

LABOUR STANDARDS



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1. ABOUT THIS E&S BRIEFING NOTE

This Briefing Note is designed to help fund managers quickly familiarise themselves with labour standards. It is not intended to be a detailed technical guidance document.

Formal specific technical guidance is provided at the end of this Note and in [Downloads & Reference Materials](#), including [International Finance Corporation \(IFC\) 2012 Performance Standard 2: Labor and Working Conditions](#).

This Briefing Note provides an overview and general guidance. Fund managers should carefully consider each company based on its specific characteristics and circumstances including scale, location, technology, management capacity and commitment, and track record. Risks, impacts and opportunities relating to a particular company or sector can also change over time for a number of reasons (e.g. changes in the applicable laws and regulations or to the company's activities or assets). Fund managers may need to engage external experts to assist in assessing and/or addressing companies' exposure to, and management of risks and opportunities relating to labour standards.

Depending on the characteristics of the company or project, certain aspects of this topic may be of more importance. Fund managers should have systems in place to monitor and respond to these types of changes during the lifetime of an investment. It is also important to ensure that high standards and good management systems are in place for construction, operational and decommissioning activities.

2. INTRODUCTION

Economic growth through employment creation and income generation should be balanced with protecting workers' basic rights and the guarantee of decent work. Workers' rights encompass the employment standards under which they work (labour standards), addressed in this briefing note, and the conditions under which they work (including [occupational health and safety](#) (OHS)).

Labour standards are defined and protected through various and international conventions and instruments, including those of the International Labour Organization (ILO) and the United Nations (UN).

2.1 Objectives of the international conventions, recommendations and related instruments

- Promote the fair treatment, non-discrimination and equal opportunity of workers.
- Establish, maintain and improve the worker-management relationship, including an appropriate grievance recourse mechanism.
- Promote compliance with national employment and labour laws.
- Support workers' rights to organise and bargain collectively, where allowed by local law.
- Encourage responsibility in the way workers are dismissed.
- Protect workers, including vulnerable categories of workers such as children, migrant workers, workers engaged by third parties, and workers in the supply chain.
- Abolish forced labour.
- Promote safe and healthy working conditions and the health of workers.

3. WHY COMPANIES AND FUND MANAGERS SHOULD ADDRESS THIS TOPIC

3.1 Risks for the business

A company's workforce is a valuable asset and a sound worker-management relationship is important to the sustainability of a business. Failure to establish and foster a sound worker-management relationship and uphold good labour standards can result in a range of business costs and impacts, including:

- High levels of turnover and absenteeism, leading to higher costs for recruitment and training.
- Low levels of worker productivity due to poor terms and conditions or poor working and living conditions, and low quality output, with high levels of product defects, rejections and returns.
- Strikes or other worker action, which can lead to lost time, product delivery delays and be a drain on management time and resources.
- Reputational damage.
- Loss of or inability to secure contracts with major and international customers, with consequent exclusion from international markets.
- Fines and other penalties levied by local regulatory authorities.

3.2 Opportunities for the business

Opportunities include:

- Companies may be able to enhance the efficiency and productivity of their operations and their revenues and margins, by ensuring a constructive worker-management relationship, treating their employees fairly, and upholding good labour standards.
- Many companies now require their suppliers to demonstrate policies and practices that align with the [ILO Fundamental Conventions](#) and best practices, and to undergo regular third-party audits by accredited verifiers to assess compliance with their own policies or those of independent external organisations.
- Better exit values and / or exit options.

4. ADVICE FOR FUND MANAGERS

See [CDC Environmental and Social Checklist](#) as it contains questions and tips to help fund managers to assess the E&S aspects of an investment.

It is imperative for all businesses in all sectors to uphold good labour standards. Poor labour standards are more often found in certain sectors and activities

- Manufacturing, particularly for labour intensive products such as clothing, footwear, toys and consumer electronic items.
- Agribusiness.
- Mining and quarrying.
- Construction activities.
- Hospitality.

Further, the legal frameworks of some countries are not fully aligned with good international practices, and some countries have poor records around the protection and enforcement workers' rights. The ILO provides additional information regarding these countries.

Fund managers should ensure that companies have employment policies in place that, at a minimum, align with local laws and regulations, and enshrine the protections established by the ILO Core Conventions.

Fund managers should also assess whether a company is audited regularly by independent, specialist organisations to verify that it complies with its own policies, upholds the standards to which it commits, and reviews recent audit findings. It should be noted that some companies may have fairly sophisticated systems to hide their contravention of labour standards, including: (i) keeping duplicate 'clean' employment records; (ii) maintaining falsified worker documentation, payroll and timekeeping records; (iii) and/or removing children and other illegal workers before auditors arrive, or having separate, undeclared sites where these types of employees work. Where significant risks are identified it is important to commission and review third-party auditors' reports.

Businesses that rely on large labour forces and those in which working conditions are harsh (in terms of the working environment, the nature of the work or the hours involved) need to adopt particularly stringent policies and procedures to protect workers' health and safety and assure their rights are protected. Particular attention should be paid to clauses relating to the employment of children and workers under the age of 18 (so that they are only employed in particular circumstances and with strict protections) and to controls on the risks of any form of forced labour, as well as the employment of workers from vulnerable communities (e.g. Indigenous Peoples), migrant workers and women).

Fund managers should ensure that companies' policies and practices address the following points:

4.1 Non-discrimination and equal opportunity

Companies should have a policy through which they commit not to make employment decisions on the basis of personal characteristics unrelated to inherent job requirements (such as age, ethnicity, gender, sexuality or physical attributes), but rather on the principles of equal opportunity, fair treatment and suitability for the role.

4.2 Working conditions and terms of employment

Companies should document and communicate to all employees and workers (including contract workers) their working conditions and terms of employment. These include their entitlement to wages and benefits, hours of work, overtime arrangements and compensation, and leave for illness, maternity or childcare and holiday. At a minimum, policies should comply with national law. As women and minorities can be at particular risk from harassment at work, companies need to ensure they are protected against harassment in the first place, as well as offer a means to report any incidents and have them investigated and addressed effectively. Companies should also respect collective bargaining agreements with workers' organisations in place.

4.3 Freedom of association and collective bargaining

Where permitted by law, companies should grant employees the right to associate freely and bargain collectively by forming and joining workers' organisations, or through alternative means. Moreover, companies must not discourage workers from forming or joining workers' organisations and should not discriminate or retaliate against workers who participate in these organisations and bargain collectively. Where national law restricts workers' organisations, companies should not prevent workers from developing alternative mechanisms to express their grievances and protect their rights relating to working conditions and terms of employment.

4.4 Child labour, and forced and bonded labour

All companies should commit to not employ children in a manner that is economically exploitative, is likely to be harmful to them, or will interfere with their education. Similarly, companies must not employ forced labour (this refers to any work or service that is not voluntarily performed by an individual, but is executed under threat of force or penalty), or bonded labour (where a person works to repay a debt or other obligation). Fund managers should gain a sufficient understanding of sector and regional risks and where appropriate, make enquiries with organisations that monitor these issues and review independent auditors' reports carefully. They should ensure that companies agree to eradicate forced and bonded labour and employ children only in accordance with the ILO Core Conventions. Increasingly, legislation (such as the [UK Modern Slavery Act](#)) requires companies operating in international markets to specifically assess the risks of modern slavery / forced labour in their value chains and to reduce or remove these risks from their businesses. The risk of reduced markets / market exclusion is evident here. However, companies that can clearly show that they do not support or enable forced labour may benefit from increased access to international markets.

4.5 Retrenchment

Companies should have a plan for managing the adverse impacts on employees if a significant number of jobs are expected to be lost, or a layoff of a significant number of employees is likely to occur. This should include providing all employees with a mechanism to raise reasonable workplace concerns (confidentially or anonymously, if needed), so that concerns can be addressed promptly at management level without any retribution.

4.6 Contractors

In many cases, an investment in a company can be impacted significantly by the performance of the main contractors (including EPC contractors) that the company uses. Although investors are frequently not in a position to directly influence the selection, appointment and management of

contractors, assessing whether contractors have adequate systems to manage labour and OHS issues is good international practice and an essential component of acceptable labour and OHS performance. Investors should require companies to implement measures to ensure that their contractors uphold good labour standards. Companies will need to require contractors to comply with international standards on labour and working conditions and should implement monitoring and supervision programmes to monitor contractors' practices. Companies may need to implement capacity-building programmes for contractors that offer a good opportunity to improve local labour conditions, increase productivity and reduce reputational damage for the company and its investors.

4.7 Supply chains

Companies and their investors need to understand the risks associated with supply chain labour conditions, even if those risks are difficult to manage due to the lack of leverage or complexity and diversity of the supply chain. Companies and investors should set out the standards they expect to be upheld by suppliers, including a focus on child and forced labour in sectors where these are known to be present.

Fund managers should aim to determine whether suppliers' competitiveness is in part due to harmful labour practices. This is not just important for workers' welfare, but also for the protection of the business and its investors from damaging media exposés of poor labour practices, which arise regularly.

Moreover, adopting policies and practices that align with international standards may be necessary in order to secure contracts with major international buyers. Many now require their suppliers to have a general certification (such as [SA8000](#)) or sector or product-specific certification (such as those for tea, cocoa and other products), and/or be members of organisations that aim to ensure good labour standards are upheld throughout the supply chain, such as [Sedex](#) and [Global Social Compliance Programme](#). The [UK Modern Slavery Act](#) is also important here (see '4.4. Child labour, and forced and bonded labour' above).

Some supply chains have many tiers, extending beyond a few formal suppliers to a very large number of less formally organised suppliers, including piece workers and home-based employees. Knowing what practices are followed and trying to ensure good labour standards are upheld in 'deeper' levels of the supply chain, can be extremely challenging. In these cases, companies and fund managers should try to map their suppliers and determine where the most relevant risks lie. Next, they should assess whether the severity of existing risks and the extent to which the company can mitigate them.

If a company does not comply with the policies and practices above, it must be willing to commit to an Action Plan and take the necessary measures to align with good international practice within a reasonable timeframe.

5. FURTHER RESOURCES

5.1 Further information and guidance

- [IFC 2012 Performance Standard 2: Labor and Working Conditions.](#)
- [IFC 2012 Guidance Note 2: Labor and Working Conditions.](#)
- [ILO Fundamental Conventions:](#)
 - [ILO Convention 87 - Freedom of Association and Protection of the Right to Organise.](#)
 - [ILO Convention 98 - The Right to Organise and Collective Bargaining.](#)
 - [ILO Convention 29 - Forced Labour.](#)
 - [ILO Convention 105 - Abolition of Forced Labour.](#)
 - [ILO Convention 138 - Minimum Age \(of Employment\).](#)
 - [ILO Convention 182 - Worst Forms of Child Labour.](#)
 - [ILO Convention 100 - Equal Remuneration.](#)
 - [ILO Convention 111 - Discrimination \(Employment and Occupation\).](#)
- [UN Convention on the Rights of the Child, Article 32.1.](#)
- [UN Convention on the Protection of the Rights of all Migrant Workers and Members of their Families.](#)
- [UK Modern Slavery Act.](#)