



RESPONSIBLE SOURCING TOOL

Seafood |
Tool 10

PROTECTIONS AGAINST TRAFFICKING IN PERSONS¹ Conducting Migrant Worker Interviews

This tool provides a set of sample interview questions to use when conducting targeted migrant and foreign contract worker interviews. It is consistent with the Code of Conduct provisions and benchmarks provided in Tools 1 and 1a, but is not intended to ensure compliance with specific legal requirements, such as the Federal Acquisition Regulation (FAR): Combating Trafficking in Persons. Companies can use this tool to help shape their own worker interview questionnaires, thus improving their auditors' ability to identify possible cases of abuse or recruiter-induced human trafficking at company, supplier and subcontractor facilities.

Note: When planning migrant worker interviews, companies need to understand that migrants are a particularly vulnerable class of workers due to their migrant status. This means that they are in insecure positions, likely do not speak the local language, may lack the social and legal protection of local workers, and may be in a situation of human trafficking because of indebtedness or lack of access to their identity documents. Because of this, migrant workers may be reluctant to talk openly about how they were recruited or their current situation. In order to increase the likelihood of gaining the trust of migrant workers, companies should consider using independent, specially trained local language interviewers and conducting interviews away from the work site, when feasible. Additionally, the following considerations should be taken for all worker interviews:

- 1) Clearly explain the purpose of the interview
- 2) Assure the workers that any information they provide will be kept confidential and that they will be not suffer any retaliation for participating in the interview.
- 3) Also assure workers that they will be paid in full for interviews conducted during working hours

¹ The United States recognizes two primary forms of trafficking in persons: forced labor and sex trafficking. For the purposes of this and other tools in the set, several terms are used such as "trafficking in persons," "human trafficking," and "forced labor." In relation to these tools, they refer to a crime whereby traffickers exploit and profit at the expense of adults or children by compelling them to perform labor.

- 4) Explain to workers that the interview is not a means to resolve their individual grievances or to improve general workplace conditions. The grievance process should be used for that purpose.
- 5) For workers on vessels, it is crucial to conduct interviews in a place with adequate privacy from the captain.
- 6) Finally, keep in mind that with vessel-based workers on long-haul vessels, the most vulnerable workers may not have regular access to ports, and therefore may not be included in worker interviews.

The following is a very exhaustive list of potential questions that could be asked. Auditors need to select those questions most appropriate for the situation being evaluated.

RECRUITMENT AND HIRING

There are many stages in the recruitment and hiring process for migrant workers, and there may be many labor recruiters involved along the way. It is important to discuss the recruitment and hiring process with migrant workers in order to better understand the process, actors, and circumstances involved in placing them at the work site. In the seafood sector, workers may be recruited in their home village or they may utilize the services of a labor broker once they arrive in the port.

Like in other sectors, workers in the seafood sector may pass through a series of agents, each adding an additional debt burden through fees for their services.² Workers may be recruited through formal or highly informal labor recruiters, to whom they owe debt for their job placement. Often, workers recruited through brokers will have no advance knowledge of their actual employer, with whom they may be required to spend months at sea. With every new recruiter's involvement, another door is opened to the potential for abuse and malpractice.

It is also important to discuss labor recruiter and employer orientation procedures to determine whether migrant workers are aware of key policies and procedures in the workplace and terms and condition of work before they start their job. All interviewers should be aware of local terms used for labor recruiters.

² International Labour Organization. *Caught at Sea: Forced labour and trafficking in fisheries*. 2013. www.ilo.org/wcmsp5/groups/public/---ed_norm/---declaration/documents/publication/wcms_214472.pdf.

The following are *some of* the issues an interviewer should discuss with all migrant workers:

- How many labor recruiters were involved in your recruitment in the country of origin?
- What is the name of each labor recruiter or agency involved in the country of origin?
- At the time of recruitment, were you given accurate details about the job location, contract duration, anticipated earnings, working and employment conditions on the job, and living conditions?
- Was this information communicated in a language you understand?
- For workers recruited by formal brokers (some of these questions may not be relevant or may need to be modified where informal brokers are present in a hiring supply chain. For example, rather than asking about orientation, workers can be asked whether and in what format they received information about conditions of work, rights and responsibilities, etc.):
 - Did you participate in a pre-departure orientation?
 - If yes, do you remember what that orientation included? Did it review:
 - Contractual obligations;
 - Terms and conditions of work;
 - Rights and responsibilities on the job, and those of your employer;
 - Living conditions;
 - Company policies; and/or
 - Grievance mechanisms that are in place for the worker on the job?
 - Was the orientation given in your native language or a language you understand?
 - Upon arrival in the destination country, did you:
 - Receive accommodation;
 - Receive an orientation session at the worksite;
 - Undergo a medical examination; and/or
 - Open a bank account?
 - Did you receive orientation on the employer's personnel policies? If yes, what was addressed during the orientation?
 - Personnel policies;
 - Regular wages and hours;
 - Vacations, sick and personal leave;
 - Overtime hours and rates;
 - Grievance procedures;

- Health and safety policies;
- Benefits and deductions;
- Discipline and termination; and/or
- Harassment and abuse.
- Were you given a copy of the employer personnel policies or employee handbook? If yes, was this handbook written in a language that you understand?
- Are the employer policies, procedures and work instructions communicated to you in language you understand?

RECRUITMENT FEES AND EXPENSES

In assessing risk factors for debt bondage of migrant workers, it is essential to obtain a thorough picture of all expenses incurred by the migrant worker in obtaining the job overseas, as well as the manner in which the worker financed these fees. Fees are referred to in various ways.

The questions below will help you determine the full array of fees and expenses that migrant workers may have incurred in obtaining their job abroad, and the terms of any financing arrangements into which the worker may have entered. The interviewer should be sure that the following issues are included in any assessment:

- Were you told by the recruiter that you would be required to pay any recruitment fees or other costs to obtain your job?
- Did you pay a service, placement, or recruitment fee to the recruitment agency in the sending country? If yes, how much was this fee? Did you pay a fee to an individual or sub-agent of the agency? If yes, what was it for and how much did you pay?
- Did you pay a reservation or commitment fee? If yes, how much was this fee? Is the amount refundable and, if yes, when is it refunded? If no, is the amount deducted from the total cost of the recruitment fees charged to you?
- Did the labor recruiter provide you with a written itemized breakdown of the fees and expenses paid? If yes, what did the fees and expenses cover? How much was each fee or expense?
- Who arranged for the processing of your required travel documents, such as work permit, visa, and passport? Was a fee charged for this service? If so, how much was this fee?

- Did you pay fees for any of the following:
 - To register for a skills test or certification;
 - For language-training;
 - For medical or physical examination; and/or
 - For a pre-departure briefing?
- How much did you pay for travel costs (airfare or another mode of travel)? Was this cost included in service or recruitment fees charged by the labor recruiter, or paid directly to a travel agency? Will return travel be paid by the employer or by you?
- Were you required to pay a labor recruiter's fee in the receiving country? If yes, how much was this fee? Was it paid up-front, or is it deducted from your pay?
- Did you pay a deposit or bond of any kind, such as a surety bond? If yes, how much did you pay? What was this deposit or bond for? To whom was it paid?
- Were you required to pay any sort of levy or tax to obtain the job? If yes, how much and to whom?
- Were any fees, expenses, levies, deposits or bonds charged to you paid up-front, or are these deducted from your pay?
- Did you have to borrow any money to pay for recruitment fees and expenses? If yes, how much was borrowed? From whom did the money come? Is there an associated interest rate and, if yes, how much is this? How do you repay the loan? What is the repayment schedule?
- Were you given receipts for all of the fees and expenses you paid to get your job?
- Have you been paid back for any fees or expenses you paid to the recruiter or others to get your job? If yes, who reimbursed you and when did that happen?

Red Flags

- Recruitment fees paid by workers are illegal.
- Recruitment fees paid by workers are acting to bind workers to their jobs in any way.
- Interest rates on any loans or advances taken to pay fees are acting to bind workers to their jobs in any way.
- Bonds or deposits are acting to bind workers to their jobs in any way.
- Workers report paying fees but cannot provide detail on amounts or who fees were paid to.

Workers report paying fees but cannot provide any written accounting (in the case of informal brokers, this may be a handwritten receipt, etc.)

CONTRACTS OF EMPLOYMENT

Formal and signed contracts of employment between the worker and employer or labor recruiter are legally binding agreements and necessary to provide employment protection to migrant or foreign contract workers. They are a cornerstone to monitoring social compliance and essential to clarifying the employment relationship and its terms and conditions. For companies, when assessing the recruitment and hiring of migrant workers, it is necessary not only to examine copies of these contracts to determine wage levels and other entitlements under the contract; it is also necessary to understand how and when the contract was signed, and under what conditions.

Many fishing sector workers, both vessel-based and land-based, do not have contracts with their employer. Because of their inherent isolation, vessel-based workers are particularly vulnerable to deception regarding conditions of work, because they may not be able to leave once on-board. In many fisheries, it is standard practice for written contracts not to be issued to workers, and for workers to lack any formal training or orientation. Agreements are likely to be only verbal, at best, and are subject to change at the discretion of the boss or employer.

Consider discussing these issues with workers as an important part of your worker interview process:

- Did you sign an employment contract for the job? If yes, with whom was the contract signed: the company/employer or the labor recruiter?
- Were the terms of the employment contract explained to you? If yes, who explained these terms to you? Do you fully understand the terms and conditions of the contract? If no, what parts are not understood?
- When and where was the contract signed (e.g. prior to departure or upon arrival at the worksite)?
- In what language is the contract written and do you understand that language?
- Were you given a copy of the contract to review prior to signing? Once signed, were you given a copy of the signed contract?
- Was the contract provided to you at least 5 days before departure from your home country to the site of the work?

- Did you have to sign two sets of employment contracts? If yes, were both sets the same in content and, if no, how were they different? Were these differences explained to you, and what was the reason given?
- Are the details contained in your employment contract consistent with the details that were provided at the time of recruitment? If not, what has changed?
- Are the actual terms and conditions on the job consistent with those that are described in the employment contract?
- Was your original contract amended in any way following signature? If yes, do these amendments improve or worsen your employment conditions? Were these amendments made with your prior knowledge and informed, written consent?
- Were you pressured or threatened in any way into accepting the job or any of the terms included in the employment contract?
- Does the contract clearly describe the process for early contract termination, including the minimum notice period and any financial penalties involved?
- Under what conditions can the contract be renewed?

Red Flags

- Workers do not have written contracts.
- Contracts are not in a language workers understand.
- Contracts were signed after work already undertaken or after worker embarked on vessel.
- Contracts provided by workers and employers do not correspond.
- Workers report that terms of employment are not consistent with contract.
- Workers report signing blank contracts or other contract substitution.
- Contracts do not contain all detail required by law and company policy.
- Terms of contract violate company/supplier policy.
- Terms of contract violate relevant laws of relevant states.

DOCUMENT RETENTION

Confiscating, destroying, withholding or otherwise denying access to personal documents can be a form of coercion that leaves migrant workers highly vulnerable to trafficking. When labor recruiters or company or supplier/subcontractor facilities take away workers' passports, residency or work permits, personal identity documents, or even ATM cards, this not only limits their freedom of movement and personal freedom; it effectively binds them to that employer or labor recruiter, restricting their ability to

terminate employment or leave the job without the threat of losing this valuable property. In many cases, it also means that the worker is not able to take up a new job, access social benefits to which he or she may be entitled and is vulnerable to deportation or detention by immigration authorities. It is essential that the company address these issues in their interviews with migrant workers:

- Did you submit any original copies of your government-issued identification, passports or work permits to the employer or receiving country labor recruiter? If yes, what did you submit (e.g., passport, residency permit, work authorization, identity documents, ATM or bank card, or other travel documents, for example the return portion of travel tickets)? Do you know the reason for this?
- Are your personal documents being withheld due to legal requirements or did you request that the employer or labor recruiter hold them?
- Do workers have free and unhindered access to their documents?
- What is the procedure for getting the documents back?
- Are workers given an exact copy of the document when it is not in their possession?
- Does the employer or labor recruiter nominate a responsible person to ensure that workers have free access to their documents upon demand?
- Were workers given advanced notice of these requirements and procedures?
- Have workers ever encountered lengthy or otherwise burdensome prerequisites when accessing their passport or other personal documentation?
- Do you have free access to a locked, secure storage space for your personal documents and valuables?
- Where is your locked storage located (accommodation, work location, both)?
- For vessel-based workers: Are your documents withheld from you when in port?

Red Flags

- Workers do not have any access to personal documents.
- Workers report that their freedom of movement has been limited by inability to access documents.
- Workers report that their ability to access grievance mechanisms or other benefits has been limited by their inability to access their documents.

DEPOSITS

So-called “security deposits” or “runaway insurance” are sometimes used by labor recruiters or employers to limit migrant workers’ ability to terminate employment and

find a new job. This “fee” is typically paid up-front at the time of recruitment, and is kept until the contract has been fulfilled. If the worker terminates their employment prior to the contract’s end date, they run the risk of losing their money. Auditors should be aware of this abuse, and discuss it directly with workers. Here are some of the issues a company may want to consider:

- Did you pay a deposit or bond of any kind during the recruitment process?
- Did you pay a fee or bond at any other time during the employment relationship?
- Are there any deductions from your pay for deposits, bonds or other payments that you do not understand?
- If yes is answered to any of those questions:
 - How much was the fee? Did you pay it all at once or is it being deducted from your pay?
 - Who did you pay?
 - When do you expect to get the deposit back?
 - What are the conditions under which the amount will be returned to you?

Red Flags

- Workers report paying a deposit or bond of any kind.
- Workers report that a deposit or bond is tying them to their job or employer.
- Workers do not understand any deductions being taken from their wages.
- Workers were not fully informed of any deposits or bonds taken during the recruitment or hiring process.

WAGES AND WAGE DEDUCTIONS

Auditing wage and salary payments can be one of the most complex and challenging aspects of a social audit. This is no less the case when assessing wage conditions facing migrant and foreign contract workers who are highly vulnerable to debt bondage resulting from withheld wage payments, excessive deductions from wages, or fraudulent practices with regard to advances and loans provided by the employer or labor recruiter.

Under-payment, non-payment, and withholding of wages are common in the fishing sector, particularly for workers aboard fishing vessels. This risk is compounded by the fact that many workers do not understand how their pay is calculated and boat captains do not clearly communicate payment systems and structures, leaving workers further vulnerable to exploitation.

There are two primary types of payment systems in the fishing sector: wages and “shares.” Under a wage system, a fisher is considered an employee of the captain or the vessel owner and receives a set amount of cash wages based on hours worked. Under a share system, pay is based on an allotment of net proceeds from the catch after expenses for output (food, fuel, etc.) are deducted. Under the “share” system, workers are considered ‘partners’ in the fishing venture rather than employees. Boat owners may exploit share systems to avoid an employer-employee relationship and circumvent employment laws.

Land-based workers, those working in docks/ports, in processing plants or on aquaculture farms, may also not understand their payment structure and have unexplained deductions taken from their pay.

Many employers in the seafood supply chain may be relatively informal or small-scale, which can impact expectations for their management systems. Captains or skippers on smaller vessels, for example, will likely not have formal payroll documents. However, they may have handwritten records of when and how much workers were paid.

The ultimate goal is that employers have a transparent system that documents the amount of work a worker performs: the wage system, how many hours worked or quota units completed, what overtime wages are if applicable, and how much money workers received after deductions at the end of the pay period. Workers should be able to receive some sort of pay-slip, even if handwritten, that both the worker and the boat captain can confirm is accurate.

To address this complexity and establish a clear picture of migrant worker wage conditions, companies may wish to consider discussing the following with workers:

- Who pays your wages? Are you paid by the employer/work site or the labor recruiter?
- How are you paid (e.g. hourly, daily or piece rate; in cash, check or direct deposit), and do you know if you are paid at the same rate as local workers?
- Do you receive your pay on time? Have wage payments, or any portion of wages, ever been delayed or withheld? If yes, what were the circumstances of this?
- Do you receive a pay slip or wage statement on payday? If yes, is this pay slip in a language you understand, and does it clearly indicate wage calculations and any deductions that are made from your salary?

- Are any deductions made from your wages? If yes, how much is deducted and what for (e.g. meals, transportation, lodging, utilities, uniform, tools, other)? Were you made aware of these deductions when you signed your contract and did you approve of them? Were you requested to sign a document to authorize the deduction(s)?
- Do you ever receive wages in the form of non-cash or “in-kind” payments? If yes, what percentage of the wage has been paid in this way?
- If you participate in a “share” system, are the terms of that system agreed upon in writing before each voyage? Were the terms and manner of calculation explained to you? Do you have a copy of that agreement? Are you allowed to observe any weighing or grading of the product that affects your earnings?
- Have you ever received an advance on your wages or a loan from the employer or labor recruiter? If yes, what were the terms of this loan, including the interest rate and financing period? Have the terms of the loan ever been changed without your consent?
- Do you participate in a savings program sponsored by the labor recruiter or employer? If yes, is this program voluntary? Did you sign a written consent form to authorize deductions for voluntary savings? Where are your savings kept? If savings are kept in a bank, do you have free access to your bank account? When do you get their savings back? Have you had any difficulties in accessing your savings or getting them back?
- Is there anyone else, apart from yourself who has access to your bank account, for example through an ATM card or power of attorney? Have you ever authorized another person to access your account to make a withdrawal? If yes, who else has such access?
- Does the employer or labor recruiter limit in any way your freedom to use your wages as you see fit?

Red Flags

- Workers do not receive pay slips or written calculations of share profits at all.
- Pay slips are provided but are in a language the workers (particularly migrant workers) do not understand.
- Pay slips are inaccurate or do not contain adequate detail of how wages or earnings are calculated.
- Workers do not understand how wages or “shares” of profits are calculated.
- Workers feels that the wage or pay system in practice was not adequately explained to them prior to beginning work.
- Workers are not paid at least monthly.

- Workers (or their families) are provided with cash advances and in-kind supplies, the value of which is deducted from their pay at high interest.
- Fishers (or their families) end fishing voyages with greater debt to the captain, skipper or boat owner than they began with.
- Workers pay slips do not correspond to records provided by the employer.

HOURS AND INVOLUNTARY OVERTIME

Unless specified in the employment contract or collective bargaining agreement, compulsory overtime can create a situation of trafficked labor to which all workers can be subject, not only migrant and foreign contract workers. However, the latter may be at greater risk of this abuse because of their heightened vulnerability, and the many pressure points that brand or supplier facilities, or labor recruiters, may have to exploit their vulnerability.

Vessel-based workers are often required to work around the clock with no “normal” working hours. The work required for harvesting catch is so intense that several days may go by with little opportunity for rest. Small vessels may go out every day to transport fish, while larger vessels remain at sea for months at a time.

Land based workers, particularly during “high-production seasons,” may also be required to work excessive overtime to meet demand. Addressing this issue should be central to all worker interviews; it is even more important for discussions with migrant workers.

- How often do you have to work overtime, and for what reasons?
- Is overtime always voluntary? If no, what are the circumstances involving involuntary overtime?
- Are you free to refuse overtime without threat or fear of punishment? What happens if you refuse to work overtime?
- Are you given advance notice by the employer or labor recruiter when overtime is required?
- Are you allowed to take meal breaks and rest breaks?
- How many rest days do you receive a week?
- How do you record hours worked?
- Do you experience fatigue that prevents you from doing your job safely?
- For vessel-based workers, how many consecutive rest hours do you have for sleep?

Red Flags

- Work hours exceed legal or company limits, whichever is stricter.
- Not enough workers are employed to meet production targets, quotas or actual catch/processing volume.
- Number of workers does not expand to meet seasonal requirements.
- Workers report symptoms of fatigue (exhaustion, unable to communicate clearly, increased frustration, inability to focused on tasks, cutting corners to finish more quickly, taking unusual risks, slow response times, not noticing impending physical risks, making unusual mistakes on routine tasks).³
- Employer's records of work hours are inconsistent with hours reported by workers.
- Vessel-based workers report rest hours divided into small chunks (i.e. multiple two-hour rest periods that do not allow for restorative sleep).

FREEDOM OF MOVEMENT AND PERSONAL FREEDOM

Restrictions on freedom of movement for migrant workers can exist in the workplace or in the ability to freely come and go from the dormitories where they live. Restrictions can be built into employer or labor recruiter policies; and in rules and regulations governing worker residences. In some cases, there may be legal and regulatory restrictions to workers' ability to freely leave the employer or housing premises during non-work hours. While in other, the restrictions may result from the security environment; cultural norms or considerations; active threats, intimidation and harassment by a manager, labor recruiter, or security guard; and deceptive or hidden forms of coercion such as passport confiscation, which is addressed above.

Most forms of restrictions on freedom of movement are wholly unreasonable and highly abusive. To make sense of this complex issue, here are some of the topics that can be included in interviews with workers concerning their freedom of movement and personal freedom:

- Are there any restrictions on your freedom of movement in the workplace during working hours? If yes, what are these restrictions? Do you think they are reasonable?

³ International Labour Organization. 2014. *Safety and health training manual for the commercial fishing industry in Thailand*. http://www.ilo.org/wcmsp5/groups/public/---asia/---ro-bangkok/documents/publication/wcms_329102.pdf.

- Do security personnel ever restrict your freedom of movement in the workplace for reasons other than workplace security?
- Are you ever restricted from or monitored when using the toilet facilities? Are you free to get drinking water whenever they wish?
- Are you free to perform religious obligations without restriction?
- Are you free to leave the workplace immediately after your shift? Are you able to get permission to leave the employer during work hours under reasonable circumstances? What is the procedure for requesting this permission (e.g. how many signatures are required to request a gate pass)?
- If you live in a dormitory (or other housing) provided or operated by the employer or labor recruiter, are you required to live there as a condition of recruitment or continued employment? Are you free to leave the dormitory and reside elsewhere? Are you free to come and go as you please during non-working hours? If not, what are the restrictions on freedom of movement?
- Does the dormitory have a curfew? Are there any dormitory rules and regulations that you believe unreasonably restrict your personal freedom?
- How often are vessel-based workers allowed access to shore/port? Are workers allowed to exit the vessel when docked?
- How long is the typical voyage?

Red Flags

- Transshipment at sea is used (may greatly increase time vessel-based workers spend on vessels between access to port).
- Workers do not have regular access to shore/port.
- The typical voyage is longer than four months.
- Workers report that their freedom of movement is restricted by their employer.

WORKPLACE DISCIPLINE

Disciplinary measures and, in particular, the penalty of dismissal and repatriation can be abused to threaten, take advantage of, and apply pressure on migrant workers. While some measures may be justified in reacting to misconduct, disciplinary measure should not result in compulsory labor or an obligation to work. It is important for the auditor to discuss disciplinary measures and determine that they are fair, objective, transparent, and communicated to workers in language they understand. Here are some of the issues auditors may wish to discuss:

- What steps are taken for disciplining a worker?

- What types of misconduct carry the penalty of dismissal and repatriation?
- Is there a clear process that includes investigation before workers are terminated and repatriated?
- Have you ever been disciplined at work? If not, do you know of others that have? Do you feel that disciplinary practices are fair?
- Have you even been given a fine or wage deduction as a disciplinary measure? If yes, could you describe the circumstances?
- Do deductions for tardiness or time missed ever exceed the wage equivalent of the time missed?
- Do disciplinary measures ever involve forced or compulsory work as punishment for a workplace infraction?
- Do you know if workers are ever forced to sign a letter of resignation?

Red Flags

- Workers report verbal, physical, or sexual abuse as punishment.
- Workers report financial penalties as punishment.
- Workers report difficult, degrading, or compulsory work as punishment.

THREATS OF VIOLENCE AND INTIMIDATION

Harassment, intimidation, and threats or use of violence can take many forms in the workplace or in employer - or labor recruiter-operated residences. They can be perpetrated by a supervisor, employer manager, recruiter representative, dormitory manager, security guard, or even a fellow worker at almost any stage of the employment relationship, including recruitment and hiring. The aim may be to frighten the worker or pressure them into accepting certain terms and conditions of employment or living conditions; or it may be to force them to work overtime or perform hazardous or life-threatening tasks.

Workers on fishing vessels are particularly vulnerable. Fishing crews are generally overseen by a captain or boss. The captain or boss has a high financial stake in a profitable voyage, incentivizing abusive management practices including actual or threatened physical abuse (hitting, violence with weapons, denial of rest), verbal abuse (yelling, threats), and other forms of intimidation or threats. In some cases, captains

may force workers to use amphetamines or other drugs as a way to combat fatigue.⁴ Crew members have reported witnessing murders of crew members at the hands of bosses.⁵

Whatever the case, there should be a strong policy in place to prevent such behavior, and migrant workers are a key potential source of information in determining employer or recruiter compliance with that policy. Auditors should consider discussing the following:

- Have you ever been subject to or witnessed verbal, physical or sexual harassment or abuse (including threats)? If yes, what happened, when and where did it happen, and who was involved? Is this abuse on-going? Was the incident(s) reported to employer management or the labor recruiter? What actions were taken to correct the abuse?
- Are you aware of employer policies and procedures for dealing with harassment and abuse complaints (e.g. reporting, investigation, follow-up, and sanctions)?
- For formal workplaces, does the worksite conduct regular anti-harassment and abuse training for workers?

Red Flags

- Workers report any actual or threatened verbal, sexual, or physical abuse or harassment, of themselves or others. Any instance of abuse on vessels, where workers do not have an opportunity to leave, should be treated as a zero-tolerance issue.

HOUSING AND LIVING CONDITIONS

Vessel-based workers often live in cramped, unsanitary, and unsafe quarters on fishing vessels. They are not provided privacy or personal space, contributing to mental stress, poor sleep and fatigue. Most vessels do not have any beds or mattresses, and in some cases, workers take turns using the very limited available sleeping facilities. Even while docked, many workers have no other option other than to sleep on the boat, or on the port grounds. There is often a lack of potable drinking water and hygienic (or any)

⁴ Service, Shannon; Palmstrom, Becky. "Confined to A Thai Fishing Boat, For Three Years." *National Public Radio*. June 19, 2012. http://www.npr.org/2012/06/19/155045295/confined-to-a-thai-fishing-boat-for-three-years_

⁵ International Labour Organization. *Caught at Sea: Forced labour and trafficking in fisheries*. 2013. http://www.ilo.org/wcmsp5/groups/public/---ed_norm/---declaration/documents/publication/wcms_214472.pdf_

sanitary facilities. Many vessels also have minimal space for workers to prepare and eat food. While at sea, workers have very limited access to communication.

Land-based workers may also experience degrading living conditions provided by their employer. This is particularly problematic for workers on isolated aquaculture farms who may have no alternate housing options.

- Are you provided housing/sleeping quarters?
- For vessel-based workers, where do you sleep while in port?
- How much are you charged for your housing?
- Describe where you sleep. Can you get good rest? Are there shower and toilet facilities in your housing accommodation? Describe where you shower and use the toilet.
- Are there food preparation and dining facilities? Describe where you prepare food and eat.
- Do you always have access to potable drinking water?
- What common illnesses and injuries have you or other workers experienced? Do you believe the conditions of your living accommodations have made you ill?
- Do you feel that you have adequate privacy?
- What safety or security hazards are workers subjected to? Do you feel safe and secure in your living accommodations? If no, why not?
- Did you understand what your living conditions would be like before you accepted this job?
- What would happen if you complained about living conditions?

Red Flags

- Workers report feeling unsafe or insecure.
- Workers report unsanitary or dangerous conditions.
- Workers cannot effectively lodge complaints about living conditions.
- Accommodations are visibly decrepit, poorly maintained, dangerous, or unsanitary.
- Workers cannot get enough rest to safely perform their jobs due to poor conditions.
- Workers are suffering illness or injury due to poor conditions.
- Employer does not keep maintenance or inspection records or records do not correspond with condition of accommodations (i.e. records show inspection of fire extinguishers that are not working or not present).

WORKER COMMUNICATION AND GRIEVANCE PROCEDURE

An effective grievance procedure and complaints mechanism in the workplace that allows migrant workers to confidentially raise issues about labor recruiter or worksite practices or the conditions they face in the workplace or dormitory is an important element in taking corrective action against abuse and exploitation. It is a key first step in remediating existing problems, and doing so at the level where problems exist.

However, in many cases, grievance procedures may not even exist; they may not be effective, trusted or used by migrant workers; or they may only apply to the employer and not to labor recruiters, where significant forms of abuse may occur. In this case, it is important for auditors to investigate fully, and discuss with workers the options they have available to them to raise questions and complaints.

Grievance mechanisms are particularly important for workers who are at sea for long periods, as they likely lack any means of communicating with their family, law enforcement, or other support in the case of an exploitative situation.

- How would you bring issues or complaints to the attention of the employer or labor recruiter?
- Is there someone available at all times to receive and process grievances and other complaints? If yes, do you know the position of this representative (works for the company, an independent 3rd party, etc.)? Does this person speak your language and that of other migrant workers? Are you and the other workers comfortable bringing your complaints to this person?
- Is there a mechanism in place for you to raise a grievance with someone other than your direct supervisor?
- Is there an anonymous way for you to report grievance (without giving your name)? What means are in place to protect your identity when reporting a grievance?
- Do you have access to any type of communication mechanism (phone, text, etc.) that is private/not under the surveillance of your employer?
- If a grievance/communication method is available, are there times when that method is unavailable? (i.e. only able to use phone hotline while in port, but not while in sea).
- Are the responses to grievances and actions taken to address them communicated to the workers? If so, what is the main method of communication?

- What can you do if you disagree with the way a grievance is resolved? Have you or anyone you know ever appealed a grievance finding? If so, what happened?
- Do you and other workers feel that grievance process is effective? If not, why not?
- Are you free to join or form a trade union? Has the employer done anything, including interference or penalties, to prevent you or others from joining or forming a union?

Red Flags

- Workers do not have access to grievance mechanisms that are anonymous, transparent, effective and fair.
- Workers do not have continuous access to some form of grievance mechanism, including while they are at sea.

TERMINATION OF EMPLOYMENT AND REPATRIATION

Once they have begun work, the ability of migrant workers to terminate their employment at any time without penalty and with reasonable notice is central to ensuring that they work in a free employment relationship. In speaking with migrants, companies may wish to probe this issue, and seek to identify whether any limitations exist that prevent workers from terminating their contracts before they are finished.

- Are you and other migrant workers free to resign from your position without penalty prior to the end of your contract? For vessel-based workers, what would happen if you requested termination of employment while at sea? If no, what are the penalties you face? Who pays for your return travel if you quit before your contract is completed?
- Who pays for return travel if work is no longer feasible due to external forces (i.e. shipwreck or foundering)?
- What is the required notice period for terminating a contract early?
- Can you describe the procedure you would need to follow in order to terminate your contract early? How did you learn about the process?
- Do you know what would happen if there is an emergency back home and you couldn't give the required notice?

- If you participate in a voluntary savings program arranged by your employer or labor recruiter, do you have free access to all savings and monies owed at the time of contract termination?

Red Flags

- Workers do not feel free or able to leave their employer.
- Workers would suffer financial penalty caused by terminating their employment.
- Vessel-based workers have no means to terminate their employment and physically leave the vessel.