

## Human rights and HRDD in Fairtrade standards

Submission to Standards Committee

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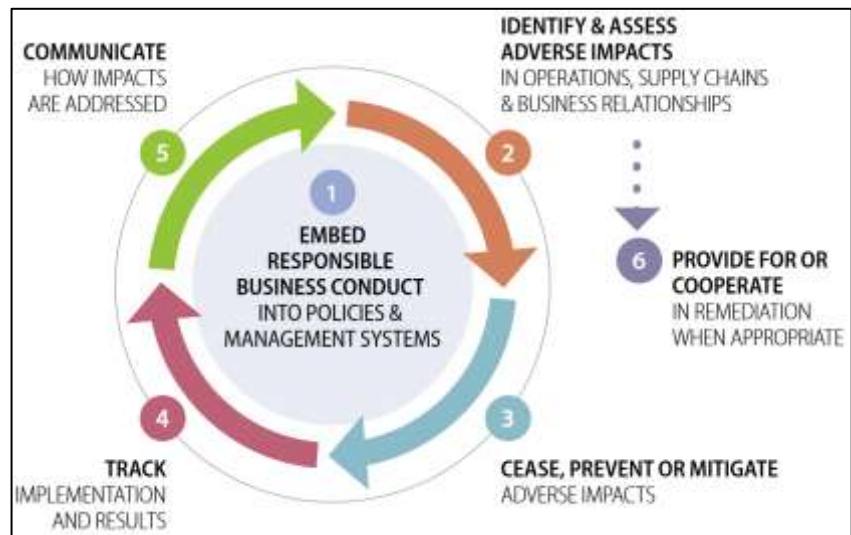
### What is HRDD?

Companies have the responsibility to respect human rights in their operations and supply chains. This global consensus was established in the UN Guiding Principles on Business and Human Rights (**UNGPs**, 2011) and has since been included in the OECD Guidelines for Multinational Enterprises.

In practice, companies are expected to establish an ongoing process of human rights due diligence (**HRDD**) that entails identifying, mitigating, tracking and communicating the most serious human rights breaches their business causes, contributes to or is linked to.

Examples of adverse human rights impacts in supply chains:

- farmer's right to decent standard of living is violated, when the farmer does not earn living incomes
- worker's right to health is violated, when the worker needs to handle hazardous materials without protective equipment
- rights of a child are violated, when the child does work that harms her/his schooling or health



*Pic 1. The HRDD process. Source: OECD Due Diligence Guidance*

### Gaining Ground

HRDD is gaining ground rapidly. HRDD is required from companies in several sectoral EU Directives and related national laws are in effect in France, Netherlands, the UK and Australia

Further, **the EU** is preparing to table a regulatory proposal next year, to make HRDD and environmental DD mandatory for (at least large) companies that operate in Europe. An increasing number of large companies are calling for EU-wide binding HRDD regulation, as they wish to avoid a jigsaw puzzle of different national laws.

Civil society campaigns in favour of HRDD legislation are strong at the European level and also at national level in e.g. Switzerland, Germany, Finland, Sweden, Luxembourg and the UK.

**Rainforest Alliance** is making itself a stronger HRDD partner for companies, by incorporating several risk assessment requirements in its standards. **ISEAL** has brought out HRDD guidance for sustainability standards.

### Opportunities and Risks

The global consensus that business must respect human rights is **paradigm changing**:

- It's no longer completely voluntary for companies to consider the external social costs of their operations and supply chains.
- External costs also cannot be offset through unrelated philanthropic projects.

- HRDD guidance from the UN and OECD strongly call for companies to abandon cut-and-run tactics and engage in enduring collaboration with their suppliers.
- Further, guidance call for companies to abandon top-down approaches and have direct dialogue with workers, farmers and other rightsholders – or at least with credible experts like NGOs.

This all is **promising** for farmers and workers.

However, there's a need for Fairtrade to show and do advocacy work on what "fair" HRDD looks like. If companies interpret the HRDD approach in narrow, top-down terms, it will bring no positive change in trading practices or pricing, while raising the transparency and compliance requirements on SPOs and HLs.

Fairtrade also needs to clarify and strengthen our HRDD related **offer to business**. Our certification, producer support and programmes mitigate many human rights violations in our license holders' supply chains (step 3 in HRDD process) – but few of our stakeholders recognize that Fairtrade is a valuable HRDD tool and partner for our companies. Some NGOs even speak about HRDD making Fairtrade redundant.

Further, standard systems are expected to do HRDD themselves. This is shown by the decisions of the UK and Swiss OECD National Contact Points to accept complaints against the palm oil certifier RSPO and sugar certifier Bonsucro for further consideration. These two cases establish a firm precedent that standard systems are covered by the OECD Guidelines for Multinational Enterprises, which include the responsibility to do HRDD. Thus, **we need to take the HRDD approach into consideration when developing our policies, processes and standards, in order to avert criticism and legal liability.**

### HRDD work at Fairtrade

In March 2019, FI Board gave a formal mandate to Fairtrade's HRDD working group to develop a systemwide approach to HRDD, specifying three tasks:

- A. developing Human Rights Commitment that affirms Fairtrade's commitment to the UN Guiding Principles on Business and Human Rights (UNGPs) and HRDD in principle;
- B. proposing an 'HRDD process of our own'; and
- C. developing an Offer to Business.

In addition, the WG is working to develop Fairtrade's position on HRDD (for political advocacy work).

In October 2019, the CEO Forum decided that HRDD is to be incorporate into Fairtrade's next strategy. Draft 1 of Fairtrade's new strategy suggests we

- develop 'certification +' services to support commercial partners in meeting HRDD compliance requirements in sourcing;
- build the capacity of POs to respond to HRDD requirements;
- advocate for the inclusion of LI/LW and fairer trading practices in HRDD laws and guidelines.

Further, on 23 June 2020, FI Board approved a Human Rights Commitment for Fairtrade (attached).

### Human rights and HRDD in Fairtrade standards

In this context, it is necessary to scrutinize how well Fairtrade standards advance human rights and HRDD.

Internationally recognized **human rights** are many<sup>1</sup>, so we need to decide which human rights issues Fairtrade focuses on. The UNGP guide organizations to focus on the human rights that are most violated in their operations or value chains. Our Human Rights Commitment notes that "the salient human rights issues, which our efforts to mitigate, prevent, cease and remediate chiefly focus on, include

- living wages and living incomes
- child labour, forced labour and gender-based violence

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<sup>1</sup> The UNGP notes that business can influence all human rights: Economic, Social and Cultural Rights; Civil and Political Rights; and Rights of vulnerable groups. Further, it's increasingly recognized that human beings also have Environmental Rights, i.e. a right to safe, healthy and stable environment.

- discrimination based on gender, ethnic origin or other status
- freedom of association and unionization
- conditions of work
- environmental rights”

This focus will be revised through a systematic Human Rights Mapping exercise in 2021.

In addition to advancing the salient human rights, Fairtrade standards should encourage certified entities to do **HRDD** as well as collaborate with and contribute to HRDD by other supply chain actors. For example, traders need to increasingly co-invest in human rights monitoring and remediation systems, while PO’s need to offer increasing information about their human rights challenges and progress.

Questions related to each step of the HRDD cycle:

1. **Embeddedness**: Could each Fairtrade standard include a Guidance note informing certified entities that HRDD (and Environmental DD) is becoming more and more common and briefly explaining what that entails? Could traders and license holders be encouraged/required to do HRDD?
2. **Risk assessment**: SPOs are required to assess their human rights and environmental risks (SPO 3.1.2-3), so should HLOs and traders be required to do the same? Who should the assessments be shared with and how, in order to encourage as earnest risk identification as possible?
3. **Addressing of risks**: How can we effectively encourage traders to increasingly co-invest in human rights work (e.g. child labour monitoring and remediation systems) at POs? Are there avenues to strengthen the criteria related to our salient human rights issues?
4. **Tracking progress**: SPOs are required to monitor and assess the human rights and environmental performance and compliance of their members (SPO 3.1.4-5), so should HLOs and traders be required to do the same? Who are the assessments shared with and how, is earnest assessments encouraged?
5. **Communication**: Could POs and traders be supported/required to communicate about their human rights and environmental work to Fairtrade and other supply chain actors through a reporting template? Akin to the reporting template for production indicators in [the sugar standard](#) (pages 12-16).
6. **Remediation and grievance mechanism**: HLOs are required to have grievance procedures in place (HL 3.5.27, 3.1.7), but could SPOs and traders be required to do the same? Could guidance be given on how to organize these procedures in a human rights-based manner? Could we require public reporting about the number of, key issues raised in and the progress in solving the grievances?

How can we effectively encourage traders to increasingly co-invest in child and forced labour monitoring and remediation systems at POs? NOTE: At least in cocoa, we must achieve rapid uptake of decent child and forced labour monitoring and remediation systems – otherwise large chocolate companies’ own standards appear stronger than ours.

7. **Rightsholder engagement**: Could workers become co-owners of HLO certification? Could HLOs be required to establish compliance committees, as suggested in the Tea standard review? Are there avenues for extending consultations with the members of the local community, whose health, access to land & water and other rights may be affected by the operations of the PO? Could standards encourage dialogue with legitimate organizations that represent rightsholders, including trade unions and farmers unions?

## Trader and cocoa standards

The HRDD WG finds the **trader** standard review particularly urgent, in order to

- strengthen producers’ position: Trader standard should hinder cut-and-run and propose a co-investment model for brand companies, traders and POs to jointly finance human rights work.
- strengthen Fairtrade’s impact on human and environmental rights violations in supply chains *after* the farm level. This could help us maintain and attract corporate partners, because companies are

looking for partners who can, in line with the UNGP, mitigate human rights risks in whole supply chains.

- reduce the risk of criticism and litigation towards Fairtrade: It would be advisable to require large licensees to do HRDD. Where our license holders infringe on human rights, we are linked to the infringement and must seek to end it. So it's in our interest to encourage our license holders to at least regularly map their human rights impacts and seek ways to mitigate them.

The **cocoa** standard is also important from HRDD perspective, because

- In West African cocoa production areas farmers' incomes are low, child labour prevalent and deforestation fast.
- Many large cocoa and chocolate companies – and the Rainforest Alliance – have significantly stepped up their HRDD measures.
- The VOICE network is monitoring our progress closely.