

## ANNEX 3: GENERAL GUIDANCE ON ASSESSING AND PREVENTING FORCED LABOUR RISKS

Guided by UN Guiding Principles on Business and Human Rights and OECD Due Diligence Guidance for Responsible Business Conduct, fulfilling a company's human rights due diligence obligations not only includes providing remediation for the adverse human rights impacts, but also identifying, preventing and mitigating the human rights risks, which are equally important. The following sections aim to provide general guidance on identifying and preventing forced labour risks.

### 1. ASSESSING AND IDENTIFYING FORCED LABOUR RISKS

This guideline focuses on introducing remediation procedures when forced labour complaints are received, or indicators of forced labour are identified. It is crucial to emphasise that companies should not solely rely on third-party audits or certification schemes to identify forced labour risks in their supply chain. Audits often have limitations, gaps and conflicts of interest<sup>1</sup>. Instead, companies should proactively assess forced labour risks in their operations and those of their lower-tier supply chain partners through various methods, including but not limited to:

- **Self-assessment and monitoring:** Engage in social dialogues or surveys with workers, community members, trade unions, workers' representatives or worker-driven organisations. Conduct onsite visits at the company's operational sites and the sites of lower-tier supply chain partners to identify indicators of forced labour.
- **Third-party assessments:** Use on-site assessments or audits conducted by independent third parties, such as human rights organisations or certification schemes. These assessments may involve surveys, document reviews, interviews or focus group discussions with key stakeholders, including workers, community members, worker representatives, trade unions, and local authorities.
- **Grievance mechanisms:** Collect information through grievance mechanisms, such as hotlines and suggestion boxes.
- **Internal sources:** Gather insights from relevant internal employees, including human rights officers, CSR officers, sourcing personnel, social workers or quality control staff.
- **Stakeholder consultations:** Review reports or consult with civil society organisations, industry and multi-stakeholder initiatives, sectoral, national, and local trade unions, trade associations, and local authorities.

Combining these instruments will enable companies to make a well-founded assessment of the risks of forced labour in their supply chain. Such an assessment should be carried out regularly, or at least annually, to identify and monitor the company's operational and supply chain risks. Once a suspected forced labour case is identified, companies should conduct follow-up activities to assess the case further and provide remediation for the affected individuals (See Chapter 4 for details).

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<sup>1</sup> Human Rights Watch: *Obsessed with Audit Tools, Missing the Goal. Why Social Audits Can't Fix Labour Rights Abuses in Global Supply Chains* (2022) or *Transparentem: Transparentem's news on Hidden Harm. Audit Deception in Apparel Supply Chains and the Urgent Case for Reform* (2021)

Grievance mechanisms can help identify and assess forced labour risks if set up effectively. In line with the ILO Convention and international guidelines and frameworks<sup>2</sup>, an effective grievance mechanism should have the following elements. Companies could use this checklist to review the effectiveness of their grievance mechanisms:

### CHECKLIST 1: ELEMENTS OF EFFECTIVE GRIEVANCE SYSTEM

ELEMENTS	YES/NO
Accessible for all workers, including migrant workers who might be located in remote areas.	
In languages that workers (especially migrant workers) can understand and is easy to use.	
All workers understand the grievance mechanism options and are confident on how to use them.	
Grievance channels are set up in consultation with workers. Where the use of apps or other technology may limit workers' access to and understanding of the grievance mechanism (e.g., in palm oil plantations), provide appropriate in-person and non-digital channels. Where technology would make the process more efficient or transparent (e.g., in the garment sector), promote digitalisation of the grievance channel.	
Gender sensitive, at minimum ensuring gender diversity in people who will handle the grievance and during the remediation process to address the gender barriers.	
Uncomplicated, predictable and as rapid as possible. Time limits may be placed on each stage and a clear and known procedure should be presented.	
Anonymous grievances are accepted, and confidentiality is respected.	
Transparent. The reporting person should be informed about its progress.	
The reporting person should have the right to be present and to directly participate in the process.	
The reporting person should have the right to be assisted or represented by a person of the workers' choosing.	
The reporting person should not suffer any loss of earning, retaliation, or prejudice whatsoever for having brought forward a grievance.	
Regular monitoring of the grievance channels to ensure all grievances are reviewed and addressed. Keep a registry of received grievances.	
A source of continuous learning. Identify lessons for improving the mechanism and preventing future grievances and harm.	

<sup>2</sup> ILO Convention R130 Examination of Grievances Recommendation, ILO Guidance on Grievance Handling, and UN Guiding Principles on Business and Human Rights and IOM Operational Guidelines for Business on Remediation of Migrant-Worker Grievances, OHCHR Accountability and Remedy Project: Meeting the UNGPs' Effectiveness Criteria.

### **HARD QUESTION: Why have we not received complaints via our grievance mechanism?**

In practice, although you may have established a grievance mechanism, the grievance mechanism may have never been used, or you have received few or no complaints. This may be because:

- Workers have little trust in management, do not believe their complaints will be addressed, feel uncomfortable raising issues through the designated channels, or fear retaliation if they voice their concerns.
- Workers are not regularly trained or do not understand the content of the grievances training; therefore, they do not know how to raise complaints.
- The grievance mechanism was developed without consulting workers; it is either too difficult to use or not in a language the workers understand. For example, palm oil plantation workers may struggle to raise complaints by scanning a QR code.
- Workers have raised complaints but have received no feedback.
- The physical grievance channel, such as a suggestion box, is established in a public area where employees cannot submit their concerns anonymously.
- Workers do not know their rights.

### **BEST PRACTICE: Bottom-Up Grievance and Communication Mechanisms for Lower Tier Supply Chains**

While companies rely on third-party certifications to verify their compliance performance in their operations and lower tiers, such certification schemes have inherent limitations. They cannot cover every supply chain partner, especially processing facilities (e.g., washing houses, ginneries) or raw materials sites. Establishing a worker- or community-driven, bottom-up grievance and communication channel is observed as one of the best practices for changing the power dynamic and allowing workers' voices to be heard.

This mechanism enables the selection of literate community facilitators and good communicators who have no conflict of interest with the business and represent the community's diversity. Ideally, the facilitators should encompass different groups within the community, including men, women, youth, ethnic minorities, migrants, seasonal workers, and other marginalised communities. They should be trusted individuals, chosen by local worker communities, and assigned responsibilities such as identifying risks and abuses related to forced labour, reporting grievances to buyers, supporting remedial actions, and raising awareness about forced labour in the community.

This mechanism aims to ensure a continuous flow of information from upstream supply chain actors and the early identification of risks and abuses. Upstream actors will be encouraged to engage by the assurance that risks will be tackled with support from buyers and transparency will be rewarded rather than sanctioned. As such, forced labour abuses are less likely to be hidden or driven underground.

To ensure the effectiveness of such a mechanism, companies need to train and supervise the practices of selected community facilitators regularly and have readily available resources for prevention and remediation actions.

### **A useful tool for assessing and identifying risks of forced labour:**

1. Practical tips on how to establish a grievance mechanism that is trusted and used by migrant workers, page 9-17<sup>3</sup>
2. Simple direction to employees on how to submit grievances (to be posted next to where grievance channels are set up), page 94<sup>4</sup>
3. Template for the company to keep a registry of received grievances, pages 87-88<sup>5</sup>
4. Guidelines on how to design a forced labour survey<sup>6</sup>
5. Checklist on assessing forced labour risks in the company, Annex V<sup>7</sup>

## **2. PREVENTING FORCED LABOUR RISKS**

Early detection of indicators of forced labour can also inform the design and implementation of preventive measures against forced labour. While this guideline addresses forced labour cases, preventing them before they arise is even more vital. The following measures are recommended by the ILO and the Malaysian Employer Federation on how companies can prevent forced labour practices in their operations and supply chains:

1. **Develop a company policy to address and prevent forced labour.** The policy should be clear, setting out the measures taken to avoid forced labour. It should apply to the company's operations and supply chain partners and be endorsed by top management.
2. **Implement the policy**, ensuring the company and its supply chain partners operate based on the newly established standards. This can be done via:
  - a. **Internal audit/assessment** to identify compliance with the new policy and determine whether forced labour exists in its operations and supply chain.
  - b. **Adoption of the policy into company recruitment and employment practices** to ensure the risk of forced labour is minimised, including screening recruitment agencies and checking workers' terms and conditions of employment.
  - c. **Staff training** for human resource personnel, supervisors, and other relevant staff is also needed, and workers at all levels should be involved in implementing the policy, particularly in identifying, reporting, and addressing labour issues.
  - d. **Communicating with stakeholders**, especially supply chain partners, so they know and understand how to implement the policy.
  - e. **Application to suppliers and subcontractors.** Integrate the policy into contracts with supply chain partners, use it as a criteria when selecting, evaluating, and maintaining business partners and monitor their performance.
3. **Establish a labour-related complaints mechanism.**
4. **Monitor the policy's implementation** to determine compliance and efficiency and develop relevant corrective actions.
5. **Document findings** to enable tracking of progress and improvements.
6. **Work with others in collaborative initiatives**, such as those of an industry association, workers' or employers' organisations, or civil society organisations.

<sup>3</sup> IOM, *Operational Guidelines for Business on Remediation of Migrant-Worker Grievances* (2021), Page 9-17

<sup>4</sup> SAI, *Social Compliance Systems for The Palm Oil Industry: A Toolkit for implementation by Palm Oil Extractor Plants in Latin America* (2022), Page 94

<sup>5</sup> *Ibid*, Page 87-88

<sup>6</sup> The ILO, *Hard to see, harder to count Handbook on forced labour surveys* (2024)

<sup>7</sup> The ILO and Malaysian Employer Federation, *Business Responsibility on Preventing and Addressing Forced Labour in Malaysia: A Must-Read Guide for Malaysia Employers* (2019)

Preventative measures should also be considered as remedial actions that the company must take during corrective actions for forced labour cases. Please refer to the details in Section 4.4.

**Useful tools for preventing forced labour risks:**

- The [Immigration Department of Malaysia Headquarters \(Ministry of Home Affairs\)](#) provides [detailed requirements for hiring foreign workers](#):
- Detailed measures for preventing forced labour:
  - *The ILO and Global Business Network on Forced Labour, Eradicating Forced Labour: What Works In Practice (2022)*
  - *The ILO and Malaysian Employer Federation, Business Responsibility on Preventing and Addressing Forced Labour in Malaysia: A Must-Read Guide for Malaysian Employers (2019)*
  - *The ILO, Addressing, Preventing and Eliminating the Risk of Forced Labour in the Rubber Industry in Malaysia (2022)*
  - *ITC, ILO, Global Business Network on Forced Labour, Due Diligence Toolkit for Fair Recruitment in Malaysia*

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