

## Are codes making a difference to workers?

Codes of labour practice came about as a means of getting companies to take responsibility for labour conditions in their supply chains and as a way of reassuring consumers. Yet a code can do both these things while making little difference to the lives of workers and their families. Making real improvements will only come about if good policies and intentions are followed through with well-informed and appropriate actions. With a growing number of brands and sourcing companies adopting and implementing labour codes over the past few years, the question of whether or not codes are making a difference to workers is a timely one to ask. ETI is currently studying the impact of code implementation and while this project is progressing, we felt it was opportune to organise a workshop to share practical experiences in different countries and industries. The workshop includes the experiences of the Transport and General Workers Union (TGWU), Premier Foods, the Kalape Api Solidarity Network<sup>13</sup> (Sri Lanka) and a collaborative research team co-ordinated by the Institute of Development Studies (IDS) at the University of Sussex, UK.

### 12.1 About ETI's study

The *ETI impact assessment*, a two-year programme to be completed in September 2005, will focus on member companies' efforts to implement the ETI Base Code in specified parts of their supply base. The programme aims to:

- assess the impact of implementing the Base Code on the lives of workers and their families, and the impact on poverty;
- identify how the impact on workers and their families can be improved;
- develop a strategy and tools for ongoing monitoring of impact;
- share learning with those involved in code implementation.

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13. The Kalape Api Solidarity Network was established by a worker in the Free Trade Zone in Sri Lanka, after her fiancé was murdered in the 1989 insurgency. It was established to demand justice for zone workers and those who had "disappeared", and engages in legal advice, support for workers' campaigns, and awareness-raising.

## 12.2 Some positive effects of code implementation

A collaborative study of labour conditions in the horticultural sector in Zambia, Kenya and South Africa, co-ordinated by IDS, showed that code implementation had contributed to significant improvements in the following areas:

- health and safety;
- child labour practices;
- non-permanent workers being given permanent contracts, which usually provide them with improved job security and a range of social benefits important to workers, such as paid maternity leave;
- management attitudes to labour issues.

In general, however, the study found that improvements in working conditions tended to be concentrated among first tier suppliers and permanent workers.

In the experience of the Kalape Api Solidarity Network, code implementation in the garment sector in Sri Lanka has had a significant impact in terms of improved health and safety, but has had little or no impact in all other code areas. However, the speaker felt there was the potential for codes to have a significant positive impact. In his experience, suppliers take more notice of sourcing company codes than of national labour law.

Other examples of positive impact discussed at the workshop include reduced pregnancy testing, increased overtime payments, increased training, improvements in housing and adoption of more ‘women-friendly’ policies and practices. In general, however, workshop participants agreed that the majority of improvements related to health and safety.

## 12.3 The limitations of codes

Despite many positive examples, codes have had limited effects in some areas, such as:

- **The impact of some code provisions has been limited**, in particular the promotion of freedom of association and collective bargaining. While sourcing companies and suppliers support this principle in public, experience has shown that suppliers, for a number of reasons, have often been resistant to increased union presence in the workplace. In the words of one speaker, “This is something we all agree about in public, but disagree about in actual life”.
- **Impact beyond the first tier of the supply chain has been limited.** For various reasons, sourcing companies have tended to focus their activities on first tier suppliers. Where companies have made efforts to implement codes further down the supply chain, they have often found that achieving impact at that level is much more difficult. As a result, codes have had a limited impact on workers in sub-contracted workplaces.

The reasons for limited impact are various, including:

**Effective code implementation does not happen overnight.** The supply chains of large sourcing companies are complex and can involve thousands of suppliers. Many labour issues are difficult to understand, identify and resolve. It should be no surprise that companies cannot demonstrate widespread, positive impacts from Day One.

**Continued weakness of current auditing practices.** While auditing practices may be improving in some quarters, problems persist in the majority of cases. Many auditors, from both commercial auditing companies and the sourcing companies themselves, come from a background of technical, quality or environmental auditing and do not have in-depth knowledge of human rights and labour issues. Moreover, due to the size of their supply chains and limited resources allocated to ethical sourcing, many sourcing companies restrict the length of audits to a single day or less. Often this means that little, if any, time is spent with workers. For both reasons, many labour problems are still being missed by routine auditing.

**Limited investment in follow-up after audits.** With a focus on auditing, many sourcing companies have invested insufficient resources in supporting suppliers to identify underlying causes of problems, draw up appropriate corrective action plans, and identify and implement improvements. Nor have they invested sufficiently in checking that agreed improvements have been made. As a result, many suppliers do not feel the need or commitment to implement real changes, and are instead ‘getting away’ with practices such as doctoring overtime books or putting up posters explaining the ETI Base Code only for the duration of an audit.

**Limited investment in worker education.** Surveys carried out in garment factories in Sri Lanka and horticultural packhouses and farms in Zambia, Kenya and South Africa show that very few workers are aware of labour codes, even in workplaces where management is actually taking codes relatively seriously. This reflects a broader situation where sourcing companies have focused their efforts on engaging and communicating with suppliers, rather than with workers. Many sourcing companies have asked suppliers to inform workers about codes, but suppliers’ efforts have tended to be half-hearted, or well-intended but ineffective.

In many cases, **neither workers nor their representatives have been involved in drawing up the content of codes.** As a result, many codes still do not include clauses on payment of a living wage or freedom of association, and therefore do not reflect key priorities of workers on an individual or collective basis.

**Code implementation cannot always counteract wider trends in business and international trade,** even where commitment is significant. For example, in the banana industry the bitter competition and price war has been pushing prices down over the last five years. This has been passed on to workers in terms of lowering pay and conditions, job losses and harassment of trade unionists. In such a context, the implementation of codes has not been able to reverse the pattern of worsening conditions.

#### 12.4 Potential negative impacts

Unfortunately, experience has shown that code implementation can have unintended, negative impacts. Participants at the workshop identified a number of unintended effects, including recrimination against workers for speaking out during audits, over-reliance on codes resulting in reduced pressure on governments for legislative change, job losses, weakened worker representation and increased child prostitution as a direct result of reduced child labour in factories.

Specific examples from the experience of Premier Foods include the following:

- As a knee-jerk reaction to restrictions on child labour, one supplier laid off an under-age girl who was later found working the streets as a prostitute.
- When inadequate overtime pay was found during audits, a supplier ensured that workers were being paid overtime at a premium rate. However, the supplier simultaneously changed the way that wages were calculated, meaning that workers ended up being worse off overall.
- To counteract gender discrimination, a supplier was encouraged to promote women in the company. Unfortunately, a woman promoted to supervisory level turned out to be a bully. Now workers do not want to have female supervisors.

## 12.5 Moving ahead

Workshop speakers and participants identified a range of factors which they felt could help to ensure that code implementation makes a positive difference to workers. These are summarised below.

### 12.5.1 Issues for code initiatives

- **Apply pressure on governments** to introduce and enforce appropriate legislation.
- **Support local stakeholder participation** in code implementation processes, to increase sustainability and achieve wider impact within the community.
- **Carry out a systematic impact assessment of codes**, which moves beyond anecdotes.

### 12.5.2 Success factors for sourcing companies

- **Work towards local ownership of the process of code implementation.** Both suppliers and workers need to believe in the process. The more suppliers and workers take control of the process, the easier it will be for problems to be identified and resolved. This also means being **flexible** about setting targets for workplaces, adopting a process that enables workers, suppliers and sourcing companies to jointly identify the most appropriate solutions for a given context.
- **Develop checks and balances.** Supply chains involve unequal power relations so it is important that code implementation systems incorporate checks and balances to these relationships. This means making sure that processes provide a formal voice for workers, unions and producers as well as sourcing companies.
- **Give credit where credit is due.** Encourage and recognise suppliers' achievements.
- **Share local solutions.** If a supplier comes up with an effective solution to a problem, share that with other suppliers in the same location or similar context.
- **Look at how issues are being managed.** Where a problem is identified, look at the underlying causes and the management practices and systems of which it is part. The problem won't go away unless the supplier changes the management practices which create or perpetuate it.
- **Introduce solution-building into the audit process.** During audits, ask managers, shop stewards and workers about possible solutions to the problems they identify.
- **Ensure effective communication and education.** Audits should be about communicating and educating workers and managers, not just about 'policing'.

- **Improve continuity of commercial and auditing relationship with suppliers.** Continuity of both the trading and the auditing relationship stimulates long-term trust between the sourcing company, supplier and workers, which is key for sustained improvements. Continuity of the auditor also builds up his or her local and industry knowledge.

#### Further information

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**Presentation slides and papers** from IDS, Kalape Api, Premier Foods and TGWU are available from the ETI Secretariat.

**ETI impact assessment:** contact the ETI Secretariat.

Nelson, V, Ewert, J and Martin, A (June 2002) *The impact of codes of practice in the South African wine industry and Kenyan cut flower industry – phase 1 report*. Natural Resources Institute, Chatham. This report can be downloaded from: [www.nri.org/NRET/phase1report.pdf](http://www.nri.org/NRET/phase1report.pdf).

Smith, S, Auret, D, Barrientos, S, Dolan, C, Kleinbooi, K, Njobvu, C, Opondo, M and Tallontire, A (2003) *Ethical trade in African horticulture: gender, rights and participation*. Workshop Report, Institute of Development Studies, University of Sussex, June 2003.