

amfori Contribution to the Open Call for Input regarding the Working Group's Report on the Gender Lens to the UN Guiding Principles on Business and Human Rights

Brussels, 29 October 2018

Specific Questions

Question 1: In what ways do women experience the impact of business-related human rights abuses differently and disproportionately? Please provide concrete examples in the context of both generic and sector – or region – specific experiences of women.

- Discrimination: Female workers can be subject of specific abuses and discrimination that can take many different shapes and forms, such as:
 1. Violence and sexual harassment;
 2. Occupational segregation and limited to no opportunities to take on managerial positions compared to their male peers;
 3. Wage inequalities;
 4. Age discrimination due to family planning, this can particularly result in virginity tests, mandatory pregnancy test required by potential employers and subsequent disengagement in case the test is positive or unlawful termination due to pregnancy;
- Informal economy: The majority of economically active women in developing countries are engaged in the informal sector where the risk of exploitation increases due to a lack of visibility, regulation and protection of labour laws and social benefits such as pension, maternity leave, health insurance or paid sick leave. Work in the informal sector also increases the risk of lower wages and unsafe working conditions. A classical example are home-workers.

Question 7: What is the extent to which businesses currently apply a gender lens in conducting human rights due diligence, including social or environmental impact assessment?

amfori guides its participants (businesses enterprises) on how to avoid gender discrimination and enable a work environment where all workers, including women, can freely exercise their civil and labour rights. Upon joining amfori, businesses and their business partners abide to the amfori BSCI Code of Conduct and are expected to take an active role in:

- Early detection of gender-based discrimination in their supply chains;
- Proactively raise awareness of gender equality and provide necessary tools to create a working environment that promotes gender equality; and,
- Promoting solutions and continuous improvement whenever gender-based discrimination has been identified in their supply chain.

These efforts from the business community do not replace, but rather complement, all societal efforts, particularly legal reforms and education, needed to thrive in more equalitarian societies.

MAPPING OUT GENDER-BASED DISCRIMINATION

If amfori BSCI participants have identified gender equality as a distinct dimension of their sustainability strategy, they should map out their supply chain against the parameters below. This will define their priorities and allocate necessary resources toward extra vigilance on gender-based discrimination:

- **Geographic scope:** Unbalanced power dynamics and gender-based prejudice can manifest in different forms depending on the geographic region, depriving women from access to their civil and labour rights.
- **Exceptional crisis:** Migration and refugee corridors may have an impact in the regions where businesses source their goods. Over 50% of migrants worldwide are women, therefore business enterprises sourcing or based in those regions may have to address gender-based discrimination episodes on a scale previously unknown, due to the vulnerability faced by these women.
- **Production model** (e.g. home workers): Working from home, in many regions, represents a great opportunity for women to reconcile family responsibilities with income earning. At the same time, it can be used as a vehicle to perpetrate gender-based discrimination.
- **Specific sector:** Certain sectors, or production lines, have traditionally relied on women-based workforce. As a consequence, women can be pigeonholed into those role

SPECIFIC MONITORING MEASURES

Once businesses have performed a risk analysis and identified where there is a high likelihood of gender-based discrimination in their supply chains, they need to identify monitoring strategies to address the issue to early detect, monitor, and remediate possible gender-based discrimination which include to:

- **Use a Gender-Balanced Monitoring Team:** In addition to the necessary skills to identify subtle or endemic gender-based discrimination, the choice of a gender-balanced team may be more effective when it comes to conducting interviews (e.g. female workers may prefer talking to another woman about their working conditions and standards of living).
- **Pay Attention to Specific Areas Where Women may be Vulnerable:** No matter who conducts the monitoring, a third-party auditor or internal staff, certain areas have a higher likelihood of gender-based discrimination. Here are some examples of areas where special attention is required during monitoring:
 - **Occupational health and safety:** The producer should take into consideration a women's physiological needs, as well as specific gender-based health and safety risks (e.g. exposure to certain chemicals, pregnant women, new mothers).
 - **Recruitment practices:** Many recruiting practices can be a vehicle for gender-based discrimination. These practices can go from a completely draconian clause in labour contracts (e.g. compulsory virginity or pregnancy tests) to subtler discriminatory practices (e.g. lack of access to social security).

Particular attention is required for indirect recruitment, as gender-based discrimination may be done by brokers or recruiting agencies.

- **Infrastructure:** The way a business provides housing (e.g. separate accommodation for women and men), toilets, showers, or even appropriate diet in the canteen, may prevent women from receiving adequate protection and from being able to exercise their rights. Particular attention is to be given to workers' engagement and grievance mechanism access as a channel for women to articulate their demands and contribute to continuous improvement of the workplace.
- **Interconnect Performance Areas to Women's Working Conditions:** Importance needs to be given to a holistic approach to interconnect labour rights areas and potential violations that may directly or indirectly have an impact on women's working conditions and access to their rights. Notably, when assessing possible gender-based discrimination, in the framework of amfori BSCI audits, auditors will not potential discrimination but also assess (among others) the rights of freedom of association and collective bargaining, remuneration and potential precarious employment.

SPECIFIC REMEDY MEASURES

Remedy is the expected reaction from business enterprises if they have identified situations in their premises or supply chains that go against labour and/or human rights. The most common channels for capturing gender-based discrimination include:

- **amfori BSCI monitoring activities:** Auditors may identify procedures and practices that represent a gender-based discrimination and/or prevent women from exercising their rights. These findings, which relate to the evaluation against the amfori BSCI Code of Conduct, will trigger the need for a Remediation Plan. In these cases, the producer will lead the remediation process (starting by a root cause analysis) and the amfori BSCI linked participants will support and monitor the improvement process.
- **Zero Tolerance Protocol:** Human rights flagrant violations and business behaviour that may endanger the independence of the audit are to be reported following this protocol. In all five zero tolerance alert grounds (including forced labour, child labour, inhumane treatment, occupational health and safety, unethical behavior), any possible particularity related to gender-based discrimination should be described by the auditor (e.g. Sumangali scheme qualifies as forced labour with a gender component).
- **Grievance mechanisms:** Operational grievance mechanisms or workers' surveys can reveal gender-based discrimination in the supply chain of amfori BSCI participants. As grievance mechanisms only capture allegations from one side, this will require independent investigation and possible mediation towards remedy. It furthermore needs to be ensured that the type of grievance mechanism does not prevent women from raising complainants (e.g. if a factory only provides the management or supervisor level as a grievance channel to which potential sexual harassment cases are meant to be raised which poses a conflict of interest).

Once the issue(s) have been identified, the amfori BSCI system offers its participants two remedy approaches:

- **Individual remediation:** In this case the amfori BSCI participant (usually the RSP holder) will request that the concerned producer take the necessary remedial actions in an agreed time period. The amfori BSCI participant may assign through the amfori Academy specific capacity building courses aimed at supporting the producer in its

remediation efforts. Eventually, these efforts are verified in an amfori BSCI follow-up audit.

- **Collective remediation:** In this case the amfori BSCI linked participants join forces to support the concerned producer remediation path. This collective remediation can be facilitated by the amfori Secretariat or it can be organized among the concerned linked participants without amfori Secretariat participation.

In both cases, the use of a generic or tailor-made training may make a significant difference in the success of the remedy as a shift in the mind-set to enable working practices that stimulate gender equality.

SPECIFIC CAPACITY BUILDING

Here are some examples of capacity-building training to avoid gender-based discrimination in the workplace:

Capacity-Building Training Content	Target Audience
Determine if gender-based discrimination is an issue in the supply chain	Management, human resources, supervisors
Draft and put in practice procedures to avoid gender-based discrimination	Human resources, supervisors
Create a human resources management role with a focus on gender equality	Human resources, top management

SUCCESS INDICATORS AND REPORTING

amfori BSCI participants may set specific goals, targets and success indicators to promote gender equality in their supply chains.

By defining specific targets and related success indicators, amfori BSCI participants are in a better position to:

- Communicate their gender equality agenda among their staff and business partners
- Allocate necessary budget and human resources to reach their targets
- Communicate their commitment and progress to both internal and external stakeholders

Question 9:What is the role of businesses in dealing with domestic laws, policies and societal practices which are discriminatory to women?

It is the obligation of businesses enterprises to obey the law, both the law that governs its headquarters as well as the domestic law of countries where they operate and/or source.

The amfori BSCI Code reflects universally-accepted international conventions, which most countries have already integrated into legislation. In case of contradiction between the domestic law of the sourcing country and the amfori BSCI Code of Conduct, the stipulation that provides the highest protection to workers and the environment prevails. However, this needs to be pondered with a good understanding of the local context and possible constraints.

Business enterprises must be vigilant to avoid pushing their business partners into the dilemma of breaching of their domestic law to satisfy customer's demands.

It is recommended for business enterprises to have a constructive dialogue that can be taken as an opportunity to assess and define together with business partners:

- the constraints faced when trying to implement the amfori BSCI Code of Conduct
- best ways to protect workers without contravening the domestic law

Question 14: Please provide any additional comments, suggestions or information which you think may be relevant for the Working Group's forthcoming report on the gender lens to the UNGPs.

amfori and human rights

- The amfori Business Social Compliance Initiative (now amfori BSCI) is a due diligence system that helps companies drive social compliance improvements within factories and farms in their global supply chains.
- amfori BSCI is based on a Code of Conduct that reflects international labour standards protecting workers' rights, such as the ILO conventions and declarations, the UN Guiding Principles on Business and Human Rights and guidelines for multinational enterprises of the OECD.
- amfori BSCI represents 2,300+ companies among retailers, importers, brand companies and associations and supports them in the implementation of their due diligence strategy which includes supply chain mapping and risk detection, monitoring, remedy and capacity building to improve social performance
- To facilitate the implementation of the amfori BSCI Code of Conduct, we develop – with the input of members and stakeholders – a broad range of robust tools and activities to audit, train, share information and influence key actors towards improving labour conditions.
- For the long-term, our customised guidelines, projects and training provide our members and their producers the tools to identify, prevent and remediate labour abuses in their supply chains.
- Immediate reaction on human rights violations is ensured through mechanisms such as the Zero Tolerance Protocol and External Grievance Mechanism which help amfori members address severe labour and human rights violations.
- amfori helps members pre-empt supply chain risks through the Country Due Diligence Tool. Working across complex, global supply chains can make conducting due diligence a challenge. Our Country Due Diligence Tool helps determine the level of risk related to a country's governance and gives an overview of its trade and sustainability situation.

amfori's Women Empowerment Programme

In 2017, amfori integrated a gender-lens into its amfori BSCI System Manual to promote gender-equality in companies' due diligence processes.

Over the past year, we have also developed a number of partnerships that culminated in our Women's Empowerment Programme, which aims to:

- Facilitate a shift in mindset regarding women at work;

- Bring about tangible behavioural change towards eradicating sexual abuse and violence against women in the workplace; and
- Increase career prospects for women and provide them with training for positions beyond the factory floor level.

The programme currently consists of two projects and one research partnership:

India

In India, we signed an agreement with the Confederation of Indian Industry (CII) to initiate a one-year project to reduce workplace violence. The project will focus on improving workers' and supervisors' awareness of labour rights and grievance mechanisms, with a focus on sexual harassment. The project envisages general awareness raising activities on legislative requirements as stipulated by the 'Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act (2013) and the 'Maternity Benefit (Amendment) Act (2017)'.

Bangladesh

In Bangladesh, we're partnering with CSR Centre and DBL Group to train management and female factory workers in six amfori BSCI factories across Dhaka and Chittagong. The two-and-a-half-year project, titled the Shobola Project, will train female workers, empowering them to advance their careers beyond the factory floor, and raise awareness among managers and workers on gender-related issues, sexual harassment and discrimination.

China

In China, we have partnered with International Organization for Migration (IOM) to conduct a research project in order to understand the situation and needs of female migrant workers. Internal female migrant workers in China face a range of vulnerabilities and challenges, from human trafficking to labour exploitation. The challenges also encompass limited or lack of access to parental leave and child care, medical and health services and occupational health and safety, legal assistance and work-life balance.

The publication of the report is planned for December 2018.