

International Labour Organizations's Submission to the Consultative Group to
Eliminate the Use of Child Labour and Forced Labour in Imported Agricultural
Products

This document is the ILO's response to the Consultative Group's solicitation of input regarding its statutory mandate to develop recommendations relating to a standard set of practices for independent, third party monitoring and verification for the production, processing, and distribution of agricultural products or commodities to reduce the likelihood that agricultural products or commodities imported into the United States are produced with the use of forced labour or child labour.

Introduction

The ILO is the constitutionally mandated international organization and the competent body to set and deal with international labour standards. Since its inception in 1919, the ILO has been concerned with the elimination of child and forced labour. This has taken the form of the adoption of international standards on child and forced labour, outlawing the exaction of forced labour (Convention No. 29, 1930 and Convention No. 105, 1957), establishing the minimum age for work (Convention No.138, 1973) and addressing the Worst Forms of Child Labour (Convention No. 182, 1999), and the provision of technical assistance to ILO member States and workers' and employers' organizations in the fight against child and forced labour. Of particular importance in this regard were the founding in 1992 of the ILO's International Programme on the Elimination of Child Labour (IPEC), and of the Programme to Promote the Declaration on Fundamental Principles and Rights at Work in 1999, as well as the creation of the Special Action Programme to Combat Forced Labour (SAP-FL) by the ILO Governing Body in November 2001.

The ILO welcomes the opportunity to provide input regarding the Consultative Group's mandate and would encourage that due consideration be given to the essential role that the rule of law and mature systems of labour relations have in ensuring respect for labour rights. The 1998 Declaration on Fundamental Principles and Rights at Work establishes that all 183 ILO member States must respect, promote and realize the core labour rights, namely, freedom of association and the right to collective bargaining; the elimination of forced labour; the abolition of child labour; and the elimination of discrimination in respect of employment, even if they have not ratified the individual core Conventions. The Declaration's central purpose is to promote the rule of law and to protect human rights in the world of employment. The duty to apply international labour standards and enforce labour laws rests with member States. In this respect, the ILO considers it essential that private, voluntary third party monitoring and verification efforts complement and support State labour inspection.

Labour administration, in particular labour inspectorates, are the main institutions responsible for the monitoring and enforcement of labour standards. With regard to forced and child labour in agriculture, ILO Convention No. 129, 1969, on labour inspection in agriculture provides detailed guidance for efforts to support effective labour inspection in agriculture.

The ILO would also recommend that third party monitoring and verification efforts be based on internationally recognized core labour standards, which can provide valuable credibility and legitimacy, as they are the product of tripartite agreement among governments, employers' and workers' organizations. ILO standards also provide clarity regarding the rights that are to be respected, so that all stakeholders share a common understanding of what is meant by child labour and forced labour.

As with the adoption of Conventions, the ILO supervisory mechanism rests on the principle of tripartism; workers' and employers' organizations play an important role in providing comments and information regarding governments' application of Conventions. Workplace monitoring and verification systems can also benefit from applying this principle. Ensuring a voice for workers enables such systems to benefit from primary sources, and workers' organizations can provide a continual monitoring at the workplace. Monitoring systems can promote collective bargaining between workers and employers, establishing binding contractual obligations and grievance mechanisms to remedy problems. While workers organizations may not always exist in global supply chains, promoting conditions that freedom of association is critical to the long term solution to forced and child labour.

The ILO encourages multinational enterprises, in agriculture and other sectors, to adhere to the principles enshrined in the 1977 Tripartite Declaration on Multinational Enterprises and Social Policy.¹ In promoting that these principles are taken up throughout a company's supply chain, the ILO encourages companies to balance their monitoring and verification initiatives with efforts to build capacity within their supply chain to enable suppliers and their subcontractors to improve compliance with labour standards. The ILO also encourages companies to consider the effect that their purchasing practices and other core business operations may have on their supply chain partners' ability to uphold labour rights.

ILO Experience and Tools

IPEC and SAP-FL, with the support of the U.S. Department of Labour and other donors, have extensive experience in contributing to the elimination of child and forced labour in global supply chains that is relevant to the Consultative Group's mandate.

Child labour monitoring systems (CLMS) have been at the heart of IPEC's strategy in the approximately 90 countries that have requested ILO technical assistance to eliminate child labour. IPEC has developed a methodology and extensive tools for CLMS that build capacity within communities, districts and countries to conduct regularly repeated direct observations to identify child labourers, refer these children to services, verify that they have been removed and track them afterwards to ensure that their situation has improved.²

IPEC projects support the creation of community-based CLM systems, but CLM is not dependent on project financing. In this regard they are critical for sustaining action against child labour. CLMS typically include community leaders, teachers,

¹ http://www.ilo.org/empent/Whatwedo/Publications/lang--en/docName--WCMS_094386/index.htm

² See <http://www.ilo.org/ipec/Action/Childlabourmonitoring/lang--en/index.htm>

health promoters, representatives from the families concerned and sometimes children or adolescents withdrawn from work. Effective CLMS also work in conjunction with government labour inspectors. A key challenge is to build capacity within inspectorates (and other government agents such as agricultural extension workers) to expand their reach into agriculture, where 70% of child labour occurs. IPEC has developed tools and methodologies to do this.³ In IPEC's experience, enhancing the capacity of governments to enforce laws against child and forced labour is critical to achieving sustainable progress.

It bears emphasizing that effective CLM requires referral to basic social services, particularly education or vocational training, curative and preventive health care and social protection. Improved access to credit, savings and insurance as well as skills training, the implementation of value chain upgrading strategies, small business development services, etc., are also elements of a comprehensive, holistic approach that offers the best possibility of sustainable change.

Conducting child labour monitoring in agricultural supply chains poses special challenges. The large geographical extension of agricultural holdings linked to global supply chains makes monitoring logistically difficult. With the increasing prevalence of out-growing schemes in developing countries, meanwhile, greater numbers of small and medium-sized farms are linked with international supply chains. The vast scale and fragmented nature of global agricultural production thus have important implications for companies concerned with child labour in supply chains. First, since it may be unfeasible to establish the continual monitoring presence needed to provide assurance that child labour is not used, engaging workers themselves in monitoring efforts can be very valuable and cost-effective. Second, sustainable solutions are unlikely to be found in monitoring alone but require addressing the root causes of child labour (as well as forced labour), not least through the promotion of decent work for adults.

In IPEC's experience, regular, repeated observation and follow up with individual children removed from child labour is required because in spite of parents' preference to send their children to school, poverty can create continual pressure for families to resort to child labour to meet their basic needs. Addressing poverty as a root cause of child labour is therefore a critical part of the success of child labour monitoring programmes. Experience has demonstrated that without the promotion of decent work and improved livelihoods, monitoring can be insufficient. Without viable alternatives to child labour, children are likely to simply be displaced to other sectors that are under less scrutiny, or within the same sector to farms producing for the domestic market. Displacement may occur toward worst forms of child labour in hidden or illegal sectors.

Decent and productive work for adults, in conditions of freedom, equity, security and human dignity is central to efforts to reduce poverty, and is a means for achieving equitable, inclusive and sustainable development. This includes ensuring that concerned agricultural workers are able to freely negotiate the terms of their employment, thereby improving their livelihoods and reducing both demand for and supply of child labour. Such an approach recognizes that core labour rights are

³ <http://www.ilo.org/ipec/Action/Labourinspection/lang--en/index.htm>

indivisible, and that where there is lack of respect for one of the core labour rights, respect for other rights will likely be insufficient as well.⁴

Forced labour differs from much of child labour in that it is a crime and those complicit in it should be tried in criminal courts. The ILO, in particular through its Special Action Programme to Combat Forced Labour (SAP-FL) has extensive experience in combating forced labour, including human trafficking. The programme has implemented operational projects in many parts of the world to combat different manifestations of the problem, primarily by engaging the ILO tripartite constituents in action together with other partners at national level. It has developed a wide range of tools to contribute to capacity-building of these partners in order to strengthen their involvement.

Work on engaging employers in the elimination of forced labour has gathered momentum in recent years, with businesses increasingly waking up to the risks associated with the possible emergence and detection of forced labour in supply chains. Key lessons from this experience are captured in the handbook “Combating forced labour: A handbook for employers and business”.⁵ This handbook provides practical tools and material for business actors of all kinds, identifying what is and is not forced labour, why it is a significant concern for business, and the actions that can be taken to address it. In a series of seven booklets, the handbook provides guidance on preventive and remedial action, reviews good practice in combating forced labour, and presents information relevant to senior business managers, human resource personnel, sourcing and social compliance staff, social auditors and others. The handbook was prepared in close co-operation with the International Organisation of Employers in the context of an expert group initiative on supply chain management of the UN Global Initiative to Fight Human Trafficking (UN.GIFT) It provides guidance material and tools for employers and business to strengthen their capacity to address the risk of forced labour and human trafficking in their own operations and in global supply chains.

Some SAP-FL projects have targeted, amongst other issues, forced labour in the agricultural sector. This is particularly the case regarding bonded labour in south Asia, and debt bondage in Latin America. While only limited research has been undertaken on the trade dimensions, it is highly probable that some of the products produced by forced labourers enter into international trade. In general, this is an under-researched area, where more work needs to be done to analyse supply chains in the sectors concerned. The impact of effective third party monitoring and verification to detect and eliminate forced labour will likely have an impact on sectors and enterprises producing for the domestic market as well as those producing for the international market. Experience shows that certain groups are most vulnerable to forced labour and human trafficking – including internal and cross-border migrant workers, women and children, and indigenous peoples and minorities. Seasonal work, with peaks of labour demand, such as in agriculture, can lend itself to emergence of forced labour exploitation. Therefore, particular attention should be paid to monitoring the working conditions and contractual arrangements of such workers, including the nature of their

⁴ See the ILO Declaration on Social Justice for a Fair Globalization
http://www.ilo.org/global/What_we_do/Publications/Officialdocuments/lang--en/docName--WCMS_099766/index.htm

⁵ <http://www.ilo.org/sapfl/Informationresources/ILOPublications/lang--en/index.htm>

payment systems (including for example advance or post-payments) and to detecting more subtle means of coercion that might be applied to them.

In this context, Brazil should be noted for its path-breaking efforts to combat forced labour. Based on an initiative of the Brazilian Special Secretary on Human Rights, the ILO and the NGO Reporter Brasil have carried out two studies on the slave labour in supply chains in 2004 and 2007. These reports aim to inform and alert Brazilian consumers about the existence of slaves workers in the different steps of the supply chain of many consumer goods sold in Brazil. They also help enterprises to identify among potential suppliers those that use forced labour. It is a powerful tool to raise public awareness, as well as employers' awareness on their role in combating forced labour in supply chains.

Significant measures have also been taken by Brazilian industry and business associations at national and local levels. In response to allegations of slave labour in the charcoal camps supplying pig iron manufacturers, the representative steelmakers' association of Carajas decided to act. Through a Citizen's Charcoal Institute (ICC), social audits are performed at suppliers of charcoal on the basis of a code of conduct developed in 1999. When faced with non-compliance, suppliers are decertified, and members of the industry group cease to do business with them. In addition, the ICC set up an innovative social reinsertion initiative. During the first stage in 2006, the ICC helped reinsert 46 workers, and in 2007, 115 workers were recruited with formal contracts by steel companies in Maranhão, Pará and Tocantins. Furthermore, the 13 steel producers which comprise the ICC have committed approximately US\$ 350,000 for the reinsertion of at least 400 new rescued workers until the end of 2010.

Another significant step was the launch, in May 2005, of the National Pact to Eradicate Slave Labour, with Instituto ETHOS and Repórter Brasil. More than 180 companies and associations signed the Pact, including large supermarket chains, industrial and financial groups, Petrobras, Wal-Mart, Vale do Rio Doce and Carrefour, among others. These companies represent 20% of Brazil's domestic gross product. The signatories incorporate clauses prohibiting forced labour in their purchase and sales contracts. A follow-up process to the Pact has been set up by ETHOS, the ILO and Reporter Brasil. The Social Observatory Institute is in charge of carrying out this monitoring, by checking the behaviours and commitments of the signatories of the Pact, documenting their good practices and checking that they take concrete measures to enforce their commitment. As a consequence of this monitoring process, good practices or abuses can be found. In July 2008, for the first time, a signatory was removed from the Pact, after having been found twice to be using forced and degrading labour, including debt bondage. Subsequently, one company of this group was included on Brazil's "Dirty List" of companies found to use slave labour.⁶ Companies on this list, which is updated every six months, are ineligible for credit and financing from State financial institutions such as the Bank of Brazil. Some signatories of the Pact, on the other hand, are highlighted for their good practices, such as the National Syndicate for companies distributing Fuels and Lubricants (Sindicom) that has managed to commit its members not to procure alcohol from sugarcane companies that appear on the "Dirty List".

⁶ <http://www.reporterbrasil.com.br/listasuja/>

ILO has developed comprehensive training material for labour inspectorates in collaboration with the International Training Centre (ITC) in Turin, Italy. IPEC has published a series of relevant materials, including a handbook for labour inspectors to combat child labour.⁷ Regarding forced labour, ILO published a handbook for labour inspectorates in 2008. The handbook has been translated into several languages and adjusted to circumstances in specific countries.⁸ In countries where labour inspection has been equipped with the mandate and resources to fight forced labour, the identification of victims and prosecution of employers has significantly increased (e.g., Brazil, Jordan). Other third party monitoring systems could prove to be effective, complementary to the functions of labour inspectorates.

The ILO, through its International Training Center in Turin, Italy, provides training to social auditors and CSR managers on core labour standards, including those dealing with child labour and forced labour.⁹ These can be useful as a way to ensure that third party monitoring and verification systems have a solid understanding of relevant international labour standards and their implications for monitoring and verification.

⁷ <http://www.ilo.org/ipecinfor/product/viewProduct.do?productId=2619>

⁸ Forced labour and human trafficking: Handbook for labour inspectors, ILO/SAP-FL, 2008

⁹ <http://www.itcilo.org/en>