



Identifying and addressing risk in our Almerían produce supply chain (2021 – present)



EXECUTIVE SUMMARY

Introduction

In 2021, in the context of increasingly well-publicised human rights challenges in Spanish agricultural production, M&S commissioned an independent risk assessment of one of our key Almería produce supply chains, in partnership with one of our suppliers, Fresca Group. The field work for the assessment took place in 2022.

Spain, and specifically Almería, is an important sourcing origin for M&S outside of UK seasonal production. It was therefore important for us to better understand the nature of human rights risks specific to this supply chain, to listen to and engage with workers in our supply chain and to identify areas for improvement. This was all conducted within the framework of the UN Guiding Principles on Business and Human Rights (UNGPs) and M&S's own Global Sourcing Principles and human rights due diligence processes. Given the wealth of information already available on broader human rights risks in Spanish agricultural production, this was a rapid assessment rather than a sector-wide human rights impact assessment, as this tool was deemed to be most relevant to the context of our own supply chain.

It was key that this assessment was both independent and focused on engagement with rightsholders (those employed by growers and packhouses in our Almería supply chain) and other stakeholders within the sector. We therefore commissioned a third party, Verité, to carry out the independent assessment and to include a range of interviews with workers and other key informants. Following the assessment and feedback, M&S has continued to engage on the findings with the supplier and growers involved and conducted our own progress verification visit in late 2023. In line with our commitment to transparency, we are making the summary findings of the Verité assessment, the agreed action plan and the progress update following our verification visit publicly available in this Executive Summary. Going forward, we will continue to work with Fresca Group, their growers, our other suppliers in Spain and key partners such as the Foros de Comercio Ético (Spanish Ethical Trade Forums) to address the risks raised and to support further industry collaboration across the sector.

Background

The agri-food sector in Spain

The agri-food sector in Spain is one of the most important economic sectors of the national economy. The country has the second largest proportion of land devoted to agricultural purposes in the EU and is currently ranked among the world's top three exporters of fresh produce. The UK is the third biggest export market in value for Spain (approx. EUR 2.6 billion, 2022).

For several decades, production in Almería has attracted a significant number of African migrants. Morocco is the predominant country of origin, with between 12,000 and 20,000 workers migrating to southern Spain for work every year. Other nationalities include Romanians, Bulgarians, Malian, Senegalese and Guinean.

The agricultural sector's demand for a substantial workforce, coupled with the seasonal nature of crops and the concentration of migrants in the area, has driven the growth of an export-oriented and labour-intensive agricultural sector.

Known human rights risks in the sector

Despite a relatively comprehensive set of laws and regulations in Spain, well-publicised human rights risks persist in the sector, including in Almería.

These risks include:

- low wages (payments below the National Minimum Wage)
- unpaid overtime
- delays in wage payments
- undeclared working days
- payments in cash
- lack of clarity of contracts and payslips
- delayed payment of social benefits
- undocumented workers
- substandard accommodation

Social drivers of risk

Drivers of risk relate to several factors within the sector. Almería agriculture is made up of a large number of small-scale producers (some estimates are of 15,000 growers across 31,000 hectares of production). Small growers typically employ only a few workers in each greenhouse who, as migrant workers, are less likely to have an understanding of their rights while working in Spain and less likely to report issues. Levels of unionisation at grower level are comparatively low. Across such a concentrated number of small growers, enforcement of labour regulations by relevant authorities remains challenging. Systems of collective bargaining are also complex with collective agreements (*convenios colectivos*) negotiated by branch between employers and trade unions, specific to area and often activity. The relevant collective agreement to this assessment is the *Convenio Colectivo Provincial de Almería Trabajo en el Campo para los años 2012-2015*, however as the dates suggest, this has not been successfully updated through negotiation since this time and rapid increases in the National Minimum Wage have outpaced the content of the *convenio*. Information is therefore difficult to access, communicate and understand (for both growers and workers).

Environmental drivers of risk

It is also important to note the increasing intersection between climate and labour rights risk. Southern Europe is seeing an upward trend in the number of days with 'extreme heat stress', the physiological impact of which on workers is increasingly well-documented. Almería is the driest province in Spain, with an average of only 25 days of rain per year, and, at the time of the assessment, had been experiencing a severe drought, leading to crop losses and a decline in production. Water for agricultural irrigation is largely from the desalination of seawater, which is both energy and cost intensive. The financial impact of crop losses and higher costs of production therefore also increase risks to growers' and workers' livelihoods.

Verité Rapid Assessment

Methodology

From the context of the above known risks, the assessment was therefore designed to:

1. Identify and characterise labour risks in the M&S supply chain during recruitment and employment, with a focus on vulnerable worker populations.
2. Assess the due diligence systems of supply chain actors with regard to their ability to manage human right risks.
3. Recommend improvements to due diligence and oversight programs for this supply chain, focusing on ways to support growers and better protect vulnerable worker populations.

Scope of work

The scope of the assessment focussed on M&S's Almerían courgette, pepper and (at the time) melon supply chain, including two packing sites and nine growers. A range of worker interviews were conducted at each site and stakeholder interviews were undertaken with a member of the Andalusian parliament and representatives of two unions, a growers' association, the Foros de Comercio Ético and two local NGOs.

Assessment findings

The assessment's findings included:

- Low risk of undocumented and / or forced labour, but a need for improved management controls;
- Complexity of employment regulations leading to risk of workers not understanding basic entitlements under contracts of employment such as hourly or daily rates of pay and overtime;
- Contracts not in workers' own languages (contracts across Spain tend to be a standard proforma in Spanish, and only require the inputting of an individual's national ID to prevent undocumented work);
- Informality of communication and a lack of grievance channels available to workers;
- High inconsistency and opacity of workers' payslip information (payroll is typically outsourced to third party companies who use different ways in which to present information on pay rates, benefits, deductions etc.), leading to a risk of sub-minimum wage payments;
- Inconsistent use of timesheets and informal clocking in and out systems, leading to a risk of unrecorded / uncompensated hours; and
- Variability in standards of communal areas provided across growers.

Our action plan

On the basis of the deeper understanding from the above independent assessment, the evidence specific to our own grower base and the report's recommendations, M&S and Fresca Group have worked on the following action plan. We continued to engage both Fresca Spain and growers on activities under this action plan during our verification visit in late 2023 and this is ongoing. The verification visit included a range of worker interviews at each grower location.

The action plan is designed to address both short- and long-term activities, specific to our own supply chain but also supporting efforts across the wider industry in southern Spain. A key partner in this respect is the Foros Comercio Ético (Spanish Ethical Trade Forums) of which M&S, along with other UK retailers, was a founding sponsor in 2015 and has supported actively since, including current (2024) representation on its Governance Committee.

Actions and progress update:

1. **Improving consistency of management controls across growers.** Fresca has worked to create a practical “Good Practice Guide” for growers in Spanish and has cascaded this to all relevant growers to drive consistency and better access to information to support growers’ communication with their workforces.
2. **Improving consistency of working hours recording.** Fresca has worked to create a standardised template and operating procedure, in line with all legal requirements on the recording of working hours. Increased standardisation of the use of these tools was verified during the late 2023 visit and will continue to be spot-checked during the season by Fresca field technicians. A more systematised schedule of spot checks that include labour aspects has been initiated for the current season (2024).
3. **Supporting workers to better understand their basic contractual rights, rates of pay etc.** As an immediate response to the assessment, Fresca worked to create a simplified template in a number of relevant languages for growers to share with workers at the time of employment. However, the complexity of labour regulation and the understanding that this is not simply isolated to M&S’s Fresca growers included in the assessment, but a more systemic challenge across southern Spain, has led M&S to explore a more sustainable and accessible means of communicating this to all workers in our Spanish supply chain. Since 2023, we have been financially supporting the development of an app that has been successfully used in the UK agricultural sector, the “Just Good Work” app. The development work of this app is being led by the Foros de Comercio Ético. The objective of Just Good Work Spain is to ensure that all workers have access to a

free, simple, and highly accessible tool to understand their rights and entitlements while working in Spanish agriculture. Currently under development, it will ultimately be available to all workers across the industry and across regions, including Almería, Murcia and Huelva. The first iteration of the app is due to launch in June 2024 and we will continue to work closely with the Foros de Comercio Ético to support roll out.

Linked to supporting the drive for workers in Spanish agriculture to better understand their entitlements is the work of the Foros de Comercio Ético to engage with the number of third-party payroll providers to whom growers often outsource, through their Labour Consultancies and Accountancy Firms Working Group. M&S and Fresca will collaborate with this group to support momentum and increased capacity building.

4. **Supporting better access for workers to robust grievance mechanisms.** In 2023, following the assessment, Fresca and M&S jointly funded the piloting of a shared grievance mechanism platform developed by the Foros de Comercio Ético, the 'Canal Foros'. This included training on its use for both the growers involved and their workers. The intention of the Forums is that this trial will be scaled up across the sector. At the same time, both M&S and Fresca are involved in the Ethical Trading Initiative's UK government funded Grievance Mechanisms in Agriculture programme, in both Spain and Italy. The programme aims to increase access to grievance mechanisms for vulnerable workers within targeted agriculture supply chains and facilitate the sharing of information on emerging risks to migrant workers. M&S will report on progress on both activities in future modern slavery statements.

Concluding remarks

M&S will continue to report on our progress against the above action plan, working with Fresca Group, the Foros de Comercio Ético and the wider sector to address the risks identified and support further industry collaboration.