MANAGING RISKS ASSOCIATED WITH MODERN SLAVERY - A GOOD PRACTICE NOTE

IFC SUSTAINABILITY WEBINAR SERIES

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BACKGROUND TO THE GOOD PRACTICE NOTE

IFC Internal *Tip Sheet on Modern Slavery* by ERGON Assoc. (January 2017) to help E&S specialists understand implication of new UK legislation on requirements of PS2.

GPN done in partnership between CDC (lead/funded), EBRD, IFC and DFID, prepared by ERGON and Cindy Berman of Ethical Trading Initiative (ETI).

2 workshops with ERGON/ETI, partners, practitioners & experts to discuss content focus of the document (April 2018) and verifying that content (July 2018).

Open online external consultation August 14th to September 4th, 2018:

- 57 respondents for a total of 250 comments.
- US DoL, GRI, IPEICA, UKEF, ERM, TFT, among other organizations provided inputs.
- Thank you if you provided comments.

Overall feedback has been positive.
WHY DO WE NEED THIS GOOD PRACTICE GUIDANCE?

• Over 40 million victims of modern slavery globally – more awareness of scale and scope
• New legislation and regulations – transparency, reporting and human rights due diligence
• Sustainable Development Goal 8.7, increased expectations for governments and the private sector
• Complexity of global supply chains, competition, labour market mobility & flexibility
• Civil society advocacy, media exposure
• Criminal and civil litigation cases and UNGPs
• Practical guidance needed on preventing, mitigating, managing and monitoring modern slavery risks
HERE’S WHY THE GPN ON MODERN SLAVERY CAN HELP

Provides a **practical guide** for the private sector on how to assess, address, mitigate and monitor modern slavery risks:

- It aims to **explain the concept** of modern slavery in the private sector context.
- Explains the **circumstances** under which modern slavery happens, associated **risk factors** and indicators.
- Provides guidance and describes relevant **mitigation, monitoring and remediation** strategies.
- Includes **practical tools** and resources: project examples, checklists, tools, etc.
WHO WILL USE THE GUIDE AND HOW IS IT ORGANIZED?

Designed for investors and companies

NAVIGATION TOOLS

TABLES, TOOLKITS

SYMBOLS : PARTS RELEVANT FOR INVESTORS AND THE PRIVATE SECTOR

<table>
<thead>
<tr>
<th>SECTION</th>
<th>CONTENT</th>
<th>KEY OUTCOME</th>
<th>PAGE</th>
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Managing Risks Associated with Modern Slavery
A Good Practice Note for the Private Sector
WHAT’S INCLUDED IN THE GUIDE

BOXES
- Information on specific issues

EXAMPLES
- Scenarios that illustrate issues

TOOLKIT
- Checklists, sample contracts, procedures

FURTHER READING
- Cover topics in more detail
SECTION 1: UNDERSTANDING MODERN SLAVERY: WHAT IS IT?

- Slavery
- Servitude
- Forced and compulsory labour
- Human trafficking
- Worst forms of child labour
- Sexual exploitation

Key elements: menace, threat, involuntary, abuse of power and vulnerability

All forms are prohibited under international law and are serious criminal offences.

It is complex, evolving and often hidden.
Of the 40M – 16M in forced labor in the private sector, 70% of those trapped in Modern Slavery are women and girls.

- No one should be trafficked or forced to work under conditions of slavery, penalty or threats – these are crimes enshrined in international and national law.

- Reputational risks for companies and investors - affects credibility with consumers, clients and the wider public.

- Regulatory and commercial risks – new legislation and regulation.

- Obligations and responsibilities are unclear to many investors and companies when considering their investments, outsourcing practices and supply chain management.

- Increasing evidence that companies who address social and labor rights are more sustainable and successful.
FORCED LABOUR

ILO Forced Labour Convention, 1930 (No. 29) defined as “all work or service which is exacted from any person under the menace of any penalty and for which the said person has not offered himself voluntarily.”

Palermo Protocol to Prevent, Suppress and Punish Trafficking in Persons, especially Women and Children - involves the ‘recruitment, transportation, transfer, harbouring or receipt of persons, by means of the threat or use of force or other forms of coercion ... for the purpose of exploitation.’

HOW DO WE RECOGNIZE IT?

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
MODERN SLAVERY STATISTICS

ILO & Global Slavery Index Global Estimates

METRICS
40 million people were victims of modern slavery. This includes:
- 25 million people in forced labour
- 15 million people in forced marriage

PREVALENCE
There were 5.4 victims of modern slavery for every thousand people in the world in 2016.
There were 5.9 adult victims of modern slavery for every 1,000 adults in the world and 4.4 child victims for every 1,000 children in the world.

DEBT BONDAGE
Debt bondage affected half of all victims of forced labour imposed by private actors.

GENDER
Women and girls accounted for 71 per cent of modern slavery victims.

CHILDREN
One in four victims of modern slavery were children.

Source: https://www.alliance87.org/2017ge/modernslavery
Sector

At any given time, some 16 million people around the world are victims of forced labour exploitation in the private sector (not including sexual exploitation). On average, they are held 20.5 months before escaping or being freed.
CONTRIBUTING FACTORS

- Competition in global trade
  - Goods & services
  - Race to the bottom for labour costs
  - Complex supply chains

- Vulnerable worker groups
  - Migrant workers
  - Lower skilled workers
  - Third party workforces
  - Female workers
  - Children

- Poor management practices
  - No oversight of third parties
  - Vague policies and project standards
  - Lack of awareness
  - No grievance mechanisms

- Location of work
  - Poor legal protections
  - Proximity to conflict
  - No enforcement
  - Remote worksite
WHERE DOES IT OCCUR?

Modern incidence of slavery

Data from the Walk Free Foundation (2016)

Report: Forced Labor Rampant in Malaysia's Electronics Manufacturing Sector

Migrant workers particularly vulnerable to forced labor in Malaysia, where many electronics companies make their products.

Mauritania is failing to eradicate slavery and forced labour

40 million in modern slavery and 152 million in child labour around the world

Now data reveal that the UN's Sustainable Development Goal, particularly Goal 8, to eradicate all forms of slavery and child labour, is far from being achieved.

Cash for Kim: North Korean Forced Labourers Are Working to Their Death in Poland

International Labour Organisation finds employees stranded without pay or passports in 2022 World Cup nation
EXAMPLE MS RISK MAP ACROSS DFI PORTFOLIO

- Forced labour in manufacturing
- State-sponsored forced labour
- Human trafficking
- Migrant worker debt bondage
- Child exploitation
- Agricultural forced labour
- Child exploitation
CONTINUUM OF LABOUR RIGHTS ABUSE AND DECENT WORK

KEY DRIVERS (e.g. poverty, discrimination, flexible labour markets)

CONTRIBUTING FACTORS (competition, poor management practices, sourcing..)

RISK FACTORS (e.g. recruitment fees, agency/contracting, Special Economic Zones)
MINING – DRC
The client will not employ forced labor, which consists of any work or service not voluntarily performed that is exacted from an individual under threat of force or penalty. This covers any kind of involuntary or compulsory labor, such as indentured labor, bonded labor, or similar labor-contracting arrangements. The client will not employ trafficked persons.

Where there is a high risk of... forced labor in the primary supply chain, the client will identify those risks consistent with paragraphs 22. If forced labor cases are identified, the client will take appropriate steps to remedy them. The client will monitor its primary supply chain on an ongoing basis in order to identify any significant changes in its supply chain and if new risks or incidents of child and/or forced labor are identified, the client will take appropriate steps to remedy them.
WHAT DOES PS2 SAY ON MODERN SLAVERY?

Standards

- Direct employees
- Contractor employees
- Supply chain employees
- Financial intermediaries / funds
<table>
<thead>
<tr>
<th><strong>SECTION 3: IDENTIFYING AND ASSESSING RISK</strong></th>
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<tbody>
<tr>
<td>Identifying high level indicators</td>
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<td>Identifying workplace risk</td>
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<td>Stage</td>
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<td>Workers subjected to exploitative recruitment</td>
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SUPPLY CHAIN MAPPING

Understanding complexity (countries, processes, risks, ownership and responsibility, data gaps)

Considering risks to people, not only business risks
HOW FAR DOWN THE SUPPLY CHAIN?

Supply chain level

- Retail
- Warehouses
- Transport
- Garment Production
- Fabric Processing
- Raw material

3rd party labour provider

Associated slavery risks

- Temporary labour/ Cleaners/ Construction/ Catering
- Temporary labour/ Cleaners/ Construction/ Catering
- Temporary labour/ Labour brokers/ Boats
- Migrant labour/ Temporary labour/ Child labour/ Cleaners/ Cooks
- Migrant labour/ Seasonal labour/ Child Labour/ Cleaners/ Cooks
- Farm workers/ Temporary labour/ Child labour
### High level indicators to look for

**Ask:** Is there a high risk of modern slavery occurring in the country and sector?

<table>
<thead>
<tr>
<th>Indicator</th>
<th>Example sources of information</th>
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<tbody>
<tr>
<td>Country and/or sector has high modern slavery risk</td>
<td>The US Department of Labor’s <a href="https://www.labor.dol.gov/childlabor/tools.htm">List of Goods Produced by Child and Forced Labor, Comply Chain tool</a> and <a href="https://sweatandtoil.com">Sweat and Toil</a> app; the US Department of State’s Trafficking in Persons Report</td>
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<td>Work is in or next to a fragile and conflict-affected region</td>
<td>The <a href="https://www.business-humanrights.org">Business and Human Rights Resource Centre</a></td>
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<td>There are gaps in law and enforcement on modern slavery</td>
<td>Tools developed by <a href="https://verite.org">Verité</a>, including a Knowledge Portal on forced labour</td>
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<td>ITUC’s <a href="https://www.ituc-csi.org">Global Rights Index</a></td>
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<td></td>
<td>Background media / news research</td>
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**Ask:** What type of workers are (likely to be) present on the worksite?

The presence (especially in large numbers) of:

<table>
<thead>
<tr>
<th>Worker Type</th>
<th>Example sources of information</th>
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<tbody>
<tr>
<td>Internal / foreign migrant workers</td>
<td>Information from pre-screening questionnaires</td>
</tr>
<tr>
<td>Refugees</td>
<td>Regular reporting from third-party</td>
</tr>
<tr>
<td>Low skilled workers</td>
<td>Initial due diligence visit</td>
</tr>
<tr>
<td>High numbers of informal workers</td>
<td>Monitoring visits to worksites</td>
</tr>
<tr>
<td>Women (subject to higher likelihood of threat and coercion through use of sexual violence, bullying etc.)</td>
<td>Engaging with expert stakeholders incl. civil society and trade unions (see the <a href="https://www.oxfam.org/en/campaigns/modern-slavery">Modern Slavery Map</a> which provides a useful list of relevant stakeholders)</td>
</tr>
<tr>
<td>Temporary / agency / contract / seasonal workers</td>
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**Ask:** Are there characteristics of the third-party’s management systems or sites that may lead to risks?

<table>
<thead>
<tr>
<th>Characteristic</th>
<th>Example sources of information</th>
</tr>
</thead>
<tbody>
<tr>
<td>Allegations of poor practices against a business partner</td>
<td>Company bids / applications for work</td>
</tr>
<tr>
<td>Early stages of work on a site or of production in a supply chain</td>
<td>Project Environmental Social Management Systems (ESMS), human resources policies and procedures</td>
</tr>
<tr>
<td>Inadequate / poor management systems</td>
<td>Supply chain information</td>
</tr>
<tr>
<td>High turnover of key managerial staff</td>
<td>Initial due diligence visit</td>
</tr>
<tr>
<td>Lack of transparency</td>
<td>Monitoring visits to worksites</td>
</tr>
<tr>
<td>Complex sub-contracting / supply chains</td>
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<tr>
<td>Abnormally low tender / contract cost with third party</td>
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</tbody>
</table>
KEY MODERN SLAVERY RISKS IDENTIFIED BY COMPANIES

- Migrant workers
- Child labor
- Recruitment fees and debt bondage
- Agency workers and temporary labor
- Working hours and wages
- Subcontractors

ADDITIONAL RISK AREAS

- Logistics
- Warehousing
- Cleaning
- Catering
SPINNING MILLS – TAMIL NADU
SECTION 4: MITIGATING MODERN SLAVERY RISKS

Stand alone or combined?

Zero tolerance policies – cure or danger?

Addressing modern slavery

DFIs
Investors
Companies
4.1 Identifying and using leverage

It is useful to consider different opportunities for exercising leverage to mitigate risks or address identified instances of modern slavery. The best time to increase leverage is early on in a commercial relationship. In the context of project finance this can be during project design or tendering processes, so that contract clauses set out clear expectations, responsibilities and responses. Other leverage points may include:

- While setting qualification criteria for bidding processes.
- During contract negotiation and formation.
- When agreeing or renewing licenses and service agreements.
- Through reporting requirements associated with implementing action plans.
- When funds are disbursed.

| Through forming environmental, social and governance (ESG) committees. |
| Through processes to investigate and address complaints. |
| Through board representation. |
| Through capacity building efforts. |
| Through identifying opportunities for collaboration with others involved in same or similar companies or sites and exerting collective leverage to effect longer-term change. |
SECTION 5: REMEDIATION

What do we mean by remediation?
Who is responsible?
Role of grievance mechanisms
Pathways to remediation
EXAMPLE OF A REMEDIATION PROCESS

- Gather and secure information
  - Involvement of third-parties might be necessary

1. Incidences that can be resolved with employers
   - Take corrective action with employers
     - Non-compliances are not resolved
       - Develop multilateral remediation strategy with national actors, business partners or wider stakeholders or refer to authorities

2. Incidences linked with violence or criminality
   - Refer to authorities or expert organisations
     - There is a viable legal pathway to remediation
       - Refer to national authorities

3. Incidences linked with state sponsorship
   - Refer to expert organisations
     - Legal pathway is not safe or credible
       - Refer to expert organisations for support

- Restitution, rehabilitation, material support or compensation

Prevention: addressing root causes and establishing or maintaining grievance mechanisms

Collaborative interventions to address root causes and prevent further abuses

Grievance mechanisms and worker voice systems can deter further abuses

Train and sensitise those responsible for remediation to risks faced by potentially affected workers’

- Ensure victim safeguarding throughout the process
- Monitor progress of remediation efforts
SECTION 6: MONITORING AND REPORTING ON ACTIONS AND CHANGE

Reporting

- Contractual reporting
- Mandatory reporting

Audits

- Limitations
- Considerations for an effective audit

Ongoing monitoring

- Stakeholder involvement
- Role of technology
- KPIs
MONITORING FOR INVESTORS & PRIVATE SECTOR

Initial assessment
- general information
- triggers
- sets categorization

Detailed due diligence
- information from clients
- information from specific studies
- crucial to Action Plan

Contracting and commitment
- sets project and legal expectations

Monitoring and supervision
TOOLKIT

- **Tool 1: Pre-screening questionnaire**
- **Tool 2: Understanding recruitment fees**
- **Tool 3: Documentation to ask for during an audit**
- **Tool 4: Stakeholder list**
  - Broad-based initiatives and stakeholders
  - Sectoral initiatives and stakeholders
  - Issues-based initiatives and stakeholders
Q&A
### A FEW IFC EXAMPLES

<table>
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<th>Cattle Producer</th>
<th>Brazil</th>
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<tr>
<td>Paraguay</td>
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<tr>
<td>• Forced labor, in particular of IPs in the supply chain of cattle farms in Paraguay, is difficult to manage, up to now with little GoP involvement. Particularly where the spot market is concerned, no direct contracts with suppliers, traceability and leverage are weak.</td>
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<tr>
<td>• Company has agreed to block as suppliers any farmers found in violation of forced labor (the Min. of Labor, Paraguay is just beginning labor inspections – but not as sophisticated as Brazil Forced Labor Lists).</td>
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<tr>
<td>• IFC and client are partnering with USAID, NGOs and GoP to work together with industry to address supply chain issues around labor and biodiversity, and traceability.</td>
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<th>Commodities</th>
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<td>Brazil</td>
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<tr>
<td>• Issues around management of sub-contractors in company facilities and working conditions of labor force (accommodations, safe working conditions, violation of national laws).</td>
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<td>• Company has taken steps to correct the issue: better contractor management procedures, and better labor audits of facilities. They are not sub-contracting temporary migrant labor any longer, but hiring under direct (temp) contracts.</td>
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<tr>
<td>• Supply Chain – Client has agreed to check suppliers under contract to see if they are on the Brazil Ministry of Labor’s Forced Labor List. However, on the spot market is not possible due to the lack of leverage.</td>
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CDC GROUP: MODERN SLAVERY ACT RESPONSE & JOURNEY

• Modern Slavery Act response & journey at CDC since 2015
  • Scope of application
  • Approach to Modern Slavery at CDC’s own operations and at Investment level
  • Modern Slavery Act Statement 2016-2018

• Portfolio Experience – Healthcare Sector in India and retention of certificates
  • Sector & country context
  • Approach to resolution
  • ESAP & root cause analysis
EBRD: FINDINGS OF FORCED LABOUR GAP ANALYSIS

**Strengths**
Labour standards well developed and integrated in EBRD mandate, EHSS Policy and Performance Requirements
Comprehensive due diligence requirements and procedures in place
Useful implementation tools available

**Room for improvement**
Further strengthen language in Policy
Process inconsistency: improve Labour Assurance Framework and develop new forced labour risk screen
Further strengthen guidance documents and tools

**Weaknesses to address**
Involve more labour experts conducting labour/supply chain due diligence or monitoring in high risk sectors or countries
Build capacity of consultants to improve coverage of labour and forced labour risks
Increase emphasis on implementing formally-recognised social and labour management systems (e.g. SA8000, GSCP)
Increase scrutiny of the existing workers grievance mechanisms and how these perform, and strengthen related requirements.
Q&A
THANK YOU!