



**ENABLE: Enhancing Agricultural Labour and Environmental Standards**

**A Multi-Stakeholder Consultation Series Organized by the Fair Labor Association in association with Bayer CropScience**

**July 26-29, 2010; Hyderabad, India**



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## EXECUTIVE SUMMARY

ENABLE (Enhancing Agricultural Labour and Environment Standards) is a series of stakeholder engagements relevant for the agriculture sector developed and organized by the Fair Labor Association (FLA). The ENABLE consultations seek inputs from local and international experts on agricultural monitoring, remediation and capacity building efforts of the FLA. The consultations are organized with the overall objective of enhancing the effectiveness and relevance of the work the FLA is undertaking in the agriculture sector.

The first two ENABLE consultations were held in Hyderabad, India, on July 27 and 28, 2010. The first consultation focused on the issue of child labor in the hybrid seeds sector in India and was co-organized with the seeds division of the German multi-national company Bayer CropScience. The second consultation was on the issue of hours of work and wages and benefits in the agriculture sector. A total of seventy five stakeholders from various sectors met to discuss and refine the existing FLA definitions and benchmarks on child labor, hours of work and wages as they apply to the agriculture sector. The participants focused on developing indicators that can be monitored in the field for the three topics. At the core of the consultation was a series of break-out sessions at which participants discussed and made recommendations that were subsequently presented to the larger group for further discussions and to arrive at consensus.

The participants agreed on a number of items. All participants concurred that a holistic view of the agricultural situation needs to be taken. Although child labor remains the priority issue in the agriculture sector, an overall approach that also addresses health and safety, wages and benefits, hours of work, discrimination, harassment and abuse, forced and bonded labor and awareness about workers' rights should be developed. The definitions and benchmarks are moving targets that need to be periodically reviewed. The industry needs to adopt common standards. Establishing common standards and approaches to monitoring and reporting will create a level playing field for the companies, civil society organizations and monitoring organizations across continents. Both qualitative and quantitative indicators and measurements are required. The participants agreed to adopt zero tolerance policies for child labor. With regards to hours of work and wages, even after much deliberation, the group failed to reach consensus and made recommendations to study these topics further. In general, the group agreed that the FLA definitions and benchmarks are well drafted, although they will need to be adapted based on the different countries and their unique cultural context.

Most participants praised the candidness and openness of the discussions. They applauded the FLA and Bayer's initiative for bringing together such diverse group of stakeholders, selecting the priority topics for consultation and expert facilitation. They would like to see more of these consultations organized at the regional and grassroots level so that the actual ground realities can be taken into account while developing standards and approaches. The highlight of the event was the set of concrete recommendations made by the experts for the FLA and the industry.

## INTRODUCTION

The Fair Labor Association (FLA) is a non-profit organization dedicated to improving working conditions worldwide. The FLA began its work in the agriculture sector in 2004. The FLA has developed a comprehensive set of definitions, compliance benchmarks and monitoring protocols, task and risk mapping tools, and training and capacity building materials applicable to the agricultural sector. At the core of all FLA activities are stakeholder consultation sessions that are done regularly to solicit advice and recommendation to improve the existing methodologies.

The FLA along with Bayer CropScience (Bayer), a German multinational and one of the world's leading companies in the area of crop protection, environmental science and bioscience, co-hosted the first ENABLE (Enhancing Agricultural Labour and Environment Standards) multi-stakeholder consultation in Hyderabad, India, on July 27, 2010 to discuss child labor conditions in the hybrid seeds sector. A second consultation in the ENABLE series was organized on July 28, 2010 focusing on hours of work and wages and benefits in the agriculture sector.

The focus of the consultations was to elicit a participative discussion on the issues of child labor, hours of work and wages and benefits in the agriculture sector. The main objective was to review and comment on the definitions and benchmarks for child labor, hours of work, and wages and benefits developed by the FLA and Bayer. It also sought comments and reactions on the indicators that can be used during agricultural monitoring, remediation and reporting. A secondary objective of the consultation was to establish working relationships with relevant, local grassroots level organizations for in-field assessments and establishing remediation and capacity building programs.

A total of seventy five experts (Annex 1) participated in the consultations over the two-day period. Experts represented various constituencies, including non-for-profit, government, labor unions and organizations, development agencies, local and international independent monitoring agencies and village-level stakeholders. The industry was represented by Monsanto, Syngenta, Bayer, Nunhems, Xylem Seeds and Pioneer Seeds.

Mr. Stephan Gerlich, India Group Head, Bayer Group of Companies, opened the consultation with a presentation on the scope of agro exports from India. He highlighted that Bayer is one of the leading agro business companies whose motto is 'agriculture beyond business.' Bayer aims at a partnership with farmers and seeks sustainable solutions for better quality and price, which lead to long term investment. His opening remarks were followed by Suhas Joshi, Head of Child Care Program, Bayer CropScience, India, who made a presentation on Bayer's Child Care Program (CCP). The previous evening, July 26, 2010, snapshots of the CCP, the process, documentation and the personnel involved in the CCP program were introduced to the experts. The display provided a comprehensive view about the CCP's various procedures like monitoring child labor in the field, activities and documents related to CCP, internal verification process and protocols, assessment and remediation building visits, technique of awareness generation and communication. Joshi emphasised that Bayer's 230 person CCP team has one objective: 'zero tolerance to child labor,' which they attain through the education module under the 'Learning for Life' initiative.

Auret Van Heerden, President and CEO of the FLA, formally welcomed the consultation delegates. In his welcome speech, he highlighted that the workplace conditions that currently exist in the agriculture and minerals supply chain are similar to the labour conditions in the apparel industry of the 1990s. He believes that tracing and monitoring of the supply chain is one of the most complex and challenging tasks for an industry. There is a huge governance gap in monitoring and compliance processes. The FLA in the past decade has made efforts to develop a legitimate solution by working with companies on being accountable and transparent about the working conditions in their supply chains. The FLA first initiated the process in the agriculture sector with Syngenta Seeds in 2004 and the collaborative work has shown positive improvements with respect to tracing, risk mapping and improving working conditions in the fields. Now that the experiment with Syngenta has proved successful there is a need to expand the tent and include more industry members in an effort to improve working conditions more broadly. He concluded with a hope that this engagement will be a multi-stakeholder dialogue based on a problem-solving approach.

After the opening remarks the participants were divided into smaller groups to deliberate in depth about the FLA's and Bayer's definitions, benchmarks and indicators of child labor on the first day of the consultation.

### **BREAKOUT SESSIONS & PANEL DISCUSSIONS**

The breakout sessions provided the avenue for experts to discuss in more depth the issues at hand. The groups were divided so that the participants formed a diverse mix ranging from brand associates to NGO representatives; from trade unionists to auditors; from academicians and experts to labor activists. The participants in the breakout sessions were pre-selected so that they could provide a broad range of opinions and perception and manage consensus building.

The discussions during the breakout sessions were passionate, energetic and considered thriving by the participants. The groups came up with recommendations for the FLA and Bayer that were presented to the larger group during the Panel Discussions.

The first panel of experts, which discussed the definition of child labor, was chaired by David Bloomer, Head of Child Protection, Save-the-Children. The participants who presented the group discussion proceedings were Sarita Bhel, Vice President of Multi Commodities Exchange of India; Maureen Mazurek, Director CSR and Human Rights, Monsanto; Rohini Chandrasekaran, Business Councillor, Ethical Business Programme, International Resources for Fairer Trade; and Dola Mahapatra, National Director, Childfund India.

The issue of child labor generated the majority of discussion during the two day consultation. The complex nature of this issue challenged the child labor experts in finding a balance between what is in the best interest of children and the existing ground realities. The experts shared their dilemmas with which they undertake work related to child labor and how even after twenty years of consultations, it has been incredibly difficult for them to agree on a common standard. The group discussed at length the causes of child labor and how schooling should be part of the definition; how to investigate children going to school during normal working hours and working on farms after school or during weekends or holidays;

what can the companies do in tribal/rural areas where there is an absence of school infrastructure and/or rehabilitation options; the ground reality that in spite of government subsidies and presence of infrastructure, children still work to support their poor families. Thus, while agreeing that regulating child labor in the country is extremely challenging, the group nevertheless proposed that the definition and the monitoring criteria should include the policy of 'zero tolerance' on child labor. It was also advised that it is imperative to include an age limit in the definition or the benchmarks. A comprehensive review of the definition and benchmarks is provided in Annex 2.

The second breakout session focused on child labor indicators that can be measured and reported periodically by industry. The discussions were presented in a panel that was chaired by Dr. Venkat Reddy, National Convenor, MV Foundation. The panellists included Dr. Davuluri Venkateshwarlu, Director, Glocal Consultancy; Sudhir Kumar Katiyar, Member Executive, Dakshin Rajasthan Mazdoor Union (DMRU); Sudipto Badapanda, State Program Manager, Save-the-Children; TVV Vishweswararao, Head Communication, AIDE-ET (South Asia); and Maureen Mazurek, Director CSR and Human Rights, Monsanto.

The group discussed the various monitoring indicators and came up with a list (see box). The panel was of the opinion that in order to adopt a child labor zero tolerance policy, certain monitoring criteria need to be followed. The group suggested that the monitoring process should not be confined to weekdays but extend into weekends as most children (even those attending school) are found working on the farms during the off days. The growers have an important role to play, especially in upholding child labor principles in the field since it is difficult to identify child laborers in a surprise visit.

Records such as census records maintained by the gram panchayat, birth certificates, ration cards and others should be reviewed and cross-verified with other documents such as the family card (usually maintained by the growers) to assess the actual age of workers working in the farms. To help keep child workers off the farms, one of the group members proposed that companies can establish or interface with the local authorities to institute weekend vocational training programs. As part of the remediation process, penalizing the parents who engage their children in work in the farms was also suggested.

### *Group Discussion in Progress*



The panel concluded with remarks mentioning that it was encouraging to see such frank deliberations. In the past 10 years of stakeholder consultations, this consultation is unsurpassed as it has concrete outcomes wherein until a few years back, it was impossible to think that such diverse stakeholders could come together as a group and conduct a meaningful dialogue. In the final remarks of the first day of the consultation, Aret Van Heerden and Dr. Uwe Brekau, CSR Global Head, Bayer CropScience, highlighted the observations made and the importance given both to qualitative and quantitative measures. They perceived that the nature of this engagement meant the beginning of a joint process that will ensure that child labor becomes history. This partnership of industry and civil society organizations is crucial in terms of accountability and trust and will be judged on performance. To end the day's sessions, Mr. Jens Hartman, Head of Bayer CropScience South Asia, thanked the participants for a fruitful discussion.

The second day of the consultation started with a presentation by Richa Mittal, FLA's Strategic Projects Manager, who described the association's agriculture monitoring process in detail, highlighting the FLA's mission, code of conduct, company obligations and the various agriculture related activities. Her presentation further detailed the process of independent external monitoring that starts from farm selection and includes unannounced visits, review of management systems, report writing and public reporting.

After the introductory session, participants were divided into two groups, each to discuss on Wages and Benefits and Hours of Work. The panel on Hours of Work and Wages and Benefits definitions and benchmarks was chaired by Juan Gonzalez Valero, Head of Public Policy, Syngenta Global and the group discussions were presented by Dr. Prabha Nagarajan, Regional Director (India), Organic Exchange and Dr. Uwe Brekau, Global CSR Head, Bayer CropScience.

The experts were delighted to see the topics of wages and benefits and hours of work in the agriculture sector being discussed in an open forum. These issues are interrelated and bear on child labor; for example, one cannot look at wages without considering child labor or vice versa.

Therefore, when we work towards a better wages and benefits and hours of work situation, other labor conditions will improve as well.

#### *Suggested Indicators for Child Labour*

1. percentage of children in total workforce;
2. incidence of children per acre monitored;
3. percent of growers who comply with child labor policy;
4. net number of child laborers found versus net number of adult laborers found;
5. total number of adults in the field in relation to production capacity;
6. total number of children in the field in relation to production capacity;
7. number of proven cases of child labor identified versus number of children rehabilitated in schools;
8. net number of children versus net number of adults in the monitored farms;
9. number of awareness-building programs conducted by a company on child labor issues.

***Suggested Indicators for Wages, Benefits and Overtime***

1. average cash wages paid to the workers;
2. breakdown of wages paid for normal working hours versus overtime;
3. percentage of interviewed workers receiving legal minimum wages (cross checked with documentary evidence);
4. number of growers maintaining valid documentation for recording wages and benefits.
5. system of payment;
6. means of payment;
7. frequency of payment.

***Suggested Indicators for Hours of Work***

1. number of growers maintaining valid documentation for recording hours of work;
2. number of workers raising lack of enough breaks (lunch, rest, tea, etc) during a work day;
3. total working hours per week divided by the total number of workers.

Other issues discussed revolved around wage rates to be paid to the agriculture workers. Wages in India differ according to state regulations. The challenges in the field are enveloped in the cultural and religious contours of agricultural practices. There are variations in wage structure based on gender, task or migratory status of workers. There are also issues such as production targets vis-à-vis wages, procurement prices or varied regional payment systems; for example, in Karnataka, wages are paid on a weekly basis, whereas in Gujarat wages are paid at the end of the season. The key point of the discussion was that one should strive first for payment of the minimum wage in cash (not in kind or benefit).

On hours of work definitions and benchmarks, the group suggested that the 60-hour per week limit be incorporated in the definition. However, after much debate some of the participants felt that constraining hours of work in the agricultural sector is impractical since it is seasonal industry and labor activities are fluid. The group was divided on establishing an upper limit of hours of work per day. There was a long discussion on overtime compensation rates as well. Some in the group felt that overtime compensation is not applicable in the Indian agriculture context, which does not specify overtime. Others felt that this definition is geared to global agriculture production, not just India, and should be retained as it is. In the absence of a consensus, the group recommended that FLA should ponder on the same internally to make a change as per the group suggestions. It was also advised that an age limit is imperative to be included in the definition or the benchmarks.

The comprehensive recommendation on the definitions and benchmarks are presented in Annex 3.

The last panel on Hours of Work and Wages and Benefits indicators was chaired by Bama Athreya, Executive Director, International Labor Rights Forum (ILRF) and group discussions were presented by Mrs. Gaynor Pais, CEO, International Resources for Fairer Trade (IRFT) and Alex Bernshteyn from MV Foundation.

In the discussion on the various indicators that could be used in the field, indicators were divided into several types: direct, indirect, lead, lag, predictive, monitoring and preventive.

Certain indicators were suggested that could benefit the monitoring process of the Wages, Benefits and Overtime and of Hours of Work code elements (presented in the box above). In order to identify the wage status, the monitoring process should record actual wages paid, calculating basic pay, overtime pay and payments in benefits and in-kind. Worker interviews are crucial to determine wages and should be cross verified with farm records that can throw light on proportion of wages, advance payments, number of days worked and regularity of payment of wages.

The panel chair consolidated the discussions by highlighting the various themes at the consultations. It was highlighted that there are limitations to monitoring in a context where legal violations are widespread. The lack of enthusiasm and commitment of local seed companies to work towards a common goal of improving labor conditions was a major road block in achieving any kind of compliance given that 80% of the market share is owned and run by them. The discussion about procurement price paid by the companies and its effect on the ability of the growers to pay decent wages to the workers was called into question. It was stressed that in order to achieve any success on ground, the balance between principles and the practicality of what we can do to achieve those principles is very important.

In his closing remarks, Van Heerden emphasised that change takes time and usually involves a cumbersome process. It is however important to track the changes and have some benchmarks and indicators to measure progress. Since no issue or organization can work without contact with others, accountability and transparency are two essential elements that the FLA provides. Accountability and trust are crucial to partnership and performance of the process.

**RECOMMENDATIONS FOR THE FAIR LABOR ASSOCIATION:**

The consultation participants, over the two-day period, made the following recommendations to the FLA:

1. Invite and include more grassroots level organizations representing workers in future consultations. The need to hear the voice of the workers and children themselves was highlighted. A strong recommendation is to include relevant government agencies in future consultations.
2. The FLA should undertake research on the nature of labour (migrant, daily, casual, seasonal, piece rate, permanent) working in the agriculture sector, their characteristics and specific needs. This will help further refine the benchmarks as per the type of labor engaged.
3. A study on the use of vocational training and particularly its use for children below 18 years was recommended. The study should look at the correlation between vocational training and grades at school of the children.
4. FLA should consider developing and including new benchmarks in the FLA COC. Areas that might need additional benchmarks are migrant labor and participatory approach to monitoring and remediation.
5. Following on a long discussion on the compensation of workers whose time is booked yet not compensated due to weather related loss in production work, it was recommended that the FLA undertake a study and develop benchmarks for workers whose time is booked so that they are not allowed to work anywhere else yet they are not compensated if there are delays due to natural calamities.
6. The delegates suggested that the FLA conduct an in depth study on the overtime patterns and staggered compensation rates for agriculture workers. Since no consensus could be reached about the OT rates, it was deferred until the next consultation.

**RECOMMENDATIONS FOR THE AGRICULTURAL COMPANIES:**

The consultation participants had the following specific recommendations for the agriculture companies:

1. The industry was urged to adopt an industry-wide common code of conduct for the agriculture sector. The common code should have standardized definitions, indicators, monitoring and reporting requirements. The COC needs to go beyond child labor and include other aspects such as health and safety, wages and benefits, hours of work, non discrimination, harassment and abuse, forced and bonded labor, as these aspects are interrelated.
2. As responsible companies, the stakeholders felt that it is not enough for the seeds companies to have internal systems for monitoring. There is a greater need for the companies to get involved in larger awareness programs at the community level and other tiers of their supply chain. It is also important for companies to make the workers aware of the governmental social and entitlement schemes.
3. The surprise element of monitoring is limited in the agriculture sector as the entire village knows about the monitoring visit as soon as the monitors enter the village. Therefore, along with unannounced visits, a complete worker profiling needs to be done at each production location. The companies need to adapt more scientific methods for monitoring, such as comparing the number of adult labour present at the farms with the production capacity of the farm, and draw conclusions about the involvement of child labor based on such comparisons.
4. The companies need to adapt participatory approaches for monitoring that involves group discussions, community mapping, and focus group discussions. Companies should use multiple sources of information to corroborate findings.
5. Participants also reminded the companies to follow and revive the implementation plan developed four years back that laid stress on
  - a. Information Sharing;
  - b. Common Integrated Approach;
  - c. Common Action Plan;
  - d. Common Monitoring Plan,
  - e. Dialogue and Consultative Approach.
6. It was recommended that companies, in addition to developing the COC, should be aware of and implement the local laws and regulations that will enhance in the overall acceptability and credibility of the program.

## ANNEX - I

### List of Participants

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**ANNEX II****Outcome from Breakout Session: Child Labor Definition & Benchmarks**

*The current FLA definition of Child Labor is in line with the UN Convention on the Rights of the Child and relevant ILO Conventions (C-138, C-182), Child labor is considered any work or activity that interferes with the full time schooling of a child/or is mentally, physically, socially or morally dangerous and harmful to children. FLA Member Company must continuously work toward the complete abolition of child labor within its sphere of influence. To this end, the member company is expected to meet certain minimum standards (as defined in the benchmarks), in order to address any potential child labor challenge within their supply chains.*

**Benchmarks****CL.1 General Compliance--Child Labor**

Growers shall comply with all local laws, regulations, and procedures concerning the regulation of child labor.

**CL.2 Child Labor**

Growers shall not employ children when work interferes with the full time schooling and/or is mentally, physically, socially or morally dangerous and harmful.

**CL.3 Government Permits and Parental Consent Documentation**

Growers shall abide by all the relevant rules and procedures where the law requires government permits or permission from parents as a condition of employment and shall keep documentation on-site for inspection at all times.

**CL.4 Employment of Young Workers**

Growers shall comply with all relevant laws and regulations that apply to young workers, i.e., those between the minimum working age and the age of 18, including those relating to hiring, working conditions, types of work, health and safety, hours of work, proof of age documentation, and overtime.

**CL.5 Hazardous Work for Young Workers**

No person under the age of 18 shall undertake dangerous or hazardous work, i.e., work which, by its nature or the circumstances in which it is carried out, is likely to harm the health, safety or morals of persons under the age of 18. Young workers below 18 years shall not be involved in strenuous or hazardous work. Such work includes the application of agricultural chemicals, pesticides, and fertilizers, use of farm equipment tools and machinery, lifting or moving of heavy materials or goods, or carrying out hazardous tasks such as underground or underwater or at dangerous heights, or any other activity which may cause harm or would affect the well being of the young worker.

**CL.6 Education of Young Workers**

The grower shall ensure that when young workers are employed, their education is not jeopardized.

**CL.7 Children on Premises**

The grower shall ensure that children (all children, including those residing in the farm) do not have access to areas such as machine / electric operation, application of pesticide and fertilizers, storage areas, and others where there are activities that can cause harm to the child.

**CL.8 Removal and Rehabilitation of Child Laborers**

If a child laborer is found working on the farms, the grower and the company shall ensure that the child is immediately removed from the farm and is rehabilitated and brought into the mainstream school system. The grower and company shall make efforts to make this rehabilitation sustainable.

**CL.9 Young worker Identification System**

Growers shall have a system for identifying work stations and operations that are inappropriate for young workers according to applicable laws.

**CL.10 Apprenticeships and Vocational Training/Minimum Working Age**

Growers may allow temporary workplace internship and apprenticeship education programs for younger persons which are customary seasonal employment so long as such persons are closely supervised and their morals, safety, health, and compulsory education are not compromised in any way and all local, state and national laws regarding the employment of minors are observed.

**Comments on the FLA definition and benchmarks on Child Labor:**

1. The group observed that the inclusion of the age criteria was missing in the FLA definition and therefore strongly recommended that it be included. It was advised to include 14 years as the minimum age to work for developing countries and 15 years for developed countries.
2. The group advised that benchmarks should be included for young workers (15 – 18 years) so that they are not involved in hazardous work and/or overtime.
3. Benchmark CL.2 needs re-drafting as cotton seeds do not need full-time work.
4. Benchmark CL.3 should be deleted, keeping in mind the Indian context.
5. Benchmark CL.5 needs more specificity in terms of application and exposure. It was also suggested that the word 'fertiliser' be removed from the benchmark.
6. Benchmarks CL.4 and CL.6 can be combined.
7. Benchmark CL.6: the term 'grower shall' should be changed to 'grower will.' The statement should be more affirmative.
8. Benchmark CL.7 should include 'children of farmer' Inclusion should be made for migrant workers.
9. Benchmark CL. 10 should be deleted since apprenticeship is not a valid practice in the agro business.
10. A separate benchmark on migration be included, especially keeping in mind the children who move from other places with or without family.
11. The experts were of the opinion that children working on own farms as compared to hired labor should be treated as separate categories.

**Comments on Bayer CropScience Child Labor Definition**

The current definitions used by Bayer are:

- *Child Labourer: Any child under the age of 15, who is employed or used for carrying out any kind of activity/work in hybrid cottonseed production for growers who have signed a cottonseed production agreement with Bayer BioScience Pvt. Ltd and who is therefore not able to attend full-time schooling is considered as child labourer.*
- *Proven Child Labour Case: A labourer, whose reported age can be verified with certainty to fall under the age group if below 15 years by way of physical characteristics and or readily available and accepted documentation such as official birth records and or other relevant documents from which the age can be established with certainty*

- *Doubtful case: A suspected child labourer, whose age cannot be determined by way of physical characteristics or readily available and acceptable documentation such as official birth records and or other relevant documents from which the age can be established with certainty. Documents accepted for age verification are – birth certificate; school certificate; voter ID; ration card. In the absence of any of the stated documents for a ‘doubtful case’ Bayer follows conservative policy and treats the laborer as a child laborer.*

**Comments on the Bayer definition on Child Labor:**

1. The group felt that the definition needs modification. It observed that the scope of the definition should be widened beyond cotton production and therefore the word ‘cottonseed’ should be deleted.
2. The aim is to have a definition which is ‘global’ – globally accepted and locally implemented.
3. The group recommended that full-time schooling should be removed from the definition, as it may imply that children who go to school can also work on the farm. A ‘zero tolerance’ approach has to be adopted on the incidence of child labor.
4. The group also observed that the definition should differentiate between ‘child labor’ and ‘child laborer’; between ‘work’ and ‘labor’ – both of which have different connotations.

## Annex III

### Outcome from Breakout Session: Wages and Benefits and Hours of Work Definition and Benchmarks

*The FLA Code of Conduct element regarding Wages and Benefits states: Employers recognise that wages are essential to meeting workers' basic needs. Employers will pay workers, as a base, at least the minimum wage required by local law or the prevailing industry wage, whichever is higher, and will provide legally mandated benefits.*

*The FLA Code of Conduct element on Overtime Compensation states: In addition to their compensation for regular hours of work, workers will be compensated for overtime hours at such premium rate as is legally required in the country of production or in those countries where such laws will not exist, at a rate at least 150% of their regular hourly compensation rate.*

#### Benchmarks

##### **WBOT.1 General Compliance Wages, Benefits and Overtime Compensation**

Growers shall comply with all local laws, regulations and procedures concerning the payment of wages and benefits, including overtime compensation. In any case where laws and the FLA Code of Conduct in agriculture are contradictory, the standard that provides the greatest protection for workers shall apply. Where provisions are lacking, growers shall take measures to reasonably accommodate matters concerning the payments of wages and benefits, including overtime compensation. (G)

##### **WBOT.2 Minimum Wage**

Growers shall pay workers, the legal minimum wage or the prevailing regional wage in agriculture, whichever is higher.

##### **WBOT.3 Timely Payment of Wages**

All wages, including overtime compensation shall be paid within legally-defined time limits. When law does not define time limits, compensation shall be paid at least once a month. .

##### **WBOT.4 Payment for Casual Workers**

Growers shall ensure that the wages for daily, seasonal or long term workers, task specific or contract workers are paid at least the minimum wages, as per the local laws for 8 hours of work in a day, not including breaks.

##### **WBOT.5 Advance Payments**

If prevailing labor practices justify it, the grower can give advance payments or advances against payment to the workers to book their time. However, these payments shall be interest free and cannot bind the worker as a bonded labor.

##### **WBOT.6 Worker Wage Awareness**

Growers/Organizers/Company shall make an effort to educate workers so that the terms of employment, wages, benefits and deductions shall be clearly understood and acceptable by the worker.

##### **WBOT.7 Record Maintenance**

Company shall make efforts to educate and assist the growers in maintaining records of wages provided to the worker in cash or in-kind or both, and such records shall be acknowledged by the

worker.

**WBOT.8 Employer Provided Services**

All workers shall have a right to use or not to use grower-provided services, such as housing or meals. Deductions for services to workers shall not exceed the cost of the service to the grower. Growers must be able to demonstrate the accuracy and fair market rates for these charges.

**WBOT.9 Additional Benefits**

Whenever a grower provides additional benefits or perks to the workers, whether in cash or in-kind, for festival occasions or marriage or any others, such benefits shall not be part of the workers' remuneration.

**WBOT.10 Payment for Overtime**

The additional payment for overtime (OT) hours will be as prescribed by the local law. In case of countries where there is no law regarding OT, the workers shall be paid a premium rate for these hours.

**OTHER RELATED BENCHMARKS****ER.7 Rights of Contract/Contingent Workers**

Contract/contingent workers have the same rights as permanent workers, including the right to be paid and treated equally to permanent workers as set by the FLA Workplace Code of Conduct for the Agriculture sector and national laws and regulations.

**ER.9 Apprenticeship**

Apprentices must receive at least the minimum wage or the prevailing industry wage, whichever is higher, and all legal mandated benefits such as social security, other forms of insurance, annual leave, and holiday pay, for the duration in which they receive training, including workplace conditions as set by the FLA Workplace Code of Conduct for the Agriculture sector and national laws and regulations.

**ER.21 Wage Advances**

If prevailing labor practices justify it, the grower can give advance payments or advances against payment to the workers to book their time. Advances against wages will be as per the prevailing local practices or legal limits, whichever is lower, and grower will not pay advances or loans against mortgages such as jewels, property documents, land deeds, and other valuables of the worker. These advances shall be interest free and cannot bind the worker as a bonded labor. Advances shall only be made following clearly established farm rules which have been communicated to workers. Advances must be properly documented and their receipt and accuracy must be confirmed by the relevant worker, in writing whenever possible (signature, thumbprint, etc).

**ER.22 Free Disposal of Wages/Cash and In-Kind Compensation**

Growers shall not limit in any manner the freedom of workers to dispose of their wages. Workers shall be compensated for their work directly through the provision of cash or its equivalent. The partial payment of wages in the form of in-kind allowances is permissible, provided: they are allowed under local law, and as long as legal limits are complied with: they are appropriate for the personal use and benefit of the worker and her or his family; and the value attributed to such allowances is fair and reasonable and receipt of in-kind compensation is voluntary. Wages must be paid on time. Workers must be free from any coercion to make use of farm or work stores.

**ER.23 Holidays, Leave, Legal Benefits and Bonuses**

Employers shall provide all legally mandated holidays, leave, benefits and bonuses, such as official holidays, annual leave, sick leave, severance payments and 13<sup>th</sup> month payments, and non-monetary benefits to all eligible workers within legally defined time periods. In addition, all leave and bonuses shall be calculated correctly.

#### ER.24 Production and Incentive Schemes

Growers / Company shall not set production targets, or any other incentive schemes or production system at such a level that workers need to work beyond normal working hours as set under the FLA Code of conduct for the Agriculture sector, excluding overtime, in order to make the legal minimum wage or the prevailing industry wage, whichever is higher.

#### Comments on the FLA's definition of Wages and Benefits and Overtime Compensation (WBOT):

Following specific recommendations with regards to the definition and benchmarks of the FLA's WBOT benchmarks was provided. The red font is suggested for deletion and blue font for inclusion:

**Wages and Benefits** – Employers recognise that wages are essential to meeting workers' basic needs. Employers will pay workers, as a base, at least the minimum wage required by local law or the prevailing industry wage, whichever is higher, and will provide **and pay** legally mandated benefits.

**Overtime Compensation** is defined as – In addition to their compensation for regular hours of work, workers will be compensated for overtime hours at such premium rate as is legally required in the country of production. **In** those countries where such laws will not exist, **the company should work with the growers**, at a rate at least 150% of their regular hourly compensation rate.

The group had the following suggestions for inclusion under the FLA WBOT benchmarks:

1. WBOT.3 - All wages, including overtime compensation shall be paid within legally-defined time limits. When law does not define time limits, compensation shall be paid at least once a **[month]**. The group proposed weekly.
2. WBOT.4 – **[Growers]** **[Employers]** shall ensure that the wages for daily, seasonal or long term workers, task specific or contract workers are paid at least minimum wages, as per the local laws for 8 hours of work in a day, not including breaks **[on a daily basis for daily workers]**.
3. WBOT. 6 – **[Grower/Organizers/Company shall]** **[make an effort]** **[Employers will communicate to the workers]** **[educate workers so that]** the terms of employment, wages, benefits and deductions **[so that they are]** **[shall be]** clearly understood and acceptable by the worker.
4. WBOT.9 – The benchmark on 'additional benefits' should also include workers in the category of migrant workers, seasonal and displaced workers as they form a large part of the workforce in the agro sector.
5. WBOT.10 - The group suggested that the benchmark 'payment for overtime' should be made the definition of 'Overtime Compensation' as it is crisp and the present definition should be made the benchmark.
6. ER.9 – Benchmark under other code elements 'Apprenticeship' was proposed either for deletion as it is not applicable in India; Or, it should add – Apprentices, whenever applicable, must receive at least the minimum wage or the prevailing industry wage, whichever is higher, and all legal mandated benefits such as social security, other forms of insurance, annual leave, and holiday pay, for the duration in which they receive training, including workplace conditions as set by the FLA Workplace Code of Conduct for the Agriculture sector and national laws and regulations.

7. Additional benchmark on social security benefits such as health insurance, wealth insurance, crop insurance should be included in the benchmarks.

*The FLA Code of Conduct element on Hours of Work states: Employees shall not be required to work more than the regular and overtime hours allowed by the law of the country of production or, where the laws of such country do not limit the hours of work, the employers must monitor closely that the total working hours do not exceed 60 hours (48 for regular and 12 hours for overtime). All overtime work shall be voluntary and shall not be requested on a regular basis. Workers shall be allowed the opportunity for at least 24 consecutive hour rest in every seven day period.*

## **Benchmarks**

### **HoW.1 General Compliance--Hours of Work**

Growers shall comply with all local laws, regulations, and procedures concerning hours of work, public holidays, and leave.

### **HoW.2 Rest-day**

Workers should be allowed at least 24 consecutive hours of rest in every seven day period. In case workers have to work for several days without a day off due to the requirement of the production cycle, they can do so as far as they voluntarily agree to it.

### **HoW.3 Meal and Rest Breaks**

Growers shall provide reasonable meal and rest breaks which, at a minimum, must comply with local laws.

### **HoW.4 Time-recording System**

Growers shall make efforts to record hours worked by all workers, regardless of form of compensation, by means that are easily accessible to the grower in the region.

### **HoW.5 Public Holidays**

Growers shall provide workers with all public holidays as required under local laws, regulations, and procedures.

### **HoW.6 Leave/Retaliation**

Growers shall not impose any sanction on workers for requesting or taking any type of leave, such as annual, sick, maternity, or other leave, in line with all applicable rules and procedures.

## **Comments on the FLA's definition of Hours of Work (HOW):**

Following specific recommendations with regards to the definition and benchmarks of the FLA's HOW benchmarks was provided. The red font is suggested for deletion and blue font for inclusion:

**Hours of Work:** Employers shall not be required to work more than the regular and overtime hours allowed by the law of the country of production or, where the laws of such country do not limit the hours of work, the employers must monitor closely that the total working hours do not **exceed 60 hours per week with a maximum limit of 10 hours per day of work excluding breaks (8 hours for regular work and 2 hours of overtime)**. All overtime work shall be voluntary and shall not be requested on a regular basis. Workers shall be allowed the opportunity for at least 24 consecutive hour rest in every seven day period.

8. There was much discussion and debate on the inclusion of specified hours of work as the situation in the agriculture is different from an organized set-up.
9. Some experts were of a view to apply the 60 hours working hours for a 7 day period, without establishing a per day working hours limit. Others were of an opinion to define daily maximum working hours.
10. It was suggested to have flexible working hours for contract workers.
11. One suggestion was provided under the benchmark – to include an additional benchmark under HOW on ‘compliance handling’ where there should be a requirement on the part of the Grower/Employer to provide the workers with an independent body for grievance redressal.
12. One recommendation was to include local holidays in the benchmark along with public holidays.
13. Another recommendation was to include an additional benchmark for “ideal time” in case the time of the workers is booked yet s/he is not able to take up production work due to weather conditions.