

# Annex 5: How to Follow the Zero Tolerance Protocol

This annex of the [amfori BSCI System Manual](#) guides amfori BSCI participants and auditors on how to proceed in case zero tolerance issues are identified in an amfori BSCI audit.

The Zero Tolerance Protocol supersedes the regular audit process. It must be followed by the auditor, the auditing company's scheme managers, the amfori Secretariat, and amfori BSCI participants.

## POSSIBLE ZERO TOLERANCE SITUATIONS

Human rights violations and business behaviour that may endanger the independence of the audit are to be distinguished from regular social performance findings and may qualify as possible zero tolerance cases:

### Child Labour

- Workers who are younger than 15 years old (or the legal minimum age defined by the country)
- Workers younger than 18 who are subjected to forced labour

### Bonded Labour

- Not allowing workers to leave the workplace or forcing them to work overtime against their will
- Using violence or the threat of violence to intimidate workers to force them to work

### Inhumane Treatment

- Inhumane or degrading treatment, corporal punishment (including sexual violence), mental or physical coercion, and/or verbal abuse

### Occupational Health and Safety

- Occupational health and safety violations that pose an imminent and critical threat to workers' health, safety, and/or lives

### Unethical Behaviour

- Attempted bribery of auditors
- Intentional misrepresentation in the supply chain (e.g. hiding production sites, lacking a business licence, and purposefully under-declaring the size of the workforce)

## AUDITORS' PROFESSIONAL JUDGEMENT

It is the auditor who, using his/her professional judgement, will need to:

- Ponder the level of severity of the finding
- Decide to trigger a process towards immediate remediation (Zero Tolerance Protocol) or report the finding under the specific social performance area

Here are some elements auditors can use to develop their judgement:

**Assessment of the severity:** The situation must be:

- **Flagrant:** It is obvious and serious regardless if it is one-time or a recurrent violation.
- **Factual and proven** at the time of the audit: The breach is tangible, not hypothetical, and as proven as possible with documentary evidence.

Interviews may be the only source of information in the case of discrimination, incidents of violence, sexual harassment, or illegal disciplinary measures.

If this is the case, the auditor should be extremely vigilant in identifying the best way to:

- Capture information from interviews (e.g. auditors' team may include a female auditor to make communicating with female sexual harassment victims easier)
- Report the findings with full respect for the victims' identities and honour. Victims' identities must only be disclosed to the amfori Secretariat.

**Precautionary principle:** There may be situations where auditors are confronted with flagrant breaches or behaviours that weren't able to be proven at the time of the audit. There may also be cases of serious suspicion of child labour, bonded labour, and inhumane treatment that the auditor cannot prove.

In these cases, practical wisdom and the precautionary principle will help auditors decide whether to trigger the alert for the sake of protecting possible (but unproven) victims, despite the letter of the protocol.

If the auditor decides to use the precautionary principle, the auditor will:

- Undertake his/her best efforts to investigate the issue
- Follow the Zero Tolerance Protocol even in the absence of compelling evidence
- Clearly mention in the alert that he/she is using the precautionary principle

**Responsible alert:** Taking all these elements into consideration, the auditor may make the decision to trigger a zero tolerance alert, which must be as descriptive as possible of:

- The identified human rights violation and/or unacceptable business behaviour that compromised the independence of the audit
- The reasoning process followed by the auditor to judge the severity of the situation and the need for immediate remediation

**Practical wisdom:** A wise auditor will be able to know how to:

- Do the right thing to achieve the intention of the amfori BSCI audit
- Improvise, balancing conflicting intentions, rules, and the particularities of each context
- Read a social context, so he/she moves beyond the black-and-white of rules and sees the grey in a situation
- Take on the perspective of another and thus understand how the other person may feel
- Make emotion and intuition allies of reason, without distorting his/her judgement

Practical wisdom will also help auditors to be brave and seek the best option available to protect:

- Possible victims
- Their own integrity
- amfori BSCI system credibility

# PROTOCOL FOR THE AUDITOR

## Step 1: Due Diligence

**Collect evidence:** The auditor must collect as many facts and as much evidence as possible to illustrate the identified zero tolerance issue (e.g. pictures taken and workers' testimonies).

**Protect victims:** If relevant, auditors should make efforts to inform the victims of their options to seek assistance and to provide referral information to them. Victims should never be exposed to further danger or vulnerability because of auditors' actions or omissions.

**Reassess audit time:** The auditor shall use his/her practical wisdom to reassess the best way to maximize the audit time available to:

- Collect as much evidence as possible
- Ensure the victim(s) are protected and in a known and traceable location

This reassessment may demonstrate that the auditor prioritises gathering evidence and protection of victims over finalisation of the regular audit report.

## Step 2: 24 Hours Notification

Within 24 hours of the detection of the zero tolerance issue, the auditor must trigger the alert through the amfori BSCI platform to give notification of his/her professional judgement and collected evidence to:

- The amfori Secretariat
- All linked amfori BSCI participants

In some cases, the auditor may have already communicated the issue to the amfori BSCI scheme manager at the auditing company to:

- Seek advice
- Request that the scheme manager trigger a zero tolerance alert through the amfori BSCI platform on his/her behalf

In such cases, the auditor must provide the scheme manager with all relevant information so the zero tolerance notification is in line with the requirements of this document.

**IMPORTANT:** The zero tolerance alert can only be triggered through the amfori BSCI platform, which is programmed to generate incidental disclosure and related consequences within the amfori BSCI system.

Not using this channel is a breach of the auditing companies' obligation to respect amfori BSCI system requirements and may initiate actions from the amfori Secretariat to protect the integrity of the amfori BSCI system.

Information provided through the zero tolerance alert must be treated as confidential by all parties involved (e.g. amfori Secretariat, amfori BSCI participants, and auditing companies) to protect potential victims.

## Step 3: Reporting

Auditors will need to make themselves available to the amfori Secretariat for any further clarification needed in preparation of the zero tolerance conference call. This includes:

- Additional information on the victim's identity and details on the issue
- Additional clarification on the professional judgement or use of the precautionary principle

- **The audit report:** Due to the urgency of the issue, this report must be uploaded in the amfori BSCI platform within 5 working days from the alert. It is labelled as zero tolerance, so the audit rating remains unrevealed.

## PROTOCOL FOR THE AMFORI SECRETARIAT

### Step 1: 48 hours Due Diligence

Within the 48 hours following the zero tolerance alert the Strategic Programmes Department will carry out the necessary steps to prepare an ad-hoc conference call with concerned amfori BSCI participants linked to the audit.

These actions include cross verification with the following amfori departments:

#### Auditing Department

- The auditor's collected facts and evidence to validate the reliability
- The auditor's training and level of competence
- Any previous allegations/complaints regarding either the auditor's or the producer's behaviour
- Any additional information or supporting documents

#### Communications Department

- Media monitoring to assess if the case may be directly or indirectly related to ongoing news

#### Stakeholder Engagement Department

- The amfori BSCI local stakeholders' network that could support addressing the specific issue(s)
- The amfori BSCI regional network's ability to support further investigation and/or remediation

### Step 2: 72 Hours Conference Call Coordination

Within the 72 hours following the alert the Strategic Programmes Department should facilitate:

- A conference call with all linked amfori BSCI participants
- Agreement among the amfori BSCI participants on the qualification of the case as zero tolerance and a strategic decision on:
  - The use of the zero tolerance label
  - The timing and need for scheduling a zero tolerance investigation
  - The timing and need for scheduling an amfori BSCI audit (e.g. full audit or follow-up audit with limited extent)
- Definition of investigation and remediation steps
- A summary of the decision made by the ad-hoc remediation group which may include:
  - Link to relevant producer trainings offered in the [amfori Academy](#)
  - Link to the [Remediation Plan template](#) so participants can provide it to the producer and request it be uploaded on the amfori BSCI platform
  - Information on additional engagement with local stakeholders and the amfori BSCI regional network (when relevant)
- A summary of feedback to be given to the auditing company that triggered the zero tolerance alert

### Step 3: Follow-up and Communication

The Strategic Programmes Department may organise an additional follow-up conference with the amfori BSCI participants linked to the relevant producer when it's necessary to follow up on the success of the immediate remediation (e.g. during the 10 days of incidental disclosure).

Ten days after the zero-tolerance alert, the Strategic Programmes Department will communicate to the concerned auditing company, and when needed to the specific auditor, on the learnings from the ad-hoc remediation (e.g. the zero tolerance label has been removed).

Furthermore, three (3) months after the alert was triggered, the Strategic Programmes Department should organise a follow-up conference with the amfori BSCI participants that were linked to the producer at the time of the zero tolerance alert to:

- Verify that the agreed upon Remediation Plan has been implemented in a satisfactory way
- Maintain or remove the zero tolerance label based on confirmation from the linked amfori BSCI participants
- Request support from the local authorities (when relevant/if possible)
- Assess the level of communication between amfori BSCI participants and the producer
- Gather lessons learned and satisfaction ratings from the actions taken by amfori BSCI participants to support the producer in the remediation process

## **PROTOCOL FOR ALL AMFORI BSCI PARTICIPANTS LINKED TO THE CASE**

The Zero Tolerance Protocol relies on the close collaboration between concerned amfori BSCI participants, which, due to the nature and severity of the issue, requires incidental disclosure and a collective and pre-competitive remediation approach.

In this context, amfori BSCI participants linked to the concerned producer at the time the alert is triggered must:

- Participate in the 72 hours conference call, which creates the ad-hoc remediation group facilitated by the amfori Secretariat (one of the Commitment Formula KPIs)
- Never share zero tolerance alert information with the concerned producer, unless otherwise agreed upon by the ad-hoc remediation group after the 72 hours conference call
- Disclose the identity of their business enterprise among the other implicated amfori BSCI participants as part of the incidental disclosure mechanism
- Cooperate within the ad-hoc remediation group to, among other things, communicate collectively to the producer
- Not use the conference call for any commercial reason that may be against competition law
- Commit to verification in due course that the Remediation Plan has been successfully implemented (may be by means of a zero tolerance investigation or an amfori BSCI audit)
- Participate in a three (3) months follow-up call to give feedback on the implementation of the Remediation Plan

The ad-hoc remediation group created at the time of the 72 hours conference call will make decisions based on consensus or absolute majority (50% +1) about the following elements:

- Nature of the zero tolerance issue
- Maintenance or removal of the zero tolerance label within three (3) months of the alert
- Need for scheduling a zero tolerance investigation or an amfori BSCI audit when relevant, so the producer may get back on its audit cycle

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