




Growing Asia's Markets



INVESTORS' ESG EXPECTATIONS

LABOUR PRACTICES: An Asian Perspective

September 2022



ASIFMA is an independent, regional trade association with over 165 member firms comprising a diverse range of leading financial institutions from both the buy and sell side including banks, asset managers, accounting and law firms, and market infrastructure service providers.

Together, we harness the shared interests of the financial industry to promote the development of liquid, deep and broad capital markets in Asia. ASIFMA advocates stable, innovative and competitive Asian capital markets that are necessary to support the region's economic growth. We drive consensus, advocate solutions and effect change around key issues through the collective strength and clarity of one industry voice. Our many initiatives include consultations with regulators and exchanges, development of uniform industry standards, advocacy for enhanced markets through policy papers, and lowering the cost of doing business in the region. Through the GFMA alliance with SIFMA in the U.S. and AFME in Europe, ASIFMA also provides insights on global best practices and standards to benefit the region.

www.asifma.org

If you have any comments or questions, please reach out to Yvette Kwan, Executive Adviser, Asset Management Group (ykwan@asifma.org).

ASIFMA would like to extend its gratitude to all of the individuals and member firms who contributed to the preparation of this Paper



CONTENTS

Foreword.....	4
Why company labour practices should matter to companies.....	4
Regulations, customers, other stakeholders and new technology are raising the stakes	6
Recommendation.....	7
Details of the recommendation.....	7
Sample good practices in addressing labour issues.....	9
Appendix – List of selected resources for directors.....	12



FOREWORD

In June 2021, ASIFMA's Asset Management Group (AAMG), comprising some of the world's largest investment managers, issued a guidance for investee companies in Asia entitled '[Investors' ESG Expectations. Best Practices and Recommendations: An Asian Perspective](#)'. The paper aimed to help improve companies' understanding of, engagement with, and disclosure of, sustainability issues.

The paper described the reasons why companies should adopt best practice in ESG¹ matters from business and financial perspectives, with a message to take charge of the corporate narrative in order to build trust with investors, consumers, and employees, all set against a backdrop of increasing regulation and expectations from these stakeholders.

This follow-on guidance delves into how labour practices affect companies in Asia.

WHY COMPANY LABOUR PRACTICES SHOULD MATTER TO COMPANIES

Businesses have a fundamental responsibility to respect human rights and provide access to remedies when such rights have been violated.² It is not only the right thing to do for workers along the supply chain, but there is also a business case for it. For example, it can:

1. Strengthen supply chain resiliency and efficiency;
2. Address growing legal and regulatory risks;
3. Reduce reputational risk and related business impacts.

Conversely, objectionable labour practices can have immediate ramifications from bans on operation and loss of business, to diversion of resources to investigate and rectify issues. Further implications include negative market reaction, fines and imposition of stricter rules by regulators.

Labour practices have been guided by long-standing local and international regulations and standards. In particular, the International Labour Organization (ILO), a United Nations agency which sets international labour standards, has drawn up a range of conventions setting out basic principles and rights of workers that are ratified by member nations. Fundamental conventions cover the topics of collective bargaining, forced labour, child labour, equal opportunity, and occupational safety and health (see Appendix for further details).

However, labour issues remain a major issue for policy makers to tackle, in part driven by the increasing globalisation and complexity of supply chains. For instance, 24.9 million people globally are estimated to be the victims of forced labour, often subject to debt bondage and human trafficking, with 63% of victims being women and girls.³ Estimates indicate that forced labour generates US\$150 billion in

¹ ESG: Environmental, Social, Governance

² United Nations, [Guiding Principles on Business and Human Rights](#), 2011

³ International Labour Organization and Walk Free (part of the Minderoo Foundation), [Global Estimates of Modern Slavery](#), 2017

profits annually.⁴ Many of the practices keeping people in forced labour are illegal and typically associated with crime and corruption.

This is particularly true in Asia, where institutional investors are interested to understand how issues around forced labour and the use of migrant workers may affect their investee companies. How labour practices are managed in a company's own operations and across its supply chain can be a material issue in many industries and sectors.

Historically, certain sectors were perceived to have a higher risk due to their dependence on a low skilled workforce and/or migrant workers. They include but are not limited to the construction, agriculture / fishing, apparel and electronics manufacturing, and mining sectors. But a number of other sectors may also be impacted through their supply chain. For example, technology companies where some of their product components are reliant upon the mining of critical minerals.

KEY CONCEPTS

Forced labour: all work or service which is exacted from any person under the threat of a penalty and for which the person has not offered himself or herself voluntarily (ILO, 1930 Forced Labour Convention)

Indicators of Forced Labour⁵

- Abuse of vulnerability
- Deception
- Restriction of movement
- Isolation
- Physical and sexual violence
- Intimidation and threats
- Retention of identity documents
- Withholding of wages
- Debt bondage
- Abusive working and living conditions
- Excessive overtime

Modern slavery: not defined in international law but an umbrella term that covers concepts such as forced labour, debt bondage, and forced marriage.

⁴ International Labour Organization, [Profits and Poverty: The Economics of Forced Labour](#), 2014

⁵ International Labour Organization, [ILO Indicators of Forced Labour](#), 2012



REGULATIONS, CUSTOMERS, OTHER STAKEHOLDERS AND NEW TECHNOLOGY ARE RAISING THE STAKES

Over the past few years, there has been a significant change in focus on a company's sustainability characteristics in general, and labour practices in particular. The proliferation of social media and smart phones have also increased the likelihood of adverse labour practices surfacing more frequently and publicly.

A company's exposure to this dynamic is complex and will depend on where it is headquartered, the physical location of its supply chain, source of raw materials, and the end markets in which products are sold. Examples of recent evolving regulations, standards and operating environments include:

- **Australia's** Modern Slavery Act effective since 2019 covers supply chains, investment and lending portfolios, and applies mandatorily to large reporting entities with over AU\$100 million (~US\$68 million) in annual consolidated revenue.
- **South Korea's** Serious Accidents Punishment Act (SAPA) effective from 2022 expressly places responsibility for workplace accidents and occupational illnesses on the top decision-maker of the business concerned, usually the chief executive officer, and strengthens penalties for violations.
- The stock exchange of **Thailand** and its partners published a comprehensive guide⁶ to assist Thailand-listed companies to identify, address and report on modern slavery risks throughout their value chain
- **China** this year ratified two key ILO conventions: the 1930 Forced Labour Convention and the 1957 Abolition of Forced Labour Convention.
- **Japan** has drafted and is expected to enact non-binding guidelines for human rights due diligence across the supply chains of Japanese companies later this year.
- The **European Commission** this year released its draft regulation on human rights and environmental due diligence, Corporate Sustainability Due Diligence (CSDD) Directive. The rules will apply initially to large EU companies or those with large EU turnover two years after the formal legislative process is completed.
- Countries including the **United States, Canada and Mexico** have regulation in place that can block goods allegedly made with forced labour from entering the country.
- New business models especially those enabled by new technology, such as smart phones and digital platforms, have facilitated new ways of working that can provide additional flexibility, but also introduce new challenges. For example, many 'gig economy' contracts may not include the same rights and protections as traditional contracts.

⁶ Stock Exchange of Thailand, Walk Free, and Finance Against Slavery and Trafficking (FAST), [Guidance on Modern Slavery Risks for Thai Businesses](#), 2021

RECOMMENDATION


Open dialogue between investors and investee companies on labour practices is critical for all stakeholders to have a clear understanding of the underlying issues. Our members who are institutional asset managers acknowledge that labour practices can be a highly sensitive topic and companies may be hesitant to discuss their labour practices for fear of being 'named and shamed' in research reports or the media. Our members typically view engagement on labour practices as a partnership with investee companies to understand and communicate the management of such issues. For example, how investee companies can identify, remediate and prevent these issues. Having open dialogue between investors and companies can help prevent a third party from creating and controlling the narrative around a company's performance on labour practices.

DETAILS OF THE RECOMMENDATION

- Risk identification and remediation:** Investors are interested to understand how labour-related risks are identified by investee companies, with a view to minimise the impact of such risks. For example, the creation and discussion of a risk 'heat map' that takes into account the country, sector, and extent of direct oversight of individual activities within a company's supply chain can be a helpful tool to identify areas of focus. Where an issue or violation has already occurred, the focus is on efforts to prevent it from occurring in future and to provide access to remedy for those adversely impacted.
- Management approach:** Labour practices is a complex and multi-faceted issue, which can be further complicated by layers of geographically diverse supply chain participants. With so many variables at play, investors do not expect companies to be flawless in their labour practices. Instead, it is helpful and meaningful for investors to understand the approach undertaken by companies and the extent to which such approaches are integrated into corporate structures and processes, and reflected in data points which investors seek.
- Management preparedness:** Investors understand that while regrettable, labour issues do occur. There is therefore an imperative for responsible investors to be informed and assess a company's ability to anticipate, monitor, respond and remediate to current and future issues. Management of a challenging situation that has been discovered by a company is equally important as the discovery itself.

 - Disclosing beyond broad policies:** Policies, frameworks and charters may indicate the incorporation of labour practices issues into an organisation's structures and processes but are insufficient to demonstrate effective consideration and integration of risk mitigation practices. Our expectations as investors are that companies are proactively seeking to understand not only the practices in their direct operations, but also within their supply chains, and working actively to establish appropriate minimum standards, controls and oversight across their supply chains, all disclosed with the appropriate level of transparency.

Grievance mechanisms and supplier audits are examples of controls which can be built into processes to identify and monitor issues, while supplier training can be a preventative measure. Quantitative disclosure, such as metrics and targets, are



useful tools to understand how a company is identifying, monitoring and improving underlying performance on labour issues that have been identified. For example, the number of violations and tracking progress on remediation efforts.

- **Applying a TCFD-inspired approach to labour risk management:** Core elements of the Financial Stability Board's Task Force on Climate-related Financial Disclosures (TCFD) Recommendations are Governance, Strategy, Risk Management, Metrics and Targets. AAMG have previously advocated for the adoption of the TCFD

Recommendations to a broader set of ESG matters (not just climate-related), including labour practices, and highlighted how companies can avoid common pitfalls in sustainability disclosure. By avoiding a compliance mindset and repositioning labour issues from just a public relations exercise, companies are better able to bridge the mismatch between investors' expectations and company actions and disclosure.

KEY TAKEAWAYS

- **Open dialogue:** Labour practices can be a sensitive topic but an open and frank discussion is necessary and appreciated by investors, and preferably not avoided
- **Preparedness:** Investors are interested to know and assess a company's **ability to anticipate, monitor, respond and remediate**
- **Disclosing beyond policy:** The existence and disclosure of a policy is insufficient. Investors look for the adoption of global standards and best practices, controls and oversight, and transparency
- **A TCFD-inspired approach:** Labour practices considerations should cover governance, strategy, risk management, as well as metrics and targets

SAMPLE GOOD PRACTICES IN ADDRESSING LABOUR ISSUES

Set out below is a list of good practices, highlighting a typical set of considerations that investors may find useful to assess a company’s engagement with identified labour issues. We also provide some examples of companies that faced such issues and how they responded to address them. Rather than absolute best practices, these examples illustrate how these companies – sometimes operating in challenging sectors from a labour practices perspective - improved their practices and disclosure to address investor and stakeholder concerns.

Issue: Management and governance of responsible sourcing and supply chain management

GOOD PRACTICES

- Adherence to global standards, such as:
 - International Labour Organization (ILO) labour standards
 - United Nations Universal Declaration of Human Rights (UDHR)
 - United Nations Guiding Principles on Business and Human Rights (UNGPR)
- Making reference to ILO indicators of forced labour
- Production of a labour practice statement
- Disclosures of how labour practices are discussed at board level, and board member expertise in human rights
- Adoption of human rights due diligence, supplier audits, supplier training and engagement, grievance mechanisms, etc

EXAMPLES

- Singapore Telecommunications Limited (Singtel) issued a [Human Rights Statement](#) guided by international human rights principles, covering:
- Commitments to labour rights, business practices in supply chains, grievance mechanisms
 - Governance of labour issues, including oversight by Board
 - Stakeholder engagement

Issue: Treatment of migrant and other workers fairly or in accordance with international labour standards (e.g. debt bondage concerns)

GOOD PRACTICES

Policy commitment

Stated commitment to uphold labour standards, protect workers' rights and combat forced labour via robust statement of policy, such as:

- Human Capital Management Policy
- Labour Policy, or
- Responsible Recruitment / Zero Cost Recruitment Policy

Human rights due diligence

- Reporting on how salient human rights issues and impacted individuals within operations are identified and mitigated
- Due diligence process of supply chains
- Stakeholder engagement and training
- Measurement and provision of remedy to affected groups

EXAMPLES

Samsung Group adopted [Labour policies and guidelines](#) to protect vulnerable groups typically affected by the company, including:

- Child Labor Prohibition Policy
- Migrant Worker Policy
- Student Worker Policy in China
- Guidelines for Apprenticeship in India

To address stakeholder concerns on the human rights risks it is exposed to, Thai Union Group implemented a [Human Rights Due Diligence Framework](#), covering:

- Basic Statement, Strategy, Targets & Policies on Human Rights
- Assessment of human rights risks
- Prevention of minimisation of human rights violation risks
- Detection of violations
- Provision or facilitation of remedies
- Tracking and disclosing progress and effectiveness of due diligence



GOOD PRACTICES

Grievance mechanism

- Robust grievance mechanism accessible to workers, communities, civil society organisations and other stakeholders in supply chain, preferably in local languages
- Transparent disclosure and timely updates of complaints received
- Active engagement with complainants and other stakeholders to work towards the resolution of identified grievances / incidents, preferably with a time-bound action plan
- Ability to prevent additional grievances, controversies or incidents of a similar nature by identifying areas of improvement, and publishing policy or procedure improvements
- Robust Whistleblowing Policy committing to whistle-blower protection and investigation

Remediation

- Where necessary, embark on remediation programs, to identify and rectify gaps in recruitment practices / adherence to ILO indicators
- Audit programs and processes to ensure alignment and compliance to labour-related policies / ILO Indicators, via third-party assurances and verification

Prevention

- Enlist subject matter experts or independent consultants, as applicable, to build the company's and/or board's expertise and knowledge on social-related risks and opportunities in its value chain (e.g. debt bondage, modern slavery etc)

EXAMPLES

To address the need for effective grievance mechanism in the sensitive plantation sector, Wilmar International Limited put in place a number of initiatives:

- [Grievance procedure process flow](#) with time-bound commitments, including jointly-developed action plan for the resolution of grievances
- Multiple grievance channels and a publicly available [Grievance List](#) that tracks the progress of each case
- Robust governance structures with clearly-defined roles and responsibilities
- [Whistleblowing Policy](#) including monetary rewards for whistle-blowers

To remediate concerns raised around the use of forced labour, a [report by consulting firm, Impactt](#) details how Top Glove Corporation Berhad implemented the following:

- Successful remediation / repayment of recruitment fees to current and eligible former workers
- Termination of recruitment agencies contracts and public commitment to re-tender all the company's recruitment agency relationships
- New contract template incentivising ethical and fair recruitment, as well as increased third-party due diligence during the recruitment process
- Hiring of third-party to investigate and review actions and plans against the ILO Indicators of Forced Labour and Corrective Action Plan

According to that same Impactt report, Top Glove Corporation Berhad also introduced a fair and transparent process for the adjudication and settlement of any future forced labour related claims by migrant workers, together with the establishment of two sinking funds governed by a Board-level committee with independent expert member and advisor

Issue: Disclosure on auditing mechanisms

GOOD PRACTICES

- Disclosure on auditing activities, including scope, frequency, depth, and results
- Employment of accredited third-parties to conduct on-site auditing
- Disclosure of spot checks on recruitment agencies and supply chains

EXAMPLES

Taiwan Semiconductor Manufacturing Company implemented robust disclosures on supply chain auditing:

- Disclosure on number of on-site audits, type of violations uncovered, and corrective actions taken
- Disclosure on results of auditing exercise, including the penalty terms for violation identified, etc
- Clear short and long-term goals to enhance supply chain labour rights management
- Clear definition of Tier 1 suppliers, critical suppliers, critical high-risk suppliers, etc
- Enhancement of supply chain resilience through assembling an auditing team that includes third-party Responsible Business Alliance (RBA)-certified institutions that conduct audits collaboratively

Source: Taiwan Semiconductor Manufacturing Company [Corporate Social Responsibility Report, 2020](#)

Another example is ASE Technology Holding:

- Apart from supply chain auditing, disclosure on how third-party audits are conducted for companies within its own operations
- Disclosure includes information on RBA Validated Assessment Program (VAP) scores for all of its manufacturing facilities

Source: ASE Technology Holding, [Corporate Social Responsibility Report, 2020, page 19](#)

Issue: Health & safety measures

GOOD PRACTICES

- Robust Operational Health and Safety (OH&S) management system in place, with relevant targets and timely disclosure of the company's performance against said targets
- Presence and disclosure of an official OH&S policy (ISO 45001)
- Mandatory OH&S training during orientation and on a periodic basis
- Detailed records of workplace inspections
- Records of accidents, incidents and near-misses, investigations and remediation plans
- Presence of emergency procedures with periodic review
- Periodic drills
- OH&S standards and plans to measure and increase conformity communicated to suppliers

EXAMPLES

Towngas adopted a Health and Safety Policy which includes:

- An Occupational Safety and Health management system
- Disclosure of monitoring, reporting and governance
- Disclosure of lost-time injury frequency rate and safety training hours

Source: Towngas, [Occupational Safety and Health](#)

Another example is Swire Pacific's OH&S policy which includes:

- Safety Management Systems (SMS), including accident investigation programmes, near-miss and hazard reporting system
- Disclosure of injury KPIs / targets: lost time injury rates (LTIR) and lost day rates (LDR); safety training hours provided and completion rates for mandatory training

Source: Swire Properties, [Occupational Health and Safety](#)

APPENDIX – LIST OF SELECTED RESOURCES FOR DIRECTORS

ORGANISATIONS

- ASEAN CSR Network
<https://www.asean-csr-network.org/c/>
- Investors Against Slavery and Trafficking Asia Pacific
<https://www.iastapac.org/>
- International Labour Organization
<https://www.ilo.org/global/lang-en/index.htm>

OTHER RESOURCES

- ASEAN CSR Network, the Institute of Human Rights and Peace Studies, Mahidol University, and Article 30, **Human Rights Disclosure in ASEAN**, 2019
http://asean-csr-network.org/c/images/190506-upload/Human_Rights_Disclosure_in_ASEAN-Full_Report.pdf
- Asia Securities Industry & Financial Markets Association, **Investor's ESG Expectations. Best Practices and Recommendations: An Asian Perspective**, 2021
<https://www.asifma.org/research/asifma-investor-esg-expectations-an-asian-perspective/>
- CCLA, **Engagement expectations, Find It, Fix It, Prevent It, An investor project to tackle modern slavery**, 2020
<https://www.modernslaveryccla.co.uk/sites/default/files/2020-05/Modern%20Slavery%20Engagement%20Expectations%20Final.pdf>
- International Labour Organization, **Conventions and Recommendations by subject and status**
<https://www.ilo.org/dyn/normlex/en/f?p=NORMLEXPUB:12030:0::NO::>
- International Labour Organization, **ILO Indicators of Forced Labour**, 2012
https://www.ilo.org/global/topics/forced-labour/publications/WCMS_203832/lang-en/index.htm
- Stock Exchange of Thailand, Walk Free, and Finance Against Slavery and Trafficking (FAST), **Guidance on Modern Slavery Risks for Thai Businesses**, 2021
<https://www.walkfree.org/resources/guidance-on-modern-slavery-risks-for-thai-businesses/>
- United Nations, **Guiding Principles on Business and Human Rights (UNGPs)**, 2011
<https://globalnaps.org/wp-content/uploads/2018/08/un-guiding-principles-on-business-and-human-rights.pdf>