



SOCIAL COMPLIANCE SYSTEMS FOR THE PALM OIL INDUSTRY

A Handbook for Implementation in Latin America



PARTNERS
of the AMERICAS

SAI Social
Accountability
International

SOCIAL COMPLIANCE SYSTEMS FOR THE PALM OIL INDUSTRY

A Handbook for Implementation in Latin America

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ABOUT PALMA FUTURO

The Palma Futuro project works to improve the implementation of social compliance systems that promote acceptable conditions of work and the reduction of child labor and forced labor in the palm oil supply chains. Led by grantee Partners of the Americas, sub-grantee Social Accountability International (SAI) is an implementing partner for the project in Colombia and Ecuador from 2019-2023. The project is also supported by sub-grantee JE Austin Associates. The expected outcomes are:

- Strengthened capacity of private sector partners in the Colombian and Ecuadorian palm oil sector to implement a robust social compliance system;
- Increased understanding, at regional and global levels, of promising practices in social compliance systems in the palm oil supply chain.

Learn more: <https://palmafuturo.com/>

This handbook and the accompanying toolkit are two of the final outputs from the Palma Futuro project. This handbook compiles good practices and lessons learned during the project—conducted with a select group of companies in Colombia and Ecuador—and publishes them as a public good, enabling palm oil employers throughout South and Central America to apply them in their own operations.

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ABOUT PARTNERS OF THE AMERICAS

Partners of the Americas is an Non-Governmental Organization (NGO) based in Washington D.C., United States, founded in 1964 with the aim of creating ties of regional cooperation and social development between the United States and Latin America and the Caribbean. Partners has more than 58 years of experience implementing cutting edge, multi-million-dollar programs and grassroots initiatives through a portfolio of donors and partnerships to promote social and economic change in the western hemisphere. In Colombia, specifically, POA has worked for over 50 years in the following areas: education and youth exchange; combatting child labor promoting youth leadership; and agriculture and food security.

President

John McPhail

Vice President of Child Protection Unit

Carmen Peña

TECHNICAL TEAM - PALMA FUTURO

Project Director

Alejandro Torres Perico

Technical Team

Eduardo Bejarano, Senior Technical Advisor

Alexis Naranjo, Deputy Project Director

Angélica Nieto, Research, Monitoring, and Learning Specialist

Mónica Rentería, Research, Monitoring, and Learning Coordinator

Diego Peña, Social Compliance Specialist

María Albarrán, Communications Specialist



ABOUT SOCIAL ACCOUNTABILITY INTERNATIONAL

Founded in 1997, Social Accountability International (SAI) is a global non-governmental organization advancing human rights at work. SAI's vision is of decent work everywhere—sustained by an understanding that socially responsible workplaces benefit business while securing fundamental human rights. SAI empowers workers and managers at all levels of businesses and supply chains, using its multi-industry SA8000® Standard, as well as Social Fingerprint®, TenSquared, and other training and capacity building programs. SAI is a leader in policy and implementation, working together with a diverse group of stakeholders, including brands, suppliers, governments, trade unions, non-profits, and academia. Website: sa-intl.org

President & CEO

Jane Hwang

Director of Innovation & Partnerships

Stephanie Wilson

TECHNICAL TEAM - PALMA FUTURO

Yolanda Brenes, Lead Trainer

Florencia Gonzalez, Lead Trainer

Maria Camila Lopez Navarro, Community Engagement Coordinator, Colombia

Luisa Trujillo, Community Engagement Coordinator, Ecuador

HANDBOOK TEAM

Alex Ducett, Communications & Marketing Manager

Yolanda Brenes, Lead Trainer

Florencia Gonzalez, Lead Trainer

Jane Hwang, SAI President & CEO

Maria Camila Lopez Navarro, Community Engagement Coordinator, Colombia

Stephanie Wilson, Director of Innovation & Partnerships

Photography

Jesus Lora and Janina Rendón

Graphic Design & Layout

Joshua Frederick



ACKNOWLEDGEMENTS

SAI would like to thank our leading partners on the Palma Futuro project, Partners of the Americas. In particular, this handbook was made possible by inputs, coordination, and guidance from Angelica Nieto and Alejandro Torres Perico throughout the project's duration and in development of this output.

We would like to thank our private sector partners and other collaborating organizations in the Palma Futuro project in Colombia and Ecuador—Biocosta (Aceites, El Roble, Palmaceite, Palmagro), Palmas del Cesar, ProAmazonia, and ANCUPA. Their inputs and experiences shaped the trajectory of the Palma Futuro project and, ultimately, the content in this handbook and the accompanying toolkit. Their cooperation and commitment throughout the Palma Futuro project made this handbook and toolkit possible. We would further like to thank the team at Palmas del Cesar for giving us permission to use their facilities, employees, and suppliers for the photography throughout much of the handbook and for their guidance and patience with our team throughout the process.

This handbook would not be possible without the active participation and cooperation of many communities, farmers, and workers in Colombia and Ecuador who participated in the Palma Futuro project. We are indebted to their participation through community circles, supplier assessments and training, worker interviews and training, social performance teams, and many other activities for much of the content in this handbook and for all progress made on this project.

Funding is provided by the United States Department of Labor under cooperative agreement number IL - 32820-18-75-K. 100 percent of the total costs of the project is financed with federal funds, for a total of 6,000,000 US dollars.

This material does not necessarily reflect the views or policies of the United States Department of Labor, nor does mention of trade names, commercial products, or organizations imply endorsement by the United States Government.



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LIST OF ACRONYMS

CAB	Community Action Board
CBA	Collective Bargaining Agreement
CLMS	Child Labor Monitoring Systems
COCOL	Comité de Convivencia Laboral
COPASST	Comite Paritatrio de Salud y Seguridad en el Trabajo
DLW	Decent Living Wage
CSR	Corporate Social Responsibility
GBVH	Gender Based Violence & Harassment
GLWC	Global Living Wage Coalition
GRI	Global Reporting Initiative
ILO	International Labor Organization
ISCC	International Sustainability & Carbon Certification
ISO	International Organization for Standardization
KPI	Key Performance Indicator
NGO	Non-governmental Organization
OHS	Occupational Health & Safety
PDCA	Plan-Do-Check-Act Cycle
POIG	Palm Oil Innovation Group
PPE	Personal Protective Equipment
PSP	Private Sector Partners
RSPO	Roundtable for Sustainable Palm Oil
SAI	Social Accountability International
SCS	Social Compliance System
SPT	Social Performance Team
UNGP	United Nations' Guiding Principles on Business and Human Rights
USDOL	U.S. Department of Labor



ABOUT THIS HANDBOOK

WHO SHOULD USE THIS HANDBOOK?

This handbook is for palm oil companies and related entities in Central and South America, including:

- Palm farmers that employ any number of workers and/or their employees responsible for social and labor compliance;
- Employers and employees responsible for implementing social and/or labor compliance programs at palm oil extractor plants;
- Extension agents, labor standards enforcement bodies, and capacity-building professionals that seek to support improved labor performance in the palm oil industry.

QUICK REFERENCE FOR USING THIS HANDBOOK

Chapter 1. Labor Compliance in Latin America's Palm Oil Industry

Background on labor issues and social compliance systems in the palm oil industry in Central and South America.

Chapter 2. Introduction to Social Compliance Systems

Introduction to the Palma Futuro Social Compliance System (SCS), its key definitions and components.

Chapter 3. Labor Performance Elements

Detailed information on labor standards relevant in the palm oil industry in Central and South America, including guidance to help companies implement the standards in each labor category.

Chapter 4. Management System Categories

Step-by-step instructions on how to develop and implement an SCS, including links to accompanying tools.



PALMA FUTURO SOCIAL COMPLIANCE SYSTEM TOOLKIT

- A companion publication that includes forms, templates, checklists, and other useful documents to help companies develop and implement an SCS. The tools directly relate to SCS elements and activities introduced in this handbook and we include links to relevant tools throughout.
- Tools are customized for use by different types of employers: extractor plants, large or medium-sized farms, and smallholder farmers. Look for the following icons to find tools customized for your company type.



Toolkit



**Extractor
Plants**



**Large/Medium
Farmers**



**Smallholder
Farmers**



SPECIAL INFO FOR SMALLHOLDERS

In South and Central America, the majority of palm fruit is grown by smallholder farmers, who face very different challenges than larger businesses. Many smallholders rely on family labor, have more financial constraints because of the size of their operations, and are more vulnerable to disruptions like natural disasters or emergencies. Throughout this handbook, we provide detailed guidance to help companies, especially smallholders, customize the SCS to their unique set of circumstances.





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1 INTRODUCTION

Strong demand in biofuels and processed foods industries, supported by foreign direct investment and government incentives, have fueled rapid growth in palm oil production globally, including in Central and South America. Colombia is now the fourth largest palm oil producer in the world; Ecuador the eighth; and Guatemala, Brazil, Honduras, and Peru also have significant palm oil cultivation.¹

This growth represents both an opportunity and a potential challenge for the region. Unlike in Southeast Asia (where most palm oil production is concentrated), oil palm in Central and South America tends to be grown on small and medium-sized plantations, representing a great opportunity for the crop to contribute to economic development and poverty reduction.² American palm oil expansion is also less likely to come at the cost of additional deforestation, making it an increasingly appealing market for global investment.³

However, challenges arise in any industry when growth outpaces the private sector's ability to maintain socially responsible business models and governments' capacity to monitor and enforce labor laws. When this occurs, the promise of new investment can significantly increase the risk of labor rights violations and exploitation. This is often especially true in rural areas, where there tend to be limited employment opportunities, high rates of poverty, and relative isolation from the wider world.

Like in many other countries and industries, evidence suggests that labor violations are already common throughout different industries in Central and South America.⁴ In Ecuador, for example, research has found that migrants from Colombia and other countries working on oil palm farms often work very long hours for little pay through informal contracts with labor brokers. These same migrants may fall victim to labor trafficking due to deceptive recruitment by

1 "Palm Oil - Our World in Data," accessed June 24, 2022, <https://ourworldindata.org/palm-oil>.

2 Romina Ordoñez, "Supporting Sustainable Palm Oil in Latin America and the Caribbean," IDB Invest, August 14, 2020, <https://idbinvest.org/en/blog/development-impact/supporting-sustainable-palm-oil-latin-america-and-caribbean>.

3 Ordoñez.

4 International Trade Union Confederation, "ITUC Global Rights Index 2020," June 16, 2020, <https://www.ituc-csi.org/ituc-global-rights-index-2020>.



labor brokers, resulting in forced overtime and limited freedom of movement.⁵ Other common violations include absence of formalized contracts and social benefits, unfair wages, and unethical recruitment.

These types of conditions violate fundamental human rights, as well as national and international law, and threaten long-term viability of individual employers and the palm oil industry as a whole.

1.1 BUSINESS IS INCREASINGLY EXPECTED TO RESPECT HUMAN RIGHTS

Businesses of all sizes have a responsibility to respect the human rights of their employees. This responsibility is enshrined in numerous international and national frameworks, most notably by the International Labour Organization (ILO) and in the United Nations' Guiding Principles for Human Rights and Business (UNGP). The ILO defines fundamental human rights for workers and the UNGPs provide a set of guidelines to prevent, address, and remedy human rights abuses committed in business operations. These are widely accepted by nations, civil society organizations, and the private sector as the global foundation for decent work, or the right to productive work in conditions of freedom, equity, security and human dignity.

The **International Labour Organization (ILO)** was founded in 1919 and incorporated as the first specialized United Nations agency in 1946. Its mandate is to advance social and economic justice through setting international labor standards. The ILO has 187 member states (including all Central and South American countries) and its standards are upheld by international law and recognized by both the public and private sectors worldwide.

Since being officially adopted by the UN in June 2011, the **UN Guiding Principles** have been welcomed by governments, the business community, and civil society. They are designed to provide a coherent global framework for preventing and addressing the risks of adverse impacts on human rights linked to business activity.⁶

5 Verité, "Labor and Human Rights Risk Analysis of Ecuador's Palm Oil Sector," May 2016, <https://www.verite.org/wp-content/uploads/2016/11/Risk-Analysis-of-Ecuador-Palm-Oil-Sector-Final.pdf>.

6 "Guiding Principles for Business and Human Rights: Implementing the United Nations 'Protect, Respect and Remedy' Framework" (New York and Geneva: Office of the High Commissioner for Human Rights, 2011), <https://www.unglobalcompact.org/library/2>.



While the UNGPs and other international frameworks are mostly voluntary, actors from both the public and private sector have implemented mechanisms that make them enforceable, such as national labor laws and supply chain codes of conduct and auditing programs by multi-national companies and industry associations. Restrictions on imports made in exploitative labor conditions are another. For example, the United States has recently integrated requirements for collective bargaining and freedom of association into its trade contracts with Mexico and levied embargoes against palm oil from Malaysia due to reported labor violations.

Reporting and accountability for labor conditions in international supply chains are increasingly less voluntary. The European Union directive on Corporate Sustainability Due Diligence is typical of similar legislation in several countries that places legal requirements for private sector actors to report on the labor conditions at every level of the supply chain. Palm oil will certainly be affected by these laws, which will require multi-national companies to significantly increase their supply chain visibility and due diligence efforts. Those efforts will in turn introduce new expectations and requirements for employers in the palm oil industry, down to the smallest palm farmers. At the same time, they represent a great opportunity for employers who are able to demonstrate good labor practices and outcomes.

1.2 ADDRESSING LABOR COMPLIANCE IN THE PALM OIL INDUSTRY

The barriers to improving labor compliance in the palm oil industry in Central and South America are complex. For one, palm oil producers differ widely in size and capacity—from large, vertically integrated agro-enterprises to smallholders with limited resources and education—making “one size fits all” approaches ineffective. In addition, while several countries have legal provisions and regulations protecting workers, many are unable to effectively monitor and implement their policies due to some combination of limited resources, lack of political will, lack of experience, or other factors. Political, economic, cultural, and social factors also play a role.

In light of these challenges, the private sector and national governments have made some progress towards establishing guidelines, programs, and policies to uphold environmental and social standards. One example is the *Declaracion*



para el fortalecimiento de un sector Palmero Sostenible in Colombia, a palm oil industry initiative establishing shared principles of sustainability and social responsibility that will soon become an auditable standard.⁷ In part, these efforts respond to demands for products that meet international standards for human rights in business.⁸ They also aim to satisfy these countries' obligations under international agreements and to establish national policies and guidelines for what constitutes free and fair labor.

There are also certification systems and industry initiatives that companies can participate in to demonstrate compliance with international standards of decent work. These include direct engagement from large buyers such as Nestlé⁹ and Cargill, the Roundtable for Sustainable Palm Oil (RSPO) certification standard, the Palm Oil Innovation Group (POIG), and RSPO Next.¹⁰ However, while audit and certification programs like these provide the rules and requirements companies need to meet, they rarely provide detailed instructions for implementation.

1.3 THE ROLE OF SOCIAL COMPLIANCE SYSTEMS IN ADDRESSING LABOR RISKS

This handbook provides step-by-step guidance to help employers implement a social compliance system (SCS)—a management system that helps any company to apply labor standards set out in national law, codes of conduct, or certification systems. An SCS helps companies comply with labor standards as a matter of practice and work to improve their labor performance continuously.

7 “Sector Palmero Colombiano Reafirma Compromiso Con La Sostenibilidad Apoyado En 10 Principios Clave,” fedepalma, October 2, 2020, <https://web.fedepalma.org/Sector-palmero-colombiano-reafirma-compromiso-con-la-sostenibilidad-apoyado-en-10-principios-clave>.

8 Such as the International Labor Organization's (ILO) core conventions, the UN Guiding Principles on Business and Human Rights, the standards established by the Roundtable on Sustainable Palm Oil (RSPO), and individual agreements between trading partners.

9 “Nestle Action Plan on Labour Rights in Palm Oil Supply Chains,” April 30, 2018, <https://www.nestle.com/sites/default/files/asset-library/documents/creating-shared-value/responsible-sourcing/palm-oil-action-plan-2018.pdf>.

10 Angus McInnes, “A Comparison of Leading Palm Oil Certification Standards” (Forest Peoples Programme, November 22, 2017), <https://www.forestpeoples.org/en/responsible-finance-palm-oil-rspo/report/2017/comparison-leading-palm-oil-certification-standards>.



An effective SCS strengthens business practices across the organization and can result in better risk management, better quality and productivity, and a better reputation amongst buyers/clients. For example, clear, transparent human resource policies and procedures—an important component of an effective SCS—help improve communication between workers and managers, allowing managers to anticipate and avoid labor problems and establish healthy workplace relationships that lead to reduced turnover and increased worker satisfaction. Effective health and safety management procedures—another key to an effective SCS—allow employers to proactively identify workplace hazards and provide a process for eliminating or reducing them, preventing costly accidents, work stoppages, and other disruptions.

The Palma Futuro SCS is based on the US Department of Labor's Comply Chain tool and SAI's Social Fingerprint *(see Chapter 4 to learn more)*.

Importantly, implementing an SCS does not need to be an overwhelming task. To be effective, the system should match the nature and size of the company. Companies can use any existing management systems (such as for quality, health and safety, or environment) as a starting point and build from there. For those new to management systems, the SCS can eventually become the starting point for improving performance in other areas.

Note

Social Compliance Systems help companies...

- Prevent and mitigate the risk of non-compliance with labor laws and standards
- Meet requirements of today's global market (e.g., certifications and buyer codes of conduct)
- Gain a reputation as a reliable supplier in the international market
- Improve worker engagement, retention, and productivity





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2 INTRODUCTION TO SOCIAL COMPLIANCE SYSTEMS

KEY TERMS

Labor performance, standards, management system

A social compliance system (SCS) is an integrated set of policies and practices through which a company seeks to ensure maximum adherence to the social and labor elements of its code of conduct.¹¹ The Palma Futuro SCS is a framework for palm oil companies and farmers to achieve and maintain decent working conditions—or “labor performance”—through purposeful and systematic business practices—or “management systems. To have a successful SCS, you must have effective implementation of these two components—both management systems and labor performance (see **Figure 2.1**). An SCS is one element of a company’s broader CSR, sustainability, or accountability program.

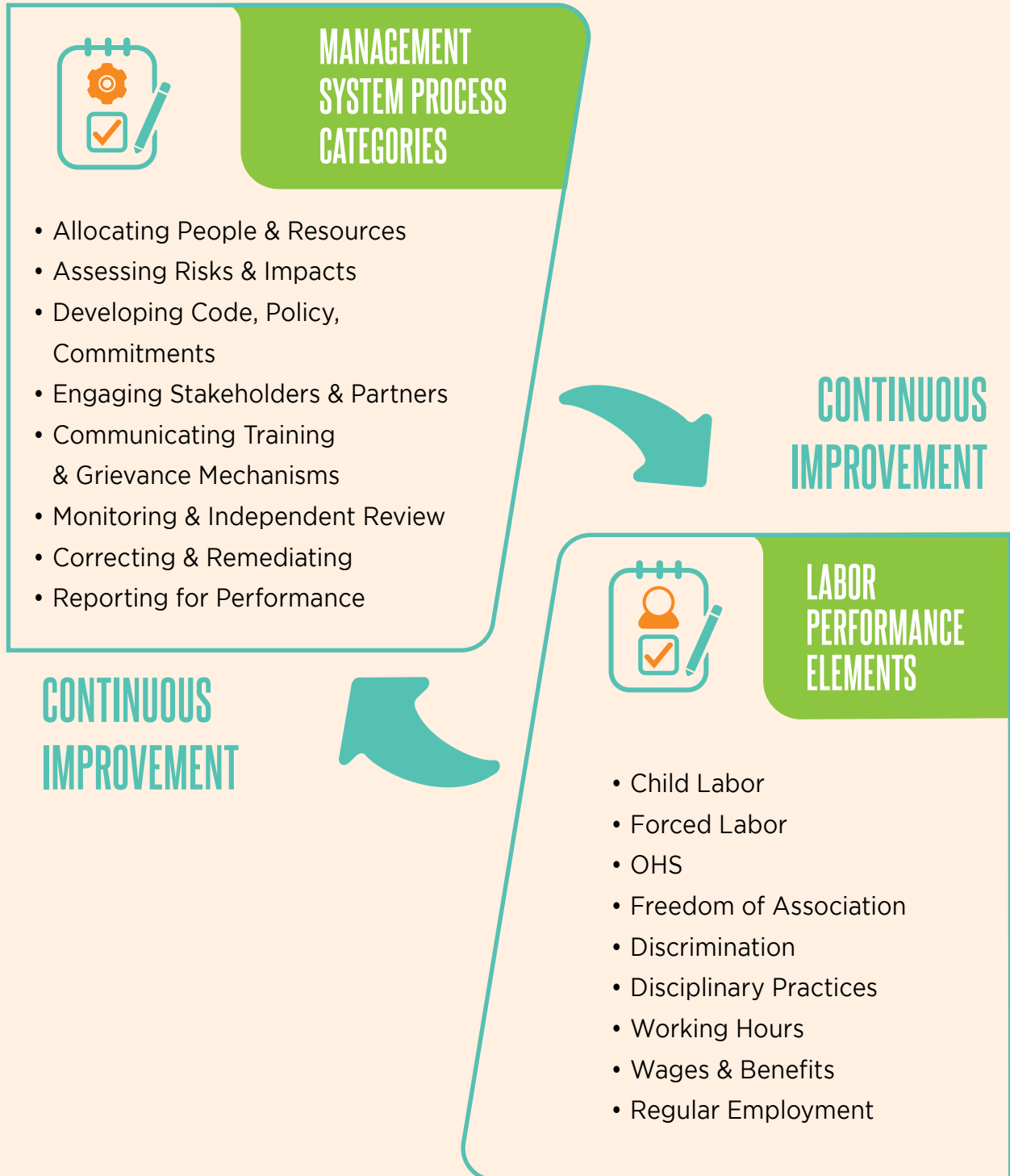
The SCS described in this handbook is for any supplier or extractor in the palm industry in Central or South America that employs workers—from large agro-industrial conglomerates employing hundreds of people to smallholder farmers who hire 1-2 day laborers during peak season. Because the handbook is for anyone who employs workers, we refer to the reader as “the employer” throughout.

SAI developed the Palma Futuro SCS based on the U.S. Department of Labor’s Comply Chain and SAI’s Social Fingerprint.

¹¹ USDOL / ILAB, “Comply Chain,” US Department of Labor, accessed August 17, 2022, <https://www.dol.gov/ilab/complychain/>.



FIGURE 2.1: OVERVIEW OF SOCIAL COMPLIANCE SYSTEM



2.1 LABOR PERFORMANCE



Labor performance¹² is the measure of how well a company complies with labor laws and standards for decent work. For example, whether the company engages in child labor, if working conditions are more hazardous than necessary, or whether the company discriminates in its hiring.

There are many different **standards** defining expectations for labor performance, including local, national, and international labor laws, client codes of conduct, and third-party certification schemes (e.g. RSPO, ISCC, Fairtrade, etc.). When it comes to developing your own labor policies and social compliance commitments (*see Section 4.3 Developing Code, Policy, Commitments*), you may choose to adopt the definitions and requirements expected by your buyers, a certification program you are pursuing, national laws, or a combination thereof. When making these decisions, be sure to check all of these sources to understand how aligning with one set of standards may affect your compliance with another.

This handbook primarily refers to labor performance standards set by the International Labour Organisation (ILO)—a United Nations agency whose mandate is to advance social and economic justice through setting international labor standards. Many South and Central American countries have ratified ILO conventions, meaning they agree to enforce those standards domestically as part of their labor laws. In general, ILO standards are internationally accepted as the



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¹² In this handbook, we use the terms “labor performance” and “social compliance” interchangeably.



baseline for decent work. Many buyer codes of conduct, national laws, and certification programs base their labor requirements on ILO standards. Wherever national laws and ILO standards differ, we strongly encourage employers to strive for compliance with the higher standard. This is not just good for workers; it is increasingly a necessity for passing buyer audits and gaining access to global markets. *See Figure 2.2* for an overview of the Labor Performance elements discussed in this handbook.

2.1.1 SCORING LABOR PERFORMANCE

You can think of your performance in each element as falling somewhere on a scale from 1-5 (*See Table 2.1*):

For employers who have not previously had an SCS, it is common to begin the process with performance in the 1-2 range for most labor elements. In developing and implementing your SCS, you will begin a process of continual improvement, allowing you to gradually achieve higher levels of performance—perhaps reaching the 4-5 level over time.

TABLE 2.1 Explanation of SCS Labor Performance Scores

Score and description	Example of score in Disciplinary Practices
1 Minimal or no implementation of the minimum requirements in law or international labor standards.	Company regularly uses forms of disciplinary practice prohibited under national law.
2 Partial implementation of the minimum requirements in law or international labor standards.	There are recurring or systemic cases of major violations with respect to acceptable disciplinary practices.
3 Basic implementation of the minimum and average/common requirements of law, industry codes, and international labor standards.	Company shows isolated cases of major violations with respect to acceptable disciplinary practices or recurring cases of minor non-compliances.
4 Substantial implementation of law and international standards, including the most rigorous requirements.	Company consistently applies disciplinary practices in line with law and international standards, as evidenced by policies, records, and worker feedback.
5 High-level, consistent implementation and continual improvement beyond the highest requirements of law and international labor standards.	Company works collaboratively with worker organization (union) leaders on all disciplinary decisions and seeks best practices.



FIGURE 2.2: PALMA FUTURO SCS LABOR ELEMENTS



CHILD LABOR

The employer shall not engage in or support the use of child labor.



DISCIPLINARY PRACTICES

The employer shall treat all personnel with dignity and respect. No harsh or inhumane treatment is allowed.



FORCED LABOR

The employer shall not engage in or support the use of forced or compulsory labor or human trafficking.



WORKING HOURS

The employer shall comply with applicable laws, collective bargaining agreements (where applicable), and industry standards on working hours, breaks, and public holidays. The normal workweek, not including overtime, shall be defined by law, but shall not exceed 48 hours.



OCCUPATIONAL HEALTH AND SAFETY (OHS)

The employer shall provide a safe and healthy workplace environment and shall take effective steps to prevent potential health and safety incidents and occupational injury or illness arising out of, associated with, or occurring in the course of work.



WAGE & BENEFITS

The employer shall respect the right of personnel to a living wage and ensure that wages for a normal workweek, not including overtime, shall always meet at least legal or industry minimum standards or collective bargaining agreements (where applicable). Wages shall be sufficient to meet the basic needs of personnel and to provide some discretionary income.



FREEDOM OF ASSOCIATION

Personnel shall have the right to form, join, and organize the trade union(s) of their choice and to bargain collectively on their behalf with the employer and the employer shall respect this right.



REGULAR EMPLOYMENT

The employer shall comply with applicable labor obligations and social security as part of the recognized employment relationships between employee and the employer.



DISCRIMINATION

The employer shall not engage in or support discrimination in hiring, remuneration, access to training, promotion, termination, or retirement based on race, national/territorial/social origin, caste, birth, religion, disability, gender, sexual orientation, family responsibilities, marital status, union membership, political opinions, age, or any other condition that could give rise to discrimination.





2.2 MANAGEMENT SYSTEMS

A **management system** is a set of processes for implementing policies consistently, monitoring outcomes, and building on experience. Management systems are integral to many business functions and most companies have at least some basic management systems in place, such as for quality control or financial, legal, or environmental compliance. Management systems are also key for social compliance because they embed socially responsible practices in daily business operations and support continuous improvement. *See Figure 2.3* for an overview of the Management System categories discussed in this handbook.



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FIGURE 2.3: PALMA FUTURO SCS MANAGEMENT SYSTEMS CATEGORIES



ALLOCATING PEOPLE & RESOURCES

The people or team of people responsible for implementing labor standards internally or in the supply chain.



COMMUNICATING, TRAINING & GRIEVANCE MECHANISMS

The employer's system for training people in the company to help them understand applicable labor standards, implementation strategies, and performance.



ASSESSING RISKS & IMPACTS

The employer's system for identifying and understanding labor risks and prioritizing actions to address them.



MONITORING & INDEPENDENT REVIEW

How the employer gathers information about labor performance in the company, tracks labor standards implementation, and uses external and/or independent monitoring in labor standards implementation.



DEVELOPING CODE, POLICY, AND COMMITMENTS

How the employer defines its principles, objectives, and commitment to social compliance internally and throughout their supply chain.



CORRECTING & REMEDIATING

The employer's system for addressing labor problems internally and in the supply chain and for making changes to prevent problems from recurring.



ENGAGING STAKEHOLDERS & PARTNERS

How the employer identifies and interacts with internal and external stakeholders to create, maintain, enhance, and improve labor standards implementation in their own operations and throughout their supply chain.



REPORTING FOR PERFORMANCE

How the employer reports publicly on labor standards implementation and performance.



2.2.1 SCORING MANAGEMENT SYSTEMS

Like for labor performance, you can think of your level of maturity in each Management System category on a scale from 1-5 (*see Table 2.2 Explanation of SCS Management System Category Scores*):

It is important to note that these levels refer to how you use each category specifically for managing labor performance. For example, many companies have a well-developed and implemented risk assessment process for business risks, OHS, or other limited areas, but if they do not conduct regular risk assessments for each labor topic, that would place them at a level 2.

TABLE 2.2 Explanation of SCS Management System Category Scores

Score and description	Example of score in Assessing Risks & Impacts Category
1 No processes or controls in place to manage labor performance. Fundamental development needed.	No identification or assessment of labor risks and impacts.
2 Partially developed processes and controls, but mostly reactive, inconsistent, partially effective, or limited in scope. Further development needed.	Basic identification and assessment of labor risks and impacts, but limited to a few inputs. Usually covering basic OHS risks and applying to some, but not all workers and departments. Usually conducted after an accident or complaint.
3 Basic processes and controls, covering most operations and workers, but some opportunities for improvement. Covers current scope but needs more responsiveness to changes in internal and external environments.	Procedures in place for identification of labor risks and impacts across all key performance elements, covering all workers and departments; some risks or workers may be missed during busy seasons, periods of growth, or changes in operations.
4 Substantially developed, integrated, and effective processes and controls, implemented consistently and regularly, responsive to changes in internal and external environments. Minor improvement opportunities.	Systematic, documented identification and prioritization of labor risks and impacts. Routinely reviewed and updated across existing, new, and changing activities. Wide awareness and engagement of staff in identification and prioritization of labor risks and impacts. External experts involved as required.
5 Fully integrated, mature processes and controls, implemented consistently and regularly, responsive to changes in internal and external environments, proactively preparing for the future. Continual improvement of processes and controls above and beyond requirements.	All elements of level 4, plus risk and impact assessment processes are routinely reviewed and updated as part of a continual improvement plan and at the earliest stages of business planning across the company.



2.3 IMPLEMENTING A SOCIAL COMPLIANCE SYSTEM



The first step in implementing an SCS is to secure commitment and buy-in from leadership; without that, it will not be possible to create real, sustainable improvements to the company's labor performance or management systems (*See Section 4.1 Allocating People & Resources* for more on this).

Once your company has committed at the highest level to making improvements, you can start by taking a baseline measurement of your current performance in each of the nine labor elements (i.e. labor performance score) and your current use of the eight Management System categories as they relate to labor performance (i.e. SCS maturity). The baseline assessment can be done by an external evaluator if needed for a formal certification or if required by a client, but a self-assessment is a good way to start. Taking an SCS self-assessment will help you identify current labor performance issues, or **violations**, and understand strengths and weaknesses in your existing management systems.



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Toolkit



The Sample SCS Assessment tool is a comprehensive social compliance and management systems maturity assessment that you can use directly in monitoring activities as an initial self-assessment, for internal audits, as a guide to develop indicators for ongoing monitoring, and for external audits. This tool results in scores of 1-5 for each topic, based on the five levels described above.



You will need to involve key personnel from across the organization to complete this Self-Assessment. If possible, we recommend that you review this handbook in its entirety before beginning a self-assessment.

The next step is to review the findings of that baseline assessment to identify any urgent labor violations that need to be addressed, or **corrected**, and then to prioritize areas for long-term system improvement. Chapter 3 of this handbook will help you understand labor performance standards to correct violations and avoid future violations. Chapter 4 describes the process for identifying, prioritizing, and correcting violations and for improving your management of labor performance to support long-term social compliance.

Thus, implementing an SCS is an ongoing process of measuring performance, prioritizing risks, taking action, and measuring again (*see Figure 2.4*).

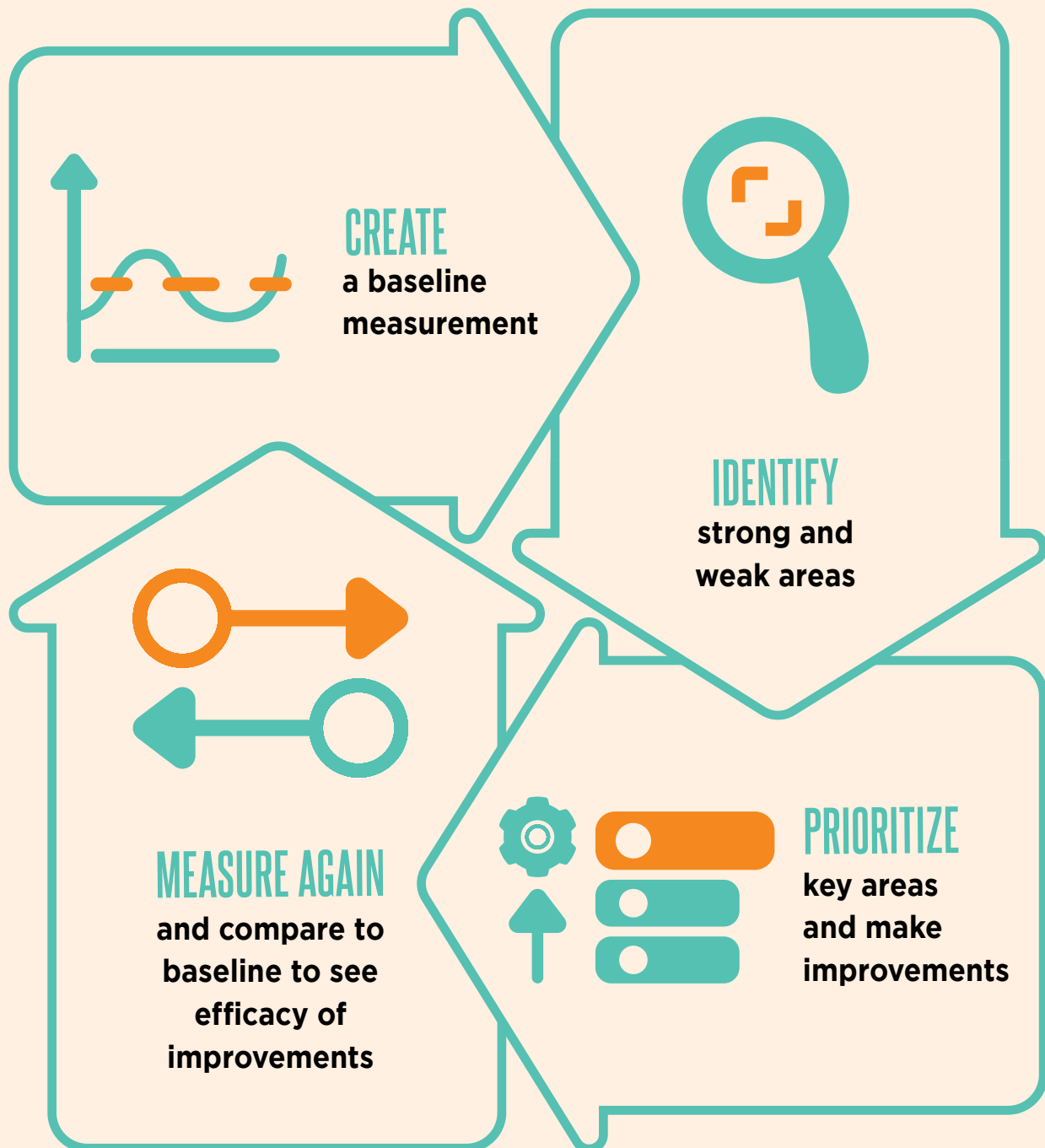


Palma Futuro Project, funded 100% by the United States Department of Labor.





FIGURE 2.4: SOCIAL COMPLIANCE SYSTEM IMPLEMENTATION PROCESS





Palma Futuro Project, funded 100% by the United States Department of Labor.

3 LABOR PERFORMANCE ELEMENTS

Labor performance is the measure of how well a company complies with labor and social standards. Good labor performance is an outcome of an effective social compliance management system. To develop an effective SCS, it is important to understand the principles of accepted labor standards and adapt your system to your company's unique context.

While every country, international framework, buyer code of conduct, and certification program has its own set of labor-related requirements and regulations, the vast majority fall into one of nine categories. In this book, we refer to these as Labor Performance elements.

In this chapter, we present a summary of common expectations and considerations when developing your SCS. However, it is crucial that you refer to the applicable labor laws in your country, the expectations in buyer codes of conduct, and industry or certification standards and align your policies and practices to those requirements.

NINE LABOR PERFORMANCE ELEMENTS



Child Labor



Forced Labor



Occupational Health and Safety



Freedom of Association



Non-Discrimination



Disciplinary Practices



Working Hours



Wages & Benefits



Regular Employment



CHAPTER OVERVIEW

This chapter describes each Labor Performance element in detail and provides specific guidance on how to build systems that support ongoing labor compliance. Each section includes:

Important Statutes and Definitions – Key terminology and international documents related to the labor element.

Context – Introduction to the international, regional, and industry context for the labor element.

Understanding the Labor Element – Explanation of the important concepts in the element and a summary of relevant international and national laws (selection). Not intended as complete legal guidance – always refer to full legal documentation for your country.

Risk Factors – High-level overview of factors to consider when conducting your risk assessment. Not a complete list of all possible risk factors – always do your own analysis of relevant risk factors when planning your risk assessment (*see Section 4.2 Assessing Risks & Impacts on page 128*).

Special Information for Smallholders – Special considerations for the context of smallholder farms.

Implementation Guidance – Sample considerations in various SCS Management System categories. These sections offer a non-exhaustive set of recommendations. You should apply each management category to every labor element when designing and implementing your SCS.

Case Study – Example of a common type of violation against the element and analysis of how to address or prevent similar issues.

Learning Check – Questions to check your comprehension and understanding of the element.



SPECIAL INFO FOR SMALLHOLDERS

For every Labor Performance element, the laws and standards apply to organizations of all sizes. There are certainly differences in the most prevalent labor risks depending on company size (and we make note of these in the “Special Info for Smallholders” sections throughout this handbook), but one common risk across all elements is assuming that labor laws and regulations only apply to large employers. Beyond the obligation to follow the law and conduct business ethically, oversight of labor conditions at the very beginning of the supply chain is also increasing. Unless stated otherwise in this chapter, it is important to assume that every requirement mentioned applies to employers of every size.



3.1 CHILD LABOR



IMPORTANT STATUTES AND DEFINITIONS

Child Labor: Work that “deprives children of their childhood, their potential and their dignity, and that is harmful to physical and mental development.”¹³ This includes work that is (1) mentally, physically, socially, or morally dangerous and harmful to children, and/or (2) interferes with their schooling.

Hazardous Child Labor: Work in dangerous or unhealthy conditions that could result in a child being killed or injured, or made ill as a consequence of poor safety and health standards and working arrangements. It can result in permanent disability, ill health, and psychological damage.¹⁴

Young or juvenile worker: Those under age 18 who can legally work¹⁵.

ILO Minimum Age Convention (No. 138): Establishes 15 as the minimum employment age and 18 as the minimum age for dangerous work. Aims to abolish child labor for those under 15. Ratified by all Central and South American countries.¹⁶

ILO Worst Forms of Child Labour Convention (No. 182): Abolishes the worst forms of child labor for anyone under 18. The prohibited ‘worst forms’ include, but are not limited to: (a) all forms of slavery, including child trafficking; (b) prostitution; and (c) any work that is likely to harm the safety, health, or morals of the child. Universally ratified – including by all Central and South American countries.

3.1.1 INTRODUCTION

Worldwide, an estimated 160 million children are engaged in child labor, a problem that has been made more acute by disruptions to schooling and economic crises related to the COVID-19 pandemic. Agricultural work has a higher incidence of child labor than other industries and in Latin America, more than 50% of child labor is in agricultural industries.¹⁷ Child labor can pose a significant threat to children’s mental and/or physical development and deprives them of their in-

13 IPEC, “What Is Child Labour,” International Labour Organization, accessed August 17, 2022, <https://www.ilo.org/ipec/facts/lang-en/index.htm>.

14 IPEC, “Hazardous Child Labour,” International Labour Organization, accessed August 17, 2022, <https://www.ilo.org/ipec/facts/WorstFormsofChildLabour/Hazardouschildlabour/lang-en/index.htm>.

15 International Labour Organization, “Eliminating and Preventing Child Labour: Checkpoints for Companies,” March 1, 2016, http://www.ilo.org/global/publications/WCMS_456960/lang-en/index.html.

16 All notes on ratification status based on “Ratification by Convention,” International Labour Organization, accessed August 17, 2022, <https://www.ilo.org/dyn/normlex/en/f?p=1000:12001:::NO:::>

17 “Progress and Challenges in Eliminating Child Labour within the 2030 Agenda for Sustainable Development Framework” (International Labour Organization, 2018), http://www.ilo.org/global/meetings-and-events/regional-meetings/americas/19amrm/WCMS_645427/lang-en/index.htm.



ternationally recognized rights to schooling and childhood. Many jobs that are acceptable for adults pose a great risk to the safety and healthy developmental of children and teens.

Child labor is a crime under the laws of most countries and is outlawed by international treaties. Companies that use child labor could face civil fines/sanctions or even criminal charges, depending on the severity of workplace hazards children were exposed to.¹⁸ In addition to legal liability, use of child labor is prohibited by most supplier codes of conduct; to enforce this, buyers increasingly require suppliers to demonstrate compliance with sustainability certifications that monitor for child labor, such as RSPO or International Sustainability & Carbon Certification (ISCC).

These requirements are reinforced by country-level bans on imports of products made or harvested using child labor. The United States is an important example – their child labor import bans have specifically targeted palm oil from certain countries.¹⁹

3.1.2 UNDERSTANDING CHILD LABOR

Under international law and in many countries, individuals under the age of 18 are considered children. Not all labor performed by those younger than 18 is considered child labor, but there are restrictions on the permissible nature and conditions of their work. This is true even in countries where childhood is defined to end at a younger age (typically 13-17), as is the case in Brazil, Colombia, and Peru.

The ILO defines child labor as “work that deprives children of their childhood, their potential and their dignity, and that is harmful to physical and mental development.” This definition recognizes that certain types of age-appropriate work can be valuable to social, personal, mental, and professional development, as well as an important contribution to family income. It is common and acceptable for adolescents to engage in some part-time work, but it is important to remember that some activities or work requirements that are reasonable for adults can be detrimental to child and adolescent development.

18 Verite, “Toolkit for Palm Oil Producers on Labor Rights,” 2021, 54, <https://verite.org/resources/our-work-in-palm-oil/palm-oil-toolkit/>.

19 Margie Mason and Robin McDowell, “US Bans Second Malaysian Palm Oil Giant over Forced Labor,” AP NEWS, December 30, 2021, sec. Business, <https://apnews.com/article/forced-labor-malaysia-261eb108042b23eee-596091a40a9a9aa>; “CBP Issues Withhold Release Order on Palm Oil Produced by Forced Labor in Malaysia,” U.S. Customs and Border Protection, December 30, 2020, <https://www.cbp.gov/newsroom/national-media-release/cbp-issues-withhold-release-order-palm-oil-produced-forced-labor>.



Restrictions around permitted and prohibited forms of work for children vary by country, but there are some internationally recognized standards.

3.1.2.1 Child Labor Restrictions by Country

International treaties, bilateral and multilateral trade agreements, and national labor laws further refine the prohibited activities and types of employment for children and define age requirements for specific types of employment. The following is a brief summary of some key child labor laws in four palm oil-producing countries in South America. Review your own country's labor law for a complete set of restrictions (*see Figure 3.1: Child Labor Restrictions in Key Countries on page 24*).

3.1.2.2 Hazardous Work

Children are prohibited from performing hazardous work under both international law and the laws of almost every country. Many activities on palm farms and at extractor plants are considered hazardous and therefore qualify as child labor if performed by minors. Many countries explicitly name the types of work they consider hazardous; review the labor laws in your country for a complete list.

Some potentially hazardous palm oil activities include climbing trees, using sharp cutting tools, harvesting, spraying, and pruning *see Section 3.3 Health and Safety on page 46*. Even if the assigned task is not hazardous (e.g. some maintenance, repair, or cleaning tasks) the job may violate child labor laws if it exposes the young worker to hazardous materials or products, conditions, or equipment. *See Table 3.1 on page 28* for a framework to help in identifying non-hazardous positions for young workers.

3.1.2.3 Non-Hazardous Prohibited Work

Non-hazardous work may still violate child labor laws in certain cases. Common restrictions include a minimum age for formal employment, limitations on the number of working hours per day and per week, and conditions to prevent interference with schooling. Employing minors against their will is always prohibited (*see Section 4.2 Assessing Risks & Impacts on page 128*).

3.1.2.4 Interns and Apprenticeships

One common way that young workers join the workforce is through internships or apprentice programs. Employers must ensure that any such programs do not abuse the rights of young workers or the intent of such programs. Interns and apprentices of any age cannot be paid less than other employees for the same type and amount of work. Some countries allow the payment of stipends



FIGURE 3.1: CHILD LABOR RESTRICTIONS IN KEY COUNTRIES



BRAZIL²⁰

Under 16

No child under 16 is allowed to work, except for in apprenticeships, which may begin at 14 years of age

Ages 16-17

Various restrictions

Type of work

May only engage in non-hazardous work. Many agricultural work activities are considered hazardous and therefore prohibited.

Amount of work

Under 18 years may work up to 6 hours per day. Apprentices who have completed basic education may work up to 8 hours per day, inclusive of hours related to theoretical learning. Night work (10:00pm-5:00am) prohibited for all under 18.

Requirements to work

Parental authorization²¹

COLOMBIA²²

Under 15

No child under 15 is permitted to work

Ages 15-17

Various restrictions²³

Type of work

May only engage in non-hazardous work. Many agricultural work activities are considered hazardous and therefore prohibited.

Amount of work

Ages 15-16 may work up to 6 hours per day (30 hours per week) and may not work after 6 pm; 17-year-olds may work up to 8 hours per day (40 hours per week) and may not work after 7 pm.

Requirements to work

Work authorization

ECUADOR²⁴

Under 15

No child under 15 is permitted to work

Ages 15-17

Various restrictions

Type of work

May only engage in non-hazardous work. Many agricultural work activities are considered hazardous and therefore prohibited.

Amount of work

May work up to 6 hours per day (30 hours per week)

Requirements to work

Work authorization

PERU²⁵

Under 12

No child under 12 is permitted to work²⁶

Ages 12 -14

Various restrictions

Type of work

May only engage in 'light work', i.e., work that is (a) not likely to be harmful to their health or development and (b) will not impact their attendance at school.

Amount of work

No more than 4 hours per day, or more than 24 hours in a week

Requirements to work

Work authorization

Ages 15-17

Various restrictions

Type of work

May only engage in non-hazardous work. Many agricultural work activities are considered hazardous and therefore prohibited.

Amount of work

Up to 6 hours per day (36 hours per week)

Requirements to work

Work authorization



or lower pay rates during apprenticeships and internships. Where this is the case, ensure that the specific conditions of any such programs meet the legal requirements and that you have systems in place to protect the rights of young workers.

Apprenticeship and intern programs should not be used for extended periods to substitute for full-time work. To prevent misuse of young workers in this way, any such program should be for a defined period. A best practice is to employ apprentices and interns only as part of structured programs overseen by credible external entities, such as government agencies, universities, or other educational institutions. Regardless of whether the program is overseen by an external party, the employer has a responsibility to routinely monitor young workers' progress to ensure that they are gaining the intended job skills and are not being exploited.

3.1.2.5 Impacts on Non-Working Children

In addition to following all restrictions on use of child labor, companies must also ensure that non-working children are safe from workplace hazards. This is of special importance in agriculture and for any company that has family housing for workers on premises. Employers should add signage and fencing to prevent children from accessing hazardous areas and train workers to identify hazards and remove children safely from those areas.

On small farms, children may be accustomed to walking through plantations or playing among them, however, there are many hazards in plantations (**see Section 3.2 Forced Labor on page 34**) that can severely injure or kill both adults and children. While the plantation and other work areas may feel like part of their home or communities, it is important to educate children about

20 Presidência da República Casa Civil Subchefia para Assuntos Jurídicos, "Consolidação Das Leis Do Trabalho," accessed August 17, 2022, http://www.planalto.gov.br/ccivil_03/Decreto-Lei/Del5452.htm.

21 Patricia Cáceres, "Legislación comparada sobre Trabajo Adolescente Doméstico. El caso de Brasil, Paraguay, Colombia y Perú," Working Paper (International Labour Organization, January 1, 2003), http://www.ilo.org/ipec/Informationresources/WCMS_IPEC_PUB_4824/lang-es/index.htm.

22 Ministerio de Protección Social, "Codigo Sustantivo Del Trabajo, Colombia," 2011, <https://www.ilo.org/dyn/travail/docs/1539/CodigoSustantivodelTrabajoColombia.pdf>.

23 ILAB Staff, "Laws Governing Exploitative Child Labor Report, Republic of Colombia" (US Department of Labor, 2011), <https://www.dol.gov/agencies/ilab/laws-governing-exploitative-child-labor-report-colombia-0>.

24 "Dirección Nacional De Asesoría Jurídica De La Pge Código Del Trabajo," May 2013, <https://www.trabajo.gob.ec/wp-content/uploads/2015/03/CODIGO-DEL-TRABAJO-1.pdf>.

25 "LEY QUE APRUEBA EL NUEVO CODIGO DE LOS NIÑOS Y ADOLESCENTES" LEY NO 27337, <https://www.mimp.gob.pe/files/direcciones/dga/nuevo-codigo-ninos-adolescentes.pdf>

26 Note that this age limit is in conflict with international law, which sets 15 as the minimum age of employment.



the dangers from a young age, establish clear boundaries where children may not enter, and train workers to prevent children from entering these areas. This is especially important for smallholders, but relevant for employers of any size.

3.1.3 RISK FACTORS FOR CHILD LABOR

Geographic factors

- Operating in a rural area
- Operating in an area where schools or childcare facilities are not accessible or are of poor quality
- Children of workers living in employer-provided housing near or on the work site
- Children living without formal registration (e.g. children of migrant workers not formally registered with local government)

Socio-economic factors

- High poverty and high unemployment rates among nearby communities
- Perceived lack of job choice or opportunity in nearby communities
- High rates of chronic disability, single-parent households below the poverty line, or children being orphaned in nearby communities
- Children living without a residence in nearby communities
- Children of migrant parents
- Low educational attainment among workers with children or parents in nearby communities

Community and structural factors

- Laws regarding child labor do not exist, are less strict than international norms, or are not enforced
- Lack of social protection and affordable healthcare for employees or nearby communities
- Lack of safe, out-of-school activities for children in nearby communities
- Social and/or gender norms that accept or encourage child labor and/or children not being in school

Additional Resource for Child Labor Risk Identification

An alliance between the ILO Regional Office for the Americas and the Commission Economic Program for Latin America and the Caribbean (ECLAC) developed a Child Labor Risk Identification Model, which uses existing statistical information in a country to identify areas with greater probability of child labor.²⁷ Colombia has applied this methodology and published a detailed report with the results.²⁸





3.1.4 SPECIAL INFO FOR SMALLHOLDERS

Research from RSPO has found that child labor in the palm oil industry is more prevalent on smallholder farms than at large plantations or extractor plants. Smallholder farms are often family-run or have live-in workers whose families reside on the premises. With children living in close proximity to farm areas, there are increased risks for child labor.

Thus, smallholder farms may need to implement special protections to prevent children from gaining access to hazardous farm areas and to ensure that tasks prohibited under child labor laws are never assigned to child helpers or young workers. These precautions are especially important in countries where it is culturally acceptable for children to assist their family in farm work.²⁹

In many countries, there are exceptions or allowances in the law for children helping on a family farm. For example, children under the legal working age may be permitted to help with certain tasks on family farms, with restrictions on the type of work and number of hours allowed per day or week. Check the laws in your country to ensure that childhood chores are not in violation of child labor laws.

27 NU. CEPAL-ILO, Child Labour Risk Identification Model: Methodology for designing preventive strategies at local level, LC/TS.2022/37 (ECLAC, ILO, 2022), <https://www.cepal.org/en/publications/47897-child-labour-risk-identification-model-methodology-designing-preventive>.

28 “Modelo De Identificación Del Riesgo De Trabajo Infantil, Colombia” (International Labour Organization, September 15, 2021), https://www.ilo.org/wcmsp5/groups/public/--americas/--ro-lima/--sro-lima/documents/publication/wcms_819685.pdf.

29 RSPO et al., “Guidance on Child Rights for Smallholders and Group Managers,” December 4, 2020, https://rspo.org/library/lib_files/preview/1405.





TABLE 3.1: IDENTIFYING NON-HAZARDOUS POSITIONS FOR YOUNG WORKERS

LOOK AT

All work positions

Potential Hazards May Occur:

Potential hazards may occur not only in the main work positions in palm oil production e.g. harvesting, spraying, pruning, but also at simple/supporting work positions such as maintenance, repair, cleaning, or helpers etc.

Non-Hazardous When:

Jobs are considered as light work which means simple, limited tasks performed under adequate adult supervision, as long as they do not threaten the child's health and safety or harm the moral of the child.

How the tasks are done

Potential Hazards May Occur:

The hazards may include:

- Night shifts (depending on the national law in defining night shifts)
- Frequent overtime
- Not using personal protective equipment
- Inadequate training for the level of experience needed to carry out the work

Non-Hazardous When:

Young workers being provide necessary training to carry out the work and to use PPE

Job done in daytime and within the regular working hours as defined in national law (usually up to 40 hours per week and 8 hours per day)

Foreseeable unusual conditions such as hazard control during an emergency situation

Potential Hazards May Occur:

The potential hazard may revolve around:

- Health: medical injuries that require first response or follow up care, etc.
- Safety: fire, hazardous materials spill, etc.
- Infrastructure: power outage, flooding, etc.

Non-Hazardous When:

The company/plantation has a clear Emergency Response Plan including:

- Pre-emergency planning e.g. evacuation and sheltering maps, hazardous material chemical inventory
- Training, drills, and exercise e.g. first aid training, health and safety training, periodic equipment testing, evacuation drill
- Guidelines on hazards e.g. power outage/utility failures, medical emergencies, fire extinguisher use





TABLE 3.1: IDENTIFYING NON-HAZARDOUS POSITIONS FOR YOUNG WORKERS, CONT.

LOOK AT

The physical work environment, equipment, materials, products, etc. that are used.

Potential Hazards May Occur:

Jobs may contain:

- Physical hazards e.g. extreme temperature, noise and vibration intensity that exceeds acceptable exposure limits, tasks performed at a height of more than the allowable limits, near garbage/waste areas etc.
- Chemical hazards e.g. toxic, explosive, corrosive or flammable substances, pesticides etc.

Moreover, potential hazards can also occur from utilising equipment:

- Machines e.g. cutting machine, harvesting machine
- Engines e.g. hoisting and loading engines such as forklifts, loaders, etc.
- Heavy-duty equipment e.g. tractors,
- Installations e.g. fire-extinguisher installations, electricity installations

Non-Hazardous When:

Jobs that do not use machines, engines, heavy duty equipment or installations. If the job requires young workers to carry objects, the load should not exceed allowable limits, for example in Indonesia, girls are allowed to carry up to 10 kgs and boys up to 12 kgs.

Injury and Incident Records

Potential Hazards May Occur:

Records that show the number of workers hit by falling fruit branches, skin abrasion due to contact with oil palm fruit and thorns, musculo-skeletal injuries from heavy lifting, snake, and insect bites, etc.

Non-Hazardous When:

Jobs with minimum incidents of work-related injuries or disease, and when there is an incident the company has a clear procedure to deal with and remedy the problem.

Source: RSPO, UNICEF, Centre for Child Rights and Business, and Proforest. "Guidance on Child Rights for Palm Oil Producers," December 4, 2020. https://rspo.org/library/lib_files/preview/1404. Reproduced with permission from RSPO.



3.1.5 SELECT IMPLEMENTATION GUIDANCE*



Developing Code, Policy, Commitment

- Include a commitment in Code of Conduct or Labor Policy to prevent and eliminate child labor
- Establish a minimum age-of-work policy according to country law and develop procedures for age verification
 - Procedure should include requirement to consult verifiable documentation of age for all prospective employees before hiring. Proper documentation may include identity documents, medical records, and/or school records.
 - Procedure should also include steps to follow if appropriate age documentation is not available. This may involve interviewing local community leaders or witnesses, conducting follow-up interviews with candidates whose ages seem questionable, and maintaining a database to flag underage job applicants.
- Create a list of permitted and prohibited tasks for young workers, interns, and apprentices and procedures to verify and monitor compliance
- Define permitted hours and working conditions for young workers, interns, and apprentices and procedures to verify and monitor
- Establish a child labor remediation procedure
- Create procedures that prevent children from accessing hazardous work areas
 - E.g., Signage, fences and other barricades, and training for workers and families



Engaging Stakeholders & Partners

- Identify programs that support surrounding communities to reduce child labor risks
- Engage community leaders or others that have connections and insights to vulnerable groups, such as women and migrant workers with children





• **Communicating, Training & Grievance Mechanisms**

- Train all workers on child labor laws, restricted access areas for children, and how to prevent children from entering restricted areas effectively
- Train hiring managers on recruiting procedures, particularly age verification in cases where documentation is not readily available
- Train production and operational managers on appropriate assignment and protection of young workers
- Train neighbors and other community stakeholders on the dangers on palm farms and the restricted areas for children.



Monitoring and Independent Review

- Work with local school leaders to track trends in educational progress, especially for children of migrant, seasonal, and transient workers
- Regularly interview and review records of job assignments, wages, and work hours of young workers
- Measure skills development for apprentice programs

Toolkit

Use the Step Approach to Remediation (Child Labor) tool to guide your remediation plan for child labor.



Correcting and Remediating

- If cases of child labor or inappropriately employed young workers are found, work with the child/young worker, family, and support groups that are trusted by the child/young worker
- Ensure that removal of the child or young workers is accompanied by measures to prevent retaliation or recurrence
- Provide financial, remedial education, psychological, and social support to help the child or young worker transition smoothly and to make up for lost educational time and integrate with peers

*Non-exhaustive. Review Ch. 4 Management System Categories for full guidance





CASE STUDY³⁰

An example from a palm oil farm illustrates how employment of young workers of legal working age can still violate child labor laws.

Two 16-year olds were hired by an independent hiring agency to work at Flores Palmeras Finca for the summer harvest. The young workers were students in a local agricultural college and the jobs were an important source of income for their families. Upon starting work, the students were assigned to work in the plantation harvesting palm fruit, which is a hazardous activity. They also found that their salary was much less than that of adult employees doing the same work and far below the minimum wage. They worked for over 6 hours per day for 20 days, exceeding the legal maximum number of working hours per day for young workers.

This case demonstrates several child labor violations, specifically:

1. Employing young workers in hazardous work;
2. Discriminatory pay for young workers;
3. Non-compliance with working hour restrictions for young workers.

To address these violations, Flores Palmeras Finca should conduct a complete root-cause analysis, take appropriate corrective action, and remediate the harm to the two affected young workers (**see Section 4.7 Correcting & Remediating on page 165**). In this case, corrective actions and remediation should include immediately removing the young workers from hazardous work, placing them in non-hazardous jobs, and implementing controls to ensure they do not work more than the allowable number of hours. They should then coordinate with XYZ Labor to ensure that the two affected workers receive back-pay to compensate for their discriminatory salary for hours already completed and implement the correct salary for all future hours worked. They should also provide for remedial education or other support to help the young workers compensate for lost education time from the excessive working hours. Finally, they should update their policies and procedures to prevent similar violations in the future.

³⁰ All case studies in this chapter are composite examples from the Palma Futuro project. The names and locations have also been changed.



LEARNING CHECK



1. All work performed by individuals under the age of 18 illegal. True or false?

Answer: False. Not all labor performed by those younger than 18 years of age is considered child labor, but there are restrictions in every country for work done by those under 18.

2. What are some examples of hazardous jobs in your company that cannot be done by children and adolescents?

Answer: Any work done in dangerous or unhealthy conditions that could result in a child being killed, injured, or made ill. Some potentially hazardous palm oil activities include climbing trees, using sharp cutting tools, harvesting, spraying, and pruning. You may be able to name additional hazardous activities in your own operations.

3. Why is it important to have policies, procedures, and training about keeping children safe even when you do not employ workers under the age of 18?

Answer: To ensure that non-working children are safe from workplace hazards. This is of special importance in agriculture and for any company that has family housing for workers on premises.





3.2 FORCED LABOR

IMPORTANT STATUTES AND DEFINITIONS

Forced labor: All work or service exacted from any person under the menace of any penalty and for which the said person has not offered themselves voluntarily.³¹

Modern slavery: Modern slavery is the severe exploitation of other people for personal or commercial gain. Almost all forms of modern slavery contain elements of forced labor, but not all forced labor constitutes modern slavery. Forced labor is just one type of modern slavery; others include human trafficking, bonded labor, and forced marriage.³²

Human trafficking: The process of trapping people through violence, deception, or coercion and exploiting them for financial or personal gain. It is another type of modern slavery³³.

Debt bondage: The process of forcing people to work as a way to pay off their debt; it is one of the most widespread forms of forced labor. Those stuck in debt bondage typically work for little-to-no payment, have no control over their working conditions, and may be prevented from leaving³⁴.

ILO Forced Labour Convention (No. 29): Defines forced labor and provides for certain exceptions, including compulsory military service, civic duties, work required to cope with an emergency situation, and prison labor under certain stipulated conditions. Ratified by all Central and South American countries.³⁵

3.2.1 INTRODUCTION

Freedom from forced labor is a fundamental human right at work and is a very pervasive labor violation. This may be partly due to limited understanding among both workers and managers about what forced labor looks like in the modern context. Forced or compulsory labor includes any labor exacted under threat of harm or penalty, or from which the worker is not able to leave freely. This includes human trafficking, debt bondage (labor demanded as a means of payment of debt), and more subtle forms that force workers to remain in jobs against their will through other means of threat.

31 SAP-FL, ILO Indicators of Forced Labour (International Labour Organization, 2012), http://www.ilo.org/global/topics/forced-labour/publications/WCMS_203832/lang-en/index.htm.

32 "What Is Modern Slavery?," Anti-Slavery International (blog), accessed August 17, 2022, <https://www.antislavery.org/slavery-today/modern-slavery/>.

33 "What Is Modern Slavery?"

34 "What Is Modern Slavery?"

35 "Convention C029 - Forced Labour Convention, 1930 (No. 29)," International Labour Organization, accessed August 17, 2022, https://www.ilo.org/dyn/normlex/en/f?p=NORMLEXPUB:12100:0::NO::P12100_ILO_CODE:C029.



Nearly 25 million people worldwide are in forced labor situations.³⁶ As with child labor, poverty is a key driver. In some regions, traditional cultural beliefs may perpetuate conditions of forced labor; in most places, vulnerable groups including migrants, women, and children are more likely to be victims of forced labor.

Because palm farms are typically remote, both employees and people in surrounding communities are vulnerable to dependency on palm employers. When employees and/or their families are dependent on an employer for food, shelter, and other necessities, their ability to choose and leave employment freely is limited and they may feel trapped in poor situations—or even become trapped in a more literal sense. For example, in Ecuador, investigators have found “induced or inflated indebtedness and multiple dependency on employers” to be a major issue in palm farms and in Guatemala, degradation of traditional ways of life has made many indigenous communities highly dependent on palm industry employers for their livelihoods.³⁷

Forced overtime—often indicated by regular, excessive working hours—is also common in both extractor plants and palm farms. In Colombia, the Palma Futuro project found patterns of excessive hours, enforced by threats of violence or dismissal, typically without any overtime premium. Verite has similarly found strong patterns of forced overtime in palm farms in Ecuador.³⁸

3.2.1.1 Migrants

An estimated 23% of global forced labor victims are migrants working in countries outside of their own.³⁹ Studies of palm farms in Ecuador and Guatemala have found that migrant workers are more likely to be victims of deceptive recruitment practices (especially when hired through labor contractors), for example being lured to the country with promises of lucrative work, then being trapped by isolation and in some cases armed guards in jobs requiring excessive overtime for little pay.⁴⁰ Several factors make migrants particularly vulnerable

36 “Ending Forced Labour by 2030: A Review of Policies and Programmes,” Report (International Labour Organization, December 10, 2018), http://www.ilo.org/global/topics/forced-labour/publications/WCMS_653986/lang-en/index.htm.

37 Verité, “Human Rights Risk Assessment, Ecuador.”; Verité, “Labor and Human Rights Risk Analysis of the Guatemalan Palm Oil Sector,” November 2016, https://www.verite.org/wp-content/uploads/2016/11/RiskAnalysisGuatemalanPalmOilSector_0.pdf.

38 Verité, “Human Rights Risk Assessment, Ecuador.”

39 “Global Estimates of Modern Slavery: Forced Labour and Forced Marriage,” Report (International Labour Organization, September 19, 2017), http://www.ilo.org/global/publications/books/WCMS_575479/lang-en/index.htm.

40 Verité, “Human Rights Risk Assessment, Ecuador.”; Verite, “Labor and Human Rights Risk Analysis of the Guatemalan Palm Oil Sector.”



to these forms of exploitation. For one, migrants often face language barriers, socio-economic instability, and cultural exclusion, making it difficult for them to understand and stand up for their rights at work and in general. Migrants are also less likely to be represented by a trade union or other workers' organization,⁴¹ further contributing to limited awareness of their basic rights and how to protect those rights. Many migrant workers find work through independent recruiters, increasing their risk of being charged fees that place them in debt or being trapped away from home in exploitative contracts that limit their freedom.

3.2.1.2 Women

Women also face higher rates of forced labor—55% of all forced labor victims worldwide are women.⁴² This is partly due to sex trafficking figures, but also because women are more likely to work in the informal sector, which lacks regulation and oversight. Traditional ideas of gender roles and divisions of labor influence the types of work that women do. As a result, women are more vulnerable to forced labor in domestic work—where they may need to live on premises and where labor rules and expectations may not be clearly defined—the agricultural sector—where they may work long hours—and in the worst forms of forced labor, like sex trafficking.

Women are especially vulnerable to physical and sexual violence on the job—an ILO indicator for forced labor. For example, a study of palm farms in Guatemala reported pervasive sexual harassment against female workers by male supervisors. In some cases, male supervisors requested sexual favors and punished female workers who refused with more labor-intensive and lower paying work.⁴³ This type of forced labor is unfortunately common across countries and industries.

3.2.1.3 Children

Child labor (i.e., work done by children that does not comply with restrictions for young workers – *see Section 3.1 Child Labor on page 21* for more details) is a form of forced labor and is typically prevalent in rural, mining, and agricultural communities with high rates of family labor. Children do not have the legal authority to offer their labor in excess of restrictions for young workers, thus any child labor is also forced labor. Children in poverty and without a stable family life are especially vulnerable, including to the worst forms of forced labor, such as sex trafficking and child soldiering. Children comprise an estimated 25% of forced labor victims worldwide.⁴⁴

41 Social Accountability International, "SA8000 Guidance Document," June 2016, <https://sa-intl.org/resources/sa80002014-guidance-document/>.

42 "Global Estimates of Modern Slavery."

43 Verité, "Labor and Human Rights Risk Analysis of the Guatemalan Palm Oil Sector."

44 "Global Estimates of Modern Slavery."



3.2.2 UNDERSTANDING FORCED LABOR

Forced labor is widely misunderstood by employers, workers, and the public. Often, people think it must involve physical violence or coercion or refer to physically demanding labor. Though it can take physically violent or demanding forms, this is not always the case. In fact, the most common forms of forced labor, especially in the palm oil industry, are much less obvious practices that deprive workers of their freedom to leave voluntarily and without penalty. In these cases, workers are effectively forced to stay in their job.

The ILO identifies 11 indicators of forced labor (see [Figure 3.2 on page 39](#)). In some cases, the presence of a single indicator is enough to confirm the existence of forced labor in a company. More often, it is a signal to take a closer look at company practices overall for any additional indicators, which together may point to a larger pattern of exploitative labor practices.

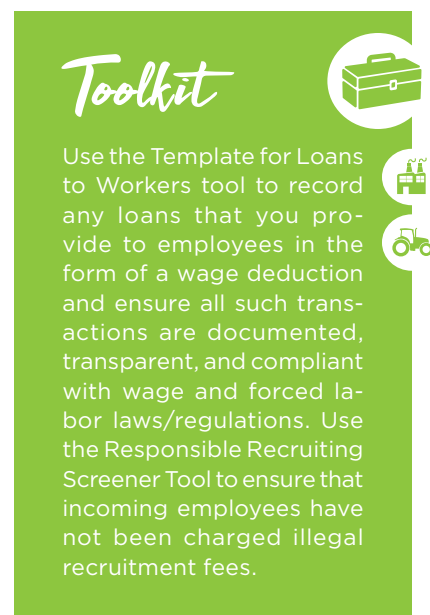
3.2.2.1 Third Party Recruitment

Forced labor conditions are often enabled by the use of third party or intermediary labor recruiters or hiring agencies. In many countries, labor recruiters operate largely without government oversight and without meaningful oversight by the companies they recruit for. There are many opportunities for forced labor conditions to occur during the recruitment and hiring process. For example, unscrupulous labor recruiters may misrepresent the working and living conditions of the jobs they are trying to fill, luring workers into positions with far worse pay and conditions than advertised; or charge workers exorbitant recruitment fees and garnish their wages to collect on the debt, trapping workers in debt bondage. These are just two common scenarios.

Employers who hire labor through intermediary recruiters or agencies, need to clearly communicate their hiring and recruitment policies to their labor suppliers and closely monitor their suppliers' practices.

3.2.2.2 Debt Bondage

Debt bondage is a common form of forced labor that occurs when workers are tied to a particular employer until a loan or debt is repaid. To comply with forced labor laws, employment terms and conditions should not be tied to a worker's indebtedness. Workers hired through recruitment agencies are especially vulnerable to debt bondage if they pay recruitment fees to secure their position and/or to receive transportation to another country for work. The costs



Toolkit

Use the Template for Loans to Workers tool to record any loans that you provide to employees in the form of a wage deduction and ensure all such transactions are documented, transparent, and compliant with wage and forced labor laws/regulations. Use the Responsible Recruiting Screener Tool to ensure that incoming employees have not been charged illegal recruitment fees.



of securing a position in this manner can create a debt too great for workers to reasonably be able to repay from their wages.

To protect workers from these practices, international law prohibits employers from charging workers for the costs of their own employment. Employers themselves are responsible for paying any fees or costs associated with the recruitment and hiring process—called the Employer Pays Principle. It is not enough to prohibit charging these fees to workers—employers must commit to pay the fees and costs themselves when they arise and to reimburse workers who are charged illegally.⁴⁵

Another circumstance that can lead to debt bondage is the provision of loans from employer to employee. While it is not illegal to provide loans, employers should only provide loans when they are confident the employee can repay promptly and within a reasonable amount of time based on their earnings. Loans should be considered separately from the employment contract, allowing the employee to terminate employment freely regardless of loan status. The terms for paying the loan balance can then be negotiated separately.

3.2.3 RISK FACTORS FOR FORCED LABOR

Demographic factors

- Presence of vulnerable and excluded groups among the workforce, including migrant workers, women, children, and marginalized racial or ethnic groups, such as afro-descendants
- Concentration of internally displaced people, refugees, or other migrant groups in surrounding community

Employment type factors

- Operating in an industry with many workers and little regulation, like agriculture, domestic work, and manufacturing
- Arrangements where employees are dependent on employer for meeting their basic needs, like lodging, safety, or sustenance.
- Use of third-party recruiters or hiring agencies

Socio-economic, community, and structural factors

- High poverty and high unemployment rates among nearby communities
- Perceived lack of job choice or opportunity in nearby communities

45 “The Employer Pays Principle,” EmployerPays.org, accessed August 17, 2022, <https://www.ihrb.org/employerpays/the-employer-pays-principle>.

46 SAP-FL, ILO Indicators of Forced Labour.

47 Employer in this graphic may refer to the main employer, hiring agency, or recruiter.



FIGURE 3.2: 11 ILO INDICATORS OF FORCED LABOR ^{46 47}



SELECT EXAMPLES OF INDICATOR

Abuse of Vulnerability

Employer takes advantage of the fact that migrants to the area are desperate for housing and food by offering them jobs in exchange for only those benefits – not paying legally owed wages.

Deception

Employer makes false promises about working conditions, salary, type of work, or general living conditions during recruitment or hiring process

Restriction of Movement

Employees do not have freedom to leave after finishing the work day or are prevented from going to the bathroom or taking other necessary breaks during the work day

Isolation

Employer does not allow employees to interact with other workers or the local community

Physical and sexual violence

Supervisors sexually harass female employees on a regular basis and threaten to fire them if they complain or resist advances.

Intimidation and threats

Supervisors threaten workers with termination if they do not agree to work excessive overtime hours

Retention of identity documents

Employer requires workers to deposit identity documents as “collateral” at the beginning of employment.

Withholding of wages

Employer withholds salary payments in a systematic or deliberate way.

Debt Bondage

Employer levies partial or total hiring costs to the worker, who then must forfeit their wages to pay off the costs of their own recruitment.

Abusive working and living conditions

1. Employer does not allow workers to take federally allotted break time
2. Employer does not respect workers' rights to terminate their employment with reasonable notice
3. Employer-provided housing is overcrowded with unhealthy living conditions and no privacy for residents

Excessive overtime

Employees are required to work overtime hours without sufficient compensation and/or in excess of hours permitted by law or collective bargaining agreement.



- Laws regarding forced labor do not exist, are less strict than international norms, or are not enforced
- Political or economic instability in neighboring countries, increasing the number of migrant workers and their level of vulnerability to exploitation

Note

Remember that risk is an inherent part of business. You will not be able to eliminate these risk factors from your operation, nor should you try. In some cases, eliminating one risk may put you at greater risk for another (e.g., eliminating vulnerable groups from your workforce to reduce the risk of forced labor will put you in violation of anti-discrimination laws). Rather, use the risk factors presented in each chapter to guide your company risk assessment (*see Section 4.2 Assessing Risks & Impacts on page 128*) and inform your risk mitigation priorities.

3.2.4 SPECIAL INFO FOR SMALLHOLDERS

3.2.4.1 Housing on premises



Smallholders that have employees living on the premises (including in their own homes) are at an increased risk of violating forced labor regulations. It is important to ensure that workers have freedom to move about the work and living spaces. If certain personal areas are off-limits to workers (whether at all times or during certain hours), you must provide reasonable access to necessary facilities (e.g., washrooms, kitchen, etc.). If food and lodging are part of your compensation package, these costs must not place the workers in debt—workers have the right to receive adequate wages in addition to these benefits (*see Section 3.8 Wages and Benefits on page 100* for more on this).

3.2.4.2 Subcontracted labor

Smallholders that outsource their harvest (i.e., sell the rights to harvest and sell their palm fruit to a third party) should be aware that they are ultimately liable for the work done on their property and therefore, for the labor conditions of any subcontracted workers. Any time you outsource hiring, whether to hiring agencies or independent contractors, you must ensure they follow all applicable labor laws through clear communication and monitoring (*see Chapter 4 Management System Categories on page 119*).



3.2.5 SELECT IMPLEMENTATION GUIDANCE*



Developing Code, Policy, Commitment

- Include a written commitment to prevent and eliminate forced labor and human trafficking in your Code of Conduct or Labor Policy.
 - This should include provisions specifically addressing each type of forced labor (e.g., cheating, wage withholding, abuse of vulnerability, unsafe conditions, restriction of movement, etc.).
- Establish hiring, recruitment, and payment policies that explicitly prohibit withholding identity documents and wages.
 - Include these policies in all job postings and require any third-party recruiters or other labor subcontractors to do the same.
- Create procedures that make it easy for workers to understand their terms of employment, pay, and lawful deductions from pay.
- Define policies and expectations for labor suppliers to prevent forced labor and incorporate effective mechanisms for implementation into the contract.
- Analyze the typical costs of worker recruitment and transport and include this in the company's cost model with recruiters.
- Establish policies that define when cases of forced labor should be reported to local authorities based on local laws.



Palma Futuro Project, funded 100% by the United States Department of Labor.





Engaging Stakeholders & Partners

- Consult with government agencies in both the sending and receiving countries for foreign migrant labor—or local municipalities for domestic migrant labor—to understand labor migration policies, intergovernmental agreements, and the availability or gaps in social services for migrants.
- Consult with civil society organizations and community groups in both sending and receiving communities that work with and understand the migrants' socio-economic and cultural perspectives.



Palma Futuro Project, funded 100% by the United States Department of Labor.



Communicating, Training & Grievance Mechanisms

- Inform and train all workers on the indicators of forced labor and on the company's forced labor policy and grievance procedures.
- E.g. Post information about the risks of forced labor in central work areas where all employees will see them.
- Provide written, verbal, and visual communications and training in workers' languages and literacy level.
- Train supervisors and managers on appropriate procedures for voluntary work assignments and overtime.
- Train security and facility personnel regarding appropriate employee movement and access to facilities and exits.



- Train labor suppliers on forced labor policies and management systems.
- Require labor suppliers to implement grievance mechanisms.
- Train hiring managers to effectively screen labor suppliers and enforce policies and expectations.
- Provide grievance channels that are accessible for personnel in different languages and train all staff that manage the grievance mechanism to understand the particular challenges and perspectives of non-local personnel.

Monitoring and Independent Review



- Interview employees to assess how well they understand their terms of employment, pay, and deductions.
- Review the policies, procedures, and records of labor suppliers, including contracts, pay records, and grievance cases.
- Review levels of personnel expenses and loans incurred with the company (e.g., debt ledgers for company stores and services).

Correcting and Remediating



- If a case of forced labor is found, develop a corrective action plan with the input of the affected employee(s) and support groups that are trusted by the employee(s).
- Ensure that the removal of the employee(s) from the forced labor situation is accompanied by measures to prevent retaliation or recurrence.
- Provide for the secure payment of withheld wages, recruitment fees, or other inappropriate fees or deductions paid by the employee(s).
- If an employee is returned to the place of origin, work with governmental agencies to ensure safe passage; work with civil society and community groups to provide financial, psychological, and social support to help them reintegrate smoothly.

*Non-exhaustive. Review Ch. 4 Management System Categories for full guidance





CASE STUDY

In a key palm-growing region, a palm tree disease (bud rot or PC) has devastated more than 10% of cultivation in recent years, leading to massive lay-offs of palm industry workers. Thus, when a recruiter arrived in one of the communities heavily impacted by the crisis, promising lucrative jobs on palm farms in another part of the country, many people signed up for the opportunity and boarded buses taking them to the new job—more than a 20-hour drive away. When they arrived, the migrants found that the well-paid positions they were promised did not exist—they were essentially making minimum wage and had to work extensive overtime to achieve a reasonable salary. Not only that, they learned that they had to pay for their own housing and food on the premises and for the bus ride from their hometown, placing most of the migrants in debt to their new employer upon arrival. The migrants' families had remained behind, meaning that they were not only isolated in an unfamiliar rural area and indebted to their employer they were also responsible for supporting a second household on their meager incomes. The migrants had no means to travel home independently given their situation.

This is a clear example of forced labor in the modern context—demonstrating several ILO indicators of forced labor: deception, isolation, abuse of vulnerability, debt bondage, and restriction of movement. Remediating a situation of forced labor is not simple and can quickly become extremely costly to the employer.

To address these violations, the employer should conduct a complete root-cause analysis, take appropriate corrective action, and remediate the harm to affected employees (*see Section 4.7 Correcting & Remediating on page 165*). In this case, appropriate actions would include immediately cancelling the employees' debt and reimbursing them for any payments already made toward their transportation to the job. They would need to ensure that any deductions for housing and food are within legal limits (*see Section 3.8 Wages and Benefits on page 100*) and reimburse employees for any payments already made in excess of those limits. Upon discovering the violation, the employer should immediately arrange transportation back to the migrants' hometown (paid by the employer) for any who wish to end their contract and return home. For those who stay, they should seek to increase the wage to match what was promised by the recruiter. If that is not possible, they should seek to negotiate a new wage and conditions that would be acceptable to both the employer and any migrants willing to stay. This should include employer-paid transportation to and from the migrants' hometown at regular intervals. They should also develop and implement policies and procedures to prevent any such situation occurring in the future, including (among other steps) training the recruiter on appropriate practices and implementing a monitoring system for recruiters.



LEARNING CHECK



1. What are some groups that are especially vulnerable to forced labor?

Answer: Migrants, women, and children

2. Can you name at least 3 ILO indicators of forced labor?

Answer: The ILO indicators of forced labor are:

- Abuse of vulnerability
- Deception
- Restriction of movement
- Isolation
- Physical and sexual violence
- Intimidation and threats
- Retention of identity documents
- Withholding of wages
- Debt bondage
- Abusive working and living conditions
- Excessive overtime

3. How can employers mitigate the risk of forced labor when using labor recruiters or subcontractors?

Answer: Employers who hire labor through intermediary recruiters or agencies need to clearly communicate their hiring and recruitment policies to their labor suppliers and closely monitor their suppliers' practices to ensure they are in alignment.





3.3 HEALTH AND SAFETY

IMPORTANT STATUTES AND DEFINITIONS

Occupational Health and Safety (OHS): Discipline dealing with prevention of work-related injury and disease and the protection and promotion of worker health.⁴⁸

Hazardous work: Work that falls into one of the “3Ds”: dirty, difficult or dangerous.⁴⁹ Cannot be performed by children.

Personal Protective Equipment (PPE): Gear that limits exposure to hazards.

ILO Occupational Safety and Health Convention (No. 155) and Recommendation 164: Outline requirements for national OHS policies and progressive application of preventive measures. Establishes employer responsibility to provide a safe and healthy work environment. Ratified by some Central and South American countries, including Brazil.

ILO Occupational Health Services Convention (No. 161): Provides for the establishment of enterprise-level occupational health services, which are entrusted with preventive functions and are responsible for advising the employer, workers, and their representatives on maintaining a safe and healthy working environment. Ratified by some Central and South American countries, including Colombia.

3.3.1 INTRODUCTION

The ILO records an estimated 2.78 million work-related deaths every year.⁵⁰ This means that somewhere in the world, a worker dies from an accident or sickness related to their job every 15 seconds.

Beyond the human tragedy of these death, workplace and work-related injury, illness, and death represent a significant burden for business. Compensation, lost working time, interruptions to production, resulting training and retraining, and medical and other expenses cost the global economy roughly 4% of global GNP every year, and possibly much more.”⁵¹

48 “ILO Research Guides: Occupational Safety and Health: Home,” International Labour Organization, accessed August 17, 2022, <https://libguides.ilo.org/occupational-safety-and-health-en/home>.

49 “Hazardous Work,” International Labour Organization, accessed August 17, 2022, <https://www.ilo.org/safework/areasofwork/hazardous-work/lang-en/index.htm>.

50 “International Labour Standards on Occupational Safety and Health,” International Labour Organization, accessed August 17, 2022, <https://www.ilo.org/global/standards/subjects-covered-by-international-labour-standards/occupational-safety-and-health/lang-en/index.htm>.

51 Benjamin O. Alli, *Fundamental Principles of Occupational Health and Safety*, Second (International Labour Organization, 2008), 4, http://www.ilo.org/global/publications/ilo-bookstore/order-online/books/WCMS_093550/lang-en/index.htm.



Employers have a moral, legal, and economic responsibility to provide a safe and healthy work environment and to take effective steps to prevent potential health and safety incidents, occupational injury, or illness arising out of, associated with, or occurring in the course of work. Most countries have long had detailed laws and regulations related to OHS and provided at least some degree of oversight and enforcement in this area, at least for medium to large employers. The importance of this element was underscored in 2022, when the ILO voted to make the right to a safe and healthy work environment the fifth of its Fundamental Principles and Rights at Work.⁵²

There are many OHS hazards associated with oil palm cultivation, harvesting, transportation, and processing—from back and hip injuries due to heavy lifting, to snakebites in plantations, to risks of infertility and miscarriage from chemical exposure, and more. Among farms and extractor plants participating in Palma Futuro, OHS violations were the most common, with every employer that went through an independent labor performance evaluation demonstrating at least one OHS violation.

3.3.2 UNDERSTANDING OCCUPATIONAL HEALTH AND SAFETY

OHS compliance encompasses a wide range of topics. Employers need to assess risks for all of the following topics in work areas and other employer-provided spaces and take effective steps to eliminate or mitigate risks as appropriate.

Agriculture and agro-industrial processes, including palm production and processing, have high rates of health and safety violations relative to other industries due to the physical, hazardous, and risky nature of many activities. These activities, while necessary, pose an inherent threat to the health and safety of personnel performing them.⁵³ Palm oil industry employers therefore need robust OHS systems to protect individual employees and prevent disruptive accidents and emergencies. Employers should assign a specific OHS committee to manage the SCS for this element (perhaps a sub-committee of the Social Performance Team – more detail in ***Section 4.1 Allocating People & Resources on page 121***).

52 ILO News, “International Labour Conference Adds Safety and Health to Fundamental Principles and Rights at Work,” International Labour Organization, June 10, 2022, http://www.ilo.org/global/about-the-ilo/newsroom/news/WCMS_848132/lang-en/index.htm.

53 “Safety and Health in Agriculture,” International Labour Organization, March 21, 2011, https://www.ilo.org/global/topics/safety-and-health-at-work/normative-instruments/code-of-practice/WCMS_161135/lang-en/index.htm.



OHS Risk Areas

- **Maintenance** (Machines, tools, buildings/work areas, electrical)
- **Bathrooms, dining, and rest areas** (access, cleanliness/hygiene, potable water, food safety)
- **Personal Protective Equipment** (PPE)
- **First aid and medical care** (access, training, medical records and other documentation)
- **Handling and storage of chemicals and hazardous materials**
- **Fire system and emergency preparedness** (manmade and natural disasters)
- **Work environment hazards** (e.g., ergonomics, noise, temperature)
- **Employer-provided housing** (follows all applicable requirements as work areas, has adequate facilities and supplies)

There are several categories of OHS hazards:

- Physical and mechanical
- Biological
- Chemical
- Ergonomic
- Psycho-social



Toolkit



The Process Mapping and Physical Mapping tools offer a guide for employers to assess potential risks associated with each work activity and physical work area for palm extractor plants and plantations.

See Table 3.2 on page 50 for sample hazards in each category on palm farms and extractor plants.

It is important to note the links between OHS and other labor risk areas. For example, health and safety incidents are more prevalent when personnel work long hours and overtime; exhaustion and lack of concentration are significant contributing factors to accidents. As a result, accidents and injuries are especially prevalent during peak seasons when overtime is common. Long hours leading to exhaustion also reduce workers' immune resistance and ability to cope with external stress, increasing their susceptibility to illness and reducing their ability to recover from accidents or chemical exposure.

Employers should work to promote a culture that prioritizes health and safety at all times, especially during periods of high production demands. Poor practices—such as setting unrealistic production timelines, failing to account for worker fatigue in scheduling, allocating insufficient resources to training and safety drills, and neglecting hazards not under your direct control (e.g., armed security personnel, kitchen facilities), among others—increase the likelihood of

OHS incidents. As part of developing a strong health and safety culture, ensure that all personnel (at every level of the organization) understand that they and others have the right to remove themselves without prior permission from imminent serious danger. This is an ILO requirement that helps prevent workplace fatalities by empowering personnel to leave their work position upon the first signs of a growing, serious danger, such as fire or building collapse without requesting prior permission from management.

3.3.2.1 Emergency Preparedness and Response Planning

A critical element of a safe and healthy workplace is an effective emergency preparedness and response plan. While most large companies have emergency response and evacuation plans in extractor plants and administrative areas, very large and small employers alike commonly lack similar plans and systems for plantations and farm areas. These work environments are not immune to natural and manmade disasters; it is equally important to develop and implement effective emergency response plans for them. The same is true for housing, leisure areas, dining facilities and any other physical spaces that you own or operate.

The planning process should include OHS committee members, additional personnel as needed, and representation from senior management. Below, we outline some key steps and indicators for an effective plan. This is not an exhaustive list, but rather a simple framework to help you get started.

1. Start by identifying and documenting OHS hazards and risks. The health and safety risk assessment should include not only work-related risks at each employer-owned or operated site, but also geographic threats to those sites, such as seismic activity, floods, landslides, etc.
2. Based on outputs from that process, develop an emergency preparedness and response plan, including actions to protect all personnel in the case of a fire and other potential emergencies (manmade and natural disasters) and clear definition of responsible persons to implement the plan. An effective emergency preparedness and response plan should generally include the following:
 - Prevention (including training and drills for all employees)
 - Early warning system (i.e., alarms)
 - Firefighting System (i.e., fire extinguishers, hydrants, sprinklers; fire department vehicle access)
 - Maintenance system (i.e., program to test and maintain warning systems and firefighting systems)
 - Evacuation System (i.e., emergency exits/doors, emergency lights, assembly points, etc.)





TABLE 3.2: SAMPLE OF POTENTIAL HAZARDS IN PALM FARMS



Physical and mechanical

- Slips and falls (including falling from trees)
- Bodily, head, and eye injuries from being hit by falling fruit bunches or palm fronds
- Injuries from cutting tools, ranging from minor cuts to severe wounds
- Skin abrasions due to contact with oil palm fruit and thorns (which can become permanently lodged in the hands)
- Skin cancer and heat exhaustion due to high levels of sun exposure
- Dehydration from extreme heat and lack of access to potable water
- Transport accidents

Chemical

- Poisoning and health effects from pesticide use or exposure
- Transfer of hazardous chemicals into employees' homes on contaminated clothing

Biological

- Snake and insect bites and insect-borne diseases
- Contaminated, non-potable water

Ergonomic

- Musculoskeletal injuries from repetitive and forceful movements and/or lifting and carrying heavy or awkward loads

Psychosocial

- Stress from unreasonable production quotas





TABLE 3.2: SAMPLE OF POTENTIAL HAZARDS IN EXTRACTOR PLANTS



Physical and mechanical

- Slippery floors, platforms, and stairs
- Falls from heights
- Exposure to high noise levels
- Burns from machinery and hot pipes
- Injuries from cutting tools, ranging from minor cuts to severe wounds
- Skin abrasions due to contact with oil palm fruit and thorns in sorting and loading areas (which can become permanently lodged in the hands)
- Transport accidents
- Possibility of fire due to short circuit of motors
- Exposure to electrical risk (low voltage)
- Dehydration

Chemical

- Exposure to processing chemicals
- Exposure to gases and vapors

Biological

- Exposure to contaminated and rotting waste

Ergonomic

- Musculoskeletal injuries from repetitive and forceful movements and/or lifting and carrying heavy or awkward loads

Psycho-social

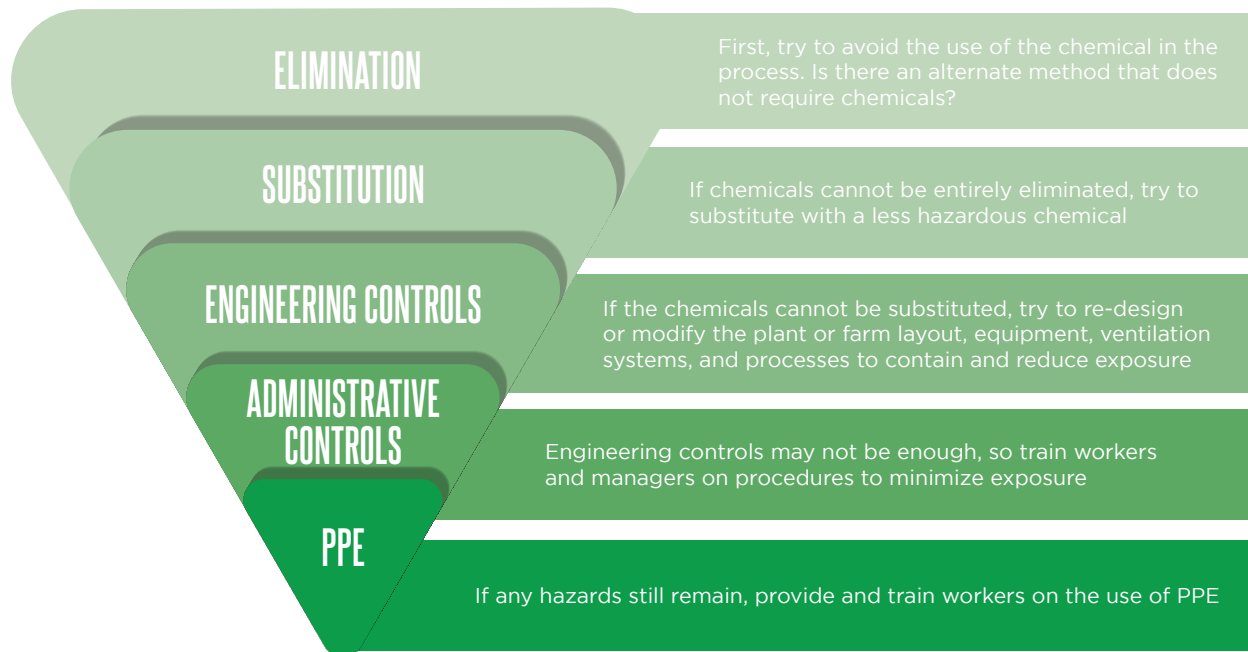
- Stress from workload and harassment



3.3.2.2 Hierarchy of Controls

The most effective way to manage OHS hazards and risks is to avoid and minimize them in the first place. The “hierarchy of controls”⁵⁴ shows how the company would ideally prioritize and focus its energy (see Figure 3.3 on page 52).

FIGURE 3.3: Example for chemical safety



3.3.2.3 Personal Protective Equipment (PPE)

Personal Protective Equipment (PPE) is gear worn by workers to limit exposure to hazardous situations. Many employers do not realize that PPE should be a last resort rather than a first response. Rather than placing the burden on employees to protect themselves from workplace hazards using PPE, first seek to eliminate and minimize hazards to the extent possible.

Tip

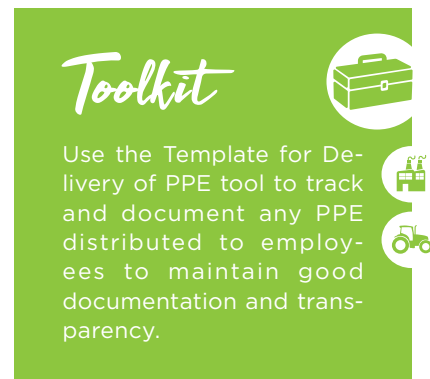
Only use quality PPE products, such as those tested and certified by credible, independent bodies. Low-quality PPE will do little to reduce OHS risks.

For example, by substituting hazardous substances with alternatives that are less volatile, less flammable, or less toxic; implementing good maintenance and operational controls for machinery and tools; and/or mechanizing hazardous activities, like moving palm fruit bunches from trucks to bins in the extractor plant and moving bins throughout the facility. If hazards remain after applying all possible prevention and control

54 The National Institute for Occupational Safety and Health (NIOSH), August 15, 2022, <https://www.cdc.gov/niosh/topics/hierarchy/default.html>.

measures, then you may ask workers to use PPE as a supplemental safety measure. *(see Figure 3.4: Types of PPE by Body Part on page 55).*

One reason you should first seek to eliminate risks is that PPE is imperfect, and even more so when it is burdensome to wear. It is extremely common in palm farms and extractor plants for personnel to be non-compliant with PPE requirements, often because it is uncomfortable or limiting to the wearer. Where it is not possible to avoid the need for PPE, take proactive measures to ensure the equipment you purchase suits your personnel and their needs. Involving relevant personnel in the selection process is one way to do so; they can help you consider things like size, fit, and weight requirements from the perspective of different types of people and roles. For example, if equipment is very heavy, or wearers have pre-existing health issues, standard PPE may not be suitable.



Toolkit

Use the Template for Delivery of PPE tool to track and document any PPE distributed to employees to maintain good documentation and transparency.

3.3.3 RISK FACTORS

Demographic factors

- Presence of migrant workers or marginalized racial and ethnic minority groups in the workplace - in many contexts these groups are often assigned the most hazardous jobs⁵⁵
- Women working in traditionally male-dominated roles - unique threats to women's health and safety (e.g., risks to new, expectant, and nursing mothers) in these roles may not have previously been considered
- Presence of workers with varying levels of literacy in the predominant language or who do not speak the predominant language, therefore limiting their ability to understand warnings, labels, instructions, and other printed or verbally communicated information

Employment-type factors

- Operating in an industry with many hazardous activities (including agriculture, agro-industrial processing, transport, etc.)
- Extreme environmental conditions (e.g., noise, temperatures)
- Storage and/or use of hazardous chemicals on premises
- Storage and/or use of machinery or hazardous tools
- Having limited resources dedicated to maintaining a clean and safe work environment

55 Factors such as "...language barriers, exposure to new technology, family disruption, poor access to health care, stress and violence," combine to make migrants particularly vulnerable to safety and health risks in the workplace (Alli, Fundamental Principles of Occupational Health and Safety, 7.).



- Use of part-time or contracted workers or workers employed by a hiring an agency – may exclude workers from health insurance and other social benefits in the case of on-the-job injury or illness⁵⁶
- Employing drivers
- Workers living on premises – increases number of locations with potential OHS risks
- Activities traditionally done by women – these roles may not have previously received the appropriate level of mitigation efforts and attention⁵⁷



3.3.4 SPECIAL INFO FOR SMALLHOLDERS

Small employers are more likely than larger companies to have un-addressed health and safety risks.⁵⁸ This is often because achieving compliance with health and safety regulations requires specialized knowledge to both identify and mitigate risks. We strongly encourage smallholders who do not have this type of training to hire an OHS specialist to help with risk assessment and improvement planning (*see Chapter 4 Management System Categories on page 119*) in this element.

For example, among Palma Futuro participating employers, smallholders were much less likely to be in compliance with all legal requirements for the safe storage and handling of chemicals. Carefully reading the warning labels on each substance can help you understand some of the dangers and storage requirements, but a technical expert will be more equipped to identify problems and recommend solutions.

56 The accident rate for contract workers is twice that of permanent employees (Safa Abdalla et al., “Occupation and Risk for Injuries,” in *Injury Prevention and Environmental Health*, ed. Charles N. Mock et al., 3rd ed. (Washington (DC): The International Bank for Reconstruction and Development / The World Bank, 2017), <http://www.ncbi.nlm.nih.gov/books/NBK525209/>).

57 Alli, *Fundamental Principles of Occupational Health and Safety*, 27.

58 Peter Hasle, “Safety and Health in Small Businesses – between a Rock and a Hard Place,” Statement, International Labour Organization, March 27, 2019, http://www.ilo.org/global/topics/safety-and-health-at-work/events-training/events-meetings/world-day-for-safety/33thinkpieces/WCMS_681611/lang-en/index.htm.



FIGURE 3.4: TYPES OF PPE BY BODY PART



This list is not exhaustive. Employers should select appropriate PPE based on their risk assessment and needs of their personnel.

Eyes

Risks: Falling fruit bunches or palm fronds, chemical splash, dust, gas and vapor

PPE Options: Safety spectacles, goggles, face-shields, visors

Note: Eye protection should have appropriate combination of protection for the task (i.e., impact, dust, splash, etc.) and fit the user properly.

Head and Neck

Risks: Impact from falling fruit bunches or other objects, bumping head, hair entanglement, burns, hearing damage

PPE Options: Helmets, hard hats, hairnets, neck gaiters, ear plugs, ear muffs

Note: Some safety helmets incorporate or can be fitted with specially designed eye or hearing protection.

Respiratory System

Risks: Dust, vapor, gas, airborne illness (e.g., Covid-19), smoke inhalation

PPE Options: Disposable, filtering face-piece or respirator; half- or full-face respirators

Note: Use the correct type of respirator filter for the substance

Skin and Body

Risks: Burns (heat or chemical), sunburn, skin cancer, snake and insect bites, spray from pressure leaks or spray guns, falling from trees or heights, excessive wear or entanglement of clothing, cuts and wounds

PPE Options: Sun block, hats, long sleeves and pants, insect repellent, conventional or disposable overalls, boiler suits, specialist protective clothing (e.g. chain-mail aprons, high-visibility clothing), safety harness

Note: Appropriate materials should be chosen to address the hazard (e.g. flame-retardant, anti-static, chain mail, chemically impermeable, or high-visibility)

Hands and Arms

Risks: Abrasion, cuts, and punctures; bruising from falling or flying objects; electric shock

PPE Options: Gloves, gauntlets, mitts, wrist-cuffs, armllets

Note: Ensure that the type and size of glove is appropriate. Wearing gloves for long periods can make the skin hot and sweaty, which can lead to skin problems; it may be useful to wear separate cotton inner gloves

Feet and Legs

Hazards: Electric shock; slipping; abrasions, cuts, and punctures; chemical splash

PPE Options: Safety boots, waterproof, shoes with protective toe caps and penetration-resistant mid-sole, gaiters, leggings, spats

Note: Footwear can have a variety of sole patterns and materials to help prevent slips in different conditions, including oil or chemical-resistant soles. It can also be anti-static, electrically conductive or thermally insulating. It is important that the appropriate footwear is selected for the risks identified.



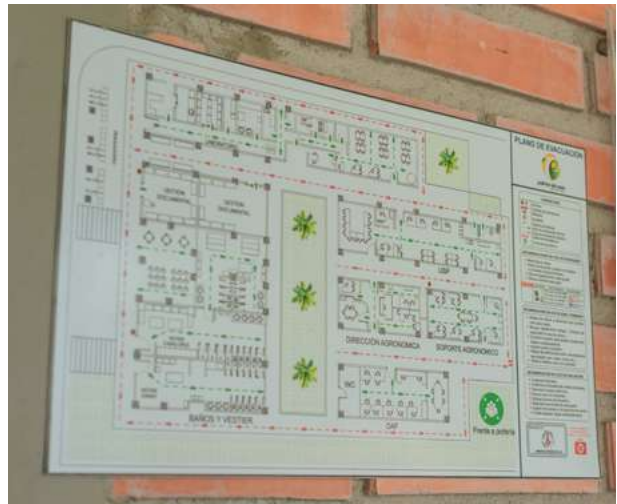
EXAMPLE HEALTH & SAFETY SIGNS

Appropriate health and safety signs are extremely important on palm farms and at extractor plants. Here we display an array of options for labeling and alerting workers to various hazards.



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3.3.5 SELECT IMPLEMENTATION GUIDANCE*

Allocating People & Resources

- Assign appropriate personnel to maintain a healthy and safe workplace, including establishing an OHS Committee that includes worker representatives

Assessing Risks & Impacts

- Assess risks and hierarchy of controls
- Verify the proper use and storage of potentially hazardous chemicals and other substances
- Review legal requirements for licenses, permits, and/or certificates and ensure company is in compliance
 - In some countries, such as Colombia, this may include mandatory Occupational Risk Insurance.
- Provide necessary PPE to all relevant personnel (free of charge) based on assessment of risks
- Conduct thorough risk assessments for all potential hazards described above



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Developing Code, Policy, Commitment

- Include a written commitment to OHS in your Labor Policy and/or Code of Conduct
- Establish a policy for hiring OHS experts when the company lacks these competencies
- Develop and implement procedures for conducting medical examinations required by law
- Establish an emergency prevention and response system
- Develop and implement procedures for appropriate handling, labeling, storage, and disposal of chemical substances and hazardous waste
- Maintain a Material Safety Data Sheet (MSDS) and ensure it is accessible in areas where the products are stored and used
- Establish a policy and corresponding procedure to ensure that labels and signage marking hazardous materials or areas are understandable to all workers, regardless of their language or level of literacy



Communicating, Training & Grievance Mechanisms

- Label hazardous materials and restricted areas with appropriate signage and instructions
- Create a training plan to ensure all workers receive adequate OHS training during onboarding and on a regular basis
 - Training should include emergency evacuation drills and cover risk identification and PPE; use of fire extinguishers; handling of dangerous tools, machinery, and equipment; and handling of hazardous materials (chemical, flammable, others), among other topics.
 - Be sure to include all shifts and seasonal and temporary workers
 - Incorporate training from external experts as appropriate.

Toolkit



Use the Health and Safety Monitoring Checklist tool to reinforce overall monitoring of health and safety measures, in addition to the Social Compliance System Assessment.



- In some places employers may also need to participate in mandatory trainings by external parties. For example, in Colombia, this is a mandatory element of the Occupational Risk Insurance requirement.
- Keep records of regular OHS trainings
- Provide training for OHS committee members on topics like incident investigation, conducting OHS inspections, and hazard recognition
- Ensure that workers feel comfortable reporting OHS hazards and ideas for improvement

Monitoring and Independent Review

- Document any OHS incidents or accidents and conduct a full investigation and root cause analysis (see Section 4.6 Monitoring & Independent Review)

Correcting and Remediating

- Implement the hierarchy of controls for all risks identified, with emphasis on avoidance and prevention
- Create a regular preventive and corrective maintenance plan for machinery and equipment
- Ensure immediate access to eyewash station and shower in areas where hazardous materials are stored and used

*Non-exhaustive. Review Ch. 4 Management System Categories for full guidance

Toolkit

Use the Maintenance Tracker tool to plan, document, and monitor equipment maintenance to ensure you are mitigating related OHS risks effectively.



CASE STUDY



Eduardo is a smallholder palm farmer who supplies fruit to a major extractor plant. He hires labor on a part-time basis through a local labor subcontractor. The subcontractor assigns two workers to his farm three days a week during peak harvest periods. The extractor plant he sells to provides Eduardo with standard PPE for harvesting—helmets, goggles, and gloves—but because he does not hire employees directly, he does not always have a chance to brief the workers and make sure they have proper PPE training.

One day when cutting fruit bunches in Eduardo’s farm, a falling palm branch hits a subcontracted worker in the eye, impairing his vision and putting him out of work for one month. Because the injury occurred on Eduardo’s land and the employee was not wearing goggles at the time, a worker’s compensation claim finds Eduardo partially responsible for damages. The amount far exceeds what Eduardo usually pays for employees through the subcontractor and he is forced to take out a loan to make the payment, putting his family in debt for several months.

To avoid this situation, Eduardo’s agreement with the subcontracting company should include a requirement that all employees must arrive 30 minutes early the first time they visit the farm to receive safety training and learn about other farm policies and procedures (see Section 3.9 Regular Employment for more about managing labor subcontractors). All employees should also report for a refresher safety training at least once per year (Section 4.5 Communicating, Training and Grievance Mechanisms). Eduardo should also conduct regular checks when employees are present on the farm to ensure they are following all safety protocols (Section 4.6 Monitoring & Independent Review) and implement formal corrective and disciplinary actions as appropriate when he identifies violations (Section 3.6 Disciplinary Practices and Section 4.7 Correcting & Remediating).





LEARNING CHECK

1. What are examples of biological or ergonomic risks in your operations?

Answer: Ergonomic

- Musculoskeletal injuries from repetitive and forceful movements and/or lifting and carrying heavy or awkward loads

Biological

- Snake and insect bites and insect-borne diseases
- Contaminated, non-potable water
- Exposure to contaminated and rotting waste

2. Before resorting to the use of PPE, what other steps should companies take to reduce health and safety risks according to the “hierarchy of controls”?

Answer: Prioritize your efforts by first seeking to eliminate the risk altogether. If this is not possible, consider substitution with less hazardous alternatives, engineering (re-engineering or modification), and administrative controls. If the risk still exists after these efforts then introduce PPE.

3. Who in your organization should be included in the emergency preparedness and response planning process?

Answer: The planning process should include OHS committee members, representation from senior management, and additional personnel as needed (this will vary based on the nature and size of the organization).



3.4 FREEDOM OF ASSOCIATION



IMPORTANT STATUTES AND DEFINITIONS

Freedom of association: The right of workers and employers to form and join organizations of their choosing—one of the ILO’s Fundamental Principles and Rights at Work.

Worker Organization: An autonomous, voluntary association of workers, organized for the purpose of furthering and defending the rights and interests of workers. Unions are one type of worker organization.

Collective bargaining: Negotiations between one or more worker organization(s) and their employer, a group of employers, or one or more employer organization(s) to determine working conditions and terms of employment and/or regulate relations between employers and workers (or between their respective organizations).⁵⁹

Collective Bargaining Agreement (CBA): A contract specifying the terms and conditions for work, negotiated between the employer (or group of employers) and one or more worker organization(s).

ILO Freedom of Association and Protection of the Right to Organize Convention (No. 87): Establishes the right of workers and employers to join organizations of their choosing. Ratified by most Central and South American countries, including Colombia, Ecuador, and Peru.

ILO Right to Organize and Collective Bargaining Convention (No. 98): Establishes the right of workers to enjoy “adequate protection against acts of anti-union discrimination” from their employer. Ratified by all Central and South American countries.

3.4.1 INTRODUCTION

The right of workers and employers to form and join organizations of their own choosing – particularly unions – is one of the ILO’s four fundamental rights at work. All countries in South and Central America and the Caribbean have ratified both ILO conventions related to freedom of association and collective bargaining, thus enshrining the right of all workers and employers in the region to democratic, free association.⁶⁰

Participation in a union or other worker organization provides a formal channel for workers to bargain for better wages and other working conditions, raise important issues to management, and create a dialogue about the conditions

59 Adapted from “What Is Collective Bargaining?,” International Labour Organization, May 24, 2014, http://www.ilo.org/global/topics/collective-bargaining-labour-relations/WCMS_244362/lang-en/index.htm.

60 Brazil is the only exception: the country has not ratified ILO Convention No. 49. However, the country’s Labor Code and Constitution protect the rights to freedom of association and collective bargaining.



they work in. Ideally, worker organizations also provide a channel for employers to learn of employee concerns or demands at early stages and a process through which to identify mutually beneficial solutions—collective bargaining. The hope is that worker organizations and employers work together to create a better work environment for everyone.

Despite the majority of countries recognizing freedom of association and collective bargaining as basic workers' rights, there are many challenges—structural, political, and cultural—to ensuring these rights for all workers.⁶¹ These include laws or political conditions that limit workers' ability to form and join unions in certain industries or locations or that limit the ability of certain types of workers to organize (e.g., contract workers, migrant workers, and informal workers). For example, in Colombia, most palm industry workers are hired by labor subcontractors or on short-term contracts, limiting their ability to organize; thus, where unions do exist, they tend to represent only a small number of employees at any given plantation or extractor plant. Partly due to these tactics, only 5% of palm workers in Colombia were represented by a union in 2019.⁶²

Limitations on fundamental civil and political liberties (e.g., freedom of speech, freedom to organize, etc.) at a national or local level are another barrier. In the private sector, anti-union discrimination and interference in worker organizations by employers are both threats to this fundamental freedom. Finally, monopolization (whether enforced by law or practice) negatively affects workers' ability to associate freely and as they choose. However, these barriers do not excuse employers from guaranteeing this right for their employees.

3.4.2 UNDERSTANDING FREEDOM OF ASSOCIATION

Employers have a dual role when it comes to freedom of association: 1) they must ensure workers have the freedom to organize without interference; and 2) they must not interfere with workers' freedom of choice when it comes to organizing or choosing an organization to join. To meet this obligation, employers must inform personnel about their right to association in an effective, objective, unbiased, and transparent manner. Respecting the right to organize also requires employers to prohibit discrimination against organized workers or their representatives and to engage with worker organizations in good faith.

Establishing “worker organizations” that are subject to employer approval or

61 International Labour Organization, “Freedom of Association and Development” (ReDeSoc, 2011), <https://dds.cepal.org/redesoc/publicacion?id=1577>.

62 Mondiaal FNV, “Social Dialogue and Tercerizados in Colombia's Palm Oil Industry,” August 2019, <https://www.fnv.nl/getmedia/469f2dd6-e8ee-4812-8b25-1f04e19ac97c/Mondiaal-FNV-Case-study-Colombia-final-aug-2019.pdf>.



oversight or that are organized or financially supported by the employer are a violation of this element. Employers must not become involved in the elections or operations of worker organizations. Even if employers believe they are acting in the best interest of workers by getting involved, their presence may unintentionally limit workers' freedom.

3.4.2.1 Collective Bargaining

Part of Freedom of Association is the employer's obligation to respect and participate in workers' efforts to bargain collectively. Collective bargaining is a voluntary negotiation between employers and worker organizations that seeks to establish regulations on employment terms and conditions. When engaging in collective bargaining, it is important to do so only with legitimate worker organizations. You should be able to demonstrate that workers chose the organization and representatives freely and that the union is independent (not affiliated with the private sector or government). The employer's role is to bargain in good faith and not engage in undue litigation or other actions to slow, stop, or limit the bargaining process.



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3.4.3 RISK FACTORS⁶³

Demographic Factors

- Presence in workforce of migrants, women, children, or communities who may not be aware of their rights or may have been historically disempowered or marginalized, and therefore disinclined to speak up and organize with others

Employment-type Factors

- Use of subcontracted workers (those employed by a third party), whose direct employer may suppress their freedom to associate and bargain collectively
- Company does not have a previous experience engaging in collective bargaining or with union representation
- Company has previously had an antagonistic relationship with unions or collective bargaining attempts
- Company does not extend equal benefits and treatment to unionized and non-unionized workers

Cultural, Social, and Structural Factors

- Operating in a region without established union structures
- Operating in a location where national laws or regulations restrict or limit trade union rights or where enforcement is weak
- Operating in a special export processing zone or other special labor regime designed to attract foreign investment
- Operating in a context where freedom of speech is restricted or there is a cultural norm of not speaking up
- Operating in a context where workers may have negative perceptions of unions that would act as a barrier to join or participate



3.4.4 SPECIAL INFO FOR SMALLHOLDERS

While smallholders are less likely than large employers to encounter organized workers or their representatives, their employees have the same rights. Thus, regardless of the number of employees, it is important to have a freedom of association policy, procedures that prevent discrimination against organized workers, and to inform workers of their rights.

⁶³ Adapted in part from “Respecting Trade Union Rights in Global Value Chains: Practical Approaches for Business,” Shift, accessed June 23, 2022, <https://shiftproject.org/resource/respecting-trade-union-rights-in-global-value-chains-practical-approaches-for-business/>.



3.4.5 SELECT IMPLEMENTATION GUIDANCE*



Developing Code, Policy, Commitment

- Include a written commitment in Labor Policy and/or Code of Conduct to respect Freedom of Association and Collective Bargaining
- Where this right is curtailed by law, design parallel measures that allow workers to freely and independently associate with worker organizations
- Define policies and procedures that ensure worker representatives have access to their members
- Define policies and procedures that ensure unionized personnel and their representatives are not subject to discrimination of any kind
- Respect all articles of the collective bargaining agreement, where one exists
- Where there is a collective bargaining agreement, extend equivalent protections to contracted workers and others not covered by the agreement
- Establish policies to prevent employer and management interference in the formation or operation of unions
- Record and maintain documentation on any meetings and follow-up actions with worker representatives



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Engaging Stakeholders & Partners

- Focus on improving relationships and communication with unions and workers' organizations (where they exist)
- Engage in collective bargaining negotiations in good faith
- Engage groups that support underrepresented workers, such as migrants



Communicating, Training & Grievance Mechanisms

- Create and implement a plan to effectively inform all personnel of their right to free association without penalty and company policies to respect that right
- Post information about the right to freedom of association in highly visible areas
- Inform and train workers on the terms of collectively bargained agreements they are party to (where they exist)
- Train supervisors and managers to respect employee's rights to freedom of association



Monitoring and Independent Review

- Interview employees and review disciplinary, performance reviews, and other personnel records to ensure there is no discrimination or retaliation against workers who are organizing or belong to unions

*Non-exhaustive. Review Ch. 4 Management System Categories for full guidance



CASE STUDY



Where employers and worker organizations have a history of hostility, politicization, or violence, it may be difficult to imagine reaching the point of constructive, mutually beneficial dialogue—or even to discuss the topic of unions or freedom of association. In these contexts, re-establishing good relations will take intensive stakeholder engagement (*see Section 4.4 Engaging Stakeholders & Partners on page 141*), commitment at the highest levels of leadership, and significant changes to company communications and culture (*see Section 4.5 Communicating, Training & Grievance Mechanisms on page 147*), but it is possible.

A large palm oil company in Colombia, Palmas del Cesar, has shared their story of moving from hostility to collaboration with a union representing their workers over many years of negotiations and relationship building.

From 2011 to 2015, Palmas del Cesar were embroiled in labor tensions related to their use of indirect contracts for a significant portion of their workers. Unions argued that this arrangement created opportunities for exploitation and violated national laws against misuse of Associated Worker Cooperatives (CTA) by primary employers. Leading up to re-negotiation of the collective bargaining agreement in 2015, the union called a strike and occupied company facilities for 90 days over the contract issue and complaints about an abusive production quota system. The strike ended when Palmas del Cesar and the union reached a negotiated agreement on the quota system and the company agreed to hire all employees directly. However, this extended period of unrest and tension would not go away overnight.

Following the settlement, employees returned to work deeply resentful and distrustful of the management. To counter this resentment, rebuild trust, and seeking to enter the next bargaining period four years later with a much better relationship, Palmas del Cesar’s leadership launched an intensive worker engagement campaign. They invited workers to join in rewriting the internal work procedures, which included clauses in areas with the potential for conflict, such as disciplinary practices and involuntary termination. The company expected the process to be difficult and filled with conflict, but found that workers met their openness and willingness to engage with a collaborative attitude.

Management and union leaders also agreed to establish an “improvement and innovation committee,” made up of six employees from different areas of the company, including three union leaders. This group were able to identify several innovations that improved both productivity and working conditions, but the most important development was a shift in the relationship dynamics between





workers and management. The process of working together on the “Palmas en Acción” committee helped both sides understand the others’ perspective, created open channels of communication, and gave them a chance to work together in seeking solutions to common problems. The company’s efforts to enter the 2019 negotiations on better terms paid off; the negotiations that year were free of conflict and were dubbed by both parties “the negotiation to build,” referencing their constructive nature for both the future growth of the company and relationships between stakeholders.



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LEARNING CHECK



1. Why is ensuring freedom of association important?

Answer: Freedom of association is a fundamental human right and recognized by law in most countries. In addition to empowering workers to bargain for better working conditions and terms, worker organizations also provide a channel for employers to learn of employee concerns or demands and a process through which to identify mutually beneficial solutions.

2. What are some of the key characteristics of a worker organization that fulfills freedom of association requirements?

Answer: autonomous; voluntary; has a purpose of furthering and defending the rights and interests of workers; leaders chosen through free and fair elections; democratically organized

3. Which of the following roles should employers play in ensuring freedom of association? Choose only 2.

- **Ensure workers have the freedom to organize without interference**
- **Help workers establish an organization that functions effectively**
- **Not interfere with workers' freedom of choice when it comes to organizing or choosing an organization to join**
- **Enter collective bargaining negotiations with an "us vs. them" attitude**

Answer: a and c are correct. B is not correct because legitimate worker organizations must be independent from employer influence. D is not correct because employers should enter negotiations in good faith.





3.5 NON-DISCRIMINATION

IMPORTANT STATUTES AND DEFINITIONS

Discrimination: Differential and/or less favorable treatment on the basis of an immutable characteristic, including gender, sexual orientation, race, marital status, political opinion, or religion.⁶⁴

ILO Discrimination Convention (No. 111): Establishes the right of workers to not be discriminated against by an employer. Ratified around the world, including in Latin America. Ratified by all Central and South American countries.

3.5.1 INTRODUCTION

Discrimination restricts the freedom of individuals to obtain or carry out the type of work they aspire to and reduces opportunities for them to develop their potential, knowledge, and talents and to be rewarded based on their merits.

The principle of non-discrimination is an ILO Fundamental Principle and Right at Work and seeks to ensure that employers practice equal and respectful treatment for all personnel in all matters and also supports workers' right to a workplace free from all types of verbal, physical, or sexual harassment and other discriminatory practices.

Many forms of discrimination are based in unquestioned tradition or result from unconscious bias—implicitly held beliefs for or against certain groups, shaped by common notions or stereotypes. For example, it is common in many agricultural communities, including those growing oil palm, for people to believe that women cannot perform certain tasks, such as work in the plantations. Broad assumptions like these unfairly limit women's employment and earning potential, especially when the types of jobs that are considered "for women," like cooking or administrative roles, are paid less than those typically done by men (or may not be paid at all).

Believing that women do not want to do certain jobs is another common misconception that leads to discrimination. For example, among Palma Futuro participating farmers in Colombia, many would hire women, but only during periods of peak production when they could not find a sufficient number of male employees. When interviewed, the farmers maintained that women did not want those jobs during normal times. However, the women themselves explained that they were always in need of work, but that none of the farms would hire them

64 "Substantive Provisions of Labour Legislation: The Elimination of Discrimination in Respect of Employment and Occupation," International Labour Organization, December 10, 2001, <https://www.ilo.org/legacy/english/dialogue/ifpdial/llg/noframes/ch7.htm>.



except for the few busiest days of the year. Because of their implicit assumption, the farmers were actively discriminating in their hiring practices without realizing it and robbing themselves of valuable employees on a regular basis.

In many South and Central American countries, hiring and workplace discrimination against afro-descendent and indigenous people is also common, both in unconscious and overt forms. This has been documented in Ecuador, for example, where immigrant workers of African descent are subject to widespread discrimination that confines their employment options to “a small pool of less desirable jobs,” including work on palm plantations—where they are at increased risk of exploitation due to their vulnerable social position.⁶⁵ The same study found that many palm plantations actively discriminate against afro-descendent Colombians, refusing to hire them or paying them less than other employees.

In some cases, these biases may even be reflected in national law, such as statutes that permit men to earn more than women for equal tasks. Unconscious bias, cultural tradition, and even discriminatory laws are not valid excuses for employers to discriminate.

The principle of non-discrimination is meant to prevent unjust distinction, exclusion, or preference that nullifies or impairs equality of opportunity or treatment. ‘Positive discrimination’ or ‘affirmative action’ in favor of underrepresented groups is a positive, non-discriminatory practice that works to create opportunities for groups that have historically been excluded. While employers must treat all employees and prospective employees equally, positive discrimination—such as programs to promote skill development for women or to hire personnel from indigenous backgrounds—counteract unconscious biases and benefit the company by increasing diversity of perspectives and experience.

3.5.2 UNDERSTANDING NON-DISCRIMINATION

In addition to the ILO’s prohibition of discrimination based on “immutable characteristics,” many countries define additional characteristics for which discrimination is illegal based on their particular cultural, historical, or political context. You should be aware of the specific protected groups in your country and in international law, but it is good practice to avoid discrimination of any kind. Commonly protected characteristics include: race; national, territorial, or social origin; caste; birth; religion;

Example

For example, on a large plantation in Colombia, management started a program where women who work in the nursery at other times of year take on the role of cleaning out plant material from around the trees during the summer months. While it would be considered illegal discrimination to create such a program that was only open to men, in this case, it is an example of positive discrimination because it helps counter the negative stereotype that women cannot do any plantation work.

65 Verité, “Human Rights Risk Assessment, Ecuador.”



disability; gender; sexual orientation; family responsibilities; marital status; union membership; political opinions; and age.

Discrimination can occur during any stage of the employment lifecycle—i.e., recruitment, hiring, employment conditions, training, promotion, termination, and retirement. Companies must guarantee and ensure equal opportunity at every stage. Below are examples of discriminatory practices in each employment stage—these represent only a small selection of possible forms of discrimination.

Examples of discriminatory practices at each employment stage

Recruiting/Hiring

- Hiring decisions are not based on the job requirements and workers' skills
- Employer has an unspoken policy to not hire immigrants, women, people of a certain religious denomination, or other protected categories based on personal beliefs about their fitness to work
- Employer asks personal questions not related to the applicant's ability to perform the job during the interview process
- Employer hires afro-descendants at a lower rate than other candidates when both are equally qualified

Working Conditions

- Migrant workers or seasonal workers are employed in more hazardous jobs
- Union members and worker representatives do not enjoy the same benefits as other personnel
- Compensation, training opportunities, and promotion are not based on job requirements and workers' skills
- Managers treat female employees differently than male employees

Employment Termination

- An employer fires a woman because she is pregnant, as opposed to respecting her right to that country's parental leave laws
- An employer fires someone because of one of the immutable characteristics protected by discrimination statutes

In addition, employers must not interfere with employees' rights to observe practices or meet particular needs relating to their identity, biology, ideology, ability, origin or any other protected characteristic—so long as those practices are not harmful or antagonistic to other personnel or themselves. Protected practices include personal choices related to physical appearance, clothing and headwear, worship, language, accessibility devices (e.g., wheelchair, hearing aid, service animals, etc.), or activities outside of the workplace, among others. Where



one employee's protected practices are harmful to themselves or others (such as in cases where it interferes with proper use of PPE), you should first seek to make reasonable accommodations if possible (such as by supplying alternative forms of PPE), before infringing on the employee's protected practice.

Discrimination against or harassment of other workers cannot be considered a protected practice and is prohibited in all cases. For example, a manager whose religion forbids tattoos may not discriminate against prospective or current employees who have them. Similarly, threatening, abusive, exploitative, or sexually coercive behavior—including gestures, language, and physical contact—should never be permitted in the workplace, including any housing, dining, or leisure areas owned or operated by the employer. Employers should actively create a work culture that respects personnel at all levels, is non-threatening to all personnel, and is free of intimidation, threats, teasing, innuendo, discriminatory statements, and other suggestive or provocative materials (e.g., depictions of ethnic/racial bias or pornography).

Tip

Sexual harassment, in particular, is widespread in both overt and subtle forms; employers should proactively prevent and address any instances of sexual harassment by developing and effectively communicating clear policies and procedures for reporting, investigating, and disciplining offenders.

3.5.2.1 Job Postings

Discrimination often begins with the job posting—before the employer ever reviews an application, conducts an interview, or makes a hiring decision. Some common violations of this principle include:⁶⁶

- Advertising that a position is exclusively for either men or women.
- Advertising that a position is open only to applicants in a certain age range.
- Advertising that applicants must adhere to a specific personal presentation or physical appearance (e.g., prohibiting piercings, tattoos, colors in hair, etc.).
- Advertising a desired marital status, religion, ethnicity, sexual orientation, or family structure for the position.

A good practice is to develop standardized job profiles that clearly communicate the expectations and requirements for each role and use those profiles to ensure that job advertisements only mention requirements that are necessary

66 Adapted from Laura Centeno, “¿Cómo Publicar Empleos No Discriminatorios?,” People Working Corp (blog), October 21, 2017, <https://peopleworkingcorp.com/blog/como-publicar-empleos-no-discriminatorios/>.



for the job. It is also recommended to include a statement of non-discrimination on all job postings.

Example

Sample Statement of Diversity, Inclusion, and Non-Discrimination⁶⁶

[Organization Name] is committed to promoting diversity and inclusion for all. This is intrinsic to everything we do and underpins our vision. This vision cannot be achieved without harnessing the imagination and the creative problem-solving capability of talented people, whatever their background. [Organization Name] works to encourage the best people, regardless of race, religion or belief if any, gender, gender identity, disability, sexual orientation, or age, to fulfil their professional aspirations with us, creating an exciting and diverse environment.

Toolkit

Use the Sample Job Posting tool as a guide for developing non-discriminatory advertisements for open positions.



3.5.2.2 Special Protections/Accommodation

Equality of opportunity and treatment does not mean that employers should disregard the need for special protections for certain workers. The legal and regulatory restrictions on employment conditions for young workers are a good example. Another is legal accessibility requirements. Some countries require employers (usually over a certain size) to provide accessible infrastructure (e.g., wheelchair ramps, braille signage, visual alarm systems, etc.) to prevent discriminating against people based on disability status. There are also restrictions in law and international guidelines for protecting pregnant women from certain chemicals and hazardous tasks.

The need for special protection or accommodation for certain groups is not grounds to discriminate against members of that or any group. For example, there may be a law prohibiting employers from exposing pregnant women to pesticides, but that should not be interpreted as a reason to discriminate against all women for roles where they may be exposed. Rather, it is a requirement to clearly state when a role is not suitable for pregnant women and to make reasonable arrangements to re-assign or grant leave to women who become pregnant in those roles.

Similarly, employers cannot use the potential for violence, harassment, and any other abusive treatment in the workplace as an excuse to exclude certain

67 Adapted from Baker McKenzie, "Position Description," accessed August 19, 2022, <https://www.bakermckenzie.com/-/media/files/careers/job-opportunities/united-kingdom/diversity--inclusion-operations--projects-manager.pdf>.



groups—it is the employer’s responsibility to institute policies, procedures, and practices to ensure a safe environment for everyone.

3.5.3 RISK FACTORS

Social, Cultural, and Structural Factors

- Operating in a context where jobs are traditionally assigned based on gender
- Operating in a country that lacks adequate legal and social protections for victims of sexual assault, domestic abuse, and other forms of gender-based violence and harassment (GBVH)

Employment-type Factors

- Having members of a marginalized group (e.g., women, ethnic minorities, indigenous people) in the workplace and/or having managers and employees who hold prejudicial beliefs about marginalized groups
- Making wage and benefits decisions on an individual basis (instead of setting the same pay and benefits for everyone holding a certain role)
- Paying less for roles that have traditionally been done by women (even if they are now done by both women and men) – e.g., canteen and cleaning staff
- Having previously implemented policies (whether formal or informal) of preferring certain groups when making hiring, compensation, promotion, and other decisions.



3.5.4 SPECIAL INFO FOR SMALLHOLDERS

Smallholders are often family-run-and-employed farms, which increases the risk of gender-based discrimination against women and girls in the family. This discrimination can take many forms, but there is a particular risk of gender discrimination in the assignment of tasks, wage levels, or other benefits.⁶⁸ While it is not necessarily a violation to divide tasks along gender lines within a family, the problem arises when the tasks performed by women and girls are considered less valuable and less worthy of compensation and protection. The labor rights protections described throughout this chapter apply equally to all types of work related to your business, regardless of who is performing it.

68 Accountability Framework initiative, “Smallholder Inclusion in Ethical Supply Chains,” June 2019, 19, <https://accountability-framework.org/operational-guidance/smallholder-inclusion-in-ethical-supply-chains/>.



3.5.5 SELECT IMPLEMENTATION GUIDANCE*



Developing Code, Policy, Commitment

- Include a written commitment in Labor Policy and/or Code of Conduct to prevent and eliminate discrimination in the workplace
- Create policies that prohibit physical, verbal, and mental abuse and harassment by management and other workers
- Establish practices that prevent discrimination in all employment processes: recruitment, hiring, access to training and opportunities, promotion, compensation, and dismissals
- Create job profiles that define the required skills and experience for each role in the organization
- This should include procedures to ensure that employment decisions are based only those profiles
- Prohibit the use of medical exams (including pregnancy tests) except where required by law for certain positions
- Prohibit the use of virginity and HIV tests for any reason



Palma Futuro Project, funded 100% by the United States Department of Labor.





Communicating, Training & Grievance Mechanisms

- Provide equitable training, tools, and opportunities for growth to all personnel
- Exceptions may be made that provide additional opportunities to underrepresented groups (e.g., making training materials, employee handbooks, and other written materials available in braille to accommodate employees with visual impairment; providing special training opportunities to help women advance in the company if you have a small percentage of women among management-level personnel)
- Provide a formal grievance mechanism that is confidential and offers anonymity, if desired by the complainant
- Provide training and communications workshops that promote understanding among managers and workers across genders, languages, cultures, etc.
- Ensure that grievance mechanisms are accessible to all vulnerable groups and that managers involved in grievance resolutions are specially trained on communicating with all vulnerable groups



Monitoring and Independent Review

- Conduct worker interviews and surveys to assess level of engagement and inclusion
- Regularly review records of disciplinary actions, hiring, training, pay, promotion, committees, and supervisor and manager demographics to assess representation of all workers

*Non-exhaustive. Review Ch. 4 Management System Categories for full guidance





CASE STUDY

Las Tres Marias is medium-sized palm farm that hires 20 employees to do harvesting during peak production periods each year. The applicants for these jobs are almost always men—as it is very physically demanding work, few women are capable and interested in the job. Among those 20 positions, two are for personnel who collect loose palm kernels and clear debris in the plantation. Women can do this job, though few ever apply. One year, a woman who has previous experience on another farm and meets all job qualifications applies for the position. The only other applicant is a young man who has no previous experience. However, the farm manager decides to hire the male applicant because he fears for the safety of a single woman working alongside only male co-workers.

While his intentions may have been decent, this is not an acceptable reason to discriminate against a woman who had the experience and ability for the job. Las Tres Marias should immediately update their hiring procedures, implementing processes and procedures that ensure job postings and hiring decisions are based exclusively on relevant job qualifications.

In addition, regardless of whether there are women currently on staff, Las Tres Marias should implement an anti-sexual harassment policy and training program to train all personnel to recognize sexual harassment, report cases when they arise, and to be aware of the applicable disciplinary policies (see Sections 4.3 Developing Code, Policies, and Commitments and 4.5 Communicating, Training, and Grievance Mechanisms). There should also be an effective grievance mechanism in place for all personnel to report instances of sexual harassment and other grievances. These policies and procedures protect all workers, not just women—sexual harassment and other forms of discrimination or abuse can be directed towards anyone, including men.

As part of its regular risk assessment, the farm should identify potential risks to women and develop guidelines to address them when there are women on staff (see Section 4.2 Assessing Risks & Impacts). This may include things like designating separate toilet facilities, purchasing PPE in smaller sizes or that is designed for women's bodies, or including a woman on the team of internal auditors to conduct worker interviews, among other activities.



LEARNING CHECK



1. How is discrimination harmful?

Answer: Discrimination restricts the freedom of individuals to obtain or carry out the type of work they aspire to and reduces opportunities for them to develop their potential, knowledge, and talents and to be rewarded based on their merits.

2. What are some examples of discriminatory practices during recruitment?

Answer: Examples of discrimination during recruitment/hiring include:

- Hiring decisions are not based on the job requirements and workers' skills
- Employer has an unspoken policy to not hire immigrants, women, people of a certain religious denomination, or other protected categories based on personal beliefs about their fitness to work
- Employer asks personal questions not related to the applicant's ability to perform the job during the interview process

3. It is unacceptable to post age limits in a job advertisement. True or False?

Answer: True. Posting preferred age, gender, physical presentation or characteristics, and other personal details not related to job performance is a form of discrimination.





3.6 DISCIPLINARY PRACTICES

IMPORTANT STATUTES AND DEFINITIONS

Disciplinary procedures: Practices that promote and enforce company policies and procedures to maintain orderly operations.

Declaration on the Protection of All Persons from Being Subjected to Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (1975): “Any act of torture or other cruel, inhuman or degrading treatment or punishment is an offence to human dignity and shall be condemned as a denial of the purposes of the Charter of the United Nations and as a violation of the human rights and fundamental freedoms proclaimed in the Universal Declaration of Human Rights.” Ratified by all Central and South American countries.

3.6.1 INTRODUCTION

Disciplinary measures are important for maintaining orderly operations and compliance with company policies and procedures. They are also important for achieving good labor performance—initiatives like creating a culture of health and safety and of respectful workplace relationships need to be supported by clear and consistent repercussions for those who fail to comply. For example, if an employee’s behavior represents a labor risk for the company (e.g., not wearing required PPE or harassing other personnel), disciplinary practices are a necessary tool for addressing that risk.

However, disciplinary measures can often take the form of harsh punishment and abusive behavior. Corporal punishment, mental or physical coercion, sexual harassment, financial abuse, and verbal abuse are just a few examples of actions that extend beyond discipline into abuse. While it is important to have strong disciplinary practices, they must comply with national law and international regulations on the treatment of employees in the workplace. The organization shall treat all personnel with dignity and respect. No harsh or inhumane treatment is allowed.

3.6.2 UNDERSTANDING DISCIPLINARY PRACTICES

Appropriate discipline must treat workers with dignity and respect in both objective and method. In terms of objective, appropriate disciplinary practices should never seek to punish, humiliate, intimidate, or degrade workers. Rather, appropriate discipline is a corrective action with the intent to maintain and promote a high standard of workplace output and compliance with policies and procedures. Your policies and procedures should follow this framework for constructive discipline.



In terms of method, disciplinary procedures should follow a progressive course of respectful actions, beginning with verbal or written warnings before more serious disciplinary action is taken. Several forms of disciplinary practices are prohibited by international law and regulations; review the local laws in your country for specific stipulations. In some cases, cultural norms may have stigmatized the use of certain prohibited disciplinary methods. Thus, it is important to be specific about allowed and disallowed forms of discipline in company policies and to define disciplinary procedures for managers and supervisors that violate these policies. **See Figure 3.5: Do's and Don'ts of Disciplinary Practices on page 84** for examples of prohibited and preferred forms of discipline.



Palma Futuro Project, funded 100% by the United States Department of Labor.

3.6.2.1 Wage Deductions/Fines

It is a common practice in some workplaces to impose fines for unsatisfactory performance or conduct. This is an unacceptable practice and is strongly discouraged. The company is required to compensate employees for work they have performed, regardless of the quality of that work or the employee's behavior. Where quality or behavior warrant disciplinary or corrective action, employers should use progressive, clearly defined and documented disciplinary practices.

If your organization has previously relied on fines for disciplinary purposes, substitute this practice for alternative means to maintain order, such as verbal warnings, followed by one or more written notifications.

3.6.2.2 Transparency and Appeal

Workers have a right to know why they are receiving a disciplinary action and to defend themselves against allegations of misconduct if they wish. To support these rights, workers should have full access to documentation about the infraction. If the worker is under 18, a legal representative must be present to represent them.

There should also be a functioning grievance mechanism—a formal procedure that allows stakeholders and employees to submit concerns and have them addressed appropriately—that allows employees to appeal disciplinary processes against them without repercussion (**see Section 4.5 Communicating, Training & Grievance Mechanisms on page 147**).





FIGURE 3.5: DO'S AND DON'TS OF DISCIPLINARY PRACTICES

Prohibited forms of discipline:

- Corporal punishment
- Mental or physical coercion
- Verbal abuse
- Harsh or inhumane treatment in the workplace
- Supervisors creating their own disciplinary procedures outside of company policy
- Re-assignment to a job at a lower pay rate as a disciplinary measure
- Assigning to low production area
- Withholding pay, break time, overtime, or any other benefits
- Retaliation against a worker for filing a complaint
- Applying fines or wage deductions in lieu of a disciplinary measure
- Applying a disciplinary measure arbitrarily—i.e. for any reason besides those specifically prescribed by company policies, signed employment contracts, or labor laws⁶⁹
- Applying disciplinary measures unevenly on a discriminatory basis (see Section 3.5 Non-Discrimination)

Tip

Another good practice is to require the presence of an independent witness during all disciplinary proceedings. For example, Colombian labor laws require certain employers to establish a committee overseeing application of disciplinary practices and that a committee member serve as a witness for any disciplinary action. Where there is a union, they can serve this function.

Preferred forms of discipline

Example

In the case of minor infractions, a verbal warning to notify the employee of the unacceptable conduct

Infraction

An employee is found harvesting palm fruit without a helmet or goggles, when company policy requiring PPE during harvesting has previously been clearly communicated in the employee handbook or other formats.

Response

Supervisor verbally reiterates the policy, notifies the employee that they are required to wear helmet and goggles while harvesting, and warns them that the next infraction will result in a formal disciplinary proceeding in the form of a written warning. The supervisor should also seek to understand why the infraction occurred (see 4.8 Correcting & Remediating for more on root cause analysis).

69 Accountability Framework initiative, "Operational Guidance on Workers' Rights," August 2021, 26, <https://accountability-framework.org/operational-guidance/workers-rights/>; New Industrial Relations Framework, "Labour Disciplinary Regulations," accessed August 19, 2022, https://www.ilo.org/wcmsp5/groups/public/---asia/---ro-bangkok/---ilo-hanoi/documents/publication/wcms_814643.pdf.



Example

	Infraction	Response
<p>If unacceptable conduct continues, a written warning identifying the details of the infraction. May contain a request and timeline for corrective action and consequences if the employee fails to comply</p>	<p>The same employee is found harvesting without helmet and goggles, having previously received a verbal warning and discussed reasonable accommodations.</p>	<p>Supervisor notifies employee that they are launching a formal disciplinary process, according to company policy. The supervisor issues a written warning, using a standard company template, which lists the infraction and next steps if it occurs again. The supervisor formally documents the warning.</p>
<p>If conduct does not improve, a final written warning. May note the possibility of suspension or dismissal if not corrected</p>	<p>The same employee is found harvesting a third time without helmet and goggles, having previously received a verbal and written warning.</p>	<p>The supervisor elevates the issue to a higher level of management and issues a final written warning, notifying the employee their contract will be terminated immediately if the infraction occurs again. Action is formally documented.</p>
<p>As a last resort, suspension or dismissal. The employee should have the opportunity to appeal before such action is taken</p>	<p>Employee is found a fourth time harvesting without a helmet or goggles.</p>	<p>Supervisor launches a formal process to dismiss employee immediately due to repeated failure to comply with company policy. The supervisor or human resources representative then notifies employee of their right to appeal the decision and how to do so.</p>
<p>Another good practice is to require the presence of an independent witness during all disciplinary proceedings. For example, Colombian labor laws require certain employers to establish a committee overseeing application of disciplinary practices and that a committee member serve as a witness for any disciplinary action. Where there is a union, they can serve this function.</p> <p>As a last resort, suspension or dismissal. The employee should have the opportunity to appeal before such action is taken.</p>	<p>Employee is found a fourth time harvesting without a helmet or goggles.</p>	<p>Supervisor launches a formal process to dismiss employee immediately due to repeated failure to comply with company policy. The supervisor or human resources representative then notifies employee of their right to appeal the decision and how to do so.</p>



3.6.3 RISK FACTORS

Employment Type Factors

- Having previously relied on fines or wage deductions for disciplinary purposes
- Having previously allowed supervisors to handle discipline independently
- Having supervisors who are accustomed to using verbal, mental, or physical abuse to humiliate, intimidate, or degrade employees
- Not having an effective grievance mechanism for employee complaints and appeals
- Operating in a high-pressure industry or context – increasing the likelihood that supervisors will pass frustration or stress to their subordinates through abusive behavior
- Lacking diversity among supervisor-level staff – increasing the risk for discriminatory application of discipline

Social, Cultural, and Structural Factors

- Operating in a country where wage deductions and fines are legally allowed forms of workplace discipline
- Operating in a context where verbal abuse or other disallowed forms of discipline are culturally accepted



3.6.4 SPECIAL INFO FOR SMALLHOLDERS

Many small-scale employers think they do not need disciplinary procedures. Especially if you have a close family or personal relationship with your employees, it may seem unnecessary or awkward to institute formal disciplinary practices. However, it is just as important for you to discipline employees that increase risks for you or others on your farm. Having defined, formal procedures for those situations may even help reduce the discomfort of disciplining someone you know well by making it more procedural and less personal. You can adapt the form and style of discipline processes in a way that feels appropriate for your specific context—so long as you maintain the principles of objectivity and respect.



3.6.5 SELECT IMPLEMENTATION GUIDANCE*



Developing Code, Policy, Commitment

- Establish policies and procedures that define the rights, appropriate working conditions, and terms of employment for all categories of workers
- Develop a clear policy on permitted disciplinary actions and resulting actions if those policies are violated
- Create an internal rules document explaining expectations for employee behavior that may result in disciplinary action if violated.



Communicating, Training & Grievance Mechanisms

- Clearly document prescribed disciplinary practices in company handbooks and employment contracts
- Post disciplinary policies throughout the workplace where relevant
- Inform personnel immediately upon hiring about company disciplinary policies
- Train supervisors to implement disciplinary practices correctly and in a respectful manner
- This should include training on how to effectively communicate about disciplinary procedures to workers
- Establish an effective grievance mechanism to process disciplinary appeals



Monitoring and Independent Review

- Review all disciplinary records and grievances and cross-check with employee interviews



Correcting and Remediating

- Be consistent and comprehensive in applying appropriate discipline against supervisors who violate prescribed disciplinary policies in managing their teams
- Take remedial action to compensate workers for lost wages, opportunities, and promotions due to improper disciplinary actions and deductions/fines.

*Non-exhaustive. Review Ch. 4 Management System Categories for full guidance





CASE STUDY

A palm oil extractor plant has approximately 50 employees: 10 in upper and middle management, 10 shift supervisors, and 30 lower level employees. In 2018, management finalized new company policies and procedures, including policies for disciplinary action. At the time, all current managers, shift supervisors, and employees were trained on the new disciplinary practices, which introduced a formal procedure of progressive actions for multiple offenses and eliminated wage deductions as an acceptable form of discipline. The prescribed action for a first disciplinary offense was a verbal warning by the employee's direct supervisor, followed by a first and second written warning before final termination for the fourth offense.

Despite their efforts to implement disciplinary practices that were more aligned with international standards of best practice, in 2019, the number of grievances for verbal abuse by a supervisor increased significantly.

To understand this phenomenon, the company conducted an internal investigation into the root causes of the increase in verbal abuse reports (see Section 4.7 Correcting & Remediating). They found that the problem stemmed from two sources. First, the new disciplinary procedures and training were not clear on the correct way to give a verbal warning. Without guidance on how to implement the verbal warning, several supervisors assumed it should be a harsh deterrent – rather than a simple correction. Second, the new policies and procedures overlooked the need for special onboarding procedures and training for new supervisors. While new supervisors received a copy of the policies and procedures during onboarding, they did not receive any further guidance on how to implement them.

To address these issues, the company should immediately launch corrective actions to fill the gaps in their policies and procedures. These should include:

- **Developing Code, Policies & Commitments (see Section 4.3)**
 - Defining the correct way to deliver a verbal warning
 - Clearly describing prohibited forms of discipline, including verbal abuse
 - Adding a requirement that supervisors discuss the situation and appropriate response with Human Resources before delivering any disciplinary actions, including verbal warnings.
- **Communicating, Training, and Grievance Mechanisms (see Section 4.5)**
 - Re-training all current supervisors and workers on these procedures
 - Developing and implementing an onboarding and training program specifically for supervisors



LEARNING CHECK



1. Disciplinary actions are a necessary part of employing workers. True or false?

Answer: True. Disciplinary measures are important for maintaining orderly operations and compliance with company policies and procedures. They are also important for achieving good labor performance.

2. What are some examples of practices that are abusive, rather than disciplinary?

Answer: Corporal punishment, mental or physical coercion, sexual harassment, financial abuse, and verbal abuse are some examples of prohibited practices that extend beyond discipline into abuse.

3. What is a grievance mechanism?

Answer: A formal procedure that allows stakeholders and employees to submit concerns and have them addressed appropriately.





3.7 WORKING HOURS

IMPORTANT STATUTES AND DEFINITIONS

Overtime: Work done in addition to normal (legislated) working hours during a day or week.⁷⁰

ILO Hours of Work (Industry) Convention (No. 1): Introduced a maximum standard working time of 48 hours per week and eight hours per day as an international norm. Ratified by some Central and South American countries, including Colombia and Peru.

ILO Part-Time Work Convention: Introduced protections for part-time workers, including the principle of equal pay for equal work.

3.7.1 INTRODUCTION

Working hour violations are one of the most common types of worker exploitation globally. The widespread nature of these violations is also well documented in the palm oil industry. Excessive hours are found in both high season—with personnel working over 48 hours per week to earn bonuses—and in low season—when personnel may take on additional hours in an attempt to earn a sufficient

70 “Overtime - ILO Definition,” OECD Glossary of Statistical Terms, November 16, 2001, <https://stats.oecd.org/glossary/detail.asp?ID=3085>.

71 Gabriela Caramuru Teles, Luiza Beghetto P. dos Santos, and Paula Talita Cozero, “Cartilla de Derechos Laborales Para Refugiados En Brasil,” ed. Jane Salvador de Bueno and Nasser Ahmad Allan (Instituto Declatra), accessed August 19, 2022, https://www.acnur.org/fileadmin/Documentos/portugues/Publicacoes/2015/Cartilla_Derechos_Brasil.pdf.

72 Santiago Díaz Gamboa, “Lo Que Debe Saber Sobre El Pago de Horas Extra de Jornadas Dominicales y Festivos,” asuntos:legales, April 11, 2022, <https://www.asuntoslegales.com.co/consumidor/lo-que-debe-saber-sobre-el-pago-de-horas-extra-de-jornadas-dominicales-y-festivos-3340592>.

73 The legal maximum working hours per week were reduced from 48 to 42 as of 2021, however, companies that had been using the 48-hour workweek have the option of slowly reducing the hours over 5 years. “Ley 2101 del 2021 - Reducción de la jornada laboral,” AGT Abogados S.A.S., December 16, 2021, <https://www.agtabogados.com/blog/ley-2101-del-2021-reduccion-de-la-jornada-laboral/>.

74 EcuadorLegal, “Jornada de trabajo en Ecuador,” EcuadorLegalOnline, May 11, 2022, <http://www.ecuadorlegalonline.com/laboral/jornada-trabajo-ecuador/>.

75 EcuadorLegal, “Calculadora de horas extras 2022,” EcuadorLegalOnline, January 1, 2022, <http://www.ecuadorlegalonline.com/calculadoras/calculadora-horas-extras-suplementarias/>.

76 H. Congreso Nacional, “Codigo Del Trabajo - Codificacion 17” (Lexis, December 16, 2005), <https://www.trabajo.gob.ec/wp-content/uploads/downloads/2012/11/C%C3%B3digo-de-Tabajo-PDF.pdf>.

77 “Jornada de Trabajo en el Perú 2022,” COPE (blog), August 24, 2020, <https://conocerperu.com/jornada-de-trabajo-peru/>.



TABLE 3.3: WORKING HOUR REGULATIONS IN KEY COUNTRIES



BRAZIL⁷¹

Regular Workweek defined as:

44 hours per week;
no more than 8 hours per day

Overtime limited to:

10 hours per week;
no more than 2 hours per day

Overtime premium:

150% of base pay per hour

COLOMBIA⁷⁵

Regular Workweek defined as:

42 hours per week;⁷⁶
no more than 8 hours per day

Overtime limited to:

12 hours per week;
no more than 2 hours per day

Overtime premium:

125% of base pay per hour

ECUADOR⁷²

Regular Workweek defined as:

40 hours per week;
no more than 8 hours per day

Overtime limited to:

12 hours per week;
no more than 4 hours per day

Overtime premium:

150% of base pay for overtime from 6am to midnight, 200% of base pay for overtime from midnight to 6am,⁷³ and 200% of base pay for work on Saturdays, Sundays, and holidays.⁷⁴

PERU⁷⁷

Regular Workweek defined as:

8 hours per week;
no more than 8 hours per day

Overtime limited to:

12 hours per week;
no more than 2 hours per day

Overtime premium:

125% of base pay for first 2 hours,
135% for overtime beyond 2 hours



wage. In many cases, overtime is considered a requirement of the job, especially during peak seasons or on small farms that can only employ a few workers.⁷⁸

Tip

Where national laws are less strict, you should strive to comply with international laws. These are usually the minimum required in buyer codes of conduct, certification schemes, and trade agreements.

Excessive working hours are an ILO indicator of forced labor, because they can sometimes point to cases of extreme exploitation—especially where employees must work excessive hours to meet the local minimum wages or are working under the threat of dismissal, denied breaks or time off, or required to cover consecutive shifts during understaffed periods.

Employers found to be in violation of working hour restrictions often claim that their employees want the extra hours so they can earn more money. However, long hours have significant negative effects on employees and their families—in most cases, employees earning a decent wage during standard working hours do not seek excessive overtime (see Section 3.8 Wages

& Benefits for more on decent wages). Excessive working hours also increase the rate of workplace accidents and negative health impacts; these outcomes occur significantly more often once working hours reach or exceed 60 hours per week.⁷⁹ By contrast, the ILO has found that higher levels of work-life balance correlate with significantly higher productivity.

3.7.2 UNDERSTANDING WORKING HOURS

International law sets the maximum regular workweek at 48 hours, with a requirement for at least one rest day after every six days of work. It limits the number of overtime hours per week to no more than 12. All overtime hours—even those imposed in an emergency—must be paid at a higher rate and must be voluntary. These requirements are commonly used by certification and industry standards, including RSPO.⁸⁰

Where national laws are stricter (e.g., defining the regular workweek as 40 hours or limiting overtime to 10 hours per week), you must follow the national law. This includes respecting workers' rights to public holidays (as required by local law). Workers should not be expected to work on public holidays unless they receive a premium for those hours. *See Table*

78 Verité, "Palm Oil Producers Toolkit," 38.

79 S. Folkard P. Tucker, "Working Time, Health, and Safety: A Research Synthesis Paper," Working paper (International Labour Organization, May 28, 2012), http://www.ilo.org/travail/info/publications/WCMS_181673/lang--en/index.htm.

80 RSPO, "RSPO Principles & Criteria for the Production of Sustainable Palm Oil (2018)," March 5, 2020, <https://rspo.org/standards>.



Toolkit

Use the Registry of Hours Worked tool to monitor and manage employee working hours to ensure compliance with working hour and overtime regulations.



3.3 on page 91 for a summary of working hour regulations in key countries.

Some national laws, codes of conduct, and certification programs place additional requirements on working hours. Good practices include:

- Ensuring you have enough workers to operate and meet production targets while allowing for mandated breaks and limits on working hours
- Providing workers with a 30-minute break for every 6 hours of work, plus breaks for meals and between monotonous periods of work;⁸¹
- Allowing for daily or nightly rest of at least 8 hours for every 24-hour period;
- Instituting a shift system to minimize fatigue and ensuring workers are not scheduled for consecutive shifts and have adequate rest time between shifts;
- Providing workers with sufficient prior notice before requesting overtime work.

Note

Any hours during which the employee is required to be at the workplace, whether or not they are actively working, must be counted toward their working hours for the day or week.

For example, on some plantations, there are personnel whose role is to transport carts full of palm fruit bunches from the plantation to a waiting truck or loading area. While there is no work for these personnel during the first couple hours of the day (as others harvest the fruit and fill the carts), they are often required to arrive at the same time as those doing the harvesting and then to stay later to finish moving the final cartloads. A better practice would be to allow these employees to arrive later; otherwise, the employer must pay them for the idle time and pay an overtime premium if their total hours exceed a regular workday.

It is important to accurately track hours worked for each employee to ensure they do not exceed the permitted hours per day or week and to ensure that their pay is accurately calculated based on their hours worked. Even if you pay based on production targets (more on this below), it is still important to track hours to ensure compliance with working hour laws and to check whether production quotas and targets are reasonable.

3.7.2.1 Hours Averaging and “Banking”

Work time averaging or “banking” is a practice that seeks to address irregular working hour requirements by averaging an individual’s hours over a week or month to calculate their pay. In general, work time averaging is strongly discouraged—it is also prohibited in certain countries and codes. In addition to other drawbacks, this practice can rob personnel of owed overtime pay. For

81 Accountability Framework initiative, “Operational Guidance on Workers’ Rights,” 29.



example, if an employee works 60 hours one week and only 20 hours the next, they should receive the overtime premium for 12 hours on their paycheck for that 2-week period (assuming a 48-hour regular workweek). Under an hours-averaging scheme, they would only receive the standard base pay for all 80 hours.

3.7.2.2 Production Based Targets

If employees are paid based on their production or reaching certain targets (e.g. number of fruit bunches harvested), quotas should be reasonable for the majority of workers to complete within a standard workday or week. Employers cannot require personnel to work more than a regular workweek, even if they do not achieve the quota. If many employees are consistently failing to reach the quota, this is a signal to reassess whether the quota is reasonable and/or if employees need additional training or tools to increase their production.

Another common problem with production-based pay is that there are times when there is simply not enough produce to fill a workday (e.g. eight hours) with harvesting activities alone. In these cases, it is common for employees to seek additional work around the farm to earn additional wages and for these to be paid by the hour. Tracking total hours worked across all tasks becomes even more important in situations like this—essentially managing multiple pay schemes for individual employees.

3.7.2.3 Emergency Authorization

Some countries have exceptions in law that allow employers to exceed the normal overtime limits or require mandatory overtime in extreme cases. Such exceptions should be used rarely and never for extended periods. They should only be used in rare and unforeseeable circumstances, where the employer is unable to plan or to attract sufficient voluntary overtime or additional personnel. Acceptable circumstances include unpredictable events, such as weather developments that significantly impair production capabilities, national disasters, or exceptional demand rushes. Predictable periods of high production volume, such as seasonal production peaks are not extreme circumstances; employers should be able to anticipate staffing requirements for such periods and incorporate them into regular recruitment and hiring.

Not all countries have ratified the ILO convention on voluntary overtime (including Colombia), creating a high risk for non-voluntary overtime in those locations. However, relying on mandatory overtime is a bad practice that points to poor management and leads to higher rates of accidents, higher turnover, and other negative business outcomes. Mandatory overtime is also an indicator of forced labor. Even where the laws are less strict on this topic, employers should strive to avoid it.



3.7.3 RISK FACTORS

Social, Cultural, and Structural Factors

- Operating in a country where working hour laws are less strict than international norms

Demographic Factors

- Having vulnerable groups (e.g., migrants, indigenous people, women) among personnel – may be less likely to know their rights and more likely to accept exploitative conditions

Employment Type Factors

- Having personnel living on premises – eliminating boundaries between work and home
- Operating in a location where it is difficult to quickly recruit new employees during peak seasons
- Having previously made overtime a job requirement – may create challenges for communicating voluntary nature to employees



3.7.4 SPECIAL INFO FOR SMALLHOLDERS

Many smallholders have no system for tracking or controlling working hours for their employees. Even when hiring day labor, employers must have a process for accurately monitoring hours, paying overtime and holiday premiums as appropriate, and controlling working hours to ensure they do not exceed the legal maximum. The system should track hours each day and over the course of a full week to ensure that both daily and weekly working hour limitations are followed. It should also combine hours spent on piece-rate or production-based tasks with any time spent on tasks paid by the hour. This is a common oversight that can lead to working hour violations.



3.7.5 SELECT IMPLEMENTATION GUIDANCE*



Developing Code, Policy, Commitment

- Include a written commitment in Labor Policy and/or Code of Conduct to comply with all applicable working hour laws and regulations
- This includes a policy stating that overtime is voluntary
- Establish a policy that defines appropriate use, allocation, and payment of overtime hours
- Clearly state working hour regulations and lawful overtime opportunities in employee contracts
- Be very clear that overtime is voluntary
- Align working hour policies with wage policies that enable sufficient wages without excessive overtime



Communicating, Training & Grievance Mechanisms

- Train supervisory and non-supervisory personnel on the links between working hours, productivity, and health and safety
- Provide skills training for employees that improves productivity



Palma Futuro Project, funded 100% by the United States Department of Labor.





Monitoring and Independent Review

- Establish mechanisms to log workers' entry and exit times during the day
- This can be via an automated recording system (with a clock-in, clock-out feature), assigning someone to log these records, or allowing workers to record their own hours.
- Workers should have access to their own records.
- Interview employees and confirm that voluntary overtime procedures are followed



Correcting and Remediating

- Work with customers and operational teams to improve production planning and scheduling
- Improve efficiency of operational processes
- Revise production quota systems based on reviews of quota attainment, working hours, and pay

*Non-exhaustive. Review Ch. 4 Management System Categories for full guidance





CASE STUDY

Elena is a smallholder farmer with two regular employees. She also hires day laborers occasionally when she needs extra help. When she hires day laborers, she pays them for one day's work and to ensure she gets the full use of that rate, she assigns them multiple tasks throughout the day. These transactions are handled in cash and she manages them informally, without official pay slips or time sheets. She typically uses the same few day laborers for these jobs; while they may work a few extra hours on one job, she knows they have often gotten off a few hours early in the past. Knowing each other well, both Elena and the laborers are content with the situation.

However, while both parties may feel that things are being done fairly, this arrangement is technically a violation of national labor laws. The day laborers may not be accustomed to receiving their legally owed benefits, but they are missing out on additional income through overtime premium payments on the days when they work longer. If Elena were audited by a buyer, or if she wanted to seek RSPO or another certification, these violations would be cause for concern.

To address this situation, Elena should implement a time sheet system to track the number of hours all employees, including day laborers, work each day and week. She should calculate payments based on the number of hours worked and pay the legally mandated overtime premium for hours beyond 8 per day or 48 per week.



LEARNING CHECK



- 1. What is the maximum standard number of working hours allowed under international standards (not including overtime)?**

Answer: 48 hours per week and no more than 8 hours per day.

- 2. If an employee works 20 hours one week and 60 hours the following week, is it acceptable to average their time and pay based on two 40-hour work weeks?**

Answer: No. Work time averaging or “banking” can rob employees of owed overtime pay by redistributing those hours to another day or week.

- 3. Why are employees from vulnerable groups (migrants, women, and/or children) more likely to present a risk for working hour violations?**

Answer: Members of vulnerable groups are less likely to know their rights and more likely to accept exploitative conditions.





3.8 WAGES AND BENEFITS

IMPORTANT STATUTES AND DEFINITIONS

Minimum Wage: The minimum compensation as set by a country's laws.

Living Wage: The remuneration received for a standard workweek by a worker in a particular place sufficient to afford a decent standard of living for the worker and their family. Elements of a decent standard of living include food, water, housing, education, health care, transportation, clothing, and other essential needs including provision for unexpected events.⁸²

RSPO's Decent Living Wage (DLW): The cost of a basic but decent standard of living for a worker and their family in a specific location.⁸³ RSPO requires members to meet both the legal minimum wage and a decent living wage.

Fringe benefits: Additional benefits furnished to employees above the stated salary. There are 2 types: legally required fringe benefits, which can include health insurance, unemployment insurance, medical leave, and workers compensation; and fringe benefits not required by law, such as paid holidays, paid time off, transportation benefits, or employee discounts.⁸⁴

ILO Protection of Wages Convention (No. 95): Wages shall be paid in legal tender at regular intervals; in cases where partial payment of wages is in kind, the value of such allowances should be fair and reasonable. Workers shall be free to dispose of their wages as they choose. Ratified by many Central and South American countries, including Brazil, Colombia, and Ecuador.

3.8.1 INTRODUCTION

Minimum wage refers to the minimum amount that an employer is required to pay for a specific amount of time worked, typically set by national or local laws. Minimum wage laws are often poorly enforced, especially in agriculture. Minimum wage violations have been widely reported in the palm oil industry in Central and South America. For example, a Verite report described exorbitant deductions from pay at a plantation in Ecuador, resulting in take-home pay far below the minimum wage.⁸⁵ In some cases, personnel were charged 20% of their daily pay to eat at the canteen; others were charged as much as \$9 (USD) for

82 "What Is a Living Wage?," Global Living Wage Coalition, accessed August 22, 2022, <https://globalliving-wage.org/about/what-is-a-living-wage/>.

83 "Factsheet on Developing Credible RSPO Decent Living Wage Benchmarks," accessed June 1, 2022, https://www.rspo.org/library/lib_files/preview/1773

84 CFI Team, "Fringe Benefits," CFI (blog), February 16, 2022, <https://corporatefinanceinstitute.com/resources/careers/compensation/fringe-benefits/>.

85 Verité, "Human Rights Risk Assessment, Ecuador."



food and accommodation daily, while only earning \$10 or \$15 per day. In the same report, Verite found drastic pay cuts for workers in Colombia, resulting in take-home payments as low as \$0.10 USD for more than 8 hours of work.

Paying minimum wage (and any legally required benefits) is the bare minimum requirement employers must meet in this element. However, there is growing recognition in both the public and private sectors that minimum wages are typically not sufficient to meet people's basic needs. An estimated 1 in 5 workers worldwide do not earn enough to afford basic necessities, like sufficient food, safe housing, health care, and education for themselves and their families.⁸⁶ The global pandemic and rising inequality have only deepened this problem.

The concept of **living wage** is increasingly gaining attention as a part of the solution. Living wages give people the means to overcome their economic problems, make their own decisions on the conduct of their lives, and live in dignity. Furthermore, studies show that higher wages are better for business and for the overall local economy⁸⁷. Employees report higher rates of satisfaction when paid a living wage, leading to increased productivity and worker retention, and a better reputation, business environment, and higher profits.

Major international companies, sustainability standards, investors, consumers, and many other initiatives have been making commitments to pay living wages to their workers and to ensure that living wages are paid throughout their supply chains. For example, Indicator 6.2.6 of RSPO Principles and Criteria 2018 requires that employers pay a Decent Living Wage (DLW) to all workers, including those paid based on production. While not yet a legal requirement in most countries, it is increasingly important for employers to understand the idea of a living wage and to work towards applying it in their business.

3.8.2 UNDERSTANDING WAGES & BENEFITS

Employers must at least comply with all minimum wage and other wage and benefit laws in their country. These vary by country, but often include transportation subsidies, parental leave, social security payments, health insurance contributions, and annual bonuses. Payments for required benefits cannot be deducted from wages; they must be paid by the employer and be in addition to the minimum wage. Similarly, overtime hours must be paid at a premium, on top of the minimum wage, as defined by national law, collective bargaining

86 Rosina Gammarano, "The Working Poor - or How a Job Is No Guarantee of Decent Living Conditions," ILOSTAT (blog), May 22, 2019, <https://ilostat.ilo.org/the-working-poor-or-how-a-job-is-no-guarantee-of-decent-living-conditions/>.

87 Anna Barford et al., "The Case for Living Wages: How to Improve Business Performance and Tackle Poverty" (Apollo - University of Cambridge Repository, May 10, 2022), <https://doi.org/10.17863/CAM.80370>.




agreement, or industry standard (see [Section 3.7 Working Hours on page 90](#) for more on overtime requirements).



Personnel should be fully aware of their wages and benefits, any legal deductions to pay (if any), and how both are calculated. Many employers that are used to engaging labor informally (see [Section 3.9 Regular Employment](#)) or who pay with cash are not in the practice of issuing pay slips. While they may not always seem necessary, pay slips are very important for employees—giving them documentation of how their pay was calculated—and for employers—providing needed documentation for audits and internal management processes. It's also a requirement under most labor standards and national laws; employers must provide employees with information about their pay in writing, in a language understood by the employee, each pay period. This ensures that personnel have a regular and reliable record of their wages and benefits and enables them to review each period's sums and make claims for any wages or benefits due but unpaid.

Overall, wages must be:

- Paid in accordance with legislation, contract, and collective bargaining agreement (if applicable);
- Accurately calculated and paid in full (without unauthorized deductions);
- Paid in a timely and regular fashion;
- Paid in a convenient manner that allows workers to access and dispose of their wages as they choose (e.g., not tied to use in company-owned stores, etc.);
- Prioritized ahead of payments to creditors in the event the employer cannot meet its financial obligations (i.e. insolvency).



Toolkit



Use the Salary Payment Template tool to track and verify salary payments to employees to promote transparency and ensure all payments comply with applicable laws and regulations.

3.8.2.1 In-Kind Benefits

Employers may choose to make discretionary benefits, such as food, housing, and other necessities a part of their overall compensation packages, but wage deductions for these benefits should not exceed the employers' cost to provide them or should be below market rate. Labor laws in most countries define the maximum amount employers may charge workers for various benefits. Be sure you are familiar with any such regulations if you offer in-kind benefits to workers. Employers must also detail any such deductions in employee contracts and receive employees' signed authorization.

Note that it is never permitted to deduct the cost of job essentials (e.g., necessary tools, PPE, job-required medical exams or insurance) from employee's pay. These are neither benefits nor voluntary and thus, must be paid in full by the employer.

3.8.2.2 Payment by time vs. Payment by production

Employers may pay their workers based on time or production. When paying based on production, the rate must be set to ensure that all workers receive at least the minimum wage for a full workday (without overtime). Any production completed beyond the regular workday/workweek must be paid at a premium rate that is at least equivalent to the comparable overtime rate for hourly pay. If an employee's production does not equal the minimum wage for their time spent, the employer must pay the difference to reach the minimum wage—i.e., production targets cannot be used to pay workers less than the minimum wage.

Employers who pay by the hour or day, must ensure that the hourly or daily rate satisfies minimum wage requirements without overtime and that any hours worked beyond the standard workday or week are paid at least at the mandatory premium rate.

3.8.2.3 Living Wages

Ideally, employers should work towards paying at least a living wage for all employees.⁸⁸ For most, this will be a long-term goal, but there are steps you can and should take in the meantime to start the journey towards paying a living wage. Use the Management Systems framework (described in detail in Chapter 4) and accompanying tools to help you set interim targets and milestones for progress.

Whether you are just starting out or ready to implement living wages, you can use the following framework to guide your progress.

1. Identify the living wage for your location

The Global Living Wage Coalition (GLWC) offers a widely accepted definition of living wage:

Remuneration received for a standard workweek by a worker in a particular place sufficient to afford a decent standard of living for the worker and her or his family. Elements of a decent standard of living include food, water, housing, education, health care, transport, clothing, and other essential needs, including provision for unexpected events.

88 In very rare cases where minimum wage exceeds living wage estimates, employers must pay at least the legal minimum wage.



Toolkit

Use the Registry of Food Provided tool to monitor and manage use of employer-provided food benefits to ensure accurate calculation of any legal wage deductions and compliance with related laws/regulations.



This means that someone working full time should be able to provide for their family’s basic necessities without overtime. The Anker Research Institute—the research arm of the GLWC—has an internationally recognized and widely used methodology to calculate the living wage for a given location. It is based on international and national wage standards and is measured by the local cost of food, housing, and other essentials (e.g., transportation, education, healthcare, etc.) for a worker and their family (*see Figure 3.6 on page 104*).

FIGURE 3.6: Elements of a decent standard of living

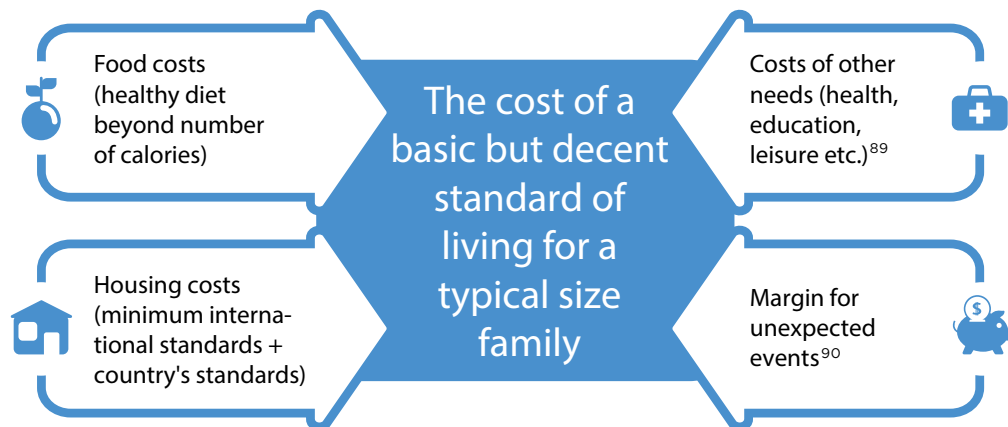


Image source: Courtesy of the Anker Research Institute

We highlight the current Anker living wage estimates for four key countries in *Table 3.4 on page 105*.

If there is not yet an Anker living wage estimate for your location, you may calculate a living wage estimate using the following factors (*see also Figure 3.7 on page 105*):

1. Assessment of workers’ expenses
2. Assessment of the average family size in the area
3. Analysis of the typical number of wage earners per family (typically not more than 1.6)
4. Analysis of government statistics on poverty levels
5. Analysis of the cost of living above the poverty line

89 All minimum wages from: “Minimum Wages per Country,” WageIndicator.org, accessed August 22, 2022, <https://wageindicator.org/salary/minimum-wage/minimum-wages-per-country>. Review individual country pages for full details.

90 All living wage estimates are from the Global Living Wage Coalition. Check the country pages on the GLWC website regularly for new regional estimates: Brazil, Colombia, Ecuador, Peru.



TABLE 3.4: Minimum Wage and Living Wage in Key Countries

Country	Minimum Wage (per month) ⁹¹	Anker Living Wage Estimate (per month) ⁹²
Brazil	R\$1,212.00	R\$2,522 (Minas Gerais South/Southwestern Region)
		R\$3,091 (Non-Metropolitan São Paulo State)
Colombia	COP 1,000,000 (+ transport allowance of COP 117,172 for those earning less than COP 2,000,000)	COP 1,823,372 (Caribbean Coastal Region)
Ecuador	\$425 ⁹³	USD \$475 (Rural Ecuador, Coastal Region)
Peru	PEN 1,025	PEN 1,640 (Rural Peru)

FIGURE 3.7: Living Wage Calculation

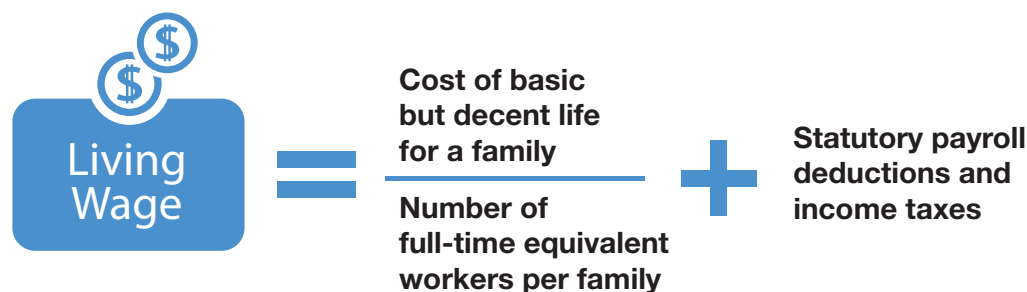


Image source: Courtesy of the Anker Research Institute

91 Visit globallivingwage.org to find existing estimates for additional countries.

92 For more detail on these steps, the full Anker Methodology is available as a free e-book. Richard Anker and Martha Anker, *Living Wages Around the World: Manual for Measurement*, Living Wages Around the World (Edward Elgar Publishing, 2017), <https://www.elgaronline.com/view/9781786431455/9781786431455.xml>.

93 Ecuador is one of very few countries that bases its minimum wage on a living wage estimate. However, Ecuador's *salario digno* should not be confused with the GLWC's living wage as they use a different methodology and produce different outcomes. The GLWC method produces internationally comparable results, which prevents countries and regions from competing to set lower living wage values to attract business.



The cultural and economic context in a location will affect the appropriate living wage. Thus, the living wage is not only a quantitative calculation; it also requires the employer to consider qualitative factors. Consult with employees and their representatives to understand whether wages are sufficient to meet basic needs and with other stakeholders in your region—such as unions, civil society organizations, government agencies, academics, and research institutions—to ensure you incorporate any relevant, existing research on the topic. **See 4.4 Engaging Stakeholders & Partners on page 141** for more on how to engage employees and their families in your SCS effectively.


2. Assess your current wage levels and gaps to a living wage⁹⁴

Once you have an estimated living wage for your location, assess the gap between the wages you currently pay and the living wage. To do this, compare the net monthly wage (i.e. the real amount received by workers after taxes and other deductions) to the living wage estimate. You can include the value of in-kind benefits (to the extent allowed by law) in your calculation of current wages. To do this assessment, you first need a structured and systematic way of logging wage data across your operations.

It can be helpful to visualize the “living wage gap” by creating a simple graphic that shows if and where current wages fall short of the living wage estimate. Wage ladders are a popular method; they compare current wage levels and the living wage estimate alongside other economic indicators for a country or region (**see Figure 3.8 on page 107**).⁹⁵



3. Create and implement a roadmap to living wages

Now that you know where you fall short of the living wage and by how much, create an improvement plan with specific targets, actions, and deadlines to begin moving towards a living wage for all your employees. Targets should be ambitious yet realistic and follow a gradual approach from short term to long term.⁹⁶ **See 4.7 Correcting & Remediating on page 165** for more on improvement planning.



Toolkit

Use the Wage Assessment and Instructions tools as a template for calculating current wage levels across your company, including how to account for in-kind benefits.



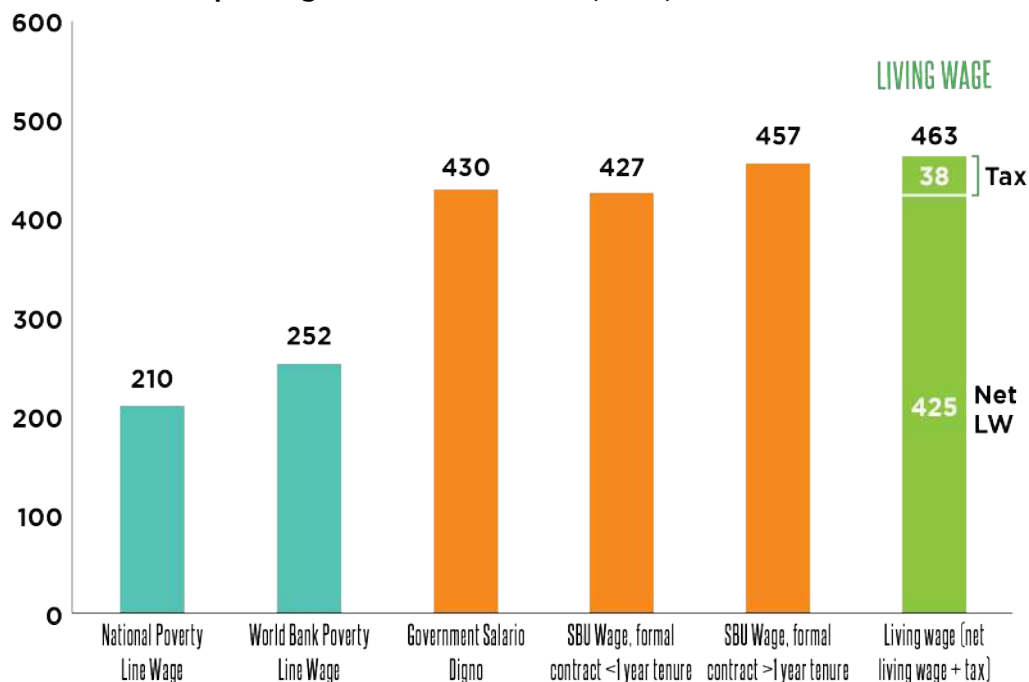
94 Janette Ulloa Sosa et al., “Rural Ecuador Southern Coastal Zone,” Living Wage Benchmark Report (Global Living Wage Coalition, July 2020), <https://www.globallivingwage.org/living-wage-benchmarks/living-wage-for-rural-ecuador/>.

95 “2.3 Measure Wage and Income Gaps,” ALIGN, accessed August 22, 2022, <https://align-tool.com/action-process/2/2.3-measure-wage-and-income-gaps>.

96 “3.1 Formulate a Company Strategy,” ALIGN, accessed August 22, 2022, <https://align-tool.com/action-process/3/3.1-formulate-a-company-strategy>.



FIGURE 3.8: Sample Wage Ladder for Ecuador (2020)



Adapted from: Global Living Wage Coalition, *Living Wage Report: Southern Coastal Region of Ecuador (2020)*⁹⁴

3.8.3 RISK FACTORS

Employment-type risks

- Use of labor hired by a third party, making it difficult to fully monitor and control payments
- Providing dormitories, food, and other basic necessities to employees, increasing the risk of illegal deductions from wages
- Operating a small business, which is more likely to have insufficient income to pay workers the minimum wage
- Operating in an industry with low commodity prices and/or large seasonal fluctuations in income, making it more difficult for employers to consistently earn enough to pay the minimum wage
- Providing loans or salary advances to employees



3.8.4 SPECIAL INFO FOR SMALLHOLDERS

Regardless of company size, you must comply with minimum wage and benefit requirements. To do so, you need a documented process for calculating and distributing wages to employees and a system to maintain documentation of payments. This includes providing pay slips to employees.

While it is common to have delays receiving payment for your produce, this should not be used as an excuse to delay payment to workers. You should prioritize wage and benefit payments over other expenses.





MORE RESOURCES ON LIVING WAGE

Understanding how to make living wages a reality can feel difficult for any company, even those committed to providing a decent standard of living for their employees. Luckily, there are practical resources and implementation tools already tested and ready for use. Here are a few we recommend:

- Watch a short video – SAI and the Global Living Wage Coalition created a short explainer video about living wages: <https://www.youtube.com/watch?v=I5VW259OroQ>
- Find the current living wage estimate for your location – The Global Living Wage Coalition website has a growing library of living wage estimates, plus useful information about measuring and applying living wages: <https://globallivingwage.org/>
- Get step-by-step guidance to develop a living wage strategy – This platform, developed by Hivos, Fairfood, and Rainforest Alliance, with support of the German Federal Ministry for Economic Cooperation and Development, is specifically for the agri-food sector: <https://align-tool.com/>

Access additional guidance

The Accountability Framework Initiative, a collaborative effort to build and scale up ethical supply chains for agricultural and forestry products, have a guide to help companies implement Core Principles on Human Rights. It includes an overview of living wage, tips for implementation, and resources for further information.⁹⁷ A companion blog post also includes some helpful tips.⁹⁸

97 Accountability Framework initiative, “Operational Guidance on Workers’ Rights.”

98 Alex Ducett, Anny Stoikova, and Karen Steer, “Living Wage and Living Income: Essential Elements of Corporate Responsibility in Global Supply Chains,” Accountability Framework (blog), March 10, 2022, <https://accountability-framework.org/living-wage-and-living-income-essential-elements-of-corporate-responsibility-in-global-supply-chains/>.



3.8.5 SELECT IMPLEMENTATION GUIDANCE*



Developing Code, Policy, Commitment

- Include a written commitment in your Labor Policy and/or Code of Conduct to comply with the legal minimum wage
- Implement procedures to deliver fair, timely wages and legally-required benefits to all personnel
- Establish a system to ensure traceability of wage payments
- Set policies and procedures to prevent illegal wage reductions and to carefully control legal wage reductions
- Benchmark wages and in-kind benefits against credible international and local standards
- Establish a written commitment to make progress towards a living wage for all employees over a reasonable amount of time



Communicating, Training & Grievance Mechanisms

- Communicate wage policies and calculations in accessible format for all workers
- Deliver written pay slips to workers on a regular basis
- Survey workers to ensure that in-kind benefits are desirable and valuable to workers



Monitoring and Independent Review

- Track and review wage records for all workers, with special emphasis on migrant, seasonal, temporary, informal, and other vulnerable groups
- Review wage records of all labor suppliers and cross-check with workers



Correcting and Remediating

- Provide timely and transparent payment of lost wages due to previous incorrect payments
- Create an improvement plan with specific targets and timelines to move towards a living wage for all employees

*Non-exhaustive. Review Ch. 4 Management System Categories for full guidance





CASE STUDY

A medium-sized farm hires about 15 temporary employees during peak production periods to harvest fruit bunches. Unlike permanent employees, who are paid hourly wages, temporary personnel are paid \$0.10 per fruit bunch they cut. The average number of fruit bunches cut by a single worker in a standard workday (8 hours) is 75, resulting in an average wage payment of \$7.50 per day. This number is typical across most employees, with only a few regularly cutting significantly fewer or more bunches in a day.

However, the minimum wage in the country is \$8.25 for a standard 8-hour workday, meaning that most employees are regularly earning below the minimum wage. Although the farm has not explicitly set their wages below the legal minimum, they designed their production quota system in a way that puts them in violation of minimum wage laws.

To correct this violation, the farm should first compensate all temporary employees on the most recent harvest to ensure they received at least meets the minimum wage for their total number of hours worked. If they worked overtime on any days, they should receive the overtime premium rate for those hours.

To prevent future violations, the company should re-design their production quota system so that it is possible for the average employee to achieve at least the minimum wage for an average days' work. They may consider conducting a root cause analysis to understand why employees routinely fail to cut more than 75 bunches per day, then re-design the system to address the specific challenges. They should also adopt a policy that employees receive either the minimum wage or their production-based pay, whichever is higher. This type of policy ensures that the company is never in violation of the minimum wage, while also allowing them to incentivize employees to be more productive and efficient.



LEARNING CHECK



1. What is the difference between the minimum wage and a living wage?

Answer: Minimum wage refers to the minimum amount that an employer is required to pay for a specific amount of time worked, typically set by national or local laws. In most countries, the minimum wage is not set in a way that would allow a full-time worker to afford a decent livelihood for their family.

A living wage is remuneration received for a standard workweek by a worker in a particular place sufficient to afford a decent standard of living for the worker and their family. Elements of a decent standard of living include food, water, housing, education, health care, transportation, clothing, and other essential needs including provision for unexpected events.

2. What are some business benefits of paying a living wage?

Answer: Some business benefits of paying higher wages include increased productivity, increased worker retention, a better reputation, better business environment, and higher profits.

3. Employers may provide in-kind benefits as part of their compensation package. Which of these is not an acceptable in-kind benefit?

a. Meals

c. Housing

b. Work tools

d. Transportation to and from work

Answer: b. Essential parts of the job function, including necessary tools, PPE, job-required medical exams, or insurance, are neither benefits nor voluntary and must be paid in full by the employer.





3.9 REGULAR EMPLOYMENT

3.9.1 INTRODUCTION

Regular Employment refers to the manner of engaging employees—i.e., the type of legal relationship between employer and personnel. Typically, full-time, permanent contracts are the most regulated under national labor laws; this type of contract is therefore typically the most beneficial to employees. However, for most businesses, it makes sense to have a range of contract types, allowing them to adjust to seasonal variations in production, outsource specialized roles, or even outsource costly recruitment, hiring, and administrative functions associated with engaging labor directly.

To comply with this element, employers must ensure that they use these different forms of employment for legitimate purposes and in an ethical way. If misused, short-term contracts can be used to deny employees' normal labor rights such as overtime premiums, sick leave, and social security benefits. They also unfairly limit the employee's ability to secure a stable job and gain work experience that would allow them to earn more or advance their career in the future. These and several other risks are also relevant when contracting labor through third-party hiring agencies.

Regardless of the length or nature of the employment relationship, it is crucial to use binding legal contracts for all personnel. This not only guarantees legal protections to employees under law, it also protects business in the case of a work-related injury, illness, or death and other liabilities. As with working hours, employees sometimes state a preference for an informal employment relationship—i.e., no legal contract—to avoid paying taxes or other obligations that come with formal employment. While this may seem like a mutually beneficial arrangement in the short term, it ultimately leaves both employee and employer without important protections and can have disastrous long-term impacts for both parties.

3.9.2 UNDERSTANDING REGULAR EMPLOYMENT

This element ensures that workers receive their legally owed protections, compensation, and benefits based on their work. When workers do not have a formal contract or when employers mis-categorize them as short-term or temporary workers or apprentices, they are denied access to their full spectrum of labor rights.

Overall, employees should have legally binding contracts that state their terms of employment and legally owed rights. Contracts do not need to be complicated;



the most important requirements are that they should be easily understood by the employee, signed by both parties, and maintained in company records.

3.9.2.1 Misuse of short-term contracts

A common violation of the Regular Employment requirement is misuse of short-term or temporary contracts. Short-term contracts have a legitimate purpose—they give employers needed flexibility to scale the workforce up and down to respond to seasonal changes in production volumes or other temporary needs. However, some companies hire the majority of their workforce on short-term contracts—which are usually exempt from social security and other benefits guaranteed to other employees, including the ability to develop seniority or be promoted—and renew them on an ongoing basis. When employees are hired on multiple, consecutive short-term contracts, they are effectively permanent, but without the benefits that entails.

Do not use short-term contracts for roles that perform ongoing, routine tasks integral to the work of the organization for an extended period. Those who continually carry out such work must have a formal and long-term relationship with the employer, with all accompanying wages and benefits. Some countries specify the permitted number of consecutive short-term contracts in their labor laws.

Especially in agriculture, it often does not make sense to use permanent contracts for certain roles (e.g., harvesting, when that only occurs during a limited portion of the year). The important thing to remember is that it is not acceptable to use short-term or other irregular contracts to routinely deny personnel the benefits of stable employment. The same effects may occur through misuse of apprenticeships, labor-only contracts, or any other form of temporary or “casual” employment relationship. If you must use non-permanent contracts on a regular basis to sustain your business, ensure that those employees receive benefits and protections equivalent or comparable to permanent personnel.

3.9.2.2 Labor Subcontracting

Employees subcontracted through third-party hiring agencies or other arrangements must enjoy the same rights as directly hired personnel. Labor subcontracting arrangements cannot be used to deny workers their rights from a distance. This handbook does not go into detail on social compliance management for supply chains, but subcontracted labor is a bit different from other supplier relationships and deserves mention. Effectively, subcontracted personnel (e.g., transportation, security, canteen, maintenance, etc.) are hired on your behalf by a third party, making you more immediately responsible for their treatment and working conditions.





Toolkit



The Sample Buyer-Supplier Mutual SCS Code of Conduct tool provides an example social compliance section for a code of conduct between your company and suppliers (including labor suppliers) and the New Supplier Checklist (3.3) provides guidance for assessing new suppliers' social compliance systems and capacity.



Some guidelines for managing subcontracting relationships ethically, include:

1. Work only with legally constituted contracting agencies that have the legal right to loan hiring services;
2. Implement legally binding and signed contracts with any hiring agencies you use detailing the obligations of each party;
3. Implement effective systems to guarantee that all contracting agencies comply with all employment laws and regulations and document your policies for monitoring and evaluating the agency's compliance;
4. Directly implement a complete onboarding process for all subcontracted workers to ensure they understand their rights and all applicable company policies and procedures.

3.9.3 RISK FACTORS

Employment-type factors

- Outsourcing or subcontracting the employer relationship to a third party, including for professional services
- Use of consecutive short-term contracts
- Hiring day labor



3.9.4 SPECIAL INFO FOR SMALLHOLDERS

For smallholders that only hire additional personnel occasionally and then only for limited periods of time, it may be acceptable to use less formal contracts. Legally binding contracts are still preferred if possible, but informal written agreements can sometimes be used instead. Engage with your local government institutions to understand the requirements. If using informal written agreements, it is still important that your employees fully understand the terms of their employment and that those terms comply with all other labor regulations (including minimum wages, social security, accident insurance, provision of PPE, etc.). If you engage personnel that are hired by an employment agency, verify that their contracts meet all legal requirements—even if you are not the direct employer, you are legally liable in the case of accidents or other negative impacts or labor violations.



3.9.5 SELECT IMPLEMENTATION GUIDANCE*

Developing Code, Policy, Commitment

- Respect the terms of collective bargaining agreements, if applicable
- Establish a policy and procedure to hire all personnel through legally binding, written employment contracts—including temporary, seasonal, and part-time workers—whether directly or through a third-party agency. Contracts should:
 - Detail all terms of employment, including but not limited to benefits, salary, hourly expectations, and overtime policies
 - Define protections for local and migrant workers, whether on fixed or temporary contracts
 - Be understood and signed by both parties
 - Keep a registry of all workers that includes copies of their contracts
 - Prohibit the use of consecutive short-term contracts to avoid paying workers legally owed salary and benefits
- Establish a maximum for the percentage of personnel engaged through third party agencies at any given time (E.g. “Company commits to directly hire at least 75% of employees engaged at any given time.” The percentage will depend on the nature of your business, but aim to keep the number of subcontracted employees as small as possible).

Communicating, Training & Grievance Mechanisms

- Provide communication channels for personnel to give feedback on policy setting
- Provide workers with written copies of their employment contract at the time of hire in their native language
- Provide training for all labor suppliers
- Conduct onboarding training for all employees that covers all relevant labor rights and supplement with ongoing training throughout employment

Toolkit

The Onboarding Checklist tool provides a list of topics to guide your onboarding program for new employees (including sub-contracted personnel). The Onboarding Template provides similar information for smallholders.

*Non-exhaustive. Review Ch. 4 Management System Categories for full guidance



CASE STUDY

A palm oil extractor plant, Central Oil, has approximately 25 permanent employees working in the plant and during peak production periods, they hire additional labor through a labor subcontractor. Subcontracted personnel do the same jobs as permanent employees, but give the company flexibility to process more fruit bunches at certain times of year.

During his break at the plant, a subcontracted employee, Marco, talks with a permanent employee and learns that they do not receive the same benefits, such as a transportation subsidy, social security, and health insurance, despite working the same job and number of hours. Marco submits a complaint through Central Oil's grievance mechanism arguing that he is owed the same benefits. However, Central Oil responds that they are not responsible for the compensation or benefits of subcontracted workers; Marco would need to petition the subcontractor that hired him to receive those benefits. After talking to other subcontracted workers at the plant, Marco learns that none of them—even those who have been working for the subcontractor continuously for several years—receive these legally mandated benefits.

When Marco submits a complaint to the subcontractor, they inform him that those benefits are not legally owed on short-term contracts. The nature of their role is to connect workers with employers seeking short-term labor. This means each new assignment is technically a new short-term contract, even for those employees that have been working continuously for the subcontractor for several years. This is a clear violation of the intended purpose of short-term contracts.

While the responsibility to provide appropriate pay and benefits technically belongs to the direct employer—in this case, the subcontractor—Central Oil also has a responsibility to ensure that personnel working for them or on their property are legally compensated. To remedy this situation, Central Oil should require the subcontractor to provide all benefits that are mandatory for permanent employees to personnel working on consecutive short-term contracts. If the subcontractor will not provide them, Central Oil should develop an alternative plan to provide those benefits to the subcontracted workers in their plant. To the extent possible, they should seek to compensate current and previous subcontracted workers for benefits they were denied in the past.



LEARNING CHECK



1. Why is it important for employment relationships to be formalized (i.e. “regular”)?

Answer: Regular employment guarantees legal protections to employees under law and protects employers in the case of a work-related injury, illness, or death and against other liabilities.

2. Short-term contracts are always a violation of regular employment requirements. True or False?

Answer: False. Short-term contracts have a legitimate purpose, but are often misused. Do not use short-term contracts for roles that perform ongoing, routine tasks integral to the work of the organization for an extended period.

3. How can employers manage subcontractor relationships ethically?

Answer: Some guidelines for managing subcontracting relationships ethically, include:

- Work only with legally constituted contracting agencies that have the legal right to loan hiring services
- Implement legally binding and signed contracts with any hiring agencies you use detailing the obligations of each party
- Implement effective systems to guarantee that all contracting agencies comply with all employment laws and regulations and document your policies for monitoring and evaluating the agency’s compliance
- Directly implement a complete onboarding process for all subcontracted workers to ensure they understand their rights and all applicable company policies and procedures.





Palma Futuro Project, funded 100% by the United States Department of Labor.

4 MANAGEMENT SYSTEM CATEGORIES

A management system is a set of processes and practices that help a company consistently implement its policies and meet business objectives, including those related to labor compliance. Management systems are not only a best practice for ensuring labor compliance, they are required by many buyer codes of conduct and certification schemes, including the Roundtable for Sustainable Palm Oil (RSPO), International Sustainability & Carbon Certification (ISCC), ISO 14001, ISO 9001, Rainforest Alliance, Fair Trade, and Social Accountability International's SA8000 Standard.

Many companies already have management systems in place for areas like environmental management, quality control, or health and safety. The same concept helps ensure that appropriate labor practices are embedded in business operations and can be implemented sustainably over time.

The Palma Futuro SCS is based on USDOL's Comply Chain, a step-by-step guide that helps companies implement or strengthen eight Management System categories critical to good social compliance (we have slightly adapted their categories in this handbook). This chapter explains the purpose and benefits of each category and shares practical guidance for palm oil industry employers of different sizes and at different points of the supply chain to implement them effectively. These eight categories align with other widely recognized management system models and companies can use them as building blocks to better manage other areas of operation over time.

Tip

If your company already has a management system in place for other issues, aim to integrate your social compliance system (SCS) with those existing systems to the extent possible.

EIGHT MANAGEMENT SYSTEM CATEGORIES



**Allocating
People &
Resources**



**Assessing
Risks & Impacts**



**Developing
Code, Policies**



**Engaging
Stakeholders
& Partners**



**Communicating,
Training, and
Grievance Mechanisms**



**Monitoring &
Independent
Review**



**Correcting &
Remediating**



**Reporting for
Performance**



Note

An important note before you get started

Continual improvement is a core concept of the Management System approach. You should not expect to develop a perfect SCS and implement it perfectly from the beginning. Instead, work to make gradual progress towards a more mature system over time. A common method to support continual improvement is the Plan-Do-Check-Act cycle.

This chapter presents the Management System categories according to where they typically fall in the PDCA cycle, beginning with Plan. However, all eight categories rely on each other for effective development and implementation. It might make sense for your company to focus on certain categories first, but remember that a mature Management System requires continuous feedback and improvement in every category.

CONTINUOUS IMPROVEMENT CYCLE FOR MANAGEMENT SYSTEMS

Identify and analyze the risks and objectives

Allocate people and resources
Assess risks and impacts

Develop and implement a potential solution

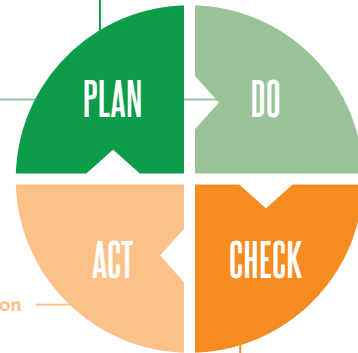
Develop code, policy, procedure
Engage stakeholders and partners
Communicate and train

Implement the improved solution

Correcting and remediating
Report on performance

Measure how effective the solution was and analyze whether it could be improved

Grievance mechanism
Monitoring and review



CHAPTER OVERVIEW

This chapter describes each Management System category in detail and provides specific guidance for effective implementation to support ongoing labor compliance. Each section includes:

Important Definitions – Key terminology related to each category

Introduction – Explanation of how the category supports effective labor performance and performance overall

Understanding the Management System Category – Description of the actions and knowledge needed to implement the category

Special Info for Smallholders – Guidance to help smallholders adapt the category to their operations

Implementation Guidance – The SCS Management System categories not only apply to managing your labor performance, they also apply to managing your SCS. Throughout this chapter, we highlight key steps to help you implement your Management System effectively.

Learning Check – Questions to check your comprehension and understanding of the category.

4.1 ALLOCATING PEOPLE & RESOURCES

The people or team of people who are responsible for implementing labor standards internally or in the supply chain.



Key Terms

Social Performance Team (SPT), management review

Effective implementation of an SCS relies on commitment and accountability from well-trained people and meaningful involvement from personnel across all functional areas and different levels of authority in the organization (i.e. both supervisor and non-supervisor employees). Integrating input and feedback from all levels and areas of the company introduces a variety of perspectives, which promotes creative problem solving.

A fundamental principle underlying every successful SCS is leadership commitment. As explained throughout this handbook, successful SCS implementation requires adequate human and financial resources and the ability to adjust priorities company wide, plan for the medium- and long-term, and make decisions at the highest level. Thus, senior leadership buy-in and commitment is a prerequisite for creating and implementing an SCS.

Along with strong leadership, employee engagement is essential because everyone in the organization, from the most senior managers to entry-level employees, has a part to play in building a strong social performance culture. Companies that engage their workforce in social compliance have better labor performance and many have higher levels of productivity and workforce motivation.⁹⁹

4.1.2 UNDERSTANDING ‘ALLOCATING PEOPLE & RESOURCES’

4.1.2.1 The Role of Senior Leadership

The first and most important role for implementing an SCS is that of senior management commitment. Senior managers are responsible for leading the effort, and although they may delegate daily SCS implementation, they are solely accountable for social compliance. They support day-to-day compliance by

Toolkit



The Senior Leadership Engagement tool offers a guide for engaging senior leadership in all SCS processes, including a sample agenda for a management review meeting.



⁹⁹ Ante Glavas, “Corporate Social Responsibility and Employee Engagement: Enabling Employees to Employ More of Their Whole Selves at Work,” *Frontiers in Psychology* 7 (May 31, 2016), <https://www.frontiersin.org/articles/10.3389/fpsyg.2016.00796>.



sending a clear message in words and action to all personnel that good labor performance is a top priority and is a long-term commitment by the company.

Management Review

Management review is the routine involvement of senior management in evaluating the development and implementation of the SCS. Periodic management reviews help determine if the SCS is effective and producing desired results. Management need not review the entire SCS at once, but may focus on one or two elements at a time, with a schedule for addressing them all. We recommend conducting a management review every three to six months in the beginning, then once a year when the SCS is well established. *See Figure 4.1 on page 123* for an overview of management review process steps.

4.1.2.2 Social Performance Team (SPT)

In addition to senior leadership buy-in, you need a group responsible for daily SCS implementation—a **Social Performance Team (SPT)**. The SPT facilitates implementation of all Management System categories and is responsible for ensuring the SCS works effectively.

The SPT should represent the make-up of company personnel, including staff from key departments and balanced representation from management and non-management tiers. For companies that have them, it is good practice to include staff from at least each of the following departments: sustainability or corporate social responsibility (CSR), environment, health and safety, operations or production, contracts and purchasing, and human resources. The success of an SCS often depends on the inclusion of departments that are often not considered relevant for managing social issues. If your SPT only includes human resources, sustainability, and other administrative personnel, you will be missing the direct experience that production staff, for example, can bring to discussions of health and safety or that the maintenance department can bring to issues of emergency planning and prevention.



Toolkit



The Social Performance Team Management and Protocols tool provides a complete guide to creating and managing an SPT. It includes Instructions for Building the SPT, a Briefing on Purpose and Formation of the SPT, Process for Successfully Involving Workers, Checklist of Procedures for Managing an SPT, and a Sample SPT Meeting Agenda.



FIGURE 4.1: STEPS OF A MANAGEMENT REVIEW PROCESS



1. Determine the scope.

One suggestion is to start with the highest priority areas identified in your risk assessment.

2. Prepare for review.

Personnel responsible for implementing the SCS, typically members of the social performance team (SPT), should collect data on labor and management system performance, including a document review and personnel interviews. This data will help in identifying gaps in the Management System and opportunities for improvement. Typically, the following areas are included:

- Results of internal and external audits (Section 4.6 Monitoring & Independent Review)
- Internal and external complaints and feedback (Section 4.5 Communicating, Training, and Grievance Mechanisms)
- Status of corrective and preventive actions and progress on goals (Section 4.7 Correcting & Remediating)
- Status of follow-up actions from previous management reviews
- Recommendations for improvement based on changing circumstances (Section 4.2 Assessing Risks & Impacts)

3. Management review meeting.

A management representative should chair the management review meeting and attendees should include senior management, supervisors, compliance officers, and a worker representative. Document the results of the management review meeting, including any decisions to change policies, objectives, or other elements of the SCS.

The depth and frequency of management review meetings depends on the maturity of the SCS, past experience (such as incident history, previous reviews, and audit results), and the degree of risk associated with activities to be reviewed. It is best to conduct management review at planned intervals, though additional reviews may be scheduled as needed. For some employers, it is best to schedule these reviews in conjunction with other regular meetings, such as safety committee meetings.

4. Communication and Feedback.

Management review meetings should be scheduled events and publicized ahead of time. It is important to keep a written record of key topics discussed and decisions made. Outputs of the management review should feed back into the company's continual improvement processes.



Tip

If there is already a special team or committee working on related topics, such as for fire safety or health and safety issues, consider building the SPT from there. If you already have a sustainability or CSR department, it might make sense for them to lead the SPT and SCS implementation effort.

For example, in Colombia, companies are required by law to have a Comité Paritario de Salud y Seguridad en el Trabajo (COPASST) and a Comité de Convivencia Laboral (COCOL), committees responsible for monitoring and addressing concerns related to OHS and gender-related discrimination and harassment in the organization, respectively. The law also requires that committee members be democratically elected by employees. Rather than starting from scratch, companies participating in the Palma Futuro project leveraged these existing committees to create representative SPTs. This strategy had the added benefit of integrating existing knowledge about important labor performance topics in the SPT.

SPT Elections

One purpose for having a representative SPT is to ensure the SCS is developed and managed through meaningful engagement with personnel in every part of the organization. To achieve this, worker representatives should be included on the SPT, elected through a free and fair election by their peers. Depending on the existing relationship between managers and other personnel at the beginning of this process, it may not be feasible to gain senior management buy-in for elections when forming your first SPT. In those cases, aim to integrate worker elections in your year 1 improvement plan (*see Section 4.7 Correcting & Remediating*).

Note

SPTs enhance

- Employer-employee communication;
- Participation by non-management personnel, to ensure that the SCS serves all employees;
- Communication channels for all personnel to understand the SCS;
- Employee buy-in and trust in the SCS;
- Access to expertise and knowledge from every level of the organization;
- And more.

As with the overall Management System, scale the SPT to match the size and complexity of your company. For large organizations, the SPT should include no more than 10-12 people. For companies without multiple departments and distinct roles, the key is to involve people that represent the company's full range of functions. For very small operations, this may mean assigning responsibility to just one person.



SPT Leader

Once the SPT is formed, they should select a team leader. The team leader should set the tone for the group and keep people motivated. All new initiatives in a company face hurdles, and developing and implementing an SCS is no exception. The team leader needs to help the team overcome the inevitable hurdles and, as such, should have direct access to senior management.



4.1.3 SPECIAL INFO FOR SMALLHOLDERS

This category looks very different for smallholders and other small businesses. Smallholder farms are typically owned and managed by just one or two people, making it impossible and unrealistic to use the SPT model. This includes the SPT selection process. While the best practice is an open voting system and selection process, smallholder managers may simply select one or two people, including themselves, to form the SPT.

Regardless of the number of SPT representatives, smallholder employers still need to take sole responsibility for developing and implementing their SCS—offering both leadership commitment and daily implementation in one. The management system will be much smaller than for larger employers, but it is just as important for smallholders to have an effective and well-documented system to manage labor performance and other aspects of the business.

One strategy you can use as an owner/manager is to write a job description listing out all of your responsibilities on a daily, weekly, monthly, and annual basis, including each responsibility related to managing your SCS. This will help you make SCS activities a part of your normal routine.

When selecting a team leader, look for someone who has the following qualities:

- Good communicator
- problem-solver
- project manager
- practical
- respectful to all



Toolkit



Use the Assigning People to Manage your SCS tool as a guide to select someone or a group of people to be in charge of your SCS and define the scope of their job responsibilities.



4.1.4 SELECT IMPLEMENTATION GUIDANCE*

Allocating People & Resources



- Allocate time away from normal activities and grant additional authority as needed for SPT members to carry out their roles
- Allocate sufficient resources, including financial, for SPT training and activities as part of annual business planning
- For multi-site companies, assign an SPT for each site and have a procedure for coordination between them
- Ensure that the SPT includes members who can represent the interests of personnel from vulnerable groups (e.g. migrant and temporary workers)
- Integrate labor performance expectations into job descriptions as appropriate

Developing Code, Policy, Commitment



- Document roles and responsibilities for SPT members
- Document SPT procedures
- Maintain records on SPT meetings and activities
- Include senior leadership in regular interactions with the SPT

Communicating, Training & Grievance Mechanisms



- Provide training for SPT members on labor topics, management system concepts, and related skills as needed
- Ensure that all employees, especially personnel from vulnerable groups, have easy access to communication channels and other SPT services

Monitoring and Independent Review



- Review the composition of the SPT and conduct elections regularly—often enough to include seasonal and new employees and when there are changes to business operations and employee demographics
- Integrate reports and discussions of SPT into regular senior management meetings, together with business and operational discussions

*Non-exhaustive. Review Ch. 4 Management System Categories for full guidance



LEARNING CHECK



1. What is management review and why is it important?

Answer: Management review is the routine involvement of senior management in evaluating the development and implementation of the SCS. Periodic management reviews help determine if the SCS is effective and produces the desired results.

2. What is the role of the SPT?

Answer: The SPT is responsible for daily implementation of all Management System categories and ensuring the SCS works effectively.

3. Which of the following are important elements of an SPT? Select all that apply

- a. It should include representatives from all levels of the organization
- b. Managers should select worker representatives based on their demonstrated skills and knowledge
- c. The SPT should have a designated leader
- d. Senior managers should be on the SPT

Answer: a and c are correct. B is incorrect because worker representatives should be chosen through free and fair elections by their peers. D is incorrect because while senior managers may be included on the SPT, it is not required.





4.2 ASSESSING RISKS & IMPACTS

Your system for identifying and understanding labor risks and prioritizing actions to address them.

Key Terms

Risk, impact, risk assessment

4.2.1 INTRODUCTION

While it is important to be aware of all relevant labor laws and requirements, it is not possible to give equal attention to every requirement at all times and not all issues will be equally relevant for your business. Assessing risks and impacts is a means of identifying where labor violations are most likely to occur—and any strengths and weaknesses in your SCS—allowing you to prioritize actions for the short, medium, and long term.

A negative labor **impact** is an actual negative effect on employees or other stakeholders caused by your company's actions or operations, such as a worker's illness from a chemical exposure. A labor **risk** is the likelihood and severity of that impact actually happening. A labor **risk assessment** is a process in which you identify all of the potential negative impacts that your company could have, and then analyze the likelihood and severity. This helps to prioritize what you need to address in your corrective action plan and improvement plan—your work plans for addressing labor risks and making system changes to your SCS (*see Section 4.7 Correcting & Remediating for more on corrective actions and improvement planning*).

4.2.2 UNDERSTANDING 'ASSESSING RISKS & IMPACTS'

Conducting regular labor risk assessments helps ensure that you are aware of potential or actual labor issues and supports effective actions and allocation of resources in your SCS. Many employers, especially large and medium-sized companies, already have a formal and well-documented risk assessment process in place, but do not apply it to a comprehensive set of labor risks. For a risk assessment process to be effective, it should look beyond basic compliance with local labor laws to include all nine labor elements and additional social or labor requirements in applicable buyers' codes of conduct and certification or industry standards. Employers that already have a risk assessment process in place for other operational areas can base their labor risk assessment procedure on the same model. Employers that are not already familiar with a formal risk



assessment process should work to develop, document, and implement one.

For all employers, the risk assessment process should include both short and long-term risks. Often, companies focus only on short-term risks, such as those related to OHS, child labor, or other immediate violations. These are crucial, but focusing only on the short-term can create blind spots in your SCS that may lead to bigger problems in the future.

When conducting a risk assessment, pay special attention to the most likely risks for companies of your size and type, in your industry, and in your location. Prioritizing likely risk areas makes the process more efficient—not all companies should spend equal amounts of time on every type of risk. For example, extractor plants may need special procedures for assessing risks of discrimination in hiring and promotion opportunities, whereas those procedures would likely not be necessary for smallholder farmers. Smallholders, on the other hand, may need to pay more attention to child labor risks than large, more formal employers do.

Example

Employing workers informally (without a contract) may seem at first to be of mutual benefit to both employer and employees. However, without the appropriate insurance, the employer may be liable for medical and other costs in the case of an on-the-job injury. While this risk may seem relatively unlikely in any given year, the consequences can be severe in the long term; it is not uncommon for accidents of this nature to put small companies out of business.

Note

Sources and Tools for Assessing Risks

1. One common method for assessing OHS risks is to create a map of the workplace/facility and another of all production processes. This can help ensure that you consider all potential risks associated with your work and facility.
2. For assessing labor risks beyond OHS, a common method is to create a checklist of risk factors, such as employee demographics, regional labor laws, contracting arrangements, etc. (See Chapter 3 Labor Performance Elements for high-level overview of risk factors in each area).
3. In addition to the internal checklist, incorporate employee interviews, audit and monitoring reports, complaints and feedback, and input from experts and external stakeholders to gain a thorough understanding of organizational risks.

Toolkit



The Process Mapping and Physical Mapping tools offer a guide for employers to assess potential risks within every work activity and physical work area for palm extractor plants and plantations.



The Risk Assessment tool offers guidance to help identify key risk areas that are most likely to be relevant for employers in the palm oil industry.





4.2.3 SPECIAL INFO FOR SMALLHOLDERS

Assessing Risks and Impacts is one area where smallholders should follow roughly similar processes to other types of employers. It is important that you conduct a thorough risk assessment addressing every Labor Performance element—this will allow you to identify and prioritize areas for correction and improvement. Many smallholders will have elevated risks related to having non-employees in or around work areas, informal/regular employment, child labor and safety, working hours, and documentation. This may be offset by lower risks in other areas (e.g., discrimination, freedom of association, etc.), but be sure not to ignore any categories in your assessment.



4.2.4 SELECT IMPLEMENTATION GUIDANCE*

Allocating People & Resources

- Engage external consultants or experts to support risk assessments to fill any gaps in skills or knowledge within the company. These experts should support, not substitute for, internal accountability and ownership.
- Scale the risk assessment as appropriate to the size and complexity of your business
- Include workers and managers from all departments and shifts in your risk assessment

Assessing Risks & Impacts

- Assess and prioritize risks according to both the severity and probability of negative impacts

Developing Code, Policy, Commitment

- Develop a policy and procedure for conducting risk assessments at regular intervals – at least once a year, plus...
 - Any time there are significant changes to operations
 - Any time there are external changes such as new laws/regulations or employee demographics (e.g. influx of refugees into Colombia palm oil regions from Venezuela)
- Create a procedure to ensure risk assessments incorporate input from:
 - All levels of the organization (both supervisory and non-supervisory)
 - Affected communities and other external stakeholders (See Section 4.4 Engaging Stakeholders & Partners)
 - All owned locations and operations and any you directly manage
- Establish a procedure for regular management review (**see Section 4.1 Allocating People & Resources**) of risk assessment analyses and for integrating findings into corrective action and improvement planning processes (**see Section 4.7 Correcting & Remediating**) on a regular and ongoing basis





Engaging Stakeholders & Partners

- Engage local community groups, civil society organizations, and other external stakeholders that have connections with vulnerable workers



Communicating, Training & Grievance Mechanisms

- Conduct training and risk assessment workshops with workers and managers to identify and prioritize risks
- Implement confidential channels for workers and managers to report risks



Monitoring and Independent Review

- Develop a standard set of indicators, updated regularly, to guide risk assessments

*Non-exhaustive. Review Ch. 4 Management System Categories for full guidance



LEARNING CHECK



1. What is the difference between a ‘labor risk’ and a ‘negative labor impact’?

Answer: A negative labor impact is an actual negative effect on employees or other stakeholders caused by a company’s actions or operations, such as a worker’s illness from chemical exposure. A labor risk is the likelihood and severity of that impact actually happening.

2. Which of the following statements about risk assessments are true? Select all that apply

- a. They focus on identifying short-term risks to keep the company out of trouble
- b. They help companies prioritize what to address in corrective action and improvement plans
- c. Employers that already have a risk assessment process can base their labor risk assessment procedure on the same model
- d. It’s okay to use a generic risk assessment template for this process

Answer: b and c are true. A is incorrect because the risk assessment process should include both short and long-term risks. D is incorrect because prioritizing likely risk areas makes the process more efficient—not all companies should spend equal amounts of time on every type of risk.

3. What are three tools you can use in your risk assessment?

Answer: 1) Process map, 2) physical map, and 3) a checklist of risk factors, such as employee demographics, regional labor laws, contracting arrangements, etc.





4.3 DEVELOPING CODE, POLICY, COMMITMENTS

How you define principles, objectives, and commitment to labor standards internally and throughout your supply chain.

Important Definitions

Code, Policy, Policy Statement, Procedure

4.3.1 INTRODUCTION

Policies are rules that form the cornerstone of an effective SCS, describing the employer's commitment to good labor performance and management and establishing related expectations for conduct. A **Code** is a set of policies. There is an emphasis on developing effective policies throughout both Chapter 3 and Chapter 4 in the handbook because policies form the basis for the rest of your SCS. Without them, it is not clear to personnel at any level what behaviors are and are not permitted or how to address any issues that may arise.

Procedures are the step-by-step instructions that help embed good labor and social policies in daily operations and ensure consistent application, even when there is staff turnover. Most policies require a corresponding procedure explaining how to implement it, monitor compliance, and correct violations.

4.3.2 UNDERSTANDING 'DEVELOPING CODE, POLICY, COMMITMENTS'

4.3.2.1 Developing Policies & Procedures

Many employers already have some labor and social policies in place, but these are often not comprehensive and not in one place. When labor policies are spread across multiple internal documents (e.g., putting child labor policies in a Sustainability Policy and non-discrimination policies in a company Code of Ethics) it can be difficult for employees and other stakeholders to understand all of the policies affecting them and can lead to contradictions between policies in different departments.

Developing a consolidated, central **policy statement**, or code, that addresses all labor elements can help avoid this confusion. Policy statements should be clear and simple to ensure that all personnel and relevant external stakeholders can easily understand them. They do not need to be long and technical like a



legal document, but should be comprehensive in covering all labor and social policies across the company.

The policy statement should:¹⁰⁰

1. Describe the set of labor requirements that the company is committed to meeting;
2. Reflect the specific labor risks in the palm oil industry and in your region based on a comprehensive risk assessment (*see Section 4.2 Assessing Risks & Impacts*); and
3. Establish expectations and provide guidance for personnel to implement and comply with the policies.

In addition to the policy statement, which focuses mostly on Labor Performance elements, you also need a set of policies documenting the management system components of your SCS (e.g., conducting regular and thorough risk assessments, engaging stakeholders, training personnel, monitoring compliance, etc.).

Whereas policies describe what a company and its personnel will and will not do, procedures document how they will do (or avoid doing) those things. Procedures should align with your policies, define how to adhere to them, and explain the consequences for violating them. For example, you should have a policy stating that you do not hire underage workers and a corresponding procedure that prescribes when and how to check age verification documents, training for personnel involved in hiring, and disciplinary practices against personnel who fail to comply with the procedure.

Procedures should be clear and concise, whether they are in the form of written instructions, checklists, flowcharts, simple illustrations, or something else. Carefully consider the needs of the intended audience when choosing the format for each procedure. For example, a written procedure may be appropriate for administrative personnel, while illustrations may be useful for personnel with lower levels of literacy or language skills, such as migrant worker populations.

Regardless of how you choose to document procedures, achieving widespread and consistent implementation requires routine communication and effective training to help all personnel understand why a given procedure is needed and to ensure they have the skills and knowledge to implement it (*see Section 4.5 Communicating, Training & Grievance Mechanisms*). *See Table 4.1 on page 136* for a summary of procedure templates available in the toolkits.

Tip

If you already have a corporate code of conduct that includes some labor and social issues, start building your policy statement from that existing code, expanding it to align with the Labor Performance requirements described in Chapter 3.

Toolkit

The Checklist for Developing Policies and Procedures tool provides a roadmap for employers to develop SCS policies across all Labor Performance elements and Management System categories.



100 Adapted from Accountability Framework initiative, “Operational Guidance on Workers’ Rights.”





TABLE 4.1: SUMMARY OF PROCEDURE TEMPLATES IN TOOLKIT



You can use the Procedure Templates in the SCS Toolkit to support implementation of several key policy areas. This is not a complete set of procedures for any company, but addresses some of the most common labor risks and commonly misunderstood Management System categories among palm industry employers. You may use them directly or adapt to better suit your operations.

Registry of hours worked

Use to monitor and manage employee working hours to ensure compliance with working hour and overtime regulations.

- Working Hours (Section 3.7)

Registry of Food Provided

Use to monitor and manage use of employer-provided food benefits to ensure accurate calculation of any legal wage deductions and compliance with related laws/regulations.

- Wages and Benefits (Section 3.8)

Template for Complaints and Suggestions

Provide to employees and other stakeholders for submitting complaints (i.e., grievances) or suggestions.

- Communicating, Training & Grievance Mechanisms (Section 4.5)

Template for Loans to Workers

Use to record any loans that you provide to employees in the form of a wage deduction to ensure all such transactions are documented, transparent, and compliant with wage and forced labor laws/regulations.

- Forced Labor (Section 3.2)

Template for Delivery of Personal Protective Equipment (PPE)

Use to track and document any PPE distributed to employees to maintain good documentation and transparency.

- Health and Safety (Section 3.3)

Health and Safety Monitoring Checklist

Use as a complement to reinforce overall monitoring of health and safety measures, in addition to the Sample SCS Assessment Tool.

- Monitoring & Independent Review (Section 4.6)

Salary Payment Template

Use to track and verify salary payments to employees to promote transparency and ensure all payments comply with applicable laws and regulations

- Wages and Benefits (Section 3.8)

Sample Job Posting

Use as a guide for developing non-discriminatory advertisements for open positions

- Freedom of Association (Section 3.4)

Sample Annual Training Plan

Use as a template to track training on all Labor Performance topics over the course of a year.

- Communicating, Training & Grievance Mechanisms (Section 4.5)

General Onboarding Registry

Use to document onboarding process for all new employees to monitor compliance with applicable policies

- Communicating, Training & Grievance Mechanisms (Section 4.5)

Maintenance Tracker

Use to plan, document, and monitor equipment maintenance to ensure you are mitigating OHS risks effectively.

- Health and Safety (Section 3.3)



4.3.2.2 Leveraging Senior Leadership Support to Implement a Policy Statement

Modifying or adopting policies and procedures always requires senior leadership support; in some companies, it may also require board approval. The team responsible for developing and setting policies should have a clear channel of communication with senior management and confidence that leadership supports their efforts from the start.

Tip

Consider accompanying the Policy Statement with a message from the CEO.

Implementing new policies and procedures will also likely require both employer and employees to change some behaviors. Senior leadership commitment is equally crucial at this stage to drive lasting change within the company. For any change initiative, there are three critical stages: awareness, commitment, and implementation. Senior leadership can help accelerate all three.

- 1. Build awareness.** At first, personnel may think that written policies are not relevant to their daily activities, but attention from senior management can help emphasize their importance and the need for behavior change by making them an ongoing part of high-level board and management discussions, public speeches, and messages to employees.
- 2. Build commitment.** Clear and consistent communication from the senior level can go a long way toward overcoming early resistance to new policies and procedures. Messaging from leadership should emphasize that the changes are part of a long-term commitment by the company, are important for company success, and will benefit every employee. They should also emphasize that all personnel are accountable for following policies and procedures.
- 3. Drive implementation.** Senior leadership do not need to lead daily implementation efforts, but they should provide input and oversight for the implementation plan and ensure that the company devotes adequate resources to communicate the policy to all relevant stakeholders and provide any training required for successful implementation.

4.3.2.3 Maintaining Records

It is important to maintain appropriate records to demonstrate compliance with and implementation of all legal and regulatory requirements. This includes documentation of how you are implementing your SCS. Thorough documentation enables employers to monitor compliance with policies and procedures, measure performance, generate meaningful reports, track results in the short, medium, and long term, and preserve institutional knowledge.

The best record-keeping system is one that people will use consistently and correctly. You may choose to maintain records electronically or in hard copy, centrally or in each relevant department. Regardless of the method, keep an inventory or list of where relevant records are kept for ease of retrieval and collection when needed.



At the very least, you should document and maintain records on the following activities:

1. Health and safety committee risk assessment records
2. Health and safety incident records
3. Composition of wages and benefits for each pay period
4. Internal audit records
5. Corrective and preventive action records
6. Training records and materials, including records that demonstrate how effectiveness has been measured

Examples of other useful records include: external audit reports, management review reports, internal and external complaint summaries, communications from senior management related to labor performance or the SCS, and other records demonstrating the organization's progress meeting SCS objectives.



4.3.3 SPECIAL INFO FOR SMALLHOLDERS

Smallholders that supply produce to large extractor plants may be able to adapt most of their policies from their buyer's code of conduct or to receive support from large buyers to understand the policies and procedures they need.



Toolkit



Use the Tool for Developing Labor Policies and Tool for Developing Procedures to guide you in creating policies in all nine Labor Performance elements and procedures (or "rules") to implement them.



4.3.4 SELECT IMPLEMENTATION GUIDANCE*

Allocating People & Resources



- Schedule regular management review of policies and procedures – at least once a year or when any significant changes are made

Assessing Risks & Impacts



- Add or update policies and procedures for high-risk areas based on risk assessments

Developing Code, Policy, Commitment



- Commit to regularly review policies and procedures and update as needed – at least once a year
- Set annual goals and key performance indicators (KPIs) based on risks

Communicating, Training & Grievance Mechanisms



- Document policies and procedures using plain language
- Provide versions in languages that all workers can understand
- Find alternative ways to communicate policies to those who cannot read it themselves (e.g., due to visual impairment, illiteracy, or learning impairment)
- Make all policies publicly available and easily accessible

Monitoring and Independent Review



- Review the effectiveness of policies and procedures based on performance, grievances, and worker feedback and update as needed

*Non-exhaustive. Review Ch. 4 Management System Categories for full guidance



LEARNING CHECK



1. What is the difference between a policy and a procedure?

Answer: Policies are rules and company commitments. Procedures are step-by-step instructions that help embed policies in daily operations and ensure consistent application.

2. Why is it important to have a central policy statement?

Answer: Policy statements help avoid confusion that can arise when labor policies are spread across multiple internal documents. Without a central policy statement, it can be difficult for employees and other stakeholders to understand all of the policies affecting them and can lead to contradictions between policies in different departments.

3. Which of these is not a critical stage of a change initiative?

- a. Build awareness
- b. Build commitment
- c. Drive implementation
- d. Maintain records

Answer: d. Maintaining records is important for your SCS overall, but not a crucial stage of change initiatives.



4.4 ENGAGING STAKEHOLDERS & PARTNERS



How you identify and interact with internal and external stakeholders to create, maintain, enhance, and improve labor standards implementation.

Important Definitions

Stakeholder, affected communities, vulnerable or marginalized groups

4.4.1 INTRODUCTION

Stakeholders are individuals and groups that have an interest in or are affected by your company. They include employees and their families, investors, suppliers/vendors, residents in neighboring communities, local civil society organizations, government bodies, industry associations, academics, other experts, and more. All of these people and organizations have a stake in your company's financial, environmental, and social performance. Regular engagement helps ensure that you are aware of any information they may have that will help you improve your performance in any of these areas.

Affected communities are an important sub-group of stakeholders. These are people or communities who are subject to adverse impacts on their environment, infrastructure, way of life, personal safety, health, or livelihood due to your company's operations. Systematically engaging with affected communities to identify and then manage, prevent, or eliminate negative impacts builds trust, credibility, and local support. It also provides opportunities to highlight the positive aspects of your company's presence, which can help combat potentially harmful sentiments about your practices.

Among your stakeholders and affected communities there will also be people who belong to **vulnerable or marginalized groups**. These groups may vary based on the social and political context of your company, but are generally defined as people at a high risk for exploitation or human rights abuses. Some groups that are vulnerable or marginalized in nearly every country (including in palm oil-producing areas of Central and South America) are children, women, people with a disability, and migrant workers. Other marginalized groups in your context may include, but are not limited to, racial or ethnic minorities, LGBTQ+ people, indigenous communities, and religious minorities. Members of vulnerable and marginalized groups may not feel comfortable engaging in



the same ways as members of more empowered groups in society. Thus, it is important to take proactive action to engage these groups to ensure their needs and concerns are included.

Other stakeholders, such as activists and NGOs, may not be directly affected by your operations, but have an interest in what you do. Keeping these groups informed through open communication may reduce the risk of negative campaigns that could affect your company's reputation.

4.4.2 UNDERSTANDING 'ENGAGING STAKEHOLDERS & PARTNERS'

While most employers engage with certain stakeholders and partners as needed, many do not do so in a regular or systematic way, especially concerning labor issues. Early and regular communication with stakeholders provides important input for risk assessment, monitoring, and other SCS activities. As with all other management system processes, stakeholder engagement should be conducted in a planned and organized way.



Toolkit

The Stakeholder Identification and Mapping tool provides guidance to identify and map your relevant stakeholders to support you in developing a comprehensive stakeholder engagement plan.



4.4.2.1 Stakeholder Mapping

The first step to effective stakeholder engagement is to create a stakeholder “map.” This involves listing all potential stakeholders for each Labor Performance element, especially those groups or individuals with expertise in or special knowledge of priority areas identified during your risk assessments.

After identifying all possible stakeholders, work to prioritize them based on the nature and severity of your impact on them and their ability to influence your operations. Your engagement should be stronger and more frequent with groups that are severely impacted by your operations and those that have greater ability to influence your business.

4.4.2.2 Stakeholder Engagement Plan

To begin developing your stakeholder engagement plan, review your stakeholder map and then document how and when you will engage with each group. Include each stakeholder's topics of expertise or interest and identify whether they are most appropriate for short- or long-term engagement strategies. There are many potential strategies for engaging stakeholders. For example, you may consider.

- Providing a structured role for them in your implementation and progress review
- Consulting with them during internal and external audits
- Providing a structured role for them in monitoring SCS performance



- Routinely reporting back to them on complaints and resolutions
- Meeting routinely to discuss labor compliance issues and risk factors
- Seeking their help/input to conduct worker and manager trainings on specific issues
- Working together to initiate community improvement plans
- Seeking their help/input in conducting worker surveys

Toolkit

See the Developing a Stakeholder Engagement Plan tool for more guidance on this process and the Stakeholder Types and Tips for Engagement tool for best practices.

In the case of potentially significant adverse impacts to individuals and communities, you may need to conduct a more intensive engagement process with the affected stakeholders. See the Impact Tool for Affected Communities Tool for best practices to use when engaging communities that have been negatively impacted by your company's operations.



At minimum, you should have a procedure to receive input from key stakeholders (e.g., employees, surrounding communities, etc.) on an ongoing basis, including a communication and training plan to ensure those groups understand the process. You should incorporate feedback from this mechanism into your SCS processes as a matter of course (**see Section 4.5 Communicating, Training & Grievance Mechanisms**).

After collecting input, periodically report to stakeholders on any actions or updates related to their topics of interest (**see Section 4.8 Reporting for Performance**). You should regularly disclose clear and meaningful information on your impact (including potential benefits) and provide communities with opportunities to express their concerns and suggestions.

Tip

Remember that building relationships takes time. Do not wait until a crisis to begin engaging with stakeholders; it will be more difficult to manage the problem without those relationships in place.



4.4.3 SPECIAL INFO FOR SMALLHOLDERS

For many smallholders, neighbors and the surrounding community are the most important stakeholders. Often, if there is an important topic to engage on, whether positive or negative, other smallholders nearby may be facing the same issue or able to benefit from the same opportunity. Thus, it may be beneficial to collaborate with other smallholders in your area on stakeholder engagement activities.

Toolkit

See the Stakeholder Tool for a step-by-step guide to identifying, mapping, and engaging stakeholders.



4.4.4 SELECT IMPLEMENTATION GUIDANCE*



Assessing Risks & Impacts

- Be strategic and prioritize stakeholders to approach in the short, medium, and long term based on your initial risk assessment



Developing Code, Policy, Commitment

- Establish a procedure to update your stakeholder map regularly – at least once a year
- Keep a record of questions, comments, and suggestions made during stakeholder engagement activities



Engaging Stakeholders & Partners

- Update stakeholders more frequently in the case of significant events (e.g., changes to your business, government elections, natural disasters, etc.)
- If you are dealing with a representative, make sure that they legitimately represent the interests of the larger group
- Reach out to vulnerable and marginalized groups



Communicating, Training & Grievance Mechanisms

- Engage with stakeholders in their own communities and places where they feel comfortable
- Provide various ways for less formal or organized groups of stakeholders to engage (often those connected with vulnerable workers do not have formal emails, telecom, etc.)
- Be prepared to respond to stakeholders and do not generate expectations that you cannot or will not fulfill

*Non-exhaustive. Review Ch. 4 Management System Categories for full guidance



CASE STUDY¹⁰¹



In 2011 and again in 2018, employees and nearby community members of Palmas del Cesar, a large palm oil company with an extractor plant and large plantation in Colombia, created a blockade in front of the company gates to protest poor working conditions. The blockade in 2018 stopped work at the plant for 87 days, costing the company approximately 5 billion Colombian pesos (approx. USD \$1.2 million). To end the blockade and resume work, Palmas del Cesar had to commit, through a collective bargaining agreement, to directly hire 225 new employees from the local area—previously most employees were engaged by a third-party hiring agency and lacked the stability and benefits of direct employees.

In 2019, Palmas del Cesar joined the Palma Futuro project to implement an SCS and improve their labor performance and management systems. During their initial risk assessment process, they identified the protest as a costly impact. To mitigate the risk of future unrest, they prioritized actions to improve community and stakeholder engagement in their improvement plan.

As a first step, Palmas del Cesar’s Human Resources Officer organized a meeting with Community Action Board (CAB) members in surrounding communities. She used the meeting as an opportunity to re-introduce the company and its goals, to share their plans for the coming year, and to hear their concerns and feedback about the company. Many of the CAB members held negative perceptions about the company that could not be resolved in a single meeting, but this action by the HR Officer started a conversation and opened a channel for ongoing communication.

Importantly, they discussed tangible steps the company could take to encourage and receive community feedback, identifying two immediate actions. First, the HR Officer created a WhatsApp group with the CAB members and herself; second, the company installed suggestion boxes in the communities, which they now check twice a month. The WhatsApp group has been particularly successful, with CAB members regularly reaching out to share their concerns. The HR Officer’s personal engagement and follow-up have helped Palmas del Cesar take steps towards improving their relationship with community leaders; establishing the communication channels has also given them an early warning system to identify potential risks and address them before they become larger grievances.

101 This is an abbreviated and simplified version of a longer case study. Read the full story: Palma Futuro, “Palmas Del Cesar Case Study” (Partners of the Americas, December 2021), <https://palmafuturo.com/investigaciones/>.



After two years of these and other stakeholder engagement activities, Palmas del Cesar have significantly improved their image in the local community and are now seen as an essential engine of social development, hiring, and stability. These improvements demonstrate the power of proactive stakeholder engagement to help companies reduce potential risks to their business and improve outcomes for both the business and other stakeholders.



LEARNING CHECK

1. What are affected communities and why are they an important sub-group of stakeholders?

Answer: Affected communities are people or communities who are subject to adverse impacts on their environment, infrastructure, way of life, personal safety, health, or livelihood due to your company's operations. Engaging with affected communities builds trust, credibility, and local support and provides opportunities to combat potentially harmful sentiments about your practices.

2. What is the first step you can take to begin an effective stakeholder engagement program?

- a. Schedule meetings with your business partners
- b. Create a stakeholder map
- c. Report to stakeholders about their topics of interest

Answer: b.

3. Stakeholder engagement is all about informing communities and other groups about company programs and actions. True or false?

Answer: False. Stakeholder engagement is just as much (or more so) about receiving information and input from stakeholders. At minimum, you should have a procedure to receive input from key stakeholders.



4.5 COMMUNICATING, TRAINING & GRIEVANCE MECHANISMS



Your system for communicating with and training people in the company to help them understand applicable labor standards and implementation strategies and for receiving and addressing grievances.

Important Definitions

Grievance mechanism, whistleblower, onboarding

4.5.1 INTRODUCTION

Every employee has a role to play in implementing the SCS. To be truly effective at identifying risks and impacts, developing policies and procedures, monitoring impacts and outcomes, correcting and remediating violations, and all other SCS functions, you need input from all levels of the company—from senior leadership to entry-level personnel. Effective communication and training programs help ensure that employees understand the SCS, why it is important, and their role in ensuring its success.

Grievance mechanisms (sometimes called complaint management systems) are a formal method for individuals, groups, or communities affected by a company's operations to communicate inquiries, concerns, or formal complaints and have them addressed in an appropriate manner. An effective grievance mechanism can help prevent escalation of workplace conflict, resolve disputes and prevent them from recurring, and facilitate learning and relationship building between parties. A grievance mechanism can also act as an early-warning system to identify and address potential problems before they become complex and costly incidents. Buyers, certification standards (including RSPO), industry associations, and government regulatory bodies around the world increasingly require companies to maintain a grievance mechanism.

4.5.2 UNDERSTANDING 'COMMUNICATING, TRAINING & GRIEVANCE MECHANISMS'

4.5.2.1 Communication & Training

To contribute to successful SCS implementation, employers need a communication and training plan that helps personnel understand their rights and



responsibilities, supports them to develop skills and knowledge required to do their jobs in compliance with all expectations, and provides a reliable method for them to share input or feedback for the continual improvement process.

A good communication and training system for your SCS should cover relevant laws, policies, and expectations in each Labor Performance element, with special emphasis on high-risk areas for your workplace, region, and industry segment. Employees should receive training immediately when they are first hired (**onboarding** and employee handbook) and on an ongoing basis after that (annual training and additional training when policies are updated). In between those formal trainings, employers should reinforce important information through a variety of communications channels to ensure it reaches all personnel, regardless of their level of literacy, language skills, or preferred communication channels.

Some possible communication channels include:

- Posters and signage
- Videos
- Employee handbooks and manuals
- Company website and intranet
- Company social media
- Printed materials (handouts, flyers, booklets)
- Podcast or audio recordings
- Newsletters
- Manager and department meetings
- Company town hall meetings and assemblies
- Bulletin boards

4.5.2.2 Developing a Training Plan

The following is a good model to use for developing training programs on most topics:

1. **Build Awareness.** First, seek to improve understanding of the topic or policy. Answer the question...

What is it?

E.g. For training to prevent forced labor, start by introducing personnel to the full definition of forced labor, including all ILO indicators, and definitions of related concepts like human trafficking, modern slavery, and debt bondage (*see Section 4.2 Assessing Risks & Impacts for more on this topic*).

2. **Build Appreciation.** Next, help people understand the importance of a topic or rationale for a policy to motivate commitment to act. Develop materials and curricula that answer questions like...



How does this help our company?

How does it help my department?

What will change?

What is in it for me?

E.g. Next, share examples of what forced labor looks like in practice perhaps through case studies, videos, or statistics. Explain how some common practices, like excessive overtime hours or extending loans to workers, lead to forced labor conditions. Emphasize the severe negative impacts and consequences for both workers and business when policies designed to prevent forced labor are not followed.

- 3. Build skills and knowledge.** Finally, give people the skills and knowledge they need to take effective action. Develop materials and curricula that answer questions like...

What are the new policies and procedures?

What exactly do I need to do?

How do I do that?

What will happen if I don't do it?

E.g. Finally, provide practical information about company policies to prevent forced labor, how employees can implement them fully, and the disciplinary processes when those policies are not followed.

These three objectives build upon each other. For each training, consider which objective it fulfills (1, 2, or 3) and whether you need any other topics first to establish a good foundation for learning. For example, if your planned training serves to build skills and knowledge, you will get the most out of that initiative if you have first built awareness and appreciation among the target audience. You can apply this framework in many ways, whether for in-person trainings, onboarding training, signage and visuals around the workplace, in social media or text-based learning programs, or any other format you use for communicating important concepts to personnel.

A fourth element in any successful communication or training program is assessing its impact. It is important to measure worker understanding and knowledge following each campaign or training to ensure that you communicated the message effectively.





Toolkit



Use the Planning, Managing and Iterating Trainings tool to develop a comprehensive training plan for your company. It includes a sample training plan, a sample training module list, a sample sign-in sheet, and a sample post-training evaluation sheet. The Onboarding Checklist tool, provides a list of topics to specifically guide your onboarding program for new employees.

4.5.2.3 Incorporating Employee Feedback

It is equally important to provide channels for employees to communicate their feedback and input to their supervisor, employer, and SPT representatives. One important tool for this is a formal grievance mechanism (described in detail later in this section), but you should provide various channels to engage workers on an ongoing basis and to ensure that all employees have multiple opportunities to engage.

Some common strategies for gathering employee feedback and input include:

- Suggestion box, employee intranet, or dedicated email address
- Designating someone trained on SCS to speak with personnel (e.g., SPT member)
- Employee surveys
- Employee interviews during audits
- Conversations with elected worker or union representatives
- Employee-elected committees



Toolkit



The Worker Survey tool provides additional guidance for communicating with and gather feedback from employees.

4.5.2.4 SPT and other Special Training

Beyond general training and communications to all personnel, you should also provide detailed training to the SPT and other groups or individuals responsible for the success of your SCS. Examine your improvement plan (**see Section 4.7 Correcting & Remediating**) to identify who is involved in each activity and what skills and knowledge they need to be effective. This will

help you determine what training the various departments and people in your company need and start developing a training plan.

Tip

The chapters in this Handbook can serve as a general structure for your SPT training program.

SPT members need detailed training to develop the necessary knowledge and skills for their role. This should include, but not be limited to:

- Plan-Do-Check-Act cycle
- Introduction to the SCS
- Nine Labor Performance elements
- Eight Management System categories

4.5.2.5 Grievance Mechanisms

In addition to the forms of two-way communication described above, employers should establish and maintain a formal grievance mechanism, providing internal



and external stakeholders with a process to access remedy if they are adversely affected by the company. Effective grievance mechanisms help employers identify and address problems early, before they escalate. Over time, they provide a means to identify patterns of risk or abuse that may otherwise be overlooked. In many cases, grievance procedures and channels will be different for internal and external audiences, but the fundamental principles are the same for both. In practice, a grievance mechanism should:

- Establish a channel for stakeholders to pose questions, express concerns, or file a complaint openly or anonymously, as they prefer (see list above of strategies for collecting feedback).
- Assign a person or team in the company responsible for receiving, registering, and processing all grievances.
- Establish procedures to register, screen, categorize, investigate, and determine options for resolution and redress.
- Establish a system to communicate decisions made and progress on pending actions.

Not all complaints can be resolved in the same way. For simple issues, the same team responsible for receiving and documenting the complaint may be able to resolve it. Complex or severe cases may require intervention by senior managers and dedicated resources for investigating, documenting, and reporting (*see Section 4.7 Correcting & Remediating section for more details*).

The more serious the claim, the more independent the grievance mechanism should be. For complex and recurring problems, consider reaching out to third-party facilitators that can act as independent mediators.

Toolkit

The Format for Registry of Complaints and Suggestions tool offers a template for documenting and tracking all grievances and the Directions to Employees on How to Submit Grievances tool provides guidance to instruct employees on how to use the grievance mechanism.



Principles for Effective Grievance Mechanisms

To satisfy Effectiveness Criteria of the UN Guiding Principles on Business and Human Rights (UNGPR), company grievance mechanisms must be: legitimate, accessible, predictable, transparent, rights compatible, a source of continuous learning, and based on engagement and dialogue.¹⁰²

102 “Guiding Principles for Business and Human Rights,” 33.



More specifically, it must:

- Operate according to standardized procedures that are understood and trusted by those it serves (confidential, transparent process, predictable response times);
- Be culturally appropriate and accessible (allow communication in local languages and verbally, use commonly available technology);
- Operate at no cost to users (no fees associated with communication channel, does not require traveling long distances to submit complaints, company covers costs of third-party remediation);
- Never result in retribution or retaliation against complainants who act in good faith;
- Not impede access to judicial or administrative remedies.



Toolkit



The Training tool provides instructions for devising onboarding and ongoing SCS trainings. You can then use the Onboarding Template and Annual Training Template track and manage implementation of your training plan.



Toolkit



The Grievance Mechanism tool includes a template for collecting individual grievances and a template for an instructional sheet to place where you collect them.



4.5.3 SPECIAL INFO FOR SMALLHOLDERS

4.5.3.1 Communicating & Training

Just like larger employers, smallholders need to communicate with and train employees on all policies and procedures, but the methods may be different. For example, an employee handbook may not be appropriate for smallholders or their employees. Often, visual displays in centralized locations (e.g., posters of all required PPE on a bulletin board at the plantation entrance) are a good alternative.

4.5.3.2 Grievance Mechanisms

Smallholders also need to provide a grievance mechanism for their employees, but with so few, a grievance mechanism managed solely by the employer would not offer anonymity (a requirement for formal grievance mechanisms). Smallholders should seek to connect with larger organizations to manage their grievances, such as an industry association, large buyer, cooperative, or civil society organization. Collaborating with an independent party does not necessarily increase anonymity, but it creates a more accountable and legitimate process.



4.5.4 SELECT IMPLEMENTATION GUIDANCE*

Allocating People & Resources

- Assign a team of dedicated and trained people in the company to lead implementation of the grievance mechanism – ensure appropriate representation of all workers
- Involve senior management as appropriate to address serious abuses and disrupt systemic problems identified through the grievance mechanism
- Allocate financial resources for communications and training delivery, including paying for workers' time during training

Assessing Risks & Impacts

- Scale the grievance mechanism to reflect the level and complexity of labor and social risks and impacts identified in your company

Developing Code, Policy, Commitment

- Design incentives to encourage compliance with labor and social policies
- Keep records of each step when processing grievances
- Commit to a maximum response time for responding to and addressing grievances



Palma Futuro Project, funded 100% by the United States Department of Labor.





Engaging Stakeholders & Partners

- Involve outside experts to help develop training materials and curricula on priority topics and to facilitate trainings and workshops



Communicating, Training & Grievance Mechanisms

- Post policy statements and important procedures in high-visibility places
- Communicate with and accept communication from workers in languages they understand
- Use written, verbal, and visual forms of communication
- Provide ongoing training for all personnel based on risk assessment and monitoring efforts
- Provide progressive levels of training for those responsible for implementing the SCS
- Conduct awareness raising about the grievance mechanism so people know where to go and whom to approach



Monitoring and Independent Review

- Measure the effectiveness of training programs using surveys or other methods



Reporting for Performance

- Report to workers and stakeholders about the results of grievance investigations, while maintaining confidentiality

*Non-exhaustive. Review Ch. 4 Management System Categories for full guidance



LEARNING CHECK



1. What is a grievance mechanism and why is it important?

Answer: Grievance mechanisms are a formal method for stakeholders to communicate inquiries, concerns, or formal complaints to a company and have them addressed in an appropriate manner. Effective grievance mechanisms can help prevent escalation of workplace conflict, resolve disputes and prevent them from recurring, facilitate learning and relationship building and act as an early-warning system to identify and address potential problems.

2. What are two communication channels at your workplace that you could easily use for SCS communications? Try to pick two that will be effective for reaching different groups of workers or stakeholders.

Answer: This will depend on the nature of your company and workplace. Some possible communication channels include:

- Posters and signage
- Videos
- Employee handbooks and manuals
- Company website and intranet
- Company social media
- Printed materials (handouts, flyers, booklets)
- Podcast or audio recordings
- Newsletters
- Manager and department meetings
- Company town hall meetings and assemblies
- Bulletin boards

3. Which of the following are true about effective grievance mechanisms? Select all that apply.

- a. They must be legitimate, accessible, predictable, transparent, rights compatible, a source of continuous learning, and based on engagement and dialogue**
- b. Senior management should be involved in addressing serious complaints/allegations**
- c. They should replace alternative remediation systems (such as judicial or mediation processes)**

Answer: a and b are correct. C is incorrect because effective grievance mechanisms should not impede access to judicial or administrative remedies.





4.6 MONITORING & INDEPENDENT REVIEW

How you gather information about labor performance in the company, track SCS implementation, and use external and/or independent monitoring in labor standards implementation.

Important Definitions

Indicator, monitoring, auditing, systematic review, maturity

4.6.1 INTRODUCTION

Monitoring and review are critical to a successful SCS—they form the “Check” part of the Plan-Do-Check-Act cycle of continual improvement. Effective monitoring and independent review not only help employers understand current labor performance, they also provide insight about management system effectiveness. Monitoring systems can also help identify risks or adverse impacts that may have been previously undetected or overlooked.

4.6.2 UNDERSTANDING ‘MONITORING & INDEPENDENT REVIEW’

Monitoring is an umbrella term that includes a variety of methods you may use to evaluate performance. Many people are familiar with auditing, which is one method that contributes to a larger monitoring plan. **Auditing** is a formal, on-site evaluation against a specific set of criteria. Auditing can be either internal or external (independent review). You should use a variety of monitoring activities to gain a complete understanding of your performance and the **maturity** (or strength) of your SCS.

In addition to formal internal and external audits, managers should conduct ongoing monitoring of key **indicators**—quantitative or qualitative measures of progress against set goals—in their areas of authority. This helps ensure the organization is making regular progress on goals and contributes to an early warning system for potential issues. Employees also play a role in monitoring working conditions on an ongoing basis. This may be done informally, by providing ad hoc feedback, or formally through monitoring tools like surveys, interviews, and grievance channels (see Section 4.5 Communicating, Training & Grievance Mechanisms). This type of monitoring helps verify that policies and procedures are in place and are followed regularly.

The purpose of monitoring and independent review is to provide a baseline for action. You should measure indicators that will help you identify areas of your SCS to target for improvement and regularly integrate monitoring findings into improvement planning, management review, and risk assessment processes.



Toolkit

The Sample SCS Assessment tool is a comprehensive social compliance and management systems maturity assessment that you can use directly in monitoring activities as an initial self-assessment, for internal audits, as a guide to develop indicators for ongoing monitoring, and for external audits.



4.6.2.1 Developing Indicators

You should develop a comprehensive set of indicators covering all aspects of your SCS, including all Labor Performance elements and Management Systems categories. Labor performance indicators check compliance with your policy statement, labor laws, and any other standards you choose. Process indicators—those related to your management system—check whether your SCS activities are effective. Having a mix of performance indicators and process indicators helps build a deeper understanding of cause and effect in your SCS, allowing you to further refine your policies and activities.

Example

A performance indicator for child labor might be “Number of child labor incidents identified this year.” If you find zero incidents of child labor during an internal audit, there may be several possible explanations for that finding—from good training and procedures to poor documentation and monitoring practices. Thus, you need to then review related process indicators—like “Percentage of employees trained on child labor prevention,” “Percentage of employees with passing scores on child labor training post-test,” and “Percentage of employees with valid age documentation on file”—to check whether your policies and procedures to prevent child labor are functioning properly.

4.6.2.2 Internal Auditing

In internal audits, personnel that are independent of the operations in a given department conduct a **systematic review**, or comprehensive assessment, of all SCS indicators in that department. For small operations that do not have multiple departments, internal audits may be conducted by SPT members or an employee with special training. Internal auditing is a crucial piece of any effective monitoring program, not only providing a more comprehensive and holistic view of performance and processes, but also assessing whether the



monitoring program itself is operating as it should and whether policies and procedures are adequate and effective.

Comprehensive internal audits should incorporate multiple forms of review. They should at least include:

1. **Visual Observations:** Physical walk-throughs of the workplace
2. **Interviews:** Consultations with employees at all levels and external stakeholders
3. **Measuring and testing:** Checking quantitative indicators with appropriate equipment (e.g. noise decibel levels, ambient temperature, etc.)
4. **Document review:** Reviewing documents and records, including SCS process documentation such as risk assessments, management review minutes, results of previous internal audits, results of external audits, and complaints/grievances)

Your monitoring efforts should measure three aspects of your SCS: Intent, Implementation, Effectiveness, and Performance.

1. **Intent:** Are the eight SCS Management System categories in place?
2. **Implementation:**
 - Are people following the procedures?
 - Are people implementing all improvement plan activities?
3. **Effectiveness:**
 - Are you in compliance with labor laws and policies?
 - Are you making progress toward your objectives and targets?
4. **Performance:** How is the labor performance of the company?



Toolkit



The Internal Auditing Guidance tool provides a checklist to guide the creation of your internal auditing process and an SCS assessment framework, detailing the content to review during internal audits.



4.6.2.3 RSPO Audits

One of the most common forms of external audits in the palm oil industry is for certification by RSPO. In addition to environmental sustainability and other requirements, the RSPO Standard includes principles upholding worker rights. It also promotes a management system process for implementing the Standard. The guidance from this handbook can help you prepare for the labor and management system requirements in an RSPO audit.

Your preparation for an RSPO (or any external) audit should include assigning a responsibility party for overseeing and preparing documentation related to each Standard requirement and creating a procedure to ensure that all appropriate personnel and documentation are made available during audits.

4.6.2.4 Child Labor Monitoring Systems

Child labor is an especially complex issue to monitor and to remediate. Because child labor is rooted in community, social, and structural factors, companies typically cannot address it alone and may need to engage with external partners to monitor this element. Child Labor Monitoring Systems (CLMS) are national or sub-national programs used to identify and remove children from child labor and refer them to rehabilitation services. CLMS can be effective because of their ability to go beyond individual company-level interventions to address underlying causes of child labor that are systemic and persistent at the community level. CLMSs can also help link children in child labor to remediation and provide services that monitor effectiveness.



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It is a good practice for employers to engage with CLMSs where they exist. For example, Colombia's *Public Policy Line for the Prevention and Eradication of Child Labor and the Comprehensive Protection of Working Adolescents* coordinates action between national, departmental, and local government and between the family, company, union(s), and society to manage cases where children and adolescents are at risk or in child labor and to protect adolescent workers and their families.¹⁰³

Similarly, Ecuador's Project for the Eradication of Child Labor seeks to eliminate child labor through a combination of labor inspections, technical assistance for regional governing bodies, awareness raising and education campaigns, and mechanisms for communication between government institutions.¹⁰⁴

Where none exists, it may be beneficial to collaborate with other companies, civil society organizations, and government agencies to establish or support establishment of a CLMS or similar program to effectively address child labor risks.



Toolkit

The Monitoring tool provides a list of questions to guide your SCS monitoring activities.



4.6.3 SPECIAL INFO FOR SMALLHOLDERS

While they will occur at a different scale, internal audits and ongoing monitoring are just as important for smallholders. External audits are increasingly common for even the smallest suppliers as well. For these, it is important to have a plan in place for providing all required documentation and access to work areas and employees that the auditors need.

Be sure to review the code you are being audited against to understand the requirements based on the size and nature of your business.

103 International Labour Organization, "Línea de Política Pública para la Prevención y Erradicación del Trabajo Infantil y Protección Integral al Adolescente Trabajador 2017 - 2027" (Instituto Colombiano de Bienestar Familiar, September 10, 2018), <https://www.icbf.gov.co/programas-y-estrategias/proteccion/programas-especializados-y-otras-estrategias/linea-de-politica>.

104 "Child Labor Eradication Project - Ministry of Labor," accessed August 23, 2022, <https://www.trabajo.gob.ec/proyecto-de-erradicacion-del-trabajo-infantil/>. While the cited webpage states the program ended in 2021, through our work with Palma Futuro, the authors have credible information indicating that the program is continuing.



4.6.4 SELECT IMPLEMENTATION GUIDANCE*

Allocating People & Resources



- Ensure that those assigned to monitoring and internal audit activities are qualified – provide training if needed

Developing Code, Policy, Commitment



- Create a policy to conduct internal audits at least twice per year for all indicators, plus...
 - Following major changes to the organization, policies, procedures that may affect compliance;
 - In response to major grievances.
- Create a set of policies and procedures related to external audits
 - Ensure appropriate staff are available and have needed documentation prepared
 - Assign personnel responsible for coordinating with auditors and managing logistics as needed
 - Create a policy of transparency and ensure all responsible personnel are familiar with it



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Monitoring and Independent Review

- Measure both qualitative and quantitative indicators
- Conduct monitoring should happen on an ongoing basis; frequency will vary between indicators
- Monitor progress on your improvement plan, as well as the maturity of your entire SCS (Labor Performance and Management Systems)
- Monitor the outcomes of correction/remediation processes
- Look beyond reported incidents to check whether your system is identifying violations effectively
- Include workers and external stakeholders in monitoring processes
- Ensure that the workers interviewed in both internal and external audits are not pressured by management and are protected from retaliation
- Schedule monitoring separately for each functional area and company activity to avoid missing work that only occurs at certain times of the day or year
 - e.g., monitoring for harvest-related activities should happen during harvest periods, whereas monitoring of HR functions could occur at any point in the harvest cycle.
- Schedule internal audits at least 3 months before planned external audits to ensure time to identify and correct violations

*Non-exhaustive. Review Ch. 4 Management System Categories for full guidance



LEARNING CHECK



1. What are indicators and why are they important?

Answer: Indicators are quantitative or qualitative measures of progress against set goals that help measure whether the organization is making regular progress on goals and contributes to an early warning system for potential issues.

2. Which of the following should be included in an internal audit?

- a. Visual Observations
- b. Interviews
- c. Measuring and testing
- d. Document review
- e. All of the above

Answer: e. All of the above

3. There is nothing you can do to prepare for an external audit. True or false?

Answer: False. You should have a set of policies and procedures related to external audits to ensure appropriate staff are available and have needed documentation prepared, that there are designated personnel responsible for coordinating with auditors and managing logistics, and to establish a policy and culture of transparency.



FIGURE 4.2: CONSIDERATIONS FOR IMPROVEMENT PLANNING

WHAT?

What is the problem to address (risk/gap)?

E.g. No stakeholder identification has been done

What do you want to change and by how much (goals/objectives and targets)?

E.g. Develop a stakeholder map

WHY?

Why is the risk/gap present or why has it not been addressed before (root-cause analysis)?

E.g. The person in charge of stakeholder engagement (Sustainability Manager) has not been trained in creating a stakeholder map or engagement strategy

HOW?

How will bring about the desired change(s) (actions/procedures)?

E.g.

1. Identify expert to conduct stakeholder mapping training for Sustainability Manager
2. Expert conducts training for Sustainability Manager
3. Sustainability Manager uses SCS Tools and information from training to map stakeholders and develop stakeholder engagement strategy
4. Sustainability Manager engages 5 new stakeholders by end of year

WHEN?

When will the actions take place and when do you expect to see results (deadlines)?

E.g. All actions completed by end of year

WHO?

Who is responsible for each outcome and for overseeing progress across all outcomes (responsible parties)?

E.g. SPT



4.7 CORRECTING & REMEDIATING

Your system for addressing labor problems internally and in the supply chain and for making changes to prevent problems from recurring.



Important Definitions

Remediation, root cause analysis, corrective actions, corrective action plan, preventive action, improvement plan, violation

4.7.1 INTRODUCTION

No SCS can eliminate risks, gaps, and violations entirely, but the best take effective **preventive action** to reduce risks and remedy violations through **corrective action** when they occur. Effective preventive and corrective actions are based on root-cause analysis—a practice for understanding the underlying causes (or ‘root’) of risks and violations. Root-cause analysis allows you to identify actions that target the problem at its source, greatly reducing the likelihood that a risk will ever lead to an actual violation or that a violation will recur.

4.7.2 UNDERSTANDING ‘CORRECTING & REMEDIATING’

Previous sections describe processes for identifying and prioritizing labor risks in your company, gathering stakeholder feedback, establishing a grievance mechanism, and monitoring compliance with labor requirements. All of these inputs help employers understand where they are succeeding and where they need to make SCS improvements or take corrective action.

4.7.2.1 Improvement Plans

An **improvement plan** is a detailed work plan of system changes to reduce risks (preventive actions) and drive continual improvement in your SCS. Improvement planning requires dedicated time and resources; you should not expect to make all your desired improvements at once. It is an iterative process of prioritizing improvements and actions for the short, medium, and long term. The preventive actions and improvements you decide to take should be based on root-cause analysis of the risks or gaps you are seeking to address (*see Figure 4.2*).

Consult a wide range of stakeholders and incorporate information from across your SCS when developing your improvement plan. These groups and resourc-

Toolkit

Use the Root Cause Analysis Exercise tool to identify root causes for any risks, gaps, or violations you encounter in your SCS.



es offer valuable insight on the relative importance of various issues and effective actions to address them. They can help secure buy-in for implementation plans and provide crucial feedback throughout the process.

Recommended inputs for developing an improvement plan:

- Feedback from employees at every level
- Guidance from local organizations that understand labor issues, especially unions
- Records of previous corrective and preventative actions and their results
- Research on best practices
- Results of root cause analyses
- Physical inspections of the workplace and internal documents and records
- Guidance from buyers, industry associations, and local government agencies
- Advice from external consultants and experts



Toolkit



The Improvement Plan Guidance tool provides additional guidance for developing and managing an improvement plan and the Improvement Plan Template offers a template for consolidating information from a wide range of sources (including risk assessments, internal and external audits, grievance mechanism, and stakeholder engagement) to identify and prioritize areas for improvement.

4.7.2.2 Corrective Action & Remediation

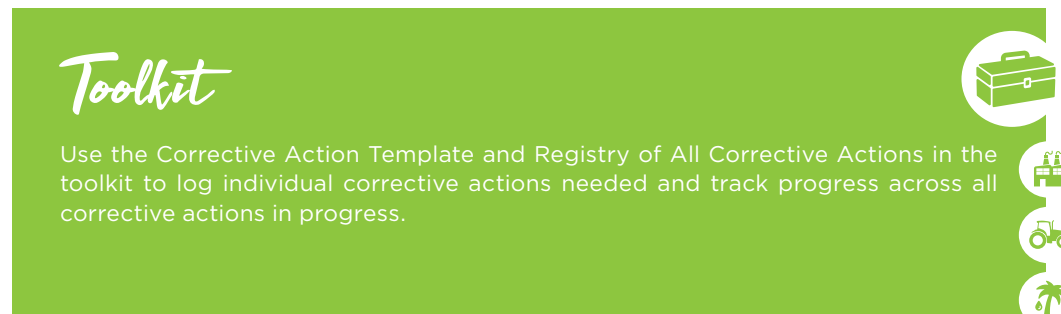
Even with a mature SCS that is effective at identifying and mitigating potential risks, **violations**—i.e., non-compliance with labor laws and international standards—will occur. In the early stages of your SCS, before you have had the chance to develop and implement an improvement plan, you will likely identify several, perhaps many, violations. When violations occur, they must be addressed in a timely and efficient manner through **corrective actions**—steps taken to eliminate the cause and root cause of a violation, thus preventing recurrence—and **remediation**—actions to redress harm to individuals or groups.

Example

On oil palm farms that do not have an effective SCS in place, it is common to find violations related to improper or no use of appropriate PPE. This puts personnel's health and safety in immediate danger, requiring corrective action to improve appropriate use of PPE and prevent future violations. It may also require remediation if any employee has suffered an injury or negative health consequence related to their lack of PPE.



As with preventive actions, to implement corrective actions effectively you need to conduct a root-cause analysis and manage implementation in a systematic way. Maintain a **corrective action plan** that consolidates all open corrective actions in one place, identifying the objectives, targets, timeframes, allocated resources, and progress.



Toolkit

Use the Corrective Action Template and Registry of All Corrective Actions in the toolkit to log individual corrective actions needed and track progress across all corrective actions in progress.

Corrective actions return the company to compliance and prevent recurrence (or future harm), but they do not necessarily provide **remediation**—actions to rectify any harm to employees or other stakeholders. The right to access effective remedy in the case of adverse impacts is a fundamental principle under international frameworks for business and human rights.¹⁰⁵ In addition to becoming compliant and preventing violations in the future, employers have an obligation to provide remediation for harm they have caused or contributed to.

Remediation can take a variety of forms depending on the situation and should be reached through agreement between the employer and the harmed group or individual. If you are unable to reach agreement on an appropriate remedy with the affected individual or group, consider involving a neutral third party as a mediator.¹⁰⁶

Typical forms of remediation include:

- Restoring respect for the affected party's rights
- Compensating the affected party for financial and non-financial loss (e.g., payment of back-wages owed with interest)
- Collaborating with state judicial and non-judicial systems to provide remedy
- Reconciliation, also called satisfaction (e.g., official apologies and guarantee of non-repetition)

¹⁰⁵ "Guiding Principles for Business and Human Rights."

¹⁰⁶ Social Accountability International and ICCO, "United Nations Guiding Principles on Business and Human Rights: A Six-Step Approach to Supply Chain Implementation," July 2012, <https://sa-intl.org/resources/ungp-handbook/>.



To facilitate timely and satisfactory remedy of workers' rights violations, it is a good practice to develop specific remediation plans that you will follow for various types of labor violations—especially for the worst forms of labor violations (i.e., child labor and forced labor) and any that are especially high risk for your business. Consult with a wide range of stakeholders and experts to develop credible remediation plans—the sources listed above as recommended inputs for developing an improvement plan apply here as well. Include any planned or ongoing remediation actions in your corrective action plan.



Toolkit



Use the Step Approach to Remediation (Child Labor) tool to guide your remediation plan for child labor and as a template to develop other remediation plans based on the step-approach model.



4.7.3 SPECIAL INFO FOR SMALLHOLDERS

For most smallholders, just one or two people will be responsible for managing and implementing all aspects of the SCS. In this situation, it may seem easier to just fix problems as they arise and move on as quickly as possible, but this can actually create more work down the line. This is because the problem will likely keep recurring over and over unless you conduct a root cause analysis and address the problem at its source. Being consistent about applying root cause analysis to address problems will significantly improve your efficiency, saving a lot of time, resources, and energy in the long-run.



4.7.4 SELECT IMPLEMENTATION GUIDANCE*

Allocating People & Resources



- Assign a team (likely the SPT) to create and manage the improvement plan and report on its progress to senior management
- Assign a team to create and manage the corrective action plan and report on its progress to senior management
- Assign relevant department/area managers to implement appropriate preventive and corrective actions
- Allocate sufficient financial resources for effective implementation of preventive and corrective actions

Developing Code, Policy, Commitment



- Keep records of labor violations, risks, and gaps and their root causes
- Maintain documentation of needed corrective and preventive actions, progress toward achieving them, and any outcomes

Engaging Stakeholders & Partners



- Engage external experts to help design remediation plans and to act as mediators as needed

Communicating, Training & Grievance Mechanisms



- Train key personnel to conduct root-cause analysis for labor issues

Monitoring and Independent Review



- Check progress on corrective and preventive actions regularly and during internal audits to ensure compliance with established timelines and targets

*Non-exhaustive. Review Ch. 4 Management System Categories for full guidance



4.7.5 CORRECTIVE ACTION AND REMEDIATION CASE STUDIES¹⁰⁷



In general, when remediating labor violations, first seek to take preventive and proactive steps that *avoid* causing or continuing to cause harm. Where it is not possible to avoid the risk entirely, try to *minimize* negative impacts. For negative impacts that you cannot minimize, find ways to *offset* them with comparable positive impacts or provide compensation to those affected.

EXAMPLE 1: COMMUNITY EXPOSURE TO PALM WASTE

Palmas Internacionale is a large palm oil company that owns and operates an extraction plant and a large plantation, in addition to sourcing fruit from over 80 surrounding farms. The company provides significant job opportunities to the local population and is extremely influential in the region. Local communities have lately been complaining and becoming increasingly dissatisfied with the company and its suppliers due to the dumping and burning of palm fruit waste (raqui) near residential areas. The raqui have a foul odor and attract pests that carry disease and create a public nuisance. Burning the raqui in residential areas leads to huge clouds of smoke and ash deposits throughout the community schools, homes, farms, and rain-catching water storage.

IMPACT: Negative impacts on health and quality of life for workers and local community due to improper organic waste disposal.

Avoid	Minimize	Offset
<p>Conduct a study to identify ways to avoid the generation of waste or dispose of waste without negative impact on surrounding communities. Engage an environmental specialist if company does not have the necessary expertise.</p>	<p>Establish and communicate designated dumping locations for raqui</p> <p>Establish and communicate the burning schedule in advance to minimize workers' and community exposure</p> <p>Implement appropriate procedures for safe storage, handling, and disposal of biomass and other waste</p>	<p>Conduct studies of community morbidity and mortality caused by pests and other environmental impacts of the palm waste dumping and burning</p> <p>Provide medical and financial assistance for rehabilitation of affected people</p>

¹⁰⁷ The examples in this section are composite case studies. The names and locations have also been changed.



EXAMPLE 2: USE OF CONTRACT/MIGRANT LABOR

Palmas Bonitas is a palm farm that relies on temporary migrant workers managed by labor contractors. Contractors are responsible for recruiting, hiring, transporting, and managing workers on site. Last year a group of workers sued Palmas Bonitas, accusing it of forced labor. The company was surprised to discover that one of its contractors retained four months of workers' compensation to cover recruitment fees and transportation costs, putting the workers in a position of debt bondage and involuntary servitude. As migrants from Venezuela, the workers had no local connections and the farm was in an isolated area with few services and no access to public transportation. Most of the workers were undocumented or on a temporary immigration status, making them unlikely to seek assistance.

IMPACT: Forced labor due to debt bondage from recruitment

Avoid	Minimize	Offset
<p>Establish, communicate, and implement adequately defined hiring and remuneration policies and terms of employment for contract and migrant workers</p> <p>Increase direct recruitment and employment by the company</p> <p>Reimburse contractors directly for workers' recruitment fees and transportation costs</p>	<p>Periodically monitor and audit the recruitment agency's social and labor performance as per the organization's own policies and procedures and local law</p> <p>Ensure organizational policies on social and labor issues are understood and implemented by the recruitment agency</p> <p>Inform all contract and migrant workers (in all applicable languages) on their rights including those related to wages, benefits, and deductions</p> <p>Establish an agreement with the recruitment agency establishing reasonable deductions for housing, transport, and other services provided to contract and migrant workers</p> <p>Make sure contract and migrant workers receive contracts and periodic clear records of pay calculations in their native language</p> <p>Periodically interview contract and migrant workers about complaints and opportunities</p> <p>Establish a grievance mechanism accessible to contract and migrant workers</p>	<p>Reimburse workers for illegal deductions made by contractors</p>



EXAMPLE 3: HEAT AND DEHYDRATION IN PALM EXTRACTOR PLANT

Olio Industriales is a palm extractor company in a tropical region, where the average daily high temperature is 30-32 degrees Celsius (87-90 Fahrenheit) year-round with high humidity. The extraction equipment is very hot when in operation, making the temperature in many areas of the plant much hotter than the outdoor temperature for most of the day. Employees are exposed to extremely high temperatures all day, often with no reprieve even during breaks or lunch. Every week, at least one worker collapses due to heat stress.

IMPACT: Extraction plant workers' heat-related illnesses

Avoid	Minimize	Offset
<p>Schedule operational shifts avoiding peak temperatures</p> <p>If possible, avoid expanding in high temperature locations</p>	<p>Conduct heat stress awareness training and encourage personnel to consume potable water and electrolytes to avoid heat stress</p> <p>Provide potable water and containers in locations readily accessible to all personnel</p> <p>Provide electrolytic supplements for potable water</p> <p>Implement adequate paid breaks to allow personnel to reduce body temperature and rehydrate</p> <p>Construct shelters away from heat of the plant and out of the sun to create reprieve from heat during lunch and other breaks</p> <p>Train all personnel to:</p> <ul style="list-style-type: none"> Identify risk factors for heat-related stress (e.g. dehydration, heat exhaustion, heat stroke) Identify symptoms of heat-related stress Provide first aid for victims of heat-related stress Record, report and investigate all heat stress incidents and illnesses 	<p>Assist all affected employees with timely treatment for heat-related illnesses</p> <p>Compensate for wages lost during time off for injury or treatment</p>



LEARNING CHECK



1. What is the difference between an improvement plan and a corrective action plan?

Answer: An improvement plan is a detailed work plan of system changes to reduce risks (preventive actions) and drive continual improvement in your SCS. A corrective action plan aims to return the company to compliance and prevent recurrence when there are active or recent labor impacts (violations).

2. What is remediation and how is it different from corrective action?

Answer: Remediation rectifies harm done to employees or other stakeholders. Corrective actions return the company to compliance and prevent recurrence (or future harm), but they do not necessarily provide remediation to individuals affected by the original violation. Employers have an obligation to provide remediation for harm they have caused or contributed to beyond just taking corrective action.

3. Put the following steps to remedy negative impacts in the correct order, starting with the first approach companies should consider and ending with the last resort:

- a. Offset with comparable positive impacts or provide compensation to those affected
- b. Avoid causing or continuing to cause harm
- c. Minimize negative impacts

Answer: Avoid, minimize, offset.





4.8 REPORTING FOR PERFORMANCE

How you report to internal and external stakeholders on labor standards implementation and performance.

4.8.1 INTRODUCTION

Reporting on your company activities, specifically your social compliance-related commitments and developments, is crucial for stakeholder engagement, driving progress, and supporting accountability. Both internal and external stakeholders have an interest in actions a company is taking to ensure compliance with labor standards. Reporting on performance is also an effective strategy for showcasing your accomplishments.

Though most reporting is still voluntary, a growing number of consumers, shareholder groups, and non-governmental organizations (NGOs) expect companies to share social compliance information with the public. Companies, in turn, are increasingly likely to share information on social compliance programs to demonstrate engagement and leadership in their policies and programs.

4.8.2 UNDERSTANDING 'REPORTING FOR PERFORMANCE'

4.8.2.1 Who to Report to

The goal of social compliance reporting is to provide a measure of transparency and accountability to the individuals or groups affected by company operations and reinforce communication and engagement with all interested and relevant stakeholders. When thinking about who to report to, consider both internal (i.e. employees) and external stakeholders. When thinking about your external stakeholders, refer to your stakeholder map (*see Section 4.4 Engaging Stakeholders & Partners*) and any groups or individuals that have reported grievances (*see Section 4.5 Communicating, Training & Grievance Mechanisms*). Important stakeholders to consider include:

- Investors
- Customers
- Suppliers and other business partners
- Civil society organizations and NGOs
- Unions and other worker organizations

Tip

Use the Management System categories as a way to structure your reporting. This will help ensure your reporting is comprehensive. For each Management Systems category, explain how you apply it to each Labor Performance element or highlight a few of the most relevant Labor Performance elements for each Management Systems category.



4.8.2.2 What to report

Public reports should include a description and discussion of all elements of the SCS, the implementing environment in which the SCS operates, and the challenges in that environment.

Consider including the following in your reports:

- Your Code of Conduct or Policy Statement
- Statement of senior leadership support for labor rights and human rights
- Description of how you engage with stakeholders and their perspectives
- Where appropriate, responses to specific labor rights impacts
- Your membership in multi-stakeholder initiatives
- Your risk assessment procedures
- Results from your risk assessment(s)
- How you integrate labor performance in your management systems
- Audit findings (internal, external) – not necessary to include all audit findings, but consider including summary of most significant findings and your planned corrective or preventive actions in response
- Number of open corrective actions
- Description of employee/supplier trainings you have conducted
- Your Diversity and Inclusion policies and practices
- Your efforts to improve each year (provide clear examples from improvement plan)
- How you receive, review, and respond to complaints
- How you remediate violations when necessary
- The impacts of your remediation efforts
- Where possible, metrics, like social and labor indicators (i.e., specific data that support the narrative)

4.8.2.3 When to Report

The frequency of reporting should be proportional to the size of your company and the scale of stakeholders' concerns, but should happen at least annually. If your company's activities change or new risks emerge, contact stakeholders outside of the regular schedule to discuss these changes. Below is a general guide on reporting frequency.

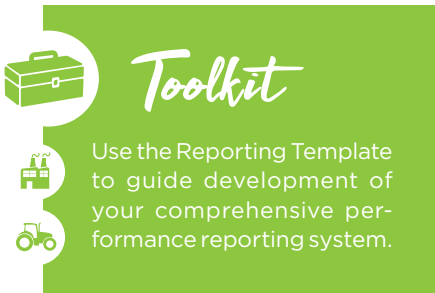
- An Annual Corporate Social Responsibility/Human Rights Report tells the most complete story of your company's efforts in addressing labor risks and ensuring good labor performance. Be sure to devote adequate time and resources to ensure they cover as many items from the 'What to Report' checklist as possible.
- Monthly or quarterly updates in newsletters or on your website are a way to proactively communicate information on your social compliance efforts and programs on a regular basis and provide updates on challenges, incidents, and positive developments.



- Immediate ‘crisis’ communications are typically reactive communication based on an incident, media story, or complaint from stakeholders. Actual or potential impacts on human rights that can affect stakeholders’ safety or welfare should be communicated directly and as quickly as possible. The company should explain how it plans to address the impact. If your company is challenged by stakeholders to explain how you are addressing specific human rights impacts and incidents, carefully consider what you can reasonably and credibly communicate to address the concerns. If the stakeholders involved claim to be directly impacted or if they represent individuals or groups that have been harmed, direct communication is the best strategy. Remember to listen carefully with an open mind to stakeholder concerns. They can provide valuable insight.

4.8.2.4 How to report

There are many ways to report, including publicly and privately, formally and informally. Consider the issue/topic at hand and the intended audience/stakeholder(s) to determine the most effective method in a given situation. Two key rules to consider when deciding how to report:



Toolkit

Use the Reporting Template to guide development of your comprehensive performance reporting system.

- The form should always fit the audience. The chosen form can therefore vary based on the group of stakeholders, the occasion, and differences in language, culture, and literacy. Some possible communication channels for reporting include:
 - Open houses
 - Banners outside the plant’s operations entrance or at other prominent places
 - Brochures distributed in churches, schools, civic centers, etc.
 - Company website
 - Town hall meetings at the local municipality or civic center
- Meetings with representatives of affected stakeholders
- Letters to representatives of affected stakeholders and complainants
- Emails
- Phone calls
- Sustainability reporting (i.e., formal written reports)
- Where the risk of severe labor rights violations are high, it is always best to conduct formal and regular public reporting to respond to and mitigate heightened public interest in such cases.

4.8.2.5 International Reporting Frameworks

In addition to customized reporting tailored to your specific stakeholders and context, you may choose to report either internally or publicly using a standardized reporting framework. Standard reporting frameworks help employers understand what to measure to align their SCS with international labor standards and, because they are widely recognized and accepted, adopting them can help build trust with international investors and clients. While it is not necessary



to use one of these reporting frameworks and they will not be a good fit for every employer, it is worth reviewing some of the possibilities, especially if you are an exporter, a multi-national organization, or partner with stakeholders in other countries.

Some relevant reporting frameworks include:

- Global Reporting Initiative (GRI) Standards¹⁰⁸
- United Nations Guiding Principles on Business & Human Rights Reporting Framework¹⁰⁹
- Workforce Disclosure Initiative¹¹⁰



4.8.3 SPECIAL INFO FOR SMALLHOLDERS

Smallholders rarely have a long list of external stakeholders to report to, but establishing regular internal reporting practices is very important. Internal reporting is a key tool for tracking your improvement over time and identifying successful actions and activities. Smallholders may also be required to report on certain indicators to their buyers on a regular basis to demonstrate compliance with laws or policies or as evidence of progress with corrective actions. Finally, you should report to employees on their topics of interest and any updates that may concern them. Reporting does not have to be through written documents. You can conduct regular meetings with workers and stakeholders and verbally report on progress. If you use this approach, try to keep a regular schedule of such meetings and take notes.

A green rectangular graphic with the word 'Toolkit' in white cursive script. To the right is a white circular icon containing a briefcase. Below the main text is a smaller circular icon with a palm tree. The text reads: 'The Performance Reporting tool provides a brainstorming exercise to help you determine what information you should report on.'

Toolkit

The Performance Reporting tool provides a brainstorming exercise to help you determine what information you should report on.

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4.8.4 SELECT IMPLEMENTATION GUIDANCE*

Allocating People & Resources

- Assign a team (typically the SPT) responsible for external reporting

Developing Code, Policy, Commitment

- Report on a regular schedule—at least annually—and provide immediate updates if new labor risks emerge
- In addition to public and external reporting, establish internal reporting practices for any sensitive or confidential information that can inform learning and continual improvement processes

Communicating, Training & Grievance Mechanisms

- Use regular reporting as an opportunity to communicate the benefits generated by your company
- Translate information into local languages and easily understood formats
- Consider conducting a stakeholder survey to learn how your company is perceived

Reporting for Performance

- Report on your progress implementing commitments
- Report results of monitoring efforts for issues that interest stakeholders
- Report on the outcome of grievance and complaint processes

*Non-exhaustive. Review Ch. 4 Management System Categories for full guidance



LEARNING CHECK



1. Why is reporting important?

Answer: Reporting can help build stakeholder engagement, drive progress, support accountability, showcase accomplishments, and ensure compliance with labor standards.

2. You should publicly report on all labor performance indicators. True or false?

Answer: False. You should publicly report some information about all labor performance areas, but some sensitive or proprietary indicators are not appropriate for a public audience. Consider the issue/topic at hand and the intended audience/stakeholder(s) to determine the most effective method in a given situation.

3. When and how often should you report on labor performance?

Answer: The frequency of reporting should be proportional to the size of your company and the scale of stakeholders' concerns, but should happen at least annually. Most companies should report at least annually and immediately after a crisis, for more regular reporting, consider whether monthly or quarterly reports is most appropriate for your company.





Palma Futuro Project, funded 100% by the United States Department of Labor.

SOURCE MATERIAL

This handbook builds upon, updates, and adapts previous SAI publications, including:

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