

CODE OF CONDUCT FOR THE RECRUITMENT AND EMPLOYMENT OF MIGRANT WORKERS IN MAURITIUS

FOR EMPLOYERS IN EXPORT-ORIENTED
INDUSTRIES IN MAURITIUS



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Glossary

Term	Definition
Business partners	Entities or individuals with which a business enterprise has some form of direct engagement. ¹
Country of destination	In the migration context, the destination for a person or group of persons, irrespective of whether they migrate regularly or irregularly. ²
Country of origin	A country of nationality or of former habitual residence of a person or group of persons who have migrated abroad, irrespective of whether they migrate regularly or irregularly. ³
Discrimination	Any distinction, exclusion, restriction or preference, which is based on any ground – such as race, colour, sex, gender, language, religion, political or other opinion, national or social origin, migration status, property, birth or other status – and which has the purpose or effect of nullifying or impairing the recognition, enjoyment or exercise by all persons, on an equal footing, of all rights and freedoms. ⁴
Employer	Entity or individual that engages employees or worker, either directly or indirectly. ⁵
Employer pays principle	No worker should pay for a job – the costs of recruitment should be borne not by the worker but by the employer. ⁶
Exploitation	The act of taking advantage of something or someone, in particular the act of taking unjust advantage of another for one's own benefit. ⁷
Forced labour	Work or service that is exacted from any persons under the menace of any penalty and for which the said persons have not offered themselves voluntarily. ⁸
Grievance	A perceived injustice evoking an individual or a group's sense of entitlement, which may be based on law, contract, explicit or implicit promises, customary practice or general notions of fairness of aggrieved communities. ⁹
Grievance mechanism	Any routinized, State-based or non-State-based, judicial or non-judicial process through which grievances concerning business-related human rights abuse can be raised and remedy can be sought. ¹⁰
Human rights due diligence	An ongoing risk management process undertaken by an organization to identify, prevent, mitigate and account for how it addresses its adverse human rights impacts. Human rights due diligence includes four key steps: (a) assessing actual and potential human rights impacts; (b) integrating and acting on the findings; (c) tracking responses; and (d) communicating about how impacts are addressed. ¹¹
Irregular migration	Movement of persons that takes place outside the laws, regulations or international agreements governing the entry into or exit from the country of origin, transit or destination. ¹²
Labour migration	Movement of persons from one State to another, or within their own country of residence, for the purpose of employment. ¹³
Labour recruiter	Any natural or legal person who performs a licensed recruitment function, including recruitment agents and employment agents. ¹⁴
Leverage	Leverage is an advantage that gives power to influence. In the context of the United Nations Guiding Principles on Business and Human Rights (UNGPs), it refers to the ability of a business enterprise to effect change in wrongful practices of another party that is causing or contributing to an adverse human rights impact. ¹⁵

¹ Shift Project Ltd and Mazars LLP (2015), *Glossary*, United Nations Guiding Principles Reporting Framework.

² IOM, *Glossary on Migration*, International Migration Law no. 34 (Geneva, IOM, 2019a).

³ *Ibid.*

⁴ Australian Human Rights Commission (n.d.), *Rights to equality and non-discrimination*.

⁵ International Labour Organization (ILO), *General principles and operational guidelines for fair recruitment and definition of recruitment fees and related costs*, Brochure (2019).

⁶ Institute for Human Rights and Business, *The employer pays principle* (n.d.).

⁷ Directorate-General for Migration and Home Affairs, European Commission (n.d.), *Exploitation*.

⁸ ILO, *CO29 – Forced Labour Convention (1930) (No. 29)* (28 June 1930), art. 2(1).

⁹ United Nations Guiding Principles on Business and Human Rights (UNGPs) Principle 25 and commentary (United Nations High Commissioner for Human Rights (OHCHR), *Guiding Principles on Business and Human Rights* (New York and Geneva, United Nations, 2011)).

¹⁰ UNGPs Principle 25 and commentary.

¹¹ Shift Project Ltd and Mazars LLP (2015), *Human rights due diligence*, United Nations Guiding Principles Reporting Framework.

¹² IOM, 2019a.

¹³ *Ibid.*

¹⁴ IOM (2019b), *The Iris Standard*, Version 1.2 2019.

¹⁵ OHCHR, *The Corporate Responsibility to Respect Human Rights: An Interpretive Guide* (Geneva and New York, United Nations, 2012).

Term	Definition
Living wage	A living wage is defined by Action, Collaboration, Transformation as the minimum income necessary for a worker to meet the basic needs of oneself and one's family, including some discretionary income. This should be earned during legal working hour limits (that is, without overtime). ¹⁶
Migrant worker	A person who is to be engaged, is engaged or has been engaged in a remunerated activity in a State of which that person is not a national. ¹⁷
Migration	The movement of persons away from their place of usual residence, either across an international border or within a State. ¹⁸
Recruitment	Includes the advertising, information dissemination, selection, transport, placement into employment and, for migrant workers, return to the country of origin where applicable. This applies to both jobseekers and those in an employment relationship. ¹⁹
Recruitment agency or recruitment agent	Any natural or legal person who provides services consisting of hiring or engaging migrant workers to make them available to a third party that assigns tasks and supervises the execution of these tasks. ²⁰
Recruitment fees and related costs	Any fees or costs incurred in the recruitment process for workers to secure employment or placement, regardless of the manner, timing or location of their imposition or collection. See the <i>ILO General Principles and Operational Guidelines for Fair Recruitment and Definition of Recruitment Fees and Related Costs</i> .
Remediation/ remedy	Remediation and remedy refer to both the processes of providing remedy for an adverse human rights impact and the substantive outcomes that can counteract, or make good, the adverse impact. These outcomes may take a range of forms, such as apologies, restitution, rehabilitation, financial or non-financial compensation, and punitive sanctions (whether criminal or administrative, such as fines), as well as the prevention of harm through, for example, injunctions or guarantees of non-repetition. ²¹
Subagent	Informal and unlicensed individual agents who, working in usually loose partnerships with labour recruiters, are often the first point of contact for individuals seeking foreign employment. Subagents charge fees for their services, which distinguishes them from other individuals within "social networks" that facilitate migration without charging fees. ²²
Subcontractor	A person or business (operating as a registered entity) that has a contract (as an "independent contractor and not an employee") with a contractor to provide some portion of the work or services on a project which the contractor has agreed to perform. The subcontractor is paid by the contractor for the services provided. ²³
Trafficking in persons	"Trafficking in persons" shall mean the recruitment, transportation, transfer, harbouring or receipt of persons, by means of the threat or use of force or other forms of coercion, of abduction, of fraud, of deception, of the abuse of power or of a position of vulnerability or of the giving or receiving of payments or benefits to achieve the consent of a person having control over another person, for the purpose of exploitation. Exploitation shall include, at a minimum, the exploitation of the prostitution of others or other forms of sexual exploitation, forced labour or services, slavery, or practices similar to slavery, servitude or the removal of organs. ²⁴
Value chain	Value chain means the activities related to the production of goods or the provision of services by a company, including the development of the product or the service and the use and disposal of the product as well as the related activities of upstream and downstream business relationships of the company. ²⁵
Violence or harassment	A range of unacceptable behaviours and practices, or threats thereof, whether a single occurrence or repeated, that aim at, result in, or are likely to result in physical, psychological, sexual or economic harm, and include gender-based violence and harassment. ²⁶

¹⁶ Action, Collaboration, Transformation (ACT) (n.d), *FAQ*. ACT on living wages.

¹⁷ Maximilian Pottler, Claire Pütz, Linh Thi Tuyet Pham and Hannah Plumb, *Migrant Worker Guidelines for Employers* (Geneva, IOM, 2021).

¹⁸ United Nations, *International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families* (18 December 1990), art. 2(1).

¹⁹ ILO, 2019.

²⁰ Adapted from the IOM *Iris Standard*.

²¹ OHCHR, 2012.

²² IOM, 2019b.

²³ *Ibid*.

²⁴ United Nations, *Protocol to Prevent, Suppress and Punish Trafficking in Persons Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime* (15 November 2000).

²⁵ European Union, *Proposal for a Directive of the European Parliament and of the Council on Corporate Sustainability Due Diligence and amending Directive (EU) 2019/1937 (COM/2022/71 final)*, Article 3(g).

²⁶ ILO, C190 – *Violence and Harassment Convention, 2019 (No. 190)* (21 June 2019), art. 1.



1. Introduction

Migrant workers are significant contributors to the economy of Mauritius, making up a considerable proportion of the workforce in the export-oriented enterprise sector, textiles, manufacturing, construction, food processing and other national industries. In this regard, international labour migration benefits both migrant workers and their families, as well as businesses in Mauritius.

In recognition of the integral contribution of migrant workers to the development of the economy of Mauritius as well as growing buyer demand for fair and ethical recruitment and employment, the Mauritius Export Association (MEXA) has developed this Code of Conduct (hereafter referred to as the Code), with the support of IOM.

This Code aims for the following: (a) ensure fairer and more ethical recruitment and employment practices; (b) support sustainable business development; and (c) support export-oriented companies in Mauritius in their efforts to align their policies and operations with international standards of responsible business practices, including the [UNGPs](#). This Code also seeks to apply the international principles and standards in the context of Mauritius as reflected in the following: (a) [ILO Fundamental Conventions](#); (b) [ILO General Principles and Operational Guidelines for Fair Recruitment and Definition of Recruitment Fees and Related Costs](#); (c) [Global Compact for Safe, Orderly and Regular Migration](#); and (d) [IRIS Standard](#) of IOM.

The Code is to be used by members of MEXA to effectively guide the development of policies and processes in implementing fair and ethical recruitment and employment practices, with the aim of better managing the impacts of businesses on human rights. The Code endeavours to support MEXA members strengthen identification and management of human rights risks and, in turn, support members' management of legal, financial and reputational risks and improve business practices. The Code also represents an opportunity for MEXA members to improve their existing practices, and in doing so, meet increasingly stringent buyer responsible sourcing requirements and demands of buyer market mandatory human rights due diligence laws, as well as the emergence of trade-based sanctions regimes. While compliance is voluntary, the Code is intended to drive accountability and transparency among MEXA members, by providing a framework for MEXA members to report on their policies and outcomes. The Code also aims to create a level playing field and drive harmonization of fair and ethical recruitment and employment practices among export-oriented companies. It is envisioned that compliance with the Code will serve as an important indicator for evaluating and monitoring responsible business practices in the export-oriented enterprise sector, and support MEXA members to strengthen their domestic and global reputation as responsible business partners.

The Code was developed through a multi-stakeholder and consultative process, which includes interviews with migrant workers, local and international civil society organizations, export-oriented companies, government stakeholders and multinational brands.

2. Structure of the Code

The Code is divided into two components: Operational Standards and the Core Standards, which set out the procedural and substantive requirements for compliance with the Code, respectively.

- The Operational Standards comprise the standards of policies and systems that MEXA members should have in place to manage the potential human rights risks arising from recruitment and employment of migrant workers, and to support compliance with the Code's standards.
- The Core Standards contain the human rights and labour rights standards throughout the migration cycle: from recruitment and deployment, to employment, and return and onward migration.

MEXA members are expected to comply with both the Operational Standards and the Core Standards. The Code is built on driving a systems-change based approach. The Code recognizes that solely establishing substantive policy requirements, without providing accompanying guidance on implementing the appropriate management systems, is likely to result in gaps in implementation and challenges in verifying compliance. Moreover, good quality processes in managing risks to migrant workers enables companies to respond and adapt quickly when unanticipated or emergency situations arise (such as the COVID-19 pandemic). Robust human rights due diligence and risk management systems enable businesses to detect human rights risks early and mitigate and prevent any issues before they escalate into human rights violations. In this way, the Operational Standards and Core Standards of this Code are mutually reinforcing.

Figure 1. Overview of the Code Standards

A

Operational Standards

- Policy commitment and management system
- Due diligence and risk management
- Remediation
- Stakeholder engagement
- Transparency
- Accountability
- Continuous improvement

B

Core Standards

1. No forced labour and trafficking in persons
2. Minimum age, child labour and young workers
3. Equal treatment and opportunity
4. Employer pays principle
5. Engagement with recruitment agencies
6. Communication of terms and conditions of employment
7. Safe, decent and respectful work environment
8. Payment of wages and benefits
9. Working hours
10. Freedom of movement
11. Provision of accommodation
12. Access to health care and social protection
13. Freedom of association and collective bargaining
14. Grievance mechanisms and access to remedy
15. Termination and change of employers, return to countries of origin or onward migration

3. Code certification and improvement programme

The Code shall be accompanied by a certification system that involves compliance verification. MEXA is committed to fostering continuous improvement and accountability. MEXA members can seek recognition for their commitment to implementing fair and ethical recruitment and employment practices by obtaining compliance certification (MEXA Compliant). Leading members can obtain leadership certification (MEXA Leader) by demonstrating that they have fulfilled leadership criteria. MEXA members shall also disclose, on an annual basis, the specific actions or activities undertaken to contribute towards each standard. This shall be accompanied by data or information to evidence these actions or activities and their outcomes, such as audit reports, results of worker surveys or other documents. This information will be verified to determine whether the compliance criteria have been met.

In addition, the Code also acknowledges that micro, small- and medium-sized enterprises, as defined in the [Small and Medium Enterprises Act](#) of Mauritius, or enterprises that employ less than 200 workers, may only be at the very beginning of their responsible business journey and have relatively limited capacity and resources to obtain certification. MEXA members falling within this category of micro, small- and medium-sized enterprises may opt for a “comply or explain” approach, whereby they should comply with the Code or otherwise publicly report reasons for non-compliance. Where non-compliance is reported, MEXA members should provide a time-bound action plan to become MEXA Compliant.

Figure 2. Three possible segments of MEXA members



As shown in Figure 2, three possible segments of MEXA members have been identified, namely:

- **Improving:** The MEXA member is working towards meeting the Code’s minimum requirements, and publicly reports the reasons for non-compliance and a time-bound action plan to achieve MEXA Compliant certification.
- **MEXA Compliant:** The MEXA member meets the minimum requirements in order to be verified against the Code. Members that meet the compliance criteria obtain the first tier of certification known as MEXA Compliant.
- **MEXA Leader:** The MEXA member meets both the minimum requirements to be verified against the Code and additional improvement options. Members that meet both the compliance criteria and improvement options obtain the second tier of certification, which is known as MEXA Leader.

4. Using the Code

In this Code, each numbered section includes a specific goal that MEXA members should aim to achieve within that particular domain. The goal is accompanied by specific criteria that must be met in order to achieve MEXA Code Compliant certification. There are also additional criteria for MEXA Leader members, which act as a menu of improvement options to work towards leadership in the stated domain. MEXA members that meet these additional criteria can obtain MEXA Code Leader certification.

Figure 3 – Using the Code

Goal – Defines the specific standard that the MEXA member is working towards, which could be an Operational Standard (relating to processes or systems) or a Core Standard (relating to a substantive human rights issues).	
No.	Domain
Compliance criteria	
No. X	Defines the specific requirement(s) that the MEXA member group or operation is expected to comply with or work towards in order to reflect the stated goal.
Leader criteria	
No. X	Defines the additional requirement(s) that the MEXA member group or operation could work towards in order to be certified as a leader.

Note: No. stands for number.

5. Code Standards

Every member of MEXA undertakes to conform to this Code. In doing so, MEXA members shall comply with national laws and international human rights standards and frameworks. Where national laws and international standards diverge or conflict, MEXA members shall abide by the standard that provides the greatest human rights protections, while complying with their obligations under national law.

A. Operational Standards

(1) Policy commitment and management system

MEXA members should establish a migrant worker policy and implement an internal management system and processes to integrate this Code into their business culture and day-to-day operations.

Compliance criteria	
1.	MEXA members should establish a migrant worker policy, which addresses all the standards in this Code.
2.	The migrant worker policy should be communicated to all employees and staff, senior management and the executive team.
3.	The migrant worker policy should also be communicated to migrant workers, ²⁷ business partners, contractors, subcontractors and recruitment agency partners, in a format and language(s) understood by them.
4.	MEXA members should have designated staff with the responsibility to implement the migrant worker policy. The designated staff are trained and empowered with the necessary decision-making capacity and financial resources to implement the migrant worker policy.
5.	The executive team and senior management should demonstrate commitment to this Code and the migrant worker policy.
6.	MEXA members should circulate the migrant worker policy to their respective suppliers, contractors, subcontractors and recruitment agency partners. MEXA members should make clear to these business partners what their roles and responsibilities are in relation to the migrant worker policy.
7.	MEXA members should have an effective information management system to keep a record of activities undertaken to comply with this Code. ²⁸
Leader criteria	
8.	MEXA members should implement a system to verify their suppliers, contractors, subcontractors and recruitment agency partners' compliance with the migrant worker policy.

²⁷ See also Principle A.5: Transparency and Principle B.6: Communication of terms and conditions of employment.

²⁸ Examples of records include (but are not limited to) copies of relevant internal policies, documenting employment relationships (such as copies of employment contracts, payslips and working hour records) and business relationships with recruitment agency partners, suppliers, contractors and subcontractors (such as service agreements and due diligence findings).

(2) Due diligence and risk management

MEXA members should undertake human rights due diligence to proactively manage potential and actual adverse human rights impacts for migrant workers that are caused by or linked to their operations, business relationships (including relationships with recruitment agencies), products or services.

Compliance criteria

1. MEXA members should regularly conduct a human rights impact assessment or similar systematic process to identify and assess risks to migrant workers during all stages of the migration cycle. Such a process should involve meaningful consultation with potentially affected groups and other relevant stakeholders. The risks identified should be prioritized based on severity and likelihood of adverse impact to migrant workers.
2. MEXA members should develop and implement risk mitigation and prevention plans to address any potential or actual adverse human rights impacts to migrant workers, identified through the human rights impact assessment or another process.²⁹
3. MEXA members should establish a mechanism to track the implementation and outcomes of their human rights due diligence.

Leader criteria

4. MEXA members should engage with a diverse and representative group of migrant workers to understand their experiences and ascertain whether MEXA members' migrant worker policy and human rights due diligence process is effectively managing human rights risks to migrant workers.

(3) Remediation

MEXA members should deliver or facilitate fair and effective remedy to migrant workers whose rights have been adversely impacted.

Compliance criteria

1. Where MEXA members identify that harm to migrant workers has occurred, MEXA members should provide or facilitate effective and prompt remediation if they have caused or contributed to the human rights violation(s). Remediation must be appropriate and proportional to the severity of the violation and adapted to the individual circumstances of each case.³⁰
2. MEXA members should follow-up with the migrant worker to verify that remedy has been fully provided, confirm whether they are satisfied with the remedy and whether there have been any positive or negative outcomes (such as improved treatment or retaliatory treatment). If negative outcomes are identified, MEXA members should take action to address the remaining issues before closing the incident.
3. MEXA members must not prevent, restrict or otherwise interfere, with migrant workers' right to access State-based (judicial or non-judicial) grievance mechanisms or other non-State-based grievance mechanisms.

Leader criteria

4. MEXA members should provide migrant workers access to information on their right to access remediation through State-based grievance mechanisms in a format and language(s) understood by them, and to socialize other grievance mechanisms, including State-based grievance mechanisms, or those provided by trade unions, civil society stakeholders, multi-stakeholder initiatives or other private sector organizations with migrant workers.
5. MEXA members should engage in meaningful dialogue with migrant workers in the development of corrective action plans that may impact them (whether directly or indirectly).

²⁹ See criterion A.2.1. above.

³⁰ Pursuant to UNGPs Principle 25 and commentary, remedies may take a range of substantive forms. The aim of remedies should be to counteract or make good any human rights harms that have occurred. Remedy may include apologies, restitution, rehabilitation, financial or non-financial compensation and punitive sanctions (whether criminal or administrative such as fines), as well as the prevention of harm through, for example, injunctions or guarantees of non-repetition. Remedies should be: (a) proportional to the gravity of the abuse and the harm suffered; (b) reflect the degree of culpability of the relevant company (such as demonstrated by whether the company exercised appropriate human rights due diligence, the strength and effectiveness of the company's legal compliance efforts, any history of similar conduct and whether the company had responded adequately to warnings and other relevant factors); (c) are designed in such a way as to minimize the risks of repetition or continuation of the abuse and/or harm; (d) are sufficiently dissuasive to be a credible deterrent to that company and others, from engaging in the prohibited behaviour; and (e) take into account gender issues and the particular needs of individuals or groups at heightened risk of vulnerability or marginalization. See OHCHR (2018), [Access to remedy for business-related human rights abuses](#), Consultation draft, page 11.

(4) Stakeholder engagement

MEXA members should engage in meaningful dialogue and consultation with all stakeholders on fair and ethical recruitment and employment issues, including with migrant workers, government stakeholders, recruitment agencies, trade unions and civil society organizations.

Compliance criteria	
1.	MEXA members should engage with migrant workers before departure from their country of origin and after their arrival in Mauritius to ensure that the migrant workers understand and know how to access the Code's guarantees, including on topics related to travel, housing, health care and security.
2.	MEXA members should ensure that no retaliatory actions are taken against migrant workers who express their views.
3.	MEXA members should establish and maintain effective platforms or channels through which external stakeholders, including migrant workers, can raise any issues or concerns regarding the implementation of the migrant worker policy, human rights due diligence processes and grievance mechanisms. ³¹
Leader criteria	
4.	MEXA members should establish partnerships and work collaboratively with credible third-party organizations, including trade unions and civil society organizations, that are trusted by migrant workers, to support implementation of the migrant worker policy.
5.	MEXA members should seek out opportunities to participate in collaborative platforms or initiatives, such as industry-level associations, multi-stakeholder initiatives and public sector partnerships, to promote fair and ethical recruitment and employment practices. ³² MEXA members should consider creating financial incentives (such as tying bonuses to performance) for senior management to achieve these goals.

(5) Transparency

MEXA members should exercise transparency and make disclosures to both internal and external stakeholders about the measures and steps they have taken to comply with this Code.

Compliance criteria	
1.	MEXA members should make periodic disclosures to internal and external stakeholders about the migrant worker policy and human rights due diligence processes and their related outcomes. Such disclosures should be consistent with MEXA members' confidentiality obligations and exclude any commercially sensitive information while aiming to be as transparent as possible.
2.	MEXA members should clearly communicate the migrant worker policy to migrant workers and ensure that the policy is accessible and displayed in a format and language(s) understood by migrant workers. ³³
Leader criteria	
3.	MEXA members should establish channels or mechanisms for internal and external stakeholders to provide feedback on the effectiveness of the migrant worker policy. ³⁴

³¹ An example of such a channel would be making available a hotline or online feedback form.

³² This may include (but is not limited to) engagement with buyers and policy dialogue with the government to promote and incentivize fair and ethical recruitment and employment policies and practices.

³³ This may include (but is not limited to) developing training, post-arrival orientation sessions, and use of social media or technology platforms to disseminate such information.

³⁴ This may include (but is not limited to) the provision of an effective grievance mechanism (see Principle B.14: Access to remedy), deployment of technology tools to solicit migrant worker feedback, or engagement with credible worker representatives, trade unions, civil society organizations or other independent organizations to conduct off-site interviews with migrant workers.

(6) Accountability

MEXA members should be accountable for their compliance with this Code.

Compliance criteria

1. MEXA members should assign oversight and responsibility to relevant senior management for compliance with this Code and the migrant worker policy and ensure that there are clear lines and systems of accountability and internal reporting.

Leader criteria

2. MEXA members should put in place a mechanism to check that their employees and business partners are complying with the migrant worker policy, as well as (where relevant) any risk mitigation and prevention plans and remediation plans.
3. MEXA members could provide incentives for senior management/executives who deliver improvements in the company's human rights risk management practices in accordance with the migrant worker policy.³⁵

(7) Continuous improvement

In recognition of the continuous and iterative nature of human rights due diligence, MEXA members should commit to continuous improvement of their policies and practices.

Compliance criteria

1. MEXA members should conduct regular reviews to identify areas of improvement in their efforts to comply with the Code and develop time-bound action plans to improve their compliance.
2. MEXA members should incorporate migrant worker feedback as a component of their due diligence processes.

Leader criteria

3. MEXA members should establish key performance indicators and a monitoring framework to track the effectiveness of their migrant worker policy and human rights due diligence processes in addressing risks to migrant workers, and analyse the data collected to identify opportunities for improvement.

B. Core Standards

(1) No forced labour and trafficking in persons

All work is conducted on a voluntary basis, and free from any threat of penalty or sanctions.

Compliance criteria

1. MEXA members should prohibit the use of forced or compulsory labour in all its forms, and trafficking in persons in their operations and their value chain.
2. MEXA members should implement management systems to identify, mitigate and prevent the risk of forced or compulsory labour and trafficking in persons in their operations and their value chain. Where MEXA members identify any person that could be a victim of trafficking or forced labour in their operations or their value chain, they must report the matter to the relevant local authorities and implement a time-bound corrective action and remediation plan.³⁶

Leader criteria

3. Where incidences of forced or compulsory labour or trafficking in persons are identified at the supplier, contractor or subcontractor level, MEXA members should work collaboratively and use their leverage with the business partner concerned to implement a corrective action plan and a remediation plan. If the concerned business partner refuses to cooperate following repeated engagement, MEXA members should consider terminating the business relationship.

³⁵ See also Principle 7. Continuous improvement.

³⁶ Article 13 of the [Combating Trafficking in Persons Act 2009](#) (Act 2 of 2009) (Government of Mauritius, 30 July 2009).

(2) Minimum age, child labour and young workers

MEXA members should not recruit, employ or exploit children in any way.

Compliance criteria	
1.	MEXA members must comply with the minimum age for admission to any type of employment or work prescribed under the relevant national law. ³⁷
2.	Where MEXA members employ a young person, such employment must be in compliance with national law. ³⁸ Young persons should not work at night; ³⁹ or in conditions that would jeopardize their health, safety or physical, mental, moral or social development; or carry out work that is unsuitable or likely to interfere with their education.
3.	MEXA members should implement effective systems to verify the age and identity documentation of migrant workers at recruitment (prior to their departure from the country of origin) and upon arrival at the workplace in Mauritius. MEXA members should keep a record of the details of any young persons employed, as required under national law. ⁴⁰
Leader criteria	
4.	Where child labour is identified at the supplier, contractor or subcontractor level, MEXA members should work collaboratively and use their leverage with the business partner concerned to implement a time-bound corrective action and remediation plan. If the concerned business partner refuses to cooperate following repeated engagement, MEXA members should consider terminating the business relationship.

(3) Equal treatment and opportunity

MEXA members should not practice, encourage or tolerate any discrimination based on gender, age, religion, marital status, race, caste, social background, diseases, disability, pregnancy, ethnic and national origin, nationality, membership in worker organizations, political affiliation, sexual orientation or any other status.

Compliance criteria	
1.	MEXA members should provide all migrant workers, irrespective of their age, gender, disability, race, ethnicity, nationality, origin, migration status or religion with the same terms and conditions regarding their employment as national workers, subject to national laws.
2.	All decisions related to recruitment and conditions of work (including compensation, access to training, promotion, allocation of overtime work and termination) should be based on fair and objective criteria (such as an individual's ability to perform the job), not on the basis of personal characteristics and beliefs.
3.	MEXA members should implement management systems to identify, mitigate and prevent discrimination in the company. Any allegations of discrimination should be investigated, and where incidences of discrimination are identified, MEXA members should take corrective actions and provide for remediation.
4.	MEXA members should address language barriers with migrant workers systematically. ⁴¹
Leader criteria	
5.	MEXA members should recruit and employ migrant workers directly and avoid labour outsourcing and subcontracting arrangements, to the extent possible. Where outsourced or subcontracted migrant workers are engaged, ensure that these migrant workers have the same rights as migrant workers who are directly employed.

³⁷ See section 2 (page 7) of the [Workers' Rights Act 2019](#); *child* is defined as a person under the age of 16.

³⁸ See section 2 (page 14) of the [Workers' Rights Act 2019](#); *young person* means a person, other than a child, who is under the age of 18. Note that only persons aged between 20 and 60 are eligible for a work permit in Mauritius.

³⁹ Section 20 of the [Workers' Rights Act 2019](#).

⁴⁰ See section 9 of the [Workers' Rights Act 2019](#).

⁴¹ This may include (but is not limited to) providing free-of-cost language training or translation services, ensuring that assigned welfare officers can communicate with migrant workers in their preferred language(s), or translating internal policies, employment contracts, payslips and other information into the language(s) understood by migrant workers.

(4) Employer pays principle

Migrant workers must not be charged recruitment fees and related costs. MEXA members should commit to implement the “Employer pays principle” in accordance with the [ILO definition of recruitment fees and related costs](#).

Compliance criteria

1. MEXA members should ensure that migrant workers are not charged any recruitment fees and related costs and implement effective systems to check with migrant workers at the time of recruitment, upon their arrival in Mauritius and during their employment, whether they have paid such fees and costs.
2. Where migrant workers are found to have paid recruitment fees and related costs, MEXA members should undertake their best efforts to verify the amount paid in the recruitment process, and reimburse the migrant worker for the amount of fees paid in a timely manner.

Leader criteria

3. MEXA members should provide capacity-building on fair and ethical recruitment practices to their recruitment agencies.

(5) Engagement with recruitment agencies

MEXA members should conduct due diligence on recruitment agencies.

Compliance criteria

1. MEXA members should only engage with recruitment agencies that operate in compliance with the applicable national laws (whether in the country of origin or country of destination) and hold legal licenses (where applicable).
2. MEXA members should establish selection criteria for recruitment agencies, which includes (but is not limited to) requirements that the agent/agency prohibits the charging of recruitment fees and related costs to migrant workers and provides them with a written employment contract prior to deployment.⁴²
3. MEXA members should conduct due diligence on their recruitment agency partners, including to verify that they are licensed, have no adverse court decisions and/or administrative sanctions against them.
4. MEXA members should enter into service agreements with recruitment agencies, which require the agencies to comply with the Employer pays principle and provide accurate information to prospective jobseekers and recruited migrant workers about the terms and conditions of employment.
5. MEXA members should conduct research to understand the actual costs of recruitment, as well as the costs and margins of recruitment agencies and ensure that the service fee paid to their recruitment agency partners is reflective of these costs.

Leader criteria

6. MEXA members should require recruitment agency partners to identify and map their subagents, labour recruiters and brokers (including informal brokers) and provide this information to the MEXA member.
7. MEXA members should continuously support and monitor recruitment agencies’ compliance with the service agreement and the requirements of the migrant worker policy. MEXA members should encourage recruitment agency partners to proactively report risks of non-compliance with the MEXA members’ migrant worker policy to the MEXA member. Where non-compliances are identified, MEXA members should work collaboratively with the recruitment agency partner to undertake corrective actions or provide for remediation (where applicable).
8. MEXA members should require recruitment agency partners to conduct their own continuous due diligence on their subagents, labour recruiters and brokers, including communicating the Employer pays principle and monitoring the practices of any involved subagents and brokers.

⁴² MEXA members may refer to the IOM [IRIS Standard](#) for additional selection criteria.

(6) Communication of terms and conditions of employment

MEXA members should provide or facilitate migrant workers' access to accurate information about all terms and conditions of migration and employment, and their right to access remedy.

Compliance criteria	
1.	Migrant workers should be provided with a written employment contract in a language they understand. Where the migrant worker has low literacy, the terms and conditions of the employment contract should be explained to them verbally.
2.	MEXA members should provide migrant workers with a written employment contract that includes terms and conditions that are compliant with national law ⁴³ and are developed with reference to IOM's Checklist for Employment Contracts in the IOM Migrant Worker Guidelines .
3.	MEXA members or their recruitment agency partners should clearly communicate to migrant workers, the terms and conditions of employment and their legal rights and obligations, prior to their departure from the country of origin.
4.	MEXA members should offer post-arrival orientation information sessions, in a format and language(s) understood by migrant workers, so that migrant workers understand their legal rights under the employment contract and national laws, how to read their payslips, how they can seek assistance or support, how they can lodge grievances and obtain remedies where their rights are violated, and inform migrant workers that they are not permitted to engage in part-time work on their rest days, or otherwise work for another employer at the same time. ⁴⁴
Leader criteria	
5.	MEXA members should develop programmes to systematically reduce any barriers to information faced by migrant workers. ⁴⁵

(7) Safe, decent and respectful work environment

MEXA members should treat all migrant workers with respect and dignity and ensure that working conditions are safe and healthy.

Compliance criteria	
1.	MEXA members should not practise, encourage or tolerate any bullying, violence or harassment in the workplace or in employer-provided accommodation. ⁴⁶
2.	MEXA members should establish a policy specifically against gender-based violence and sexual harassment in the workplace.
3.	MEXA members should provide regular sexual harassment sensitization trainings for migrant workers in a language and format they understand.
4.	MEXA members should establish written disciplinary procedures and explain them in clear and understandable terms to all workers and employees, in the format and language(s) understood by them. All disciplinary actions should be recorded.
5.	MEXA members should ensure that there are appropriate channels for reporting and resolving incidences of gender-based violence and sexual harassment, including for example the following: (a) implementing gender-inclusive or female-led grievance channels; (b) establishing women's committees and safe spaces for women; (c) making available trained professionals (whether internal or external) to investigate reported incidences of gender-based violence and sexual harassment; and (d) providing access to support and counselling. Pursuant to Principle A.3: Remediation, MEXA members should also provide migrant workers access to information on their right to access remediation through State-based grievance mechanisms.
6.	MEXA members must comply with occupational health and safety standards set out under national law. ⁴⁷
7.	MEXA members should provide regular occupational safety and health training to migrant workers in a language and format they understand.

⁴³ See Article 7 of the [Recruitment of Workers Act 1993](#), and the Third Schedule of the [Recruitment of Workers Regulations 1994](#) prescribe minimum terms and conditions of an employment contract.

⁴⁴ See also Principle A.5: Transparency.

⁴⁵ This may include (but is not limited to) designating freely elected worker representatives from each nationality group to act as focal points who will provide information on migrant workers' rights, prove a helpdesk or welfare officers who speak the language(s) of migrant workers, or connect migrant workers to credible civil society organizations and trade unions, or relevant government services.

⁴⁶ See also Principle B.3: Equal treatment and opportunity.

⁴⁷ This includes (but is not limited to) taking steps to prevent risk of accidents and injury to health arising out of, associated with, or occurring in the course of work, minimizing causes of hazards in the workplace, and ensuring that migrant workers have access to adequate and effective personal protective equipment.

Leader criteria	
8.	MEXA members should take steps to support the integration of migrant workers in the workplace and local community. ⁴⁸
9.	MEXA members should implement measures to improve migrant worker job satisfaction, including enabling access to places of worship and meals that conform to religious and cultural requirements, and providing opportunities for migrant workers to develop new skills and competencies.
10.	In the event of crisis (such as an environmental, political or public health emergency), MEXA members should develop a systematic response plan, in consultation with migrant workers, to mitigate and prevent human rights risks to migrant workers, and conduct a rapid assessment of migrant workers' safety, health, social security, housing and basic needs.

(8) Payment of wages and benefits

Remuneration provided to migrant workers must, at a minimum, meet national legal standards or industry benchmark standards, whichever is higher.

Compliance criteria	
1.	Wages, overtime pay, night shift allowance, legally required benefits and paid leave provided to workers must, at a minimum, meet national legal standards or industry benchmark standards, whichever is higher. Any overtime work, work performed during a night shift, and work undertaken on public holidays must be remunerated at a premium rate, which meets or exceeds the rate provided under national law. Remuneration provided to migrant workers must reflect what is written and agreed in the employment contract.
2.	MEXA members should ensure that remuneration of a migrant worker shall not be less favourable than the remuneration of another worker performing work of equal value. ⁴⁹ Where MEXA members engage a labour contractor, the labour contractor shall ensure that the remuneration provided to any worker employed by the contractor shall, at a minimum, meet the applicable minimum wage.
3.	MEXA members should pay migrant workers on time, based on the terms stated in the employment contract, and provide a payslip. Payslips should be provided in a format understood by migrant workers, and clearly state the amount of wages paid and where applicable, the amount and reason for any deductions.
4.	MEXA members must not use wage deductions or monetary fines as disciplinary measures, or to recoup the costs of recruitment fees and related costs. ⁵⁰ The cost of protective equipment and clothing, cost of transportation to and from workers' accommodation to the workplace, and cost of transportation to the hospital or other similar institutions in case of injury at work or sickness must not be deducted from migrant workers' wages.
5.	Deductions from wages are only permitted in accordance with national law ⁵¹ and must not exceed the legally permissible maximum. ⁵² Migrant workers must provide their express and written full and informed consent for any legally permissible wage deductions.
6.	Where deductions are made from wages for housing allowance and/or food allowance, such deductions must be in accordance with national law and should not exceed the legally permissible maximum. ⁵³ Where MEXA members provide accommodation and on-site catering services as payment in kind (instead of housing and food allowance), this arrangement must be clearly reflected in their employment contract. This arrangement must also be explained to migrant workers at the recruitment stage and again, upon their arrival in Mauritius, and clearly stated on the payslip.
Leader criteria	
7.	MEXA members should conduct a living wage calculation on a regular basis, with a view of working towards paying living wage.

⁴⁸ This includes (but is not limited to) providing information regarding local community services and civil society organizations or offering free-of-cost language classes.

⁴⁹ Section 26 of the *Workers' Rights Act 2019*.

⁵⁰ Section 34 of the *Workers' Rights Act 2019*. No employers shall deduct any amount from a worker's remuneration as direct or indirect payment for the purpose of obtaining or retaining employment.

⁵¹ Pursuant to Section 34 of the *Workers' Rights Act 2019*, employers may only deduct any amount for a worker's remuneration authorized by the worker in writing which: (a) is due to the employment in recovery of an advance made on basic wages (provided the deduction does not exceed one fifth of the basic wages due for a pay period); or (b) the worker wishes to be deducted to make any payment or contribution to any fund, body or other institution; or (c) which is deducted in accordance with any enactment of a Court order. No employer shall deduct any amount from a worker's remuneration, which in the aggregate, exceeds on half of the worker's remuneration for any pay period.

⁵² Section 34 of the *Workers' Rights Act 2019*.

⁵³ The National Minimum Wage Regulations 2017 and National Minimum Wage (Amendment) Regulations 2021.

(9) Working hours

MEXA members should ensure that migrant workers always work on a voluntary basis, within the limits on working hours stated in national laws and ILO conventions, whichever offers the greater protection.

Compliance criteria	
1.	No migrant workers should be made to work overtime under threat of penalty, dismissal or denunciation to the authorities, as a disciplinary measure, failure to meet production quotas or to make up for wage arrears or wage deductions.
2.	MEXA members must set the normal allowable working hours in a week, in accordance with national law requirements ⁵⁴ or ILO conventions, ⁵⁵ whichever offers the greater protection.
3.	Other than in exceptional circumstances, ⁵⁶ migrant workers should only be required to perform up to a maximum of sixty hours in a consecutive seven-day period. MEXA members should be responsible in setting and allocating overtime work, taking into consideration the extent, frequency and hours worked by individual workers and the workforce as a whole.
4.	MEXA members should have a fair, objective and transparent system for allocating overtime shifts and a system to record and track working hours. Migrant workers or their credible representatives (such as workers' organizations, where applicable) should be consulted on maximum overtime hours.
5.	Migrant workers should be provided with paid annual leave, other paid leave entitlement (such as sick leave), sufficient rest time and rest days, at a minimum, in accordance with national laws.
Leader criteria	
6.	The executive and senior management team should ensure that workforce capacity planning is properly organized to meet the expectations of customer delivery order and/or contractors and is also consistent with the standards set out in this Code.

(10) Freedom of movement

MEXA members must respect the right of migrant workers to freedom of movement beyond their workplace and accommodation.

Compliance criteria	
1.	Migrant workers must have possession and control of their personal/identity documents (including passports) and valuables. Suppliers should inform workers of their rights to maintain control of their passports and identity documents at all times. MEXA members must only request and take possession of migrant workers' personal/identity documents when required by law (such as for processing of permits), and must promptly return the documents to migrant workers when no longer required. MEXA members must request full and informed consent from the migrant worker to obtain their documents for this purpose.
2.	MEXA members should ensure that workplace exits are unlocked (except for occupational health and safety reasons), and that any security guards and surveillance technologies are not used to restrict migrant workers' movements.
3.	Migrant workers should be able to freely enter and exit their accommodation at any time of the day or night.
Leader criteria	
4.	Where accommodation provided by MEXA members is far from community facilities, stores, markets and services, MEXA members should make arrangements to facilitate workers' access to such places.

⁵⁴ Section 20 of the Workers' Rights Act 2019.

⁵⁵ Specifically, the ILO Hours of Work (Industry) Convention, 1919 (No.1); Reduction of Hours of Work Recommendation, 1962 (No. 116); Weekly Rest (Industry) Convention, 1921 (No. 14); see also ILO Q&As on business and working time.

⁵⁶ Exceptional circumstances arise where all of the following conditions are met: (a) the overtime is permitted by national law; (b) the overtime is allowed by a collective agreement freely negotiated with a workers' organization representing a significant portion of the workforce; (c) appropriate safeguards are taken to protect the workers' health and safety; and (d) there is an exceptional situation that necessitates overtime, such as accidents or emergencies.

(11) Provision of accommodation

Migrant workers should have access to safe, sanitary and decent accommodation.

Compliance criteria

1. MEXA members have a responsibility to ensure that migrant workers have accommodation and lodging. The migrant workers' accommodation should, at a minimum, meet national legal standards, and be gender-responsive and culturally sensitive and inclusive. Accommodation should be clean, decently habitable and maintained in a good state of repair.

Leader criteria

2. MEXA members should have a system in place to monitor conditions of accommodation and provide channels for migrant workers to report issues with accommodation, without fear of retaliation.
3. MEXA members should create a migrant centre located inside or adjacent to migrant worker accommodation that serves as a social hub for migrant workers and their families to socialize and meet friends and family members.

(12) Access to health care and social protection

Migrant workers should have full access to health care and social protection.

Compliance criteria

1. MEXA members should ensure that migrant workers have free access to medical check-ups and treatment and provide appropriate compensation in case of occupational accident or injury in line with national law. MEXA members should ensure, at their own costs, that migrant workers are promptly taken to public hospitals or other similar institutions to receive such treatment where the worker is injured at work or sick. In such cases, MEXA members should also inform the worker of their right to apply for compensation in accordance with national law. If a migrant worker is injured and cannot work, MEXA members should, at their own costs, repatriate the migrant worker and ensure that the worker receives the compensation that they are entitled to.
2. MEXA members should provide social security benefits and insurance in accordance with national law requirements.
3. MEXA members should be insured against personal injury to, or death or disablement of, migrant workers due to workplace accidents arising in the course of employment, or for purpose of and in connection with, the employer's trade or business.
4. MEXA members should ensure that migrant workers receive compensation benefits, including refunds of contributions to the National Savings Fund, the National Pensions Fund, and should provide for compensation to the next of kin in case of death.

(13) Freedom of association and collective bargaining

MEXA members must respect the right of migrant workers to join or form independent trade unions of their choice and their right to collective bargaining.

Compliance criteria

1. Migrant workers should have the right to join or form trade unions of their own choosing and to bargain collectively, without prior authorization from MEXA members. MEXA members must not interfere with, obstruct or prevent such legitimate activities.
2. MEXA members should not discriminate against, engage in retaliatory actions against, or otherwise penalize worker representatives or trade union members due to their membership in or affiliation with a trade union, or interfere or discourage with legitimate trade union activity.
3. MEXA members should seek feedback from migrant workers regarding any issues they face in joining or forming a trade union or collective bargaining.

Leader criteria

4. MEXA members should inform migrant workers of their rights to freedom of association and collective bargaining and provide relevant information to migrant workers in a language and format understood by them on how to join a trade union or approach trade union representatives.

(14) Grievance mechanisms and access to remedy

MEXA members should establish grievance mechanisms that are accessible to migrant workers and deliver effective remedies where rights violations occur.

Compliance criteria	
1.	MEXA members should operate or participate in a grievance mechanism that is fair, transparent, legitimate, equitable, rights-compatible, accessible to migrant workers and a source of continuous learning.
2.	MEXA members should provide a clear and known procedure with an indicative time frame for grievances lodged by migrant workers in an expedite manner.
3.	MEXA members should not engage in retaliatory actions against migrant workers who engage with the grievance mechanism and implement measures to protect the confidentiality of the migrant worker.
Leader criteria	
4.	MEXA members should design grievance mechanisms in consultation with the groups they are intended to serve, focusing on dialogue as the means to address and resolve grievances.
5.	MEXA members should ensure that freely and democratically elected worker representatives and/or independent mediators are available to support conflict resolution, or otherwise socialize, promote access to, and connect migrant workers with services such as independent grievance mechanisms or consular support.
6.	MEXA members should make reasonable endeavours to work collaboratively with trade unions and civil society groups in the operation of their grievance mechanisms and engage these stakeholders in monitoring and reviewing the performance of the grievance mechanism.

(15) Termination and change of employers, return to countries of origin or onward migration

Migrant workers should be free to terminate their employment.

Compliance criteria	
1.	MEXA members must respect the migrant worker's right to leave the workplace after their service, and to terminate their contract with legal and reasonable advance notice.
2.	MEXA members must respect the right of migrant workers to seek alternative legal employment, and should not obstruct, interfere or otherwise prevent migrant workers from changing employers (whether in Mauritius or in another country), in accordance with applicable laws and regulations.
3.	Upon completion of the employment contract, MEXA members should pay for the repatriation cost of the migrant worker from the workplace to their original exit point in their country of origin, except for where the migrant worker has not provided the legally required notice period; the migrant worker finds alternative legal employment in Mauritius; or the migrant worker is summarily dismissed for gross misconduct, illegality or otherwise involuntarily terminated for cause in accordance with the MEXA members' disciplinary procedures or terms of employment, before the termination date of the contract.
Leader criteria	
4.	Upon the completion of their employment contract, MEXA members should seek feedback from migrant workers about their recruitment and employment experience and apply this feedback to improve their internal procedures (such as human rights due diligence), policies or other internal learning opportunities. Migrant workers should be free to provide their feedback confidentially, without fear of retaliation and/or with the option of preserving their anonymity.



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