

Whereas:

The pandemic has disproportionately harmed farmworkers<sup>1</sup> and exacerbated existing risks of human rights violations in agriculture, including slavery,<sup>2</sup> sexual assault,<sup>3</sup> and unsafe working conditions (including climate change induced heat exhaustion<sup>4</sup>). For example, in October 2021, U.S. Customs and Border Protection (CBP) banned imports of tomatoes from certain Mexican farms with indications of forced labor, possibly Kroger suppliers.<sup>5</sup> In November 2021, U.S. prosecutors indicted 24 defendants for a forced labor conspiracy involving over 70,000 farmworkers.<sup>6</sup>

Kroger claims to address human rights risks through a Supplier Code of Conduct and “social compliance audits” by two auditors, SGS and UL.<sup>7</sup> Both have weak track records, such as approval of factories that subsequently collapsed<sup>8</sup> or burned down,<sup>9</sup> resulting in deaths.

CBP itself published guidance noting traditional social audits are “ineffective at identifying and reducing forced labor” in supply chains, instead recommending “worker-driven solutions” including “the Fair Food Program” (FFP).<sup>10</sup>

Yet Kroger is an outlier—compared to peers like Walmart, Whole Foods, Ahold, Fresh Market, and Trader Joe’s—in not having joined the FFP. The FFP enforces COVID-19 safety protocols,<sup>11</sup> heat stress protections,<sup>12</sup> and a zero-tolerance policy for forced labor and sexual assault,<sup>13</sup> through worker-centered audit and complaint mechanisms backed by mandatory market consequences. It is the recognized “gold

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<sup>1</sup> <https://www.cidrap.umn.edu/news-perspective/2021/09/study-farmworkers-4-times-risk-covid-19>

<sup>2</sup> [https://polarisproject.org/wp-content/uploads/2021/06/Polaris\\_Labor\\_Exploitation\\_and\\_Trafficking\\_of\\_Agricultural\\_Workers\\_During\\_the\\_Pandemic.pdf](https://polarisproject.org/wp-content/uploads/2021/06/Polaris_Labor_Exploitation_and_Trafficking_of_Agricultural_Workers_During_the_Pandemic.pdf)

<sup>3</sup> <https://www.theatlantic.com/business/archive/2018/01/agriculture-sexual-harassment/550109/>

<sup>4</sup> <https://www.bloomberg.com/news/articles/2021-08-12/farmworkers-overheat-on-frontlines-of-climate-change>

<sup>5</sup> <https://www.cbp.gov/newsroom/national-media-release/cbp-issues-withhold-release-order-tomatoes-produced-farm-mexico>; <https://www.latimes.com/california/story/2021-12-31/u-s-blocks-tomato-shipments-from-mexican-farms-accused-of-abusing-workers>

<sup>6</sup> <https://ciw-online.org/blog/2021/11/breaking-u-s-doj-busts-sprawling-modern-day-slavery-operation-in-fields-of-south-georgia/>

<sup>7</sup> <https://www.thekrogerco.com/wp-content/uploads/2017/09/faqs.pdf>

<sup>8</sup> <https://cleanclothes.org/file-repository/figleaf-for-fashion.pdf>;

<sup>9</sup> <https://www.tandfonline.com/doi/full/10.1080/14747731.2017.1304008>

<sup>10</sup> <https://www.cbp.gov/sites/default/files/assets/documents/2021-Aug/CBP%202021%20VTW%20FAQs%20%28Forced%20Labor%29.pdf>

<sup>11</sup> <https://www.nytimes.com/live/2021/01/05/dining/food-industry-coronavirus>

<sup>12</sup> <https://www.naplesnews.com/story/news/environment/2021/09/03/coalition-immokalee-farmworkers-protects-workers-rising-temperatures-climate-change/5699013001/>

<sup>13</sup> <https://www.fairfoodprogram.org/wp-content/uploads/2021/11/Attachable-Size-SOTP-2021-Report.pdf>

standard” for monitoring human rights in supply chains,<sup>14</sup> lauded by the United Nations,<sup>15</sup> the Obama-Biden administration,<sup>16</sup> and others.<sup>17</sup>

In May 2021, Kroger adopted a Statement on Human Rights that relies on social audits, worker surveys, and limited impact assessments.<sup>18</sup> Failing to join the FFP may nevertheless allow legal,<sup>19</sup> reputational, and supply chain risks to persist.

RESOLVED: Shareholders request the Board issue a report, at reasonable cost and omitting proprietary information, addressing the extent to which, during the pandemic, Kroger’s Statement on Human Rights (“Statement”) has effectively protected farmworkers in its North American supply chain from human rights violations, including forced labor, sexual assault, heat exhaustion, and COVID-19. This report should detail any mechanisms similar to the Fair Food Program, including:

- Whether Kroger has required its North American produce suppliers (“Suppliers”) to implement COVID-19 worker safety and heat stress prevention protocols (“Safety Protocols”), and, if so, the content of those Safety Protocols;
- The number of times Kroger suspended a Supplier for violating the Statement or Safety Protocols, and the specific grounds for each such suspension;
- A list of the total number of Supplier locations purchased from, how often Kroger social compliance audits were conducted on-site at each such location, and the number of farmworkers personally interviewed there by the auditor;
- Whether Kroger ensured its Suppliers’ farmworkers had access to a third-party grievance mechanism, with the authority to order a remedy, for reporting Statement or Safety Protocol violations, and, if so, the required procedures, number of such grievances filed, and outcomes of all such grievances.

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<sup>14</sup> [https://www.msi-integrity.org/wp-content/uploads/2020/07/MSI\\_Not\\_Fit\\_For\\_Purpose\\_FORWEBSITE.FINAL\\_.pdf](https://www.msi-integrity.org/wp-content/uploads/2020/07/MSI_Not_Fit_For_Purpose_FORWEBSITE.FINAL_.pdf)

<sup>15</sup> <https://www.ohchr.org/Documents/Issues/Business/UNGPs10/Stocktaking-reader-friendly.pdf>

<sup>16</sup> <https://www.news-press.com/story/news/local/amy-williams/2015/01/30/coalition-immokalee-workers-gets-presidential-medal/22623915/>

<sup>17</sup> <https://www.fairfoodprogram.org/recognition/>

<sup>18</sup> <https://www.thekrogerco.com/wp-content/uploads/2021/05/Kroger-Statement-on-Human-Rights.pdf>

<sup>19</sup> <https://static1.squarespace.com/static/5810dda3e3df28ce37b58357/t/6181623e5f967e246dd8c416/1635869247075/RFA+and+Hershey+Press+Release+FINAL+no+logo.docx.pdf>