



## Guidance for Workers' Rights Recommendations for Food Retailers

### **Our Scope on 'Workers' in the Food Supply Chains**

Oxfam's research and advocacy strategies primarily focus on workers in the retailers' global supply chains, rather than their own employees in the retail operations. However, many workers' rights issues (wage, poor working conditions and gender-related abuses) identified by Oxfam's research can also be found in company's own retail operations. Oxfam's recommendations have a strong focus on female workers which is informed by our analysis that they are more vulnerable to exploitation: they are often concentrated in the lowest paid and most insecure employment in the supply chains. However, we recognise that there are many other forms of vulnerability that are not well covered in the scope of our recommendations.

### **Human Rights Due Diligence (HRDD)**

The HRDD aims to provide a mapping of risks in company's supply chains. It enables the retailer to adopt a 'know & show' approach to managing their human rights risks. Companies should base their HRDD approach on the United Nations' Guiding Principles on Business and Human Rights (UNGPs): [https://www.ohchr.org/documents/publications/GuidingprinciplesBusinesshr\\_eN.pdf](https://www.ohchr.org/documents/publications/GuidingprinciplesBusinesshr_eN.pdf) and the OECD Due diligence guidance for responsible business conduct (May 2018): <https://www.oecd.org/investment/due-diligence-guidance-for-responsible-business-conduct.htm>.

### **Human Rights Impact Assessments (HRIAs)**

In addition to HRDD, HRIAs allow a company to take a deeper dive into a particular part of a supply chain that was identified by the company's human rights due diligence process as being high risk. These deep-dive assessments should be based on meaningful consultation with relevant stakeholders and the company should demonstrate that stakeholders, including trade unions, whenever existing, as well as civil society organisations and communities have been consulted as part of the process. The HRIAs, which may be carried out in collaboration, should differentiate between impacts on women and men, and between migrant and local workers, and be carried out with the active involvement of affected people. A key aspect of a HRIA is that the company assesses its own impact on human rights, such as the business practices it uses and the impact of these practices.

### **Supply Chain Transparency**

Companies should publish the names of product types and production-site level sourcing location (in the case of seafood down to the vessel level) for all first and second tier food suppliers.



### **Action plan to address human rights risks**

The action plan includes the development of strategies with critical suppliers of all high-human-rights-risk food products for improving the quality of jobs as well as goals and time bound targets for three high-human-rights-risk food sectors/regions to achieve by 2025:

- Elimination of recruitment fees paid by workers;
- Regular training of workers and managers on workers' rights with an active role for workers;
- Legally-binding commitments to workers on their employment conditions, based on collective bargaining agreements with trade unions where such unions and agreements exist, and commitment to support their creation/development where they do not;
- Programmes to prevent sexual harassment;
- A regular increase in the proportion of women and men workers on open-ended contracts vs temporary contracts on a trajectory towards 100% on permanent contracts;
- A regular increase in the proportion of women in technical, supervisory and management roles up to a minimum of 50%;
- Engagement with key suppliers so that they develop and implement a Gender Policy.

And demonstrate that the company takes into account the results of due diligence assessments concerning the track record of the countries in protecting human and labour rights when choosing countries in which to locate operations and source products, and that it engages with suppliers, so they do the same.

### **Company's labour and human rights policy**

Ensure the policy is aligned with ILO conventions and national labour laws, including zero tolerance of inaction on forced and child labour; respect for freedom of association and the right to collective bargaining; proactive prevention of discrimination; and payment of a living wage. Moreover, the policy should:

- Apply to both operations and supply chain, branded food products as well as own-brand products;
- Recognise that improving standards in the supply chain is a shared responsibility of the company and its suppliers and sub-suppliers;
- Outline grievance mechanisms based on the UNGPs and set out how workers can access remedy when they experience a violation of their rights;
- Include a commitment to ensuring the use of labour brokers does not undermine freely chosen or regular work or require recruitment fees to be paid by workers;
- Include action to demonstrate to stakeholders that the company is not using Unfair Trading Practices in its dealings with suppliers;
- Include an explanation of the company's methodology for, and time-bound targets to implement, its policy commitment on living wages;
- Ensure proper health and safety protection for workers;
- Include the company's policy on pay ratios and closing gender pay gaps;
- Include the company's rationale for any product certification schemes<sup>1</sup> in relation to their effectiveness in addressing human and labour rights.



### **International laws/best practices and domestic labor laws**

When international law and domestic law conflict, companies are expected to afford more protections to potentially affected individuals and communities. In the case where a national law offers zero protection for workers, companies should uphold the principle to respect workers' rights in their supply chains and advocate for appropriate statutory reforms to improve the legal status quo for workers, including migrant workers.

### **Multi-stakeholder engagement**

To determine whether a multi-stakeholder initiative (MSI) is effective and inclusive, Oxfam applies three criteria:

- 1) **Active participation:** In many cases, active participation can be demonstrated through formal membership of an MSI. However, when formal membership is not an option or the requirements of formal membership are insufficient, companies must demonstrate that they are sufficiently engaged and committed. Relevant components to review include evidence of the amount and depth of engagement; consistency of engagement; level of integration of MSI standards in company's own operations.
- 2) **Governance test:** The MSI must involve companies and allow civil society to participate fully and equally and have full power to participate in decision-making functions (e.g. governing bodies). Affected people/rights holders should also be represented, either directly or indirectly (e.g. through civil society organisations or trade unions).
- 3) **Relevance test:** The MSI must be relevant to the issues covered in the corresponding scorecard theme.

### **Gender policy**

The gender policy can be separated from the company's labour and human rights policy, or incorporated into it and should include:

- Prevention of gender discrimination in hiring, training, and promotion;
- Safety from sexual harassment during the recruitment process, in the workplace and when traveling at night;
- Recognition of hidden or unpaid productive roles and women's greater part in unpaid care work.

### **Engagement with trade unions**

This includes engagement with IUF and its affiliates at national and regional levels and other unions representing food workers, such as ITF and unions representing retail workers. The company's statement or policy of strict neutrality in relation to workers organising should include zero-tolerance towards intimidation of, or retaliation against, workers for attempting to establish a union, reasonable access by unions to workers on-site during break periods, a policy position not to hire anti-union consultants and a commitment to engage on the same with the company's suppliers. Where female representation via trade unions active within their supply chains does not adequately reflect the proportion of women workers, commit to engage with trade unions to remove



barriers to this and enable women workers to dialogue with management and have a safe means to raise their voice. Migrant workers should be allowed to be represented in unions, including in leadership positions and where there are constraints to migrant workers organising.

### **Living wage**

Oxfam recognises that asks on living wage will take time to achieve and will be more achievable where there is an enabling environment. Achieving a living wage in a high-human-rights-risks sector should be based on collective bargaining or an independently determined, established methodology. The methodology should be based on evidence on the cost of living and involve consultation with trade unions. Elements that unions are calling for in their campaigns should be also taken into account in determining cost of living estimates. Companies should avoid using 'independent benchmarks' as a way of circumventing social dialogue between management and workers. Instead companies should encourage worker representation and collective bargaining.

### **Key elements of a company's role include:**

- Identify and publish the gap between current wages of male and female production workers (without overtime) and benchmarks of a living wage together with measures taken to close the gap;
- Make a time-bound commitment to factor living wage benchmarks as a non-negotiable cost into the company's price negotiations and contract terms with suppliers;
- Evaluate and monitor purchasing practices to ensure they are compatible with decent work in the supply chain, e.g. sufficient lead times, contracts that allow for the payment of living wages, etc., and monitoring of male and female workers' income;
- Work with other actors to develop sector-wide plans towards living wages.

In sectors where living wage benchmarks have not been developed, commit to work with trade unions, whenever existing, as well as civil society organisations and other relevant stakeholders to identify the cost of living needs for workers, in order to set targets.

### **Action plan to give priority to suppliers that give greater voice, power and values to workers and farmers**

As part of this commitment, commit to complete a process by the end of 2021 to identify how workers' and small-scale producers' interests are represented through suppliers' business structures, for instance by (a) boards, (b) share ownership, (c) price-setting mechanisms, (d) wage-setting mechanisms, (e) profit distribution mechanisms of suppliers and (f) counting the value to the business of women's unpaid work. Companies should report on progress and challenges in implementing their action plan annually.



### **Advocacy with government**

This involves engaging with governments in key sourcing countries, collaborating with others where appropriate asking that they provide guarantees for freedom of opinion, expression, assembly and association, decent work (including minimum living wages) and the effective protection of human rights defenders, as well as the importance of strong statutory labour rights protections. Advocacy on statutory labour rights protections should be based on relevant ILO conventions.

### **Pay ratio between CEO and median pay**

In this context, Oxfam follows the GRI guidance on what should be included in pay ratio calculations. GRI, G4-54: 'Depending on the organization's remuneration policy and availability of data, the following components may be considered for the calculation:

- Base salary: guaranteed, short term, non-variable cash compensation;
- Cash compensation: sum of base salary + cash allowances + bonuses + commissions + cash profit-sharing + other forms of variable cash payments;
- Direct compensation: sum of total cash compensation + total fair value of all annual long-term incentives (such as stock option awards, restricted stock shares or units, performance stock shares or units, phantom stock shares, stock appreciation rights, and long-term cash awards);

**Source:** <https://g4.globalreporting.org/general-standard-disclosures/governance-and-ethics/governance/remuneration-and-incentives/Pages/G4-54.aspx>

### **Employee gender pay gap**

Oxfam recommends using one of the following two methods to calculate the employee gender pay gap:

1. GRI, G4-LA13: "Ratio of basic salary and remuneration of women to men by employee category, by significant locations of operation
  - a) Report the ratio of the basic salary and remuneration of women to men for each employee category, by significant locations of operation.
  - b) Report the definition used for 'significant locations of operation'."

**Source:** <https://g4.globalreporting.org/specific-standard-disclosures/social/labor-practices-and-decent-work/equal-remuneration-for-women-and-men/Pages/G4-LA13.aspx>

OR

2. Using the methodology required by the UK Government for mandatory gender pay gap reporting
  - a) Gender pay gap (mean and median averages)
  - b) Gender bonus gap (mean and median averages)
  - c) Proportion of men and women receiving bonuses
  - d) Proportion of men and women in each quartile of the organization's pay structure'

**Source:** <http://www.acas.org.uk/index.aspx?articleid=5768>



### **Direct economic value generated and distributed**

This can be calculated by following GRI, G4-EC1:

“a) Report the direct economic value generated and distributed (EVG&D) on an accruals basis including the basic components for the organization’s global operations as listed below. If data is presented on a cash basis, report the justification for this decision and report the basic components as listed below:

- Direct economic value generated:
  - Revenues
- Economic value distributed:
  - Operating costs
  - Employee wages and benefits
  - Payments to providers of capital
  - Payments to government (by country)
  - Community investments
- Economic value retained (calculated as ‘Direct economic value generated’ less ‘Economic value distributed’)

b) To better assess local economic impacts, report EVG&D separately at country, regional, or market levels, where significant. Report the criteria used for defining significance.”

**Source:** <https://g4.globalreporting.org/specific-standard-disclosures/economic/economic-performance/Pages/G4-EC1.aspx>

### **Unfair Trading Practices (UTPs)**

For some guidance on unfair trading practices see [ILO’s Purchasing practices and working conditions in global supply chains: Global Survey results](#) and [Joint ETIs’ Guide to Buying Responsibly](#). New rules banning unfair trading practices (UTPs) by supermarkets and large buyers in their global food supply chain were introduced in the [European Union in April 2019](#). This outlaws exploitative practices which are widely practised, such as late payments, last-minute cancellations of orders, refusal to provide written contracts and charging unjustified fees for selling a producer’s product. It will protect producers from all around the world and cover all food products bought by retailers based inside the EU, wherever these products come from. Oxfam will advocate for the adequate implementation at national level of this legislation.