



# RESPONSIBLE SOURCING TOOL

## Food & Beverage | Tool 3

### PROTECTIONS AGAINST TRAFFICKING IN PERSONS<sup>1</sup>

#### Sample Benchmarks of Good Practice in Recruitment and Employment in Food and Beverage Supply Chains

*Benchmarks based on company policy that define good practices can be used to evaluate the labor and human rights performance of suppliers and labor agents. The set of sample benchmarks below is consistent with the sample Code of Conduct provisions listed in Tool 2 and supports policy development covering labor recruiters as a key player in global supply chains. These benchmarks can also serve as a basis for establishing and monitoring key performance indicators; however, they are not intended to ensure compliance with specific legal requirements, such as Federal Acquisition Regulation (FAR): Combating Trafficking in Persons.*

*Throughout this document and other tools for compliance in the food and beverage sector efforts have been made to align with both international and voluntary standards in the agricultural sector. The International Labour Organization (ILO) is the UN agency that sets internationally recognized labor standards.*

*Companies should work to cascade and enforce their Code of Conduct throughout each relevant tier of their supply chain. This is particularly important for food and beverage supply chains, because human trafficking risk, as well as risk of other labor abuses, increase upstream in additional tiers of the supply chain. Processed foods may include many different supply chains that combine raw ingredients, such as fresh produce, animal products (like dairy or meat), additives (like preservatives and flavorings), and packaging. For guidance on mapping complex food and beverage supply chains, see [Tool 6](#).*

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<sup>1</sup> 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.

## HUMAN TRAFFICKING, INCLUDING FORCED LABOR

- Company policies and practices express a clear prohibition of, forced, compulsory, bonded, or indentured labor that applies to all entities in its supply chain, including those involved in the recruitment, selection, and hiring of workers. Company policies and practices also express a clear prohibition of sex trafficking and the procurement of commercial sex.
- Clear and transparent human resource practices on recruitment, contracts, wages, and working hours are adopted by the company and its subcontractors to minimize the risk of human trafficking.
- The company, and suppliers, subcontractors or agents acting on its behalf, comply with all relevant local laws and regulations, including those concerning the prohibition of human trafficking in each jurisdiction in which they operate.
- The workplace is free of any form of, forced, compulsory, bonded, or indentured labor, or involuntary prison labor.
- Workers enter into employment freely and employment terms and conditions are agreed to voluntarily, without deception or threat of penalty.
- All work is voluntary.
- Workers have the freedom to terminate their employment at any time without penalty, given notice of reasonable length (not to exceed 30 days).

## CHILD LABOR

- Company policies and practices express a clear prohibition of child labor that applies to all entities in its supply chain, including those involved in the recruitment, selection, and hiring of workers.
- In compliance with ILO Convention 138, no one under the age of 15 (or under the age for completion of compulsory education, whichever is higher) is employed.
- Workers' ages are verified through checking standard age verification documents, when available, or through alternate documents such as local school records or attestations from community leaders.
- No person under 18 is employed to work in hazardous conditions, to work at night, or to work overtime.

- On family farms, children between 13 and 15 (or who are above the minimum age for light work as defined by national law) participate only in light work. This work:
  - Does not involve hazardous work.
  - Is not harmful to the child’s development.
  - Takes place under adult supervision.
  - Does not exceed two hours per day.
  - Does not interfere with educational opportunities or ability to complete school work.

### **CHILD LABOR AND TRAFFICKING RISK**

Child labor is not synonymous with trafficking in persons, but the drivers for both may be similar, including the demand for cheap, exploitable, unskilled labor, poverty, unequal access to education, and exclusionary social attitudes based on caste, gender, immigration status, or ethnicity. Child labor and the worst forms of child labor are widespread in informal economic sectors.

The risk of child labor is closely tied to the economic wellbeing of parents. In the case of agriculture, for example, the importance of farming to both livelihoods and national GDPs makes many developing economies — and farmers themselves — vulnerable to price volatility tied to fluctuations in global agricultural commodity prices, variable weather patterns, disease, and overall productivity levels. This volatility can cause farmers producing for commercial markets to operate on extremely slim, or even negative profit margins. Farmers may fall into increasing cycles of debt as they take out loans — possibly with disadvantageous terms — to finance their operations. These livelihood insecurities can drive farmers to rely on unpaid or underpaid labor, potentially including child and family labor, migrant workers, or casual hired workers, all of whom have characteristics making them vulnerable to potential exploitation.

Children working in agriculture may be unpaid family members working on family-owned farms or they may work alongside their parents or independently in waged agricultural jobs on commercial farms and plantations. They may also work as part of a contracted migrant family unit.<sup>i</sup> There is a relatively low age of entry for child labor in agriculture, with some children starting as young as five to seven years old.

Children may be more likely to work on farms during peak labor periods, such as planting and harvesting. When harvests overlap with the school year, children are likely to leave school at least temporarily. Children of migrant farmworkers, who are likely to work on farms themselves, may also be more likely to abandon their education. Particularly when migrant families move to follow crop cycles, children may not be able to stay enrolled in school.

## RECRUITMENT FEES AND EXPENSES

- The company has a written policy declaring that workers shall not pay any amount to secure a job with the company or with a supplier or subcontractor.
- The job advertisements from the company and its subcontractors and suppliers include the statement that no fees shall be charged at any phase in the recruitment and hiring process.
- The employer covers all recruitment and processing fees, costs, and expenses, including those associated with securing identity cards, medical certificates, and examinations, skills testing, and travel from the workers' home to the location of employment.
- The company has mechanisms to continuously monitor and ensure that workers are not charged any amount to secure a job.
- The company only engages recruiters, agents, and sub-agents who do not charge fees to jobseekers.
- The company, or subcontractors acting on its behalf, has means of informing jobseekers at the point of recruitment that workers do not pay fees or costs for any services directly related to obtaining employment.
- The company or receiving country recruiter has a verification process to ensure that workers are not charged any fees.
- Workers found to have been charged fees are repaid and contracts with recruiters found to have charged fees are terminated.

### **Fees and Trafficking Risk**

Fees are often charged to workers at a variety of points in the recruitment, hiring, and employment process, and frequently charged in the form of cash or in-kind property, or deducted from wages. The different types of fees regularly charged to workers by third parties, such as labor brokers, are listed below:

- Fees covering passport/identity documentation or visas (as well as any secondary costs associated with procuring documentation such as for security clearance, birth certificates, or document replacement).
- Transportation and lodging costs between workers' home and worksite.
- Costs of orientation and/or training either pre-departure or at worksite.
- Costs of medical examination.
- Deposit or bond required by intermediary or employer.
- Costs associated with paying workers' salary, such as bank fees.
- Fees for mandatory daily transport to a worksite provided by employer or intermediary.
- Costs of work-related equipment, tools and apparel.

It should be noted that the Federal Acquisition Regulation (FAR) prohibits all recruitment fees. For a comprehensive list of types of fees that workers may encounter, see:

- [responsiblerecruitmenttoolkit.org/wp-content/uploads/Eliminating-Recruitment-and-Employment-Fees-Charged-to-Workers-in-Supply-Chains.pdf](https://responsiblerecruitmenttoolkit.org/wp-content/uploads/Eliminating-Recruitment-and-Employment-Fees-Charged-to-Workers-in-Supply-Chains.pdf)
- [ILO's General Principles and Operational Guidelines for Fair Recruitment and Definition of Recruitment Fees and Related Costs.](#)

## HEALTH, SAFETY, AND WELLBEING

- Employers provide workers with safe and hygienic working and living environments in accordance with prevailing industry standards, paying special attention to prevention of accidents and incidences, management of identified hazards, fire safety, emergency procedures, worker training, first aid and access to medical services, personal protective equipment, equipment and electrical safety, noise, lighting and ventilation, chemical usage in agricultural contexts, sanitation, access to clean drinking water and food preparation hygiene.
- Employers conduct workplace health and safety risk analysis to identify possible hazards and corresponding controls. (For an example of such an analysis for a small-scale farm, see Ireland's Health and Safety Authority's *Farm Safety Code of Practice Risk Assessment Document*:  
[https://www.hsa.ie/eng/Publications\\_and\\_Forms/Publications/Agriculture\\_and\\_F](https://www.hsa.ie/eng/Publications_and_Forms/Publications/Agriculture_and_F)

orestry/Farm Safety Code of Practice Risk Assessment Document.pdf. For an example of a sample risk assessment for a poultry farm see the United Kingdom's Health and Safety Executive's *Example risk assessment for a poultry farm*: <http://www.hse.gov.uk/risk/casestudies/pdf/poultryfarm.pdf> ).

- The employer provides workers with information about and instruction on the health and safety hazards of the operation, their jobs, and any precautions needed to prevent injury and illness in a language each worker understands.
- The employer provides workers with appropriate and fully functional personal protective equipment, at no cost to the worker, as well as instruction on how to properly wear and use it.
- All activities, machinery, equipment, chemicals, tools, and processes used are safe and comply with national safety and health standards.
- Workers are consulted on health and safety matters, participate in the review of health and safety measures, and where national law allows, select representatives for health and safety committees.
- Chemicals used in an agricultural context, and the handling of chemicals, comply with national health and safety standards; workers who prepare, handle, and/or apply chemicals are provided adequate information about them.
- Health and safety measures apply to seasonal and temporary agricultural workers in the same manner that they apply to permanent agricultural workers.
- The reproductive health of women agricultural workers is considered relating to pregnancy and breastfeeding.
- Agricultural workers have free access to clean, potable drinking water at all times within a reasonable distance from where they are working. In hot climates, or when there is a high heat index, workers have access to shaded areas to rest.
- Workers have access to sanitation facilities and adequate breaks in order to access them.
- Processing and/or harvesting lines move at a reasonable speed that do not require the worker to work at an unsafe pace.

#### **Hazardous Work and Trafficking Risk**

The International Labour Organization recognizes agricultural work as a particularly hazardous form of work. Agricultural working conditions vary depending on country, type and size of farm, and working methods. Agricultural workers face a wide range of health and safety risks including prolonged exposure to heat resulting in heat-

related illness, exposure to agricultural chemicals and pesticides (which can lead to skin rashes, forms of cancer, reproductive complications, and neurological disorders), respiratory diseases, noise-induced hearing loss,<sup>ii</sup> and injuries from repetitive motion stress and heavy lifting. When workers experience prolonged exposure to heat, or work in hot climates, it is imperative that they are provided access to shade, periodic breaks in the shade, or a cool rest area, and adequate drinking water.<sup>iii</sup>

Meat processing is also recognized as a hazardous industry within the food and beverage sector. Workers in meat processing plants may encounter multiple hazards, including exposure to biological agents during the slaughter of animals and handling of raw meat, musculoskeletal disorders from repetitive movements, exposure to hazardous chemicals used in cleaning processing plants, high rates of occupational noise, risk of injury from machines and sharp objects used to process meat, and slippery and wet floors. Workers may have to meet processing quotas and keep up with swiftly moving processing lines, requiring them to work at an unsafe speed which may result in accidental injury.<sup>iv</sup>

## CONTRACTS OF EMPLOYMENT

- All candidates (including hired workers and tenants) are clearly informed of the terms and conditions of employment, and successful candidates are provided a copy of the contract.
- Tenants or sharecroppers understand and freely consent to the duration and terms of tenancy, mode of compensation, deductions from pay, and hours and nature of work.
- All workers are provided a signed copy of their original contract, in their native language or a language the worker understands.
- The company explains the terms and conditions of the contract in the workers' native language or a language the worker understands and has means to verify that the terms are clearly understood and fully agreed to by the workers.
- Employment contracts clearly specify the rights and responsibilities of workers with regard to wages, benefits, hours of work, including regular hours and overtime requirements, days off and annual leave, location of the work, living conditions, housing arrangements, work related hazards, and disciplinary and



- other procedures that can lead to termination, as well as appeal procedures and grievance mechanisms consistent with applicable law.
- The details of working conditions described at the point of recruitment are consistent with the details contained in the employment contract at the time of hiring, and with actual job conditions and responsibilities.
  - Company policy prohibits the substitution of original contract provisions with those that are less favorable to the workers. Any amendments made to improve conditions are made with the knowledge and the informed, written consent of the worker.
  - Changes to working conditions are made with the knowledge and consent of the workers. Consent is obtained voluntarily and without the threat of penalty. No changes are made that in any way diminish the workers' originally anticipated wages, benefits, or other conditions of work; or place the workers in a position of physical or mental risk or peril, or other form of disadvantage or vulnerability.
  - Employment contracts clearly stipulate the rights and responsibilities of each party regarding the termination of employment.
  - Employment contracts clearly specify the circumstances in which workers can terminate their contract without penalty, given reasonable notice, and in accordance with national law. The required notice period for workers to terminate their contracts early shall not exceed 30 days or as specified by local law, whichever is shortest.
  - The notice period shall be waived in situations where the worker has suffered harassment or abuse or is a victim of trafficking in persons. In such cases the employer shall also be responsible for paying the cost of return transportation for the affected worker.

#### **Alternative Types of Contracts**

While some agricultural workers are waged workers, others are tenants or sharecroppers, meaning they work on land owned by someone else. Tenants and sharecropping farmers may work in exchange for a percentage of the overall harvest or for the entire harvest of one portion of the land and/or pay rent in the form of cash, labor, and/or a percentage of harvest of produce. Tenants and sharecrop farmers may be provided housing and food by the landowner, which may be deducted from the tenants' total earnings.



If and when tenants and sharecropping farmers have contracts, they are likely to be contracts with a landowner rather than a formal employer. The following points can be considered benchmarks of good practice regarding contracts between landowners and tenants and/or sharecroppers:

- Contracts are provided in writing and include: the names of parties involved, a description of the land and related inventory, amount and form of rent or amount and form of remuneration; contracts are understood and agreed upon by the tenants or sharecroppers.
- The duration of the contract is included in the contract itself, allows security of tenure, and enables good agricultural practices; no fees or gifts are required by the landowner for renewal of the contract.
- Contracts adhere to the terms and conditions of relevant national laws governing the leasing of land.
- When national law is silent on certain issues, contracts include: agreements for which party is responsible for repairs as well as rights and obligations concerning damage to equipment or buildings, rights and obligations of each party for the cost of production, compensation for improvements made by the tenants or sharecrop farmers, right to compensation for tenants or sharecrop farmers if landowner terminates the contract before it expires, modes for settling disputes, provisions in case of the tenants' or sharecrop farmers' death, and provisions to protect all parties' rights to resources connected to the land.
- If housing or other facilities are provided by the landowner, contracts include those facilities and identifies which party is responsible for carrying insurance.

In some tenant or sharecrop farming cases, contracts might not be made at all. In such cases, all the points detailed above should be agreed upon verbally in advance of employment by the tenants or sharecrop farmers and the landowner. When verbal agreements are made, it is good practice to have a neutral third-party witness present.

For more information on rights of tenants or sharecropping farmers, see [ILO Recommendation 132 on Rights of Tenants and Sharecroppers](#).

## DOCUMENT RETENTION

- Applicants' or workers' identity or immigration documents, including passports, residency, or work permits, or other personal documents, such as bank books or automatic teller machine (ATM) cards, are not destroyed, concealed, confiscated, or otherwise denied access by the workers, for any reason.
- In the event that personal documents are held by the employer or subcontractor due to legal requirements, these are immediately returned to the workers upon demand and without any preconditions. In such circumstances, the employer or subcontractor:
  - provides workers with an exact copy of personal documentation when not in their possession;
  - develops written policies and procedures to prevent abuse;
  - nominates a responsible person to ensure workers have unhindered access to their documents upon demand;
  - and notifies workers of these procedures.
- Lengthy or otherwise burdensome prerequisites for accessing workers' passport or other personal documents, such as written requests, monetary deposits or waiting periods, are strictly prohibited.
- Workers are provided, at no cost, individual, locked, secure storage space for personal documents and valuables at both their employer-provided accommodation and workplace.
- If the conditions of worker housing — such as on a smallholder farm — do not allow each employee to have their own secure place to store or safeguard documents against damage due to fire, the workplace keeps passports and documents in a communal safe to which a single security guard or employer has access.<sup>v</sup> This service is clearly explained in workers' contracts and agreed upon by workers in advance of employment, and documents are returned to the workers immediately upon request.

### Absence of Legal Documentation

Some migrant workers in agricultural supply chains may not have legal documentation. This may be the case for day laborers. Regardless of documentation status, if an individual is working, they should be treated ethically and fairly. ILO Convention 143 concerning Migrations in Abusive Conditions and the Promotion of

Equality of Opportunity and Treatment of Migrant Workers states that workers with irregular status who cannot be regularized shall “enjoy equality of treatment...in respect of rights arising out of past employment as regards remuneration, social security and other benefits.”<sup>vi</sup> In the United States, undocumented workers are subject to the same hour and wage laws as documented workers.<sup>vii</sup> Depending on the national context, there may be workers’ centers available that maintain contact with employers and are able to clearly explain the terms and conditions to potential workers.

## DEPOSITS

- Workers are not required to post a bond at the time of recruitment or at any other time during the employment relationship.
- The company policies strictly prohibit the collection of monetary deposits or security payments.
- The company, or subcontractor acting on its behalf, withholds portions of workers’ pay only where it is legally required.
- In those cases where workers have opted to participate in voluntary savings schemes facilitated by their employer, such workers have unhindered access to and full control over all savings and monies owed.

## HUMANE TREATMENT

- Company policies and procedures prohibit sanctions that impose work or wage deductions, or reductions in benefits as a means to discipline workers.
- No form of compulsory labor is imposed on any worker.
- The policy of the company, or subcontractor acting on its behalf, strictly prohibits the use or threat of physical or sexual violence, harassment and intimidation, and senior management has expressed clear commitment to this policy.
- Effective measures are in place to implement, monitor, and ensure company-wide compliance with this policy.
- There is no evidence of complaints, grievances, or actions taken against the company, its managers or supervisors, or its subcontractors, suppliers and agents, with respect to violence, intimidation, or harassment in the workplace. In cases where a complaint or grievance has been raised, evidence should show that swift and transparent action was taken to address it.

### Gender-Based Violence and Sexual Harassment and Trafficking Risk

Sexual harassment is endemic in agricultural workplace environments. Migrant agricultural workers may be situationally vulnerable due to inequalities of power between workers and employers, dependency upon an employer, and potential isolation in employer-provided housing. Such factors may increase the likelihood of sexual harassment or exploitation that may be enacted as a form of blackmail or form of exerting control and psychological pressure over an individual.<sup>viii</sup>

It is estimated that women comprise 43 percent of the agricultural labor force in developing countries<sup>ix</sup> and 20 percent of the agricultural workforce in developed countries.<sup>x</sup> Women agricultural workers may work alone in fields, making them more vulnerable to sexual harassment, rape, and/or abuse. Even in less isolated situations, such as agricultural packing sheds, women may still face sexual harassment from their supervisors and/or colleagues as a form of threat or intimidation.<sup>xi</sup> Female migrant workers in commercial agricultural contexts have been told they will receive higher wages if they perform sexual favors for supervisors,<sup>xii</sup> and have been exposed to groping and “vulgar and obscene language by supervisors, employers, and others in positions of power.”<sup>xiii</sup>

## WORKPLACE EQUALITY

- All workers, regardless of their national origin, ethnicity, race, gender, or legal status, are treated equally in the workplace.
- Migrant workers are treated no less favorably than country nationals with respect to:
  - Remuneration, hours of work, overtime arrangements, and holidays with pay;
  - Access to training;
  - Eligibility for promotion and wage increases;
  - Membership in labor unions or other worker organizations;
  - Accommodation; and
  - Benefits and social insurance, including social security, maternity and sick leave, disability and employment injury insurance.

- The company, or subcontractors acting on its behalf, explicitly prohibits the abuse of vulnerability of migrant workers, including the threat of denunciation to authorities as a means of coercion.

## WAGES AND BENEFITS

- The freedom of workers to dispose of their wages as they choose is not limited in any way.
- Wages specified in employment contracts meet legal minimum wage. In the absence of a legal minimum wage, wages are at least the industry prevailing wage for similar work in the immediate area in the country of employment, and wage calculations are equitable and objective.
- Wage payments are not deferred, delayed, or withheld as a means of binding workers to employment.
- In cases when wages can only feasibly be paid after the sale of crops or other agricultural output — such as on smallholder farms with little access to cash or credit — the employer pays wages according to a predetermined agreement with workers.
- Non-cash or “in-kind” payments in lieu of wages are not used.
  - Share-croppers, tenants, and similar categories of agricultural workers who are remunerated by a share of produce receive at least the pre-agreed upon minimum share of produce, and this amount is clearly communicated and agreed upon in advance of beginning employment.
- Wage rates and payments are calculated with full transparency.
- The calculation and payment of wages, including legal wage deductions, are clearly explained to and understood by all workers.
- No unlawful or unauthorized deductions are made from workers’ wages. Any deductions from wages are clearly described in the employment contract and undertaken with written worker consent.
- Wage deductions levied for tardiness or absence are not excessive and do not exceed the time missed on the job, for example 10 minutes of pay for 10 minutes tardiness.
- Wage advances or loans provided to workers, along with related interest rates, comply with the law, at a minimum. Additionally:

- Interest rates and repayment terms are fair. Payments do not exceed 10 percent of a worker's monthly wage, such that loans can be repaid in a reasonable amount of time not exceeding six months;
- The calculation of interest rates for loans and advances, and wage deductions made for their repayment are made with complete transparency to the workers;
- Interest rates do not exceed the local prevailing local market bank rates;
- The terms of wage advances and their repayment are agreed to by both parties in advance and in written form.
- Jobseekers, applicants, or workers are not required to participate in any form of forced or mandatory savings in order to recoup costs associated with recruitment or other services.
- If workers pay for employer-provided or -arranged housing and food, such charges:
  - Do not exceed market rates or the rate paid by local workers;
  - Do not aid companies or subcontractors in earning a profit at workers' expense; and
  - Are not part of efforts to reclaim placement fees or other fees paid by employers for recruiting workers.
- When wages are based on piecework or quotas in an informal agricultural context, the piece rate is based on the time required to harvest a crop, the method of calculating the rate is clearly communicated to the worker, and the worker has agreed that the rate is fair.

### **A Living Wage**

While some companies endeavor to ensure agricultural workers in their supply chains receive a fair wage as part of a commitment to eliminating poverty, one of the 2030 Sustainable Development Goals, determining a fair wage can be challenging.<sup>xiv</sup>

Smallholder farms may lack documentation systems to keep track of workers' contracts, hours, and wages. Workers on all sizes of farms may be paid through a piecework system that does not amount to minimum wage, let alone a fair or living wage.<sup>xv</sup> Further, smallholder farmers are often under pressure to sell their crops quickly so they won't spoil. Smallholder farmers have little time and leverage to

negotiate a better price if and when a crop's market price — set by a government, contracting company, sector organization, or stock exchange — is low. Migrant workers and female workers may be more likely to receive low wages or below minimum wage and may be subject to additional deductions by labor contractors. In some countries, minimum wage laws may not even apply to the agricultural sector.

The Fair Labor Association has developed recommendations for companies interested in ensuring farmers receive a fair wage that include the following:<sup>xvi</sup>

- If there is a fixed market price that cannot be negotiated or worked around, social premiums can be added to payments.
- In cases where minimum wage laws do not apply, or where the minimum wage does not constitute a living wage, companies can consult alternative benchmarks to establish a fair wage.
- Emerging good practices for ensuring fair wages include: wage ladders (comparing wages that workers receive, even if they technically meet the national minimum wage standards, to see how they hold up to national and international poverty lines, living wage benchmarks, and median incomes); direct relationships (simplifying supply chains so that primary producers have a direct relationship with a brand); exclusive relationships (if a producer sells exclusively to a retailer, that retailer could commit to buying the full output at a higher rate); multi-stakeholder agreements on living wages (having all members of local or sectoral collectives agree on standards can reinforce the standards and encourage strong commitment); CSO and trade union collaboration; data and communications technology advances.

#### Additional Resources:

- The Global Living Wage Coalition has a resource library with living wage calculations for numerous regions and sectors in countries around the world: [www.globallivingwage.org/resource-library/?fwp\\_resource\\_type=livingwage](http://www.globallivingwage.org/resource-library/?fwp_resource_type=livingwage).
- For more information about the methodology The Global Living Wage Coalition uses to determine living wages see: [www.globallivingwage.org/about/anker-methodology/](http://www.globallivingwage.org/about/anker-methodology/).



## WORKING HOURS

- Workers are not forced to work more than the number of hours allowed by national law, or, where the law is silent, working hours do not exceed eight per day and 48 per week, and total working hours including overtime does not exceed 60 hours in a week.
- Effective workplace and company-wide measures are adopted to ensure full implementation and compliance with this policy, including continuous monitoring of hours worked to identify workers at risk of exceeding the limit, coordination of production and manpower planning, etc.
- All overtime work is purely voluntary, unless specifically stated otherwise in a legally-recognized collective bargaining agreement.
- Workers track their own working hours using an electronic or other objective, verifiable timekeeping system.
- Workers are free to refuse overtime work without threat or fear of punishment or reprisal.
- For those that agree to work overtime, a system is in place to obtain their written consent at the time of the request.
- In cases where remuneration is based on productivity targets such as piece rate systems or quotas, workers are not forced to work more overtime hours than allowed by national law in order to achieve their production quota or to meet minimum wage.
- Workers should receive at least 24 consecutive hours of rest in every seven-day period.

### Overtime and Quotas

In some cases, overtime may be unavoidable for agricultural workers during harvest seasons, especially in smallholder contexts. Workers should be properly compensated for the hours they work, and the wage or piecework rate for “overtime” work should be agreed upon in advance of employment.

It is important to note, however, that if workers are compensated according to the fulfilment of quotas, when those quotas are unrealistic workers may be compelled to work overtime, sometimes in excess of legal working hours, in order to meet those quotas. Workers who receive bonuses in the event that they exceed their quotas may also be motivated to work beyond maximum working hours each week.<sup>xvii</sup>

Children may end up working in agricultural contexts, on smallholder farms, in tenancy arrangements, or on larger farms or plantations, in order to help their parents and families meet quotas or increase output and thus increase income.<sup>xviii</sup> Children are usually not formally employed and are often not on an employer's payroll, therefore they do not receive payment themselves.<sup>xix</sup> In some cases, quotas cannot be met without the additional work performed by children; the quota, or piece rate, system is thus understood as a key driver of child labor in the agriculture sector.<sup>xx</sup>

## FREEDOM OF MOVEMENT

- Workers enjoy reasonable freedom of movement within their work and living environments. Any legitimate constraints on off-premises movement (for example, for valid personal safety or security concerns) are specified prior to the signing of the employment contract.
- Workers have the right to remove themselves from workplace activities in which they believe there is an imminent and serious risk to health and safety, and there should be no retaliation for any such action.
- Workers have unrestricted access to basic necessities (drinking water, toilets) during both work and non-work hours.
- The presence of security personnel or other security measures in the workplace or employer- or recruiter-provided or arranged residences are not used as a means to restrict worker freedom of movement.
- No other coercive means are used to restrict workers' freedom of movement or personal freedom, including confiscation of personal documents, levying of financial penalties or security deposits, or use of deception in wage payment and deductions.
- Workers are not required to live in employer- or recruiter-operated residences as a condition of employment, unless required by applicable law.
- Migrant workers are free to return to their origin country during leave, without any penalty or threat of termination.

## GRIEVANCE PROCEDURES

- Supplier and recruiter policy and practice reveals a functioning and effective grievance procedure in compliance with UN Office of the High Commissioner for Human Rights “Protect, Respect and Remedy Framework.”
- Grievance mechanisms are available in a language the workers understand.
- Effective measures are in place to ensure that workers know how to use this procedure and feel safe and free from potential retaliation if doing so.
- Where grievances are raised, effective and appropriate procedures are in place to ensure a rapid and mutually agreed settlement.
- Resolution of workplace grievances are regularly reported back to all workers.
- Results of worker surveys and interviews confirm that workers both understand the means available to them to report grievances and that they trust the process to fairly address their issues.
- Staff involved in managing worker grievance mechanisms and managing worker participation mechanisms are properly trained and have clearly defined and documented responsibilities.
- An effective appeals process is in place to impartially evaluate any disputed grievance resolution.

### **Worker Communication and Grievance Mechanisms**

All workers, especially workers with higher levels of vulnerability such as migrant workers and workers in informal sectors, should be able to communicate grievances and seek resolution. Strong grievance mechanisms promote understanding and active participation and allow potential problems to be identified and resolved. Grievance mechanisms can take different forms, but any mechanism should fit benchmarks for robust grievance systems as defined by the UN Office of the High Commissioner for Human Rights “Protect, Respect and Remedy Framework and Guiding Principles.” Under these principles, UNGP Principle 31 defines effectiveness has meeting this criteria:

- “Legitimate: enabling trust from the stakeholder groups for whose use they are intended, and being accountable for the fair conduct of grievance processes;
- Accessible: being known to all stakeholder groups for whose use they are intended, and providing adequate assistance for those who may face particular barriers to access;

- Predictable: providing a clear and known procedure with an indicative time frame for each stage, and clarity on the types of process and outcome available and means of monitoring implementation;
- Equitable: seeking to ensure that aggrieved parties have reasonable access to sources of information, advice and expertise necessary to engage in a grievance process on fair, informed and respectful terms;
- Transparent: keeping parties to a grievance informed about its progress, and providing sufficient information about the mechanism's performance to build confidence in its effectiveness and meet any public interest at stake;
- Rights-compatible: ensuring that outcomes and remedies accord with internationally recognized human rights; and
- A source of continuous learning: drawing on relevant measures to identify lessons for improving the mechanism and preventing future grievances and harms."

Effective grievance mechanisms should have established, easy to understand procedures; ensure confidentiality; allow workers to confidentially report grievances against bosses or supervisor without fear of retaliation or reprisal of any kind; and include a system that provides workers with access to additional social support if needed.

For additional guidance on worker communication, see [Tool 11](#).

The Fair Food Program, overseen by the Coalition of Immokalee Workers (CIW), is an example of a successful model with multiple avenues for worker empowerment and grievance resolution in a transparent fashion that has been demonstrated to reduce worker vulnerability.<sup>xxi</sup> Critical components of the Fair Food Program include:

- Legally binding agreements between participating buyers and CIW (agreements require a Fair Food Premium, which is paid by the buyer and ultimately passed on to qualifying workers). The legally binding agreement ensures that participating buyers only purchase produce from qualified participating growers, creating marketing incentives for growers.<sup>xxii</sup>
- A code of conduct that reflects input from workers and has a zero-tolerance policy for forced labor.<sup>xxiii</sup>
- Ongoing worker-to-worker education, utilizing educational materials produced by farmworker staff members in diverse accessible formats, provides workers

with knowledge of their rights (before beginning a job and throughout the season) and empowers workers to monitor and report on their own working conditions. Employers and recruiters similarly understand that workers are aware of their rights and aware of potential avenues for redress, resulting in the prevention of abuses on participating farms.<sup>xxiv</sup>

- A complaint resolution system that conforms to the U.N. “Protect, Respect and Remedy Framework and Guiding Principles” and provides transparent and rapid resolution to worker complaints. Hallmarks of the system are availability on schedules convenient to workers as well as highly trained operators with relevant language skills.<sup>xxv</sup>
- An audit organization, the Fair Food Standards Council, that engages auditors who have specific expertise in the labor rights in the agricultural sector — as well as relevant cultural and language competencies to conduct “field, payroll, and management audits.”<sup>xxvi</sup>

Click here to learn more about the [Fair Food Program](#) and the [Coalition of Immokalee Workers](#).

## PRIVATE EMPLOYMENT AGENCIES AND LABOR RECRUITERS

- The company and its suppliers hire workers directly whenever possible.
- When the recruitment, selection and hiring of workers is undertaken by a private employment agency or other third-party, suppliers shall have the responsibility to ensure that the agencies operate legally, are certified or licensed by the competent authority, use only employees trained on applicable Code and legal requirements, and do not charge recruitment fees or engage in fraudulent behavior that places workers at risk of trafficking for labor exploitation. Where informal labor brokers predominate in a sector, the company shall have a plan for moving towards the use of formal brokers who are held accountable to company policies or direct hiring.
- The company signs a formal contract with the subcontracted agency and performs regular due diligence on the agency and its partners involved in the hiring and placement of workers.

- Effective measures are established by the company to ensure the legal compliance of subcontractors in each jurisdiction in which they operate.
- The subcontracted agency has an up-to-date license or permit to operate in all countries of operation and any partners or agents working on its behalf also have up-to-date permits or licenses.
- The subcontracted agency has not been cited, suspended, or otherwise sanctioned for noncompliance with any laws in any country of operation; or, where a citation for noncompliance exists, the agency can demonstrate that it has rectified the noncompliance.
- When recruitment happens across international borders, the subcontracted agency respects bilateral or multilateral migration agreements regarding human rights and workers' rights between the origin and destination countries.
- The company has mechanisms to monitor the performance of agents and recruiters to ensure that no deception, fraud and/or coercion in the recruitment, placement, transport, or management of workers take place.
- The company, or subcontractors acting on its behalf, provides jobseekers with accurate details of working conditions at the time of recruitment, including the nature of work, wages, benefits and duration of contract.
- Details of working and employment conditions are communicated to jobseekers in a language they understand.
- False promises are not made to applicants or workers regarding employment conditions, job locations, employment or contract duration, or anticipated earnings.
- The subcontracted agency has an implementing structure, an accountable officer, and clear procedures to ensure that all policies are compliant with all relevant legislation and regulations. This includes a current registry of laws for all countries of operation; and a mechanism that ensures the company is regularly informed of new legislation/regulations or changes in legislation/regulations.
- The subcontracted agency has a code of conduct that prohibits human trafficking and sets out protective measures for workers. The code covers principles elaborated in relevant ILO Conventions, as well as standards for responsible recruitment such as the Code of Conduct of the International Confederation of Private Employment Agencies (CIETT), the International Recruitment Integrity System (IRIS) Standard, and the ILO's General Principles and Operational Guidelines for Fair Recruitment and applies to all parties in the

chain of recruitment. The code is supported by an institutional structure that ensures its effective implementation.

- The subcontracted agency has established a mechanism for confidential reporting of noncompliance, a grievance mechanism, procedures of investigation and reporting on grievances, and protection for whistleblowers.
- The subcontracted agency has established effective remediation procedures in case of verified reports of noncompliance, including mechanisms to ensure the reimbursement of workers for any recruitment fees paid.
- The company, or subcontractors acting on its behalf, does not use any means to restrict workers' freedom to terminate employment, for example, by levying excessive recruitment fees, requiring deposits, or withholding personal documentation.
- Contracts with the subcontracted agency specify health and safety requirements and penalties for noncompliance. Contracts include right to terminate contractors who fail to meet OSH requirements and the right for supervisors to stop work whenever a risk of serious injury is apparent.

#### **Formal and Informal Labor Recruiters and Trafficking Risk**

Labor recruiters are widely used in the agriculture sector to supply workers for farms, particularly when there is an urgent need of workers for a finite period due to a time-sensitive crop.<sup>xxvii</sup> These intermediaries may be referred to as recruiters, brokers, contractors, crew leaders, or gangmasters depending on the country and regional context.

Because the presence of informal recruiters is a direct impediment to monitoring and remediating conditions, formalization of labor supply chains is an important step whenever possible. Where broker registration systems are weak, non-existent, and/or informal intermediaries predominate, companies can move progressively towards direct hiring and/or contracting with brokers whose performance has been determined to be responsible through on-going monitoring. Although informal brokers are more difficult to monitor and are unlikely to have formalized systems in place, they can still be held accountable to basic standards of ethical practice. For example, informal brokers may not be able to produce copies of legal registration, but they can still commit to not charging workers fees and to adequately and accurately explaining terms and conditions of jobs to brokers.



If formal screening processes of recruiters are not possible, the entity contracting with the labor recruiter can interview workers about their recruitment experiences. For guidance on interviewing migrant workers on their experience with labor recruiters, see [Tool 10](#).

Emerging labor recruiter certification systems and standards can support due diligence with regards to screening and selecting recruiters. For more information, see [Tools 7](#) and [9](#).

## FREEDOM OF ASSOCIATION

- In accordance with national law, workers have the right to organize and bargain collectively. When national law prohibits freedom of association and collective bargaining, workers can access independent forms of representation and negotiation.
- Employers and labor recruiters maintain a policy of neutrality towards union organizing; workers are not discriminated against, penalized, blacklisted, or fired for membership in any worker organization or for organizing trade unions, nor are they compelled by the employer or recruiter to join any worker organization.
- Workers who exercise their rights to freedom of association do not experience any form of physical or psychological violence, threats, intimidation, retaliation, harassment, or abuse.
- Employers do not attempt to influence or control the formation of unions by any means (incentives or intimidation).
- Employers and labor recruiters do not hire or recruit workers for the purpose of replacing workers exercising their right to strike.

## EMPLOYEE AWARENESS TRAINING

- All written information and training are provided in the native language of the workers or a language they understand.
- Workers are made aware of safety and health matters, which includes risks associated with new technologies.
- Pre-departure orientation is conducted to review contractual obligations, terms and conditions of work, and other matters including but not limited to living

conditions, company policies, and the grievance mechanisms in place for workers.

- Workers are trained upon arrival in the receiving country on the company's workplace rules and procedures, the grievance process, the housing arrangements (if provided or arranged by the company), and the conditions of work, including any health and safety hazards and the precautions needed to ensure personal safety.
- The company evaluates the effectiveness of its training and awareness efforts by measuring employee knowledge upon completion of training and periodically thereafter using surveys, interviews, and other means.

## HOUSING

- When housing is provided by an employer, housing meets the minimum housing standards set by local competent authorities; this applies to all types of workers, including seasonal and migrant workers.
- When family housing is provided, housing meets a minimum standard regarding space per person and per family.
- All housing standards, whether for collective housing or family housing, include the following considerations and meet the following standards:
  - Minimum space per person or per family.
  - Supply of adequate potable water in dwelling.
  - Sewage and waste removal.
  - Protection against elements (heat, cold, damp, noise, fire, and disease-carrying animals).
  - Adequate sanitary and washing facilities.
  - Ventilation.
  - Lighting.
  - Minimum degree of privacy.
  - Separation of living quarters for people and animals.
- Transportation is provided for workers to and from worksites and to and from required services. Use of employer-provided transportation is optional and costs are in line with market rates.
- Application of chemicals to agricultural crops do not affect workers' living quarters in any way.

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