



## Mainstreaming CSR into functional areas

## Social dimension of CSR in the supply chain

### International Master in Sustainable Development

2015/2016

Helena Pérez  
[perezh@improvingworklife.es](mailto:perezh@improvingworklife.es)



This publication is under the Creative Commons Attribution-NonCommercial-ShareAlike (by-nc-sa) license. You can non-commercially fully or partially use, copy and redistribute this document as long as you mention its origin and you don't modify the original license. More information in: <http://creativecommons.org/licenses/by-nc-sa/3.0/>

## Table of Contents

1. International Labour Standards .....	3
A. The ILO .....	3
B. International Labour Standards (ILS) .....	3
C. Core Labour Standards .....	3
2. Companies & ILS.....	4
A. Legal commitments .....	4
B. Corporate responsibility to respect .....	4
C. Human rights due diligence process .....	5
3. Different approaches: public and private standards .....	5
4. Codes of conduct and IFAs content.....	8
5. How are Codes and IFAs being implemented ? .....	9
6. Core labor standards.....	9
A. Child labour .....	9
B. Discrimination and equality.....	11
C. Forced Labour .....	12
D. Freedom of Association.....	13
E. Collective Bargaining .....	14
F. Communication and consultation .....	15
G. Occupational safety and Health .....	16
H. Wages and Benefits .....	17
I. Working time .....	18
7. Bibliography .....	20

## 1. International Labour Standards

### A. The ILO

The International Labour Organisation is the international organization responsible for drawing up and overseeing international labour standards. It is the only 'tripartite' United Nations agency that brings together representatives of governments, employers and workers to jointly shape policies and programmes promoting decent work. Its main aims are to promote rights at work, encourage decent employment opportunities, enhance social protection and strengthen dialogue in handling work-related issues. Working with its 183 member States, the ILO seeks to ensure that labour standards are respected in practice as well as principle.

### B. International Labour Standards (ILS)

ILS are legal instruments that set out basic principles and rights at work. They are either:

- **Conventions:** which are legally binding international treaties once they are ratified by countries. Conventions lay down the minimum standards to be implemented by ratifying countries.
- **Recommendations:** which are non-binding guidance as to policy, legislation and practice. They provide more detailed guidelines on how a Convention could be applied.

ILS are the result of discussions among governments, employers and workers, in consultation with experts from around the world. They represent the international consensus on how a particular labour problem could be tackled at the global level and reflect knowledge and experience from all corners of the world.

ILS are backed by a supervisory system designed to address all sorts of problems in their application at the national level. ILS supervision comprises legal assessment, tripartite scrutiny and, where appropriate, direct contacts and technical support to countries. It is based on the philosophy that the best implementation will be achieved through dialogue, encouragement and advice and assistance.

### C. Core Labour Standards

The ILO has identified four areas as fundamental human rights at work that are applicable to all workplaces in all countries. These are:

- Freedom of association and collective bargaining;
- The elimination of forced or compulsory labour;
- The abolition of child labour; &
- The elimination of discrimination in employment and occupation.

These rights and principles are recognised as the core or fundamental labour standards and are enshrined in the 1998 ILO Declaration on Fundamental Principles and Rights at Work.

All ILO member States, irrespective of their level of economic development and even if they have not ratified the eight fundamental Conventions, have an obligation arising from the very fact of being member of the ILO to respect, to promote and to realize the principles of the core or fundamental rights.

## 2. Companies & ILS

### A. Legal commitments

ILS are addressed to ILO member States, this means that governments have the duty of ensuring respect for the principles and rights. Some countries ratify the Conventions and their provisions apply automatically at the national level. Others need to adopt new laws or revise the legislation in force in order to implement and comply with the Convention in practice. Some countries decide not to ratify a convention but bring their legislation into line with it anyway; such countries use ILO standards as models for drafting their law and policy.

Companies need to comply with national law and respect the principles enshrined in the fundamental Conventions and the standards in those Conventions ratified by the country where they are operating. Some companies go farther, by committing to adhere to specific Conventions through codes of conduct or other voluntary CSR initiatives. This commitment to observe ILS implies that even when operating in countries that have not ratified the Conventions adhered to, there is a commitment to respecting the principles that arise from them.

### B. Corporate responsibility to respect

The Guiding Principles for Business and Human Rights is the UN global standard of practice that is expected of all governments and businesses with regard to business and human rights. They do not constitute a legally binding document but elaborate on the implications of existing standards and practices for States and businesses and include points covered in international and domestic law. The Guiding Principles are based on the “Protect, Respect and Remedy” Framework, also known as the United Nation’s Framework that rests on three pillars:

- The State duty to *protect* against human rights abuses by third parties, including business, through appropriate policies, regulation and dispute resolutions;
- The corporate responsibility to *respect* human rights, which means to act with due diligence to avoid infringing on the rights of others and to address adverse impacts that occur;
- Access to effective *remedy* for victims of human rights abuse, including through court or in-house processes.

The term “responsibility” rather than “duty” is meant to indicate that respecting rights is not currently an obligation that international human rights law generally imposes directly on companies, although elements of it may be reflected in domestic laws. The responsibility to respect is a standard of expected conduct recognised by virtually every voluntary and soft-law initiative, and now affirmed by the Human Rights Council itself. It is a baseline responsibility and applies to all internationally recognised human rights.

### C. Human rights due diligence process

According to the “Protect, Respect and Remedy” Framework, in order to “know and show” that companies are meeting their responsibility of respecting human rights, they need a due diligence process, whereby they become aware of, prevent and address their adverse human rights impacts. When referring to human rights, within this context we would be referring to the four core labour standards, although companies could also use the due diligence process with respect to other principles enriched in Conventions that they have adhered to through IFAs or codes of conduct.

The due diligence process can have the following 4 components:

- Statement of policy articulating the company’s commitment to respect human rights;
- Periodic assessments of actual and potential human rights impacts of company activities and relationships;
- The integration of these commitments and human rights risk assessments into company decision-making;
- Tracking as well as reporting performance.

To address the risks of non-compliances with laws, regulations and ILS the ILO recommends to work in partnership with other companies, sectoral associations and employers’ organisations to develop an industry-wide approaches. The ILO also recommends that in resourcing to a due diligence process, companies build bridges with workers’ organisations, labour inspectorates, law enforcement authorities, and other local entities and stakeholders.

### 3. Different approaches: public and private standards

There are different approaches companies are taking to address the labour dimension of CSR and manage industrial relations globally. These initiatives are not mutually exclusive, they actually tend to overlap and complement each other. Some tools commonly used and the initiatives where many companies are participating in include the following:

The **OCDE Guidelines** are a set of recommendations addressed by governments to TNCs. They provide voluntary principles and standards for responsible business conduct in areas such as employment and industrial relations, human rights, environment, information disclosure combating bribery, consumer interests, science and technology, competition, and taxation. Adhering governments commit to promoting them among TNCs operating in or from their territories. The Guidelines were adopted in 1976 and were last updated in May 2011 to ensure their continued role as a leading international instrument for the promotion of responsible business conduct.

The **Tripartite declaration of principles concerning multinational enterprises and social policy (MNE Declaration)** is the ILO’s guide on enterprises and their interaction with labour and social policy issues. It is a voluntary instrument to promote good practice accepted internationally by employers, workers and governments. The MNE Declaration provides the most comprehensive framework for enterprises in relation to the labour dimension of CSR. The MNE provides recommendations in 5 areas: general policies, employment, training, conditions of work and life and industrial relations.

In general the MNE Declaration recommends that companies:

- Contribute to the realization of the fundamental principles and rights at work;
- Obey national laws and respect international standards;

- Honour commitments in conformity with national law and accepted international obligations.
- Give due consideration to local practices;
- Consult with government, employers' and workers' organizations to ensure that operations are consistent with national development priorities.

The **United Nations Global Compact** is a policy platform and a practical framework for business and non-business entities that are committed to sustainability and responsible business practices. It seeks to align business operations and strategies everywhere with ten universally accepted principles in the areas of human rights, labour, environment and anti-corruption. With more than 10,000 participants, including over 7,000 businesses in 140 countries, the UN Global Compact is the world's largest voluntary corporate sustainability initiative. It is not a regulatory instrument, but rather a voluntary initiative that relies on public accountability, transparency and disclosure to complement regulation and provides a space for innovation and collective action.

**Better Work** is a partnership programme between the ILO and the International Finance Corporation (IFC). Launched in February 2007, the programme aims to improve both compliance with labour standards and competitiveness in global supply chains. Better Work supports enterprises in implementing the ILO core international labour standards and national labour law through independent enterprise compliance assessments and with enterprise advisory and training services to support practical improvements through workplace cooperation.

**International Framework Agreements (IFAs)**, adopting different names, are the outcome of voluntary negotiations between individual multinationals and trade unions at global and European levels to address company behaviour. They are aimed at establishing an on-going and stable relationship between the parties. Signatory unions are involved in the drafting, implementation and monitoring of the agreements. Allegedly they are a more legitimate form of social regulation than other privately initiated CSR instruments because they emerge from social dialogue.

**Company Codes of Conduct** are unilateral statements made by companies that communicate internally and externally the values and principles the company advocates and expects from its employees and other stakeholders. They vary in format, values, responsibilities, content, scope of application, criteria, implementation methods, reporting requirements, etc. Despite their variety, codes of conduct have become the basic and most common management instrument of CSR.

**Multi-stakeholder initiatives** attempt to bring to the discussion and decision making table a broader range of actors. They vary greatly in their members, objectives and processes. They may involve companies, unions, NGOs, universities and/or suppliers and other groups. They usually adopt a voluntary code and monitor compliance through auditing or other associated activities. They encourage stakeholder dialogue and social learning. Companies that join multi-stakeholder initiatives use a shared code but in most cases these texts do not replace the company's codes and only supplement them. In some cases these initiatives are set up as certification schemes where suppliers seek certification to show commitment to respecting workers rights to potential clients. Examples of multi-stakeholder initiatives include the Ethical Trade Initiative, the Fair Labor Association, Worker Rights Consortium, Worldwide Responsible Accredited Production (WRAP), the Forest Stewardship Council, Social Accountability International (SAI), Extractive Industries Transparency Initiative (EITI).

**Sectoral or industry coalitions.** Employers associations or coalitions of companies also adopt particular standards to provide guidance on best practice. Like company codes, they tend to be a unilateral measure adopted by the members. These codes of conduct are as varied and as extensive as the multitude of industries they cover. In some cases they are viewed as awareness rising tools for members as few of them include monitoring or follow-up mechanisms to ensure compliance. Examples include the Electronic Industry Citizenship Coalition (EICC).

**Standardisation Guidelines** are also quite varied and can be adopted by actors of different nature. Examples include the ISO 26000 developed by the International Organization for Standardization, which provides guidelines on seven different areas including human rights and labour practices; and the Global Reporting Initiative framework which seeks to develop internationally standardized guidelines for economic, social and environmental reporting.

## 4. Codes of conduct and IFAs content

With regards to the content of IFAs, their provisions typically contain clauses focusing on

- A. Fundamental principles and rights at work (freedom of association, collective bargaining, non-discrimination, abolition of forced labour, elimination of child labour),
- B. Minimum terms and conditions of employment (working time, wages, occupational safety and health);
- C. Other conditions of work (mobility, training, job security, subcontracting, and restructuring).

IFAs do not define specific terms and conditions of employment (as traditional collective bargaining agreements do) but address issues of conditions of work from the point of view of principle and focusing on the general framework within which management and unions can develop harmonious industrial relations. Nearly all IFAs refer to the fundamental labour rights included in the 1998 ILO Declaration and they frequently make specific reference to specific ILO Conventions.<sup>1</sup> Some of them go as far making reference to 20 ILO instruments (Conventions: 1, 29, 47, 87, 94, 95, 98, 100, 105, 111, 131, 135, 138, 155, 161, 162, 167, 182, and Recommendations: 116 and 143).

There has been little research done on the content of company codes in order to compare and contrast them, but a study carried out by the ILO in 2004 on how companies use management systems for social performance, illustrated how most multinationals cite their own internal standards rather than directly applying recognised international guidelines such as those of the ILO or OECD, although most codes are built upon ILO Conventions. A survey performed in 2007 to the *Fortune Global 500* firms (FG500) by the Special Representative of the Secretary-General (SRSG) on the issue of human rights and transnational corporations and other business enterprises, showed that all FG500 respondents, irrespective of region or sector, included non-discrimination as a core corporate responsibility (at minimum meaning recruitment and promotion based on merit). Workplace health and safety standards were cited almost as frequently and more than three-fourths recognized freedom of association and the right to collective bargaining, the prohibition against child and forced labour. Specific working conditions of individual industries play an important role in the issues highlighted by codes, for example, the manufacturing industry might focus more on labour rights, while the extractive initiatives emphasize community relations and indigenous rights. It is most frequent that multi-stakeholder codes reference ILO standards and they tend to include at least provisions on all four fundamental principles, hours of work, wages and safety and health standards.

In 2001 the OECD analysed 246 codes of conduct from different industries and national origins and the study showed that only 1% of the codes that included labour related issues mentioned obligations for sub-contractors or other business partners.

IFAs and codes of conduct can vary in their scope of application greatly.

- In some cases company codes commit to informing suppliers on tis content;

---

<sup>1</sup> PAPADAKIS, K., *Shaping Global Industrial Relations. The impact of international framework agreements 2011*, ILO and Palgrave Macmillan.



- Others go further by stating that they will encourage suppliers to comply with the text's provisions;
- While in other instances respecting code provisions is mandatory for establishing or continuing business relations with suppliers

## 5. How are Codes and IFAs being implemented ?

Although many IFAs and codes may have similar language and tend to cover the same 7 to 10 labour rights, great differences arise in the implementation. There are large variations in how to interpret the principles stated in the texts and the requirements in relation to items in them. The monitoring and follow-up requirements for IFAs and Codes are also very diverse.

IFAs generally introduce joint worker-management monitoring committees that are intended to meet regularly to assess progress or deal with conflicts. Almost all IFAs state that they will be disseminated (and translated, where necessary) among the whole workforce in all subsidiaries. Grievance procedures also are generally provided to report violations.

Many codes lack any performance expectations and don't give indication in the way in which they are to be implemented. Others require supplier monitoring, remediation processes, grievance mechanisms and public reporting. Regular visits to suppliers by company personnel to assess their performance against code requirements has become a common practice. In addition, some companies also require external auditing by independent third party auditors or factory certification. Based on the results of the monitoring process companies tend to take remediation steps if a non-compliance is identified. Some companies and multi-stakeholder initiatives are shifting the focus from monitoring compliance to developing supplier capacity through training and the development of tools and systems for continued improvement to ensure that root causes of non-compliances are addressed.

Global stakeholders continue to request credible, independent and transparent monitoring processes or for strong enforcement and complaints mechanisms. Different stakeholders demand that companies "show and tell" publically how they are living up to these principles. There is little research available on the impact that these tools actually have in improving working conditions and labour relations worldwide.

## 6. Core labor standards

### A. Child labour

Child labour is work that harms the child's well-being and hinders his or her education, development and future livelihood. It is work that is damaging to a child's physical, social, mental, psychological and spiritual development because it is work performed at too early an age. Most countries have fixed a general minimum age for work.

The fundamental ILS regarding child labour states that children under the age for completing compulsory schooling should not be allowed to work. Although in general this minimum age to admission to employment is not less than 15 years of age, this age vary according to the

type of work and the level of development of the country. The table below illustrates the different ages that should be respected.

Fundamental ILS also provide that children under the age of 18 will not be required to perform hazardous work, illicit activities, prostitution or pornography or any form of slavery.

### **Is all work performed by someone under 18 child labour?**

Not all work by a person under the age of 18 is child labour. It depends both on the age and on the types and conditions of work. Companies sourcing in specific industry sectors with geographically distant supply chains need to be particularly vigilant.

### **How can we verify minimum age?**

Contrasting information from birth certificates, medical examinations prior to employment, cross checking multiple written documents, interviews, school enrolment certificates and local indicators.

### **How can a company promote that children go to school?**

Different actions include: paying adult workers decent wages that enable them to send their children to school; providing school grants for employees' children; paying bonuses for workers' children completing certain education levels; and raising awareness of the value of education.

### **Are there specific working conditions that should be observed for young workers?**

Workers under the age of 18 are guaranteed certain working conditions including consecutive a fair remuneration, limitation of working hours, prohibition of overtime, consecutive 12 hours night's rest and a rest period every week, paid annual leave, social security coverage and satisfactory health conditions as well as appropriate education and supervision.

### **What can companies do to eliminate child labour at the workplace?**

- Respect the minimum age for admission to employment set by law.
- If the minimum age set by the national law is below level set in ILS, take account of ILS standard.
- Use adequate and verifiable mechanisms for age verification upon recruitment.
- Maintain accurate and up-to-date records of all employees.
- When children below the legal working age are found in the workplace, take measures to remove them from work.
- To the extent possible, help the child removed from work and his/her family access adequate services and viable alternatives.
- Fix the wage level for the adult employees so that they can support their families without depending on children's earning.
- Exercise influence on subcontractors, suppliers and other business partners to combat child labour.
- Consider ways to build the capacity of business partners to combat child labour, such as providing training and incentives.
- Work in partnership with other companies, sectoral associations and employers' organisations to develop an industry-wide approach to address the issue, and build bridges with workers' organisations, law enforcement authorities, labour inspectorates and others.
- Contribute to efforts in the country of operations to eliminate all forms of child labour.

## **B. Discrimination and equality**

Discrimination occurs when a person is treated less favourably than others because of characteristics that are not related to the person's competencies or the inherent requirements of the job. Discrimination may occur before hiring, on the job or upon leaving.

Job seekers have the right to be treated equally, regardless of any attributes other than their ability to do the job.

The grounds that fundamental ILS explicitly prohibit include: race, colour, sex, religion, political opinion, national extraction, social origin and trade union membership or activities. Other ILO instruments list additional grounds including: HIV/AIDS, age, disability and family responsibilities.

The principle of non-discrimination comprises the principle of equal remuneration for men and women who perform different kinds of work with the same objective value.

### **Where can discrimination occur?**

The most common discriminations occur in recruitment, remuneration, hours of work and rest, paid holidays, maternity protection, security of tenure, job assignments, performance assessment and promotion, training opportunities, job prospects, social security, OSH and termination of employment. Discrimination may occur intentionally or unintentionally, it can also be direct or indirect. In any case it should be addressed.

### **Are there distinctions which is not considered discriminatory?**

Distinctions based on skills or efforts are legitimate as well as seniority, education or any others that are not linked to the prohibited grounds. Enterprise compliance with government policies designed to correct historical patterns of discrimination and thereby to extend equality of opportunity and treatment in employment does not constitute discrimination. Special measures of protection or assistance provided by national law do not constitute discrimination.

### **How does sexual harassment relate to discrimination?**

Discrimination based on sex also includes sexual harassment. Sexual harassment in employment involves actions that are perceived as a condition of employment; influence decisions affecting job assignment, opportunities for promotion, etc.; or affect job performance.

### **What measures can we put in place to ensure equal pay for work of equal value?**

- To ensure EPWEV, rates and types of remuneration should be based on an objective evaluation of the work performed.
- Job classification systems and pay structures should be based on objective criteria (education, skills and experience required) irrespective of the sex of the workers concerned.
- Reference to a particular sex should be eliminated in all remuneration criteria, and in collective agreements, pay and bonus systems, salary schedules, benefit schemes, medical coverage and other fringe benefits.
- Any remuneration system or structure which has the effect of grouping members of a particular sex in a specific job classification and salary level should be reviewed.

### **What can companies do to eliminate discrimination?**

- Respect national laws and regulations, and where national law is insufficient, take account of international standards.
- Make qualifications, skills and experience the basis for the recruitment, placement, training and payments of staff at all levels.
- Work on a case by case basis to evaluate whether a distinction is an inherent requirement of a job and avoid systematic applications of job requirements in a way that would systematically disadvantage certain groups.
- Conduct an assessment to determine if discrimination is taking place within the enterprise.
- Address complaints, handle appeals and provide recourse to employees in cases where discrimination is identified;

## C. Forced Labour

Forced labour is a crime recognized by international law and almost all countries have condemned it in national law.

ILS mandates that all workers shall have the right to enter into employment voluntarily and freely, without the threat of a penalty and can terminate employment, subject to previous notice of reasonable length.

Penalties may include imprisonment, but the threat of penalty does not necessarily involve a penal sanction. They can take many different forms, including:

- Loss of rights or privileges
- Use of violence against worker or family
- Preventing worker from moving freely outside the worksite
- Sexual violence
- Dismissal
- Exclusion from future employment
- threats to denounce an illegal worker to the authorities or deportation
- Withholding wages
- Shift to worse working conditions

In essence, persons are in a forced labour situation if they enter work or service against their freedom of choice, and cannot leave it without penalty or the threat of penalty. This does not have to be physical punishment or constraint; it can also take other forms, such as the loss of rights or privileges.

### **What is considered a threat or penalty?**

Penalties may include imprisonment, take the form of a loss of rights and privileges, the threat or use of physical violence and preventing a worker from moving freely outside the work site. Threats may be more subtle such as threats to harm a victim's family; threats to denounce an illegal worker to the authorities; or withholding wages to compel a worker to stay in hopes of eventually being paid.

### **Does compulsory overtime constitute forced labour?**

The imposition of overtime does not constitute forced labour as long as it is within the limits permitted by national legislation or collective agreements. Above those limits, the specific circumstances need to be examined to verify if forced labour is occurring.

**When workers receive only accommodation and food, can it be considered forced labour?**

Although payment only in kind does not, in itself, constitute forced labour, such payments make workers more dependent and vulnerable and therefore create a risk that these workers may end up in a situation of forced labour. National labour laws usually specify the maximum proportion of wages that may be paid in kind. It usually varies from 20 to 40%.

**Can I keep workers original IDs or papers?**

Keeping personal documents can in many instances be considered as an element that can degenerate into forced labour as it can restrict a worker's ability to terminate employment.

**Is paying workers their wages, enough to avoid forced labour situations?**

Providing wages or other compensation to a worker does not necessarily indicate that the labour is not forced or compulsory. If a person is not free to leave his or her employment under the threat of penalty this constitutes forced labour, regardless of whether you provide wages or other forms of compensation.

**Is it ok to use prison labour?**

A company engaging prison labour should ensure that prisoners freely consent to work and that if a prisoner refuses the work offered there is no menace of any penalty. Practical application of this principle may be difficult and require verification to ensure that abuses do not occur.

**What can companies do to eliminate forced labour?**

Ensure that contracts are provided to all employees stating the terms and conditions of service, the voluntary nature of employment, the freedom to leave.

Institute policies and procedures to prohibit the requirement that workers lodge financial deposits with the company.

Ensure that fees or costs related to recruitment are not borne by workers but by the contracting company.

Assess your business activities and those of your suppliers by conducting interviews, inspections and audits.

Inform and train employees to ensure forced labour is not misunderstood, underestimated or ignored.

## **D. Freedom of Association**

The freedoms to associate and to bargain collectively are fundamental rights. They are enabling rights that make it possible to promote democracy, sound labour market governance and decent conditions at work.

Freedom of association implies a respect for the right of all employers and all workers to freely and voluntarily establish and join groups of their own choosing to promote and defend their occupational interests without interference by either the employer or management.

The right to freedom of association for workers also includes protection from acts of discrimination against them associated with their participation in their union.

**Must there be a trade union at the workplace?**

The fact that there is no trade union organised does not imply that there is a violation of FoA principles. If there are other structures of communication, consultation or negotiation and there are no indications of antiunion behaviour it is likely that ILS are being respected. Companies do not need to have a trade union, but workers need to know and feel that they can exercise their rights freely.

#### **Can the company express itself against unions?**

Trade union rights can only be exercised in a climate that is free from violence, pressure to threats of any kind against trade unionists. Strongly expressed anti-union views may cloud that environment. Full respect for FoA is possible where there is no anti-union or hostile climate.

#### **Do I need to facilitate awareness of FoA amongst the workers?**

Ensuring an informed workplace contributes to the realisation of ILS. Awareness raising and training on FoA should preferably be handled by labour relations specialists, academics, trade unions or NGOs, and not directly the company to avoid any interference.

#### **What can companies do to uphold freedom of association?**

- Respect national laws and regulations, and where national law is insufficient, take account of international standards.
- Respect the right of all workers to form and join a trade union of their choice without fear of intimidation or reprisal.
- Put in place non-discriminatory policies and procedures with respect to trade union organization, union membership and activity.
- Provide workers' representatives with facilities to enable them to carry out their functions promptly and efficiently, including time off from work for carrying out their functions, access to all workplaces, access to management and distributing documents among the workers.
- Allow the union to operate free of management interference.
- Provide that union dues are collected in accordance with national legislation.
- Ensure workers have access to the union.
- Not threaten to transfer the operation unit from the country concerned in order to influence negotiations that could hinder the exercise of the right to organise.
- Develop grievance procedures to address complaints, handle appeals and provide recourse for employees.

## **E. Collective Bargaining**

Sound collective bargaining practices ensure that employers and workers have an equal voice in negotiations and that the outcome will be fair and equitable. Collective bargaining can be a useful and empowering tool for engagement between employers and workers.

The fundamental ILS states that collective bargaining is a voluntary process through which employers and workers discuss and negotiate their relations, in particular terms and conditions of work.

The right of workers to bargain freely with employers with no interference is an essential element in freedom of association.

It can involve employers directly, or represented through their organizations; and trade unions or, in their absence, representatives freely designated by the workers.

**Do companies have the responsibility to promote collective bargaining or to respect it?**

Governments have the duty to protect the right to bargain collectively and to promote it. Encouraging collective bargaining in the supply chain can be an effective means of contributing to the realization of the right to freedom of association and collective bargaining.

**Does every factory need to have a collective bargaining agreement (CBA)?**

Collective bargaining may take place at different levels: national, industry or sub-industry bargaining or enterprise-specific bargaining. Collective bargaining may not be imposed upon the parties and procedures to support bargaining must, in principle, take into account its voluntary nature.

**Must I negotiate a CBA? Must I reach an agreement?**

ILS establish the obligation for Governments to promote collective bargaining but only voluntary agreement-making. Where the collective bargaining process fails to lead to agreement, then other forms of engagement are necessary.

**What can companies do?**

- Recognize representative organizations for the purpose of collective bargaining.
- Provide representatives with appropriate facilities to assist in the development of effective collective agreement.
- Provide trade union representatives with access to real decision makers for collective bargaining.
- Provide trade union representatives information needed for meaningful bargaining.
- Address any needs of interest to workers and management, including restructuring and training, redundancy procedures, safety and health issues, grievance and dispute settlement procedures, and disciplinary rules.
- Conduct collective bargaining freely and in good faith:
- Make efforts to reach an agreement;
- Carry out genuine and constructive negotiations;
- Avoid unjustified delays;
- Respect the agreements concluded and applied in good faith;
- Give sufficient time for the parties to discuss and settle the collective disputes.
- Not threaten to transfer the operation unit from the country concerned in order to influence negotiations that could hinder the exercise of the right to organise.

## **F. Communication and consultation**

Consultation involves a genuine exchange of ideas and information that ensures that there is an opportunity for workers to influence the decisions being made within the company, particularly where any proposal that may affect employment.

Meaningful consultation can help foster in workers a sense of participation and inclusion in the company, but consultation should not be considered as a substitute for collective bargaining.

A climate of mutual understanding and confidence within the enterprise is favourable both to the efficient operation of the undertaking and to the aspirations of the workers.

**Workers committees and grievance procedures are available, so there is no need for a union, right?**

Forums of dialogue between workers and management may take different forms, such as workers committees or grievance procedures, but these should not be confused with representative trade union organisations. It is essential that any of these mechanisms do not undermine legitimate trade unions and effective social dialogue mechanisms.

**What are proper subject matters for discussion in consultation?**

Management typically determines the matters to be taken up in consultation, although law can also determine them. It is good practice to agree with workers on the matters that will be taken up. The closer the matter to workers' interest, more important that it is consulted.

**Should worker have access to the grievance procedure upon his/her dismissal?**

A worker should not be dismissed for reasons related to his/her worker's conduct or performance before s/he is provided an opportunity to defend himself against the allegations made, unless the employer cannot reasonably be expected to provide this opportunity.

**What can companies do?**

- Create mechanisms that provide for regular consultation before decisions are taken on matters of mutual concern.
- Ensure that channels of communication recognize and include legitimate workers representatives.
- In the information given by management include, as far as possible, all matters of interest to the workers relating to the operation and future prospects of the undertaking and to the present and future situation of the workers.
- Create procedures workers can use to raise grievance without fear of retaliation.
- Ensure the union and workers representatives play a role in grievance and disciplinary procedures.

## **G. Occupational safety and Health**

Since 1919 the ILO has adopted a large number of ILS concerning OSH issues as well as many codes of practice and technical publication on various aspects of the subject. They include definitions, principles, obligation, duties and rights as well as technical guidance.

ILS provide that workers need to be protected from sickness, disease and injury arising from their employment, and that companies should provide a safe and healthy working environment.

**Can a company fire a worker on the spot for not using PPE?**

Workers may be validly dismissed for violating of work rules related to OSH, but this measure might indicate that the company does not have a clear understanding of how OSH should be managed effectively within an enterprise. A positive commitment to OSH implies consulting, informing and training workers on all aspects of OSH.

**Is it OK to lock workers inside a factory or dormitory?**



The ILO advocates taking a zero tolerance approach to confinement at the workplace. Locking workers in a factory premises or dormitories is contrary to OSH principles. While it is legitimate for a company to take steps to secure its property, alternative means should be explored.

**Must a company accommodate religious beliefs which hinder wearing of personal protective equipment?**

A religion may require a special type of clothing which may not be compatible with personal protective equipment (PPE). In such cases the worker's right to practice fully his or her faith or belief at the workplace needs to be weighed against the need to meet genuine safety requirements. Enterprises are encouraged to make reasonable efforts to accommodate particular religious customs.

**Are there ILS related to housing?**

It is not desirable that employers provide housing directly, but in those cases where it is provided it should meet certain minimum specifications to ensure structural safety and reasonable levels of decency, hygiene and comfort. Recommendation No. 115 may be used as guidance.

**What can companies do?**

- Maintain highest standards of safety and health at work.
- Set an OSH policy in writing in consultation with workers.
- Put in place an OSH management system.
- Ensure the OSH management system includes steps of hazard identification, risk assessment and risk control.
- Establish and maintain preventive and corrective action resulting from OSH management system performance monitoring and measurement.
- Set a holistic approach to prevention at company level.
- Make arrangements for continual improvement of relevant elements of the OSH management system.
- Comply with the requirements of surveillance of the worker's health condition.
- Provide and maintain personal protective equipment.
- Investigate, record and report occupational incidents, accidents and diseases.
- Establish a functioning and efficient safety and health committee.
- Provide workers with safety and health related information and training.
- Consult workers upon aspects of OSH associated with their work.

## H. Wages and Benefits

Wage levels should be adequate to satisfy basic needs of the workers and their families.

Wages shall be paid in legal tender at regular intervals; in cases where partial payment of wages is in kind, the value of such allowances should be fair and reasonable. Workers shall be free to dispose of their wages as they choose. In cases of employer insolvency, wages shall enjoy a priority in the distribution of liquidated assets.

Wages refers to any remuneration or earnings, however designated or calculated paid to a person for work or services to be done or provided.

Is it OK if workers only receive accommodation and food, as payment for their work? Payment in kind should not fully replace cash remuneration. The labour laws in many countries specify the maximum proportion of the wages that may be paid in kind; this usually varies from 20 to 40%.

**Can wage deductions be made as a disciplinary measure?**

Only legal deductions may be made. Where national laws allow them the company should ensure they are limited and that workers are communicated in advance.

**Is it ok to pay piece rate?**

ILS allow flexibility in establishing and calculating wages (time or output) with the following safeguards: that the minimum wage paid is adequate to meet the needs of workers and their families, that payments are made in legal tender directly to the worker and that equal pay for work of equal value is ensured.

**Should wages be subject to negotiation?**

Wages, benefits and allowances may be subject to collective bargaining, which can take place at the enterprise level, at the sector or industry level, and at the national or regional level. It is up to the parties themselves to decide if and at what level they want to bargain.

**How often do workers need to be paid?**

Workers should be paid regularly and at intervals short enough to allow them to live on a cash rather than a credit basis. Workers should also be able to spend their wages as they choose.

**What can companies do?**

- Respect national laws and regulations, and where national law is insufficient, take account of international standards.
- Provide the best possible wages, benefits and conditions of work, within the framework of government policies.
- Ensure that wages and benefits are not less favourable than those offered by comparable employers in the country concerned.
- Ensure the minimum wage workers will receive are sufficient for the subsistence needs of workers and their families, taking in consideration the general level of wages in the country, the cost of living, social security benefits, and the relative living standards of other social groups, economic factors, and changes in the cost of living.
- Create systems to ensure workers are paid directly, at regular intervals, on time and in legal tender.
- Create systems to ensure workers are provided with details of the wage conditions before the production process.
- Create systems that allows for workers to verify their earnings and understand how they have been calculated.
- Install grievance mechanisms with appeal procedures for workers to raise their concerns.

## I. Working time

ILS provide a framework for regulating hours of work, daily and weekly rest periods, and annual holidays.

Most countries have statutory limits of weekly working hours of 48 hours or less. These limits serve to promote higher productivity while safeguarding workers' physical and mental health.

One of the major challenges in this area remains the need to limit excessive hours of work and provide for adequate periods of rest and recuperation, including weekly rest and paid annual leave, in order to protect workers' health and safety.

ILS set the general standard at 48 regular hours of work per week, with a maximum of 8 hours per day.

ILS set the general standard that workers shall enjoy a rest period of at least 24 consecutive hours every 7 days.

**If workers want to work over the legal limits to earn as much as possible, should we allow this?**

Excessive working hours can cause health disorders that contribute to a higher incidence of accidents and injuries, as well as decreased productivity and poorer quality. A dialogue with workers about their motivations for seeking extra working hours is advisable to identify root causes and to identify possible solutions to such a situation. In the discussion management could convey its concerns about the safety and health risks involved in working long hours.

**Does a worker belonging to a religious minority have a right to a day of rest that differs from the customary day of rest?**

The day of weekly rest should be fixed, wherever possible, so as to coincide with the days already established by the traditions or customs of the country or district. The traditions and customs of religious minorities should, as far as possible, be respected.

**What should be minimum annual paid leave?**

ILS specifies a minimum of three working weeks for one year of service. This would amount to either 15 or 18 days, depending on the length of the work week. Minimum service may be required for entitlement, but should not exceed 6 months. Periods of sickness or injury generally should not be counted as part of those 3 weeks.

**What can companies do?**

- Respect national laws and regulations, and where national law is insufficient, take account of international standards.
- Offer the best possible conditions of work, including working time, within the framework of government policies.
- Conduct operations so the average number of hours worked by each worker per week does not need to exceed forty-eight.
- Progressively reduce the normal hours of work from 48 hours to 40 hours, taking into account national conditions and practice, as well as the conditions in the particular sector of operation, in order to avoid any reduction in wages.
- Create systems by which overtime is an exception to the recognized rules or custom of the company.
- Ensure that overtime worked is remunerated at higher rates than normal working hours.
- Encourage consultations with workers on working time, rest periods and leave.
- Consult workers in addressing how to progressively reduce hours of work.

## 7. Bibliography

- International Instruments and Corporate Social Responsibility, A Booklet to Accompany Training: The Labour Dimension of CSR: from Principles to Practice (2007) (ILO)
- Rules of the Game (2009)(ILO)
- Labour Principles of the UN Global Compact: A Guide for Business (2008) (ILO)
- Fundamental Rights at Work and International Labour Standards (2003) (ILO)
- PAPADAKIS., K., Shaping Global Industrial Relations. The impact of International Framework Agreements (2011) (ILO)
- Eliminating Child Labour: Guides for Employers (2009) ILO
- Combating child labour: A handbook for labour inspectors (2002) (ILO)
- Gender Equality and Decent Work: Good Practices at the Workplace (2005) (ILO)
- Equality at work: Tackling the challenges (2007)
- Combating forced labour. A Handbook for employers and Business (2008) (ILO)
- UN.GIFT Guide - Human Trafficking and Business: Good practices to prevent and combat human trafficking (2010)
- Freedom of association in practice: Lessons learned (2008) (ILO)
- Digest of decisions and principles of the Freedom of Association Committee of the Governing Body of the ILO. Fifth (revised) edition (2006) (ILO)
- ILO Helpdesk for Business on International Labour Standards: is the one-stop shop for company managers and workers interested in better aligning business operations with international labour standards. <http://www.ilo.org/empent/areas/business-helpdesk/lang--en/index.htm>