



**WIETA
GUIDELINES ON
VIOLATION
OF THE
WIETA CODE**

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Preamble

From time to time, information about alleged violations of codes of labour practice amongst WIETA members and / or their suppliers may be received by trade unions, r NGOs, buyers, or producer members of WIETA. This information is often supplied by trade union affiliates or NGO partners and is then communicated to the WIETA office.

In principal WIETA members agreed that any alleged violations of this nature would be reported in the first instance to WIETA to allow for an investigation and remedial action before the alleged violation became a media issue. WIETA encourages all members to seek alternative dispute mechanisms in this regard before reverting to media exposure and other potentially confrontational means of resolving disputes.

As well as resolving the issue, the intention was to promote communication and good working relationships amongst WIETA members, in the spirit of working together to resolve breaches of the WIETA code in the wine supply chain, and building confidence that such an approach can produce results.

Members have expressed a strong wish to resolve such issues in a collaborative manner, building on a base of mutual trust.

To assist such a cooperative approach, WIETA has prepared a set of guidelines to consider when embarking on the discussion and investigation of an alleged code violation.

The guidelines are intended to maintain common understanding and cooperation throughout the investigation and resolution of the alleged code violation. The aim is to reach a conclusion that all parties accept as final, i.e. a position where the parties agree that as much as can be done has been done, bearing in mind the limitations inherent in any particular situation.

The guidelines are based on previous experience with investigation and remediation of alleged code violations. They have been developed in the spirit of WIETA's co-operative approach and are intended to provide a structure for further learning and development.

When the WIETA Board deems it appropriate these guidelines can be reviewed, to enable modification and improvement.

THE GUIDELINES

1. Definition

- 1.1 The alleged code violation investigation guidelines are guidelines agreed by WIETA for the investigation of alleged code violations occurring on members sites and for remediation where it is established that a code violation has occurred.

2. Purpose

- 2.1 The purpose of the guidelines is (a) to ensure that alleged code violations are brought to WIETA in a way that facilitates the investigation of the allegation, (b) to ensure that the investigation of the allegation, and any remediation found to be necessary, occurs expeditiously and transparently, (c) to encourage the sharing of information amongst WIETA members about supply chain labour practices, (d) to build positive working relationships and the confidence of stakeholder groups in each other and e) to seek the use of alternative dispute resolution mechanisms to reach a consensual outcome where disputes arise.

3. Parties to the Guidelines

- 3.1 The mutual obligations set out in these guidelines apply to members of the WIETA (wine industry, trade union and NGO).
- 3.2 It is understood that when allegations of code violation arise, they usually originate from the partners or affiliates of the trade union and NGO members. In these cases, providing the allegation is supported by an WIETA member organisation, it should be treated as originating from an WIETA member and will be covered by the terms of these guidelines.

4. Principles

- 4.1 The principles underlying these guidelines are the following:

Transparency – the parties should be open with each other about all aspects of the allegation and its investigation and remediation (source and nature of the allegation, specific details and time of occurrence, method of investigation, timetable for investigation, results, remediation plan, timetable and verification).

Co-operative approach – the parties should adopt a co-operative approach to working with each other, investigating allegations and achieving code compliance where breaches have occurred.

Respect for the facts – an emphasis at all stages (allegation, investigation, remediation) on establishing the facts as reliably as possible.

Direct communication – facilitating direct communication amongst those affected by the alleged code violation so that the issues can be resolved as close as possible to their point of origin, involving the WIETA Office and the WIETA Board only as a last resort.

Promptness – investigation and remediation to occur within the shortest period of time appropriate to the nature of the allegation or code breach.

Finality – the aim of the guidelines is to produce a definite result, i.e. a position where all the parties agree that as much as can be done has been done. This involves finding out whether or not code breaches have occurred,

and, if they have, remedying them expeditiously, as far as is possible in the particular circumstances.

- 4.2. Use of the WIETA alleged code violation investigation guidelines cannot bar employees from using other means of redress (e.g. collective bargaining agreements, grievance procedures, CCMA processes, mediation and arbitration simultaneously, alternative dispute resolution mechanisms, as the legal framework and parties to these other means of redress are different from those of the WIETA. Where a labour practice is the subject of a complaint via another channel of redress, this should be made known to WIETA.

5. Scope of the Guidelines

- 5.1 These guidelines cover allegations of code violations that are either (a) specific and very serious, requiring an instant response, or (b) specific and on-going, requiring prompt investigation in line with these guidelines.
- 5.2 There may be cases where the information about an alleged code violation is not specific enough (e.g. to a particular member site) or not definite enough (e.g. hearsay not supported by reliable testimony) to trigger these guidelines. Such information should still be passed on to the relevant wine brand or cellar for them to use in planning their supply chain monitoring activity.
- 5.3 The parties should discuss in each case whether the information constitutes general background information, or information that is intended to trigger these guidelines.

6. Definition of “member sites” for the Purposes of these Guidelines

- 6.1 These guidelines apply to alleged code violations occurring on member sites that (a) are within the scope of application of the WIETA code and (b) have a direct and identifiable relationship with a WIETA member site.
- 6.2 These guidelines do not apply to alleged code violations outside the scope of the WIETA code.

7. Process for Invoking Guidelines

- 7.1 The WIETA member alleging a code violation should gather as much information as it reasonably can about the alleged violation from its informant(s) before approaching the WIETA office.
- 7.2 When it has gathered as much information as it reasonably can about the allegation, the initiating member may notify the WIETA CEO via the office.

The allegation should be conveyed in writing. The communication should identify the member initiating the allegation (e.g. by letterhead), and be dated and signed.

7.3 A copy of each communication relating to the allegation should be sent to the WIETA CEO. The WIETA CEO will send a copy of the allegation to the WIETA Accreditation Committee and ensure that the Accreditation Committee has the opportunity to participate in the process of investigation and remediation.

7.4 The communication containing the allegation should cover the following points:

Name of member company/site: the normal trading name company.

Identification of the specific site: As much information as possible to enable a specific identification of location (e.g. name of supplier site, address, department or sub-unit where appropriate).

Link with WIETA member company:

Alleged code breach: The code provision being breached and a short description of the behaviour of the company giving rise to the allegation. If there are multiple breaches, a brief description of each.

The scale of the alleged problem: i.e. does it relate to a few employees, or a large proportion of the workforce? Is there immediate physical danger? How great is the breach of the code?

Supporting information: Sufficient detail about the alleged non-compliant behaviour to establish the nature of the allegation (circumstances, time and place) and an indication of where corroborating information may be found.

Is the allegation current? The organisation forwarding the allegation should satisfy itself that the situation is ongoing and has not been remedied by actions already taken.

Is the grievance being pursued along other channels i.e CCMA/Arbitration/ Mediation at the same time as lodging the allegation with WIETA?

Is there a union on site that has taken up the grievance? Is there any industrial action? Has a CCMA / labour court case been filed? Is any other type of advocacy under way?

Have the employees affected by the alleged code violation expressed their own preferences for a solution?

If a code violation is established, the remedy should take account of the wishes of those directly involved.

What is the relationship between the organisation making the allegation and the employees affected by the allegation? E.g. “community organisation working with employees on social welfare issues”, “union to which employees belong”, “political party active in district”, “legal rights organisation”, etc.

Other relevant organisations. Are there any other organisations in the Vicinity of the workplace where the alleged code breach has occurred who it would be useful to contact during the investigation? What are their remits and contact details?

Are there any local complexities that WIETA should be aware of before sending in investigators?

8. Should Individual Employees be Identified?

- 8.1 The general principle is that as much detail as possible about the allegation should be supplied. However, in some circumstances there may be a risk of victimisation of the employees concerned. If so, this should be stated by the WIETA Member communicating the allegation and the names of the individuals concerned may be withheld.
- 8.2 Where the allegation concerns alleged code breaches affecting large numbers of employees (e.g. to do with pay rates, overtime, health and safety) there is no requirement to divulge the names of individual workers. However, the supporting information supplied should still be sufficient to identify the time, place and circumstances of the alleged violation(s).
- 8.3 If the allegation relates to employees being wrongfully dismissed, the names of the employees should be supplied, and relevant documentation supplied.

9. Meeting of Parties and Memorandum of Understanding

- 9.1 Once the allegation has been communicated to WIETA, the Accreditation Committee can call a “special meeting”. This meeting should discuss the nature of the allegation and the procedure for investigating it, and record its decisions in a Memorandum of Understanding.
- 9.2. The Memorandum of Understanding should cover the following points:
- (a) Whether the allegation is specific enough to trigger these guidelines, or constitutes a more general dispute.
 - (c) The degree of leverage of WIETA has to resolve the issue,
 - (d) The degree of confidentiality applicable. The general principle is that WIETA members will refrain from publicising the allegation in the media while WIETA is investigating and addressing the problem. However, in some cases the allegation will already be a matter of public knowledge or part of some other

established process. If so, this should be disclosed and taken into account at the outset of the WIETA process.

- (e) The way in which the allegation will be investigated,
- (f) How any needed remediation will be evaluated,
- (g) Whether or not it is appropriate to seek joint action with wine industry members to resolve the issue,
- (h) The timetable for the investigation,
- (i) Whether any additional resources will be needed (e.g. for translation or Interpretation, mediation services, auditing services) and where these will come from. The plan of action decided upon at the initial meeting should be costed and, if there is a resource shortfall, the parties should consider how best to cover that shortfall in the WIETA budget.

9.3 The parties should maintain continuity of representation throughout the process of investigation and remediation, i.e. the same organisation, and as far as possible the same person, should act as representative in relation to the allegation from the beginning of the process until its end.

9.4 Where the allegation does not trigger these guidelines and constitutes a more general dispute between the parties as per clause 9.2 (a), WIETA cannot act as mediator or arbitrator to assist with the facilitation and / or resolution of the dispute. In these cases, WIETA can refer the parties to a mediation agency or party or alternative dispute resolution mechanism /agency at costs to the parties concerned.

10. Investigation of the Alleged Code Violation

10.1 Once the parties have met and agreed on the process of the investigation, WIETA should investigate as quickly as possible, within a time frame appropriate to the severity of the alleged violation.

10.2 The purpose of the investigation is to find the facts, as reliably as possible. Unless the parties agree on a different approach, WIETA will engage competent investigators (either from their own staff or from specialist outside organisations) and should check all sources of information necessary in the particular circumstances. The investigator should conduct off-site interviews with employees of the alleged violator where this is necessary for the employees to freely express themselves.

10.3 If the allegation relates to behaviour that has already been the subject of other investigations, the results of these investigations should be taken into account by the investigation carried out under these guidelines.

11. No Victimisation

- 11.1 When informing the member company that an allegation has been made, WIETA should make it clear to the supplier that there is a “no victimisation” policy in relation to employees who may have made allegations of code violation and that any victimisation will be regarded as a serious breach of the Code and will call into question the members relationship with WIETA.

12. Investigation Report

- 12.1 When the investigation has been completed the investigator should make a written report, which should be shared with the WIETA Accreditation Committee.
- 12.2 The investigation report should state:
- Who carried out the investigation.
 - When it was done.
 - What methods were used (in sufficient detail to give the reader an understanding of the investigation process).
 - What the coverage of the investigation was (i.e. what proportion of the employees and the work site was covered).
 - Whether off-site worker interviews were conducted.
 - The results of the consultation with the persons or organisation originating the allegation.
 - What the findings of the investigation were, specific to each allegation.
- 12.3 In order to support the “no victimisation” policy, the names of individual non-managerial employees should not be disclosed in the investigation report.

13. Remediation Plan

- 13.1 Where the investigator’s report confirms any or all of the alleged code breaches, WIETA should negotiate a remediation plan with the member company. This plan should provide for prompt remediation of the violations, taking into account the nature of the violation and the type of remediation required.
- 13.2 The remediation plan should be shared with the relevant employees, the person or organisation originating the allegation and WIETA.
- 13.3 The remediation plan should contain:
- A description of each code breach being addressed.
 - The nature of the remediation action.
 - The timescale for the remediation action.

14. Meeting to Consider the Investigation Report and Remediation Plan

- 14.1 As soon as is convenient after the circulation of the investigation report, the parties should meet to discuss the report and decide on the next steps.

- 14.2 If the parties agree with the findings of the investigation report, and the report discloses Code breaches, the next step is to reach agreement on the remediation plan.
- 14.3 The views of the company workforce and the organisation originating the allegation should be taken into account in assessing the accuracy of the investigation and the contents of the remediation plan.
- 14.4 If the person or organisation originating the allegation disagrees with the findings of the investigator's report, this disagreement should be communicated to the WIETA Accreditation Committee, along with any additional information necessary to explain the disagreement.

The WIETA Accreditation Committee should examine this information seriously and take the appropriate steps, which may include a further enquiry into the member company's operations, if necessary to establish the facts. The parties should agree who undertakes this investigation, the terms of reference and the status of the report. The results of this further enquiry should also be reported back to all parties and reasons given for the findings.

15. Completion and Final Report

- 15.1 WIETA should monitor the member company's compliance with the Remediation plan. When remediation is complete, the company will be requested to write to the Accreditation Committee describing the remediation actions that have been undertaken and stating that remediation is complete.
- 15.2 If the person or organisation originating the allegation disagrees with the statement that remediation is complete, this opinion should be communicated to the WIETA CEO, along with any additional information necessary to explain the disagreement. The Committee should discuss the differences between the two positions via a round robin and try to reach an agreement on what course of action should be followed.
- 15.3 If the process takes longer than six months from the date the allegation was made, the WIETA office should provide an interim report at the six month point stating what has been completed, what remains to be done and the timetable for completion. A copy of this report should go to the WIETA Board.
- 15.4 If remediation is still not complete after a further six months, the WIETA member company should provide a further interim report stating what has been completed, what remains to be done and the timetable for completion. This report should be referred to the WIETA Board, which should determine a course of action appropriate to the circumstances.
- 15.5 Where a code breach is remedied, the issue should be kept under review by the company in its audit process.

16. Costs of Investigation and Remediation

16.1 The costs of the investigation, where there is a violation at the member site and any necessary remediation is undertaken , should be met by the WIETA member company.

16.2 Where there is no violation, WIETA will absorb the costs.

17. Disagreements over the Interpretation or Implementation of these Guidelines

17.1 In the event of a disagreement between WIETA Accreditation Committee over the interpretation of these guidelines or the appropriate response to an alleged code violation, the parties should first try to resolve the disagreement in direct discussion with each other, in the spirit of mutual trust and co-operation described in the preamble.

17.5 Where an issue goes to the committee, the members adjudicating should decide the issue referred to them within the following time limits:

- Interpretation of these guidelines One month.
- Allegation in correct form One month
- Investigation process Two months
- Remediation Three months.

17.2 If agreement cannot be reached, the issue may be referred to the WIETA Board for an opinion.

17.3 The decision of the Board will be final and binding on the parties.