

# Report of ETI Christmas crackers work

## Part of Homeworker Project

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**Final Report**

### **Statement of purpose**

This report aims to outline ETI's work on Christmas crackers, which formed part of the ETI Homeworker project. While the Homeworker project is still ongoing with work in India, the lack of UK homeworkers producing crackers left in ETI members' supply chains meant that various activities planned as part of the project could not take place. This caused the closure of the crackers side of the project in July 2004. This report brings the crackers work to a close.

### **How this report is organised**

The report will indicate a chronology of events, the approach and activities that the Homeworker Group took to its crackers case study, and the results of that work. Finally, it will analyse any lessons learned from this work.

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## Executive summary

This report describes work undertaken as part of the ETI Homeworker project, a current ETI project that began in July 2002. The project group decided to use two case studies of industries using homeworkers in order to generate learning on how to apply, implement and monitor the ETI Base Code in the homeworker context. The learning resulting from the case studies is to be used to revise good practice *Guidelines on Homeworkers* that the Homeworker Project has drafted. The case studies selected were the manufacture of Christmas crackers in the UK, and of embellished products in northern India. This report describes the crackers case study which began in September 2002 and closed in July 2004.

The project case study on Christmas crackers initially arose from the use of ETI's *Alleged Code Violations Investigation Guidelines*, after it was found that a number of ETI members were sourcing from cracker manufacturers using homeworkers who were not paid the National Minimum Wage (NMW). Members agreed that the best way to proceed with the issue was as part of the existing ETI project on homeworkers. The aim of the case study was to provide a framework for learning about the best approach to applying, implementing and monitoring international labour standards with homeworkers.

Following the mapping of members' supply chains, a supplier group was formed made up of the four UK manufacturers of crackers who were supplying ETI members. The project gathered information on those suppliers' current ways of working with homeworkers, as well as consulting suppliers on ETI's proposed *Guidelines on Homeworkers*. One of the problems in working with homeworkers had been the use of piece rates. As a result, project activities included providing training to suppliers on how to establish fair piece rates, as well as clarity on the application of holiday pay to homeworkers. Further activities were planned for suppliers to conduct time-motion studies with their homeworkers, crucial for establishing fair piece rates. Suppliers also agreed to allow ETI NGO members to consult with their homeworkers about homeworkers' situation, needs and priorities.

In autumn 2003, after a year of activities, the case study stalled. Suppliers were reluctant to undertake time-motion studies or to grant access to their homeworkers. All stated clearly the pressure they were under to keep costs down, as they had done earlier in the project. Many mentioned that, partly as a result of this pressure, the possibility of moving production to China was becoming more likely – especially since all but one of them already had manufacturing capacity in China before the project began.

Retailers in the project were asked to work with suppliers on this. Some were unable to report any progress, others simply did not participate in meetings at this crucial stage, others stated that they did not know which supplier they were purchasing from for the 2004 Christmas season. In early 2004, a number of retailers stated that they no longer had UK homeworker production of crackers.

This made it virtually impossible for the case study activities to continue, despite the best efforts of many members of the project. Thus the Group agreed to close the crackers case study in July 2004, though consultations with UK homeworkers making other products was planned and has since taken place.

The UK case study generated significant learning and practical lessons on how the Base Code can be applied, implemented and monitored with homeworkers. These lessons are all being incorporated into the draft *Guidelines on implementing the ETI Base Code with Homeworkers* which will be available at the end of the project. It also raised awareness of the issue and helped to galvanise trade union support for homeworkers. Some improved policy and practice has been achieved. It is vital that those improvements are applied by all members, across all products and supply chains.

The loss of work for UK homeworkers producing crackers was extremely disappointing for project members. The problems that the project ran into need to be addressed in the India case study and, in some cases, more broadly within ETI. Company members need to remain committed and to actively participate in projects of which they are members, and to communicate honestly their progress in project activities. This is necessary in order to generate learning and achieve positive, sustained change for homeworkers. In particular the need for company members to meet commitments with cost implications, and to share those costs with their suppliers, is paramount. We hope that many of the lessons learned will be applied in India and by members more broadly in addressing how to protect homeworkers and improve their working conditions.

## 1. Introduction

### 1.1 Background

In December 2001, a trading NGO member of ETI notified ETI that that homeworkers making Christmas crackers for a cracker manufacturer that supplied ETI members, including the NGO, were unable to earn the National Minimum Wage. After liaising with ETI, the NGO alerted other ETI retailer members who were sourcing from the same manufacturing company/or parent company of this situation. However, they first got agreement that any action taken by those ETI members in the course of investigating the problem as part of ETI's agreed procedure for such circumstances would not harm the interests of homeworkers. The NGO member then invoked ETI's *Alleged Code Violations Investigation Guidelines* in order to find solutions to homeworkers' issues.

There followed six months of discussion and a variety of actions as part of the *Alleged Code Violations Investigation Guidelines* by the trading NGO, ETI and retailer members. ETI then organised a Roundtable on homeworking in July 2002. ETI already had in existence an emerging project group on the issue of homeworkers. Originally the 'Invisible Producer' Group, this had begun to focus on homeworkers and smallholder farmers and diverged into two groups, one on homeworkers, one on smallholders, in July 2002. At the Roundtable, the trading NGO proposed that the ETI Homeworker Group make UK manufacture of Christmas crackers a focus of its work. As a result, the Alleged Code Violations Procedure was taken forward as part of an ETI project.<sup>1</sup>

### 1.2 Aims of the Homeworkers Project

In August 2002, the ETI Homeworker Group members began to define and agree objectives and activities for addressing the implementation of labour standards with homeworkers. The objectives were as follows:

- To establish how the ETI Base Code can be applied, implemented and monitored with homeworkers
- To learn about the effectiveness of different approaches to tackling poor working conditions of homeworkers in supply chains
- To document approaches to implementing the Base Code in different supply chain structures

### 1.3 Activities

The Homeworker Group agreed that their activities would be to:

- Gather information on members' work with homeworkers to date, including information from members' suppliers
- Lobby governments re employment status of homeworkers, and in particular regulations regarding homeworkers and minimum wages where relevant.
- To produce and test best practice guidelines on homeworkers for members to identify and work with homeworkers in their supply chains.

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<sup>1</sup> Oxfam has a summary of their use of the Alleged Code Violation Procedure regarding Christmas crackers,

## 2. Christmas crackers case study

This section will cover the activities of the Homeworker Group as part of its Christmas crackers case study. This included work to map members supply chains; to involve trade unions and homeworkers' organisations in the Group and to collaborate with suppliers manufacturing crackers.

### 2.1 Choosing the case studies

In order to develop and test the proposed best practice guidelines, the project planned to use two industry areas where extensive use of homeworkers has been identified across the membership. Two case studies were agreed, one on Christmas crackers and one on embellished goods (jewellery, embroidery, beading) in Northern India.<sup>2</sup> As mentioned in Section 1.1, the Christmas crackers case study arose from the Alleged Code Violations Procedure work on that product. Christmas crackers was also considered suitable as it was a short supply chain, close to home, involving direct, first-tier suppliers. Group members had assumed that these circumstances would help the project generate learning relatively easily, which could then be applied to more complex situations abroad.

Each case study would to be used to:

- Illustrate the variety of arrangements for working with homeworkers
- Consult with homeworkers, suppliers, agents, retailers, trade unions, NGOs and homeworkers' organisations
- Agree an approach and success indicators
- Test that approach.
- Monitor the impact of this approach on the livelihoods of homeworkers.
- Subsequently revise the Best Practice Guidelines
- Assess the implications of code implementation for homeworkers

### 2.2 A sector-wide approach

In March 2002, the Homeworkers Group commissioned a study to provide an overview of the issues faced by homeworkers, and of experience relating to the application of codes of labour practice to homeworkers. The study was completed in June 2002 and sketched out a number of approaches that have been used to improve homeworkers' working conditions.<sup>3</sup>

One of the approaches outlined in the study was a 'sector wide approach'. This was defined as 'forming a lasting supplier group who will tackle homeworker issues in that country'. The study warned that same sector suppliers may not co-operate because they do not trust each other, and that decisions made by supplier groups may not be appropriate to homeworkers' concerns. It counselled using persuasion and insistence to convince suppliers to work together, and building long-term relationships with suppliers so that they are not threatened by potential competitors. It also suggested including homeworkers' representatives in supplier group discussions, or consulting homeworkers before any action is taken. With regard to

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<sup>2</sup> For the full project plan, including list of members involved in the Project, see Appendix 1, *Project Concept Note*.

<sup>3</sup> *Review of current knowledge and experience of applying corporate codes of labour practice with homeworkers*, Report for the ETI, Acona, June 2002.

Christmas crackers, the Group agreed to explore a sector-wide approach to improving the conditions of UK homeworkers involved in their production.

### **2.3 Planned activities**

Activities planned to execute the case study were to map members supply chains and then engage with suppliers and form a group of suppliers in the sector. This was to be followed by gathering information from suppliers on systems already in place, then consulting with them and their homeworkers on the Group's recommendations. These recommendations were then to be tested and revised following the outcomes of the testing. All lessons learned were to be included in the *Best Practice Guidelines for the Implementation of the ETI Base Code with Homeworkers*.

### **2.4 Activating the case study**

#### ***2.4.1 Mapping members' Christmas crackers supply chains***

The first step in activating the UK Christmas crackers case study was to map members supply chains, which took place in the autumn of 2002. This was done by collecting the names and contact details of members' suppliers, as well as information on the volumes bought by each retailer member from those suppliers. The work yielded the names of six suppliers. The ETI project Manager then wrote to all six suppliers, introducing ETI and requesting to meet with suppliers in order to present the project, hear any of their concerns and plan how to consult and work with them in future.

Responses from suppliers indicated that two of them did not use any homeworkers in their production. Three of the remaining four did use homeworkers in their manufacture of Christmas crackers. One company used homeworkers in activities such as packing cards, but not in the manufacture of crackers. Nevertheless, they wished to work with ETI. All four (Suppliers A, B, C and D) were happy to meet with ETI members, though one (Supplier D) was not initially prepared to attend a meeting with direct competitors. Three out of the four suppliers already had manufacturing capacity in China. As a result, some retailer members who were buying from these suppliers purchased crackers that were made in China before the project began, and continued to do so. Others purchased a mixture of UK-manufactured and China-manufactured crackers.

#### ***2.4.2 Involving trade unions/homeworkers organisations***

In autumn 2002 the group also discussed the need to involve trade unions in the Group, as well as homeworkers' organisations. The Secretariat invited the Knitwear, Footwear and Apparel Trades union (KFAT) as well as the Graphical, Paper and Media Union (GPMU) and Transport and General Workers Union (TGWU) and Trades Union Congress (TUC) to join the Group, as they had all been present at the ETI Homeworking Roundtable and had experience of working with homeworkers. In November 2002, KFAT agreed to join the Group. They were joined in February 2003 by representatives of the TUC and in June 2003 by a representative of the GMB Union.

In November 2002, the National Group on Homeworking (NGH) agreed to become an NGO member of ETI and to attend Crackers Group meetings before their official application to the

ETI board.<sup>4</sup> Homeworkers Worldwide (HWW), part of an international solidarity network of homebased workers' organisations and others who support the rights of homebased workers to decent working and living conditions, also joined ETI and the Group at that time. NGH and HWW joined ETI as a result of their commitment to bring about improvements for homeworkers.

### ***2.4.3 Forming a supplier group***

At the end of January 2003, members of the ETI Christmas Crackers Group (a sub-group of the overall Homeworker Group) met with representatives of the four cracker suppliers identified at the end of 2002. At that meeting Group members were able to explain:

- their recognition of homeworkers' role in production (many companies had previously had a no-homeworker policy)
- the ETI project's aim to create a practical document for use by retailers, suppliers and others to help implement labour standards with homeworkers
- the (at that time) proposed two-stage approach to implementing those labour standards with homeworkers
- the recognition of the Project that commitment by suppliers would have to be supported by the sourcing and pricing policies of intermediaries and retailers

The Group had proposed that the first stage of implementing standards would be to develop mechanisms to enable monitoring of homeworkers' terms and conditions<sup>5</sup>. Monitoring would include ensuring that workers had pay slips and that suppliers were in compliance with basic employment rights such as health and safety at work and National Minimum Wage (NMW) legislation. ETI members were to be responsible for agreeing remedial action and timeframes with suppliers. The second stage would cover remaining requirements and a timeframe for those, to include terms of engagement, piecework rates, mechanisms for resolving disputes, representation of homeworkers. Suppliers expressed a variety of concerns at the meeting, including lack of clarity regarding homeworkers legal status; transfer of production overseas and the costs of making changes (and impact on prices for retailers).

Participants at the meeting tried to elaborate a framework for working together. Some of the suppliers were willing to share information about their current policy and procedures for working with homeworkers, including communication channels, training offered and the setting of piecework rates. ETI agreed to try to establish how to set benchmarked piecework rates as well as a methodology for good Fair Estimate Agreements (FEAs). FEAs were part of a system of establishing how long workers take to carry out particular work processes, part of the NMW regulations at that time in place in the UK.

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<sup>4</sup> A UK NGO, NGH provides services to homeworkers in the UK, including advice and a confidential helpline, and is a partner of Oxfam's. It was at a meeting facilitated by NGH in November 2001 that Welsh homeworkers had produced samples of their work that included Oxfam crackers. NGH had then become involved with Oxfam in their invocation of ETI's Alleged Code Violation Investigation Procedure outlined above.

<sup>5</sup> in the draft *Best Practice Guidelines on implementing the Base Code with Homeworkers*.

## 2.5 Working with suppliers to take forward the case study

### 2.5.1 *Gathering information from suppliers*

Following the January 2003 meeting, NGH created a questionnaire to capture data from suppliers regarding their work with homeworkers.<sup>6</sup> This information was to be used to share good practice (anonymously) and indicate the variety of arrangements for working with homeworkers in use by suppliers, as agreed in the project's objectives. Three of the suppliers completed and returned this questionnaire, two of whom also sent in copies of their policies with homeworkers. The fourth (Supplier D) refused to share this information.

An ETI member who sourced from Supplier D had switched their supply to Supplier C in early 2003, despite a well-established relationship that had lasted many years. As a result, Supplier D complained to ETI about the unethical behaviour of our member. This situation meant that they were unwilling to co-operate with the project going forward. For the remainder of the project, they only attended part of one further meeting, and communicated very little with the Project Manager, despite the efforts of members sourcing from Supplier D.

The information received from suppliers indicated how they established piece-rates, what factors they included, whether they used recognised systems of time-motion studies, and how they communicated with their homeworkers. All of this information was useful for the recommendations for suppliers in the draft Best Practice Guidelines, helping the Group to understand what systems suppliers already had in place and on which areas further guidance was needed. The Guidelines were revised according to this and other information in February 2003.

### 2.5.2 *Consulting suppliers on Best Practice Guidelines*

A follow-up meeting was held with suppliers in April 2003. Only suppliers A and C attended. The Group had agreed to share the draft Best Practice Guidelines with suppliers at this stage to hear about their general comments on the feasibility of the recommendations, from their point of view, as well as on the financial implications of what was being asked of suppliers.

In general, both suppliers present stated that the bulk of the action recommended was neither costly nor complicated. Supplier A felt that they had already executed many of the changes, including informing homeworkers of their work with ETI and the contact details of NGH and ETI. They expressed interest in help on materials for communicating with homeworkers, for example an easy-to-read version of the ETI Base Code.

Both suppliers present agreed to implement the recommended actions in the draft Guidelines by mid-June 2003, excluding those concerning holiday pay and piece-rates. On piece-rates, ETI had already organised training for the Group and suppliers to take place in July. ETI also agreed to send suppliers details of independent time-motion experts. With regard to holiday pay, the Group agreed to seek legal advice on holiday pay for homeworkers, owing to the lack of clarity about many homeworkers' employment status and thus their entitlements.

The Group planned for suppliers to assess the cost discrepancy between piece-rates in use at that time, and piece-rates as recalculated following time-motion studies (as defined by the

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<sup>6</sup> See Appendix 2, *Questions for Cracker Manufacturers*, NGH, page X.

British Standard system)<sup>7</sup>. The aim was to allow suppliers to estimate the costs required and discuss price implications with retailers at future meetings.

### ***2.5.3 Training on piece rate methodology***

In July 2003, ETI organised a day and a half of training on piece-rate methodologies by two trade union productivity experts. The aim of this training was to enable participants to understand the British Standard system of time-motion studies. This in turn would allow participants to create fair-piece rates according to an established, standardised method. Thirty people attended: members of the Group; representatives of all four cracker suppliers, and other suppliers to retailer members. Participants all felt that the training was useful in learning how to establish fair piece-rates.

Following the training, a meeting was held with suppliers. This meeting was scheduled to follow immediately on from the morning's training session, yet Supplier D's representative left after the training and declined to participate in the meeting with the ETI Group.

### ***2.5.4 Implementing recommendations without financial implications***

At the meeting, suppliers reported the following actions since the previous meeting in April: Supplier A:

- Developed a handbook for homeworkers
- Informed the factory shop steward (GPMU) of work undertaken relating to homeworkers and willingness of management to facilitate a meeting between union members and homeworkers
- Sent new statement to homeworkers detailing their terms of engagement
- Changed system of monitoring pay rates to cover all homeworkers rather than 3% of them as previously monitored

They had not consulted homeworkers on these changes, nor asked for or had any feedback regarding them. They did send copies of these relevant documents to ETI.

Supplier B no longer used any homeworkers, having moved all production to China. This was the supplier originally involved in the Alleged Code Violations Procedure. However, they stated that following contact with NGH and the Inland Revenue, as well as audits conducted on behalf of ETI members, they had implemented the Guidelines recommendations with the exception of a health and safety risk assessment and training for those not earning the minimum wage. They had ensured that there were feedback channels for workers to comment on these changes, including for those with reading difficulties, but had had none. They stated that their new factory in China had been audited against the ETI Base Code and that they were satisfied with the results.

### **INDUSTRY NORM TIMINGS**

Supplier C stated that they had been updating their records and overhauling their system for managing homeworkers, so they had just started to make changes. They were creating a pack for workers, and had conducted a health and safety risk assessment on the processes for making crackers. They requested a list of useful materials to include information from NGH,

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<sup>7</sup> A time-motion study establishes 'the time for a qualified worker to carry out a specified task at a defined level of performance'.

the DTI, Health and Safety Executive and Inland Revenue. This was compiled by the Project Manager and circulated to all four cracker suppliers.

Supplier B suggested that manufacturers work together to develop industry norm timings for the processes involved in making crackers. This would ensure a level playing field between suppliers, as standard timings data on certain processes involved in making crackers could be used for the whole industry. This would serve as a reference for all cracker production and reduce the need to do separate individual timings for all new crackers.

There was discussion about how long such a task would take. The Homeworker Group were keen to address this issue as soon as possible to ensure that piece-rates paid for crackers produced in late 2003 were fair. The trade union productivity expert agreed to follow this up with relevant experts and respond to the Group and suppliers as soon as possible. ETI agreed that it could contribute to the costs of developing industry norm timings to enable fair piece rates. Pins agreed to write to other, non-ETI, major Christmas cracker retailers to ask them to introduce the project and ask if they wished to get involved. Participants agreed provisionally to meet again at the end of October 2003 to review progress.

#### ***2.5.5 Holiday pay***

ETI had agreed to follow up on the issue of holiday pay for homeworkers. Following discussions between one corporate member and one NGO member of the Group, both with expertise in this area, the Group explained to suppliers the conclusion reached, which was that all homeworkers with 'worker' status under UK law would be entitled to holiday pay. The Group advised suppliers to get legal advice on this as homeworkers would need to be judged on a case-by-case basis, and depending on their genuine status (as opposed to the status which the supplier may have informed them is appropriate). ETI also indicated the results of recent employment tribunals where many homeworkers who had been told that they were self-employed had been found to be 'workers', therefore being owed a variety of benefits.

#### ***2.5.6 Movement of production overseas***

The Project Manager reported that Supplier D had stated during a telephone conversation that the probability of moving all production overseas was increasing for all manufacturers. This was owing to changes to the National Minimum Wage (NMW), increased visibility of the industry, improved standards in China and abolition of the 4/5ths rule legal loophole<sup>8</sup>. The other suppliers present all agreed with this statement. Suppliers A, B and C already had production in China (all of A's crackers were made in China before the project began), and Supplier C was increasing its manufacturing capacity in China.

At that stage of the project (July 03), changes to working practices of retailers and suppliers outlined above in Section 2.5.4 had not involved increased costs. However, NGO and union members reiterated to retailers the need to train buyers on the likelihood of increased prices from suppliers in exchange for the assurance of minimum working conditions agreed under the ETI Base Code. Meeting participants agreed the need to discuss thoroughly at the next meeting the implications for suppliers and workers of any change in working practices that the Group was recommending and testing.

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<sup>8</sup> See Appendices 1 and 2 on DTI and Low Pay Commission consultations.

### ***2.5.7 Development of industry norm timings***

Following the meeting between the Homeworker Group and Christmas cracker suppliers in July 2003, Mick Hubbard of the GMB union compiled a list of independent productivity experts. This list was circulated to cracker suppliers as agreed. Mick also asked these experts if any of them would be available to work with cracker suppliers during the autumn of 2003 to create industry norm timings. One expert estimated this job could be completed in six weeks, and was willing to undertake it.

At the end of July, the Project Manager circulated the suppliers' contact details to each other along with the information above. She asked suppliers to discuss the development of industry norm timings between them and let her know how they wished to proceed. The Project Manager wrote to Harrods, Selfridges and Fortnum & Mason in September 2003 (as agreed in July) in order to try to involve their suppliers, but received no response.

Throughout September and October 2003, no progress or joint work was reported by any of the suppliers to the Project Manager. Homeworker Group members selling crackers were asked to follow-up with their respective suppliers at a Group meeting in mid-September, and to report back at a following meeting in November.

### ***2.5.8 Consulting homeworkers producing Christmas crackers***

As mentioned in Section 2.3 above, one of the project's planned activities was to consult homeworkers in the two project case studies. The National Group on Homeworking had agreed to co-ordinate this on behalf of the Homeworker Group, as they have extensive experience in this area. At the July meeting, cracker suppliers were asked if they would be willing for us to consult with a sample of their homeworkers on their situation, as well as on the draft ETI Guidelines on Homeworking. Supplier A expressed a willingness to allow NGH to access their homeworkers. Supplier B had stated that they no longer had homeworkers. Suppliers C and D said they would need to discuss this with colleagues.

Consultations with some of Supplier A's homeworkers were initially scheduled for October.<sup>9</sup> However, Supplier A then informed ETI that they were revising how they organised production. As a result, they were no longer going to be using homeworkers directly. Some of these former homeworkers were to be offered work in Supplier A's factory, while others were passed details of Supplier A's own sub-contracted suppliers in the hope that they could find work there. Supplier A did indicate that they would be willing to organise consultations with their sub-contractors' homeworkers once this could be organised. In the end, one of their sub-contractors contacted NGH on a separate matter. ETI and NGH then asked the sub-contractor if he would be willing to be part of the consultation exercise. He was, and this sped up the organising of consultations with his homeworkers and those of other sub-contractors. Thus consultations finally began in June 2004.

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<sup>9</sup> As mentioned earlier, Supplier A used homeworkers though not in the production of Christmas crackers. Nevertheless, as the project wanted to consult with UK homeworkers this offer from Supplier A was taken up.

## **2.6 Addressing the lack of progress in the project**

### ***2.6.1 Discussions between retailers and suppliers reveal lack of progress***

The Homeworker Group met in November 2003, and was due to meet with cracker suppliers on the same day. However, at short notice two out of the four involved suppliers stated that they were unable to attend the meeting. As a result, it was cancelled and postponed until January 2004.

In the interim, the Project Manager was able to communicate with suppliers and establish that no progress had been made on industry norm timings. Furthermore, suppliers stated that they were under severe pressure to keep prices low and meet demands of retailers regarding homeworkers, despite the abolition of the 4/5ths rule and increases in the NMW increasing their costs. For example, they stated that they were now being asked to pay homeworkers for the time it takes for homeworkers to receive and sort work kits and for homeworkers to receive training. As a result, the three suppliers who still had UK production were all considering moving at least some of this production overseas.

Retailers stated that suppliers were often reluctant to discuss increased prices with retailers for fear of losing business. Retailers also reported that suppliers were unable to give costings of increased prices since they had not yet calculated costs arising from changes to their piece-rate systems. No retailer was able to indicate that their supplier had conducted time-motion studies. Considering that all participants were now fully aware that fair timings are essential for the calculation of fair piece rates and payment of the NMW, this inaction on the part of suppliers and retailers was a serious blow to the project.

Some retailers stated that they did not yet know who they would be buying from for the coming year, and were therefore unable to progress in discussions with suppliers. Several retailers (WH Smith, Debenhams, Safeway, Boots) were facing or undergoing changes in ownership, as a result of which all discussions with suppliers were held against a background of uncertain commercial relationships. Other retailers (Asda and Tesco) did not participate in the September and November meetings. Retailer inaction and unwillingness to participate in meetings at this crucial stage of the project clearly had negative consequences for the project's outcome.

### ***2.6.2 NGO and trade union members' concern at lack of project progress***

In January 2004, the NGO and trade union members of the Homeworker Group wrote to ETI to raise a number of concerns regarding company involvement in the project. In particular, they perceived:

- a lack of progress with regard to payment of the NMW to homeworkers producing crackers
- too little information on work undertaken by company members
- the need for a positive commitment to homeworkers making crackers (and other products), in the light of production potentially moving overseas.

NGOs and trade unions were seeking resolution of these issues through:

- an agreed timeframe for conducting time-motion studies
- a commitment to homeworkers, taking account of their vulnerability

- Reassurance that increased costs for suppliers in implementing changes with homeworkers are not being met solely by suppliers.

Retailers responded to these issues individually at the Group meeting held in January 2004, and in writing to the NGOs and trade unions. In response to the specific requests above, company members agreed to work with suppliers to produce time-motion studies by the end of April. However, they added the caveat that supply chains were not ring-fenced and would move if the chain is uneconomic. All company members reiterated their and their suppliers' commitment to the ETI Base Code and to addressing issues relating to homework in their supply chains. Two retailers stated that they had agreed with their suppliers to take on board any extra costs involved in changing payment systems with homeworkers.

### ***2.6.3 The suppliers' point of view***

Directly following the Homeworker Group meeting in January 2004, a meeting was held between the Group and suppliers, updating them on discussion in the Homeworker Group and actions required in order to make progress. With regard to industry norm timings, suppliers stated that they had not understood that they were to discuss and action this themselves. The Project Manager reiterated that this was clearly spelt out in the notes circulated following the July 2003 meeting, as well as in emails during September and October. Furthermore, Mick Hubbard had himself also contacted all the suppliers in October regarding the option to conduct independent time-motion studies, but had had no response.

Supplier D stated that it would be too difficult to create an industry standard, since different suppliers had different production methods. The Group therefore proposed that suppliers then carry out time-motion studies individually. All suppliers with UK production said that they could do this. However, Supplier D said that this would be difficult to do by the end of April owing to other production decisions. Supplier A said that they could undertake this through their sub-contractors using their in-house productivity expert, and Supplier C said that this should not pose a problem. Supplier A did go on to do this, using the new timings as a basis for piece-rate calculations.

### **PRICE PRESSURE**

Retailers had been asked to discuss with and train their buyers on the product price implications of changes to the NMW in the UK, so that when buyers are negotiating with suppliers they will be aware of the likelihood of increased costs in meeting UK minimum wage standards. All retailers present had conducted this activity with buyers, though one retailer stated that they knew their buyers were constrained by target profit margins.

Suppliers were asked if this action had translated into higher prices for them. Suppliers B and D stated that on the contrary, retailers were seeking the same product for the same price as the previous year, or for a lower price. Supplier A did not know whether colleagues had seen any changes in retailer buyer behaviour. Suppliers A, C and D all re-stated (as they had from the beginning of the project) that the impact of higher costs and lower prices simply increased pressure to transfer more production overseas.

### **CONTINUED NEED TO CONSULT HOMEWORKERS**

Also at the January meeting, ETI reiterated the need to consult with more than just Supplier A's indirect homeworkers. Suppliers C and D said they had no problem with this in principle,

and NGH agreed to send them an outline of the consultation process. During the Spring of 2004, discussions did start with Supplier A which led to consultations in June/July 2004, as outlined in above. However, when the Project Manager took up the issue of consultations with Suppliers C and D, both stated that owing to changes within the business at that time, they were unable to allow NGH to consult with their homeworkers. The Project Manager agreed to follow this up a few months later. However, when an outline of the process was circulated in May, both suppliers were still unwilling to allow access to their homeworkers. Since the only route to homeworkers was through suppliers, there was nothing further ETI or NGH could do to remedy this situation.

## **2.7 Closure of the Christmas crackers case study**

### ***2.7.1 Movement of production overseas***

The Homeworker Group met in March and May 2004. At both meetings, no retailer members were able to report that their suppliers had undertaken time-motion studies with their homeworkers. Furthermore, a number of retailers stated that they no longer had any UK homeworkers making their crackers. The Group discussed this situation at length, since it clearly made ongoing project activities almost impossible.

Retailer members were asked to explain why they no longer had UK homeworker production of crackers when they were committed to this under the terms of the project. Some stated that their buyers choose the product and that the supplier then sets where that product is made and at what price it is offered. NGO and trade union members stated that in their experience suppliers rarely had this power. However, company members maintained that this depends on their buying power with the supplier, so those buying a small amount of crackers do not have leverage over suppliers – it is suppliers who make their own production decisions. Other members said that the decision to move production to China had been made for quality reasons. Oxfam had insisted that all their crackers continued to be made by homeworkers in the UK, and their supplier had agreed to this request. They appear to be the only retailer to insist that existing UK homeworker production be maintained in their Christmas cracker supply chain. One supplier stated that a member of the Homeworker project had expressly asked them no longer to use homeworkers in their cracker production for that retailer, directly in contravention of recommendations for retailers developed during the project.

### ***2.7.2 Lack of information on members' crackers purchasing***

From other project members there was simply little or no information about their cracker purchasing for 2004. Debenhams had returned to private ownership (having been a public company) and many staff had been taken off ethical trade work. As a result, they had agreed with the ETI Secretariat to reduce participation in some ETI projects, and had therefore withdrawn from the Homeworker Group. Following the purchase of Safeway by Morrison's, Safeway staff were unable to attend the March and May meetings, and their future participation in the project was also uncertain. No Safeway-branded crackers will be on sale for Christmas 2004. Sainsbury's stated that they did not yet know which suppliers they were using for 2004 production and therefore whether there would be UK homeworkers involved in production.

### ***2.7.3 Project closed July 2004***

The Project Manager stated in the May meeting that she felt that it was impossible to carry out agreed project activities given that members, for the majority, were no longer buying crackers made by UK homeworkers. Testing approaches with those workers was no longer feasible. In the light of lack of information from members about sourcing decisions, communication with suppliers was also very difficult.

The Group met again in early July in order to make a final decision, meet with cracker suppliers once again and discuss lessons learned. The Group agreed to close the crackers case study and:

- To continue with consultations on homeworkers' priorities, situation and comments on the draft Guidelines (that is with UK homeworkers not producing crackers)
- For retailers to independently ask any UK suppliers willing to test the Guidelines to feedback any responses to the Group over the length of the project
- Ensure lessons learned were written up into a report

#### **FINAL UPDATE FROM SUPPLIERS**

At the final meeting with suppliers, only Suppliers A and B attended (Supplier C was delayed en route). Only two members who retail crackers attended this meeting, one of whom had never had UK homeworkers producing their crackers. However, the Project Manager had had conversations with Suppliers C and D before the meeting and was able to partially update the Group on their situation.

Supplier A had not used homeworkers for crackers for five years, but instead produced them in their UK factory. They reported that this factory work was itself now moving to China, since they need cheaper labour and materials in order to remain competitive, particularly on deluxe crackers. They did not feel that the project had played a role in UK homeworkers' loss of work to the Far East. While the majority of Supplier A's clients opposed the use of homeworkers, they stated that no ETI member had requested that homeworkers should not be involved in their products since the start of the project.

Supplier B's crackers are now all made in China and Indonesia owing to changes in the NMW and bad press coverage in the UK. (Supplier B was involved in the original Alleged Code Violations work). They also stated that it was easier for them to manage production in overseas factories, as UK homeworkers had been unwilling to provide information needed for Supplier B's records regarding their bank and National Insurance details. Supplier B felt that activity by companies working to implement the ETI Base Code and planned consultations with homeworkers were intrusive to homeworkers lives. Finally, Supplier B felt that the project had raised the visibility of homework, and that this combined with the NMW had led suppliers to take decisions to move production overseas earlier than they would otherwise have done. They did however feel that transfer of production overseas was inevitable.

Suppliers C and D reported that significant and fairly rapid increases to the NMW had made them take the decision to move large amounts of production overseas (though Supplier B had already had some overseas capacity at the start of the project). Neither felt that the project had speeded up this decision. Supplier C stated that their retail customers showed no loyalty to them despite established relationships and good levels of service and delivery.

All suppliers stated that despite rising costs such as those outlined above by Suppliers C and D, prices received from retailers (including ETI members) have either remained static or gone down in the last few years. This opinion was echoed by the non-cracker supplier ETI supplier members. This appears to indicate a lack of commitment by retailers to sharing the costs of improving standards and to ensuring that suppliers are able to provide homeworkers with their entitlements.

#### **SUPPLIERS' SUGGESTIONS TO ETI ON WORKING ON HOMEWORK ISSUES IN OTHER INDUSTRIES**

- Supplier B felt that homeworkers may not want to engage with ETI on these issues (though this is not supported by those involved in the consultation so far in the UK)
- Supplier A said that they have gained some learning from us on communicating better with homeworkers, and with their own sub-contractors, and on changes to their processes in order to meet minimum standards with homeworkers
- ETI and its members need to ensure that trying to improve homeworkers' conditions does not price the product out of the market, and move more manufacturing overseas.
- ETI needs to ensure that retailers have also trained their buyers that margins will alter if costs for making improvements are taken into account.

ETI acknowledged these lessons, and has sent a report of our recent Purchasing Practices Roundtable to all four cracker suppliers, for their information.

### **3. Analysis and lessons learned**

In Homeworker Group meetings and in discussions with the Project Manager, members of the Homeworker Group undertook an analysis of the crackers project. They discussed why retailer members no longer have UK homeworkers making their Christmas crackers; any role of the project in contributing to this situation, and therefore any lessons regarding undertaking work with suppliers and other in India. The results of this analysis are written up below in Sections 3.1 to 3.3, recording Homeworker Group members' responses to these questions. A mid-term project review conducted in July 2004, just as the decision to close the crackers case study was taken, also analysed the strengths and weaknesses of the whole project so far, and how these could be built on or rectified over the remainder of the project.

The Group also discussed whether or not companies should sign up to a project if production may move during the course of the project. However, since companies are not always in control of the movement of production, a fixed commitment to certain sourcing of production would prevent any work in this area. Instead, companies need to work to improve standards wherever they may be sourcing. Some companies signed up intending to honour their project commitments, but were simply unable to over the length of the project, for a variety of reasons. Others may never have been committed to the project's aims and demands. Furthermore, in initial discussions between Oxfam and retailers as part of the Alleged Code Violations Procedure, retailers agreed not to harm homeworkers' interests. Some retailers' actions show that they did not keep to that agreement.

During the life of the project, retailers did not take a consistent, sector-wide approach with suppliers. Instead, different retailers gave different messages to suppliers, and did not always share with the Group what discussions they had had with suppliers or which course of action

had been agreed. In such circumstances, all retailers must consistently take the project's agreed approach with suppliers.

### **3.1 Why do members no longer have UK Christmas cracker production?**

- Price pressure on suppliers, retailer buyers pressured to keep up profit margins
- Changes to NMW
- High competition between suppliers – suppliers faced with choice of going out of business or moving production overseas. Only finishing and reworking now being done in UK.
- Same effect visible in Europe, part of a general trend of loss of UK manufacturing
- The longer the project went on, the more production moved overseas
- Limited market for Christmas crackers
- Large players set the tone.
- Low cost product, disposable
- Industry already moving to China – three out of four suppliers had manufacturing capacity in China at the start of the project
- Some suppliers have been asked to move production overseas by their retailer clients
- Several members in commercial limbo

### **3.2 What was role of project in loss of production to UK homeworkers?**

- Most project members agreed that the project itself had no role in the movement of production overseas
- Could the project have slowed down the movement of production at least, by having pressured suppliers to keep production with the same workforce involved in the project?
- Focussed attention on the issue and product
- Companies not sufficiently engaged and not meeting commitments
- Mixed messages to suppliers

### **3.3 What lessons for the India case study?**

- More preparatory work needed on the nature of the industry and relevant trends
- Retailers need to reflect on increased costs likely, including those within retailers who make decisions, ie buyers.
- Group needs to be better prepared for changes that may take place in production
- No false promises should be made to suppliers
- How can we protect workers without encouraging the price-driven market to move elsewhere once workers rights (but not jobs) are protected?
- Working with more skilled workers who are more likely to remain in work.
- Ensure we minimise repercussions if workers do lose work
- Need for long term commitment to suppliers and homeworkers involved in production (at least length of project, ie two years)
- Need for committed suppliers

- Need to work with suppliers on an individual basis initially, then mapping, then sharing information

## 4. Conclusion

The decision to close the Christmas crackers case study of the Homeworkers project was not taken lightly by the project members. The loss of work for UK homeworkers producing crackers was extremely disappointing for many project members and suppliers involved. Inaction and lack of commitment by some members negated the effectiveness of other members' efforts and commitment. The outcome for some homeworkers involved has been the opposite of that intended – instead of better conditions, they have lost their livelihoods altogether.

However, communication with suppliers and the ongoing consultations with homeworkers have yielded practical lessons on how the ETI Base Code can be applied, implemented and monitored with homeworkers. The project has also indicated the need for greater involvement of trade unions, and the sharing of experience between unions and NGOs in order to protect workers in the informal economy.

We have learned how suppliers manage homeworkers, how they communicate with them, what problems and priorities they have with regard to their homeworkers and vice versa. We have learned that a sector-wide approach may not engender the co-operation between suppliers that we had hoped for, while learning that suppliers in this sector had broadly similar ways of working.

We have established clarity on issues such as holiday pay, and successfully lobbied (with many others) for greater clarity in employment status, as well as for fair piece rate systems. All relevant learning has been and will continue to be incorporated in the draft *Guidelines on implementing the ETI Base Code with Homeworkers*. Where members implement lessons learned, in time this should translate into improvements for UK homeworkers. Many Homeworker Group retailer members have changed their attitudes and policies on homework, and this is a major achievement which is starting to show through in some members' Annual Reports to ETI on their activities to implement the Base Code. This has also led to greater openness and transparency in supply chains.

However, the problems that the project ran into need to be addressed in the India case study and, in some cases, more broadly within ETI. The achievements need to become further established and to apply across all products and supply chains. Company members need to remain committed and participating in projects of which they are members, and to communicate honestly their progress in project activities. In particular the need for company members to meet commitments with cost implications, and to share those costs with their suppliers, is paramount. We hope that many of the lessons learned will be applied in India and by members more broadly in addressing the need to protect homeworkers and improve their working conditions.

## Appendix 1: ETI Homeworker Project: Project Concept Note

### 1.1 Purpose of the project

- To improve the working conditions of homeworkers, by bringing their working conditions up to ETI Base Code standards.
- To share and promote lessons learned from this project within and beyond the membership

Strategic fit with ETI's aims: Homeworkers are increasingly prevalent in supply chains worldwide. Members' experience, research commissioned by ETI and the research of other organisations has shown that homeworkers frequently have poor working conditions. The project hopes to:

- add substantially to understanding about the monitoring and implementation of the Base Code at the level of homeworkers;
- increase and share understanding between ETI members
- add to understanding about different approaches to workplace monitoring.

### 1.2 Rationale/background for the project

The project is an initiative of what was originally the ETI Invisible Producers Group, which evolved into two separate projects, one on Smallholders, one on Homeworkers. The Group commissioned a study to provide an overview of the issues faced by homeworkers, and of experience relating to the application of codes of labour practice to homeworkers. The study sketched out a number of approaches that have been used to improve homeworkers' working conditions. There is already advice available from bodies such as the International Labour Organisation (Convention on Homeworking) and homeworker NGOs such as HomeNet or the UK's National Group on Homeworking. However, the study recommended guidance on interpretation of the ETI Base Code for the homeworker context, and then testing of that application. Members requested more specific, practical advice including in relation to the Code and indicators of Code compliance, as well as experimentation with multi-stakeholder initiatives.

The project also responds to the difficulties encountered by two ETI members attempting to address the employment of UK homeworkers within their Christmas cracker and paper goods supply chains, and the high level of interest and concerns of many ETI members, as manifested at the Roundtable on homeworking (July 2002). One work-stream has been agreed – exploring a sector-wide approach to improving the conditions of UK homeworkers in the production of Christmas crackers. A second work-stream will focus on jewellery, embroidery and beading in Northern India.

The project scores very highly against the 'ETI Selection Criteria for projects' in terms of: high expected impact on the lives of one of the poorest and most marginalised sections of workers; learning about the implementation and monitoring of the Base Code; high importance (including commercial) to a range of members, and the potential wider impact of learning generated. UK homeworkers who have been contacted are willing to participate; the involvement of homeworkers' organisations makes it more likely that overseas homeworkers will want to participate. The aims and outcomes are clear, and more likely to be achieved through the approach adopted in the project than other ways.

### 1.3 Objectives

Broad learning objectives of the project:

- To establish how the ETI Base Code can be applied, implemented and monitored with homeworkers
- To learn about the effectiveness of different approaches to tackling poor working conditions of homeworkers in supply chains
- To document approaches to implementing the Base Code in different supply chain structures

### 1.4 Outputs

- Increased understanding of the definition and situation of homeworkers for all members
- Creation of a practical document regarding the implementation of the Base Code with homeworkers (Best Practice Guidelines for the Implementation of the Base Code with Homeworkers)
- Shared and promote lessons learned on issues facing stakeholders working with homeworkers, amongst wider membership and beyond (eg homeworking groups), through the Guidelines and an ETI seminar

### 1.5 Activities

- Gather information on members' work with homeworkers to date, including information from members' suppliers
- To produce and test best practice guidelines on homeworkers for members to identify and work with homeworkers in their supply chains. The methodology for developing the guidelines will involve:
  - Documenting learning and experience from members and others regarding approaches to implementing the Base Code, including use of existing materials (NGH Best Practice Guidelines on Homeworking, ILO Convention on Homeworking, ETI Base Code, existing Company Codes of Conduct/Ethical Purchasing and Monitoring Policies)
  - Documenting case studies illustrating the variety of arrangements for working with homeworkers
  - Assessing the implications of code implementation for homeworkers
  - Consulting with homeworkers, suppliers, agents, retailers, trade unions and NGOs
  - Tailoring the implementation of the Base Code for the homeworker context, while recognising that that context will vary.
- Lobby governments re employment status of homeworkers, and in particular regulations regarding homeworkers and minimum wages where relevant.

The project will use two industry areas where extensive use of homeworkers has been identified across the membership, in order to test and develop the guidelines. One will be the Christmas crackers industry in the UK, and the second will be jewellery and embroidery in India. In both contexts the work will involve:

- Consultations with homeworkers, retailers and trade unions/homeworkers' organisations

- Agreeing approach and success indicators
- Testing the approach.
- Monitoring the impact on the livelihoods of homeworkers.
  - Subsequent revision of Best Practice Guidelines
  - Seminar with local stakeholders to feed back on progress

The project aims to achieve these objectives throughout the project (September 2002 onwards) by sharing experience; through the publication of Best Practice Guidelines on Homeworking and at an ETI Seminar on completion (tbc).

### 1.6 Risks

- The lack of legal protection for homeworkers risks the ability to impact on this problem in India and other countries.
- The isolation of homeworkers, who are mostly women, with caring responsibilities and additional barriers of gender roles, language (ethnic minorities) and literacy, and low knowledge of labour rights, plus often lack of trade union organisation in the informal economy, make homeworking a difficult issue to tackle.
- The transfer of production from costlier to less costly countries increases the risk to homeworkers of losing employment if they try to gain full workers rights.

However, with regard to the two project focus areas, ETI members together are responsible for a significant part of the Christmas crackers market and for the jewellery/beading market and are well placed to influence conditions of homeworkers employed therein.

### 1.7 Membership of the project group

#### ETI members who have expressed a commitment to participating in the project

Companies <sup>10</sup>	Trade Unions	NGOs
<ul style="list-style-type: none"> <li>• Asda</li> <li>• Boots</li> <li>• Debenhams</li> <li>• Lambert Howarth</li> <li>• Marks &amp; Spencer</li> <li>• Madison Hosiery</li> <li>• Monsoon/Accessorize</li> <li>• Next</li> <li>• Pentland</li> <li>• Safeway</li> <li>• Sainsbury's</li> <li>• The Body Shop International</li> <li>• The Co-operative Group (CWS) Ltd</li> <li>• WH Smith Ltd</li> </ul>	<ul style="list-style-type: none"> <li>• National Union of Knitwear, Footwear and Apparel Trades</li> <li>• Trades Union Congress</li> <li>• GMB</li> </ul>	<ul style="list-style-type: none"> <li>• Homeworkers WorldWide</li> <li>• National Group on Homeworking</li> <li>• Oxfam</li> <li>• Traidcraft</li> </ul>

<sup>10</sup> This is a full list of company members on the Homeworker project. However, some do not sell crackers. Others sell crackers that were already not produced by UK homeworkers at the start of the project. Boots, Debenhams and WH Smith all joined ETI during the course of the project. Somerfield were originally part of the project but withdrew in February 2003. Littlewoods were also project members but left ETI in January 2003. Tesco withdrew from the project in September 2004.

## Appendix 2: Homeworker Group responses to Department of Trade & Industry consultations

### 2.1 DTI Consultation on Fair Estimate Agreements

In September 2002, ETI submitted a response to the Department of Trade & Industry (DTI)'s consultation on Fair Estimate Agreements (FEAs), following consultation with members. The ETI response stated ETI members had found the 4/5ths rule unjust and unworkable and welcomed the DTI proposal to replace the FEA system. We requested to be kept informed of any further consultation processes. In May 2003, we replied to a second consultation on this subject supporting the removal of FEAs and the 4/5ths rule, and their replacement by the British Standard system for calculating piece-rates, along with other suggestions as agreed by Homeworker Group members.

### 2.2 DTI Consultation on employment status

In December 2002, the Homeworker Group submitted a response to the DTI's consultation on employment status. In the ETI response, project Group members stated that:

- they recognised the contribution of homework to both livelihoods and production, and the need to achieve equality of treatment between homeworkers and other wage earners
- homeworkers should not have to accept reduced contract terms and conditions
- a study commissioned by the group had noted that many UK homeworkers supplying to ETI members are 'piece-rate' homeworkers doing 'industrial subcontracting'. They have limited bargaining power and poor contract terms and conditions.
- the present confused employment status of homeworkers made it difficult to apply the ETI Base Code within the UK, and did not adequately tackle the vulnerability of UK homeworkers
- extending the statutory employment rights of UK homeworkers would lead to greater clarity over rights and obligations.
- homeworkers themselves should be consulted about their status,
- any changes to working people's status and/or rights should be accompanied by an information campaign.

### 2.3 DTI Consultation on proposals to amend the National Minimum Wage (NMW) Act, 1998

In October 2003, the Homeworker Group submitted a response to the DTI's consultation on amendments to enforcement of the NMW and agriculture wage. The Homeworker project responded by fully endorsing the positions of two of the Group's members, the Trades Union Congress (TUC) and the KFAT.

### 2.4 DTI Consultation on proposals to introduce fair piece rates

In January 2004, the Homeworker Group submitted a response to the DTI's consultation on a new system of fair piece rates. The response welcomed the abolition of the 4/5ths rule, and the introduction of a system of fair piece rates, fully endorsing the principles behind the proposed changes. In July 2004, the Group wrote to the DTI in response to their announcement of the introduction of a new piece rate system for output workers being introduced in October 2004/ April 2005, welcoming the new legislation and informing them that we had passed relevant information onto our members.

## Appendix 3: Homeworker Group engagement with the Low Pay Commission

In January 2003, the Project Manager met with the Assistant Secretary of the Low Pay Commission (LPC). The LPC is the statutory body responsible for monitoring the implementation and enforcement of the NMW and advising the government on any necessary changes to NMW regulations and rates. The Project Manager explained the aims and activities of the Homeworker project; the problems which members and suppliers faced with regard to implementation and enforcement of the NMW in supply chains and shared information from the Homeworkers Roundtable. She also gave feedback on problems regarding the 4/5ths rule and the abuse of the definition of an 'average' worker for the purposes of setting FEAs. The LPC was interested in the use of retailer pressure on suppliers to implement the NMW, as used alongside Inland Revenue enforcement mechanisms.

In October 2003, the Homeworker Group responded to the LPC consultation on the case for a NMW for 16 and 17 year olds. The Group responded by endorsing the detailed submissions of the TUC and KFAT, both of whom were in support of a young person's minimum wage. There is now ongoing contact between the two organisations. The Assistant Secretary attended the ETI Conference in May 2003. Most recently we met in June 2004 for a mutual update on issues and activities, in which the work of the Homeworker Group and its members (as well as other ETI work relating to low pay in the UK) was discussed.

## Appendix 4: NGH Report of use of ETI Alleged Code Violations Investigations Guidelines on production of Christmas crackers

This report was compiled by the National Group on Homeworking, and outlines the details of the use of the ETI Alleged Code Violations Investigations Guidelines which preceded the ETI Homeworker project.

<p>7 Process for Invoking Guidelines 7.1 The ETI member alleging a code violation should gather as much information as it reasonably can about the alleged violation from its informants before approaching the relevant ETI company.</p>	<p>NGH gathered evidence from homeworkers including documentary evidence and presented it to ETI trading NGO (hereafter NGO) member December 2001.</p>
<p>7.2 When it has gathered as much information as it reasonably can about the allegation, the initiating member may notify the relevant ETI member company. 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</p>	<p>Done by NGO December 2001.</p>
<p>7.3 A copy of each communication relating to the allegation should be sent to the ETI Secretariat at the same time as it is sent to the addressee. The Secretariat will send a copy of the allegation to the appropriate International Trade Secretariat (ITS) and ensure that this ITS has the opportunity to participate in the process of investigation and remediation.</p>	<p>NGO communicated with Secretariat. NGH has no knowledge of any involvement by ITS and are aware of no participation by them in the process of investigation or remediation</p>
<p>7.4 The communications containing the allegation should cover the following points: (listed in ETI Alleged Code Violation Investigation Guidelines)</p>	<p>Emails copied to NGH were sent to the ETI companies involved</p>
<p>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 ETI Member communicating the allegation and the names of the individuals concerned may be withheld.</p>	<p>Three of the homeworkers had already been dismissed for asserting their right to be paid at least the level of the NMW. Others identified themselves to the NGO and ETI company member E at a meeting in 8/12/02. These homeworkers were later told they would have no more work. They believed it was because they had complained to the Inland Revenue about non-payment of the NMW. To our knowledge none of the</p>

	homeworkers were identified to the company.
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 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).	The alleged code breaches (non-payment of NMW, holiday pay, health and safety) affected large numbers of employees. Allegations that workers had been unfairly dismissed for asserting their right to be paid at least the level of the NMW applied to five workers.
8.3 If the allegation relates to employees being wrongfully dismissed, the names of employees should be supplied.	Workers who had been wrongfully dismissed were expecting to be interviewed as part of the investigation. However, this was never investigated.
9 Meeting of Parties and Memorandum of Understanding 9.1 Once the allegation has been communicated to the ETI member company the parties should meet as soon as possible. This meeting should discuss the nature of the allegation and the procedure for investigating it, and record its decisions in a Memorandum of Understanding	Meeting of 'parties' (not including NGH) was held on 31 Jan 2002.
9.2 The memorandum should contain the following points: (a) Whether the allegation is specific enough to trigger these guidelines, or constitutes general background information about supply chain working conditions in a particular country, (b) Whether the allegation affects more than one ETI member, (c) The degree of leverage of the ETI member company (reflecting the scale of purchases and the proportion of the supplier's output taken by the ETI member), (d) The degree of confidentiality applicable, (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 companies that	It was agreed that the <b>ETI Alleged Code Violation Investigation Guidelines</b> should be followed as far as possible.  This was noted and to what extent.  This was noted.  Details that the allegations were to be kept confidential were noted. It was agreed to use an independent investigator briefed by NGH. Not discussed in detail.  Not discussed.

<p>are not ETI members but are taking supply from the same supplier,</p> <p>(h) The timetable for the investigation,</p> <p>(i) Whether any additional resources will be needed</p>	<p>Noted Supplier B parent company to pay for the investigation. Whether any additional resources would be needed to pay for remediation was not noted.</p>
<p>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.</p>	<p>The investigation was led first of all by a staff member from the NGO, but, at the meeting to establish the MOU, a staff member from Company E took over the lead.</p>
<p>10 Investigation of the Alleged Code Violation</p> <p>10.1 once the parties have met and agreed on the process of the investigation, the ETI Member Company should investigate as quickly as possible, within a time frame appropriate to the severity of the alleged violation.</p>	<p>The initial part of the investigation was concluded by the end of February 2002. The investigation was never concluded as the work was relocated to China and the homeworkers lost the work.</p>
<p>10.2 the purpose of the investigation is to find the facts, as reliably as possible. Unless the parties agree on a different approach, the company should 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. In all cases, the investigator should speak to the persons or organisation in the supplier country originating the allegation. The investigator should conduct off-site interviews with employees of the supplier where this is necessary for the employees to freely express themselves.</p>	<p>Independent investigators were engaged. NGH was excluded from the investigation. No workers who made the allegation were interviewed. It is believed that three workers chosen by Company E were interviewed, out of a homeworking work force of 450.</p>
<p>10.3 in conducting the investigation, the company should apply the experience gained by the ETI pilot projects in developing best practice guidelines for the evaluation of supplier sites.</p>	<p>It is not known whether this was done</p>
<p>10.4 If the allegation relates to supplier behaviour that has already been the subject of other investigations (e.g. by the ILO), the results of these investigations should be taken into account by the investigation carried out under these guidelines.</p>	<p>A number of homeworkers had received back pay as a result of an investigation by the National Minimum Wage Compliance Unit. It is not known whether the auditors were briefed on this.</p>
<p><b>11. No Victimisation</b></p>	<p>It was noted in the MOU that Company E</p>

<p>11.1 When informing the supplier that an allegation has been made, the ETI member company 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 supplier relationship.</p>	<p>would do this. It is not known whether it was done.</p>
<p><b>12 Investigation Report</b>                  12.1 When the investigation has been completed the investigator should make a written report, which should be shared with the relevant ETI member company, the supplier, the relevant employees, the persons or organisation originating the allegation in the supplier company, the ETI members that communicated the allegation to the ETU member company and the relevant International Trade Secretariat.</p>	<p>A written report was produced, but was not shared with the organisation originating the violation automatically, and was not shared with the relevant workers at all.</p>
<p>12.2 The investigation report should state;</p> <ul style="list-style-type: none"> <li>• who carried out the investigation</li> <li>• when it was done</li> <li>• what methods were used</li>   <li>• what the coverage of the investigation was</li>   <li>• whether off-site workers interviews were conducted</li> <li>• the results of the consultation with the persons or organisation originating the allegation</li> <li>• what the findings of the investigation were specific to each allegation</li> </ul>	<p>Stated                  Not stated                  Methods used were inadequate to establish whether the piece rates enabled homeworkers to earn NMW.                  Details of the coverage were misleading, as Supplier B claimed to have interviewed 30% of the 'current workforce.' At that time Company E and the NGO had postponed putting in their orders until completion of the investigation so only 9 homeworkers were working out of a normal homeworking workforce of up to 450.</p> <p>Not stated                  Not stated as it did not take place</p> <p>Only one allegation was investigated and the results of this were stated.</p>
<p>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.</p>	<p>Names of homeworkers interviewed were not disclosed</p>

<p><b>13 Remediation plan</b></p> <p>13.1 Where the investigator's report confirms any or all of the alleged code breaches, the ETI member company should negotiate a remediation plan with the supplier. This plan should provide for prompt remediation of violations, taking into account the nature of the violation and the type of remediation required.</p>	<p>Only one of the allegations was investigated, results were inconclusive, appeals from NGH to conduct a through investigation were ignored and work was transferred away from the homeworkers shortly after. There was no remediation plan that we are aware of.</p>
<p>13.2 The remediation plan should be shared with the relevant employees, the person or organisation originating the allegation in the supplier country, the ETI member that communicated the allegation to the ETI member company and the relevant International Trade Secretariat.</p>	<p>We do not believe that one was written.</p>
<p>13.3 The remediation plan should contain:</p> <ul style="list-style-type: none"> <li>• A description of each code breach being addressed</li> <li>• The nature of the remediation action</li> <li>• The timescale for remediation action</li> <li>• Any changes in the ETI member company's trading practice necessary to make mediation effective.</li> </ul>	
<p>14 Meeting to Consider the Investigation Report and Remediation Plan</p> <p>14.1 As soon as it is convenient after the circulation of the investigation report, the parties should meet to discuss the report and decide on the next steps.</p>	<p>It is not known whether this happened</p>
<p>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.</p>	
<p>14.3 The views of the supplier workforce and the organisation originating the allegation in the supplier country should be taken into account in assessing the accuracy of the investigation and the contents of the remediation plan.</p>	<p>The views of NGH, or of the homeworkers making the allegation were not taken into account</p>
<p>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 ETI member company undertaking the</p>	<p>NGH disagreed with the result of the findings of the investigator's report. This disagreement was communicated to Company E on 13/6/2002. Company E dismissed NGH's view.</p>

<p>investigation, along with any additional information necessary to explain the disagreement. The ETI member company should examine this information seriously and take the appropriate steps, which may include a further enquiry into the supplier'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.</p>	
<p>14.5 If the parties are unable to agree on the findings, the option of engaging an independent investigator agreeable to both sides should be considered. The parties should agree the terms of reference and the status of the investigators report.</p>	<p>No agreement reached, but no further action taken by Company E, presumably because they knew the work would shortly be transferred to China.</p>
<p><b>15 Completion and Final Report</b>  15.1 The ETI member company should monitor the suppliers compliance with the remediation plan. When remediation is complete, the ETI member company should write to all the parties involved describing the remediation actions that have been undertaken and stating that remediation is complete.</p>	<p>No remediation plan was formed to the best of our knowledge. Requests to see the plan were not responded to.</p>
<p>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 ETI member company, along with any additional information necessary to explain the disagreement. The parties should discuss the differences between their two positions and try to reach an agreement on what course of action should be followed.</p>	<p>Not applicable as no remediation undertaken (to the best of our knowledge).</p>
<p>15.3 The views of the supplier workforce and the organisation initiating the allegation in the supplier country should be taken into account in assessing whether remediation is complete.</p>	<p>Not applicable as no remediation undertaken (to the best of our knowledge).</p>
<p>15.4 If the process takes longer that six months from the date the allegation was made, the ETI member company should provide an interim report at the six month point stating what has been completed, what</p>	<p>After 6 months NGH requested that Company E provide a copy of their interim report. This request was not responded to.</p>

remains to be done and the timetable for completion	
15.5 if remediation is still not complete after a further six months, the ETI member company should provide a further interim report stating what has been completed, what remains to be done and the timetable for completion. The report should be referred to the ETI Board, which should determine a course of action appropriate to the circumstances.	Not done as work was transferred to China
15.6 Where a code breach is remedied, the issue should be kept under review by the company in its annual monitoring	It is not known whether this is happening.