases, the substitution of inputs, notably certain hazardous chemicals, is an effective risk mitigation strategy when feasible alternatives exist.
- f. Process and technology upgrading: In many cases, adoption of effective technologies and operating procedures can directly contribute to reduction in adverse environmental impacts.

### Adoption of locally identified best available techniques (BAT)

This Guidance recommends that enterprises seek to adopt locally identified best available techniques (BAT) for the mitigation of adverse environmental impacts in the supply chain. For the purposes of this Guidance the words *best*, *available* and *techniques* have the following meaning:

- a. *Best* means most effective in achieving a high level of protection of the environment as a whole.
- b. *Techniques* indicate both the technology used and the way in which the installation is designed, built, maintained, operated and decommissioned.
- c. *Available* techniques mean that the techniques are developed on a scale which allows implementation in the relevant industrial sector, under economically and technically viable conditions, taking into account the costs and advantages which are reasonably accessible to the operator.

This Guidance recognises that what is identified to be a BAT in one context may not be easily transferrable nor considered to be a BAT in another. As such, to the extent possible, best available techniques should be identified locally (e.g. within a given region or country) and scaled-up within the region or country to the extent possible.

See Annex X for to this chapter for guidance on the local identification of BAT.

The identification and scaling-up of BAT requires a coordinated approach amongst industry. As a component of due diligence, enterprise should therefore seek to collaborate at the international and regional level to identify and scale-up BAT. Furthermore, the identification and scaling-up of BAT often requires coordinate and consultation with external stakeholders, including government.

### Multi-stakeholder engagement

Many environmental risks in the garment and footwear sector cannot be adequately and sustainably addressed by a single actor. Enterprises should therefore seek to collaborate with others, including industry and civil society to

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150 . <https://www.umweltbundesamt.de/sites/default/files/medien/publikation/long/4294.pdf>

151 . For the purposes of this Guidance, relevant site level staff includes all staff across business units that are a) involved in the oversight of operations linked to adverse environmental impacts and b) staff that are affected by adverse environmental impacts.

152 . See Directive 2010/75/EU of the European Parliament and the of the Council of 24 November 2010 on industrial emissions (integrated pollution prevention and control), Accessed at <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2010:334:0017:0119:en:PDF>

implement long-lasting solutions. Similarly, enterprises should not seek to establish their own initiatives, but should identify and pursue engagement/collaboration with existing credible initiatives.

### Government engagement

In some contexts, enterprises (both suppliers and customers) may choose to engage with government when the risk of adverse impacts is high or the need for better management from public authorities is seen to cause future risk.<sup>153</sup> Enterprises should consider the following when determining whether to consult with government.

NOTE: This section will be included in the next iteration. Feedback on what questions enterprises should consider when determining whether to engage with government on policy dialogue are welcome.

## Step 5. Public reporting and communication

In addition to the recommendations provided in Section 2, Step 5, enterprises should:

- a. Provide the public and workers with adequate, measurable and verifiable (where applicable) and timely information on the potential environment, health and safety impacts of the activities of the enterprise, which could include reporting on progress in improving environmental performance;<sup>154</sup>
- b. Engage in adequate and timely communication and consultation with the communities directly affected by the environmental, health and safety policies of the enterprise and by their implementation;<sup>155</sup> and
- c. Promote higher levels of awareness among customers of the environmental implications of using the products and services of the enterprise, including, by providing accurate information on their products (for example, on greenhouse gas emissions, biodiversity, resource efficiency, or other environmental issues).<sup>156</sup>

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153 . [http://awsassets.panda.org/downloads/ws\\_briefing\\_booklet\\_lr\\_spreads.pdf](http://awsassets.panda.org/downloads/ws_briefing_booklet_lr_spreads.pdf)

154 . OECD Guidelines for Multinational Enterprises, Chapter VI, Environment, Paragraph 2, a.

155 . OECD Guidelines for Multinational Enterprises, Chapter VI, Environment, Paragraph 2, b.

156 . OECD Guidelines for Multinational Enterprises, Chapter VI, Environment, Paragraph 6, c.

## Identification of local best available techniques (BAT)

### Introduction

For the purposes of this Guidance the words *techniques*, *available* and *best* have the following meaning:

- a. *Techniques* indicate both the technology used and the way in which the installation is designed, built, maintained, operated and decommissioned.
- b. *Available* techniques mean that the techniques are developed on a scale which allows implementation in the relevant industrial sector, under economically and technically viable conditions, taking into account the costs and advantages which are reasonably accessible to the operator.
- c. *Best* means most effective in achieving a high level of protection of the environment as a whole.

BAT thus correspond to technologies and organisational measures with minimum environmental impact and acceptable cost.<sup>157</sup>

Candidate BAT are evaluated with respect to their technical feasibility, environmental benefit, and economic aspects. Finally, different candidate BAT are compared and/or grouped leading to the proposal of BAT.<sup>158</sup>

### Technical feasibility

Technical feasibility is evaluated by looking for experiences with the techniques in practical situations.

- a. Is the technology already applied in the sector?
- b. Is it applied in conditions that are considered relevant for the sector as a whole?
- c. If not, which conditions are to be met before this technique is applicable?
- d. Does the technique have an effect on the quality of the products made in this sector?
- e. Does the technique affect worker safety?

### Evaluation of the environmental performance of candidate BAT

Each candidate BAT is evaluated based on its impact on air, water, waste, soil, energy and use of natural resources. BAT are categorised as:

- a. improvement for this medium;

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157. BAT-centre, Flemish Institute for Technological Research (Vito), *Methodology for selection of best available techniques (BAT) at the sector level*, Journal of Cleaner Production 9 (2000) 11-21.

158. BAT-centre, Flemish Institute for Technological Research (Vito), *Methodology for selection of best available techniques (BAT) at the sector level*, Journal of Cleaner Production 9 (2000) p. 13



- b. negative for this medium,
- c. no effect on this medium;

The overall score of the technique is considered positive when there are no negative scores and at least one is positive. In case both positive and negative scores occur, expert judgement is used to decide on a general environmental rating. Expert technical advisors play an essential role in weighing the environmental impacts on the different environmental media.

### **Evaluation of economic feasibility**

A candidate BAT is considered to be economically acceptable if a) it is feasible for an average well managed enterprise of the sector and b) if the cost/environmental benefit ratio is not unreasonable. "The candidate BAT should be developed on a scale which allows implementation in the relevant industrial sector under economically...viable conditions, taking into consideration the costs and advantages"

To decide on this criterion, an expert estimation is made of the cost drivers of the investment associated with the implementation of a particular candidate BAT in an average or typical enterprise (within the country-context). Data is used to estimate whether the net present value (NPV) of the investment is positive or negative. A positive NPV indicates that investment in the candidate BAT is cost effective. Such candidate BAT are always economically feasible. A negative NPV indicates that the investment is not profitable as such. Candidate BAT with negative NPV are acceptable if they are affordable for an average well-managed enterprise and the cost is not too high as compared to the environmental benefit.

### **Selection of BAT**

From the conclusions of the previous steps, the following candidate BAT are considered BAT in all cases:

- a. Technically acceptable in all conditions; and
- b. Advantageous to the environment in all conditions; and
- c. Economically feasible; and
- d. No better other candidate BAT

Candidate BAT are considered non-BAT when either one of the following criteria is negative:

- a. Not technically acceptable; or
- b. Not advantageous to the environment; or
- c. Not economically feasible; or
- d. Other candidate BAT are better

## Environmental due diligence applied to cotton production

### Notes

- For risks of adverse environmental impacts at raw material production, enterprises should apply the recommendations in **Chapter 7: Application of due diligence to risks linked to raw material production**

### Background

Cotton accounts for approximately 33 percent of the fibre used to make clothing and other textiles worldwide.

Cotton production occurs between 36° South latitude and 46° North latitude and is located in tropical and subtropical regions. Many cotton regions are located in important river catchments. Irrigated cotton is mainly grown in regions with Mediterranean, desert or near-desert climates where freshwater is in short supply.<sup>159</sup> Most irrigation systems in cotton production rely on the traditional technique of flood irrigation – freshwater is taken out of a river, lake or reservoir and transported through an open canal system to the place of its consumption. Losses of freshwater occur through evaporation, seepage and inefficient water management.<sup>160</sup>

The most commonly used pesticides in conventional cotton production are ‘extremely hazardous’ WHO Class 1a and ‘highly hazardous’ WHO Class 1b3 organochlorines, organophosphates and carbamates, such as endosulphan, monocrotophos and aldicarb, also ‘moderately hazardous’ WHO Class II synthetic pyrethroids such as deltamethrin, which are neurotoxins and extremely harmful to fish.<sup>161</sup>

Cotton production also uses agricultural chemicals heavily and therefore offers a significant risk of pollution of freshwater ecosystems with nutrients, salts and pesticides.<sup>162</sup> Most pesticides used in cotton production are hazardous. From 46 insecticides and acaricides (90% of market share in cotton) five are extremely hazardous, eight are highly hazardous and twenty are moderately hazardous.<sup>163</sup> Run-off from fields and drainage water contaminate rivers, lakes and wetlands with pesticides and fertilisers and salts respectively. These pollutants can directly affect the biodiversity of freshwater ecosystems due to its toxicity or indirectly by accumulating. The improper handling of pesticides (e.g. washing of equipment in rivers or leakage) has the same impact on surface waters and leads also to a direct contamination of ground water systems. The water withdrawal for an extensive irrigation can lead to falling water tables and to a depletion of freshwater resources in the end. On the other hand, extensive irrigation in dry climates results in a direct salinisation of soil. At the same time the water tables along the irrigation channels can increase leading to water-logging of soils and destruction of ecosystems. The dam construction for irrigation and the land reclamation for cotton fields destroy the original vegetation and the freshwater habitats. Besides, damming up rivers and streams does affect the flow regime of surface waters and can destroy freshwater ecosystems laying

159. [http://d2ouvy59p0dg6k.cloudfront.net/downloads/impact\\_long.pdf](http://d2ouvy59p0dg6k.cloudfront.net/downloads/impact_long.pdf)

160. [http://d2ouvy59p0dg6k.cloudfront.net/downloads/impact\\_long.pdf](http://d2ouvy59p0dg6k.cloudfront.net/downloads/impact_long.pdf)

161. Better Cotton Initiative, BCI.

162. [http://d2ouvy59p0dg6k.cloudfront.net/downloads/impact\\_long.pdf](http://d2ouvy59p0dg6k.cloudfront.net/downloads/impact_long.pdf)

163. [http://d2ouvy59p0dg6k.cloudfront.net/downloads/impact\\_long.pdf](http://d2ouvy59p0dg6k.cloudfront.net/downloads/impact_long.pdf)

downstream. See Table X for a list of major impacts of cotton on freshwater ecosystems and freshwater biodiversity.  
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**Table X: Major impacts of cotton on freshwater ecosystems and freshwater biodiversity**

Mechanism	Pollutant/Change	Impact
Run off from fields	Fertilisers Pesticides Sediments	Eutrophication and pollution Wildlife contamination
Drainage	Saline drainage water Pesticide or fertiliser contaminated drainage water	Salination of freshwater Pollution of freshwater
Application of pesticides	Insecticides, fungicides, herbicides and defoliant Spray drift (e.g. aerial application) Leakage of equipment	Wildlife contamination Contamination of adjacent wetlands, surface and ground water Contamination of surface and ground water
Water withdrawal for irrigation	Use of ground water Use of surface water	Change of water table or depletion of ground water Degradation of wetlands and lakes
Extensive irrigation	Water logging	Raising water tables and salinisation of soil surface
Dam construction for irrigation	Regulated water flow	Habitat destruction, change of water table and change of water flow
Land reclamation	Change of vegetation	Habitat destruction

Source: WWF, *Background Paper, The Impact of Cotton on Fresh Water Resources and Ecosystems, A Preliminary Synthesis* (1999)

## Step 2. Identify risks in the supply chain

Enterprises should seek to understand the context that they are operating in or sourcing from in relation to water use and emissions to water.

- a. Understand the nature, strengths and weaknesses of relevant water policy and management systems.
  - What is the formal (legal and regulatory) water management framework and decision-making and implementation process, and where do statutory duties and power lie?
  - Is this framework adequate (e.g., includes appropriate standards, allocation mechanisms, and public participation elements) and functional (sufficient resources, legitimacy and license to enforce rules, process permits and licenses, etc.)?

164. [http://d2ouvy59p0dg6k.cloudfront.net/downloads/impact\\_long.pdf](http://d2ouvy59p0dg6k.cloudfront.net/downloads/impact_long.pdf)

## TRBC

- What are the key determinants of water policy performance? Is poor performance linked to a lack of resources, funding, or technical capacity? Is there a lack of political support or evidence of negligence or corruption? Are lines of responsibility and accountability clear, or do overlapping mandates restrict action?
  - Who has what type of leverage in the water management decision framework? Are there underrepresented or poorly represented interests?
  - Who has what type of water access and use needs and to what extent are these met? What is the outlook for these needs being met in the future?
  - What major reform initiatives or investment programs are in the pipeline?
  - Is water supply and treatment infrastructure sufficient and adequately maintained to meet current and projected needs?<sup>165</sup>
- b. Identify known risks of water overuse and pollution within the operating context.
- Example indicator
  - Example indicator
  - Example indicator
- c. Assess how future development, demographic pressures, and climate change will affect water resources.<sup>166</sup>

Based on the above, enterprises should identify high-risk locations for adverse environmental impacts.

For countries or regions identified as high-risk, enterprises should seek to:

- a. Understand whether water scarcity and pollution is economically induced (a lack of investment); policy induced (a lack of policy or implementation); or physically induced (a lack of water);
- b. Assess who amongst government is responsible for what and at which level;
- c. Identify the core stakeholder functions in the sector and assess how effectively they are carried out;<sup>167</sup>
- d. Assess the complexity of the water issue at hand and the viability of a clearly defined, finite, and targeted intervention;
- e. Assess the coherence, stability, and maturity of the policy and legal framework within which an intervention will take place;
- f. Assess the political will of counterparts to proactively engage in good faith, particularly before a situation has developed into a crisis;
- g. Assess the capacity and interest of water managers to cooperate and collaborate and to engage in an effective and sustained manner.<sup>168</sup>

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165 . See CEO Water Mandate, Guide to Responsible Business Engagement with Water Policy, (2010).

166 . See CEO Water Mandate, Guide to Responsible Business Engagement with Water Policy, (2010).

167 . OECD (2015), Stakeholder Engagement for Inclusive Water Governance, OECD Studies on Water, OECD Publishing, Paris.

In many cases, enterprises may rely on existing research. However, where gaps in information exist, enterprises should consult experts and stakeholders on the ground. In instances in which there are major gaps in information, enterprises should commission or participate in an on-the-ground assessment which engages a range of stakeholders including government, experts, community members, business, trade unions and civil society.

Due diligence is an ongoing process. An enterprise may not be able to initially determine all of the above for each sourcing region flagged as medium or high-risk; however, enterprises should work towards an increased understanding over time.

### **Supplier assessment**

Enterprises should conduct a supplier assessment in order to:

- a. Identify existing adverse
- b. Assess the supplier's management systems and prevention mechanisms to mitigate risks of adverse impacts.<sup>169</sup>

**Note:** Stakeholders are encouraged to provide existing resources of guidance on supplier assessments for adverse environmental impacts at cotton production

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168 . The above recommendations have been adapted from the CEO Water Mandate, Guide to Responsible Business Engagement with Water Policy, (2010), pg. 42.

169 . See [Note: Reference existing resources on guidance for supplier-level assessments of environmental adverse impacts]

### Step 3. Manage risks in the supply chain and provide for remediation

Enterprises should establish a clear risk management plan which articulates how the enterprise will engage with its suppliers, stakeholders and government to mitigate risks of adverse impacts. Given the high rates of corruption and policy capture, enterprises should communicate clearly their intentions and risk management plan to affected stakeholders.<sup>170</sup>

#### Supplier engagement

Enterprises should engage with suppliers around risk mitigation measures including: objective setting, improving management systems, measurement, and staff training.

Enterprises should likewise seek to identify in collaboration with their suppliers and scale-up the use of local best practices. Example practices which may be identified as local best practices are included in Box X.

#### Multi-stakeholder engagement

For some risks of adverse impact linked to cotton fibre production, notably water use, risk mitigation requires a coordinated approach. In this context, external engagement at various scales (global fora to local water user groups) is a necessary component of sustainable risk mitigation. Stakeholders may include a number of actors within a geographical area, such as a specific catchment, such as other business, sector initiatives, multi-stakeholder initiatives, other companies, sector initiatives, public agencies, NGOs, standard setting bodies, etc.<sup>171</sup> Partnerships with key stakeholders should be geared towards developing a clear and shared understanding of priority needs and of company and stakeholder actions that should result in the sustainable mitigation of risks.<sup>172</sup>

In all cases, enterprises should not seek to create their own initiatives when credible and effective initiatives exist within a given region. Rather, enterprises should seek to cooperate with existing initiatives for risk mitigation.

#### Government engagement

Engagement in the water public policy arena should be motivated by the mitigation of risk of adverse environmental or social impacts. The business position must be aligned with the broader public interest. Responsible policy engagement engagement may take various forms, such as direct advocacy or advocacy in collaboration with other companies and stakeholders, on a range of key public policy issues, such as water pricing, demand-side management, green infrastructure development, the human right to water, and the promotion of sustainable communities through improved access and infrastructure, among other issues.<sup>173</sup> All of these efforts should help create greater political support for progressive water legislation and implementation.

Engaging in policy dialogues has an associated risk when not paralleled with transparency.<sup>174</sup> The nature of water management inherently predisposes the sector to corruption and other types of manipulation.<sup>175</sup> Disclosure of a company's intent in policy engagement, as well as the outcomes of the engagement itself, helps ensure alignment with specific water policy goals.<sup>176</sup> Enterprises may also consider joining multi-stakeholder initiatives focused on transparency and water policy engagement, not only to benefit from shared expertise, but to send a very clear signal

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170 . The CEO Water Mandate, UN Global Compact, pg. 42

171 . WWF. Water Stewardship, Perspectives on Business Risks and Perspectives on Water Challenges (2013)

172 . The CEO Water Mandate, UN Global Compact, pg. 42, pg. 42

173 . The CEO Water Mandate, UN Global Compact, pg. 42, pg. 42

174 . WWF. Water Stewardship, Perspectives on Business Risks and Perspectives on Water Challenges (2013)

175 . The CEO Water Mandate, UN Global Compact, pg. 42pg. 42

176 . The CEO Water Mandate, UN Global Compact, pg. 42

that the enterprises upholds and plans to maintain the highest ethical and probity standards while engaging on water issues.<sup>177</sup> See Box X for more information on policy capture.

#### **Box X. Policy capture**

Policy capture exists where organizations unduly dominate a policymaking process to an extent that excludes or subdues other stakeholder views, resulting in policy that favours narrow vested interests to the detriment of the public good. Processes of capture have the following amorphous features that can make them hard to identify, difficult to prove, and challenging to guard against:

- a. They tend to work through subtle rather than mechanistic, visible processes.
- b. They occur along a sliding scale of relative influence rather than as a binary state.
- c. They can be unconscious or conscious, intentional or accidental.
- d. They tend to involve thoughts and emotions rather than more tangible elements.
- e. The boundaries between legitimate lobbying and nefarious capture are blurred.
- f. There is sparse guidance on or academic study of the issue.

Enterprises should take steps to actively demonstrate that they are avoiding the risk of policy capture by being transparent in their intentions and engagement with government. Enterprises may seek to have their engagement activities with government reviewed by an external board when risks of corruption are high.

Source: The CEO Water Mandate, UN Global Compact,

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177 . The CEO Water Mandate, UN Global Compact, pg. 42; Examples initiatives include the Water Integrity Network (WIN)

### **Box X. Example BAT**

The following recommendations have been adapted from the Better Cotton Initiative and are not intended to be considered local BAT, but are examples of practices which have been demonstrated to be effective in mitigating risks of adverse environmental impacts and may be identified as BAT across a variety of contexts.

#### **Minimise the harmful impact of crop protection practices:**

In order to prevent the over-use of pesticides it is recommended that farmers scout regularly for cotton pests and only spray once the economic threshold is reached for each pest. The use of ultra low volume (ULV) sprayers can also save on pesticides but require a higher level of technical support than the traditional knapsack sprayers. Rotation with different types of pesticide is encouraged in order to reduce the build-up of pest resistance.

Where resources allow, farmers may also apply herbicides to reduce weed problems and defoliants to assist with picking, which both have negative implications for the environment. Farmer training in pest recognition, scouting and estimating economic threshold levels is required to minimize the harmful impact of these crop protection practises.<sup>178</sup>

#### **Using water efficiently and caring for the availability of water**

Ultra Low Volume sprayers require 75% less water than knapsack sprayers (IRRI, 1986). Drip irrigation systems can also conserve water in conventional cotton production. Both of these technologies require farmers to have increased levels of skills and resources.

#### **Soil fertility**

Soil fertility in conventional cotton is maintained through the application of NPK fertilisers at rates recommended by local research and extension. For optimum results nitrogen should be applied at peak flowering and adequate potassium should be available to assist boll maturation. In the long term, however, sole reliance on chemical fertilisers can lead to a reduction in soil pH, the reduced availability of crucial soil nutrients and the loss of organic matter

#### **Conserving natural habitats**

All WHO Class I and II pesticides (predominately insecticides) are damaging to mammalian life and are a threat to the diversity and survival of beneficial insects in natural habitats. Organochlorines tend to be persistent and can still be found in use in non-OECD regions. Monocropping is recommended in conventional cotton production, while intercropping or strip cropping with food crops is discouraged due to the likelihood of contamination with toxic pesticides. This reduces bio-diversity and mitigates against food security amongst smallholder subsistence farmers.

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178 . Better Cotton Initiative, *A Report on Better Management Practices in Cotton Production in Brazil, India, Pakistan, Benin, Burkina Faso, Cameroon, Mali, Senegal & Togo*, pg. 9.



## Chapter 16

### Environmental due diligence applied to textile finishing

#### Background

Finishing enhances the appearance, durability and serviceability of fabrics. Finishing summarises all mechanical (physical) and chemical/biochemical measures to improve the properties of the textile. For simplification, finishing can be divided into fabric pre-treatment (e.g. desizing, washing, scouring, bleaching); colouring (dyeing and/or printing) and functional finishing.<sup>179</sup>

The main environmental concern in relation to textile finishing is the amount of water discharged and the chemical load it carries. On average, almost 1 kg of chemicals and auxiliaries are used per kg of finished textile. The primary basic chemicals used are inorganic salts (sodium chloride, sodium sulfate etc.) lyes (sodium hydroxide etc.), acids (acetic acid formic acid, inorganic acids etc.), and reducing and oxidizing agents (sodium dithionite, hydrogen peroxide etc.) The highest environmental load arises from salts, followed by detergents and organic acids. Usually on the colorants, the finishing agents including coating and binders and other auxiliaries in case of pigment printing remain on the textile substrates, whereas most of the other applied substances, which are necessarily to enable/enhance the pre-treatment, dyeing, printing, and finishing processes, are emitted to a great part to waste water. Emissions to water are predominant.<sup>180</sup> Other important issues are energy consumption, air emissions and solid wastes.<sup>181</sup> Table X provides a high-level summary of adverse environmental impacts linked to the various finishing stages.

Figure X. Simplified finishing process

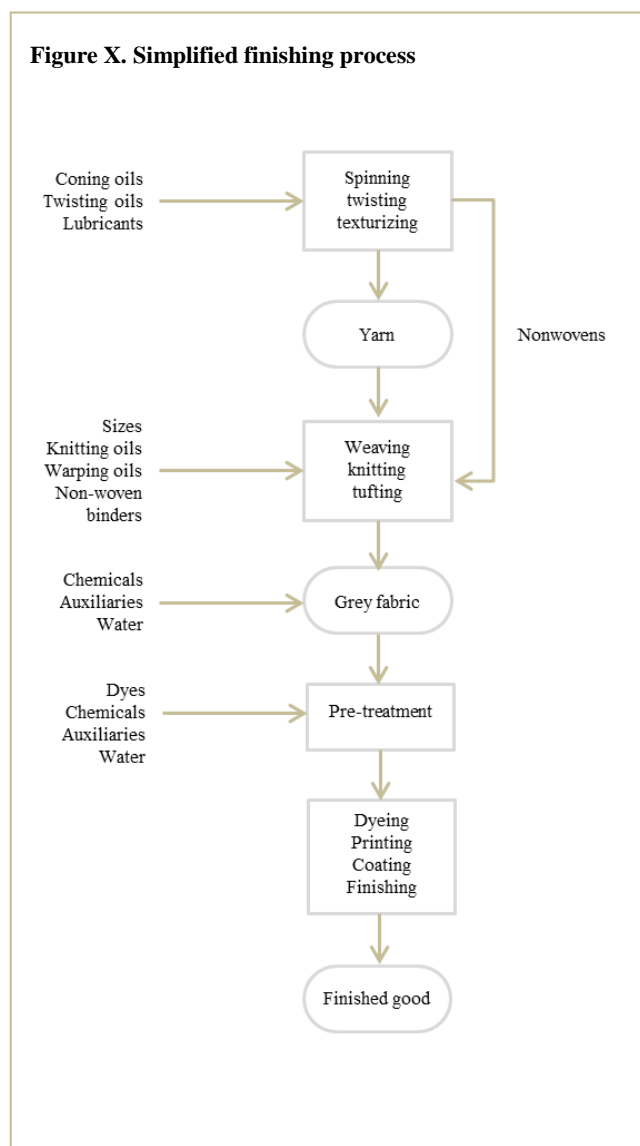


Table X: Finishing processes and associated adverse environmental impacts

- 179 . Joint meeting of the chemicals committee and the working party on chemicals, pesticides and biotechnology; Emission scenario document on textile finishing industry. OECD Series on Emissions Scenario Documents, Number 7. Accessed at [http://www.oecd.org/officialdocuments/publicdisplaydocumentpdf/?cote=env/jm/mono\(2004\)12&doclanguage=en](http://www.oecd.org/officialdocuments/publicdisplaydocumentpdf/?cote=env/jm/mono(2004)12&doclanguage=en)
- 180 . Joint meeting of the chemicals committee and the working party on chemicals, pesticides and biotechnology; Emission scenario document on textile finishing industry. OECD Series on Emissions Scenario Documents, Number 7. Accessed at [http://www.oecd.org/officialdocuments/publicdisplaydocumentpdf/?cote=env/jm/mono\(2004\)12&doclanguage=en](http://www.oecd.org/officialdocuments/publicdisplaydocumentpdf/?cote=env/jm/mono(2004)12&doclanguage=en)
- 181 . European Commission, Integrated Pollution Prevention and Control (IPPC) Reference Document on Best Available Techniques for the Textiles Industry, (July 2003). Accessed at: [http://eippcb.jrc.ec.europa.eu/reference/BREF/txt\\_bref\\_0703.pdf](http://eippcb.jrc.ec.europa.eu/reference/BREF/txt_bref_0703.pdf)

Process	Environmental impacts
<b>Pre-treatment</b>	Natural impurities on the textile raw material together with the auxiliaries and chemicals used in pre-treatment can cause a considerable ecological load in the wastewater as well as in the off-gas. In comparison to wet and thermal pre-treatment processes, mechanical pre-treatment is accompanied with negligible environmental charges. Due to the volatile substances (especially preparation agents) on the raw material, heat setting can cause a considerable off-gas load.
<b>Dyeing</b>	Emissions originating from the dyeing process are primarily emissions to water. Water-polluting substances can originate from the dyes themselves, auxiliaries contained in the dye formation, basic chemicals and auxiliaries used in dyeing processes and residual contaminants present on the fibre. Consumption and emission levels are strongly related to the type of fibre, the make-up, the dyeing technique and the machinery employed.
<b>Printing</b>	Typical emission sources in printing processes include printing paste residues, waste water from wash-off and cleaning operations and volatile organic compounds from drying and fixing. With short runs the amount of losses may be higher than the quantity of paste printed on the textile substrate. Water consumption levels for cleaning of the equipment should also be considered. Printing pastes contain substances with high air emission potential (e.g. ammonia, formaldehyde, methanol and other alcohols, esters, aliphatic hydrocarbons, monomers such as acrylates, vinylacetate, styrene, acrylonitrile, etc.)
<b>Water washing</b>	The polluting load of the washing water is related to the pollutants carried by the water stream (e.g. impurities removed from the fabric).
<b>Dry cleaning</b>	The use of organic halogenated solvents (persistent substances) for dry cleaning may give risk to diffuse emissions, resulting in groundwater and soil pollution and may also have negative effects on the air emissions from high-temperature downstream processes.

## Step 2. Identify risks in the supply chain

### Supply chain risk assessment

Enterprises should seek to understand the context that they are operating in or sourcing from in relation to factors that affect environmental management at the finishing stage of the supply chain:

- Understand the nature, strengths and weaknesses of relevant environmental policy and management systems in relation to chemical use and management, water use and management, and emissions to land, water and air.
- Identify primary methods of waste water treatment (e.g. discharge to municipal wastewater plants) for the sector in the region;

**Note:** Consult with stakeholders on matters to be considered in the context assessment

Based on the above, enterprises should classify operating or sourcing countries/regions, as low, medium or high risk for water use and emissions to land, water and air.

## Suppliers assessment

Enterprises should conduct a supplier assessment in order to:

- a. Identify existing adverse
- b. Assess the supplier's management systems and prevention mechanisms to mitigate risks of adverse impacts.<sup>182</sup>

**Note:** OECD to reference existing credible guidance on supplier assessments at textile finishing.

## Step 3. Manage risks in the supply chain and provide for remediation

Enterprises should establish a clear risk management plan which articulates how the enterprise will engage with its suppliers, stakeholders and government to mitigate risks of adverse impacts in its supply chain.

## Supplier engagement

Enterprises should engage with suppliers around risk mitigation measures including: objective setting, improving management systems, measurement and staff training.

In many cases, BAT from the Integrated Pollution Prevention and Control (IPPC) Reference Document on Best Available Techniques for the Textile Industry may be applied. See Box X for example BAT from the IPPC reference document. However, in some cases, technology or processes do not transfer to the local context. In these instances, local BAT should be identified.

## Box X. Example BAT<sup>183</sup>

- a. Implement a monitoring system for process inputs and outputs (both on-site and on-process level), including inputs of textile raw materials, chemicals, heat, power and water, and outputs of product, waste water, air emissions, solid wastes and by-products.
- b. Store each chemical according to the instructions given by the manufacturer in the Material Safety Data Sheets and follow the indications given in the horizontal BREF on Storage.
- c. Install automated dosing and dispensing systems which meter the exact amounts of chemicals and auxiliaries required and deliver them directly to the various machines through pipe work without human contact.
- d. Follow certain general principles in selecting chemicals and managing their use:
  - where it is possible to achieve the desired process result without the use of chemicals, avoid their use altogether

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182 . See [Note: Reference existing resources on guidance for supplier-level assessments of environmental adverse impacts]

183 . Examples are extracted from the Reference Document on Best Available Techniques for the Textiles Industry, Accessed at [http://eippcb.jrc.ec.europa.eu/reference/BREF/txt\\_bref\\_0703.pdf](http://eippcb.jrc.ec.europa.eu/reference/BREF/txt_bref_0703.pdf); See also, Checklist based on best available techniques in the textile industry; and the Sweden Textile Water Initiative Guidelines for Sustainable Water use in the Production and Manufacturing Processes of Textiles.

- where this is not possible, adopt a risk-based approach to selecting chemicals and their utilisation mode in order to ensure the lowest overall environmental risk.
- e. Substitute alkylphenol ethoxylates (APEO) and other hazardous surfactants with substitutes that are readily biodegradable or bioeliminable in the waste water treatment plant and do not form toxic metabolites.
- f. Avoid or reduce the use of complexing agents in pretreatment and dyeing processes by a combination of softening of fresh water; using a dry process to remove coarse iron particles from the fabric; removing the iron that is inside the fibre using acid demineralisation (before bleaching), or better, non-hazardous reductive agents; applying hydrogen peroxide under optimal controlled conditions and selecting biodegradable or bioeliminable complexing agents;
- g. To minimise or avoid the use of anti-foaming agents by:
- h. To select anti-foaming agents that are free from mineral oils and that are characterised by high bioelimination rates
- i. Create a chain of environmental responsibility with upstream suppliers by requesting:
  - Kind and amount of preparation agents;
  - Information about kind and amount of monomers, metals in the fibres;
  - Kind and amount of sizing agent applied;
  - Information about possible contamination of the fibre material with the most hazardous chemicals such as PCP.



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