



**Ethical  
Trading  
Initiative**

Respect  
for workers  
worldwide



# HUMAN RIGHTS DUE DILIGENCE FRAMEWORK



*A guide for companies to help them prevent and manage labour rights risks, and understand why engagement, negotiation and collaboration is the only way to succeed.*

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# INTRODUCTION

**Businesses operate in an increasingly complex environment. This is fundamentally affecting the way decisions are made on the use of resources, time, and people in a company. Risk assessments and due diligence have always been part of corporate practice to assure the quality, profitability and reputation of businesses.**

But respect for human rights is a relatively new feature for corporate due diligence policies and practices in their own operations and supply chains. These are driven by the UN Guiding Principles on Business and Human Rights and new legislation on modern slavery. See Annex 1. Legal requirements on human rights due diligence.

This framework is concerned with the way that business impacts on the **human rights of those who are employed within global supply chains**. When we use the terms 'labour rights' or 'workers' rights' in this document, we are referring to the human rights of workers.

Effective corporate human rights due diligence is not only a **legal requirement, but is also good for business**: there is ample evidence that responsible businesses have better visibility of their supply chains; they have more secure supply of goods and services because they face less labour unrest, staff turnover, hiring and training costs; they are more productive because workers are more engaged, better trained and happier at work, and their reputation and credibility is far better with customers, investors and suppliers.

**Governments play a critical role in creating an enabling environment for companies to operate.** Where national and local governments display a lack of political will, capacity or responsibility to protect human rights, it is difficult for companies to act responsibly and prevent human rights violations. This raises questions about the choices that companies make in where they invest and source their goods and services, whether their suppliers have the capacity to meet the companies' expectations, and whether suppliers are able or willing to comply with risk management systems.

**Civil society, consumers, investors and trade unions** are increasingly challenging companies and governments, and are publicly calling on them to account for their responsibilities and actions to prevent, manage and mitigate labour rights violations.

“*Responsible businesses have better visibility of their supply chains; they are more productive because workers are more engaged, better trained and happier at work, and their reputation and credibility is far better with customers, investors and suppliers.*”



## A FRESH APPROACH

Most companies continue to rely on audits and compliance-based approaches to manage and mitigate human rights risks – even where they recognise the limitations of these approaches.

They simply can't imagine another way of doing it – especially in light of constrained resources, skills and increasingly competitive markets. This means they out-source and delegate the management of risk to their suppliers, auditors and other expert organisations to tell them what they need to know and what they need to do. This weakens the relationship of companies with their suppliers and can reduce their sense of ownership of and responsibility for the potential human rights risks.

ETI's approach is different. It offers companies a fresh approach to help them to manage and mitigate risks more effectively – not through audits and out-sourcing of due diligence assessments, but through:

- **Better risk assessment and detailed analysis of human rights risks, impacts and causes**
- **Better internal reviews of approaches, policies and practices (looking in the mirror) to identify which of these directly or indirectly contributes to human rights risks**
- **Effective stakeholder engagement – within the company, with other companies, with suppliers, with trade unions, government agencies, civil society organisations, experts and multi-stakeholder initiatives. This will lead to far more effective (and cheaper) solutions in the long term**

⊕ See Annex 2: Engaging with stakeholders

## THE PURPOSE OF THIS FRAMEWORK

This tool will help companies to meet their corporate responsibilities to respect human rights in the labour rights context, and report against these obligations. It sets out the critical elements of human rights due diligence and how they relate to one another. It will help companies understand what information is needed to make the right kinds of decisions, who to engage and why.

ETI's tripartite approach brings companies, trade unions and NGOs together to shape the due diligence agenda and to ensure the most important risks for workers' rights are identified and addressed effectively at each level of the supply chain.

Whilst the focus of this framework is on labour rights, it can be used alongside other guidance and tools that include environmental and community based human rights impacts. It is closely aligned with the ETI Base Code and Principles of Implementation, the UN Guiding Principles on Business and Human Rights, OECD Due Diligence guidance tools, and the SHIFT RAFI Framework, amongst others.

This framework should also help companies meet their legal obligations to report on the steps they are taking to tackle modern slavery, forced labour and human trafficking. Companies with operations in the UK, USA, Brazil and elsewhere, can be held criminally liable for committing modern slavery offences, and the penalties can be severe.

## WHAT IS HUMAN RIGHTS DUE DILIGENCE?

Human rights due diligence is the action taken by a company to both identify and act upon actual and potential risks for workers in its operations, supply chains and the services it uses.

ETI's approach to human rights due diligence is based on multi-stakeholder engagement and processes that include:

- Assessment of actual and potential human rights risks
- Mitigation of risk and remediation for workers impacted by human rights violations
- Identification of corporate leverage and responsibility, decision-making and actions needed
- Monitoring, review, reporting and continuous improvement

ETI's experience has demonstrated that this is the most effective form of due diligence and the most likely way to bring about lasting change.

# ETI BASE CODE

The ETI Base Code covers the major areas of human rights risk for workers in global supply chains:



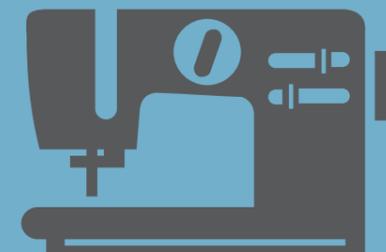
 Employment is freely chosen*	 Freedom of association and the right to collective bargaining are respected*	 Working conditions are safe and hygienic
 Child labour shall not be used*	 Living wages are paid	 Working hours are not excessive*
 No discrimination is practised*	 Regular employment is provided	 No harsh or inhumane treatment is allowed

\*Internationally agreed core human rights. All UN member states, whether or not they have ratified the relevant ILO conventions, are obliged to meet these labour standards.

⊕ See also Annex 3: Sector-specific risks.

# WORKERS AT GREATEST RISK OF HUMAN RIGHTS ABUSES

Human rights due diligence must include a focus on the most vulnerable workers, these include:



<b>CHILDREN</b> 	<b>WOMEN</b> 	<b>MIGRANT WORKERS</b> INTERNAL AND CROSS BORDER 
 <b>SEASONAL WORKERS</b> SUCH AS AGRICULTURAL WORKERS	 <b>CONTRACT AND AGENCY WORKERS</b>	
<b>MARGINALISED GROUPS</b> SUBJECT TO DISCRIMINATORY LAWS AND TREATMENT 	<b>DOMESTIC WORKERS</b> 	



## HIGH RISK FACTORS AND SECTOR-SPECIFIC RISKS

In company operations and global supply chains, some of the most significant risk factors include:

- **Lack of government protection** of labour rights (poor laws, regulations, undemocratic states)
- **Use of sub-contractors and agencies** (risks for visibility of supply chain and indirect employment)
- **Lack of government labour inspection** and monitoring (capacity, resources, political will)
- **Reliance on audits** (credibility of data and reliability of evidence of risk)
- **Complex production processes** in a single product sourced from multiple sites
- **Labour market dynamics** (high unemployment and poverty rates, state fragility and conflict)
- **Unscrupulous recruitment** practices (debt bondage for workers due to high fees by recruiters)

**Labour rights risks** apply to all sectors, however in some sectors, the risks are endemic. Salient risks in key sectors are available in OECD and other guidance.

## KEY PRINCIPLES FOR MEANINGFUL DUE DILIGENCE

Responsible companies that are committed to undertake meaningful due diligence should consider the extent to which they are willing and able to adopt the following principles and practices:

### Corporate leadership:

Taking responsibility for driving change from the top. This includes effective oversight and governance; acting quickly and thoughtfully when human rights risks are triggered by changes in company operations or activities (eg changes in ownership, opening new markets, sourcing new products, embarking on new partnerships).

**Establishing / revising appropriate policies, practices, strategies and decision-making systems** that mitigate against the risks of labour rights abuses, including:

- Review the extent to which corporate decision-making systems on sourcing and purchasing practices are appropriate to prevent the risk of human rights violations
- Review actions taken to mitigate risks where they have been identified
- Assess supplier and contractor capacity, policies and systems to meet ethical trade standards
- Having joined up systems, including human resource policies and financial resources to assess, prioritise, prevent and manage the risk or incidence of actual and potential human rights risks and impacts of labour rights abuses

**Increased transparency and visibility of supply chains** – from raw materials to sales and delivery, and taking appropriate action to mitigate risks of labour rights abuses where they are found.

**Acceptance and recognition of the universal right of all workers to freedom of association and collective bargaining.**

- Acknowledgement that barriers often exist in the ability of workers to exercise those rights
- Willingness on the part of companies to use their leverage to remove such barriers
- Recognition that workers who can represent themselves are the most reliable and legitimate promoters and defenders of their rights
- Recognition of workers as critical sources of real-time information and intelligence on working conditions and their role in alerting companies to actual or potential human rights risks to workers

**Commitment to ensuring remedy** for negative impacts on workers

**Recognition of the importance of policy engagement with governments** and other key stakeholders for greater state protection of workers' rights

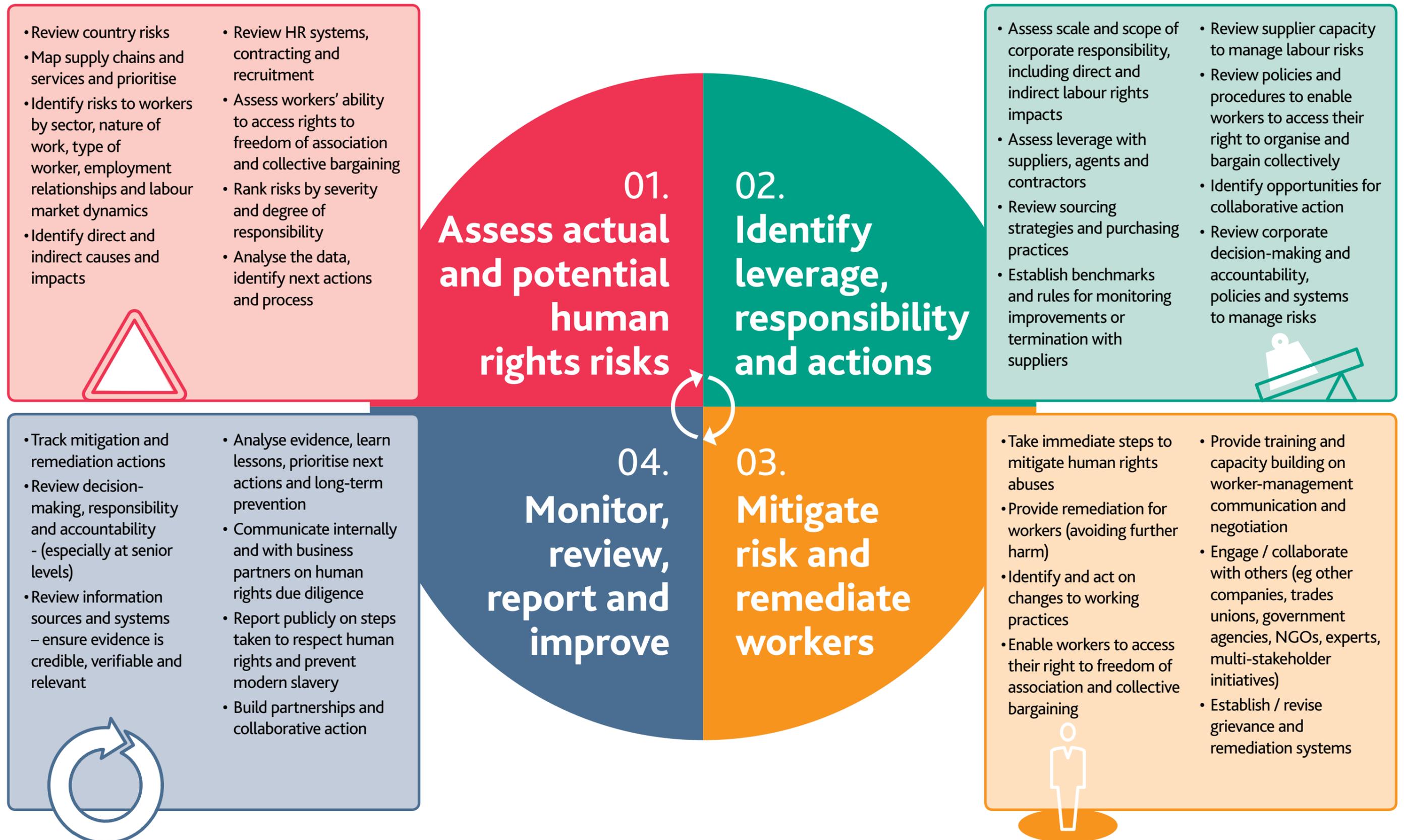
**Stakeholder engagement and partnerships** – including other companies, suppliers, sub-contractors, agents, trade unions, government agencies, civil society organisations, experts and multi-stakeholder initiatives

**Continuous improvement based on robust evidence, monitoring, evaluation and lesson learning** – including a review of the credibility and quality of information (beyond audit)

**Open and honest communication** within the company, and with suppliers, stakeholders and workers and to the public

# ETI HUMAN RIGHTS DUE DILIGENCE FRAMEWORK

*Key steps that companies should take to prevent, manage and mitigate human rights abuses in their own operations and supply chains.*



# 01. Assess actual and potential human rights risks



<b>Review country risks</b>	<ul style="list-style-type: none"> <li>• Check human rights record and latest reports; check discriminatory laws and practices (women, migrant workers, minorities, disabilities etc.)</li> <li>• Check labour laws (ILO conventions) and government monitoring</li> <li>• Check if trade unions and civil society organisations allowed to operate without threat, harassment or constraint</li> </ul>
<b>Map supply chains and services and prioritise</b>	<ul style="list-style-type: none"> <li>• Map supply chains from raw materials to finish and sale</li> <li>• Identify key supply chains - volume and value</li> <li>• Understand who is involved in supply chains - direct commercial partners, producers, sub-contractors, labour providers</li> </ul>
<b>Identify direct and indirect causes and impacts</b>	<ul style="list-style-type: none"> <li>• Understand whether risks to workers are driven by direct employment relationships and working conditions or indirect causes (eg wider societal norms and behaviours on gender and caste-based discrimination, community-based environment factors affecting health and safety of workers)</li> <li>• Analyse factors affecting vulnerability of workers in legal and local context: (eg migrant workers' legal with no access to public services or the right to work legally are desperate for a job, almost at any cost to themselves)</li> </ul>
<b>Identify risks to workers by sector, nature of work, type of worker, employment relationships and labour market dynamics</b>	<ul style="list-style-type: none"> <li>• Understand labour market dynamics (eg unemployment levels, use of precarious contracts, limited legal protection and labour monitoring, vulnerability of women, migrants, skilled / unskilled etc)</li> <li>• Review sector-specific risks (food and farming, apparel and textiles, general merchandise, construction, care, cleaning, hospitality)</li> <li>• Review risk factors for workers in employment relationships (eg use of agencies, in which workers have no contracts or bargaining power with employers)</li> <li>• Check what rights seasonal / temporary workers have</li> </ul>
<b>Review HR systems, contracting and recruitment practices</b>	<ul style="list-style-type: none"> <li>• Review policies and practices on use of agents and sub-contracting</li> <li>• Check recruitment practices: look out for use of third parties, fees paid by workers and debt bondage, ID documents retained</li> </ul>
<b>Assess workers' ability to access rights to freedom of association and collective bargaining</b>	<ul style="list-style-type: none"> <li>• Understand whether workers can access their rights to freedom of association and collective bargaining</li> <li>• Review what systems are in place for worker-management dialogue</li> <li>• Check if agency, part time, migrant and seasonal workers can negotiate terms and conditions of work with their employers, or are able to join or form a trade union (especially if workers are contracted by agencies)</li> </ul>
<b>Rank risks by severity, scale and responsibility</b>	<ul style="list-style-type: none"> <li>• Identify risks by severity, scope and responsibility of the company by:                             <ul style="list-style-type: none"> <li>– cause and contribution</li> <li>– direct and indirect impact</li> <li>– Leverage and influence</li> </ul> </li> </ul>
<b>Analyse the data, identify next actions and processes</b>	<ul style="list-style-type: none"> <li>• Collaborate with other stakeholders and experts to gain a thorough understanding of the implications of the data gathered</li> <li>• Prioritise by identifying the areas of greatest risk and leverage</li> <li>• Develop a specific, time-bound plan to address both high priority risks in the short and medium term and other risks longer term</li> </ul>

⊕ See also: Annex 2: Engaging with stakeholders, Annex 4: Conducting a detailed enquiry, Annex 5: Reviewing the business model and Annex 7. Case Study – Describing a human rights risk

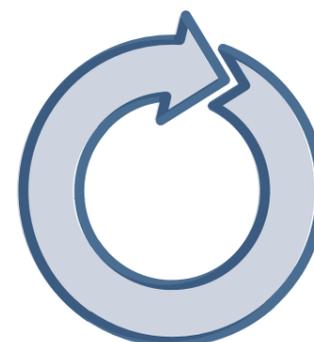
# 02. Identify leverage, responsibility and actions to be taken



<b>Assess scale and scope of corporate responsibility, including direct and indirect labour rights impacts</b>	<ul style="list-style-type: none"> <li>• Assess the extent to which the company has directly or indirectly caused or contributed to the risk</li> <li>• Decide on actions to mitigate and manage risks and violations of human rights where they are found</li> </ul>
<b>Assess leverage with suppliers, agents and contractors</b>	<ul style="list-style-type: none"> <li>• Assess degree of trust, stability of supply, length of business partnerships and leverage with suppliers, agents and contractors</li> <li>• Engage where possible and support capacity building of suppliers rather than driving compliance top-down</li> </ul>
<b>Review sourcing strategies and purchasing practices</b>	<ul style="list-style-type: none"> <li>• Assess whether the company is sourcing from countries that are known to have a high risk of modern slavery</li> <li>• Assess whether prices paid to suppliers enable provision of decent wages and safe working conditions</li> </ul>
<b>Review supplier capacity to manage labour risks</b>	<ul style="list-style-type: none"> <li>• Review supplier policies and practices on recruitment, pay, working hours, health and safety, and discrimination</li> </ul>
<b>Establish benchmarks and rules for monitoring improvements or termination with suppliers</b>	<ul style="list-style-type: none"> <li>• Consult with others to agree reasonable benchmarks for labour rights issues</li> <li>• Agree under what conditions a supplier would be terminated (as a last resort if all efforts to improve fail)</li> </ul>
<b>Review policies and procedures that enable workers to access their right to organise and bargain collectively</b>	<ul style="list-style-type: none"> <li>• Revise policies and practices within the company to proactively promote access for workers to their universal right to freedom of association and collective bargaining</li> <li>• Communicate with suppliers, agents, contractors on freedom of association and collective bargaining</li> <li>• Engage and advocate with government on laws and policies to protect these rights, where appropriate</li> <li>• Identify ways to maximize workers' ability to negotiate directly with employers, and minimise risks caused by indirect employment relationships (eg agency workers)</li> </ul>
<b>Review corporate decision-making, accountability systems, and policies to manage risks</b>	<ul style="list-style-type: none"> <li>• Review senior level commitment to ensure leadership and accountability to drive change in business practices and allocation of resources</li> </ul>
<b>Identify opportunities for collaborative action</b>	<ul style="list-style-type: none"> <li>• Identify sources of expertise in the sector/industry                             <ul style="list-style-type: none"> <li>– NGOs, academics, experts, consultants</li> </ul> </li> <li>• Identify opportunities to engage with democratic and representative trade unions to organise workers</li> <li>• Engage with government (local, national) to strengthen labour inspection and dialogue on labour relations</li> <li>• Engage with other companies in the industry</li> </ul>

⊕ See also: Annex 2: Engaging with stakeholders, Annex 5: Reviewing the business model

### 03. Mitigate risk and remediate workers



### 04. Monitor, review, report and improve

<b>Take immediate steps to mitigate human rights abuses</b>	<ul style="list-style-type: none"> <li>Engage with workers impacted (directly or through their representatives) and apologise for harm caused</li> <li>Agree immediate mitigation actions to prevent further harm to victims of human rights violations</li> </ul>
<b>Provide remediation for workers (avoiding further harm)</b>	<ul style="list-style-type: none"> <li>Provide appropriate financial or other compensation to victims of rights abuses</li> <li>Reinstate workers who have been unfairly dismissed or if that is not feasible, support them in finding alternative employment</li> <li>Ensure victims get the protection and support they need and do not face recrimination or loss of earnings</li> </ul>
<b>Identify necessary changes to working practices and act on them</b>	<ul style="list-style-type: none"> <li>Having identified which working practices drive human rights abuses – eg recruitment practices, purchasing practices, pay systems, agency working, consult with others to identify ways of reducing risks of rights abuses and preventing rights violations in the future</li> </ul>
<b>Establish/revise grievance and remediation systems</b>	<ul style="list-style-type: none"> <li>Put in place grievance and remediation systems that are safe and trusted by workers, including through collective voice and representation</li> <li>Establish clear lines of corporate responsibility for engagement with workers and follow up actions on grievances and remediation</li> <li>Communicate grievance policies and systems to all business partners and workers in own language and appropriate formats (eg if workers are illiterate)</li> </ul>
<b>Enable workers to access their right to freedom of association and collective bargaining</b>	<ul style="list-style-type: none"> <li>Where no representative trade union exists, ensure workers have access to democratically elected representatives acting in workers’ own interests</li> <li>Secure direct employment contracts at worksites wherever possible to enable workers to negotiate directly with their employers (rather than third party agencies)</li> </ul>
<b>Provide training and capacity building on worker-management communication and negotiation</b>	<ul style="list-style-type: none"> <li>Support training and capacity building on worker-management communication</li> <li>Enable structured negotiation between workers and employers to agree terms and conditions of work</li> </ul>
<b>Engage / collaborate with others (eg other companies, trade unions, government agencies, NGOs, experts, multi-stakeholder initiatives)</b>	<ul style="list-style-type: none"> <li>Identify other companies sourcing from the same suppliers / producers and, where possible, identify opportunities to collaborate – especially where there are high risks or incidences of workers’ rights abuses</li> <li>Build partnerships with trade unions, government agencies, civil society organisations, experts and multi-stakeholder initiatives to ensure long-term prevention and mitigation</li> </ul>

⊕ See also: Annex 7: Case Study – Describing a human rights risk

<b>Track mitigation and remediation actions</b>	<ul style="list-style-type: none"> <li>Establish systems to track what mitigation and remediation actions are taking place and whether or not they are effective</li> <li>Establish independent verification of mitigation and remediation actions for the benefit of affected workers</li> <li>Go beyond audit and compliance systems with suppliers and producers; establish trust and longer-term partnerships in improving labour standards</li> </ul>
<b>Review decision-making, responsibility and accountability systems (especially at senior levels)</b>	<ul style="list-style-type: none"> <li>Assess company decision-making systems, accountability and responsibility for human rights issues - especially at senior levels</li> <li>Establish board and executive governance indicators for tackling human rights</li> <li>Establish KPIs at corporate and workplace levels for reviewing and acting on human rights due diligence</li> <li>Agree consequences if there are failures to implement agreed mitigation, remediation, and prevention actions</li> </ul>
<b>Review information sources and systems – ensure evidence is credible, verifiable and relevant</b>	<ul style="list-style-type: none"> <li>Establish robust review and monitoring systems (exercise caution with reliance on audits – they are unlikely to identify serious human rights risks and violations)</li> <li>Ensure senior level oversight of monitoring systems, processes and frequency of review</li> <li>Assess whether sources of information and evidence are credible, verifiable, trusted, independent and appropriate</li> <li>Identify alternative third party sources and experts to triangulate data, as needed</li> </ul>
<b>Analyse evidence, learn lessons, prioritise next actions and long-term prevention</b>	<ul style="list-style-type: none"> <li>Analyse evidence and monitoring data to identify when and why workers are at risk of human rights violations</li> <li>Document lessons learned from monitoring, evaluation and analysis. Where possible, seek input from other stakeholders to reflect on actions taken</li> <li>Use credible evidence to inform future plans, strategies and actions for long-term prevention and continuous improvement</li> </ul>
<b>Communicate internally and with business partners on human rights due diligence</b>	<ul style="list-style-type: none"> <li>Provide consistent and clear communications to staff, suppliers, and workers in own operations and supply chains on corporate human rights due diligence policies, strategies and accountability systems (in appropriate languages and formats)</li> <li>Communicate with staff and others, as appropriate, where risks or incidence of human rights violations have been found, and actions taken</li> <li>Communicate internally on expectations to manage and mitigate human rights risks in business operations and supply chains. Offer training and capacity building on communications, as needed</li> </ul>
<b>Report publicly on steps taken to respect human rights and prevent modern slavery</b>	<ul style="list-style-type: none"> <li>Report publicly on corporate policies, strategies and actions to manage, mitigate and prevent risks of human rights violations and modern slavery</li> <li>Provide credible evidence of steps taken where risks are found, and demonstrate year on year progress</li> </ul>
<b>Build partnerships and collaborative action</b>	<ul style="list-style-type: none"> <li>Build and sustain strategic partnerships and collaborative action with others – eg other companies, trade unions, government agencies, civil society organisations, experts, international bodies and multi-stakeholder initiatives</li> </ul>

⊕ See also: Annex 6: Monitoring and review

# Annex 1: Legal requirements on human rights due diligence



# Annex 2: Engaging with stakeholders

There are a growing number of legislative requirements for companies to report and demonstrate action to tackle human rights abuses – especially modern slavery<sup>1</sup>, forced labour and human trafficking. Modern slavery is a serious crime and attracts sentences of up to life imprisonment. Businesses can be held liable for committing modern slavery offences. There are increasing incidences of corporate criminal liability legal cases on behalf of victims.

**Relevant legislation includes:**

- **The UK Modern Slavery Act 2015** has a legal requirement for companies to consider their due diligence systems as the basis for annual statements that set out the steps they are taking to prevent, mitigate and act on risks of modern slavery in their supply chains
- **The UK Companies Act**, amended in 2013, requires companies quoted on the London Stock Exchange to report on their human rights performance
- **The EU Non-Financial Reporting Directive**, which comes into force in 2016, requires companies' strategic reporting to include specific, structured and detailed information on human rights
- **Section 35 of the Human Trafficking and Exploitation (Scotland) Act (2015)** enables individuals in corporations, corporate partnerships or associations to be held liable for the commissioning of human trafficking and exploitation criminal offences, and to be punished accordingly

- **In the USA, the California Transparency in Supply Chains Act 2010** requires retail sellers and manufacturers doing business in the state to disclose their efforts to eradicate slavery and human trafficking from their direct supply chains for tangible goods offered for sale
- **The US Executive Order 13627 (2015)** requires all federal public procurement contracts to be screened and assessed to prevent human trafficking in supply chains.

**POTENTIAL STAKEHOLDERS:**

INTERNATIONAL	
Global union federations	UN bodies
Advocacy groups and media	Other companies
Agents / suppliers	Multi-stakeholder initiatives
NGOs	Labour providers and contractors
Government and local authorities	ILO
Experts / academic institutions	Industry associations

NATIONAL	
Government and local authorities	Workers
Local suppliers	NGOs (including migrant worker organisations)
Local communities	Labour ministries / inspectors
Trade unions	Local companies and industry associations
Local multi-stakeholder initiatives	Local ILO office
Labour providers and contractors	Academics and experts

Companies should consult with key stakeholders in assessing, mitigating and monitoring risks. They should assess influence and leverage, and actively engage with most relevant stakeholders that can help to improve working conditions and respect workers' rights, prevent negative impacts, repair damage or compensate for negative impacts.

<sup>1</sup> Modern Slavery is an umbrella term used to describe criminal offences defined by the 2015 Act. It includes definitions of slavery, servitude, forced and compulsory labour and human trafficking.

## Annex 3: Sector-specific risks



## Annex 4: Conducting a detailed inquiry

A number of labour rights risks are common to all sectors (as identified earlier), but some risks have been identified as endemic to specific sectors, including:

### Construction, Care, Cleaning, Hospitality



- Migrant workers (regular or irregular)
- Predominance of women workers and male supervisors in care, cleaning and hospitality
- Precarious contracts – zero hours, insecure terms
- Limited legal protection for migrant workers (in sending and receiving countries)
- Debt bondage (unscrupulous recruitment practices and labour agents)
- Child labour

### Food and Farming



- Weak inspection / monitoring systems (especially in hard to reach rural areas)
- Seasonal, temporary and precarious work
- Use of labour contractors and recruiters (especially if not legally registered or licensed)
- Migrant workers – recruitment, pay, housing, services
- Agricultural waged workers (may be part-time waged, part-time smallholder farmers)
- Smallholder farmers
- Health and safety – chemical spraying, heavy loads, sunstroke etc.
- Agency contracts (indirect employment relationships)

### Apparel and Textile



- Building, fire and electrical safety
- Predominance of women workers and male supervisors (sexual, verbal harassment and threat)
- Complex sourcing – from raw material to manufacture at multiple sites
- Homeworkers (isolated women, child labour, pay, overtime)
- Subcontracting to small, unregulated industries (visibility, liability)
- Third party agency employment contracts
- Precarious work

### Hard Goods / General Merchandise / Surgical Supplies



- Sourcing from fragile states / isolated environments (eg sandstone)
- Precarious contracts
- Child labour
- Bonded labour / prison labour
- Health and safety (eg respiratory diseases)

### Effective detailed inquiry for human rights due diligence requires:

- A clear framework of inquiry to analyse human rights risks and mitigation
- Consultation and engagement with trade unions or independently elected worker representatives. Where this is not possible some other way of accessing workers and enabling them to share their perspectives is vital
- Consultation and engagement with relevant civil society organisations
- Consultation and engagement with suppliers, employers and intermediaries
- Use of credible data and analysis produced by independent experts, civil society organisations, consultants, academics, trade unions and multi-stakeholder initiatives
- Sharing data with other buyers / building trusted relationships and collaborating wherever possible

### The limitations of audits

Audits can be a helpful snapshot of working conditions and can be a useful input to the initial risk assessment. However, they must not be relied on. There are inherent weaknesses of audit as a human rights assessment tool. Audits do not pick up cases of modern slavery or forced labour because they are hidden crimes, and victims will not feel safe enough to report, even if asked about their working conditions. And, crucially, audits don't describe why violations occur.

Companies continuing to use audit, despite its recognised limitations, should therefore:

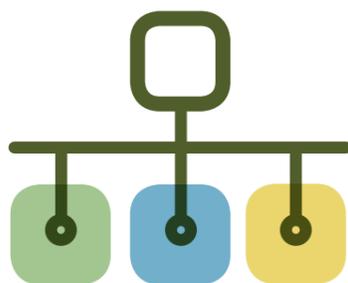
- **Assess the capacity** and understanding of auditors (review their training, information and audit tools)
- **Set additional audit questions** and processes and include human resource performance indicators

- **Review how audit data will be used**, including interrogating data more deeply when anomalies are discovered and having ways of verifying information (triangulation)
- **Prioritise and communicate** action on non-compliances – focusing on the most significant labour rights violations and put in place appropriate corrective action plans (this is not a tick-box exercise!)
- **Audits should include workers views**, with careful attention to how these are elicited, and a robust approach to checking the credibility and quality of this information
- **Conduct unannounced visits** and triangulate data with worker interviews outside the workplace
- **Use additional methods** of gathering workers' views – eg working with NGOs and using participatory monitoring methods

⊕ See Annex 6: Monitoring and review.

A more detailed outline of commodity and sector-specific risks are available from a range of sources, including OECD sector guidance, US State Department list of products at risk of forced labour; Maplecroft/Verisk human rights risks; Thomson Reuters and others.

## Annex 5: Reviewing the business model



Companies may review their business model as a first step towards human rights due diligence but also in response to lessons learned from effective monitoring and evaluation of how their business is impacting on the human rights of workers in their supply chains. This would involve companies reviewing both their own and their suppliers' business models, attitudes, knowledge and practices as well as the relationship between them and their suppliers.

### Reviewing companies own practices

*Review sourcing strategies by asking:*

- How is the choice of sourcing country made? Are human rights risks considered in addition to price, quality and logistical considerations?
- How long is the supply chain? What level of visibility is there within it?
- Does the company have short term or long-term business relationships with suppliers?
- Is unit price the most important criteria when selecting suppliers?
- Does the company have a multiple sourcing / diverse supply base policy?
- Is the company aware of unforeseen costs (eg delays, overtime)?

*Review the company's own purchasing practices by asking:*

- Do buyers understand production processes?
- Do buyers consider sourcing raw materials, lead times?
- Do buyers consider power dynamics in price negotiation, terms of trade and payment?
- Do prices factor in wages, working hours, health and safety, packaging, transport?
- Do buyers consider the impact of changing orders on suppliers and workers? (eg sub-contracting, working hours)

*Review relationships with suppliers by asking:*

- Is the company's relationship with its suppliers one of mutual trust and respect?
- When and why are relationships with suppliers terminated?
- Is termination of relationship / orders with a supplier used as an alternative to influence if ethical trade standards are not met and why?
- What is the volume of the company's orders and does it assess the suppliers' ability to meet this without having to sub-contract?
- Are the price, speed, quality demands achievable to meet expectations on labour standards?
- Does price for product include cost of labour?

### Reviewing the company's suppliers

*Assess suppliers' capacity to uphold expectations on labour rights, including:*

- Level of understanding of labour rights and ethical trade requirements
- Understanding of the buyer code of practice and relevant international human rights standards
- Transparency and visibility – including further down the supply chain
- Leverage with sub-contractors and lower-tier suppliers
- Capacity and will for oversight of sub-contractors and lower-tier suppliers
- Attitudes and practices in relation to freedom of association and collective bargaining; is there a collective bargaining procedure in place?

*Assess suppliers' structures and systems by asking:*

- What is the quality of their financial and human resource systems?
- What policies and procedures for recruitment, contracting and treatment of workers are in place?
- Are grievance, complaints and remediation mechanisms in place and functioning effectively?
- What forecasting / planning is done and what is the impact on workers – eg additional temporary / seasonal recruitment; impact on working hours, pay, terms and conditions
- Does the supplier sub-contract? Does it keep records of sub-contractors and what is its justification for the use of sub-contractors?
- Does the supplier have effective worker communication systems in place? Do workers understand their rights and company requirements - is this communicated in own language?

*Assessing suppliers' legal status and compliance with the rule of law*

- Check legal status of suppliers, media reports or other records for abuse or breaches
- Check if supplier meets requirements of local labour laws and regulations and meets the standards outlined in the UNGPs and for trans-national corporations, OECD Guidelines



## Annex 6: Monitoring and review

Effective due diligence requires companies to explore meaningful ways of monitoring working conditions, in ways that enable them to act on the findings and monitor the results.

Companies continue to rely heavily on audits as the primary means of monitoring working conditions in their supply chains, despite strong evidence that most of these fail to pick up serious labour rights abuses. However, audits could provide one useful source of information, as long as they are supported by other sources of evidence and monitoring.

Companies should bear the following in mind when monitoring human rights:

### Criteria

- Check information/source with trusted stakeholders (eg ETI trade union and NGO caucuses)
- Cross-check national/local information with international sources and vice versa

### Data credibility indicators

- Authority
- Accuracy
- Currency
- Verifiability
- Believability

### Sources of information

- Third party, independent reports
- Worker generated
- Technical expertise (consultants)
- Generated by credible local civil society institutions
- Academic institutions

### Participatory monitoring methodology with key stakeholders

Participatory methods – methods that involve the active participation of workers, managers and others – may require more time and resources, but in the long run are more cost-effective as they are more likely to provide accurate information and also build trust and dialogue. For example, the questions set by companies and auditors for worker interviews are based on a set of assumptions that these are most relevant for identifying risks for workers and assessing their working conditions.

But more participatory methods are likely to reveal different priorities when they are identified by the workers themselves. Also, finding the right interlocutors that can spend more time in conversation with workers, or offering them alternative ways of communicating – eg through drawings, role play etc. is important. These are more likely to elicit information on important but sensitive issues that may not emerge during a short interview with a worker under the direct or indirect scrutiny of their employers. Workers are likely to fear repercussions for being honest with grievances, and audits of this type make it almost impossible for workers' views to be kept confidential.

⊕ See also Annex 8: Further information and resources.

# Annex 7: Case study – Describing a human rights risk



DESCRIPTION OF THE HUMAN RIGHTS RISK	KEY CHARACTERISTICS
Workers employed in Europe on a seasonal basis to pick salad vegetables were not paid minimum wage, were not free to leave employment and had to live in appalling conditions.	<b>What:</b> Rights to minimum wage, freedom of movement and decent housing denied
	<b>Who:</b> Adult men and women migrant workers, mostly from North Africa, some legal some illegal
	<b>Direct cause:</b> Directly employed by labour providers who source labour for farmers on contract, they are paid directly and then have leverage over their employees who have little bargaining power
	<b>Indirect cause:</b> Low margin crop has driven farmer to seek low cost labour, no auditing or quality control over labour providers, ineffective government inspection due to poor resources and local backhanders, nor formal representation of workers

MITIGATION ACTIONS	REMEDATION ACTIONS
Raise awareness of supplier and undertake training for farmers on risk and best practice	Contact affected farms and draw up list of workers affected and provide recompense
Implement joint scheme of approved labour providers	Implement labour registration scheme with exporters, farmers and approved labour providers
Contact local trade unions to explore representation and organisation	Support supplier to organise trade union registration session at workplace
Review costing to ensure fair labour costs built in	

# Annex 8: Further information and resources



ETI provides training and advisory services on human rights due diligence for business, modern slavery and labour rights.

For further information, please see [www.ethicaltrade.org/training](http://www.ethicaltrade.org/training)

**Key resources:**

ILO:  
[www.ilo.org](http://www.ilo.org)

Global Union Federations (secretariats and members)

ITUC Human Rights Index:  
[www.ituc-csi.org/ituc-global-rights-index-2015](http://www.ituc-csi.org/ituc-global-rights-index-2015)

Local Resources Network (joint ETI's):  
[www.localresourcesnetwork.net](http://www.localresourcesnetwork.net)

Human Rights Watch:  
[www.hrw.org](http://www.hrw.org) and other human rights organisations

Corporate Human Rights Benchmark:  
[www.business-humanrights.org/en/corporate-human-rights-benchmark](http://www.business-humanrights.org/en/corporate-human-rights-benchmark)

Labourstart:  
[www.labourstart.org](http://www.labourstart.org)

US State Dept. Trafficking in Persons Report:  
[www.state.gov/j/tip/rls/tiprpt](http://www.state.gov/j/tip/rls/tiprpt)

Gangmasters Licensing Authority:  
[www.gla.gov.uk](http://www.gla.gov.uk)

Association of Labour Providers :  
[www.labourproviders.org.uk](http://www.labourproviders.org.uk)

⊕ For further information please contact [eti@eti.org.uk](mailto:eti@eti.org.uk)

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