Best Practice Guidance on Ethical Recruitment of Migrant Workers

INTERFAITH CENTER ON CORPORATE RESPONSIBILITY

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Celebrating its 46th year, ICCR is the pioneer coalition of shareholder advocates who view the management of their investments as a catalyst for social change. Its 300 member organizations comprise faith communities, socially responsible asset managers, unions, pension funds, NGOs and other socially responsible investors with combined assets of over $200 billion. ICCR members engage hundreds of corporations annually in an effort to foster greater corporate accountability on questions such as climate change, corporate water stewardship, sustainable food production, human trafficking and slavery in global supply chains, and increased access to financial and health care services for communities in need.

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INTRODUCTION

In recent years, the international labor recruitment industry and its accompanying human rights risks have become a focal point of concern for companies with global supply chains. Surges of work-related migration along with a recruitment industry that is largely unregulated have created a predatory climate for migrant workers where exploitation and egregious violations of human rights flourish. While some countries and sectors are more vulnerable to these violations than others, they are present in the extended supply chains of virtually every company and, without adequate safeguards in place, threaten the lives of workers and present serious reputational and financial risks to both companies and their investors.

The purpose of this emerging Best Practice Guidance on Ethical Recruitment of Migrant Workers is to highlight the progress some companies have made on these fronts that may serve as models for companies looking to implement ethical recruitment policies and contribute driving change at the recruitment agency level. Through the examination of eight companies in high risk sectors we provide an analysis of emerging best practices in the development of corporate ethical recruitment policies, and identify gaps for improvement. We hope this analysis will serve both companies and the investment community. Several of these case studies are based on ICCR member engagements under its No Fees Initiative funded by Humanity United. Additional case studies are the result of research furnished by Social Accountability International (SAI).

ICCR encourages companies in their respective sectors to take leadership roles that will serve as models for their sector peers fostering a race to the top on questions of corporate responsibility. In our ongoing No Fees multi-stakeholder roundtables we are convening top brands from at-risk sectors along with government representatives, recruitment experts and human rights advocates to share learnings and challenges in a collective attempt to eradicate the scourge of trafficking and slavery from global supply chains. A preliminary draft of this guide was shared with roundtable participants at a recent convening in January, 2017 and we are grateful for additional input they provided.

As new legislation takes effect and better practices emerge in the future, we will continue to collaborate with these and other stakeholders to refine our recommendations and update this guide. In the meantime, we welcome any feedback and suggestions that will make this guide more useful.

I. EXECUTIVE SUMMARY

Almost 21 million people (a conservative estimate) are trapped in conditions of forced labor that generates over $150 billion in profits for other parties. Of these workers, over 75% are exploited within the traditional private sector, especially in industries such as agriculture, apparel, construction, electronics and manufacturing.

Poverty, displacement, job scarcity and wage disparity all create financial burdens for workers at the bottom of global supply chains that may drive them across borders seeking jobs. The ILO estimates that over 150 million workers left their home countries in 2013 in search of a job, and that number is increasing every year. Unethical recruiters often charge workers the equivalent of thousands of dollars in fees to secure employment. These fees could cover a range of services from work placement to orientation, transportation to the country, daily transportation to the worksite, housing and other services. Migrant workers in fear of being deported, without access to adequate grievance mechanisms in their host countries, are prime targets for exploitation as forced laborers. This exploitation takes a number of forms including debt bondage, collateral, illegal deductions from wages and confiscated or restricted access to travel documents like passports, permits and visas that limit workers' freedom of movement.

As a result, the international labor recruitment industry and its accompanying human rights risks have become a focal point of concern for companies with global supply chains. A surge in work-related migration along with a recruitment industry that is largely unregulated has created a predatory climate for migrant workers where exploitation and egregious violations of human rights flourish. While some countries and sectors are more vulnerable to these violations, they are present in the extended supply chains of virtually every company and, absent adequate safeguards, threaten the lives and livelihood of workers and present serious reputational and financial risks to companies and their investors.

PURPOSE

The purpose of ICCR's Best Practice Guidance on Ethical Recruitment of Migrant Workers is to highlight the steps some leading companies have made that may serve as examples or models for other companies looking to implement ethical recruitment policies, and drive change at the recruitment agency level. By examining eight companies in high risk sectors, ICCR provides an analysis of emerging best practices in the development of corporate ethical recruitment policies and identifies gaps where improvement is needed. We hope this analysis will serve companies, suppliers, workers and the investment community. Several of these case studies are based on ICCR member engagements. Additional case studies are the result of research furnished by Social Accountability International (SAI).

Corporate Responsibility to Respect Human Rights

Although labor brokers and recruitment agencies are directly responsible for using some of these unethical practices, companies and their suppliers that hire or contract with these agencies have a responsibility to take concrete steps to eliminate forced labor. Companies may be facilitating forced labor unwittingly through their own recruitment processes. For this reason, corporate human rights due diligence around recruitment is critical.

Government's Role in Enforcing Ethical Recruitment

Governments with weak labor laws and inadequate regulation of recruitment agencies may inadvertently play a role in facilitating forced labor. In 2016, the ILO Governing Body issued general principles and operational guidelines for fair recruitment with recommendations for governments, as well as companies and labor recruiters, to promote fair recruitment practices and protect migrant workers from exploitation.

CASE STUDIES: EMERGING BEST PRACTICES

The eight companies participating in case studies represent an array of industries from food and beverage, to apparel, electronics, and agriculture, and are located in the Asia-Pacific region (India, Thailand, Malaysia, Taiwan), Africa and the United States. Through this study we identified the following best practices for companies and suppliers to eliminate forced labor from global supply chains:

- **POLICY DEVELOPMENT:** Adopt a forward-facing (public) policy and a guidance document that addresses the recruitment of migrant workers, including the prohibition of worker-paid fees, passport/personal paper confiscation and a written contract with the terms of employment in the language of the worker (3-pillar model). Map the entire supply chain including products, services and labor to identify the risks and, with the support of top management, start implementing the policy across these entities.

- **DIRECT RECRUITMENT:** Where feasible for a company, establish a direct recruitment mechanism with dedicated staff in sending and receiving countries. If a company must use broker services, work only with authorized brokers securing direct hiring of workers immediately after placement.

- **WORK WITH SUPPLIERS:** Establish an understanding with suppliers vis-à-vis recruitment through direct communication, contracts and other tools. Conduct trainings on ethical recruitment, assist suppliers with reimbursement of fees and verify that only authorized brokers are used.

- **AUDITING TOOLS:** Ensure that the recruitment system is included in the scope of a 3rd party audit and that recruitment agencies are included in the scope of the audit.

• **COMPLIANCE WITH LOCAL LAW:** Migrant workers are covered under local labor law for wages, overtime, leave, holidays, health insurance and social security benefits. No illegal deductions from wages are withheld without a worker's explicit consent. Workers have freedom of association and collective bargaining rights. Company investigates any allegations of worker abuse.

• **RECRUITMENT FEES REIMBURSEMENT:** Company defines recruitment fees, adopts a fee-free model and verifies reimbursement of fees to workers.

• **BEYOND COMPLIANCE:** Company assists suppliers with covering recruitment costs; company/suppliers ensure that workers have access to grievance mechanisms. Accommodation, food and transportation allowances, transportation to/from home countries, and supplemental accident insurance are covered in company's direct operations and by suppliers.

• **LEADERSHIP:** Company participates in industry initiatives like the Leadership Group for Responsible Recruitment, EICC, AIAG, FLPG and others. Company collaborates with local governments through MOUs or taskforces and civil society on worker's rights issues.

CONCLUSION

The global recruitment industry and its many risks have become a focal point for many companies with extended supply chains. ICCR members challenge companies in their respective sectors to take leadership and become models for their sector peers, fostering a race to the top on questions of corporate responsibility. The companies presented in this study have all taken leadership positions in forging and implementing ethical recruitment policies in their respective industries. Even though the lessons learned from these case studies are industry-specific, they have global implications that are relevant for a variety of stakeholders, particularly for companies in the early stages of developing an ethical recruitment policy. We are hopeful this resource will inspire collective action and help companies address the challenges of ethical recruitment in a strategic, targeted way that will have meaningful impact on the global recruitment system, improving the lives of the millions of people trapped in forced labor around the world.

II. BACKGROUND

FORCED LABOR RISKS IN GLOBAL SUPPLY CHAINS

The term forced labor defines any situation in which someone is coerced into working against his or her will due to physical, psychological or financial threats or deception.[1]

Around the world today, almost 21 million[2] people (a conservative estimate) are trapped in conditions of forced labor that generates over $150 billion in profits for other parties.[3] Of these workers, over 75% are exploited within the traditional private sector, especially in industries such as agriculture, construction and manufacturing. While physical and psychological threats are the most directly coercive forms of forced labor, financial intimidation through withheld wages as a result of debts or loans from the charging of recruitment fees often forms another concealed gateway to conditions of forced labor.

ILO Indicators of Forced Labor:

- Abuse of vulnerability
- Deception
- Restriction of movement
- Isolation
- Physical and sexual violence
- Intimidation and threats
- Retention of identity documents
- Withholding of wages
- Debt bondage
- Abusive working and living conditions
- Excessive overtime

Poverty, displacement, job scarcity and wage disparity all create financial burdens for workers at the bottom of global supply chains that may drive them across borders seeking jobs. In today's global economy, 150 million workers[4] have left their home countries to find work and a better life for themselves and their families in another country. Migrant workers in fear of being deported, with limited knowledge of local laws and entitlements and without access to adequate grievance mechanisms in their host countries, are prime targets for exploitation as forced laborers. Confiscated or restricted access to travel documents like passports, permits and visas that limit workers' freedom of movement are also used by employers and recruiters as a means to trap and exploit migrant workers.

Companies in host countries choose to hire migrant workers for a variety of reasons including local labor shortages or because migrant workers:

- are willing to accept lower wages than local workers;
- are willing to do work that the local workforce will not;
- have a specialized skill that local workers do not;
- are willing to relocate and work in remote areas like industrial parks;
- typically, are either single or travel on single-status work permits;
- are not protected by local labor laws including laws related to freedom of association, social security payments or unemployment insurance[5].

[1] International Labor Organization http://www.ilo.org/global/topics/forced-labour/lang--en/index.htm
[2] International Labor Organization http://www.ilo.org/global/topics/forced-labour/lang--en/index.htm
[3] http://www.ilo.org/global/topics/forced-labour/lang--en/index.htm; http://www.ilo.org/global/about-the-ilo/newsroom/news/WCMS_243201/lang--en/index.htm
[4] International Organization for Migration http://iomgmdac.org/wp-content/uploads/2016/06/Global-Migration-Trends-2015-Factsheet.pdf
[5] https://www.farmworkerjustice.org/sites/default/files/documents/7.2.a.6%20fwj.pdf

Regardless of the reason for hiring migrant workers, companies with operations either domestic or outside their home countries often turn to a third party to recruit, hire, and sometimes manage their workforce for the duration of employment. Since recruiters charge fees directly to workers, companies can benefit from this service at no cost to them. Usually, there are numerous agencies fulfilling different roles in the recruitment process. One agency may recruit workers in their home countries, while another transports them to the host country, and yet another is responsible for overseeing their employment contracts. The widespread lack of accountability or regulation of these agencies, many of which operate across international borders in a murky legal context, exposes thousands of migrant workers to exploitation and places them at risk for forced labor and human trafficking.

Recruitment agencies often misinform workers about the recruitment process, recruitment fees, the nature of working conditions, and the positions for which they are being recruited. Unethical recruiters may charge workers an equivalent of thousands of dollars in fees to secure employment which can take years for the workers to repay, if they are able to pay them back at all. These fees might cover a range of services from work placement to orientation, transportation to the country, daily transportation to the worksite, housing and other charges. These charges can quickly accumulate into a large and unpayable debt that plays a pivotal role in turning a situation of hardship into an incident of human trafficking and/or forced labor.

CORPORATE RESPONSIBILITY TO UPHOLD HUMAN RIGHTS

The UN Guiding Principles on Business and Human Rights (UNGP) make clear the corporate responsibility to respect human rights throughout global supply chains. The process of human rights due diligence, Principle 17 of the UNGP ,recommends assessing potential and actual human rights impacts; integrating and acting on the findings; monitoring responses; and communicating how impacts are addressed. This process needs to be ongoing, not a one-off, given that human rights risks like forced labor and slavery inevitably change over time.

The Governing Body of the International Labour (ILO) Office, in its 2014 Recommendations of Supplementary Measures for the Effective Suppression of Forced Labour, calls out the corporate responsibility of "protecting persons, particularly migrant workers, from possible abusive and fraudulent practices during the recruitment and placement process" in combating forced labor. Additionally, in 2016 the Governing Body issued general principles and operational guidelines for fair recruitment stating that companies and public employment services should include "human rights due diligence assessments of recruitment procedures, and should address adverse human rights impacts with which they are involved."

Although labor brokers and recruitment agencies are directly responsible for employing some of these unethical practices, companies that hire or contract with these agencies will also be implicated, particularly if they are operating in a region or industry known to be at risk for forced labor. Additionally, companies may be facilitating forced labor unwittingly through their own recruitment process. For this reason, corporate due diligence around recruitment is critical.

GOVERNMENT'S ROLE IN ENFORCING ETHICAL RECRUITMENT

Governments with weak labor laws and inadequate regulation of recruitment agencies may inadvertently play a role in facilitating forced labor. Further complicating this problem is the division of responsibilities between government branches overseeing recruiters and migrant workers. Government regulated recruitment practices for migrant workers and private recruiters are frequently supervised by different divisions within governments, which may create confusion and accountability issues.

A United Nations Interagency Project on Human Trafficking (UNIAP) 2010 study "Estimating Labor Trafficking: A Study of Burmese Migrant Workers in Samut Sakhon, Thailand" uncovered at least 17 different types of labor brokers in Mahachai, Samut Sakhon province of Thailand.

In countries where labor migration is more prevalent, participating governments may agree to measures that facilitate the recruitment process across borders through a Memorandum of Understanding or MOU. This practice is widespread in the Asia-Pacific region but has its shortcomings — in the form of wait times, timelines and limits to the number of times a work permit can be renewed -- which encourage more vulnerable jobseekers to bypass these regulations in favor of undocumented recruitment via labor brokers.

As supply chains have become increasingly globalized and complex, the risk of forced labor, especially forced labor as a result of cross-border recruitment, has also increased. Even the most sophisticated factories in the developed countries are not immune to the risk of forced labor if they are hiring migrant workers via recruiters. Recent reports have called attention to horrifying abuses at various levels of global supply chains including forced laborers on Thai fishing boats, the deaths of migrant construction workers in Qatar in preparation for the 2022 World Cup, and the abuse of migrant workers on palm oil plantations in Malaysia and in the U.S agricultural sector.[6]

In an effort to clarify the due diligence and reporting requirements for companies and their supply chains, governments have begun to enact and utilize legislation and regulations — such as the UK Modern Slavery Act[7], the California Transparency in Supply Chains Act,[8] the Executive Order[9] "Strengthening Protections Against Trafficking In Persons In Federal Contracts" — along with the regulations spelled out in the Federal Acquisition Regulation (FAR)[10] and the Customs and Border Protection Section 307 of the Tariff Act of 1930 (19 U.S.C. § 1307). Since many recruiters operate through illegal networks and secure their recruitment channels through payments to corrupt officials, they are also frequently linked to a range of other criminal activity. Statues and mechanisms such as Foreign Corrupt Practices Act[11] (similarly, UK Bribery Act and others), Foreign Narcotics Kingpin Designation Act[12] (linkages to drugs), and False Claims Act[13] which relates to fraud in government contracting, all directly link to labor recruitment trafficking mechanisms, and place additional responsibility on companies to be compliant.

[6] https://www.theguardian.com/world/2013/mar/28/undocumented-migrants-worker-abuse-deportation
[7] http://www.legislation.gov.uk/ukpga/2015/30/contents/enacted
[8] http://www.state.gov/documents/organization/164934.pdf
[9] https://www.whitehouse.gov/the-press-office/2012/09/25/executive-order-strengthening-protections-against-trafficking-persons-fe
[10] https://www.acquisition.gov/?q=browsefar
[11] https://www.justice.gov/criminal-fraud/foreign-corrupt-practices-act
[12] https://www.treasury.gov/resource-center/sanctions/Programs/Documents/narco_sanctions_kingpin.pdf
[13] https://cdn2.hubspot.net/hubfs/1623566/blog-files/C-FRAUDS_FCA_Primer.pdf?t=1484939662433

A growing number of companies and stakeholders acknowledge that not only does forced labor likely exist at any tier of every supply chain whenever a migrant workforce is present, but companies have a responsibility to prevent forced labor from occurring.

INVESTOR ADVOCACY AND ICCR'S NO FEES RECRUITMENT INITIATIVE

Investors are becoming aware of the material risks caused by poorly managed supply chains where human rights abuses may tarnish a company's reputation and adversely impact long-term value. In the past three years, ICCR investors alone have engaged over 70 companies in target industries on recruitment issues. Over 30 companies have adopted formal ethical recruitment policies and are at different stages of implementation across a variety of sectors.

The goal of ICCR's No Fees Initiative is to move companies to adopt recruitment systems that ensure workers in their immediate and extended supply chains are not paying fees for employment. No Fees follows decades of productive ICCR engagements on human rights and supply chain issues, and further amplifies years of ICCR member-led engagements with food, beverage, apparel, electronics, travel and tourism and automotive companies on responsible sourcing, production and labor practices. Building on legislation requiring supply chain reporting and a growing awareness of the enormous risks posed by modern slavery in corporate supply chains, ICCR's investors are using their leverage to create and strengthen corporate supply chain policies to eradicate unethical and illegal hiring practices.

To guard against these human rights risks, ICCR recommends adopting the following 3-pillar approach as the basis for an ethical recruitment program:

1. **No Fees:** Ensure that workers do not pay any fees (in whole or in part) for recruitment, job placement or other parts of the employment process. If fees were charged to gain employment, the workers must be reimbursed for such fees.
2. **Written Contract:** All workers must be given a written contract in their own languages at the point of recruitment, that outlines their rights and responsibilities.
3. **No Retention of Documents or Deposits:** Do not keep or withhold any documents (e.g. original identification papers or passports), monetary deposits or other collateral as a condition of workers' employment.

While the 3-pillar approach should be implemented at the supplier level where migrant labor is most prevalent, buyers are also held accountable when cases of forced labor are found in their supply chains and, therefore, expected to incorporate these pillars into their supplier codes and contracts.

III. CASE STUDIES

In this section, we provide eight case studies of emerging best practices at both the buyer and supplier levels based on engagements by ICCR members and SAI. Some of the companies surveyed have worked with ICCR and adopted the 3-pillar approach while others are certified to the SA8000 Standard. SA8000 includes both performance requirements (e.g., no forced or compulsory labor) and management system requirements (e.g., policies, procedures and records) to make sure that certified organizations have a comprehensive system that enables them to meet the requirements of the Standard and continually improve. Since its introduction in 1997, SA8000 has always covered 2 of the 3 pillars (written contracts and no passport/personal papers confiscation) and, as of 2014, added the No Fees policy to the scope of its audits.

While the case studies discuss the different challenges companies are facing in their sectors and may indicate varying stages of recruitment policy implementation, it is important to underscore that no company, sector or country is exempt from forced labor risk.

REPORT METHODOLOGY

Third-party audit in action in Taiwan.

The methodology that we used to report these emerging best practices has varied greatly from company to company — from witnessing shadow audits to meetings with a company's management team to surveying the appropriate staff at both the company and supplier levels on their ethical recruitment policy implementation. In addition, we sought the expertise of SA8000 auditors to provide feedback on challenges surrounding policy implementation.

The companies that participated in this report represent an array of industries from food and beverage, to apparel, electronics, and agriculture, with references in the study to suppliers located in the Asia-Pacific region (India, Thailand, Malaysia,

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Progress Towards Best Practice Implementation

Policy Development	Direct Recruitment (when possible)	Work with Suppliers	Auditing Tools	Compliance with Local Law	Recruitment Fees Reimbursement Pre-departure	/ On the Job	Beyond Compliance	Leadership
Forward-facing policy	Dedicated staff in sending and receiving countries	Buyer-supplier relationship building	Recruitment included in the scope of 3rd party audit	Worker's rights: wage, overtime, leave, holidays, health insurance, social security	Job application	Receiving country work permit	Company assists supplier with covering recruitment costs	Leadership Group for Responsible Recruitment
					Labor broker fee (sending country)	Receiving country labor broker (x contract term)		
3-pillars (basic model)	Recruitment w/registered brokers only	Supplier trainings on ethical recruitment	Recruitment agencies are included in the scope of the audit	No illegal deductions or any deductions from wages without worker's explicit consent	Registration to work abroad	Work permit renewal	Worker grievance mechanisms	Demonstrated industry leadership (EICC, AIAG, GCF, FLPG etc.)
					Certificate of good standing	New hire tests & training on arrival		
Mapping and risk prioritizing	Direct hiring after placement	Company assists supplier with covering recruitment costs		Freedom of association and collective bargaining	Pre-employment medical exam	Receiving country medical check	Accommodation, food allowance, transportation allowance	Collaboration with government (MOUs, taskforces)
					Pre-departure orientation (+/-room/board)	Food allowance		
Support from top management		Only registered labor brokers are used		Company investigates any allegations of worker abuse	Labor insurance	Transportation to work site	Transportation to/from home country covered by supplier	Collaboration with government (MOUs, taskforces)
					Sending country bank loan and interest	Accident insurance		
					Passport & visa	Housing	Accident insurance coverage (if not required by law)	
					Airfare & airport tax	Transportation to home country		

- Government-imposed fees (may be extremeley high)
- Personal expenses (rarely covered, although may impose significant burden on workers)
- Transportation covered (debatable) Accommodation (beyond compliance)
- Fee-free model (implemented most frequently)

Taiwan), Africa and the United States. For many of the surveyed companies on both the buyer and supplier levels, the issue of ethical recruitment of migrant workers has been added to the scope of audits very recently. Given that the average audit cycle is 180 days, at the end of 2016 we are still in the very early days of assessing the success of positive policy implementation. In addition, because recruitment and worker's rights issues are closely linked to forced labor risks that can negatively impact a company's image, many companies are unwilling to disclose how they are addressing these risks, further limiting our study.

A. BUYERS

Buyers have a responsibility to adopt the 3-pillar policy, establish clear operational protocols stating requirements for their suppliers, including training on mapping and monitoring their labor recruiters, and assess suppliers' implementation of the No Fees policy.

Buyers have a responsibility to adopt the 3-pillar policy, and establish clear operational protocols stating requirements for their suppliers.

The Coca Cola Company
Country: Taiwan
Type of operation(s): Bottling plant & bottle manufacturing plant
Origin of migrant workers: Thailand, Vietnam, Indonesia

Our first case study came from collaboration with The Coca-Cola Company (TCCC) where ICCR was able to participate in a shadow audit of two suppliers in one of the company's most difficult markets, Taiwan. The issue of recruitment of migrant workers in Taiwan has been challenging for the company due to the existing legal framework, the company's minimal leverage with its suppliers, and the lack of other buyers enforcing the No Fees principle.

An audit in progress.

The Coca-Cola Company (TCCC) was one of the first food and beverage companies to adopt a policy banning the charging of recruitment fees to workers.

Policy Development:

The Coca-Cola Company (TCCC) was one of the first food and beverage companies to adopt a policy banning the charging of recruitment fees to workers. Recognizing that migrant workers are particularly vulnerable to exploitation and human trafficking, in 2014 the company set out to review its internal policies and due diligence activities with the aim of better protecting such workers in its supply chain. The result was an enhancement to the company's Supplier Guiding Principles and a public commitment to key principles related to the responsible recruitment and employment of migrant workers. These principles are articulated in the Human and Workplace Rights Issue Guidance, which was launched in early 2014 and is cited by ICCR as an exemplary document addressing the 3 pillars of ethical recruitment. In response to the Executive Order[14], TCCC conducted auditor trainings globally to facilitate policy implementation in 2015.

In addition to policy and due diligence enhancements, TCCC sought to collaborate with peer companies to share a common message with suppliers and also to raise awareness within their industry. Through industry groups like AIM-PROGRESS, TCCC has conducted joint supplier trainings with peer companies to underscore the importance of protocol updates. During recent supplier trainings in the Middle East in 2014, Turkey in 2015 and Thailand in 2016, specific sessions were dedicated to addressing human trafficking risks. In hopes of raising awareness more broadly, TCCC became a founding member of the Leadership Group for Responsible Recruitment, a group of companies that has committed to the 'Employer Pays Principle'.

Furthermore, the company has committed to investigate any allegations of worker abuse, including migrant worker abuses, through continuous assessments of suppliers and labor recruiters. For this purpose, the company has developed a Risk-Mitigation Checklist for contract and migrant workers, along with other management tools like enhanced vendor agreements and trainings available via mobile app[15].

[14] https://www.whitehouse.gov/the-press-office/2012/09/25/executive-order-strengthening-protections-against-trafficking-persons-fe

[15] https://itunes.apple.com/us/app/coca-cola-human-rights/id1035586459?mt=8">Coca-Cola Human Rights - Coca-Cola

Migrant Workers

Migrant labor is a prevalent phenomenon in many countries and in many ways good for migrant workers and their families, but if poorly managed can result in exploitation and the abuse of worker rights. Employees may be recruited from their home countries to host countries through a network of labor contractors and a sponsorship system against their will through human trafficking. Recruitment agencies can offer valuable service, but some of the less reputable firms can render workers vulnerable to being in bonded forced labor as they become trapped by debt incurred to pay recruiters, by visa and work permit regulations that bind them to a particular workplace, and by limited access to host country law enforcement. (See Contract Labor checklist)

This checklist identifies key areas for employers to monitor when employing migrant labor. The intent is to respect human rights of migrant workers and thus avoiding instances of forced labor, including human trafficking, by ensuring migrant workers receive full disclosure prior to hire, that they are provided a safe and healthy work environment, and that their freedom of movement is not impeded.

Complicity: Complicity refers to when a company knew, or should have known, that a business partner or supplier was engaged in human rights abuses and, as a consequence, it indirectly contributed to a human rights violation. The concept is relevant when dealing with labor recruiters or brokers and highlights the need to undertake human rights due diligence.

This human rights self-assessment tool focuses on the principal indicators of potential human rights impact. The questions are not exhaustive and local conditions may require examination and remediation of additional factors.

The Human Rights Due Diligence Assessment

KEY: Low risk activity / High risk activity — Perform Action / Obtain further info — Contact SME / Engage 3rd party

Recruitment

The facility should formalize arrangements with licensed recruitment agencies to avoid fraudulent practices

1. Is there a policy that sets out allowable fees and who is the responsible party for, e.g., recruitment, fees, renewal, work or exit?
   YES NO ☑
2. Is the use of subagents prohibited?
   YES NO
3. Does the facility ban recruitment or transport of workers by threat, force, coercion, deception or abduction?
   YES NO ☑
4. Are all employment fees paid by employer (recruitment, visa, medical, etc.)?
   YES NO ☑

Passports

Workers should have full control over or access within 24 hours to their passport and similar documentation to ensure mobility is not restricted

5. Do the migrant workers maintain access their own passports or similar documentation?
   YES NO ☑

Employment terms:

Workers should be provided employment terms in advance of employment to avoid deception or misunderstanding which may result in forced labor situations.

6. Does the facility require employment terms to be communicated in worker's home country and in the local language?
   YES NO ☑
7. Does facility ensure that no additional terms or requirements are assigned after the employment contract is signed?
   YES NO ☑
8. Are workers paid directly at least the legal minimum wage for hours worked and legally mandated benefits?
   YES NO ☑
9. Is there a clear process to ensure workers are not discriminated against?
   YES NO ☑
10. Is the safe and timely return of migrant workers with all pay/benefits guaranteed?
    YES NO ☑

Work Environment

11. Are work hour regulations complied with?
    YES NO ☑
12. Are adequate health and safety measures in place and do migrant workers have unrestricted access to facilities (canteen, restrooms etc.)? YES NO ☑
13. Are migrant workers treated equally in promotion, compensation, dismissal or other employment decisions?
    YES NO ☑
14. Do migrant workers have access to a grievance mechanism?
    YES NO ☑
15. Are the freedom of association rights of migrant workers respected?
    YES NO ☑

Source: TCCC, Risk Mitigation Checklist

The average fee for a migrant worker to get a factory job in Taiwan ranges from $2,000 to $6,000, depending on the worker's country of origin. Most pay $5,500. The average monthly salary in Taiwan for a factory worker is $630, which is subject to monthly deductions of approximately $283. The recruitment fee debt amounts to at least one full year of disposable income out of a 3-year contract term.

Policy Implementation:

The Coca-Cola Company operates in 207 countries with thousands of 1st tier suppliers worldwide. While TCCC has had success in combatting recruitment fees in many markets, other markets such as Taiwan continue to remain a challenge. A few of TCCC's suppliers are based in Taiwan where the problem of migrant labor has lately become a focal issue for a number of industries. The monthly minimum wage in Taiwan is roughly U.S. $630 - more than twice the average monthly salary of $260[16] in Thailand, one of several 'sending countries' for migrant workers. For this reason, Taiwan attracts a large number of migrant workers from the entire Asia-Pacific region, with most coming from Thailand, the Philippines, Vietnam, Bangladesh and Indonesia.

Between May 30th, 2016 and June 3rd, 2016, ICCR participated in two shadow audits at two Coca-Cola facilities in Taiwan, at the Supplier A facility in Thaichung and the Supplier B facility in Hsin Chu City. Both were led by SGS, a multinational company which provides inspection, verification, testing and third party certification services, as well as TCCC's team members.

[16] "Migrant workers' remittances from Thailand to Cambodia, Lao PDR and Myanmar", ILO, 2010.

The purpose of ICCR's visit was to witness the implementation of new elements added to the TCCC code of conduct in 2014 to specifically address the ethical recruitment of migrant workers through third party auditing mechanisms, as well as direct company-to-supplier communication and cooperation.

During the week of the audits we had a chance to study two drastically different cases:

- Supplier A is a modern but small facility employing fewer than 300 workers, of which 165 are migrant workers, and where TCCC is a primary customer, accounting for roughly 33% of total production.
- Supplier B is a much larger plant with over 1000 workers and 200 migrant workers, where TCCC only accounts for 5% of production.

While both factories employ migrant workers mostly from Thailand, Vietnam, Indonesia and the Philippines and work with recruitment agencies, only Supplier A had a transparent relationship with its recruitment agency, which allowed us to meet with the recruiter and discuss the issues surrounding labor migration, recruitment fees, grievances and opportunities for improvement.

Meeting with the Recruitment Agency

Supplier A:

During the meeting with the recruiter for Supplier A, we reviewed its recruitment fee structure which outlined at least 24 different fees, some recurring, that each worker regardless of their country of origin had to pay for the duration of their three-year contract term. Fees paid prior to arrival in Taiwan were different for each country, ranging from $6,000 for Indonesian workers to $5,800 for Vietnamese workers and $4,566 for Thai workers. These fees included: application, recruiting, hiring, placement, medical exams, tickets, deposits and local agent service fees.

In addition, once in country, the workers were subjected to additional monthly deductions of $280 that included:

- Housing - $173
- Local recruitment agency - $56
- National tax - $35
- Insurance - $16

Supplier B:

The fee structure was similar for Supplier B workers. All workers had to pay recruitment fees in their home countries to secure their employment in Taiwan and additional fees to recruitment agencies in Taiwan while on the job. In addition, as in the previous example, all migrant workers had to pay a monthly broker fee of $56 to their local recruitment agency in Taiwan, as required by law.

Some of the fees that were withheld from paychecks were for services that workers did not use or fully understand.

Some of the fees that were withheld from paychecks were for services that workers did not use or fully understand. In addition, factories coercively made deductions from monthly wages for workers' savings accounts in the amount of $94, further contributing to the financial burden that migrant workers experience. Average take-home monthly pay after deductions was between $495-$619, with the variance attributable to overtime pay.

adidas
WORK PERMIT

As evident from the itemized fee schedule, many migrant workers experience a large financial burden not just from paying broker fees before departure and while on the job, but also from government-imposed requirements to take loans that secure their return to their home countries. Excessive government-imposed fees create enormous risks for workers: they incentivize illegal migration through unregistered brokers that bypass those government regulations, placing many vulnerable job seekers at risk for human trafficking[17].

Excessive government-imposed fees create enormous risks for workers: they incentivize illegal migration through unregistered brokers that bypass those government regulations.

A migrant worker on a production line in a glass-blowing facility in Taiwan.

Outcomes:

Overall, in the course of interviews with over 50 workers (20 from the Supplier A operation and over 30 from Supplier B), workers in both factories confirmed a significant financial burden imposed by the recruitment fees, yet they said they were satisfied with their terms of employment, working conditions and working hours, with the exception of strict labor laws in Taiwan that restrict the amount of overtime workers can take, therefore delaying repayment of the fees. All the workers in both factories had signed written contracts in their native languages, in line with TCCC policy, and understood their terms of employment. Both suppliers had copies of contracts on file. The workers did not state any discrepancies between their expectations based on terms of employment presented by the recruitment agencies in their home countries and their actual employment or wages. Both suppliers provided workers with employee-only accessible safe deposits to keep their personal documents, and workers confirmed that they always have access to their documents. Many workers in both cases renewed their 3-year contracts for a second or third term. However, the workers considered the excessive fees and deductions a norm and would never address the issue with management or recruiters on their own without a TCCC policy in place.

[17] https://www.youtube.com/watch?v=JuLX3u94q_Y

Since TCCC's code prohibits its suppliers from charging recruitment fees to workers, the violations were presented to the management of both companies with an ensuing non-conformance report in both cases. The response of management in the case of Supplier A was receptive, and management agreed to commit to the remediation and reimbursement of the following fees to workers:

1. Labor broker fee in Taiwan for the duration of the contract (3 years);
2. Work permit;
3. Health checks; and,
4. Return ticket at the end of the contract term.

The grand total up for reimbursement by the supplier for the 165 migrant workers working on a 3-year contract at the factory amounted to $894,000.

Having a policy on recruitment fees in place establishes a crucial channel of communication.

In the case of Supplier B, management was decidedly less responsive to the non-conformance report. This was principally due to the relative size of TCCC's production line versus other, larger clients that do not require their suppliers to adhere to a No Fees policy. TCCC is committed to addressing this problem through supplier trainings and leveraging other brands and retailers to adopt the same set of standards for recruitment.

While policy implementation in its early stages encounters many challenges, having a policy on recruitment fees in place establishes a crucial channel of communication. Conversations with suppliers and their recruitment agencies help provide the necessary information to understand fee structures and initiate remediation. Importantly, these conversations and sharing of successes and challenges in policy implementation create opportunities for other stakeholders, including industry partners and government representatives, to participate, learn and advance ethical recruitment efforts.

Full transparency is a crucial best practice, and The Coca-Cola Company has established itself as a distinct leader among its peers by sharing these detailed findings from its most challenging market.

EMERGING BEST PRACTICES

1. **POLICY:**
   a. Leadership position on developing and adopting a forward-facing policy and a guidance document that addresses recruitment of migrant workers, covering the 3 pillars.
2. **WORK WITH SUPPLIERS:**
   a. The recruitment fees that the company bans are clearly defined and put into supplier contracts and are communicated to suppliers.
3. **AUDITING TOOLS:**
   a. The scope of supplier audits includes suppliers' recruitment agencies.
   b. The fee structure presented by the recruitment agency is transparent and is verified through worker interviews.
   c. The company follows up and verifies reimbursement of fees after the date set for completion.
4. **INDUSTRY LEADERSHIP:**
   a. The company collaborates with other companies directly and through industry initiatives to gain leverage and implement the policy collectively on the industry level. Supplier payment of recruitment fees can be a major new cost. Buyers need to consider sharing the costs, especially in the first phase of implementation.
   b. The company is engaged in the development of a sector-wide approach to changing the recruitment system through the Consumer Goods Forum's Forced Labor Initiative and is taking a public leadership role in eliminating worker-paid fees through the newly formed Leadership Group for Responsible Recruitment.

Agricultural Products Company X
Country: United States
Type of operation(s): Agriculture
Origin of migrant workers: Mexico, El Salvador, Nicaragua

"Bad apples [who violate migrant worker's rights] have a bad reputation in the long term. Growers that use H2A are businessmen and are diligent on paper; they rely on these workers for more than just one commodity. The Department of Labor (DOL) will visit you, at least once a year, and they are very interested in the topic of ethical recruitment."
– Manager of Compliance, Agricultural Products Co. X

The company in this case study has asked to remain anonymous.

The company in this case study is a large North American operator with an extended supply chain rooted in U.S. agriculture. Given that in recent years over 90% of agricultural operations rely on migrant workers and the world's largest migration corridor is between the U.S. and Mexico[18], the company decided to conduct human rights due diligence in its supply chain. The company has been a member of a multi-stakeholder group that unites agricultural companies, growers, trade unions, government officials and NGOs in an effort to improve farm labor working conditions. With ICCR's involvement, the group has been continuously addressing the issue of migrant labor recruitment in the tobacco industry. ICCR's participation in the group came about as a result of shareholder resolutions filed in 2015 with U.S. tobacco companies on the issue of recruitment fees and ethical recruitment practices[19]. During a series of dialogues at the multi-stakeholder group meetings ICCR highlighted the issues facing migrant workers in the context of U.S. agriculture:

[18] http://www.pewresearch.org/fact-tank/2016/05/18/5-facts-about-the-u-s-rank-in-worldwide-migration/
[19] http://www.reuters.com/investigates/special-report/workers-brokers/

Currently in the U.S., labor violations among H2A and H2B workers are on the rise. These workers frequently pay higher fees to secure legal status allowing them to work in the U.S.. The fees for getting a H2A/H2B visa prior to departure from the country of origin (frequently in Latin America) range from $2,000 to over $10,000, while the contracts are of short duration (less than a year) and wages are not guaranteed. The consulates in the countries of origin are involved in the visa process and yet do not acknowledge or inform workers of the risks, still issuing visas for jobs that are not guaranteed.

Migrant workers in the U.S. agriculture sector.

- Migrant workers pay thousands of dollars in fees ($7,000 to over $20,000) to secure an H2A job in the United States, arriving with significant debt.[20]
- Workers home and possessions in the country of origin may serve as collateral and, in extreme cases, family members are threatened by unscrupulous labor brokers.
- Workers may be subjected to wage theft or underpayment due to their vulnerable status.
- Work may be scarce due to weather/crop conditions, hindering the repayment of debt.
- Poor working and living conditions (lack of health and safety protections[21], overcrowding, unsanitary quarters, no drinking water etc.[22]) are frequently present.

As a result, Agricultural Products Company X is now on the cusp of announcing its own No Fees policy, with an anticipated early 2017 release. However, the hard copy of its new Code of Conduct has already been shared with current growers in contract meetings. Growers are carefully selected by Company X from the start. There is an interest among growers to be responsible in their recruitment practices and to be more transparent with the companies that contract with them. However, the inherent issues of migrant workers in U.S. agriculture combined with new discussions of fees reimbursement have raised growers' concerns and anxiety. Recruitment mechanisms for migrant workers under the H2A[2] program (seasonal agricultural workers on a fixed contract for up to 10 months in the country) have never been addressed before, and have raised many questions about both compliance requirements and remediation.

Similarly, the issue of fee reimbursement presents challenges for growers to solve. Migrant workers in agriculture frequently are not employed by growers directly. This task often falls on Farm Labor Contractors (or FLCs) that act as recruiters in receiving countries, the U.S. in this case. Most recruitment fees are paid by workers prior to departure from their home countries, and are difficult to trace and verify. The work is seasonal and temporary, obscuring the responsibilities of each subcontractor or grower. For that reason the multi-

[20] https://www.farmworkerjustice.org/sites/default/files/documents/7.2.a.6%20fwj.pdf
[21] https://www.ncbi.nlm.nih.gov/pmc/articles/PMC3529146/
[22] https://www.uscis.gov/working-united-states/temporary-workers/h-2a-temporary-agricultural-workers

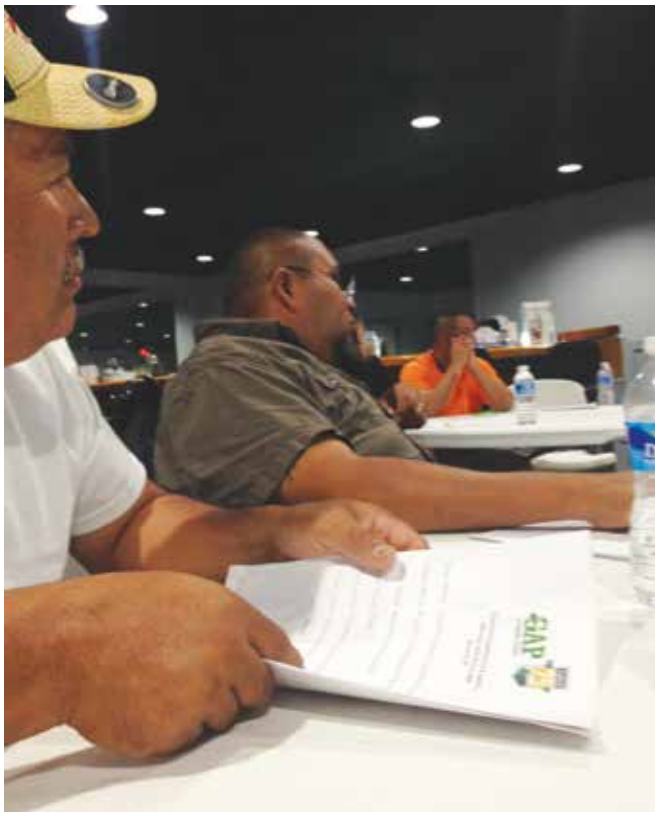
stakeholder group invites government representatives from both sides of the border into the discussion. Its meetings have been attended by the Mexican embassy staff.

With the rollout of Company X's new policy, growers will have to become more accountable for their operations, especially when it comes to contracting workers to meet new expectations in compliance with the No Fees policy. The penalties for violations of the Migrant and Seasonal Agricultural Worker Protection Act (MSPA) are both civil and criminal. Among the 30 possible violations are issues related to payment of wages, poor housing conditions, lack of health and safety safeguards, use of an unregistered crew leader, overcrowding, failure to provide safe transport, failure to ensure drivers are licensed, and failure to register employees.

The company contracts produce growers directly and since 2015 started using third-party bilingual assessors to evaluate workers' wage statements. This measure was in the pilot stage but is currently expanding and will eventually include all operations. At the moment, the company conducts weekly calls with relevant staff and third-party assessors to address findings quickly. When a timely resolution of an issue does not occur, the company terminates its contract with the grower.

The company requires its growers to work only with registered Farm Labor Contractors and can certify that the H2A contractors in its supply chain are all compliant with U.S. law. Certification of Farm Labor Contractors in the U.S. is currently the only mechanism to safeguard against extreme violations like human trafficking and forced labor, because the DOL monitors compliance. The registration process verifies the criminal history of each contractor, keeps all relevant information on workers on file and feeds it into a system monitoring[23] workers' living conditions. As a key player in the U.S. agriculture industry, the company is interested in improving the H2A program to further address the question of fees. It recently facilitated a roundtable with H2A providers to discuss the program and open a dialogue.

Certification of farm labor contractors in the U.S. is currently the only mechanism to safeguard against extreme violations like human trafficking and forced labor.



Gap Connections training section on human rights.

The company is also working collaboratively with the multi-stakeholder group and the DOL, which is in the process of approving training on labor issues for about 8,000 agricultural growers in various commodities, through the non-profit

[23] http://www.gapconnections.com

Administrative actions under MSPA include penalties of up to $1,000 per violation and, in the case of farm labor contractors, revocation or suspension of existing certificates and denial of future certificates of registration. Failure to comply with MSPA may result in civil or criminal prosecution. To ensure compliance with MSPA, the Secretary of Labor may seek court injunctions prohibiting further violations and may bring criminal charges. Courts may assess fines of up to $10,000 and prison terms of up to three years in criminal cases.
– U.S. Department of Labor

GAP Connections. The mission of GAP Connections is to develop, maintain, and provide leadership for agricultural standards and practices. It also provides a due diligence check list for contracting with H2A providers.

EMERGING BEST PRACTICES

1. **WORK with SUPPLIERS:**
   a. The company uses 3rd party supplier assessors prior to its selection of suppliers
2. **COMPLIANCE with LOCAL LAW:**
   a. The company only uses government registered Farm Labor Contractors.
3. **LEADERSHIP:**
   a. The company participates in industry initiatives through multi-stakeholder groups.
   b. The company collaborates with civil society, to train its growers on labor issues.

HP
Country: Malaysia
Type of operation(s): Electronic manufacturing
Origin of migrant workers: Philippines, Indonesia, Vietnam and others

Hewlett Packard Inc. (HP) has been a sector leader in corporate social responsibility. It was the first IT company to publish a supplier list in response to ICCR's engagement and stakeholder expectations, and recently ranked first in a KnowTheChain benchmark study of information and communications technology (ICT) companies' efforts to eradicate forced labor from their supply chains.[24] HP has a vast supply chain that spans six continents and 45 countries, and attempts to engage its suppliers to promote improvements for its workers.[25]

In 2013, the company began hearing reports of migrant workers in Malaysia being charged high recruitment fees. Based on these reports and others, HP conducted further research to identify this as an emerging risk in the company's supply chain. HP engaged Verité, a labor rights organization with a specific expertise in forced labor, to build its program to address forced labor.

HP's first step was to develop the HP Foreign Migrant Worker Standard, which was released in 2014. This Standard is also aligned with the ICCR No Fees framework, and as part of its requirements, prohibits the payment of fees by workers, requires written contracts in the worker's language, and prohibits the withholding of identification documents. HP's Standard also goes beyond this framework and general industry practice to require the direct employment of foreign migrant workers.[26] HP is the first company in the ICT industry to require this practice.

[24] https://knowthechain.org/companies/10/
[25] http://www8.hp.com/h20195/v2/GetDocument.aspx?docname=c04152740
[26] http://www8.hp.com/us/en/hp-news/press-release.html?id=1836213#.V4aQsPkrJpg

HP determined that hiring workers through recruitment agencies or labor brokers was simply too risky to be allowed, so until there were better tools to obtain that visibility, HP took the additional step of requiring all suppliers to directly hire foreign migrant workers. In this model, recruiters can still be used, as long as they are not the employer on record. A worker, once placed, becomes a formal employee of a HP supplier.

"Just knowing what is happening in the supply chain and where the risks are is half the battle. And you have to recognize that once you start looking, you will find things. It is therefore important to get alignment internally on where the company stands on this issue and what kind of support it is willing and able to give to suppliers to make changes."
– HP Program Manager

HP recognizes that creating a standard and actually implementing its requirements are two different things. The company realized that suppliers would not be able to make the structural changes needed to meet the new requirements overnight. In order to provide suppliers with practical guidance on how to implement the Standard, HP created a guidance document with Verité. The Guidance Document includes information on how to transition to direct employment, the "no recruitment fee" model, and how to identify, screen and select ethical recruitment agents. In conjunction with this Guidance Document, HP also developed a supplier self-assessment questionnaire to help suppliers learn more about the Standard and how it relates to their practices. Based on that questionnaire, HP developed a focused assessment that is now a part of HP's onsite audit. HP auditors help suppliers understand where their implementation of the Standard is weak, and provide some coaching onsite on how to make system changes. In 2016, HP conducted focused assessments at 16 suppliers in high-risk countries and will conduct assessments in medium-risk countries by the end of 2017.[27] In addition, HP also conducted a series of workshops in partnership with Verité, government representatives, and other IT companies for high-risk suppliers in Malaysia. The workshops created a space for suppliers to share best practices.

Electronics industry workers.

[27] http://h20195.www2.hp.com/V2/GetDocument.aspx?docname=c05154920

HP has noticed that the direct hiring requirement has changed the relationship between many of its suppliers and their recruitment agencies. While suppliers are still allowed to use agencies to recruit new workers, suppliers must take over the formal employment relationship once the worker arrives in a host country. HP has seen that with this hand-over, suppliers learn more about agencies and can monitor their practices more effectively.

While there are challenges to making the changes required by the Standard, HP has long-standing relationships with many of its suppliers and has established a strong foundation. HP also includes social responsibility in its overall system for supplier management, so suppliers receive one consistent message from the company. As an HP program manager noted, "Social responsibility is part of our overall system to manage suppliers. It is not separate and different. It is a part of the same conversation about quality, price, availability, etc."

"Social responsibility is part of our overall system to manage suppliers. It is not separate and different. It is a part of the same conversation about quality, price, availability, etc."
– An HP Program Manager

HP also recognizes the necessity of collaboration to address this issue and is an active member of the Electronic Industry Citizenship Coalition (EICC) and the Leadership Group for Responsible Recruitment (LGRR). HP published the Standard and Supplier Guidance Document on its website, and also shared these resources with the EICC to help other companies with their work on this issue.

EMERGING BEST PRACTICES

1. **POLICY:**
   a. Forward facing policy on ethical recruitment.
   b. The company makes public its policies and guidance documents for other companies to use.
2. **DIRECT RECRUITMENT:**
   a. The company requires its suppliers to hire workers directly and take over the formal employment relationship once workers arrive in the host country.
3. **WORK with SUPPLIERS:**
   a. The company creates a guidance document to assist suppliers in complying with its ethical recruitment requirements.
   b. The company starts with high-risk suppliers in Malaysia, develops training with suppliers in collaboration with civil society and an onsite audit process including ethical recruitment requirements.
4. **LEADERSHIP:**
   The company invests time in developing a sector approach to changing the recruitment system through the EICC and is taking public leadership to eliminate worker-paid fees through the newly formed LGRR.

Patagonia
Country: Taiwan
Type of operation(s): Apparel manufacturing
Origin of migrant workers: South-Pacific Asia

"Our audits of raw-materials supplier reveal that labor brokers charge migrant workers from Asian countries up to $7,000 to get a job in Taiwanese fabric mills that supply Patagonia. We identify the audit results as red flags for human trafficking. The practice is considered an acceptable part of doing business by our suppliers, though brokers regularly charge above legal limits. Transportation, work visas and other essentials are included. But paying that kind of money for a factory job is an almost impossible burden for workers already struggling to make a living."
– www.patagonia.com/protecting-migrant-workers.html

As a brand, Patagonia is internationally known for its emphasis on environmental responsibility and activism. Beginning in 1990, Patagonia incorporated a review of working conditions into its vetting of new suppliers.[28] By 2010, Patagonia was auditing almost 100% of its Tier-1 cut and sew suppliers, or 73 "Cut, Make and Trim" factories. At that point, the company felt confident about its oversight of the 1st tier of its supply chain. Senior management decided to start looking deeper into the supply chain to make sure that conditions were consistent for workers throughout and, in 2011, began auditing material suppliers as well.[29] These audits revealed possible instances of forced labor. In keeping with Patagonia's commitment to transparency, the company has an in-depth summary of those findings and efforts in this area on its "Protecting Migrant Workers" webpage[30]:

Yarn processing at an apparel factory.

While these practices are considered common in Taiwan's business culture, they were not acceptable to Patagonia. The company invested in this issue and hired a small team to manage the work. This new team developed a comprehensive migrant worker program which included a focused migrant worker audit that would detect the recruitment and employment practices of this vulnerable group of workers. The results of these audits were alarming. Patagonia then partnered with Verité to help develop a migrant worker standard for its suppliers. The Standard is intended to clearly outline Patagonia's expectations of its suppliers at every phase of a worker's employment lifecycle - before, during and after employment. The Migrant Worker Employment Standard is aligned with the ICCR No Fees framework, and as part of its requirements, prohibits the payment of fees by workers, requires written contracts in the worker's language, and prohibits the withholding of identification documents. The Standard also includes explicit requirements for suppliers' working relationships with labor brokers.

Once Patagonia established its expectations internally, it announced the new Standard to its Taiwanese suppliers – first via email, and then in person with a leadership meeting including Patagonia's Chief Operating Officer (COO) and directors of supply chain,

[28] http://www.patagonia.com/us/patagonia.go?assetid=67580
[29] http://www.patagonia.com/us/patagonia.go?assetid=67580
[30] http://www.patagonia.com/protecting-migrant-workers.html

Although the Standard is fully intended to protect workers, Patagonia has found that workers also need support to understand their new terms of employment. For example, one labor broker that eliminated fees found that it was difficult to convince workers that they would actually obtain a job without paying the fee. Another facility found that after it returned workers' passports to them they began to use them as collateral for local loan sharks. Patagonia is encouraging its suppliers to provide training by putting up posters and holding meetings with workers to educate them on their rights and risks.

materials and social and environmental responsibility. According to the company's social and environmental responsibility staff, "It was important to show [our suppliers] that the company is united behind this Standard; this is not just important to the social and environmental responsibility department, but to the entire company. Through the in-person meeting, Patagonia also made it clear to its suppliers that it would work with them to implement improvements, not just leave them alone to change the way things have been done for decades on their own." By February, the Standards had also been communicated to the rest of Patagonia's supply chain including all Tier 1 factories and Tier 2 suppliers outside of Taiwan, and the Standards translated in three languages.

Since then, Patagonia has implemented a phased approach to the Standard. For example, the Standard prohibits the charging of recruitment fees, which is a significant change to the recruitment process. Patagonia set two deadlines for implementing this requirement – before and after June 2015. For those workers hired before June 2015, suppliers only have to reimburse fees over the legal limit, not all fees charged. For workers hired after June 2015, suppliers are meant to cover all recruitment fees. This is a challenge for suppliers, so Patagonia has done substantial work on the ground to find and develop methods of recruitment that will lower the cost for suppliers and shares these best practices across its supply chain. The company also acknowledges that implementation of these standards is a financial investment and discusses with suppliers how these costs can be shared.

In addition to a phased approach to implementation and some financial support, Patagonia also provides suppliers other support through webinars, in-person workshops and one-on-one meetings. The workshops are especially valuable to suppliers, since they enable them to meet with their peers, discuss common challenges, and brainstorm possible solutions. Patagonia is customizing its approach for each supplier, and providing incentives to the suppliers that are making the most progress. For this purpose the company's Social and Environmental Responsibility team provides regular updates to its Sourcing team to calibrate the supplier's progress, and together the teams work to find ways to create the incentives. Patagonia is also trying to help suppliers understand how these changes can benefit their companies and streamline their internal operations.

In order to holistically address the risk of forced labor, Patagonia has engaged labor brokers in this process as well. They are expected to be present during migrant worker assessments as their practices are audited, and included in the remediation process. Patagonia is also helping suppliers find labor brokers that are able to comply with the Standard; one such example is a recruitment agency in the Philippines that has made a public pledge to never charge workers a fee. Patagonia is providing its suppliers with support to improve their vetting processes for labor brokers to identify ethical brokers and help them end relationships with brokers that are not willing to make the necessary changes.

Patagonia recognizes that the issue of forced migrant labor is complicated and cannot be addressed by one company alone. Though Patagonia has strong, long-standing relationships with many of its suppliers, it typically utilizes only a small fraction of any given supplier's capacity. Patagonia is therefore partnering with other buyers to incentivize change at the supplier level. Patagonia is also collaborating with other stakeholders[31], including governments and NGOs to address the many dimensions of this problem.

[31] http://www.patagonia.com/protecting-migrant-workers.html

Patagonia is an example of an emerging best practice to address forced labor risks at the brand level. It has found that the first step is to engage leadership and get their buy-in. With an issue this big, it's hard to make change without support from the business unit. It is also important to engage with other brands and use collective influence on suppliers. Finding partnerships within the industry goes a long way for a smaller company.

EMERGING BEST PRACTICES

1. POLICY:

a. The company adopted a Migrant Worker Employment Standard with a phased schedule of implementation and fee reimbursement.

b. COO fully embraces ethical recruitment, reinforcing to suppliers the importance of implementing the necessary changes.

2. WORK with SUPPLIERS:

a. Establishment of ongoing communication with suppliers and capacity building, one-on-one and through workshops.

b. Assisting suppliers in their vetting process to find ethical recruiters.

c. Identification of labor brokers willing to make changes in order to comply with the ethical recruitment standard.

3. BEYOND COMPLIANCE:

a. Acknowledgement of the shared financial responsibility of improving work conditions.

B. SUPPLIERS

Suppliers have a responsibility to implement the ethical recruitment requirements of their buyers, including oversight of their recruitment agencies, providing workers access to their personal papers/passports, and written contracts. This also includes the payment of recruitment fees and the reimbursement of fees previously paid by their workers, with the assistance of their buyers. For the purposes of this report we refer to companies like CP Foods and Thai Union as suppliers, although these companies also operate as buyers.

CP Foods
Country: Thailand
Type of operation(s): Food processing
Origins of migrant workers: Myanmar, Laos, Cambodia

CP Foods is a leader of the Thai food industry and a supplier to many western retailers like Costco, Walmart, Target and many others. Among other food products, CP Foods produces and sells farmed shrimp, and does not own or operate any fishing vessels. However, in June of 2014 CP Foods was accused of slavery, forced labor and human trafficking on the fishing vessels in its extended supply chain by The Guardian. For years the Gulf of Thailand suffered from overfishing and low yields, which drove the wages for the entire industry sector down, attracting only the most vulnerable job seekers, among them many undocumented migrants, many of whom have been forced to work on fishing boats against their will, or because they were deceived.

Workers on a seafood vessel in Thailand

ICCR staff and ICCR member Robeco and other investors involved with UN Principles on Responsible Investment's Labor Standards Working Group, engaged the company on the issue requiring full disclosure of the measures it has implemented to address the allegations. The dialogue started in August 2014 to discuss risk management for the company as well as its buyers. In the fall of 2014, ICCR met with company management in Bangkok to discuss recruitment of migrant workers. At that time the company had just started to implement its ethical recruitment policy. CP Foods noted that it has taken measures to improve the traceability of its extended supply chain through a joint effort with the Thai government. The company has adopted a number of additional measures to increase the traceability of its farmed shrimp supply chain as well as to address the issues surrounding the welfare of migrant workers in its supply chain:

> In 2014 CP Foods joined the Shrimp Sustainable Supply Chain Task Force (presently Seafood Taskforce), which developed a third party auditing system for the extended supply chain, completed vessel monitoring, and signed onto the UN Global Compact;
> Since then, CP Foods has enhanced its policies to address ethical recruitment for its direct operations and established a mechanism of direct hiring of workers from their countries of origin and direct payment, using only company authorized agents.

This has included eliminating third parties and working with the government's MOU channel to meet the company's recruitment needs. In its direct operations CP Food employs migrant workers mostly from Myanmar, Laos and Cambodia. CP Foods migrant workers have to pay a government fee equal to $230 that covers a health check and passport. The average monthly salary of a migrant worker in Thailand is $260. CP Foods has adopted the 3-pillar approach and now covers the MOU-imposed fees: the cost of work permit applications ($190) and their renewal fees ($100), easing the burden on workers. In addition, the company goes beyond just reimbursing recruitment fees. CP Foods also covers transporta-

tion, health exams and housing for the duration of the contract. To further address the risk of forced labor CP Foods has established a worker education program and a helpline.

Even though direct hire under the MOU terms creates a burden for the company due to increased compliance requirements, the safeguards in place significantly diminish reputational risks that the company has experienced previously. The company stated that planning in advance for labor surges (3 month minimum), given the timeline for the legal process (90 days to acquire permits), has been critical in managing risks and staying compliant.

EMERGING BEST PRACTICES

1. **POLICY:**
   a. The company adopts a forward facing policy on ethical recruitment
2. **DIRECT RECRUITMENT:**
   a. The company establishes a direct recruitment system.
3. **BEYOND COMPLIANCE:**
   a. The company provides additional benefits to its workers to ease the burden of cross-border employment costs, including housing and transportation allowances that surpass industry average benefits.
4. **LEADERSHIP:**
   a. The company cooperates with the government through Government-Industry coalitions.

Thai Union
Country: Thailand
Type of operation(s): Seafood processing and distribution
Origin of migrant workers: Myanmar, Laos, Cambodia

Thai Union is a multinational corporation based in Thailand and is one of the world's leading seafood companies. Thai Union's products are sourced globally. Similarly to CP Foods, ICCR members engaged the company in 2015, after concerns arose about forced labor in the company's extended supply chain.

During the recent UN PRI conference where the topic of forced labor was discussed on the multi-stakeholder panel (September 6-8, 2016), a representative of Thai Union's sustainable development program shared that the company attributed the problem to a historically established hiring process in its extended supply chain where workers did not have contracts and were paid by piece rate. In light of recent allegations of human trafficking in Thailand's seafood industry the company deepened its investigative efforts to assess the problem of forced labor.

Improvements to the company's policies have focused on safe and legal migration, completely banning recruitment fees, and changing the existing system to formalized recruitment that included contracts and pay slips. The company pays the agencies directly for all the recruitment costs including:

- Pre-departure training in the countries of origin;
- Food and accommodation costs for the duration of the training; and,
- Transportation fees from the recruitment agent in the sending country to the company's facilities in Thailand.

Migrant worker life on a fishing boat.

Thailand has become strongly associated with slavery in seafood supply chains. In response, Thai Union and other industry players joined the Seafood Task Force which promotes a sustainable supply chain in the Thai fishing industry.

These efforts have gone hand-in-hand with the changing regulatory framework in Thailand on the issue of migrant workers. With the EU issuing yellow cards (an objection warranting a legislative review) for unregulated fishing, Thailand being downgraded to Tier 3 status (though subsequently upgraded to Tier 2) by the U.S. Department of State, and the rising media pressure, Thailand has become strongly associated with slavery in seafood supply chains. In response, Thai Union and other industry players joined the Seafood Task Force which promotes a sustainable supply chain in the Thai fishing industry. The company has launched a number of policies designed to protect its workers' human rights, and is subject to internationally-recognized external verifications and audits by third-party certification bodies working to promote standard labor practices. Working with the Seafood Task Force, suppliers and customers, Thai Union has expanded its auditing efforts to include vessels in its Thai fleet.

Thai Union has traveled to sending countries to understand the nature of labor recruitment and fee structures, worked with agents on the border, consulted with the U.S. Agency for International Development (USAID) and the International Organization for Migration (IOM), and referenced the U.S. Department of State's Trafficking in Persons (TIP) reports to expand its understanding of recruitment issues. In addition, in Thailand the company has partnered with NGOs like the Migrant Worker Rights Network, Issara Institute and Labour Rights Promotion Network Foundation to establish worker welfare

committees; develop materials; conduct a series of workshops for migrant workers to educate them on their rights and entitlements under Thai labor law; and conduct social dialogue exercises by engaging with workers in their own languages.

EMERGING BEST PRACTICES

1. **POLICY:**
   a. Company adopts a zero recruitment fees policy and establishes a direct hiring process.
   b. Company maps recruitment fee structures in sending countries.
2. **WORK with SUPPLIERS:**
   a. Company enforces contracts and payment slips for the workers.
3. **AUDITING TOOLS:**
   a. Company implements audits by third-party certification bodies working to promote standard labor practices.
4. **LEADERSHIP:**
   a. Company participates in industry initiatives.
   b. Company cooperates with the government and with civil society to educate workers about their rights.

Princes Tuna
Country: Mauritius
Type of operation(s): Seafood processing (Tuna)
Origin of migrant workers: Bangladesh, India, Madagascar

Princes Tuna Mauritius (PTM), a manufacturer of canned tuna products, is located on the small island nation of its namesake in the Indian Ocean off the southeast coast of Africa. PTM exports its products mainly to European companies under its own Princes brand, and also supplies private brands for major retailers. Like other companies mentioned in this handbook, PTM faces risks of unethical recruitment and forced labor since almost one-third of its workers are recruited overseas. With the merger of another tuna company in 2015, the company now employs about 4,300 workers, which includes roughly 1,500 migrant workers from Bangladesh, India, and Madagascar. PTM has been SA8000 certified since 2003, and following the merger in 2015 is increasing its scope of certification.

Mauritius has seen a significant change in the composition of its workforce. Foreign workers increased from 3.5% of the labor force in 2003 to 4.7% of the labor force in 2014.

Over the past two decades, Mauritius has seen a significant change in the composition of its workforce. Foreign workers increased from 3.5% of the labor force in 2003 to 4.7% of the labor force in 2014[32]. From 2013 to 2014 alone, the percentage growth of foreign workers as part of the total labor force was 7.6% compared to Mauritian workers at 0.8%. According to the World Bank, the majority of its foreign workers come from Bangladesh, but the number of migrant workers from India, Madagascar, Nepal, Morocco, Lebanon, Korea, Japan, Israel, Indonesia, Haiti, Algeria, Argentina, Burundi, Congo, and Denmark has also increased.[33] With the influx of migrants traveling to this small island for work, the risk of forced labor is high.

[32] http://statsmauritius.govmu.org/English/StatsbySubj/Documents/labour%20-%20digest/Labour%20Digest%202014a.pdf
[33] http://www-wds.worldbank.org/external/default/WDSContentServer/WDSP/IB/2016/02/17/090224b084188230/1_0/Rendered/PDF/Mauritius000In0nd0shared0prosperity.pdf

Migrant workers sorting seafood.

Employee turnover, whether local or migrant workers, is something the company monitors as an indicator of employee welfare and satisfaction.

Within this context, Princes Tuna Mauritius has developed a strong management system to ensure that its workers are recruited ethically PTM invests in a dedicated staff member who is empowered to have a hands-on approach throughout the recruitment process. Regular oversight of the company's recruitment agencies is also a key factor. PTM has been working with the same recruiting agency in Bangladesh for the past 15 years and has established a strong relationship with the agency based on trust and a clear understanding of expectations. When there is a need to hire workers, PTM sends the advertisement information to the agency, which then recruits the necessary workers. Unlike the typical recruitment process, however, this agency is only responsible for identifying candidates to be interviewed. A PTM staff person travels to Bangladesh about three or four times a year to interview the candidates and makes the hiring decision herself. After the candidates are hired there is a pre-induction meeting with them in Bangladesh. This session includes a review of the employment contract with a translator, and workers have an opportunity to ask any questions they may have about life on Mauritius and working at PTM before the contract is even signed. Many workers seek to return to PTM after their contract term is over, so there are usually returning workers at every pre-induction training and they are asked to speak about their experience and answer new workers' questions during the session.

The Mauritius Ministry of Labor vets the contract prior to recruitment and each candidate receives a copy of it upon hiring. Although the contract is written in English, as is required by Mauritius law, a translator explains the contract line by line to new workers. The returning workers also validate the accuracy of the contract per their experience.

Historically, PTM paid agents a recruiting fee of $150 for each worker and also covered the worker's travel and medical costs. However, PTM found through surveying the workers that they were also required to pay the agency a recruitment fee. The newest version of SA8000 prohibits the payment of any fees by workers, so PTM has recently made

changes to its contract and hiring process to comply. PTM has determined that covering all the fees will increase the cost of recruitment per worker to $600. This is a significant cost increase, but PTM's management team is willing to absorb the cost to remain compliant with SA8000. This change was addressed during the pre-induction session. Since they have eliminated the fees, PTM has seen a small increase in turnover of migrant workers. Employee turnover, whether local or migrant workers, is something the company monitors as an indicator of employee welfare and satisfaction and any increase is analyzed to identify and resolve the underlying cause.

In some cases, fee debt ties workers to a place of employment. Lack of debt enables workers to freely change employment.

Once workers arrive in Mauritius to begin work, they are assigned to living quarters that are separated by gender. All workers are free to keep their identification documents with them, including passports and work permits. PTM also provides a safe in the dorms where these documents can be kept and which workers can access whenever needed. Most workers keep their passports in the safe, but carry their work permits with them. All workers are also able to return home for short-term leave in cases of emergencies and can resign from PTM with one month's notice. In both cases when the worker is leaving the island, PTM covers all the travel costs for the worker to return to their countries.

PTM also conducts due diligence on its own suppliers and has a vendor assurance manager to manage supplier audits. Due to the update to SA8000, their audit program now includes recruitment agencies as part of the scope of their audit program. This enables PTM to have even more oversight of the agencies and ensure that ethical practices are followed.

Based on PTM's experience, buyers need to become more engaged in the recruitment process. Buyers need to do more than just ask their suppliers about how they manage the recruitment process, to having a more active role in ensuring that ethical practices are followed. A PTM representative said: "The fees and costs were always there but the workers had to pay it." Now, all actors in the supply chain need to recognize their responsibility for shouldering this burden and redistribute the costs properly so they are not falling on the shoulders of workers who were never truly able to afford the fees in the first place.

EMERGING BEST PRACTICES

1. **POLICY:**
   a. The company recognizes the changing dynamic in the workforce with an increase in migrant workers and strengthens management system focused on recruitment.
2. **WORK with SUPPLIERS:**
   a. Supplier has dedicated staff in charge of ongoing oversight of recruitment including the direct hiring of workers and pre-induction session on contract terms and conditions.
3. **AUDITING TOOLS:**
   a. Recruitment agencies are included in the scope of audits.
4. **BEYOND COMPLIANCE:**
   a. Shared responsibility for reimbursement of recruitment fees (supplier, buyer)—redistribute the costs so workers don't pay.
5. **LEADERSHIP:**
   a. Company works with local government; government ministry in home country vets worker contracts and each worker receives a copy of their contract upon hiring.

Penguin Apparel
Country: India
Type of operation(s): Apparel manufacturing
Origin of migrant workers: India (internal migrants)

Young women are hired by recruiters to work in the textile industry for a 3-year period and receive payment for the work only after completion of that time period.

Penguin Apparel (PA) is a ready-made garment manufacturer located in Southern India in Tamil Nadu, which exports primarily to France, Canada and the U.S.. In total, the company employs about 2,000 workers. PA has been SA8000 certified since 2004. Although PA does not recruit foreign workers, the area of Tamil Nadu is known to have a risk of forced labor due to the use of "Sumangali Schemes". Through this scheme, young women are hired by recruiters to work in the textile industry for a 3-year period and receive payment for the work only after completion of that time period. They are not able to leave the company during that time and are trapped in conditions of forced labor. While reports of this phenomenon have decreased in recent years, it remains a risk in the area.

PA has implemented strong management systems and clear human resources processes to ensure that all workers are working voluntarily. First, PA only hires workers directly from the area surrounding its factories and does not use any recruiters or labor brokers. Additionally, PA does not pay any recruitment fees or charge workers any fees to receive employment.

Inside a spinner factory.

PA follows a clear procedure for recruitment: first it puts out a call for interested candidates through advertisements or interviews individuals who come directly to the factory in search of employment. The PA HR department then follows a process that includes skill tests and an interview. Newly hired workers are required to submit certain documents to prove their age and identity, which the HR staff members are trained to verify for authenticity. If there are any questions about authenticity of documents, the HR staff will contact local school or village administrators to verify the information. PA retains photocopies of all documents in each worker's HR file and returns all original documentation to the workers. Once a worker is hired, he or she receives an appointment letter and contract in the local language to sign. Since all the workers are hired from the local area and must have a certain level of education, all the workers can read and understand these documents. All workers go through an initial probationary period for training and after that period become full employees. In addition to job performance training, PA also provides workers with training for at least 3 working days per year on topics such as nutrition and yoga, worker rights and duties. In order to provide support for these processes and training, PA hires qualified HR staff members with relevant experience and academic backgrounds and also provides them with specific trainings.

Due to its SA8000 certification, PA also conducts due diligence through auditing its suppliers and subcontractors. Through this process, PA also educates its business partners about SA8000, its requirements and the elements of a strong social management system. PA's Managing Director noted that most of PA's challenges with its suppliers and subcontractors are related to occupational health and safety, such as lighting issues or workers not wearing their personal protective equipment. PA therefore has direct insight into the operations of organizations in its own supply chain and communicates expectations into lower tiers of the chain. PA also prohibits the use of home workers in order to avoid risks associated with those types of workers, such as forced labor and child labor.

The company's managing director is committed to running a socially responsible and ethical business. He started out as a worker himself and knows the challenges of working in a factory. PA customers share his commitment to social responsibility and are willing to work to address issues that may arise. This applies both to quality issues as well as social issues. He emphasizes the importance of a "two-way process" between the supplier and buyer.

EMERGING BEST PRACTICES

1. DIRECT RECRUITMENT:

a. The company hires workers directly.

2. WORK with SUPPLIERS:

a. The company's suppliers and subcontractors are included in the scope of the audit process.
b. The company bans home workers.
c. The supplier works to establish good relationships with its buyers.

IV. KEY LEARNINGS FROM THE CASE STUDIES

EMERGING BEST PRACTICES FOR BUYERS

POLICY

- Develop and adopt a forward-facing policy and a guidance document that addresses recruitment of migrant workers, including prohibition of worker-paid fees, passport/personal paper confiscation and a written contract with the terms of employment in the language of the worker
- Disclose the policies and guidance documents so that consumers, investors and other stakeholders have access to the information
- Map the entire supply chain including products, services and labor
- Require suppliers to hire workers directly where possible and take over the formal employment relationship once workers arrive in host country
- Implement with suppliers the reimbursement of fees paid by workers and verify the result after the date of completion

WORK WITH SUPPLIERS

- Reinforce to suppliers the importance of implementing the necessary changes to comply with ethical recruitment requirements through top corporate leadership
- Use 3rd party supplier assessors prior to the selection of suppliers
- Define recruitment fees that the company bans, communicate clearly to suppliers and put into supplier contracts
- Create a guidance document to assist suppliers in complying with its ethical recruitment requirements
- Start with high-risk suppliers, develop training with suppliers in collaboration with civil society and an onsite audit process including ethical recruitment requirements
- Establish ongoing communication/capacity building with suppliers, one-on-one and through workshops
- Assist suppliers in their vetting process to find ethical recruiters
- Identify labor brokers willing to make changes to comply with ethical recruitment standards

AUDITING TOOLS

- Establish scope of supplier audits to include supplier's recruitment agencies
- Fee structure presented by the recruitment agency is transparent and is verified through worker interviews
- Verify reimbursement of fees to workers after the date set for completion

INDUSTRY LEADERSHIP AND COLLABORATION

- Collaborate with other companies directly and through industry initiatives to gain leverage and implement the policy collectively on the industry level
- Share the costs of fee reimbursements with suppliers, especially in the first phase of implementation
- Engage in the development of a sector-wide approach to changing the recruitment system through such initiatives as the Consumer Goods Forum's Forced Labor Initiative, Electronic Industry Citizenship Coalition and the Leadership Group for Responsible Recruitment and multi-stakeholder groups
- Collaborate with government taskforces and civil society to train its suppliers on labor issues and ethical recruitment

EMERGING BEST PRACTICES FOR SUPPLIERS

POLICY

- Adopt a forward-facing policy on ethical recruitment and establish a direct hiring process
- Map recruitment fee structures in sending countries
- Strengthen internal management systems focused on responsible recruitment

WORK WITH ITS SUPPLIERS

- Work to establish good relationships with buyers
- Enforce contracts and payment slips for workers
- Appoint staff to provide ongoing oversight of recruitment including the direct hiring of workers and pre-induction session on contract terms and conditions
- Audits include the supplier's subcontractors
- Ban home work

LEADERSHIP AND COLLABORATION

- Collaborate with civil society and government to educate workers about their rights
- Cooperate with the government through government-Industry coalitions and initiatives
- Work with local government; government ministry in home country that vets worker contracts with each worker receiving a copy of their contract upon hiring
- Provide additional benefits to workers to ease the burden of cross-border employment costs, including housing and transportation allowances that surpass industry average benefits
- Redistribute the cost for reimbursement of recruitment fees (supplier, buyer) so workers don't pay

V. GUIDANCE FOR IMPLEMENTING ETHICAL RECRUITMENT FRAMEWORKS

Based on the emerging best practice case studies, we recommend the following steps to address forced labor and slavery risks in a company's supply chains.

Many companies know who their 1st tier suppliers are, but forced labor is often hidden deep within the 2nd-5th tiers of a company's supply chain.

1) MAP THE SUPPLY CHAIN

In order to address forced labor risks in its supply chain, a company must first assess where these risks might appear through a thorough mapping of its entire supply chain including products, services and labor. Many companies know who their 1st tier suppliers are, but forced labor is often hidden deep within the 2nd-5th tiers of a company's supply chain.

There are many tools and resources to conduct supply chain mapping — from the U.S. Department of Labor[34] list of goods produced with forced and/or child labor, to the U.S. Department of State Trafficking in Persons Report[35] that looks at country specific data, to the NGOs and consulting companies like Verité[36] and Sedex[37] that focus on supply chains. A good first step for a company is to meet internally with its relevant business units, such as social compliance/responsibility, sourcing and procurement. These divisions can map the supply chain of each product. It is helpful to follow the entire lifecycle of a product. For example, an apparel company should include material suppliers (fabric, buttons, etc.), manufacturers (cut-and-sew facilities), transportation providers, warehouses, and retail stores where its products are sold.

2) IDENTIFY AND PRIORITIZE RISKS

Once a company has mapped its supply chain, the next step is a supply chain risk assessment to determine where the risk for forced labor is the highest.

For this process, it will be useful to use external sources to understand the relative geographic and sectoral risks, like www.responsiblesourcingtool.org developed by the U.S. Department of State and Verité. (See additional resources). For more precise risk assessments, it is extremely valuable to implement formal audits by independent organizations specializing in this work. Patagonia and HP both utilize these resources to ensure that they have a deep understanding of the forced labor risks in their supply chains. Focused assessments will enable a company to highlight and prioritize red-flag issues and systemic problems to be addressed. In the case of HP, the company conducted focused assess-

[34] https://www.dol.gov/ilab/reports/child-labor/list-of-goods/
[35] https://www.state.gov/j/tip/rls/tiprpt
[36] https://www.verite.org/
[37] http://www.sedexglobal.com/

ments at 16 suppliers in high risk countries and high risk suppliers in Malaysia, which led to a series of workshops with those suppliers in partnership with Verite, government representatives and other ICT companies.

Research of national and international labor laws in relevant countries is necessary, particularly in countries with a high population of migrant laborers. For example, the 32 countries that have ratified the International Labor Organization (ILO) Convention 181 Private Employment Agencies (focused on migrant labor) must take steps to prevent abuse against people placed in their territory by recruitment agencies, establish procedures to investigate complaints, and provide protection of workers' rights.[38] As a supplement to national law, countries with Memoranda of Understanding (MOU) with each other that set the terms and conditions for the employment of migrant laborers can contribute to lowering priority risks. There are typically government bodies or ministries that have the responsibility of overseeing labor agencies in donor countries to fulfill these MOUs. Examples include the Sri Lankan Bureau of Foreign Employment, the Philippines Overseas Employment Agency and the Bangladesh Overseas Employment & Services Limited.

3) BUILD SUPPORT OF TOP MANAGEMENT

"It was important to show [our suppliers] that the company is united behind this Standard; this is not just important to the social and environmental responsibility department, but to the entire company. Through the in-person meeting, Patagonia also made it clear to its suppliers that it would work with them to implement improvements, not just leave them alone to change the way things have been done for decades on their own." – Patagonia

It is crucial to build support at the highest level of the company. Policy development and implementation of ethical recruitment requirements expands the traditional scope of responsible sourcing to include auditing of recruitment agencies 'beyond the factory or farm'. **Senior leadership needs to be on board to meet the challenges of changing the recruitment paradigm from "worker pays" to "employer pays".**

Top management support helps a company integrate its continuous improvement approach to ethical recruitment across the entire company, aligning CSR departments with procurement departments, making it easier to send a clear message to its suppliers. In addition, when company leaders signal their commitment to the policy, it reinforces to suppliers the importance of implementing the necessary changes. For example, Patagonia's Chief Operating Officer participated in an in-person meeting with suppliers in Taiwan focused on its new Migrant Worker Employment Standard. As we are gradually uncovering more elements in a complex puzzle that contributes to the modern slavery paradigm, companies must realize that the established notion of corporate social responsibility and compliance is changing. The policies and efforts to address forced labor in the past must be reevaluated because they are no longer effective in addressing the current universe of problems.

[38] ILO Covention 181

4) POLICY DEVELOPMENT INCLUDING 3-PILLAR IMPLEMENTATION

A blanket prohibition of forced labor in a code of conduct is insufficient to fully address the nuanced and complex scenarios that may lead to recruitment violations across a company's global supply chain. For this reason, assessments conducted prior to implementing a policy which includes engagement of key stakeholders will help companies customize policies in response to the specific needs of each country, sector, commodity and supplier.

While labor brokers can be used for recruitment purposes, once hired, the company must establish a direct contract with the employee.

The use of third party labor brokers is a widely accepted practice in the vast majority of countries where companies hire migrant workers. For this reason, in developing its policy a company must determine the level of risk it is willing to assume if and when labor brokers are used. For example, while Patagonia allows its suppliers to use labor brokers as long as they can provide evidence that they are abiding by the company's recruitment requirements, HP decided that labor brokers present too much risk and mandates that all suppliers directly hire its migrant workers. More specifically, while labor brokers can be used for recruitment purposes, once hired, the company must establish a direct contract with the employee. It is difficult to conduct due diligence on labor brokers since there could be many different types of brokers involved in the employment process of a given worker and many of these are located in a different country than the supplier. The company will have to factor these complications into its decision on a policy related to labor brokers. However, due diligence on labor brokers has to be covered by an audit.

Migrant worker living conditions.

When it comes to assessment of overtime, often auditors find that workers work much overtime and rarely think this is a sign of possible debt bondage, as they just ask if the worker consented to the overtime. Workers often request overtime to get out of debt so their consent masks a possible problem. It's a major flaw in the process with auditors not recognizing the problem right away and just assuming that if overtime is consensual, then there is no need to look for violations.

Workers often request overtime to get out of debt so their consent masks a possible problem. It's a major flaw in the process with auditors not recognizing the problem right away and just assuming that if overtime is consensual, then there is no need to look for violations.

Policies that are made public and easily found on a company website and that clearly set forth a company's values and expectations for its suppliers is what ultimately communicates a company's stance on the issue to the public, its shareholders and its supplier base. For example, TCCC, HP and Patagonia have made their policies transparent, including the guidance documents created for their suppliers and available for other companies to use as well.

3-Pillar+ Implementation

ICCR recommends that companies adopt and implement the three main elements of an ethical recruitment policy: No Fees, contracts in the worker's language, and no withholding of personal documents.

- **No Fees:** Based on the case studies, it is clear that the prohibition of fees is the most difficult aspect of this policy to implement because recruiting workers, especially foreign migrant workers, does come with some cost. Until recently this cost has been borne by the workers and their families alone, but now suppliers and some companies are stepping up to alleviate this burden on the workers.

  The Issara Institute has published a comprehensive brief summarizing the debate on recruitment fees and a comparative approach to fee reimbursement taken by EICC and Patagonia. The "employer pays[39]" model for recruitment is the goal to be achieved in the near term. Implementing the model needs to address the responsibilities of companies, suppliers and governments.

- **Contracts:** Risk is significantly mitigated when contracts accurately represent the terms of employment and workers are aware in advance of their rights and their employers' obligations. These contracts should specifically outline terms of service including wages, overtime, and working and living conditions. A good practice is to develop an orientation that includes explaining the terms of the contract and the context of the workplace. Companies have created videos that can be shown to workers at the time of hiring. These videos depict the city and factory where workers will work, their accommodations, the production floor, and shopping areas around their dormitories. Companies may also introduce workers to the local culture so that they may become sensitized to their new host country.

  Companies are encouraged to provide suppliers with sample language for contracts so they are clear about what should be included. Further, to ensure that workers understand the contract, in addition to proving the contract in the languages of workers, it is beneficial for the supplier to hire an HR staff person fluent in these languages who can help answer any questions about the terms of the contract.

[39] https://www.ihrb.org/focus-areas/migrant-workers/employer-pays

Thai work permits.

Suppliers need to provide a safe, private space, such as lockers, for workers to store their documents in their living spaces.

- **Accessibility of Personal Documents:** Finally, while suppliers and even workers may resist, suppliers need to provide a safe, private space, such as lockers, for workers to store their documents in their living spaces. Suppliers may need to provide training to convey to migrant workers the value of these documents and the need to safeguard them, as indicated in the Patagonia case study.

Although individual lockers for workers is ideal, it may not always be feasible on site. One source witnessed facilities that kept passports and other important documents in a communal safe that only a security guard and/or employer has access to, but with written letters of consent from the workers themselves. Employers may do this for safe keeping in the event of fire or other risks. If this service is being offered to employees, this should be stipulated in their contracts and workers' documents must be accessible on demand in a timely manner.

Migrant Worker Infrastructure:

Our 3-pillar approach outlines a basic set of requirements to combat forced labor and human trafficking. However, companies that hire migrant workers directly or indirectly need to reach beyond the basic requirements to ensure that their operations are free from human rights violations by implementing:

- independent grievance systems;*
- guaranteed repatriation of workers stranded in a foreign land;*
- basic housing standards; and,*
- freedom of association rights.

(*Is required by the Executive Order/FAR)

Many of the best practices we surveyed cite good and long-standing relationships with suppliers as a key to successful communication of expectations and effective implementation of an ethical recruitment policy.

5) BUYER-SUPPLIER RELATIONSHIP BUILDING

Many of the best practices we surveyed cite good and long-standing relationships with suppliers as a key to successful communication of expectations and effective implementation of an ethical recruitment policy. Knowing suppliers and their capacity as well as their subcontractors' capacity to take on orders using an already existing workforce are vital to understanding the risks of forced labor in extended supply chains. A supplier may accept a contract without having the personnel to produce the product in time. This can lead to the hiring of temporary workers, or kicking the work to unauthorized sub-contractors, which raises the potential risk of forced labor. Performing productivity calculations and watching where a product is being produced are additional considerations when mapping a supply chain.

6) APPROPRIATE SUPPLIER SUPPORT

Since the actual policy implementation falls on the suppliers, companies are strongly urged to provide their suppliers with as much practical support as possible, including but not limited to in-person training, webinars and, importantly the financial resources required to implement the policy. Patagonia and HP both found it valuable to bring suppliers together for an in-person workshop to share best practices and challenges. TCCC has built supplier support by organizing supplier trainings with peer companies through AIM-PROGRESS in the Middle East, Turkey and Thailand to date. Issues related to forced labor tend to be systemic, and it is important to recognize that a single company will not have the power to change the entire system; collaboration with parties up and down the chain will be critical to achieving goals. Both buyers and suppliers should consider dedicated staff that will be responsible for overseeing specific parts of the process.

Worker interviews in progress.

Direct hiring of workers where possible is the emerging best practice which, as HP determined, helps mitigate the risk of hiring workers through recruitment agents. The company's direct hire policy was phased in over a period of months and HP provided a guidance document that includes how to identify, screen and select ethical recruitment agents. CP Foods and Thai Union have taken the approach of hiring directly through a vetted agent located in the home country of foreign migrant workers.

Patagonia's phased, cost-sharing approach is a useful way to show suppliers that companies will share the responsibilities presented by an ethical recruitment commitment.

When it comes to retroactively reimbursing recruitment fees to workers, any selected model of reimbursement can significantly increase the cost of recruitment to the supplier. For this reason, companies are encouraged to provide some financial support to their suppliers to help them to implement this part of the policy. Patagonia's phased, cost-sharing approach is a useful way to show suppliers that companies will share the responsibilities presented by an ethical recruitment commitment. However, it is equally important to be clear that suppliers are expected to ultimately be able to recruit workers without the charging of fees, and that any future costs as a consequence of ensuring this principle will be the suppliers' responsibility.

Importantly, a CSR team cannot communicate to suppliers that they will be supported in paying recruitment fees if the procurement team is pressuring them to reduce prices and lead times. This unfairly prejudices suppliers. Ongoing communications and alignment, both within companies and across the supply chain, will help avoid these issues and foster a positive attitude towards policy implementation.

7) TRANSPARENT COMMUNICATION

Once a company has achieved internal alignment on its ethical recruitment policy throughout its supply chain, the next step is to communicate these expectations to suppliers. It is especially important to present a united front across all departments that interact with suppliers to eliminate any confusion about expectations. Direct communication with suppliers is the most effective form of communication, as Patagonia demonstrated when it rolled out its Standard. This enables a company to answer suppliers' questions and address challenges directly. Many of the practices that are linked to forced labor are commonly accepted practices in certain areas, so the change will not necessarily be easy or quick. It is important to provide suppliers with the necessary support to make these changes.

Further, as with all company policies and codes, once adopted, it is critical that any ethical recruitment policy be made accessible to the public via the company's website.

8) STAKEHOLDER COLLABORATION

It is critical to address forced labor in global supply chains collectively, through industry associations and cross-industry collaborations. The issue is extremely complicated, and is influenced by economic factors, societal norms and local laws. One company or one supplier cannot make significant changes to these practices alone. Once a company decides on a course of action it has to engage with external stakeholders including government, NGOs, worker organizations, unions, international organizations, investors and other brands to address the issue from multiple levels. For example, TCCC is engaged in the development and implementation of a sector-wide approach to changing the recruitment system through the Consumer Goods Forum's Forced Labor Initiative and a founding member of the Leadership Group for Responsible Recruitment, a cross-sectoral approach.

Additionally, once migrant workers are found in a supply chain, companies are advised to contact the labor attachés of embassies and consulates of these respective countries to address workers' grievances in the host country. This governmental resource may provide additional information on how to mitigate risks of forced labor in the host country.

VI. CONCLUSION

The companies presented in this study have all taken leadership positions in forging and implementing ethical recruitment policies in their respective industries. While they are at different stages of implementing this policy, it is important to share these experiences to highlight the best emerging practices and challenges they are facing in the process, to help other companies and suppliers along the path. Our common goal is to eliminate unethical hiring practices and the burden of recruitment fees on vulnerable workers which may lead to egregious human rights violations that place companies at risk.

Even though the lessons learned from these case studies are industry-specific, they have global implications that are relevant for a variety of stakeholders, particularly for companies in the early stages of developing an ethical recruitment policy. We are enormously grateful for all the companies featured in our case studies as the insights gleaned from each provide invaluable learning as companies and industries grapple with ethical recruitment challenges. What is clear is that the global recruitment industry and its many risks have become a focal point for many companies with extended supply chains. We are hopeful this resource will help companies address the challenges of ethical recruitment in a strategic, targeted way that will have meaningful impact on the global recruitment system, and will help improve the lives of the millions of people trapped in forced labor around the world.

VII. ADDITIONAL RESOURCES

Ethical recruitment has become one of the key topics among industry and multi-stakeholder groups. An industry initiative like the EICC that encompasses both buyers and suppliers has supported ethical recruitment policy development outside of the electronics sector. The newly formed Leadership Group for Responsible Recruitment is another example of an initiative focusing on the eradication of worker-paid fees in the food and beverage, apparel, electronics and retail sectors, among others. The Forced Labor Initiative of the Consumer Goods Forum unites retailers on the same issue. This list provides links to additional resources for companies to learn more about how to address forced labor in the supply chain:

1. **BSI Supply Chain Solutions**
   http://bsi-supplychainsolutions.com/en-US/supply-chain-risks/corporate-social-responsibility/forced-and-child-labor/

2. **Business for Social Responsibility: Migrant Worker Management Toolkit**
   http://www.bsr.org/en/our-insights/report-view/migrant-worker-management-toolkit-a-global-framework

3. **Consumer Goods Forum: Forced Labor Initiative**
   http://www.theconsumergoodsforum.com/strategic-focus/social-sustainability/forced-labour-resolution

4. **Contratados (Centro de los Derechos del Migrante): Building Worker Power and Transparency in Labor Recruitment**
   http://www.cdmigrante.org/contratados/

5. **Electronic Industry Citizenship Coalition**
   http://www.eiccoalition.org/initiatives/trafficked-and-forced-labor/

6. **The Fair Hiring Initiative**
   http://www.fairhiringinitiative.com/

7. **FSI Global**
   http://www.fsi-worldwide.com

8. **ICCR's No Fees Project**
   http://www.iccr.org/sites/default/files/iccrsnofees-promotingethicalrecruitment2.pdf
   http://www.iccr.org/recruited-slavery

9. **International Labor Organization: Guiding Principles to Combat Forced Labor: Handbook for Employers and Business**
   http://www.ilo.org/wcmsp5/groups/public/@ed_norm/@declaration/documents/instructionalmaterial/wcms_099625.pdf

10. **Know the Chain**
    https://knowthechain.org/resources/

11. **Leadership Group for Responsible Recruitment**
    https://www.ihrb.org/employerpays/leadership-group-for-responsible-recruitment

12. **Responsible Recruitment Gateway: https://www.ihrb.org/employerpays/**
    https://www.ihrb.org/news-events/news-events/the-leadership-group-responsible-recruitment

13. **SAI/ICCO: United Nations Guiding Principles on Business and Human Rights: A Six-Step Approach to Supply Chain Implementation**
    http://www.sa-intl.org/index.cfm?fuseaction=Page.ViewPage&pageId=1315

14. **United Nations Guiding Principles on Business and Human Rights**
    http://www.ohchr.org/Documents/Publications/GuidingPrinciplesBusinessHR_EN.pdf

15. **United States Department of Labor: Reducing Child Labor and Forced Labor Toolkit**
    https://www.dol.gov/ilab/child-forced-labor/

16. **United States Department of State 2016 Trafficking in Persons Report**
    http://www.state.gov/j/tip/rls/tiprpt/index.htm

17. **Verité: Fair Hiring Toolkit**
    https://www.verite.org/helpwanted/toolkit

18. **The Issara Institute**
    http://www.projectissara.org/

19. **U.S. Department of State/Verite:**
    http://www.responsiblesourcingtool.org/

VIII. Appendix:
Sample Fee Schedule of a Company in the Asia-Pacific Region

	Fee Type	Fee Origin	Indonesian Workers	Thai Workers	Vietnamese Workers	Comments
1	Service fee: registration to work abroad	G	$12,902	$20,000	$49,342	
2	Vietnam only government fee	G	0	0	$21,086	
3	Sending country health certification		$1,600	$1,450	$967	
4	Passport fee	E	$293	$1,000	$298	
5	Sending country pre-departure orientation	R	$20,640	0	$4,735	Room, board, training up to 2 months
6	Visa fee	G	$1,939	0	$2,210	
7	Labor insurance	G	$1,387	0	$149	
8	Airfare	E	$7,600	0	$8,371	
9	Airport tax	E	$400	0	0	
10	Air travel fee for Thailand only	E		$7,000		
11	Good standing/behavior	G	$1,066	$2,000	$149	
12	Misc. govt charge	G	250	$2,000	0	Thailand govt. charge (Referral fee requested by the govt.), Indonesian govt. charge (transportation fee to contend)
13	Interest on loan	G	$11,919	0	0	
14	Subtotal	G	$59,996	$33,450	$87,307	
15	Work scout fee	R	$25,000	$10,000	$16,700	
16	Operational cost	R	0	$21,550	0	Migrant worker labor insurance fund, special fund
17	Bank loan		$23,930	0	0	
18	Subtotal		$48,930	$31,550	$16,700	
19	Labor broker fee for 3 years (in receiving country)	R	$60,000	$60,000	$60,000	For counselor and translations plus tax
20	Taiwanese work permit	G-E	$3,000	$3,000	$3,000	
21	Receiving country (Taiwan) health check	E	$10,020	$9,400	$9,400	Fee for the duration of contract (3 years) +extra for Typhoid check for workers from Indonesia;
22	Return ticket	E	$7,500	$7,700	$7,700	The employers will pay for the return ticket when the contract ends, the fee will be based on the rate at that time.
23	Subtotal		$80,520	$80,100	$80,100	
24	**Total**		**$189,446**	**$145,100**	**$184,107**	

All amounts shown in this chart are in New Taiwanese Dollars.

- Fees paid prior to departure
- Fees employer is willing to cover
- Fees in excess of 50% of monthly salary (which is typically 20,000 TWD a month)
- G Government-imposed fee
- E Employee's personal costs
- R Recruiter-imposed fee

A Faithful Voice for Justice

ABOUT ICCR

Currently celebrating our 46th year, the Interfaith Center on Corporate Responsibility has been a leader of the corporate responsibility movement for four decades. Beginning with our calls for corporations to withdraw from South Africa in opposition to apartheid, ICCR members have been actively engaging the world's largest companies in an effort to transform corporate practices on a host of issues from rooting out human trafficking and supply chain abuses to ensuring safe food and water, to calling for financial and health care reform to protect the world's most vulnerable. Today our membership is comprised of 300 institutional investors with over $200 billion in invested capital. Representing faith-based communities with congregations all over the world, SRI asset management companies, unions, pension funds and a global network of allies, ICCR members are not only shareholders, but trusted partners in corporate responsibility initiatives that promote a more just and sustainable world.

We do this in a variety of ways:

- **CORPORATE DIALOGUES:** As active shareowners who have built productive and long-term relationships with management, ICCR members conduct hundreds of dialogues every year to advance a wide range of issues. Because we have a vested interest in a company's success and propose realistic solutions as opposed to making demands, these dialogues often bear fruit in the form of meaningful reform and have a positive impact on long-term profitability.
- **SHAREHOLDER RESOLUTIONS:**
  When dialogues are unproductive, ICCR may issue shareholder resolutions to engage management and other investors' attention around a specific issue.
- **CSR TOOLS:** ICCR's database offers members a historical record of shareholder actions with hundreds of companies. Known for our insightful reports on emerging trends such as our *Invested in Change: Faith-Consistent Investing in a Climate-Challenged World*, and *Recruited into Slavery: How Unethical Recruiting Puts Migrant Workers at Risk for Trafficking*, along with our ability to convene key stakeholders from the business, NGO, community and investor sectors, ICCR is a resource for all those working in corporate responsibility.

OUR MISSION

ICCR seeks a global community built on justice and sustainability through transformation of the corporate world by integrating social values into corporate and investor actions. We invite you to join us. We are inspired by faith and committed to action.

Interfaith Center on Corporate Responsibility

Inspired by Faith, Committed to Action