

# Research criteria

## Nineteen criteria were used

in our research. These criteria are described in general terms in this section. See Part II of this report for a full description of the criteria and the weighting used for each criteria within each category.

In some cases unanticipated issues arose when we were faced with the difficult task of rating companies on their publicly reported efforts and initiatives. Some of these issues are presented below.

### Governance and Risk Management

This category evaluates the extent to which a company's board of directors have recognized and begun to address the potential risks associated with labour standards compliance in its supply chain. We surveyed company reporting in the following criteria:

- Whether specific directors or board committees have active responsibility for ethical issues in the supply chain;
- Whether the company has included in its annual reports a discussion of labour standards issues in the supply chain as a potential material risk factor for the company; and
- Whether the extent of these risks for the company's existing supply chain has been or will be evaluated by the company in any systematic manner.

Basic points were awarded for inclusion of labour rights issues in the supply chain amongst a list of risk factors to be considered by investors. Further points were awarded for evidence of a more in-

depth discussion of the specific kinds of risks faced by companies in this sector. Lastly, companies received points for indicating that they either have conducted or are conducting a more in-depth analysis of the extent of their company's actual exposure to ethical risks in their supply chain.


### Code for Labour Standards in the Supply Chain

The purpose of this category is to assess the public accessibility, completeness, and application of the company's policies and codes of conduct on labour standards in the supply chain. We evaluated:

- Whether the code of conduct is publicly available;
- The quality and scope of the code of conduct for labour standards in the supply chain; and
- Whether the code applies only to the company's production supply chain or also to its own procurement.

While the availability and scope of the code of conduct are self-evident criteria, the points awarded for the quality of a company's code deserve further discussion.

Companies that address all of the core labour rights in their codes of conduct (without qualification or limitation) were awarded 50%. Companies that address all of the core labour rights but qualify their commitment to one of these core labour rights were awarded 25%. Companies that qualify their commitment to *more than one* core labour right or that do not address all of the core labour rights in their codes received 0.



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If the code includes hours of work provisions that are consistent with the relevant ILO conventions, the company was awarded an extra 25%. Another 25% was awarded for including a commitment to payment of a living wage in the code.

Only companies that have codes that are consistent with ILO core conventions, plus ILO conventions on hours of work and that include a living wage provision were awarded 100% in this section.

### **ILO core conventions**

As a beginning step in a company's labour standards compliance program, a code of conduct should at minimum meet the core conventions of the International Labour Organization (ILO).<sup>9</sup> These core conventions are so fundamental as to be considered binding on every country rather than only being applicable to the signatories to particular core conventions.

Three core labour rights to which companies often qualify their commitment are freedom of association, non-discrimination and the prohibition of child labour. Companies that qualify their commitment to freedom of association and the right to bargain collectively usually indicate that suppliers are only required to respect this right where and when it is legally recognized. In other words, suppliers are not expected to do more than they are required to do by law. A common justification given for qualifying a company's commitment to freedom of association is the legal restrictions on that right in China.

Regarding child labour, the ILO sets the minimum age at 15, and allows an exception of 14 for some kinds of labour in developing countries.<sup>10</sup> However, companies often qualify their commitment to this core labour right by setting the minimum age for employment at 14 for all countries, or at 15, but 14 "where the law of the country of manufacture allows." While companies may intend this qualification to apply only to developing countries that meet the qualifications for the ILO exemption, a literal interpretation would suggest that 14 is an acceptable minimum age in all countries where the law permits.

Regarding discrimination, the ILO says there shall be no discrimination in access to employment, to particular occupations, training, conditions of employment, pay or benefits on the basis of race, colour, gender, religion, political opinion, national extraction or social origin.<sup>11</sup> Companies that qualify their commitment to non-discrimination often limit its application to illegal forms of discrimination.<sup>12</sup>

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<sup>9</sup> Core conventions of the International Labour Organization (ILO) include Conventions 29 and 105 on the Elimination of Forced and Compulsory Labour, Conventions 87 and 98 on Freedom of Association and the Right to Collective Bargaining, Conventions 100 and 111 on the Elimination of Discrimination, and Conventions 138 and 182 on the Abolition of Child Labour.

<sup>10</sup> ILO convention No. 138 provides that the minimum working age should not be less than the age for completing compulsory schooling and never less than 15. Developing countries may make certain exceptions to this, and a minimum age of 14 years may be applied where the economy and educational facilities are insufficiently developed.

<sup>11</sup> Convention 111 calls for the elimination of discrimination and the promotion of equality of opportunity and treatment. Convention 100 requires equal pay and benefits for men and women.

<sup>12</sup> In other words, discriminatory practices that are not explicitly prohibited by national law are deemed acceptable, even if they are in violation of ILO Conventions 100 and 111. Some companies qualify their commitment to non-discrimination by stating that they will "favour" suppliers that ensure there is no discrimination. In other words, they reserve the right to use suppliers that they know are employing or condoning discriminatory practices.

## Hours of work and living wage

Standards for hours of work for various occupations and workplaces are established by numerous ILO conventions. The general rule is that workers shall not be required to work more than 48 hours per week on a regular basis, that overtime hours shall be voluntary and restricted to 12 hours per week, and that workers are entitled to one day off in every seven-day period.

There is growing consensus on the need to include provisions in codes of conduct that provide for payment of a living wage. While a company should at minimum ensure that the legally-mandated minimum wages are being paid, without restriction, and that the prevailing industry wage in the area is being met, it should also commit to ensuring that the wage being paid is sufficient to meet the workers' basic needs by local standards.

## Stakeholder Engagement

The purpose of this section is to evaluate the extent to which a company reports actively engaging with key stakeholders, such as NGOs and unions, in importing countries and in the country of manufacture. We assessed reporting by companies in the following areas:

- Membership in multi-stakeholder initiatives, such as the Ethical Trading Initiative (ETI), the

Fair Labor Association (FLA), or Social Accountability International (SAI), and/or involvement in a comparable initiative that includes the active participation of both NGOs and labour.

- Engagement with NGOs and/or trade unions relating to labour standards in supply chains. Regular rather than ad-hoc engagement was viewed favourably, and engagement with worker and human rights organizations over time in the country of manufacture was viewed as best practice.


Our definition of a multi-stakeholder initiative should be clarified here. The initiatives we considered included representation from labour, NGOs and companies.<sup>13</sup> Those that do not include NGO or labour representation in decision-making bodies, such as the Worldwide Responsible Apparel Production certification program (WRAP) or the Business Social Compliance Initiative (BSCI), were not considered multi-stakeholder initiatives.

## Management

Without a commitment of material and managerial resources to achieving and maintaining compliance with a code of conduct, the code becomes little more than window dressing. Furthermore, without proper training for both factory management personnel and workers on the ground, the

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<sup>13</sup>The US-based Fair Labor Association (FLA) is a unique case. The FLA does include seats for labour and NGOs on its board of directors, but US labour organizations, while involved in the initial development of the initiative, have chosen not to be represented on the FLA board at this time because of their objections to some aspects of the FLA monitoring program. That said, there is evidence of substantial consultation with labour organizations and provisions in the FLA Bylaws for labour representation in FLA governance bodies. For those reasons, we have considered the FLA a multi-stakeholder initiative for the purposes of this study.



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application of the code becomes arbitrary and, in most cases, non-existent.

It is notable that amongst the compliance problems reported by the Fair Labor Association in its 2004 Annual Report, “code awareness was one of the leading issues uncovered by monitors... making up 7 percent of all reported non-compliance issues.” As the FLA report notes, “Workers’ awareness of code provisions is essential for their effective implementation on a daily basis.”<sup>14</sup> Where workers are not even aware of the existence or content of the code of conduct, its effectiveness is clearly limited.

We surveyed company reporting in the following criteria:

- Resource commitment: whether there is a senior manager whose primary responsibility includes labour standards in the supply chain and who is two or fewer reporting levels from the board.
- Training for buying agents: ongoing, scheduled training for buying agents on labour standards in the supply chain demonstrates a commitment to considering labour rights in business decisions.
- Training for factory management personnel and workers: ongoing, scheduled training for factory management personnel and factory workers on labour standards in the supply chain implies that the company is taking steps to ensure that workers are aware of their rights and able to address issues of non-

compliance. We consider ongoing, scheduled training for workers, in addition to training for factory management personnel, to be best practice in this area.

- Rewards and incentives linked to performance on labour standards: as with rewards for meeting or exceeding other performance targets, senior managers and purchasing staff should be rewarded for improving a company’s labour standards compliance.<sup>15</sup>

## Auditing and Reporting

This category rates the extent to which companies report having begun to audit for labour standards compliance within their supply chains, how auditing is planned, and how transparent the company is regarding audit findings and corrective action.

We surveyed company reporting in the following areas:

- Commitment to auditing labour standards in the supply chain: whether there is commitment to auditing labour standards across the entire breadth of the supply chain or just a portion of the supply chain.
- Status of the audit schedule: whether an auditing work plan has been scheduled and is currently being implemented.

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<sup>14</sup> <http://www.fairlabor.org/2004report/overview/awareness.html#breakdown>

<sup>15</sup> The Gradient Index does not currently give points to companies that provide incentives and rewards to suppliers for achieving and maintaining compliance with labour standards policies. ETAG will consider including such criteria in next year’s Report Card.

- Public disclosure of manufacturing sites: whether the company has publicly disclosed the names and addresses of all of the facilities producing its own branded goods and those of any subsidiary brands owned by the company, or only its own branded goods or a portion of the facilities.
- Transparency of the labour standards auditing methodology: whether the supply chain labour standards auditing methodology is publicly available.
- External verification: whether there is evidence of third party involvement in external verification of labour standards compliance, and whether there is systematic input from NGOs and/or labour in the country of supply in the process.<sup>16</sup>
- Reporting on audit findings: whether there is full and complete disclosure of audit findings and corrective action, including quantitative analysis of audit findings at the factory or supplier level.
- Dealing with non-compliance: whether there is a policy for handling instances of non-compliance with the code, and whether this policy includes a staged approach to dealing with code violations.<sup>17</sup>

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<sup>16</sup> As noted in Appendix C, ETAG has chosen to exclude questions concerning the qualifications or training of auditors, in part because such information is not readily available, but also because of the continuing debate in the field concerning the quality of audits currently being carried out by commercial social auditing firms. For more information on this issue, see "Looking for a quick fix: How weak social auditing is keeping workers in sweatshops," Clean Clothes Campaign, Nov 2005. This report is available at: [www.cleanclothes.org/publications/quick\\_fix.htm](http://www.cleanclothes.org/publications/quick_fix.htm)

<sup>17</sup> It is worth noting that the Gradient Index does not include criteria concerning worker and third party complaint processes or other mechanisms for worker participation in the monitoring or remediation processes. Nor are there criteria concerning worker access to audit reports. ETAG will consider including such criteria in future Report Cards.