

SAMPLE POLICY

Guidelines for Supply Chain

DISCLAIMER

This sample policy is not legal advice or a substitute for consultation with knowledgeable and qualified legal counsel.

Baker McKenzie assumes no responsibility or liability for the contents of this generic policy, the only purpose of which is to illustrate some of the issues pertaining to developing Supply Chain Policies in the U.S.

Relevant laws may vary based on jurisdiction. Federal, state, and/or local law may apply depending on the location of the company, its operations, and its employees. While these laws are often similar, their differences can be material. The following sample policy does not account for the differences in applicable federal, state, and/or local law. This sample policy also does not account for changes in legislation, judicial and administrative precedent, or other developments and/or interpretations of applicable law.

In particular, multinational organizations with operations in multiple countries must consider the impact of local law and conflicts of laws on the drafting of any such polic(ies) as well as how they will lawfully implement the polic(ies) throughout the group, without creating potential exposure for the parent company. Transparency in supply chains legislation does not apply to all entities in all countries at the same thresholds and usually requires an entity level analysis. Further, public or listed companies may have overlapping requirements and the extent to which hotline mechanisms may be used to address supplier issues is limited in some jurisdictions.

Additionally, what are considered "best practices" for Company A may not be "best practices" for Company B. To be effective, a Supply Chain Policy should not be a "cookie cutter" or a "one size fits all" policy. It should be tailored to the organization, and account for the company's specific workforce, operations, and industry.

THIS SAMPLE POLICY SHOULD NOT BE RELIED ON OR IMPLEMENTED AS A LEGALLY-COMPLIANT POLICY WITHOUT CONSULTATION FROM LEGAL COUNSEL.

GUIDELINES FOR DEVELOPING A SUPPLY CHAIN POLICY: QUESTIONS TO CONSIDER

What do we know about our own supply chain?

The organization's supply chain strategy should begin with an assessment of the depth and breadth of its supply chain. The organization should attempt to map the levels or tiers of its supply chain, the location of each supplier and sub-supplier, and each supplier or sub-supplier's contribution to the organization's product or service.

What do we know about our position in the supply chains of other organizations?

The organization's products or services may form part of another organization's supply chain, rather than being distributed directly to an end user. Where that is the case, it is helpful to understand the organization's role within the larger supply chain, as well as any obligations or complexities that may arise as a result of the relationship (e.g., any legislative or regulatory obligations that affect the organization through its buyer, any supplier codes of conduct or contractual requirements agreed to between the organization and its buyer, etc.).

What issues could be addressed in the policy?

There are an ever-growing number of international instruments, voluntary initiatives, and industry standards related to issues that may be affected by the organization's supply chain, including human and labour rights, anti-corruption, and environmental protection. While it may not be possible for the organization's policy to address each one of the issues raised by these instruments, initiatives, and standards, it is important that the organization becomes aware of the issues that may exist.

At a minimum, the organization should consider the rights raised by the International Bill of Rights (i.e., the Universal Declaration of Human Rights; the International Covenant on Civil and Political Rights; and the International Covenant on Economic, Social and Cultural Rights), as well as the International Labour Organization's Declaration on Fundamental Principles and Rights at Work, including the eight key Conventions on which the Declaration is based.

The organization should also consider: (i) any statutory requirements that might apply to its activities; (ii) any relevant industry initiatives or standards, regardless of whether the organization is a participant; (iii) other well-known initiatives or standards that consolidate prevailing corporate social responsibility or supply chain principles, such as the United Nations Global Compact or the United Nations Guiding Principles on Business and Human Rights, regardless of whether the organization is a participant; and (iv) any issues that are required to be considered as part of a supplier code of conduct or procurement contract between the organization and its buyers.

Are there any existing policies and procedures that address these issues?

The organization may choose to create a stand-alone supply chain policy, to embed its supply chain policy into a more integrated set of policies or to publish a stand-alone statement that refers to existing policies and procedures. These existing policies and procedures may address topics such as workplace discrimination and harassment, working standards, procurement standards, supplier codes of conduct, whistleblower protections, sustainability, etc.

Understanding the policies and procedures that already exist will assist the organization in determining its key priorities, identifying major gaps, and assessing whether existing policies and procedures require updating. It will also assist the organization in identifying the departments that may be most directly involved in supplier-related activities (e.g., Procurement), as well as those that should be involved in discussions regarding the development, implementation, and monitoring of a supply chain policy (e.g., Legal, Compliance, Human Resources, etc.).

What major risk factors affect our organization's activities at home and abroad?

In determining which issues will be addressed or emphasized in the policy, it will be important for the organization to have a firm understanding of its major risk factors. Such risk factors may relate to business context/operational risks (e.g., the number and location of its suppliers, the extent to which subcontractors or sub-tier suppliers are engaged or specific risks related to the organization's industry), relationship risks (e.g., suppliers, consultants or agents), workforce risks (e.g., the proportion of unskilled labour within the organization's supply chain) or public policy risks (e.g., the impact that the organization might have on the legislative and regulatory context in which it operates).

In addition to considering the societal risks that arise out of the organization's supply chain (i.e., risks to human and labour rights, governance and the rule of law, and the environment), the organization should also keep in mind the extent to which negative events along the supply chain may impede its ability to do business in a sustainable manner. To the extent possible, these risks should be assessed at all stages of the organization's supply chain.

Having identified these risk factors, the organization should strive to mitigate or remediate the most pressing risks that arise as a result of its activities.

What is a reasonable scope for our organization's supply chain policy?

Having assessed the depth and breadth of its supply chain, the organization may conclude that it is not feasible to effectively monitor and engage all of its suppliers, subcontractors, and sub-tier suppliers. Therefore, the organization may choose to focus on a defined number of tiers within its supply chain, on high-risk jurisdictions or inputs/stages and/or on strategic suppliers. The designation of a "strategic" supplier may be based on factors such as the amount of products or services purchased from a supplier, the number of subcontractors and sub-tier suppliers engaged by the supplier or the prominence of a supplier within its own industry.

Over time, the organization should strive to broaden the scope of its supply chain policy, without sacrificing effectiveness or expectations.

What is our organization currently doing to address the major risk factors, within the identified scope?

While a supply chain policy serves as a public commitment to protect, respect, and promote human and labour rights, as well as to take steps to facilitate anti-corruption and environmental protection efforts, it is also an opportunity to highlight the steps that the organization has already taken to become a "good corporate citizen". These actions may include exercising influence on suppliers, engaging in capacity-building efforts, participating in and contributing to learning and "best practices" exchanges within the organization's industry, partnering with peers in the business community to lobby for positive legislative or regulatory changes, engaging in meaningful dialogue with a variety of stakeholders or creating meaningful avenues of complaint and redress for individuals and communities that might be harmed by the organization's activities.

Once the organization has a sense of what is already being done to address major risk factors, it can determine what still needs to be done (or done better).

Once the policy in place, what will be done to implement and monitor our suppliers' adherence to the policy and its underlying principles?

Although developing a supply chain policy is a good business practice, it is equally important to ensure that the policy is followed, assessed, and updated on a regular basis. In doing so, the organization must consider what actions will be expected from its suppliers, how it will communicate and evaluate fulfillment of those expectations, and what level of assistance it will offer to build the capacity of those suppliers or sub-suppliers who may struggle to meet the organization's demands.

Additionally, the organization should consider what steps it will take to remedy any violations that may arise, including the protections that will be offered to internal and external whistleblowers. A "zero tolerance" approach to all issues for all suppliers and sub-suppliers may not always be appropriate or feasible. Instead, the organization may wish to consider the implementation of action plans, sharing of "best practices", and other corrective techniques, while reserving the right to terminate supplier relationships following serious violations of "zero tolerance" requirements or repeated violations of other requirements.

Finally, the implementation of the organization's supply chain policy may also necessitate revisions or updates to other policies and procedures, to ensure a consistent approach throughout the organization.

SAMPLE TEXT:

XYZ Inc. Supply Chain Policy

1. Introduction
 - i. At XYZ Inc., we believe that our business can only succeed where the human rights of those workers involved in the value chain of our business are protected and respected. We firmly support the United Nations Guiding Principles on Business and Human Rights (the Guiding Principles), in particular the responsibility of business to respect human rights and to understand and mitigate any adverse impacts.
 - ii. Our work in this area is overseen by XYZ Inc.'s Chief Executive Officer, supported by the Chief Supply Chain Officer, and Chief Human Resources Officer.
 - iii. XYZ Inc. must always strive to conduct our operations with honesty, integrity and openness, and with respect for the human rights and interests of our employees.

2. Policy

- i. In line with the Guiding Principles, we base our human rights policy commitment on the International Bill of Human Rights (consisting of the Universal Declaration of Human Rights, the International Covenant on Civil and Political Rights and the International Covenant on Economic, Social and Cultural Rights) and the principles concerning fundamental rights set out in the International Labour Organization's Declaration on Fundamental Principles and Rights at Work. We also follow the OECD Guidelines for Multinational Enterprises. We are committed to respecting all internationally recognised human rights as relevant to our operations.
- ii. Our principle is that where national law and international human rights standards differ, we will follow the higher standard; where they are in conflict, we will adhere to national law, while seeking ways to respect international human rights to the greatest extent possible.
- iii. In our business dealings we expect our partners to adhere to business principles consistent with our own. We prohibit discrimination, forced, trafficked and child labour and are committed to safe and healthy working conditions and the dignity of the individual. Also the right to freedom of association and collective bargaining and effective information and consultation procedures.
- iv. We are committed to environmental sustainability and community engagement. See XYZ Inc. Sustainability Policy.
- v. We prohibit any and all forms of bribery, corruption, extortion or embezzlement and there are adequate procedures in place to prevent bribery in all commercial dealings. See XYZ Inc. Anti-Corruption Policy.
- vi. We will only work with suppliers who implement and agree to abide by our Supplier Code of Conduct. They must agree to ensure transparency, to remedy any shortcomings, and to drive continuous improvement.

3. Monitoring, Remediating & Reporting

- i. We are committed to monitoring our suppliers' adherence to our policies. We recognise that we must take steps to identify and address any actual or potential adverse impacts with which we may be involved, whether directly or indirectly, through our own activities or our business relationships. We manage these risks by integrating the responses to our due diligence into our policies and internal systems, acting on the findings, tracking our actions, and communicating with our stakeholders about how we address impacts.
- ii. We recognize our responsibility to engage with our business partners to address and remedy adverse impacts and seek to build their capacity to respect human rights through training and engagement. To help address the most complex and pressing human rights challenges we also partner with our peers in collaborative forums such as the UN Global Compact.
- iii. We will track and publicly report on progress relevant on an annual basis. We are committed to regularly reviewing and improving our practices. Where required, we will publish statements under relevant national supply chains transparency legislation, including the California Transparency in Supply Chains Act and the UK Modern Slavery Act.

- iv. We are committed to ensuring there are effective remedies available wherever adverse human rights impacts occur through our Grievance Mechanism. We continue to build the awareness and knowledge of our employees and workers on human rights, including labour rights, encouraging them to freely speak up about any concerns they may have, including through our grievance channels. We are committed to continue increasing the capacity of our management to effectively identify and respond to concerns. We also promote the provision of effective grievance mechanisms by our suppliers.
- v. The XYZ Inc. Hotline is available for employees to raise concerns about potential violations of our policies and values. Any concerns are addressed using a robust internal process, and we regularly update our policies and practices based on our findings.
- vi. The reputation of XYZ Inc. is built on trust and respect. Our employees and those who do business with us around the world know we are committed to earning their trust with a set of values that represent the highest standards of quality, integrity, excellence, compliance with the law, and respect for human rights and the unique customs and cultures in communities where we operate.

[SIGNED]

[NAME], CEO, XYZ Inc.

ABOUT NAVEX GLOBAL

NAVEX Global's comprehensive suite of ethics and compliance software, content and services helps organizations protect their people, reputation and bottom line. Trusted by 95 of the FORTUNE 100 and more than 12,500 clients, our solutions are informed by the largest ethics and compliance community in the world.