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**V2**

**DRAFT EUROPEAN SUSTAINABILITY REPORTING STANDARD**

**LSME ESRS SECTION 4 SOCIAL DISCLOSURES**

**DISCLAIMER (to be revised)**

The working paper ESRS LSME Section IV is set out in paragraphs X-X and Appendices A: Defined Terms and B: Application Requirements. Appendices A and B have the same authority as the main body of the [draft] Standard. Each Disclosure Requirement is stated in a bold paragraph that illustrates the objective of the disclosures. This working papers also uses terms defined in other [draft] ESRS and shall be read in the context of its objective.

## CONTENT AND STATUS OF THIS DRAFT

This draft has to be read in conjunction with the Agenda Papers on LSME discussed in SR TEG and SRB meeting in January 2023.

This draft has been developed as a markup from [draft] Set 1 (November 2022).  
Parts in grey are to be discussed pending a decision from EC.

To reflect the principle of proportionality, the following key simplifications have been implemented in this document (on the basis of the SR TEG discussions/ approach presented by the EFRAG Secretariat at those meetings):

- The text of SET 1 standards has been integrally considered and amended where appropriate, so that LSME will be a standalone document.
- EFRAG will consult on the applicability of each Sector specific ESRS to LSMEs, as part of the consultation on that ESRS. A question on the general approach to sector standards in LSME will also be included in LSME Exposure Draft. Pending the definition of such an approach, in this draft the references to sector-specific ESRS has been eliminated.
- The reporting covers material impacts and risks. Opportunities are voluntary.
- The undertaking shall disclose negative impacts. Positive impacts are voluntary.
- The approach to entity-specific disclosure is unchanged from Set 1 ('shall').
- Targets are disclosed on voluntary basis. There will be a requirement to disclose whether the undertaking has targets, and if it has targets, the requirement to specify whether they are science-based. The undertaking may additionally report on how they are calculated and implemented.
- The proposal to centralise all disclosures on policies, actions and targets in Section II needed specific adjustments for the social topics. While in the environmental ESRSs most of the disclosure requirements are related to metrics, in the social ESRSs they are mostly related to policies and actions. Some SR TEG members have highlighted that the centralised approach significantly reduces the content that is mandated by due diligence in human rights requirements. It was also indicated that it is important to keep the entire due diligence cycle, being a better option to tone down the level of the requirements rather than skipping steps.
- Regarding the metrics in Own workforce (S1), it has also been suggested to simplify the content and reduce the granularity/breakdowns, rather than eliminating whole disclosure requirements. This is particularly important considering that the LSME ESRS will be the cap on value chain for large undertakings. However, there might be more space for simplification.
- Regarding the human rights due diligence, it was decided to reinstate the two disclosure requirements related to (i) processes for engaging with stakeholders about impacts, and (ii) processes to remediate negative impacts and channels to raise concerns; after insight received from the European Commission. Following that decision, EFRAG Secretariat has merged the simplified proposals of those two disclosure requirements for S1 to S4. In the current version, these two disclosure requirements remain in Section IV, but two other options are proposed to the EFRAG SR TEG in the 04-01 Cover Note.



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## Objective

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1. The objective of this [draft] Section is to specify disclosure requirements which will enable users of the sustainability statements to understand:
  - (a) how the undertaking affects its own workforce, workers in its value chain, affected communities and consumers and end-users; in terms of material negative actual or potential impacts;
  - (b) any actions taken, and the result of such actions, to prevent, mitigate or remediate actual or potential negative impacts;
  - (c) the nature, type and extent of the undertaking's material risks on its own workforce, workers in its value chain, affected communities and consumers and end-users; and how the undertaking manages them;
  - (d) the financial effects on the undertaking over the short-, medium- and long-term time horizons of material risks arising from the undertaking's impacts and dependencies on its own workforce, workers in its value chain, affected communities and consumers and end-users.
  
2. These [draft] Disclosure Requirements also require an explanation of how such impacts, as well as the undertaking's dependencies on its own workforce, workers in the value chain, affected communities and consumers and end-users can create material risks for the undertaking.
  
3. For Own Workforce (S1):
  - (a) These [draft] Disclosure Requirements relate to the following sustainability matters: (a) working conditions (including secure employment; working time; adequate wages; social dialogue; freedom of association, the existence of works councils and the information, consultation and participation rights of workers; collective bargaining, including the rate of workers covered by collective agreements; work-life balance; and health and safety), (b) equal treatment and opportunities for all (including gender equality and equal pay for work of equal value; training and skills development; employment and inclusion of persons with disabilities; measures against violence and harassment in the workplace; and diversity), (c) other work-related rights (including child labour; forced labour; adequate housing; and privacy).
  - (b) These [draft] Disclosure Requirements cover an undertaking's "own workforce", which is understood to include both workers who are in an employment relationship with the undertaking ("employees") and non-employee workers who are either individuals with contracts with the undertaking to supply labour ("self-employed workers") or workers provided by undertakings primarily engaged in "employment activities" (NACE Code N78). See Application Requirement 3 for examples of who falls under own workforce.
  - (c) These [draft] Disclosure Requirements require undertakings to describe their own workforce, including key characteristics of the employees and non-employee workers that are part of it. This description provides users with an understanding of the structure of the undertaking's own workforce and helps to contextualise information provided through other disclosures.
  - (d) The terms "own workforce" and "own workers" are used interchangeably in this [draft] Standard.
  - (e) The objective of these [draft] Disclosure Requirements is also to ensure that the reporting requirements enable undertakings to disclose alignment with

international and European human rights instruments and conventions, including the International Bill of Human Rights, the UN Guiding Principles on Business and Human Rights and the OECD Guidelines for Multinational Enterprises, the International Labour Organization's Declaration on Fundamental Principles and Rights at Work and ILO fundamental conventions, the UN Convention on Persons with Disabilities, the European Convention of Human Rights, the revised European Social Charter, the Charter of Fundamental Rights of the European Union, the EU policy priorities as set out by the European Pillar of Social Rights, and EU legislation.

4. For Workers in the value chain (S2):
  - (a) These [draft] Disclosure Requirements relate to the following sustainability matters: (a) working conditions (for example, secure employment, working time, adequate wages, social dialogue, freedom of association, including the existence of work councils, collective bargaining, work-life balance and health and safety); (b) equal treatment and opportunities for all (for example, gender equality and equal pay for work of equal value, training and skills development, the employment and inclusion of persons with disabilities, measures against violence and harassment in the workplace, and diversity); (c) other work-related rights (for example, child labour, forced labour, adequate housing, water and sanitation and privacy).
  - (b) These [draft] Disclosure Requirements cover all workers in the undertaking's upstream and downstream value chain who are or can be materially impacted by the undertaking, this includes impacts that are caused or contributed to by the undertaking and those which are directly linked to its own operations, products, or services through its business relationships. This includes all workers who are not included in the scope of "own workforce" ("own workforce" includes employees, individual contractors, i.e., self-employed workers, and workers provided by third party undertakings primarily engaged in 'employment activities'). See AR 3 for examples of what is included in the scope of this [draft] Standard.
5. For Affected communities (S3), these [draft] Disclosure Requirements relate to the following sustainability matters: (a) communities' economic, social and cultural rights (for example, adequate housing, adequate food, water and sanitation, land-related and security-related impacts); (b) communities' civil and political rights (for example, freedom of expression, freedom of assembly, impacts on human rights defenders); (c) particular rights of indigenous communities (for example, free, prior and informed consent, self-determination, cultural rights).
6. For Consumers and end-users (S4), these [draft] Disclosure Requirements relate to the following sustainability matters: (a) information-related impacts for consumers and/or end-users (for example, privacy, freedom of expression and access to (quality) information); (b) personal safety of consumers and/or end-users (for example, health and safety, security of a person and protection of children); (c) social inclusion of consumers and/or end-users (for example, non-discrimination, access to products and services and responsible marketing practices).

## Impact and risk management across S1 to S4

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### ***Disclosure Requirement XX – Processes for engaging with own workers, workers in the value chain, affected communities, consumers and end-users, and their representatives about impacts***

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7. **The undertaking shall disclose its general processes for engaging with its own workers, workers in the value chain, affected communities, consumers and end-users, and their representatives about actual and potential material impacts on its them.**
8. The objective of this Disclosure Requirement is to enable an understanding of how the undertaking engages, as part of its ongoing sustainability due diligence process, with its own workers, workers in the value chain, affected communities, consumers and end-users, their legitimate representatives, or with credible proxies, about material, actual and potential, negative impacts that do, or may, affect them, and whether and how their perspectives are taken into account in the decision-making processes of the undertaking.
9. The undertaking shall disclose whether and how the perspectives of its own workforce, workers in the value chain, affected communities, and consumers and end-users inform its decisions or activities aimed at managing the actual and potential material impacts on them. This shall include, where relevant, an explanation of:
  - (a) whether engagement occurs (S1) directly with the undertaking's own workers or workers' representatives; (S2-S4) with value chain workers, affected communities, consumers and end-users, or their legitimate representatives directly, or with credible proxies that have insight into their situation;
  - (b) the stage(s) at which engagement occurs, the type of engagement and frequency of the engagement;
  - (c) where applicable, (S1) any agreements that the undertaking has with workers' representatives related to the respect of human rights of its own workforce, (S2) any agreements that the undertaking has with global union federations related to the respect of human rights of workers in the value chain, including their right to bargain collectively.
10. Where affected communities are indigenous peoples, the undertaking may also disclose how it takes into account and ensures respect of their particular rights in its stakeholder engagement approach, including their right to free, prior and informed consent with regard to their cultural, intellectual, religious and spiritual property; activities affecting their lands and territories; and legislative or administrative measures that affect them. In particular, where engagement occurs with indigenous peoples, the undertaking may also disclose whether and how indigenous peoples have been consulted on the mode and parameters of the engagement (for example, in designing the agenda, nature, and timeliness of the engagement).
11. If the undertaking cannot disclose the above required information because it has not adopted a general process to engage with the own workers, it shall disclose this to be the case. It may disclose a timeframe in which it aims to have such a process to be in place.

### ***Disclosure Requirement XX – Processes to remediate negative impacts and channels for own workers to raise concerns***

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12. **The undertaking shall describe the processes it has in place to provide for or cooperate in the remediation of negative impacts on own workers, workers in the value chain, affected communities and consumers and end-users, that the**



**undertaking has identified it has caused or contributed to, as well as channels available to them to raise concerns and have them addressed.**

13. The objective of this Disclosure Requirement is to enable an understanding of the formal means by which own workers, workers in the value chain, affected communities and consumers and end-users can make their concerns and needs known directly to the undertaking and/or through which the undertaking supports the availability of such channels (for example, grievance mechanisms) in the workplace of own workers, in the workplace of value chain workers, by its business relationships, and how follow up is performed with them regarding the issues raised, and the effectiveness of these channels.
14. The undertaking shall describe the processes in place to cover the matters defined within the Objective section by disclosing the following information:
  - (a) its approach to and processes for providing or contributing to remedy where it has identified that it has caused or contributed to a material negative impact on own workers, workers in the value chain, affected communities, consumers and end-users, including whether and how the undertaking assesses that remedy provided is effective;
  - (b) any channels it has in place for own workers, workers in the value chain, affected communities, consumers and end-users to raise their concerns or needs, or if the undertaking participates in any industry wide initiative that provides such a channel for them to raise their concerns. If the undertaking has not adopted a channel for raising concerns, it shall disclose this to be the case<sup>1</sup>; in which case the undertaking may disclose a timeframe in which it aims to have such a channel in place.
15. The undertaking may disclose whether and how it assesses that own workers, workers in the value chain, affected communities, consumers and end-users are aware of, and trust, these structures or processes as a way to raise their concerns or needs and have them addressed. In addition, the undertaking shall disclose whether the undertaking has policies in place regarding the protection of individuals that use them against retaliation.

## **OWN WORKFORCE (S1)**

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### ***Metrics***

#### ***Disclosure Requirement S1-1 – Characteristics of the undertaking’s employees***

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16. **The undertaking shall describe key characteristics of employees in its own workforce.**
17. The objective of this Disclosure Requirement is to provide insight into the undertaking’s approach to employment, including the scope and nature of impacts arising from its employment practices, to provide contextual information that aids an understanding of the information reported in other disclosures, and to serve as the basis for calculation for quantitative metrics to be disclosed under other disclosure requirements in this Standard.
18. The disclosure required by paragraph 7 shall include:

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<sup>1</sup> This information supports the information needs of financial market participants subject to Regulation (EU) 2019/2088 as reflecting an additional indicator related to principal adverse impacts as set out by indicator #5 in Table 3 of Annex 1 of the related Delegated Regulation with regard to disclosure rules on sustainable investments (respectively “Lack of grievance/complaints handling mechanisms related to employee matters”).

- (a) a report by head count of the total number of employees, and breakdowns by gender and by country for countries in which the undertaking has 50 or more employees;
  - (b) a report by head count or full time equivalent (FTE) of:
    - i. permanent employees, and breakdown by gender;
    - ii. temporary employees, and breakdown by gender; and
    - iii. non-guaranteed hours employees, and breakdown by gender.
  - (c) a description of the methodologies and assumptions used to compile the data, including whether the numbers are reported:
    - i. in head count or full-time equivalent (FTE) (including an explanation of how FTE is defined); and
    - ii. at the end of the reporting period, as an average across the reporting period, or using another methodology.
  - (d) a cross-reference of the information reported under (a) above to the most representative number in the financial statements.
19. An undertaking may [TO BE DISCUSSED] report by head count or full time equivalent (FTE) the following information:
- (a) full-time employees, and breakdowns by gender and by region; and
  - (b) part-time employees, and breakdowns by gender and by region

***Disclosure Requirement S1-2 – Characteristics of non-employee workers in the undertaking’s own workforce***

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20. **The undertaking shall describe key characteristics of non-employee workers in its own workforce.**
21. The objective of this Disclosure Requirement is to provide insight into the undertaking’s approach to employment, including the scope and nature of impacts arising from its employment practices, to provide contextual information that aids the understanding of the information reported in other disclosures, and to serve as the basis for calculation for quantitative metrics to be disclosed under other disclosure requirements in this Standard. It also allows an understanding of how much the undertaking relies on workers who are not employees.
22. The disclosure required by paragraph 53 shall include:
- (a) a disclosure of the total number of non-employee workers in own workforce, i.e. either individuals with contracts with the undertaking to supply labour (“self-employed workers”) or workers provided by undertakings primarily engaged in “employment activities” (NACE Code N78), including a description of:
    - i. the most common types of non-employee workers and their relationship with the undertaking; and
  - (b) an explanation of the methodologies and assumptions used to compile the data, including whether the number of non-employee workers is reported:
    - i. in headcount or full-time equivalent (FTE) (including a definition of how FTE is defined); and

- ii. at the end of the reporting period, as an average across the reporting period, or using another methodology.
23. Where data is not available for detailed information, the undertaking shall estimate [TO BE DISCUSSED] the number and state that it has done so. When the undertaking performs estimates, it shall describe the basis of preparation of this estimation. If such estimate cannot be produced following the characteristics of information detailed in Section I, the undertaking shall state this to be the case.
24. When reporting its employment relationship with the most common types of non-employee workers in its own workforce, the undertaking may provide [TO BE DISCUSSED] a general description as to whether it engages them directly (as self-employed contractors) or indirectly through a third party. The undertaking is not required to report the type of worker, contractual relationship, and work performed for every worker who is not an employee.

**Disclosure Requirement S1-3 – Collective bargaining coverage and social dialogue**

25. **The undertaking shall disclose information on the extent to which the working conditions and terms of employment of its own workforce are determined or influenced by collective bargaining agreements and to the extent to which its employees are covered in social dialogue in the EEA at the establishment and European level.**
26. The objective of this Disclosure Requirement is to enable an understanding of the coverage of collective bargaining agreements and social dialogue for its own workforce.
27. The disclosure required by paragraph 58 shall include the following information in relation to collective bargaining:
- (a) the percentage of total employees covered by collective bargaining agreements;
  - (b) for employees not covered by collective bargaining agreements, a description of whether the undertaking determines their working conditions and terms of employment based on collective bargaining agreements that cover its other employees or based on collective bargaining agreements from other undertakings; and
28. a description of the extent to which the working conditions and terms of employment of non-employee workers in their own workforce are determined or influenced by collective bargaining agreements, In the EEA, the disclosure required by paragraph 60 shall include a disclosure of whether the undertaking has one or more collective bargaining agreements and, if so, the overall percentage covered by such agreement(s).

**Disclosure Requirement S1-4 – Adequate wages**

29. **The undertaking shall disclose whether or not all workers in its own workforce are paid an adequate wage, in line with applicable benchmarks; and if not, which type of workers do not receive an adequate wage and what percentage of its own workforce is paid below the adequate wage.**
30. The objective of this Disclosure Requirement is to enable an understanding of whether or not all of an undertaking's own workers are paid an adequate wage, in line with applicable benchmarks.
31. The undertaking shall disclose whether or not all workers in its own workforce are paid an adequate wage, in line with applicable benchmarks. If so, stating this will be sufficient to fulfil this disclosure requirement and no further information is needed.

32. If not all workers in the undertaking's own workforce are paid an adequate wage in line with applicable benchmarks, the undertaking shall in disclosing the countries where workers earn below the applicable adequate wage benchmark, and, for each of these countries:
- (a) whether this is the case just for t employees, just for non-employee workers, or for both;
  - (b) In addition, the undertaking may disclose [TO BE DISCUSSED]the percentage of the own workforce paid below the adequate wage, with a breakdown for employees and non-employee workers.

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***Disclosure Requirement S1-5 – Social protection***

33. **The undertaking shall disclose whether its own workers are covered by social protection against loss of income due to major life events, and, if not, the countries where this is not the case and the percentages in those countries that are not protected.**
34. The objective of this Disclosure Requirement is to enable an understanding of whether the undertaking's own workers are covered by social protection against loss of income due to major life events, and, if not, the countries where this is not the case and the percentages in those countries that are not protected.
35. The undertaking shall disclose whether or not all workers in its own workforce are covered by social protection, through public programs or through benefits offered by the undertaking, against loss of income due to any of the following major life events:
- (a) sickness;
  - (b) unemployment starting from when the own worker is working for the undertaking;
  - (c) employment injury and acquired disability;
  - (d) maternity leave; and
  - (e) retirement.
- If so, stating this will be sufficient to fulfil this disclosure requirement and no further information is needed.
36. If not all workers in the undertaking's own workforce are covered by social protection in accordance with paragraph 72, the undertaking may in addition disclose [TO BE DISCUSSED]:
- (a) the countries where workers do not have social protection with regard to one or more of the types of events listed in paragraph 72; and,
  - (b) for each of these countries, the types of employees and of non-employees who do not have social protection with regard to each applicable type of event.

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***Disclosure Requirement S1-6 – Training and skills development indicators***

37. **The undertaking shall disclose the extent to which training and skills development is provided to its employees.**
38. The objective of this Disclosure Requirement is to enable an understanding of the training activities that have been offered to employees, within the context of continuous professional growth, to upgrade employees' skills and facilitate continued employability.
39. The disclosure required by paragraph 26 shall include:

- (a) the average number of training hours per person for employees and by gender.

### ***Disclosure Requirement S1-7 – Health and safety indicators***

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40. **The undertaking shall disclose information on the extent to which its own workforce is covered by its health and safety management system and the number of incidents associated with work-related injuries, ill health and fatalities of its own workers. In addition, it shall disclose the number of fatalities as a result of work-related injuries and work-related ill health of other workers working on the undertaking’s sites.**
41. The objective of this Disclosure Requirement is to allow an understanding of the coverage, quality and performance of the health and safety management system established to prevent work-related injuries.
42. The disclosure required by paragraph 82 shall include the following information broken down between employees and non-employee workers in own workforce:
- (a) the number of fatalities<sup>2</sup> as a result of work-related injuries and work-related ill health;
  - (b) the number and rate<sup>3</sup> of recordable work-related accidents;
  - (c) the number of days lost to work-related injuries and fatalities from work-related accidents, work-related ill health and fatalities from ill health<sup>4</sup>.

### ***Disclosure Requirement S1-8 – Compensation indicators (pay gap and total compensation)***

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43. **The undertaking shall disclose the percentage gap in pay between women and men and the ratio between the compensation of its highest paid individual and the median compensation for its employees.**
44. The objective of this Disclosure Requirement is twofold. Firstly, to allow an understanding of the extent of any gap in the pay between women and men amongst the undertaking’s employees. And secondly, to provide insight into the level of compensation inequality inside the undertaking and whether wide pay disparities exist.
45. The disclosure required by paragraph 90 shall include:
- (a) the male-female pay gap, defined as the difference between average gross hourly earnings of male paid employees and of female paid employees expressed as a percentage of average gross hourly earnings of male paid employees<sup>5</sup>;

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<sup>2</sup> This information supports the information needs of benchmark administrators to disclose ESG factors subject to Regulation (EU) 2020/1816 as set out by indicator “Weighted average ratio of accidents, injuries, fatalities” in section 1 and 2 of Annex 2.

<sup>3</sup> This information supports the information needs of financial market participants subject to Regulation (EU) 2019/2088 as reflecting an additional indicator related to principal adverse impacts as set out by indicator #2 in Table 3 of Annex 1 of the related Delegated Regulation with regard to disclosure rules on sustainable investments (“Rate of accidents”) and benchmark administrators to disclose ESG factors subject to Regulation (EU) 2020/1816 as set out by indicator “Weighted average ratio of accidents, injuries, fatalities” in section 1 and 2 of Annex 2.

<sup>4</sup> This information supports the information needs of financial market participants subject to Regulation (EU) 2019/2088 as reflecting an additional indicator related to principal adverse impacts as set out by indicator #3 in Table 3 of Annex 1 of the related Delegated Regulation with regard to disclosure rules on sustainable investments (“Number of days lost to injuries, accidents, fatalities or illness”).

<sup>5</sup> This information supports the information needs of financial market participants subject to Regulation (EU) 2019/2088 as reflecting a mandatory indicator related to principal adverse impacts as set out by indicator #12 in Table 1 of Annex 1 of the related Delegated Regulation with regard to disclosure rules on sustainable investments (“Unadjusted gender pay gap”) and benchmark administrators to disclose ESG factors subject to Regulation (EU) 2020/1816 as set out by indicator “Weighted average gender pay gap” in section 1 and 2 of Annex 2.

- (b) the ratio of the annual total compensation ratio of the highest paid individual to the median annual total compensation for all employees (excluding the highest-paid individual)<sup>6</sup>; and
46. The undertaking may disclose [TO BE DISCUSSED] a breakdown of the male-female pay gap as defined in paragraph 92 (a) by employee category and/or by country/segment as this granularity provides increased understandability and relevance. The undertaking may also report an adjusted pay gap which accounts for other factors affecting pay, in which case it shall describe the methodology for this calculation.
47. In relation to paragraph 92 (b), the undertaking may report [TO BE DISCUSSED] this figure adjusted for purchasing power differences between countries, in which case it shall report the methodology used for the calculation.

***Disclosure Requirement S1-9 – Incidents, complaints and severe human rights impacts and incidents***

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48. **The undertaking shall disclose the number of work-related incidents and/or complaints and severe human rights impacts and incidents within its own workforce and any related material fines or sanctions for the reporting period.**
49. The objective of this Disclosure Requirement is to allow an understanding of the extent to which work-related incidents and severe cases of human rights issues and incidents are affecting its own workforce.
50. The disclosure required by paragraph 95 shall include, subject to the relevant privacy regulations, work-related incidents of discrimination on the grounds of gender, racial or ethnic origin, nationality, religion or belief, disability, age, sexual orientation, or other relevant forms of discrimination involving internal and/or external stakeholders across operations in the reporting period. This includes incidents of harassment as a specific form of discrimination.
51. The undertaking shall disclose the following information in relation to the work-related grievances, incidents and complains related to the social and human rights matters specified in paragraph 2 of the Objective section:
- (a) the total number of incidents of discrimination, including harassment, reported in the reporting period<sup>7</sup>;
  - (b) the total amount of material fines, penalties, and compensation for damages as a result of violations regarding social and human rights factors; and a reconciliation of such monetary amounts disclosed with the most relevant amount presented in the financial statements; and
52. The undertaking shall disclose the following information regarding identified cases of severe human rights impacts and incidents (e.g. forced labour, human trafficking or child labour):
- (a) the number of severe human rights issues and incidents connected to the undertaking's workforce in the reporting period, including an indication of how many of these are violations of the UN Global Compact Principles and OECD

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<sup>6</sup> This information supports the information needs of financial market participants subject to Regulation (EU) 2019/2088 as reflecting an additional indicator related to principal adverse impacts as set out by indicator #8 in Table 3 of Annex 1 of the related Delegated Regulation with regard to disclosure rules on sustainable investments ("Excessive CEO pay ratio").

<sup>7</sup> This information supports the information needs of financial market participants subject to Regulation (EU) 2019/2088 as reflecting an additional indicator related to principal adverse impacts as set out by indicator #7 in Table 3 of Annex 1 of the related Delegated Regulation with regard to disclosure rules on sustainable investments ("Incidents of discrimination").

Guidelines for Multinational Enterprises. If no such incidents have occurred, the undertaking shall state this<sup>8</sup>; and

- (b) the total amount of fines, penalties and compensation for damages for the issues and incidents described in (a) above together with a reconciliation [TO BE DISCUSSED] of the monetary amounts disclosed in the most relevant amount in the financial statements.

In addition, the undertaking may disclose [TO BE DISCUSSED] the number of severe human rights cases where the undertaking played a role securing remedy for those affected during the reporting period.

### ***Voluntary Disclosure S1-10 – Diversity indicators***

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- 53. **The undertaking may disclose the percentage of persons with disabilities, gender distribution at top management and the age distribution amongst its employees.**
- 54. The objective of this Disclosure Requirement is to enable an understanding of the persons with disability, gender diversity at top management level and the age distribution of its employees.
- 55. The undertaking may disclose:
  - (a) The undertaking may disclose the percentage of persons with disabilities amongst its employees;
  - (b) the gender distribution in number and percentage at top management level amongst its employees; and
  - (c) the distribution of employees by age group: under 30 years old, 30-50 years old; over 50 years old.

### ***Voluntary Disclosure S1-11 – Work-life balance indicators***

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- 56. **The undertaking may disclose the extent to which employees are entitled to and make use of family-related leave.**
- 57. The objective of this Disclosure Requirement is to provide an understanding of the entitlement and actual practices amongst the employees to take family-related leave in a gender equitable manner, as it is one of the dimensions of work-life balance.
- 58. The undertaking may disclose:
  - (a) the percentage of employees entitled to take family-related leaves; and
  - (b) the percentage of entitled employees that took family-related leaves, and a breakdown by gender.
- 59. If all of the undertaking's own workers are entitled to family-related leaves through social policy and/or collective bargaining agreements, it is sufficient for this Disclosure Requirement to disclose this.

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<sup>8</sup> This information supports the information needs of financial market participants subject to Regulation (EU) 2019/2088 as reflecting a mandatory and additional indicator related to principal adverse impacts as set out by indicator #10 in Table 1 of Annex 1 and by indicator #14 in Table 3 of Annex 1 of the related Delegated Regulation with regard to disclosure rules on sustainable investments ("Violations of UNGC principles and OECD" and "Number of identified cases of severe human rights issues and incidents") and benchmark administrators to disclose ESG factors subject to Regulation (EU) 2020/1816 as set out by indicator "Number of benchmark constituents subject to social violations (absolute number and relative divided by all benchmark constituents), as referred to in international treaties and conventions, United Nations principles and, where applicable, national law" in section 1 and 2 of Annex 2.

## **Application Requirements**

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### ***Impacts and risks management***

#### ***Disclosure Requirement XX – Processes for engaging with stakeholders and their representatives about impacts***

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- AR 1. When preparing the disclosures described in paragraph 9 b), the following illustrations may be considered:
- (a) for stage(s) at which engagement occurs, examples could be in determining mitigation approaches or in evaluating their effectiveness;
  - (b) for type of engagement, these could be participation, consultation and/or information;
  - (c) for the frequency of the engagement, information may be provided on whether engagement occurs on a regular basis, at certain points in a project or business process, for example, when a new harvest season begins or a new production line is opened), as well as whether it occurs in response to legal requirements and/or in response to stakeholder requests and whether the result of the engagement is being integrated into the undertaking's decision-making processes; and
- AR 2. To illustrate how the perspectives of own workers, value chain workers, affected communities, and consumers and end-users have informed specific decisions or activities of the undertaking, the undertaking may provide examples from the current reporting period.
- AR 3. Additional Application Requirements only for S1 Own Workforce
- AR 4. Where the undertaking has agreements with national, European or international trade unions or works councils related to the rights of its own workers, this can be disclosed to illustrate how the agreement enables the undertaking to gain insight into those workers' perspectives.
- AR 5. Where possible, the undertaking shall consider providing examples from the reporting period to illustrate how the perspectives of its own workers and workers' representatives have informed specific decisions or activities of the undertaking.
- AR 6. The undertaking shall consider the following aspects when fulfilling this Disclosure Requirement:
- (a) the type of worker engagement (for example., information, consultation or participation) and its frequency (for example, ongoing, quarterly, annually);
  - (b) how worker feedback is recorded and integrated into decision-making, and how workers are informed about the way in which their feedback has influenced decisions;
  - (c) whether worker engagement activities take place at the organisational level or at a lower level, such as at the site or project level, and in the latter case, how information from worker engagement activities is centralised;
  - (d) the resources (for example, financial or human resources) allocated to worker engagement; and
  - (e) how it engages with workers and workers' representatives on the impacts on its own workforce that may arise from reducing carbon emissions and transitioning to greener and climate-neutral operations, in particular



restructuring, employment loss or creation, training and up/reskilling, gender and social equity and safety and health.

- AR 7. The undertaking may also disclose the following information in relation to paragraph 25 on diversity:
- (a) how it engages with at-risk or vulnerable groups (for example whether it takes specific approaches and gives special attention to potential barriers);
  - (b) how it takes into account potential barriers to worker engagement (for example, language and cultural differences, gender and power imbalances, divisions within a community or group);
  - (c) how it provides workers with information that is understandable and accessible through appropriate communication channels;
  - (d) any conflicting interests that have arisen among different workers and how the undertaking has resolved these conflicting interests; and
  - (e) how it seeks to respect the human rights of all stakeholders engaged, for example, their rights to privacy, freedom of expression, and peaceful assembly and protest.

- AR 8. The undertaking may also report information about the effectiveness of processes for engaging with own workers from previous reporting periods. This applies in cases where the undertaking has assessed the effectiveness of these processes or derived lessons during the current reporting period. Processes used to track the effectiveness can include internal or external auditing or verification, impact assessments, measurement systems, stakeholder feedback, grievance mechanisms, external performance ratings, and benchmarking. The undertaking shall state what process was used to track effectiveness, and what the outcome was.

*Additional Application Requirements only for S2 Workers in the value chain and S4 Consumers and end-users*

- AR 9. Legitimate representatives who have knowledge of the interests, experiences or perspectives of value chain workers could include trade unions and worker representatives. Credible proxies could include expert organisations working on specific issues such as forced labour or child labour in local contexts.
- AR 10. Credible proxies who have knowledge of the interests, experiences or perspectives of consumers and end-users could include national consumer protection bodies for some consumers.

*Additional Application Requirements only for S3 Affected communities*

- AR 11. The undertaking shall consider how the engagement includes a good faith negotiation with affected indigenous peoples to obtain their free, prior and informed consent (FPIC) where the undertaking affects the lands, territories or resources that indigenous peoples customarily own, occupy or otherwise use; or relocates them from land or territories subject to traditional ownership or under customary use or occupation; or affects or exploits their cultural, intellectual, religious and spiritual property.
- AR 12. Explanations of how the undertaking takes into account and ensures respect of the particular right of indigenous communities to free, prior and informed consent, may include information about processes to consult with indigenous peoples to obtain their free prior and informed consent.

***Disclosure Requirement XX – Processes to remediate negative impacts and channels for stakeholders to raise concerns***

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- AR 13. In fulfilling the requirements set out by the Disclosure Requirement XX, the undertaking may be guided by the content of the UN Guiding Principles on Business and Human Rights and the OECD Due Diligence Guidance for Responsible Business Conduct focused on remediation and grievance mechanisms.
- AR 14. Channels for raising concerns or needs include grievance mechanisms, hotlines, trade unions (where workers are unionised), works councils, dialogue processes or other means through which own workers, workers in the value chain, affected communities, consumers and end-users, or their legitimate representatives can raise concerns about impacts or explain needs that they would like the undertaking to address. This could include both channels provided by the undertaking directly and channels provided by the entities where their own workers are working and are to be reported in addition to any other mechanisms an undertaking may use to gain insight into the management of impacts on own workers, workers in the value chain, affected communities, consumers and end-users, such as compliance audits. Where the undertaking is relying solely on information about the existence of such channels provided by its business relationships to answer this requirement, it may state that.
- AR 15. Third party mechanisms could include those operated by the government, NGOs, industry associations and other collaborative initiatives. With regard to the scope of these mechanisms, the undertaking may disclose whether these are accessible to all own workers who may be potentially or actually materially impacted by the undertaking (or workers' representatives or, in their absence, individuals or organisations acting on their behalf or who are otherwise in a position to be aware of negative impacts), through which its own workforce (or workers' representatives or, in their absence, individuals or organisations acting on their behalf or who are otherwise in a position to be aware of negative impacts), can raise complaints or concerns related to the undertaking's own activities.
- AR 16. The undertaking may disclose its processes through which it supports or requires the availability of such channels through the workplace of own workers, through the workplace of value chain workers, by its business partners for affected communities and consumers and end-users.
- AR 17. In explaining/disclosing whether and how the undertaking knows that own workers, workers in the value chain, affected communities and consumers and/or end-users are aware of and trust any of these channels, the undertaking may provide relevant and reliable data about the effectiveness of these channels from the perspective of own workers/workers in the value chain/affected communities/consumers and/or end-users themselves. Examples of sources of information are surveys of workers/community members/consumers and/or end-users that have used such channels and their levels of satisfaction with the process and outcomes. To illustrate the usage level of such channels, the undertaking may disclose the number of complaints received from consumers and/or end-users during the reporting period.
- AR 18. The undertaking may disclose how it tracks and monitors issues raised and addressed, and, how it ensures the effectiveness of the channels, including through the involvement of stakeholders who are intended users.
- AR 19. In describing the effectiveness of channels for own workers and workers' representatives, workers in the value chain, affected communities and consumers and/or end-users to raise concerns, the undertaking may be guided by the following questions, based on the "effectiveness criteria for non-judicial grievance mechanisms", as laid out in the UN Guiding Principles on Business and Human Rights. The considerations below may be applied to individual channels or to a collective system of channels:

- (a) do the channels have legitimacy by providing appropriate accountability for their fair conduct and building stakeholder trust?
- (b) are the channels known and accessible to stakeholders?
- (c) do the channels have clear and known procedures, with indicative timeframes?
- (d) do the channels ensure reasonable access for stakeholders to sources of information, advice and expertise?
- (e) do the channels offer transparency by providing sufficient information both to complainants and, where applicable, to meet any public interest?
- (f) do outcomes achieved through the channels accord with internationally recognised human rights?
- (g) does the undertaking identify insights from the channels that support continuous learning in both improving the channels and preventing future impacts?
- (h) does the undertaking focus on dialogue with complainants as the means to reach agreed solutions, rather than seeking to unilaterally determine the outcome?

AR 20. For more information, see Principle 31 of the UN Guiding Principles on Business and Human Rights.

*Additional Application Requirements only for S1 Own Workforce*

AR 21. The undertaking shall consider whether and how own workers that may be affected and their workers' representatives are able to access channels at the level of the undertaking they are employed by, or contracted to work for, in relation to each material impact. Relevant channels may include hotlines, trade unions (where workers are unionised) or works councils, or other grievance mechanisms operated by the relevant undertaking or by a third party.

*Additional Application Requirements only for S2 Workers in the value chain, S3 Affected communities and S4 Consumers and end-users*

AR 22. To provide greater insight into the information covered in this Disclosure Requirement regarding workers in the value chain, the undertaking may provide insight into whether and how value chain workers that may be affected are able to access channels at the level of the undertaking they are employed by, or contracted to work for, in relation to each material impact.

AR 23. To provide greater insight into the information covered in this Disclosure Requirement regarding affected communities, the undertaking may provide insight into whether and how communities that may be affected are able to access channels at the level of the undertaking they are affected by, in relation to each material impact. Relevant insights include information on whether affected communities can access channels in a language they understand, and whether they have been consulted in the design of such channels.

AR 24. To provide greater insight into the information covered in this Disclosure Requirement regarding consumers and end-users, the undertaking may provide insight into whether and how consumers and/or end-users that may be affected are able to access channels at the level of the undertaking they are affected by, in relation to each material impact.

AR 25. In relation to the protection of individuals that use the mechanisms against the retaliation, the undertaking may describe whether it treats grievances confidentially and with respect

to the rights of privacy and data protection; and whether they allow for workers to use them anonymously (for example, through representation by a third party).

*Additional Application Requirements only for S3 Affected communities*

AR 26. When disclosing processes related to the provision of and enabling remedy for indigenous peoples, relevant information includes whether and how the undertaking has considered their customs, traditions, rules and legal systems.

## **OWN WORKFORCE – Application Requirements**

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This appendix is an integral part of the [draft] ESRS S1 *Own workforce*. It supports the application of the requirements set for in paragraphs 13-100 and has the same authority as the other parts of this [draft] Standard.

### **Objective**

AR 27. The undertaking may also highlight special issues relevant to a material impact for a shorter period of time, for instance initiatives regarding the health and safety of own workers during a pandemic.

AR 28. Examples of how impacts in the sustainability matters, as well as the undertaking's dependencies on the specific stakeholder group, can create material risks for the undertaking are: on the matter of equal opportunities, discrimination in hiring and promotion against women can reduce the undertaking's access to qualified labour and harm its reputation; negative impacts on value chain workers may disrupt the undertaking's operations (through customers refusing to buy its products or state agencies impounding its goods) and harm its reputation; negative relationships with affected communities may disrupt the undertaking's own operations or harm its reputation; negative impacts on the reputation of the undertaking's products and/or services can deteriorate its business performance.

AR 29. The overview of social matters provided in paragraph 3 (a) is not meant to imply that all of these issues should be reported on in each Disclosure Requirement in this [draft] Standard. Rather, they provide a list of matters derived from the CSRD that undertakings shall consider for the ESRS 2 materiality assessment related to own workforce and, subsequently, report as material impacts and risks within the scope of this [draft] Standard.

AR 30. Examples of workers that fall within the scope of "Own workforce" are:

- (a) Examples of contractors (self-employed persons) in own workforce include:
  - i. Contractors hired by the undertaking to perform work that would otherwise be carried out by an employee
  - ii. Contractors hired by the undertaking to perform work in a public area (e.g., on a road, on the street).
  - iii. Contractors hired by the undertaking to deliver the work/service directly at the workplace of a client of the undertaking.
- (b) Examples of workers employed by a third party engaged in 'employment activities' include:
  - i. Workers who perform the same work that employees carry out, including:
  - ii. workers who fill in for employees who are temporarily absent (due to illness, holiday, parental leave, etc.)
  - iii. workers performing work additional to regular employees

- iv. workers who are dispatched temporarily from another EU member state to work for the undertaking ('posted workers')

**Metrics and targets**

**Disclosure Requirement S1-1 – Characteristics of the Undertaking’s Employees**

AR 31. This Disclosure Requirement covers all employees who perform work for any of the undertaking’s entities included in its sustainability reporting. An employee is an individual who is in an employment relationship with the undertaking according to national law or practice.

AR 32. Providing a breakdown of employees by country gives insight into the distribution of activity across countries. The number of employees in each country is also a key trigger for many information, consultation and participation rights for workers and workers’ representatives, both in the EU labour law acquis (for example, the European Works Councils Directive and the Information and Consultation Directive) and in national law (for example, rights to establish a works council or to have board level employee representation). Providing a breakdown of employees by gender and type of employment relationship gives insight into gender representation across the undertaking.

AR 33. The undertaking shall disclose the requested disclosures in the following tabular formats:

AR 34. Table 1: Template for presenting information on employee head count by gender

Gender	Number of employees (head count)
Male	
Female	
Other	
Not reported	
Total Employees	

AR 35. Table 2: Template for presenting employee head count in countries with at least 50 employees

Country	Number of employees (head count)
Country A	
Country B	
Country C	
Country D	

AR 36. Table 3: Template for presenting information on employees by contact type, broken down by gender (head count or FTE)

[Reporting period]				
FEMALE	MALE	OTHER*	NOT DISCLOSED	TOTAL
Number of employees (head count / FTE)				
Number of permanent employees (head count / FTE)				
Number of temporary employees (head count / FTE)				
Number of non-guaranteed hours employees (head count / FTE)				
Number of full-time employees (head count / FTE)				
Number of part-time employees (head count / FTE)				

\* Gender as specified by the employees themselves.

- AR 37. The definitions of permanent, temporary, non-guaranteed hours, full-time, and part-time employees differ between countries. If the undertaking has employees in more than one country, it shall use the definitions as per the national laws of the countries where the employees are based to calculate country-level data. The country-level data shall then be added up to calculate total numbers, disregarding differences in national legal definitions. Non-guaranteed hours employees are employed by the undertaking without a guarantee of a minimum or fixed number of working hours. The employee may need to make themselves available for work as required, but the undertaking is not contractually obligated to offer the employee a minimum or fixed number of working hours per day, week, or month. Casual employees, employees with zero-hour contracts, and on-call employees are examples that fall under this category.
- AR 38. Reporting the number of employees at the end of the reporting period provides information for that point in time, without capturing fluctuations during the reporting period. Reporting these numbers in averages across the reporting period takes into account fluctuations during the reporting period.
- AR 39. Quantitative data, such as the number of temporary or part-time employees, is unlikely to be sufficient on its own. For example, a high proportion of temporary or part-time employees could indicate a lack of employment security for employees, but it could equally signal workplace flexibility when offered as a voluntary choice. For this reason, the undertaking is required to disclose contextual information to help information users interpret the data. The undertaking can explain the reasons for temporary employment. An example of such a reason is the recruitment of employees to undertake work on a temporary or seasonal project or event. Another example is the standard practice to offer a temporary contract (for example, six months) to new employees before an offer of permanent employment is made. The undertaking may also explain the reasons for non-guaranteed hours employment.
- AR 40. Where data is not available for detailed information, the undertaking shall use an estimation [TO BE DISCUSSED] of the employee number or ratios, in accordance with Section I, and clearly identify where the use of estimates has taken place.

***Disclosure Requirement S1-2 – Characteristics of non-employee workers in the undertaking’s own workforce***

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- AR 41. This Disclosure Requirement provides insight into the undertaking’s approach to employment, as well as the scope and nature of impacts arising from its employment practices. It also provides contextual information that aids an understanding of the information reported in other disclosures. This disclosure covers both individual contractors supplying labour to the undertaking (“self-employed workers”) and workers provided by undertakings primarily engaged in “employment activities” (NACE Code N78).

If all the workers performing work for the undertaking are employees and the undertaking does not have any workers who are not employees, this Disclosure Requirement is not material for the undertaking; notwithstanding, the undertaking may state this fact when disclosing the information required by Disclosure Requirement DR S1-6 as contextual information as this information can be relevant for the users of the Sustainability Statements.

- AR 42. Examples of contractors (self-employed persons) in own workforce include: contractors hired by the undertaking to perform work that would otherwise be carried out by an employee; contractors hired by the undertaking to perform work in a public area (for example, on a road, on the street); and contractors hired by the undertaking to deliver the work/service directly at the workplace of a client of the organization. Examples of workers employed by a third party engaged in ‘employment activities’ whose work is under the direction of the undertaking include: workers who perform the same work that employees carry out, such as workers who fill in for employees who are temporarily absent (due to illness, holiday, parental leave, etc.); workers performing regular work at the same site as employees; and workers who are dispatched temporarily from another EU member state to work for the undertaking (‘posted workers’). Examples of value chain workers (and thus of workers not in own workforce and reported under the scope of ESRS S2) include: workers for a supplier contracted by the undertaking who work on the supplier’s premises using the supplier’s work methods; workers for a ‘downstream’ entity which purchases goods or services from the undertaking; and workers of an equipment supplier to the undertaking who, at one or more of the undertaking’s workplaces, perform regular maintenance on the supplier’s equipment (for example, photocopier) as stipulated in the contract between the equipment supplier and the undertaking.
- AR 43. If the undertaking cannot report exact figures, it shall use estimates [TO BE DISCUSSED] according to the provisions in Section I to disclose the number of workers who are not employees to the nearest ten or, where the number of workers who are not employees is greater than 1,000, to the nearest 100, and explain this. In addition, it shall clearly identify the information that derives from actual data and estimates.
- AR 44. Reporting the number of workers in own workforce who are not employees at the end of the reporting period provides information for that point in time without capturing fluctuations during the reporting period. Reporting this number as an average across the reporting period considers fluctuations during the reporting period and can provide more insightful and relevant information for the users.
- AR 45. The information disclosed by the undertaking allows stakeholders to understand how the number of non-employee workers in its own workforce varies during the reporting period or compared to the previous reporting period (i.e., whether the numbers have increased or decreased). It may also include the reasons for the fluctuations. For example, an increase in the number of non-employee workers in its own workforce during the reporting period could be due to a seasonal event. Conversely, a decrease in the number of non-employee workers in its own workforce compared to the previous reporting period could be due to the completion of a temporary project. It is the criteria of the undertaking to determine which fluctuations in the number of workers it considers significant to report and to describe its threshold for determining significant fluctuations. If there are no significant fluctuations in the number of non-employee workers in its own workforce during the reporting period or between the current and previous reporting period, the undertaking may disclose this information.

**Disclosure Requirement S1-3 – Collective bargaining coverage and social dialogue**

**Collective bargaining coverage**

AR 46. The percentage of employees, non-employee workers, and own workers covered by collective bargaining agreements is calculated using the following formulas:

(a) 
$$\frac{\text{Number of employees covered by collective bargaining agreements}}{\text{Number of employees}} \times 100$$

(b) 
$$\frac{\text{Number of non-employee workers covered by collective bargaining agreements}}{\text{Number of non-employee workers}} \times 100$$

(c) 
$$\frac{\text{Number of own workers covered by collective bargaining agreements}}{\text{Number of own workers}} \times 100$$

AR 47. The employees and non-employee workers in own workforce covered by collective bargaining agreements are those individuals to whom the undertaking is obliged to apply the agreement. This means that if none of the employees and non-employee workers in its own workforce are covered by a collective bargaining agreement, the percentage reported is zero. An employee and non-employee worker in own workforce covered by more than one collective bargaining agreement only needs to be counted once.

AR 48. This requirement is not aimed at obtaining the percentage of employees represented by a works council or belonging to trade unions, which can be different. The percentage of employees covered by collective bargaining agreements can be higher than the percentage of unionised employees when the collective bargaining agreements apply to both union and non-union members. Alternatively, the percentage of employees covered by collective bargaining agreements can be lower than the percentage of unionised employees. This may be the case when there are no collective bargaining agreements available or when the collective bargaining agreements do not cover all unionised employees.

### **Disclosure Requirement S1-4 – Adequate Wages**

AR 49. The lowest wage shall be calculated for the lowest pay category, excluding interns and apprentices. This is to be based on the basic wage plus any fixed additional payments that are guaranteed to all own workers. The lowest wage shall be considered separately for each country in which the undertaking has operations, except outside the EEA when the relevant adequate or minimum wage is defined at a sub national level.

AR 50. The adequate wage benchmark used for comparison with the lowest wage shall not be lower than:

- (a) in the EEA: the minimum wage set in accordance with the Directive 2022/2041 of 19 October 2022 on adequate minimum wages in the European Union; and
- (b) outside of the EEA: any existing national or sub-national legislation based on an assessment of an adequate wage needed for a decent standard of living, or absent that, any national or sub-national minimum wage established by legislation or collective bargaining.

AR 51. The Directive 2022/2041 of 19 October 2022 on adequate minimum wages in the European Union references both indicative reference values commonly used at international level such as 60 % of the gross median wage and 50 % of the gross average wage, and/or indicative reference values used at national level. Data for the indicative values of 60% of the national median gross wage or 50% of the national average gross wage can be obtained from the European Labour Force Survey. For countries outside the EEA, any benchmark that meets the criteria set out by the Sustainable Trade Initiative (IDH) may be used, including applicable benchmarks aligned with the Anker methodology,



or provided by the Wage Indicator Foundation or Fair Wage Network. For countries outside the EEA where there are different adequate wage benchmark figures for different sub-national regions, the applicable benchmarks shall be used.

### ***Disclosure Requirement S1-5 – Social protection***

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- AR 52. Social protection are all the measures that provide access to health care and income support in cases of challenging life events such as the loss of a job, being sick and in need of medical care, giving birth and raising a child, or retiring and in need of a pension.
- AR 53. The denominators for the percentages reported under Paragraph 73 shall be calculated on the basis of the total head count figures provided for employees under Disclosure Requirement ESRS S1-6 and non-employee workers in own workforce in Disclosure Requirement ESRS S1-7. The numerators shall be calculated on the basis of head count of employees and non-employee workers that have some form of social protection through public programs or benefits offered by the undertaking or, in the case of workers provided by undertaking primarily engaged in employment activities, by the third-party employer.

### ***Disclosure Requirement S1-6 – Training and Skills Development indicators***

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- AR 54. To disclose the average required per paragraph 80 (b), the undertaking shall perform the following calculation: total number of training hours offered to and completed by employees divided by the total number of employees in each respective group (i.e. employee gender). For the total training average and the average by gender, the head count figures for total employment and employment by gender reported in Disclosure Requirement ESRS S1-6 shall be used.

### ***Disclosure Requirement S1-7 – Health and safety indicators***

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- AR 55. The undertaking shall disclose information associated with work-related injuries, work-related ill health and work-related fatalities of its own workers, and for those workers working on its sites for datapoints b) on fatalities.
- AR 56. Fatalities may be reported separately for those resulting from work-related injuries and those resulting from work-related ill health.

#### **Guidance on “work-related”**

- AR 57. Work-related injuries and work-related ill health arise from exposure to hazards at work. Notwithstanding, other types of incidents can occur that are not connected with the work itself. For example, the following incidents are not considered to be work related:
- (a) a worker suffers a heart attack while at work that it is not connected with work;
  - (b) a worker driving to or from work is injured in a car accident (when driving is not part of the work and where the transport has not been organised by the undertaking); and
  - (c) a worker with epilepsy has a seizure at work that it is not connected with work.
- AR 58. With regard to travelling for work purposes, injuries and ill health that occur while a worker is travelling are work related if, at the time of the injury or ill health, the worker was engaged in work activities “in the interest of the employer”. Examples of such activities include travelling to and from customer contacts; conducting job tasks; and entertaining or being entertained to transact, discuss, or promote business (at the direction of the employer). If the undertaking is responsible for the transport commuting, incidents occurred while commuting are considered to be work-related. Nonetheless, incidents which arise during travel, outside of the undertaking’s responsibility (i.e. regular commuting to and from work),

may be reported separately provided that the undertaking has such data available across the undertaking.

- AR 59. With regard to working from home, injuries and ill health that occur when working from home are work related, if the injury or ill health occurs while the worker is performing work from home; and the injury or ill health is directly related to the performance of work rather than the general home environment or setting.
- AR 60. With regard to mental illness, it is considered to be work related, if it has been notified voluntarily by the worker and it is supported by an opinion from a licensed healthcare professional with appropriate training and experience; and if such opinion states that the illness is work related.
- AR 61. Health issues resulting, for example, from smoking, drug and alcohol abuse, physical inactivity, unhealthy diets, and psychosocial factors unrelated to work are not considered work-related.
- AR 62. Occupational diseases are not considered work-related injuries but are covered under work-related ill health.

#### **Guidance on computing the rate**

- AR 63. In computing the rate of work-related injuries, the undertaking shall divide the respective number of cases by the number of total hours worked by own workers and multiplied by 1,000,000. Thereby, these rates represent the number of respective cases per one million hours worked. A rate based on 1,000,000 hours worked indicates the number of work-related injuries per 500 full time workers over a one-year timeframe. For comparability purposes a rate of 1,000,000 hours worked shall be used also for undertakings with less than 500 workers.
- AR 64. If the undertaking cannot directly calculate the number of hours worked, it may estimate this on the basis of normal or standard hours of work, taking into account entitlements to periods of paid leave of absence from work (for example, paid vacations, paid sick leave, public holidays) and explain this in its disclosures.
- AR 65. An undertaking shall include fatalities as a result of work-related injury in the calculation of the number and rate of recordable work-related injuries.

#### **Guidance on recordable work-related ill health**

- AR 66. Work-related ill health can include acute, recurring, and chronic health problems caused or aggravated by work conditions or practices. These include musculoskeletal disorders, skin and respiratory diseases, malignant cancers, diseases caused by physical agents (for example, noise induced hearing loss, vibration-caused diseases), and mental illnesses (for example, anxiety, posttraumatic stress disorder). For the purpose of the required disclosures, the undertaking shall, at a minimum, include in its disclosure those cases outlined in the ILO List of Occupational Diseases.
- AR 67. In the context of this [draft] Standard, work-related musculoskeletal disorders are covered under work-related ill health (and not injuries).
- AR 68. The incidents to be disclosed in paragraph 63 relate to cases of work-related ill health notified to the undertaking or identified by the undertaking through medical surveillance, during the reporting period. The undertaking might be notified of cases of work-related ill health through reports by affected workers, compensation agencies, or healthcare professionals. The disclosure may include cases of work-related ill health that were detected during the reporting period among former workers.

#### **Guidance on the number of days lost**

AR 69. The undertaking shall count the number of days lost as such that the first full day and last day of absence shall be included. Days on which the affected individual is not scheduled for work (for example, weekends, public holidays) do not count as lost days.

***Disclosure Requirement S1-8 – Compensation indicators (pay gap and total compensation)***

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**Pay gap**

AR 70. When compiling the information required under paragraph 86 (a) for the gap in pay between women and men (also known as the “male-female pay gap”) the undertaking shall use the following methodology:

- (a) include all employees’ gross hourly earnings; and
- (b) apply the following formula to calculate the male-female pay gap:

$$\frac{(\text{Average gross hourly earnings of male employees} - \text{average gross hourly earnings of female employees})}{\text{Average gross hourly earnings of male employees}} \times 100$$

AR 71. When disclosing the information required under paragraph 86 (a), the undertaking shall provide any contextual information necessary to understand the data and how the data has been compiled (methodology). Information regarding how objective factors such as type of work and country of employment influence the male-female pay gap may be reported.

AR 72. The measure of the undertaking’s male-female pay gap shall be reported for the current reporting period and, if reported in previous sustainability reports, for the previous two reporting periods.

**Total compensation Ratio**

AR 73. When compiling the information required by paragraph 86 (b), the undertaking shall:

- (a) include all employees;
- (b) consider, depending on the undertaking’s remuneration policies, all of the following:
  - i. base salary, which is the sum of guaranteed, short-term, and non-variable cash compensation;
  - ii. total cash compensation, which is the sum of the base salary and cash allowances, bonuses, commissions, cash profit-sharing, and other forms of variable cash payments; and
  - iii. direct compensation, which is the sum of total cash compensation and total fair value of all annual long-term incentives (for example, stock option awards, restricted stock shares or units, performance stock shares or units, phantom stock shares, stock appreciation rights, and long-term cash awards).
- (c) apply the following formula for the annual total compensation ratio:
- (d)

$$\frac{\text{Annual total compensation for the undertaking's highest paid individual}}{\text{Median employee annual total compensation (excluding the highest – paid individual)}}$$

***Disclosure Requirement S1-9 – Incidents and severe cases of human rights issues and incidents***

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**Discrimination incidents**

AR 74. When compiling the information required related to corrective actions, the undertaking shall consider the following:

- (a) an incident is no longer subject to action if it is resolved, the case is completed, or no further action is required by the undertaking. For example, an incident for which no further action is required can include cases that are withdrawn or where the underlying circumstances that led to the incident no longer exist;
- (b) remedial action is typically (and shall be) directed toward the alleged harasser and the alleged victim. Remedial action toward the victim may include offering to pay his/her expenses for counselling sessions, offering the victim some paid time off, offering to reinstate sick/vacation days if the victim has incurred any expenses due to the harassment (such as having used sick or vacation days); and
- (c) remedial action toward the harasser may include giving the harasser a verbal and/or written warning, mandating anti-harassment counselling or sending the harasser to an appropriate seminar, harassment awareness and prevention training. A suspension without pay may also be an option. If the harasser has been disciplined earlier but his/her harassment does not cease, then more serious discipline may be required.

**Severe cases of human rights issues and incidents**

AR 75. Severe human rights issues and incidents include instances of lawsuits, formal complaints through the undertaking or third-party complaint mechanisms, serious allegations in public reports or the media, where these are connected to the undertaking's own workforce, and the fact of the incidents is not disputed by the undertaking, as well as any other severe impacts of which the undertaking is aware. Human trafficking is defined as the recruitment, transportation, transfer, harbouring or receipt of people through force, fraud or deception, with the aim of exploiting them for profit. Confirmed incidents include incidents of child or forced labour or human trafficking that have been found to be substantiated. Confirmed incidents do not include incidents of child or forced labour or human trafficking that are still under investigation in the reporting period.

***Voluntary Disclosure S1-10 – Diversity indicators***

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AR 76. In preparing the disclosure on gender at top management, the undertaking shall use the definition of top management as one and two levels below the administrative and supervisory bodies unless this concept has already been defined with the undertaking's operations and differs from the previous description. If this is the case, the undertaking can use its own definition for top management and disclose that fact and its own definition.

AR 77. When disclosing the information required regarding persons with disabilities, the undertaking shall provide any contextual information necessary to understand the data and how the data has been compiled (methodology). For example, information about the impact of different legal definitions of persons with disabilities in the different countries in which the undertaking has operations.

### ***Voluntary Disclosure S1-11 – Work-life balance***

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AR 78. Family-related leaves include maternity leave, paternity leave, parental leave, and carers' leave. For the purpose of this [draft] Standard, these concepts are defined as:

- (a) maternity leave (also called pregnancy leave): employment-protected leave of absence for employed women directly around the time of childbirth (or, in some countries, adoption);
- (b) paternity leave: leave from work for fathers or, where and in so far as recognised by national law, for equivalent second parents, on the occasion of the birth of a child for the purposes of providing care;
- (c) parental leave: leave from work for parents on the grounds of the birth or adoption of a child to take care of that child;
- (d) carers' leave from work: leave for workers to provide personal care or support to a relative, or a person who lives in the same household, in need of significant care or support for a serious medical reason, as defined by each Member State.

AR 79. Workers entitled to family-related leave are those workers that are covered by regulations, organisational policies, agreements, contracts or collective bargaining agreements that contain family-related leave entitlements and have reported their entitlement to the undertaking or the undertaking is aware of the entitlement.

## **WORKERS IN THE VALUE CHAIN - Application Requirements**

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This appendix is an integral part of the [draft] ESRS S2 *Workers in the value chain*. It supports the application of the requirements set for in paragraphs 8-43 and has the same authority as the other parts of [draft] ESRS S2.

**Objective**

- AR 80. The undertaking may highlight special issues relevant to a material impact for a shorter period of time, for instance initiatives regarding the health and safety of workers in the value chain during a pandemic.
- AR 81. The overview of social and human rights matters provided in paragraph 4 (a) is not meant to imply that all of these issues should be disclosed in each Disclosure Requirement in this [draft] Standard. Rather, it provides a list of matters that the undertaking shall consider in its materiality assessment (ref. to ESRS 1 chapter 3 *Double materiality as the basis for sustainability disclosures* and ESRS 2 IRO-1) related to workers in the value chain and, subsequently, disclose as material impacts and risks within the scope of this [draft] Standard.
- AR 82. Examples of workers that fall within the scope of this [draft] Standard are:
- (a) workers of outsourced services working in the workplace of the undertaking (e.g., third party catering or security workers);
  - (b) workers of a supplier contracted by the undertaking who work on the supplier's premises using the supplier's work methods;
  - (c) workers for a 'downstream' entity which purchases goods or services from the undertaking;
  - (d) workers of an equipment supplier to the undertaking who, at a workplace controlled by the undertaking, perform regular maintenance on the supplier's equipment (e.g., photocopier) as stipulated in the contract between the equipment supplier and the undertaking; and
  - (e) workers deeper in the supply chain who are extracting commodities that are then processed into components that go in the undertaking's products.

## AFFECTED COMMUNITIES - Application Requirements

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This appendix is an integral part of the [draft] ESRS S3 *Affected communities*. It supports the application of the requirements set for in paragraphs 6-42 and has the same authority as the other parts of this [draft] Standard.

### **Objective**

AR 83. The overview of social and human rights matters provided in paragraph 5 is not meant to imply that all of these issues should be disclosed in each Disclosure Requirement in this [draft] Standard. Rather, it provides a list of matters that the undertaking shall consider in its materiality assessment (ref. to ESRS 1 chapter 3 *Double materiality as the basis for sustainability disclosures* and ESRS 2 IR-1) related to affected communities and, subsequently, disclose as material impacts and risks within the scope of this [draft] Standard.

AR 84. The undertaking may highlight special issues relevant to a material impact for a shorter period of time, for instance initiatives regarding the impacts on communities related to the undertaking's operations due to extreme and sudden weather conditions.

AR 85.

## CONSUMERS AND END-USERS - Application Requirements

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This appendix is an integral part of the [draft] ESRS S4 *Consumers and end-users*. It supports the application of the requirements set for in paragraphs 6-40 and has the same authority as the other parts of this [draft] Standard.

### **Objective**

AR 86. The undertaking may highlight special issues relevant to a material impact for a shorter period of time, for instance initiatives regarding the health and safety of consumers and/or end-users in relation to contamination of a product or severe breach of privacy due to a massive data leak.

AR 87. The overview of social and human rights matters provided in paragraph 6 is not meant to imply that all of these issues should be disclosed in each Disclosure Requirement in this [draft] Standard. Rather, it provides a list of matters that the undertaking shall consider in its materiality assessment (ref. to ESRS 1 chapter 3 *Double materiality as the basis for sustainability disclosures* and ESRS 2 IRO-1) related to consumers and/or end-users and, subsequently, disclose as material impacts and risks within the scope of this [draft] Standard.

## **Appendix B.1: Application Requirements for Section II related disclosures**

This appendix is an integral part of the [draft] Section IV – Social Disclosures related to S1 *Own workforce*. It supports the application of the requirements from Section II described in paragraphs XX-XX and has the same authority as the other parts of this [draft] Standard. It provides a non-exhaustive list of the factors to be considered by the undertaking when complying with Section II **SBM-2** and Section II **SBM-3**.

<b>Social and human rights matters</b>	<b>Non-exhaustive list of factors to consider in Materiality Assessment</b>
<b>Secure employment</b>	% of employees with temporary contracts, ratio of non-employee workers to employees, social protection
<b>Working time</b>	% of employees with part time or zero-hour contracts, employee satisfaction with working time
<b>Adequate wages</b>	EU, national or local legal definitions of adequate wages, fair wages, and minimum wages
<b>Social dialogue / existence of work councils / information, consultation and participation rights of workers</b>	Extent of workplace, cross-border and board-level representation through trade unions and/or works councils
<b>Freedom of association/Collective bargaining including the rate of workers covered by collective agreements</b>	% of own workforce covered by collective bargaining agreements, work stoppages
<b>Work-life balance</b>	Family-related leave, flexible working hours, access to childcare
<b>Health and safety</b>	Coverage by H&S system, rate of fatalities, non-fatal accidents, work-related ill health, work days lost
<b>Gender equality and equal pay for work of equal value</b>	% of women in top management and workforce, male-female wage gap
<b>Training and skills development</b>	Amount and distribution of training, % of employees with regular performance and development reviews
<b>The employment and inclusion of people with disabilities</b>	% employment and accessibility measures for employees with disabilities
<b>Measures against violence and harassment in the workplace</b>	Prevalence of violence and harassment
<b>Diversity</b>	Representation of women and /or ethnic groups or minorities in own workforce. Age distribution in own workforce. Percentage of persons with disabilities within the own workforce.
<b>Child labour</b>	Type of operations and geographical areas at risk of child labour



<b>Forced labour</b>	Type of operations and geographical areas at risk of forced labour
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## **Appendix B.2: Application Requirements for **ESRS S1-1** Policies related to own workforce**

This appendix is an integral part of the [draft] Section IV – Social Disclosures related to S1 *Own workforce* and has the same authority as the other parts of this [draft] Standard. It supports the application of the requirements for **Disclosure Requirement ESRS S1-1** for social and human rights matters with examples of disclosures:

<b>Social and human rights matters</b>	<b>Examples of policies:</b>
<b>Secure employment</b>	No-layoff policy, limits on renewing temporary contracts, employer provision of social protection where state provision is lacking
<b>Working time</b>	Limitations on overtime, long and split shifts, and night and weekend work, adequate lead time for scheduling
<b>Adequate wages</b>	Policy to pay all own workers an adequate wage
<b>Social dialogue / existence of work councils / information, consultation and participation rights of workers</b>	Policy to encourage institutions for social dialogue, regular information and consultation with worker representatives, consultation before final decisions on employment-related issues are reached
<b>Freedom of association/Collective bargaining including the rate of workers covered by collective agreements</b>	Non-interference in trade union formation and recruitment (including trade union access to undertakings), bargaining in good faith, recognition of, adequate time off for duties, facilities and dismissal protection for workers' representatives, no discrimination of trade union members and workers' representatives
<b>Work-life balance</b>	Provision of family leave, flexible working time, access to day care facilities for all workers
<b>Health and safety</b>	Coverage of all own workers in H&S management system
<b>Gender equality and equal work for equal pay</b>	Policy for gender equality and equal pay for equal work
<b>Training and skills development</b>	Policy for enhancing skills and career prospects for employees
<b>The employment and inclusion of people with disabilities</b>	Policy for making workplaces accessible to persons with disabilities
<b>Measures against violence and harassment in the workplace</b>	Zero tolerance policy for violence and harassment at workplace
<b>Diversity</b>	Policy for inclusiveness (i.e. ethnic diversity or minority groups) and affirmative action.
<b>Child labour</b>	Policy for identifying where child labour occurs, identifying where exposure of young workers to hazardous work occurs and preventing risk of exposure

<b>Forced labour</b>	Policy for identifying where forced labour occurs and reducing risk of forced labour
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**Appendix B.3: Application Requirements for **ESRS S1-4**  
**Taking action** on material impacts on own workforce, and  
approaches to mitigating material risks and pursuing  
material opportunities related to own workforce, and  
effectiveness of those actions**

This appendix is an integral part of the [draft] Section IV – Social Disclosures related to S1 *Own workforce* and has the same authority as the other parts of this [draft] Standard. It supports the application of the requirements for **Disclosure Requirement ESRS S1-4** for social and human rights matters with examples of disclosures:

<b>Social and human rights matters</b>	<b>Examples of actions:</b>
<b>Secure employment</b>	Offer permanent contracts to employees with temporary contracts, implement plans for social protection where state provision is lacking
<b>Working time</b>	Shift work rotation, extend advance notice of scheduling, reduction of excessive overtime
<b>Adequate wages</b>	Negotiation of fair wages in collective bargaining agreements, verification that employment agencies pay a fair wage
<b>Social dialogue / existence of work councils / information, consultation and participation rights of workers</b>	Expansion of sustainability issues dealt with in social dialogue, increase in number of meetings, increase in resources for works councils
<b>Freedom of association/Collective bargaining including the rate of workers covered by collective agreements</b>	Expansion of sustainability issues dealt with in collective bargaining, increase in resources for workers' representatives
<b>Work-life balance</b>	Expand family leave eligibility and flexible working time arrangements, increasing provision of day care
<b>Health and safety</b>	Increase health & safety training, investment in safer equipment
<b>Gender equality and equal work for equal pay</b>	Targeted recruitment and promotion of women, reduction in pay gap through negotiation of collective bargaining agreements
<b>Training and skills development</b>	Skills audits, training to fill skills gaps
<b>The employment and inclusion of people with disabilities</b>	Increasing accessibility measures
<b>Measures against violence and harassment in the workplace</b>	Improving complaint mechanisms, increasing sanctions against violence and harassment, providing training for prevention to management

<b>Diversity</b>	Training on diversity and inclusion (including ethnicity considerations), targeted recruitment of underrepresented groups
<b>Child labour</b>	Age verification measures, partnerships with organizations to eliminate child labour, measures against worst forms of child labour
<b>Forced labour</b>	Measures ensuring free consent to employment without threat of penalty, contracts in understandable language, freedom to terminate employment without penalty, disciplinary measures should not obligate labour, free consent to overtime, freedom of movement (including to exit workplace), fair treatment for migrant workers, monitoring employment agencies

## **Appendix B.4: Application Requirements for **ESRS S1-5 Targets** related to managing material negative impacts, advancing positive impacts, and managing material risks and opportunities**

This appendix is an integral part of the [draft] Section IV – Social Disclosures related to S1 *Own workforce* and has the same authority as the other parts of this [draft] Standard. It supports the application of the requirements for **Disclosure Requirement ESRS S1-5** for social and human rights matters with examples of disclosures:

<b>Social and human rights matters</b>	<b>Examples of targets:</b>
<b>Secure employment</b>	Increasing the % of workforce with employment contracts (especially permanent contracts) and social protection
<b>Working time</b>	Increasing the % of workforce with flexible working time arrangements
<b>Adequate wages</b>	Paying all own workers an adequate wage
<b>Social dialogue / existence of work councils / information, consultation and participation rights of workers</b>	Extending social dialogue to more establishments and/or countries
<b>Freedom of association/Collective bargaining including the rate of workers covered by collective agreements</b>	Increasing the % of own workers covered by collective bargaining, negotiating collective bargaining agreements over sustainability issues
<b>Work-life balance</b>	Extending work-life measures to a greater % of own workers
<b>Health and safety</b>	Reducing the rate of injuries and worktime lost due to injuries
<b>Gender equality and equal work for equal pay</b>	Increasing the % of women in the workforce and top management, reducing the male-female wage gap
<b>Training and skills development</b>	Increasing the % of employees receiving training and regular skills development reviews
<b>The employment and inclusion of people with disabilities</b>	Increasing the % of persons with disabilities in own workforce
<b>Measures against violence and harassment in the workplace</b>	Extending measures to all workplaces
<b>Diversity</b>	Increasing the % of underrepresented groups in own workforce and top management
<b>Child labour</b>	Extending measures for preventing exposure of young persons to hazardous work to a greater % of operations

<b>Forced labour</b>	Extending measures for preventing child labour to a greater number of operations
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AR 88.

AR 89.



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