

MANAGING RISKS ASSOCIATED WITH MODERN SLAVERY - A GOOD PRACTICE NOTE

IFC SUSTAINABILITY WEBINAR SERIES



Creating Markets, Creating Opportunities

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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:**

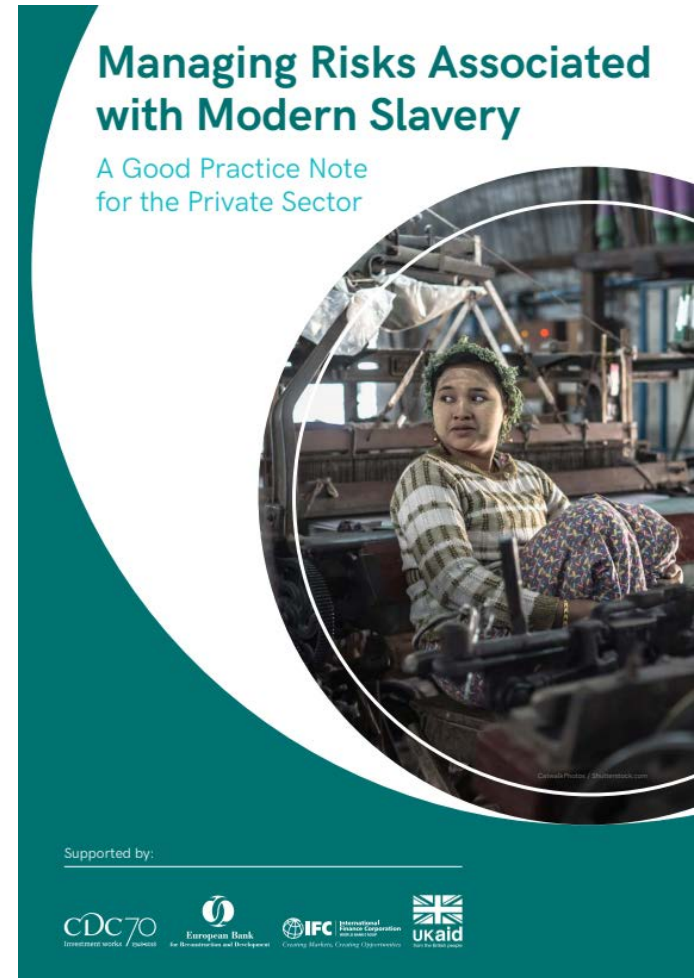
- 57 respondents for a total of 250 comments.
- US DoL, GRI, IPEICA, UKEF, ERM, TFT, among other organizations provided inputs.
- Thank you if you provided comments.

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



SECTION	CONTENT	KEY OUTCOME	PAGE	AUDIENCE
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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

STRUCTURE OF THE GOOD PRACTICE GUIDE

Understanding modern slavery

Standards & safeguards

Assessing the risk of modern slavery

Mitigating modern slavery risks

Remediation

Monitoring and reporting on actions and change

Annexes and Tools

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.

HOW DOES THIS AFFECT COMPANIES?

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.

INTERNATIONAL LAW: FORCED LABOUR, TRAFFICKING FOR PURPOSES OF EXPLOITATION, SLAVERY AND SERVITUDE

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?



ILO INDICATORS OF
FORCED LABOUR

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.



GENDER

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



DEBT BONDAGE

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



CHILDREN

One in four victims of modern slavery were children.



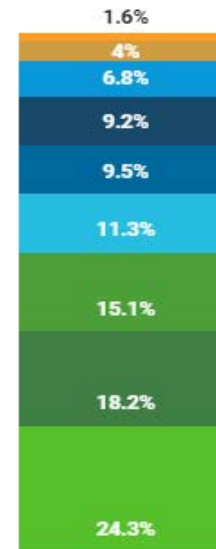
Source:

<https://www.alliance87.org/2017ge/modernslavery>

PRIVATE SECTOR – 16M

Sector

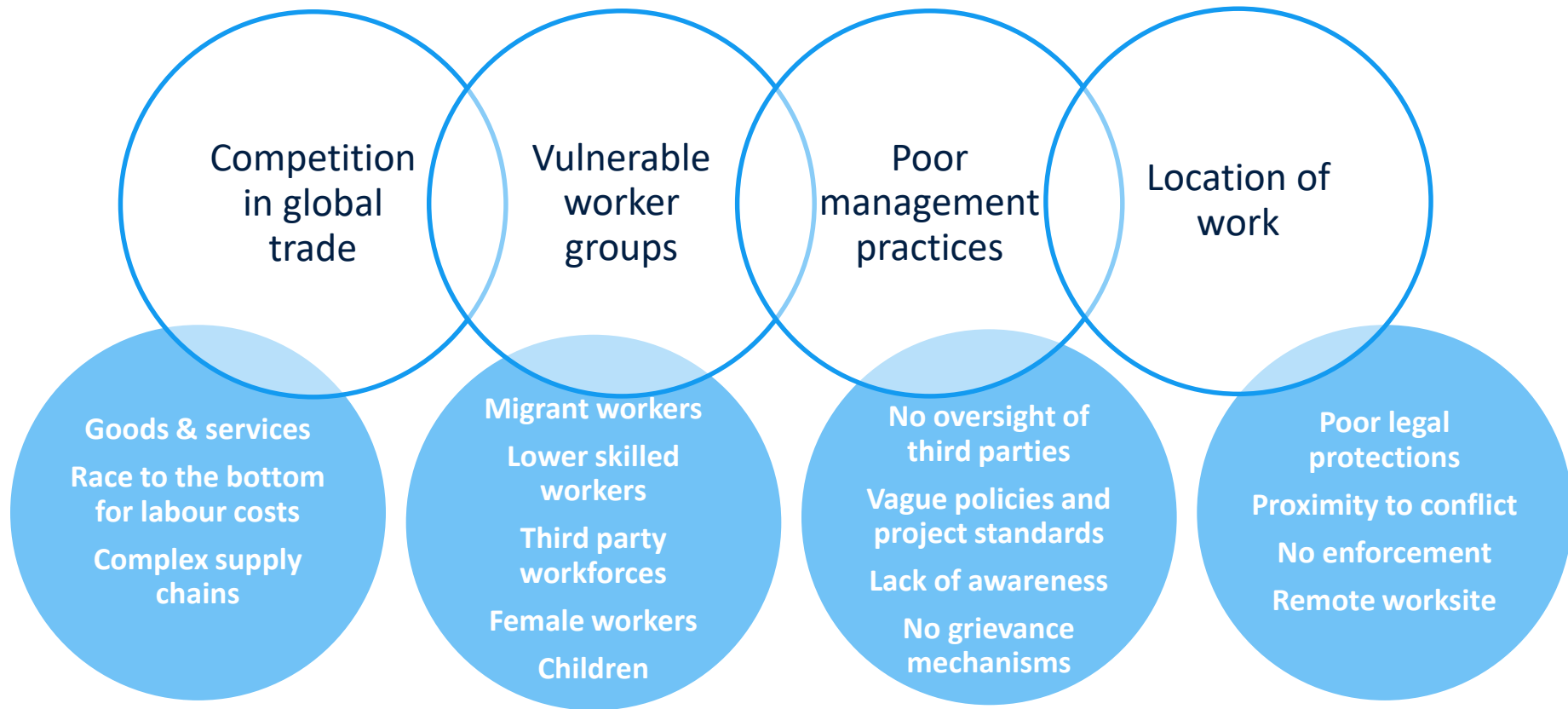
At any given time, some **16 million people** around the world are victims of forced labour exploitation in the private sector (not including sexual exploitation). On average, they are held 20.5 months before escaping or being freed.



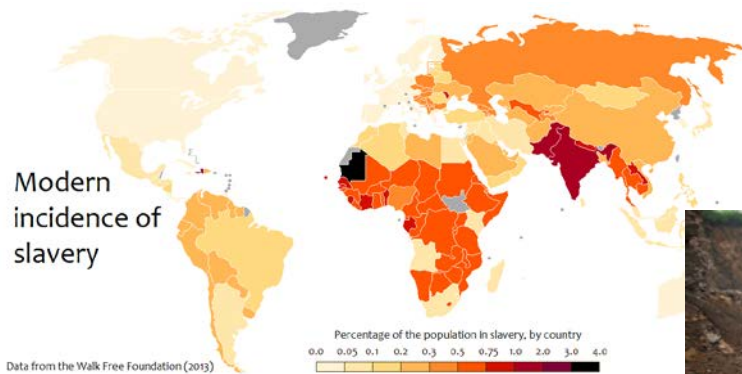
Exploitation by economic activity



CONTRIBUTING FACTORS



WHERE DOES IT OCCUR?



Mauritania is failing to eradicate slavery and forced labour



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

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

By Tierney Sneed, Staff Writer Tue 17, 2014, at 12:01 a.m.



RECOMMENDED

STEM SOLUTIONS
Videos, 2018 Workforce



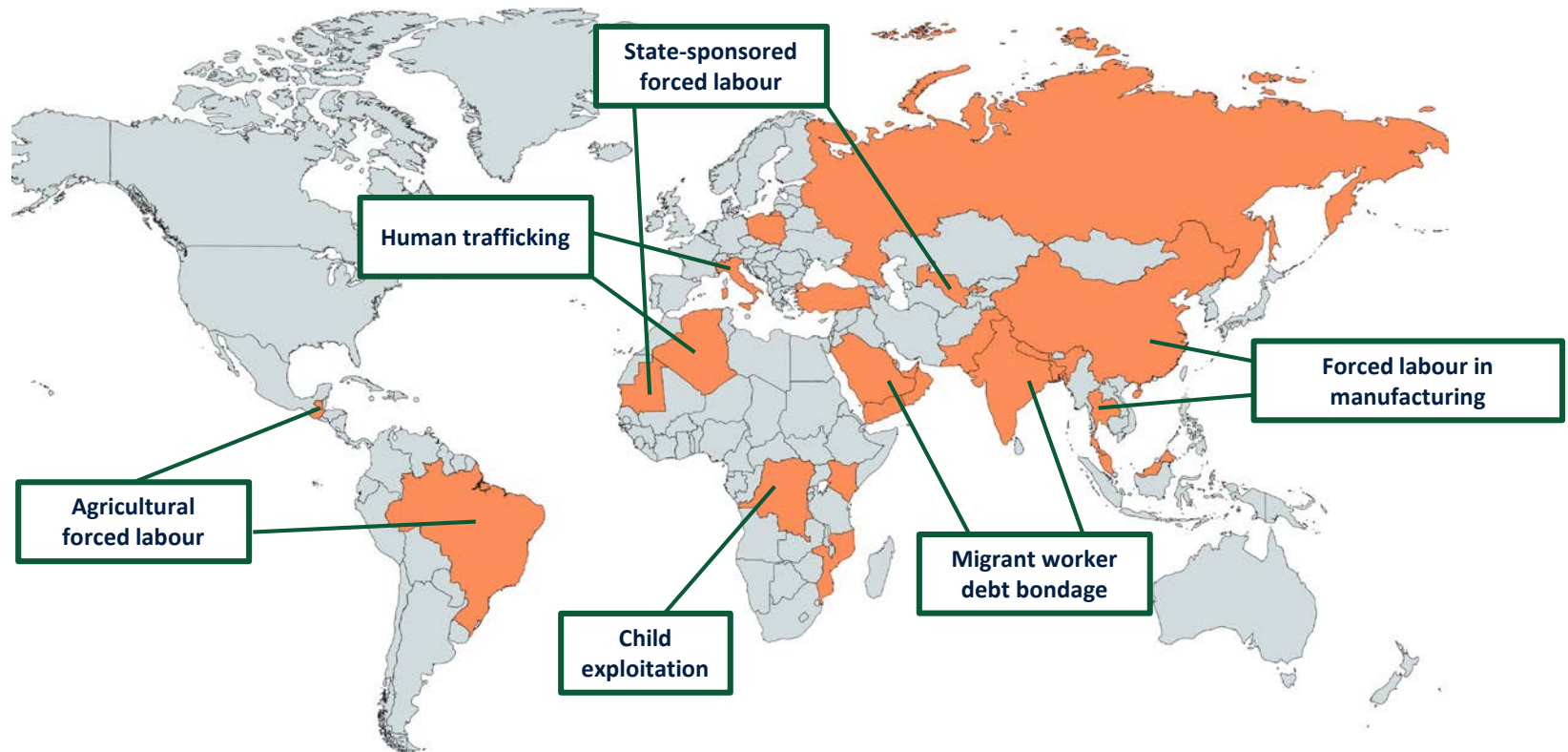
Modern-day slavery in focus

UN gives Qatar a year to end forced labour of migrant workers

International Labour Organisation finds employees stranded without pay or passports in 2022 World Cup nation

Modern-day slavery in focus is supported by

EXAMPLE MS RISK MAP ACROSS DFI PORTFOLIO



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)

COTTON – UZBEKISTAN



MINING – DRC



SECTION 2: STANDARDS AND SAFEGUARDS

- DFIs and EDFIs are generally aligned on labour standards guided by ILO conventions, and are generally consistent in terms of requirements relating to modern slavery
- IFC PS2 REQUIREMENTS ON FORCED LABOUR

PS2.22, FORCED LABOUR

- 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.

PS2.27, SUPPLY CHAIN

- 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

SECTION 3: IDENTIFYING AND ASSESSING RISK

Identifying
high level
indicators

Contextual
factors

Mapping
supply chains

Identifying
workplace risk

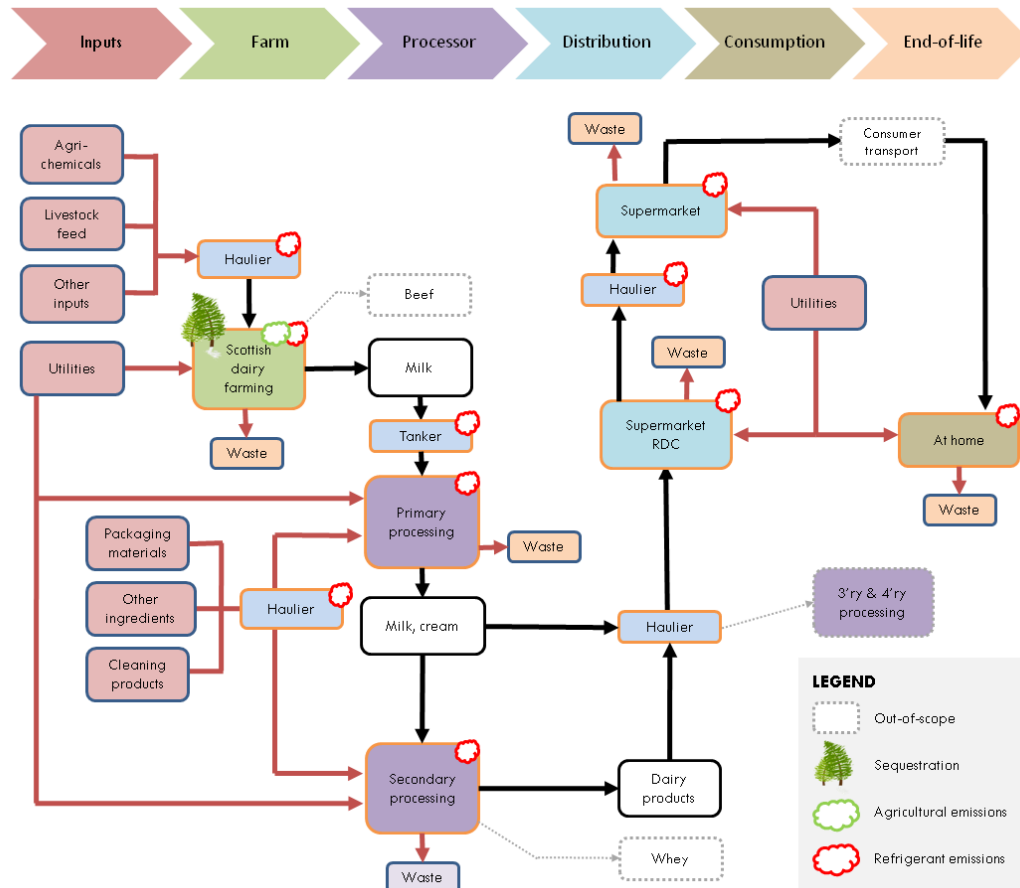
Clarifying and
validating risk

Identifying
and using
leverage

INDICATORS OF FORCED LABOUR AND INVOLUNTARINESS

Stage s	Strength of indicator	Indicators of involuntariness	Indicators of penalty (or menace of penalty)
Workers subjected to exploitative recruitment	Strong	<ul style="list-style-type: none"> • Tradition, birth (birth/descent into ‘slave’ or bonded status) • Coercive recruitment (abduction, confinement during recruitment) • Sale of the worker • Recruitment linked to debt • Deception about the nature of the work (eg promise of work in a hotel, only to end up as a sex worker) 	<ul style="list-style-type: none"> • Denunciation to authorities • Confiscation of identity papers or travel documents • Sexual or physical violence • Other forms of punishment • Removal of rights or privileges (including promotion) • Religious or political retribution • Withholding of assets (cash or other) • Threats against family members
	Medium	<ul style="list-style-type: none"> • Deceptive recruitment (around working conditions, content or legality of employment contract, housing and living conditions, legal documentation or acquisition of legal migrant status, job location or employer, wages/earnings) • Deceptive recruitment through promise of marriage 	<ul style="list-style-type: none"> • Exclusion from future employment • Exclusion from community and social life • Financial penalties • Informing family, community or public about worker’s current situation (blackmail)
Work and life under duress	Strong	<ul style="list-style-type: none"> • Forced overtime (beyond legal limits) • Forced to work on call (day and night) • Limited freedom of movement and communication • Degrading living conditions. • Forced engagement in illicit activities • Induced addiction to illegal substances 	<ul style="list-style-type: none"> • Denunciation to authorities • Confiscation of identity papers or travel documents • Confiscation of mobile phones • Further deterioration in working conditions • Isolation • Locked in workplace or living quarters • Sexual or physical violence • Other forms of punishment (eg deprivation of food, water, sleep) • Violence against worker in front of other workers • Removal of rights or privileges (including promotion) • Religious or political retribution • Constant surveillance • Withholding of assets (cash or other) • Withholding of wages • Threats against family members
	Medium	<ul style="list-style-type: none"> • Forced to work for employer’s private home or family • Induced or inflated indebtedness (eg by falsification of accounts, inflated prices for goods/services purchased, reduced value of goods/services produced, excessive interest rate on loans) • Multiple dependencies on employer (eg the employer provides accommodation, food, travel and work) 	<ul style="list-style-type: none"> • Exclusion from future employment • Exclusion from community and social life • Extra work for breaching labour discipline • Financial penalties • Informing family, community or public about worker’s current situation (blackmail)

SUPPLY CHAIN MAPPING

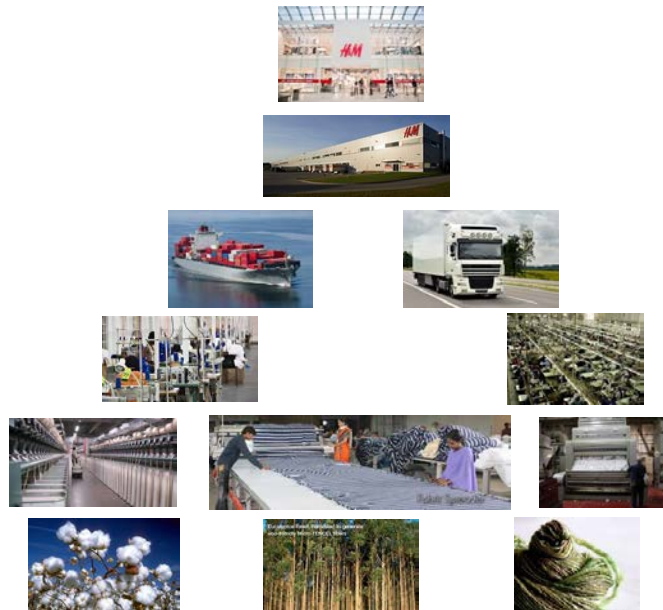
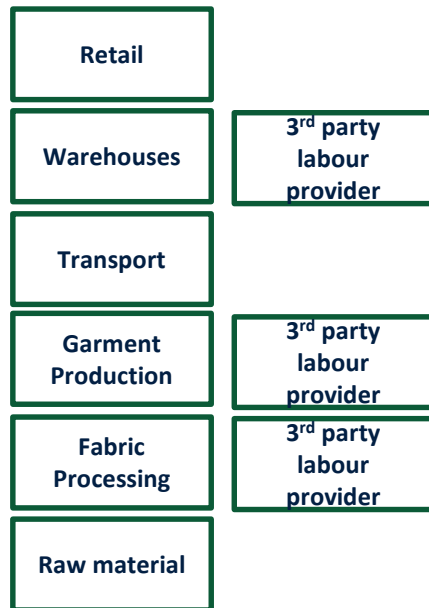


Understanding complexity (countries, processes, risks, ownership and responsibility, data gaps)

Considering risks to people, not only business risks

HOW FAR DOWN THE SUPPLY CHAIN?

Supply chain level



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	Example sources of information
Ask: Is there a high risk of modern slavery occurring in the country and sector?	
<ul style="list-style-type: none"> Country and/or sector has high modern slavery risk Work is in or next to a fragile and conflict affected region There are gaps in law and enforcement on modern slavery 	<ul style="list-style-type: none"> The US Department of Labor's List of Goods Produced by Child and Forced Labor, Comply Chain tool, and Sweat and Toil app; the US Department of State's Trafficking in Persons Report The Business and Human Rights Resource Centre Tools developed by Verité, including a Knowledge Portal on forced labour ITUC's Global Rights Index Background media / news research
Ask: What type of workers are (likely to be) present on the worksite?	
<p>The presence (especially in large numbers) of:</p> <ul style="list-style-type: none"> Internal / foreign migrant workers Refugees are particularly vulnerable Low skilled workers High numbers of informal workers Women (subject to higher likelihood of threat and coercion through use of sexual violence, bullying etc.) Temporary / agency / contract / seasonal workers 	<ul style="list-style-type: none"> Information from pre-screening questionnaires Regular reporting from third-party Initial due diligence visit Monitoring visits to worksites Engaging with expert stakeholders incl. civil society and trade unions (see the Modern Slavery Map which provides a useful list of relevant stakeholders)
Ask: Are there characteristics of the third-party's management systems or sites that may lead to risks?	
<ul style="list-style-type: none"> Allegations of poor practices against a business partner Early stages of work on a site or of production in a supply chain Inadequate / poor management systems High turnover of key managerial staff Lack of transparency Complex sub-contracting / supply chains Abnormally low tender / contract cost with third party 	<ul style="list-style-type: none"> Company bids / applications for work Project Environmental Social Management Systems (ESMS), human resources policies and procedures Supply chain information Initial due diligence visit Monitoring visits to worksites

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

FISHING INDUSTRY – THAILAND



SPINNING MILLS – TAMIL NADU



Q&A

SECTION 4: MITIGATING MODERN SLAVERY RISKS

Stand alone or combined?

Zero tolerance policies – cure or danger?



Addressing modern slavery

DFIs

Investors

Companies

MITIGATING RISK BY USING LEVERAGE

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.



Through forming environmental, social and governance (ESG) committees.

During contract negotiation and formation.



Through processes to investigate and address complaints.

When agreeing or renewing licenses and service agreements.



Through board representation.

Through reporting requirements associated with implementing action plans.



Through capacity building efforts.

When funds are disbursed.



Through identifying opportunities for collaboration with others involved in same or similar companies or sites and exerting collective leverage to effect longer-term change.

SURGICAL INSTRUMENTS – PAKISTAN



SANDSTONE - RAJASTHAN



SECTION 5: REMEDIATION

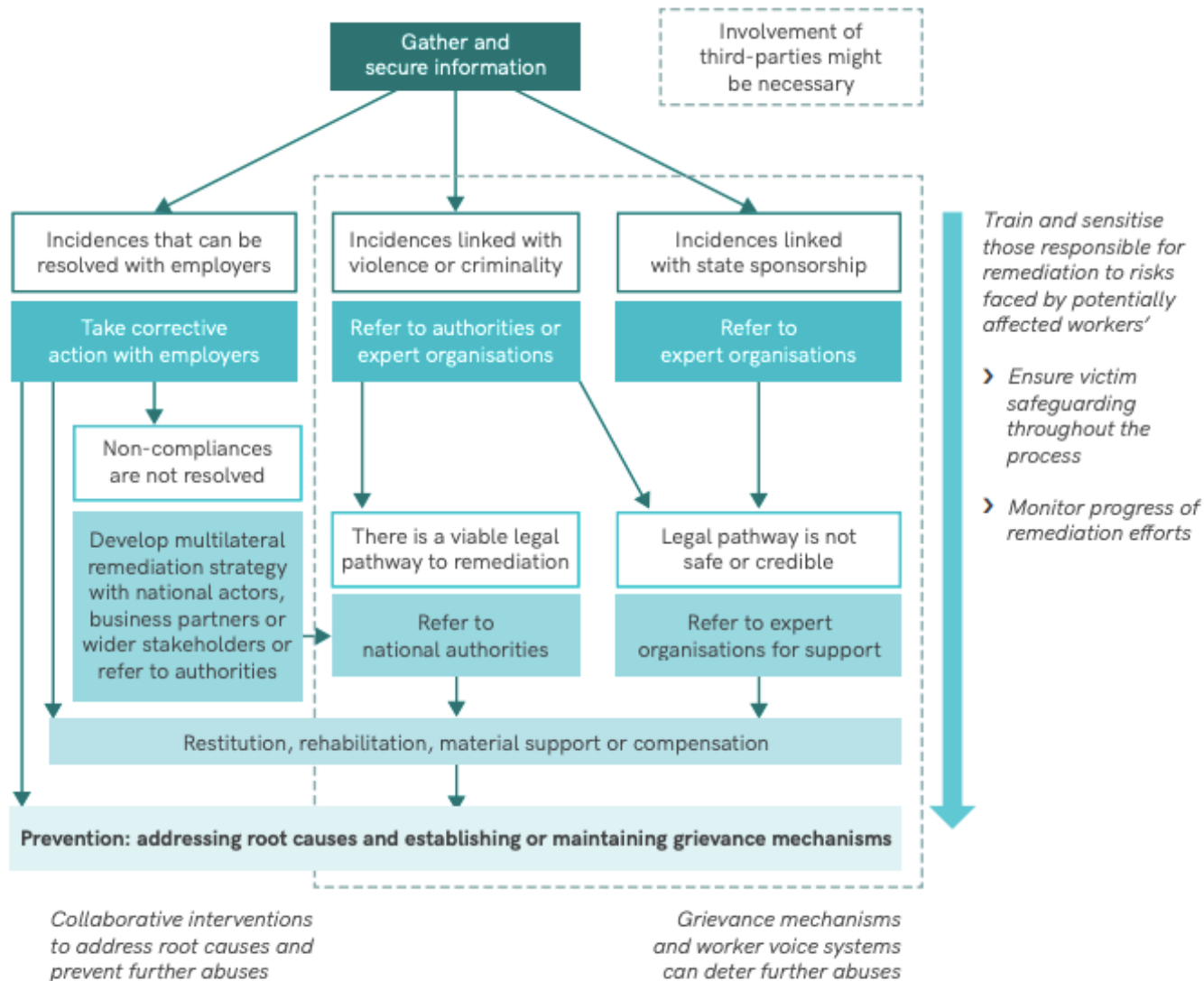
What do we mean by remediation?

Who is responsible?

Role of grievance mechanisms

Pathways to remediation

EXAMPLE OF A REMEDIATION PROCESS



CONSTRUCTION – QATAR



MIGRANT WORKERS – MALAYSIA



SECTION 6: MONITORING AND REPORTING ON ACTIONS AND CHANGE

Reporting

- Contractual reporting
- Mandatory reporting

Audits

- Limitations
- Considerations for an effective audit

Ongoing monitoring

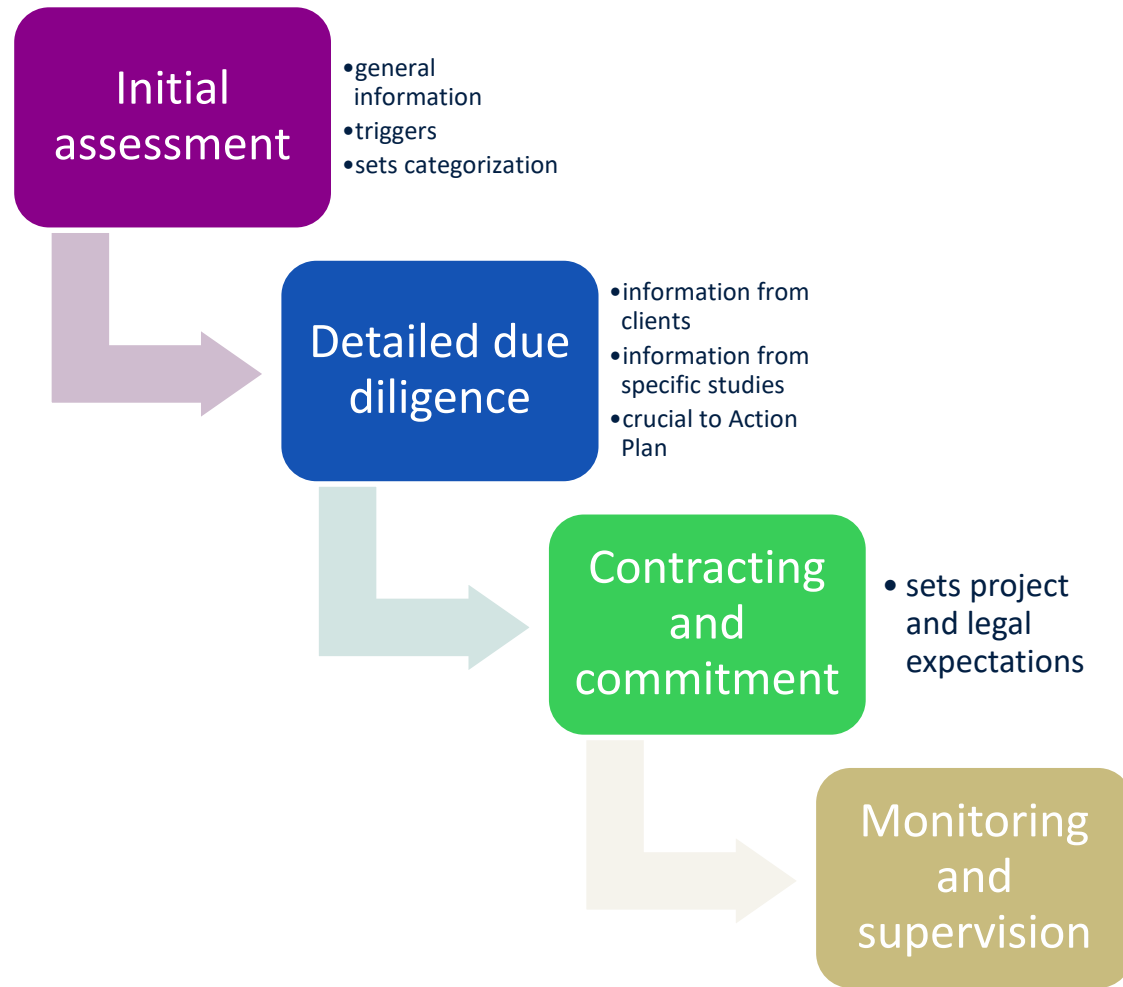
- Stakeholder involvement
- Role of technology
- KPIs

TOOLS

TOPICS TO COVER
DURING AN AUDIT

DOCUMENTS TO ASK
FOR AND REVIEW

MONITORING FOR INVESTORS & PRIVATE SECTOR



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

Annexes and Tools

Tool 1: Pre-screening questionnaire

This can also be integrated into broader labour questionnaires.

Dear [Bidding company],

[DFU/investor/company] is a socially responsible business, committed to complying with national and international labour standards, and promoting decent work conditions across our investments/projects/supply chains. Our experience tells us that when workers are treated fairly and responsibly, overall business performance improves.

As such, we screen all potential business partners to ensure that they share our commitments and values before we agree to work together. This questionnaire is aimed at identifying your workforce structure and the current policies, systems and practices that you have in place to manage key labour issues.

Background questions	Response
Company name	
Location	
Your name	
Your title	
Email address	
Phone number	
Does your company have any management by certifications on labour (eg ISO 26000)?	

Workforce questions
Total number of workers
Number of female workers
Number of workers under the age of 18
Number of migrant workers
Workforce turnover
Is there an independent trade union represent if not, why not?

Tool 3: Documentation to ask for and review during an audit

Documentation type	Fees workers may reasonably incur themselves
Site information	Any relevant government license, certificates of operation and the like. Records of previous government labour inspections.
Worker documentation	Employment contracts/terms and conditions of employment Personnel files (including employment application and disciplinary notices) Proof of age documentation (eg copies of identification cards, birth certificates and medical clearance) Records of issuance of employee benefits (eg annual leave, maternity leave).
Policies	Relevant policies on modern slavery Internal operating policies and procedures (wages and hours, annual leave, disciplinary rules and other HR policies).
Workforce communication/engagement	Records/minutes of meetings with employee representatives and/or unions. Collective bargaining agreements. Records of employee grievances.
Payroll documents	Payroll records for the last three pay periods (for seasonal industries, this should include a peak period and a low season). These records should show daily start and stop times for workers during the pay period and should include regular and overtime work. Payment receipts for mandatory social insurance payments. Any government waivers or special permissions used to conduct work hours or pay schedules outside of the standard legal limits.
Procurement	Service contracts/agreements with business partners, focusing on clauses related to labour and modern slavery, responsibilities and monitoring and reporting requirements.

Q&A

A FEW IFC EXAMPLES

Cattle Producer Paraguay

- 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.
- 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).
- 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.

Commodities Brazil

- Issues around management of sub-contractors in company facilities and working conditions of labor force (accommodations, safe working conditions, violation of national laws).
- 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.
- 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.

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!