



**GUIDANCE DOCUMENT FOR
SOCIAL
ACCOUNTABILITY 8000
(SA8000®)**

SECOND EDITION

**Social Accountability
International**

Social Accountability International

U.S. Headquarters:

220 East 23rd Street, Suite 605 // New York, NY 10010

Phone: (212) 684-1414 // Fax: (212) 684-1515

Email: info@sa-intl.org Website: // <http://www.sa-intl.org>

INTRODUCTION	4
§ I. HOW TO USE THE SA8000 GUIDANCE DOCUMENTS	4
§ II. SA8000 PURPOSE AND SCOPE	7
§ III. SA8000 DEFINITIONS	11
CHILD LABOUR	13
§ I. STANDARD REQUIREMENTS AND INTERPRETATION	13
§ II. AUDITING CONSIDERATIONS	15
§ III. BACKGROUND INFORMATION	23
FORCED LABOUR	27
§ I. STANDARD REQUIREMENTS AND INTERPRETATION	27
§ II. AUDITING CONSIDERATIONS	28
§ III. BACKGROUND INFORMATION	33
HEALTH & SAFETY	35
§ I. STANDARD REQUIREMENTS AND INTERPRETATION	35
§ II. AUDITING CONSIDERATIONS	36
§ III. BACKGROUND INFORMATION	42
FREEDOM OF ASSOCIATION AND THE RIGHT TO COLLECTIVE BARGAINING	52
§ I. STANDARD REQUIREMENTS AND INTERPRETATION	52
§ II. AUDITING CONSIDERATIONS	54
§ III. BACKGROUND INFORMATION	63
DISCRIMINATION	68
§ I. STANDARD REQUIREMENTS AND INTERPRETATION	68
§ II. AUDITING CONSIDERATIONS	69
§ III. BACKGROUND INFORMATION	76
DISCIPLINARY PRACTICES	79
§ I. SA8000 REQUIREMENTS AND INTERPRETATION	79
§ II. AUDITING CONSIDERATIONS	79
§ III. BACKGROUND INFORMATION	82
WORKING HOURS	85
§ I. STANDARD REQUIREMENTS AND INTERPRETATION	85
§ II. AUDITING CONSIDERATIONS	86
§ III. BACKGROUND INFORMATION	91
REMUNERATION	94
§ I. STANDARD REQUIREMENTS AND INTERPRETATION	94
§ II. AUDITING CONSIDERATIONS	95
§ III. BACKGROUND INFORMATION	102
MANAGEMENT SYSTEMS	107
§ I. STANDARD REQUIREMENTS AND INTERPRETATION	107
§ II. AUDITING CONSIDERATIONS	114
§ III. BACKGROUND INFORMATION	123
AUDITING PROCESS	128
§ I. GENERAL PARAMETERS OF THE AUDITING PROCESS	128
§ II. PREPARING THE AUDIT	128

§ III. CONDUCTING THE AUDIT	137
§ IV. POST-AUDIT ACTIVITIES	148
APPENDICES	153
§ I. SA8000 STANDARD	153
§ II. ADVISORIES	161
§ III. THANK YOUS	167

INTRODUCTION

§ I. HOW TO USE THE SA8000 GUIDANCE DOCUMENTS

A. Purpose and Structure

The Guidance Document provides various tools and information for users of the Social Accountability 8000 standard, including definitions, background information and examples. *The Guidance Document does not impose additional requirements beyond those contained in SA8000.* See Appendix I for the full text and requirements of the SA8000 standard.

This document seeks not only to assist auditors in interpreting SA8000, but also to serve multiple audiences by communicating how the SA8000 verification system works in the field. Thus, this document is both a field guide for auditors and a teaching tool for managers and workers who develop techniques for implementing SA8000 and monitoring ongoing compliance.

The Guidance Document is primarily a series of recommendations on methods and techniques for carrying out an SA8000 certification audit. Background examples include social situations relating to auditing questions that have arisen over the years as well as examples of the changing legal context in different countries. These examples, like this document, are not exhaustive. These examples are meant to help orient auditors on the types of issues that arise and which might need investigation. The Guidance Document is only updated every several years, following revisions to the SA8000 standard; the examples herein indicate to auditors the significant extent to which they need to constantly keep abreast of local regulations and labor relations dynamics.

Users of this Guidance Document may include: the auditor, the contractor, the brand, retailer, implementing facility (farm, factory, service provider, etc.), and other interested parties such as workers, trade unions and NGOs. The Guidance assists external and internal auditors, as well as consultants, in preparing and executing the audit, and specifying the necessary follow-up. Employers seeking to ensure compliance with SA8000 will find this document useful for developing systems, taking necessary corrective actions and helping managers to understand better their responsibilities vis a vis workers' rights. Companies conducting internal audits will also find the Guidance useful in setting the framework for internal monitoring programs aimed at assuring continued supplier conformance with SA8000.

The Guidance provides detailed interpretations and background examples relating to each of the SA8000 requirements. The nine chapters on the elements of the standard are broken down into three sections:

- I. *Standard Requirements and Interpretations* includes: the relevant SA8000 requirements; definitions and interpretations of those requirements; and the intent of that element of the standard.

- II. *Auditing Considerations* includes: key issues to review; examples of evidence of compliance; and suggestions for conducting worker interviews.
- III. *Background Information* includes case studies; relevant language from ILO conventions; and/or legal examples.

The document concludes with an *Audit Process Chapter*, reviewing not only the actual audit process, but also the preparatory and follow-up stages. This chapter also includes extensive recommendations on gathering information from, and staying informed by local NGO and trade union representatives, as well general considerations for structuring interviews with workers.

B. SA8000 Standard and Guidance Review Process

Like the SA8000 Standard, the *Guidance Document* is vetted publicly and revised every five years. SAI publishes updates on auditing requirements in the form of Auditor Advisories. Advisories effective as of December 2004 are located in the appendix of this Guidance; for an updated list of Auditor Advisories, please refer to the SAI website (www.sa-intl.org). Auditors are expected to adapt their practices to these new requirements and recommendations as soon as possible.

This is the second edition of the *Guidance Document* and replaces the previous version, published in 1999. The overall Guidance Review Process has been extensive, starting with a series of surveys and workshops, field research and several lengthy discussions during SAI Advisory Board meetings:

- SAI convened six, multi-stakeholder consultative workshops jointly with local partners – in the Philippines, Brazil, Hungary, China, Honduras, and the U.S. – between 1999 and 2001.¹ During these workshops, discussions focused on auditing methods and interpretations of the SA8000 standard. The reports summarizing participants’ comments (available upon request) grounded the initial redrafting of the *Guidance*.
- In 2001 a survey was sent to all participating auditors who had completed the SA8000 Auditor Training courses; these comments were also incorporated into the redrafting considerations.
- SAI research staff actively invited participants to join and consulted with reviewers on the Guidance Committee during 2002 and 2003. This virtual committee, at its peak, grew to sixty members who participated as reviewers on a confidential basis. Over one-third of these members responded with substantial feedback on their areas of expertise, engaging SAI research staff on an ongoing basis.
- During 2003, the Guidance redrafting process was put on hold while staff worked intensively to build country programs in Vietnam, China and Central America. The opportunity to have SAI research and program staff visiting factories and training managers and workers also provided substantive inputs to the text, based

¹ Financial support for these workshops and related research came from: the Rockefeller Foundation; the Open Society Institute; the Ford Foundation; the General Service Foundation; and the U.S. Department of State’s Bureau for Democracy, Rights and Labor.

on feedback from the field. Many of the case studies included herein derive from this country-level work.

- The final draft chapters of *the Guidance Document* were posted to the SAI website during August, September and October of 2004, inviting comments from the general public. This last round of soliciting input garnered more than a dozen responses, with helpful comments on diverse sections of the document.

C. Guidance Users

1) Auditors

The Guidance provides valuable interpretations for auditors both as they prepare systems and train audit teams for meeting SAI accreditation requirements and as a reference piece when they prepare to carry out SA8000 audits. Because the Guidance contains only a series of recommendations and not requirements, however, it is still the auditors' responsibility to determine what works best in the field. Thus, auditors who simply follow the Guidance to the letter may find they are unable to obtain and/or maintain their accreditation from SAI. In most cases, for example, the kinds of "evidence of compliance" auditors should look for will need to be expanded and adapted to cover regulations stipulated by local laws and other particularities of the local context.

2) Managers

Managers – plant and farm managers as well as retailer/brand sourcing managers – will find this document useful in their preparation for SA8000 audits. The Guidance provides detailed examples of the types of things that auditors will look for during an audit and thus the types of documentation managers should have available in order to expedite the audit process.

There are two highly important types of evidence of compliance with SA8000: the documentation of policies, procedures and historical records; corroboration of the effective impact of SA8000 implementation through interviews with workers, managers and other interested parties. Thus, SA8000 is accessible to small facilities as well as large facilities. Not only are fewer auditor days required for small facilities, but less elaborate management systems are required as well. The Guidance recommends that auditors look not only for documents and policies, but also for worker and interested party confirmation of the facility's conformance with SA8000. SAI-accreditation procedure 150 requires certifications auditors to conduct these interviews with workers and interested parties.

- In *large production facilities*, particularly where there is a high staff turnover rate, the communication systems, training programs, and the SA8000 policies need to be comprehensive, with participation of all levels of management, in order to ensure all workers are involved in and understand the company's SA8000 program.

- In *small production facilities*, particularly those with 100 or fewer workers, the policies and programs may be much less formal, but still as effective. It is easier to communicate these policies to 100 people than it is to 500 or 1,000.

SA8000 is not less stringent for smaller suppliers, but some of the examples of the evidence of compliance may not be applicable or needed at smaller facilities, provided there is adequate proof of compliance for the size of the operation.

3) Interested Parties

The Guidance Document is also intended as a communication tool for workers and representatives from trade union, non-governmental organizations (NGOs) or other local interested parties such as the Labor, Health or Education Ministries, for example. For those organizations involved in researching or, as with workers and their organizations, with the day to day monitoring of workplace conditions, this document may facilitate strategies for constructively engaging company managers in improving these conditions.

§ II. SA8000 PURPOSE AND SCOPE

A. SA8000- Fundamental Principles & Normative Elements

SA8000 is an international standard for improving working conditions around the world. It is based on the principles of thirteen international human rights conventions; ten of which are conventions of the International Labour Organisation (ILO). The ILO is the oldest UN agency and the only one to have a tri-partite structure, composed of trade unions, employers' organizations, and governments. Extensive interpretations, detailed cases and expert recommendations relating to the interpretation and application of these conventions can be found on the ILO's website: www.ilo.org. SA8000 also draws on the Universal Declaration of Human Rights; the UN Convention on the Rights of the Child; and the UN Convention to Eliminate All Forms of Discrimination Against Women.

- 1) ILO Conventions 29 and 105 (Forced & Bonded Labour)
- 2) ILO Convention 87 (Freedom of Association)
- 3) ILO Convention 98 (Right to Collective Bargaining)
- 4) ILO Conventions 100 and 111 (Equal remuneration for male and female workers for work of equal value; Discrimination)
- 5) ILO Convention 135 (Workers' Representatives Convention)
- 6) ILO Convention 138 & Recommendation 146 (Minimum Age and Recommendation)
- 7) ILO Convention 155 & Recommendation 164 (Occupational Safety & Health)
- 8) ILO Convention 159 (Vocational Rehabilitation & Employment/Disabled Persons)
- 9) ILO Convention 177 (Home Work)
- 10) ILO Convention 182 (Worst Forms of Child Labour)
- 11) Universal Declaration of Human Rights

- 12) The United Nations Convention on the Rights of the Child
- 13) The United Nations Convention to Eliminate All Forms of Discrimination Against Women

SA8000 requirements defer to national law, however, wherever national law is more stringent than international norms:

“When national and other applicable law, other requirements to which the company subscribes, and this standard address the same issue, that provision which is most stringent applies.” (SA8000 section II)

The SA8000 standard is intended to help apply these norms to practical work-life situations. SA8000 expands on the eight conventions of the ILO’s Declaration of Fundamental Principles of Rights at Work – which covers child labor, forced labor, discrimination and free association and collective bargaining – to include standards on health and safety, working hours, wages, and discipline. These eight core elements of SA8000 are essential to enabling auditors to cross-check and verify compliance. All eight elements are interrelated and to varying degrees, compliance with one is dependent on compliance with another. Finally, the management systems requirements of SA8000 move beyond a check list approach, encouraging managers to make sustainable systemic changes in how they run their business.

B. SA8000 Certification

Once an organization has implemented the necessary improvements, it can earn a certificate attesting to its compliance with SA8000. The certificate provides a report of good practice to consumers, buyers, and other companies. Certification lasts for three years, with surveillance audits required every six months. If problems are found during the surveillance audit or a complaint is received, auditors may need to return sooner.

The certificate is a significant milestone in improving workplace conditions and certified workplaces are required to make public their certification. SAI’s website also publishes this information (www.sa-intl.org). Maintaining and improving the systems put in place to achieve certification is an ongoing process and substantive worker participation can be the best means to ensuring systemic change.

Companies that are certified can display their certificate in a store or factory or catalogue, in company advertising, and on company stationery. The SAI procedures manual specifies how the SA8000 mark can be used. Individual products cannot be labeled. It is the workplace process, not the actual product or product quality, which is being certified; an SA8000 audit doesn’t cover individual product inspection.

C. The Assessing Organizations

Third party assessment of compliance to SA8000 standards is available through SAI-accredited, independent organizations. Accreditation is the process whereby formal recognition of competence is given to qualified certification bodies by Social Accountability International (SAI). This process includes documentation, site audits, and observation of auditors in the field. Ultimately recommendations for accreditation are determined by a three-member panel from the SAI Advisory Board, including one staff member, one NGO or trade union representative and one business representative.

SAI undertakes impartial assessment of certification bodies and maintains a list of accredited certification bodies and of certified facilities; the list is available to the public on the worldwide web and in other forms (www.sa-intl.org).

D. Types of Assessment

First party assessment occurs when an organization assesses itself. For example, a factory may conduct an internal audit seeking to ensure that it meets SA8000. This could be done in preparation for additional assessments. This type of assessment does not constitute certification, but is a desirable first step.

Second party assessment occurs when an organization is assessed by a purchaser of its products against a standard selected by the purchaser. For example, a brand name garment retailer may audit a manufacturing or assembly contractor against SA8000. This type of assessment does not constitute certification.

Third party assessment occurs when a facility is voluntarily assessed against a uniform standard by an independent, external body that is neither a direct purchaser nor a consultant. The assessment can be conducted by any *SAI-accredited body*: a certification agency, a management systems auditing firm, an NGO, or a trade union. Any qualified agency may be accredited by SAI to audit against and certify compliance with SA8000. The assessment will address working conditions at specified locations and activities of the organization seeking certification. Company performance deemed to be in conformance with the standard is acknowledged by the granting of a certificate that can be displayed as specified and its contents communicated to relevant parties.

E. Scope

Certification under SA8000 can apply to companies, suppliers, and subcontractors. A company can fall into any or all of these three categories, depending on which party is asking to be certified or which party is requiring another party to be certified. The term “company” is used herein to designate the production facility, farm, service provider or any other entity pursuing compliance. (See also section II-B. – Defining Scope – in the Auditing Process Chapter.)

Commonly, conformance with SA8000 will be requested or required by a retailer or merchandiser seeking to ensure decent labor conditions all the way down the production

line. The facility being audited may be a direct supplier or a subcontractor to a direct supplier. Because SA8000 clauses 9.6 to 9.8 address the issue of a facility's 'control of suppliers' there is an incentive for several levels of the supply chain to seek certification. For example, a supplier seeking certification per a retailer's request, may find it easier ask its own suppliers or subcontractors to become certified to SA8000 than to develop its own monitoring and record keeping system. (See also section III-A.6 – Control of Suppliers – in the Management Systems Chapter; and section III-A.2-Records Review- of the Audit Process Chapter.)

Several types of companies can use SA8000 in different ways

- Companies seeking to independently verify their social record. *E.g.:* a window curtain retailer applies SA8000 internally, with audits of all of its owned and operated facilities.
- Companies seeking to independently verify their own social record **and** that of their contractors. *E.g.:* The curtain retailer applies SA8000 internally within its own factories and add audits of all of its contractors.
- Contractors that produce goods for U.S. and European companies and wish to demonstrate to companies and consumers that they are treating workers fairly. *E.g.:* A shoe manufacturer in a developing country seeks certification in order to secure a contract from a multi national brand which gives preference to SA8000 certified suppliers
- Development or multilateral organizations seeking to ensure that they procure from non-exploitative companies. *E.g.:* A UN agency asks all of its suppliers to be certified and to give preference to SA8000-certified suppliers.

Special cases

- Subsidiaries are not automatically audited as part of the headquarters' decision to apply for certification. For example, the decision on the part of a furniture retailer to certify to SA8000 does not include its subsidiaries, although subsidiaries can be certified separately, and can be contractually obliged to do so.
- The Guidance Document and SA8000 focus primarily on manufacturing, with some examples on agriculture included. Extractive industries, for example, are not addressed specifically in the Guidance, but are eligible for certification if complying with all elements of SA8000, including those on working hours.

F. Costs and Benefits of Adopting SA8000

1) Benefits

For a retailer or brand company, the benefits of adopting SA8000 standards are significant. Improvements in working conditions can lead to significant advantages, including improved staff morale, and more reliable business partnerships. All of this can also lead to a better reputation, greater consumer and investor confidence, and enhanced product quality. Close monitoring of contractors and suppliers also leads to better management, production control and product quality.

For suppliers and contractors, the advantages are also significant. By improving working conditions, certified suppliers and contractors enhance their competitiveness, possibly leading to longer-term contracts with companies. By improving working conditions and worker-manager communication, rates of absenteeism often fall, staff turnover (requiring expensive retraining of new staff) may decline, worker commitment may increase, productivity may increase, days lost to injury may decline, and relationships with trade unions and other key stakeholders can improve. Other categories of benefits can include lower costs related to product remediation and worker compensation claims, and an opportunity for product differentiation based on good workplace conditions.

For workers, the benefits of SA8000 are intended to improve both their day to day situation as well as their longer term employment prospects by protecting their health and welfare, their fundamental freedoms, and their opportunities for advancement within the workplace. Respecting workers' rights – particularly their right to have a voice at work through free association and collective bargaining – can improve social dialogue and lead to a more competitive and stable business.

2) Costs

There are four basic types of out of pocket costs associated with SA8000. The first three costs are usually borne by the company or organization being certified, but can be shared with other parties, such as a customer that prefers SA8000-certified suppliers or has made certification to SA8000 a qualification for its business partners:

- a) The first, typically the largest, is the cost associated with taking corrective and preventive actions in order to qualify for compliance; after this a firm would seek verification of its compliance;
- b) The second is the cost of preparing for the audit; and
- c) The third is the cost of an independent audit, which includes the cost of retaining an accredited organization to conduct audits.
- d) And, if there are non-conformances, the fourth is the cost associated with taking corrective actions in order to resolve problems identified by the auditors. For example, the company may need to install or repair health and safety equipment, wages may need to be increased or child laborers enrolled in a remediation program.

§ III. SA8000 DEFINITIONS

The following terms are used within SA8000 and throughout the Guidance Document, and require definition. The definitions here are from section II of the SA8000 standard (2001). Additional definitions and interpretations are included in each chapter of the *Guidance Document*.

- 1) **Definition of company:** The entirety of any organization or business entity responsible for implementing the requirements of this standard, including all

personnel (i.e., directors, executives, management, supervisors, and non-management staff, whether directly employed, contracted or otherwise representing the company).

- 2) **Definition of supplier/subcontractor:** A business entity which provides the company with goods and/or services integral to, and utilized in/for, the production of the company's goods and/or services.
- 3) **Definition of subcontractor/sub-supplier:** A business entity in the supply chain which, directly or indirectly, provides the supplier with goods and/or services integral to, and utilized in/for, the production of the supplier's and/or company's goods and/or services.

Definition of remedial action: Action taken to make amends to a worker or former employee for a previous violation of a worker's rights as covered by SA8000.

- 4) **Definition of corrective action:** The implementation of a systemic change or solution to ensure an immediate and ongoing remedy to a nonconformance.
- 5) **Definition of interested party:** Individual or group concerned with or affected by the social performance of the company.
- 6) **Definition of child:** Any person less than 15 years of age, unless local minimum age law stipulates a higher age for work or mandatory schooling, in which case the higher age would apply. If, however, local minimum age law is set at 14 years of age in accordance with developing-country exceptions under ILO Convention 138, the lower age will apply.
- 7) **Definition of young worker:** Any worker over the age of a child as defined above and under the age of 18.
- 8) **Definition of child labour:** Any work by a child younger than the age(s) specified in the above definition of a child, except as provided for by ILO Recommendation 146.
- 9) **Definition of forced labour:** All work or service that is extracted from any person under the menace of any penalty for which said person has not offered him/herself voluntarily or for which such work or service is demanded as a means of repayment of debt.
- 10) **Definition of remediation of children:** All necessary support and actions to ensure the safety, health, education, and development of children who have been subjected to child labour, as defined above, and are dismissed.
- 11) **Definition of homeworker:** A person who carries out work for a company under direct or indirect contract, other than on a company's premises, for remuneration, which results in the provision of a product or service as specified by the employer, irrespective of who supplies the equipment, materials or other inputs used.

CHILD LABOUR

§ I. STANDARD REQUIREMENTS AND INTERPRETATION

A. SA8000 Requirements

SA8000 1.1 *The company shall not engage in or support the use of child labour (1) as defined above.*

SA8000 1.2 *The company shall establish, document, maintain, and effectively communicate to personnel and other interested parties (2) policies and procedures for remediation of children found to be working in situations which fit the definition of child labour above, and shall provide adequate support (3) to enable such children to attend and remain in school until no longer a child as defined above.*

SA8000 1.3 *The company shall establish, document, maintain, and effectively communicate to personnel and other interested parties policies and procedures for promotion of education for children covered under ILO recommendation 146 and young workers(4) who are subject to local compulsory education laws or are attending school, including means to ensure that no such child or young worker is employed during school hours and that combined hours of daily transportation, school, and work time does not exceed 10 hours a day. (5)*

SA8000 1.4 *The company shall not expose children or young workers to situations in or outside of the workplace that are hazardous, unsafe or unhealthy. (6)*

B. Definitions and Interpretations

- 1) *“Child”* refers to any person less than 15 years of age, unless local minimum age law stipulates a higher age for work or mandatory schooling, in which case the higher age would apply. If, however, local minimum age law is set at 14 years of age in accordance with developing country exceptions under the ILO Convention 138, the lower age will apply.
- 2) *“Child labour”* refers to any work by a child younger than the age(s) specified in the above definition of a child, except for light work as provided for by ILO Convention 138, article 7 (Please see the table in Section II for an overview).
- 3) In order to *“effectively communicate to personnel and other interested parties,”* companies should document and communicate to workers the remediation procedures to be taken, in the event child labor is discovered. In cases where child laborers have been found, the documents stating the terms of employment and evidence of wage payments should be provided. Interested parties who are experts on children’s

welfare, such as local governments and/or NGOs, should be kept involved in the placement process.

- 4) “*The company ... shall provide adequate support to enable such children to attend and remain in school until no longer a child*” primarily means that companies will ensure that children can afford to go to school. Often the costs to be covered are tuition-related expenses, such as uniforms, books, and a living stipend to replace the lost income. In addition to providing school fees and/or contracting with a local group for education services (if no public education is available), the company should either: 1) offer to hire the parents, guardians, elder siblings or members of the extended family of the children; or 2) pay a living stipend to replace lost income. If the facility is functioning in an underdeveloped area where schools do not exist within the area, the company should address this issue by working with local community groups and the local government agencies.²
- 5) There are potentially two types of *young workers*: (a) a young *student* worker – one who is also attending school; and (2) a young worker – one who has completed compulsory education and is not currently continuing his or her education. Company policies and programs for young workers should take this into account.
- 6) ILO Convention 33, Article 3C *the amount of light work child workers can do*, stating “...the duration of which (light work) does not exceed two hours per day on either school days or holidays, the total number of hours spent at school and on light work in no case to exceed seven per day.” SA8000 sets a “10-hour rule” so as to also consider transportation time to and from school, work and home.
- 7) In addition to the types of *hazards at work* listed under the section on health and safety (See Chapter 5), children and young workers should be protected against hazards such as the following: heavy lifting disproportionate to their size; operating heavy machinery; working the night shift; any exposure to toluene, lead or other toxic chemicals; manufacture of weapons; contact with products which glorify violence and/or are pornographic and any other activity which is likely to jeopardize the morals of children or young workers.

C. Intent of SA8000

SA8000 seeks to prohibit child labor, pursuant to most stringent of the following rules: minimum age of 15; ILO Conventions; and national law or any other applicable law or standard to the workplace under review. Companies are responsible for ensuring the remediation, and if necessary financing the remediation, of those child workers displaced by the implementation of SA8000 and to eventually promote the effective education of all its young workers while ensuring them a safe and healthy working environment. In the event that child laborers were displaced during the process of the workplace coming into compliance with SA8000, the remediation responsibility of the company applies.

² Reference ILO Recommendation 146, clause I.3.

It should be noted that depending upon the age of the child in need of remediation, educational facilities may need to take the form of day care, primary education, secondary or vocational education.

§ II. AUDITING CONSIDERATIONS

A. Key Issues to Review

The following are examples of some issues that auditors should review. This list is neither exhaustive, nor is every item obligatory. Auditors should adapt and/or expand the list and create a specific auditing strategy depending on the production facility and other local conditions (e.g. history and/or pervasiveness of child labor in the workplace or community).

1) Categories of work

When conducting audits, auditors should make efforts to determine the actual nature of different categories of work done by workers under 18 years of age – working from a clear understanding of hazardous, non-hazardous and light work.

a) Hazardous work

Per ILO Conventions 138 and 182 and SA8000 requirements, the minimum age for eligibility to perform any type of **hazardous work** shall not be less than 18 years of age. A guiding principle for defining hazardous work comes from ILO Convention 182, article III.d: “work which, by its nature or the circumstances in which it is carried out, is likely to harm the health, safety or morals of children.” A fuller summary of ILO Convention 182 and the definition of hazardous work appear in section III below. The minimum age of 16 years may apply under strict conditions, if for instance, the health, safety and morals of the young workers are fully protected and they receive adequate instruction, supervision, and vocational training in the relevant branch or activity (see summary of Convention 182 below for a definition of hazardous work).³

For other worst forms of work undertaken (please refer to ILO Convention 182 or the background section of this chapter for details), 18 years is the minimum age required.

b) Light Work

However, not all work undertaken is necessarily harmful to children. For instance, household chores and **light work** for training and educational purposes may even benefit their development. Per ILO Convention No 138, article 7.1, light work refers to the work that is:

³ ILO *Convention 138: Minimum Age*, (1973), Art. 3 § 3.

- 1) not likely to be harmful to a child's health or development; and
- 2) not such as to prejudice their attendance at school, their participation in vocational orientation or training programs approved by the competent authority or their capacity to benefit from the instruction received.⁴

In most countries, the general minimum age for admission to employment (provided it is non-hazardous) is 15 years or older **and** not less than the age for completion of compulsory education.⁵ In some countries, children can undertake **light work** at age 13 provided such work does not affect their health and education.⁶

The table below is a summary of the general minimum age requirements on different categories of work undertaken:

	General Employment (Non-hazardous Work)	Light Work	Hazardous Work	Worst Forms
Most countries	15 ^a	13	18 ^b	18
Developing countries with exception per ILO C. 138, para. 4, Art. 2	14	12	18 ^c	18

Notes:

- a. Not less than the minimum age for completion of compulsory education. If national law stipulates a higher age, the higher age will apply.
- b. 16 years under strict monitoring and if the health, safety and morals of the young workers are fully protected.
- c. 16 years conditionally, see note above.

2) Detect the problem

Often it is not easy to know at the outset whether or not a facility has a serious problem with under-age workers, especially in the case of small subcontractor facilities, homework operations and in the agricultural sector where all family members participate in the work. Workers can appear younger or older than their actual age. Children may be present at the worksite, but may only be doing light work as mentioned above. Trade union representatives and other workers can be a good source of information, especially in identifying facilities where children were recently fired.

⁴ ILO *Convention 138: Minimum Age (1973)*, Article 7.

⁵ Per ILO *Convention 138*, paragraph 4, Article 2, some developing countries "...whose economy and educational facilities are insufficiently developed may, after consultation with the organisations of employers and workers concerned, where such exist, initially specify a minimum age of 14 years." Nevertheless, ILO *Recommendation 146*, section II.7.1 encourages that those countries "should take as their objective the progressive raising to 16 years of the minimum age for admission to employment or work specified in pursuance of Article 2 of the *Minimum Age Convention, 1973*."

⁶ In some developing countries the minimum age **for light work** can be as low as 12 years old, if the country has taken the exception permitted in C. 138, paragraph 4, article 7.

Detection can be difficult, given the ease with which birth certificates and work permits can be falsified. In some remote areas, such documentation is not routinely issued. In cases where workers have identification cards with photographs, auditors should compare the worker with his/her photograph and any other identification available, such as residence permits, diplomas, school attendance records, etc. for any possible discrepancy. In any case, under SA8000 **the employer is accountable**, even if underage workers used falsified identification to get the job. **SA8000 expects employers to have functioning management systems and ongoing procedures to prevent and remedy such situations.**

Often, youth in developing world factories may look younger than their counterparts in the industrialized world, due to malnutrition, as well as genetic and individual differences. In some countries, there are national charts, showing height and weight by gender, which auditors should reference. One of the most effective approaches to detect the use of child labour, however, is to conduct careful interview with these young-looking workers and their peer workers (please refer to Section II-C: *Worker Interview Strategy*).

It is also helpful if auditors review employee records from six months prior to the audit in order to determine if there are patterns of underage workers having been fired in preparation for the audit. In those cases where companies have released underage workers during the previous six months they will be expected to make a good faith effort to recall the children and bring them into the remediation program until they are of legal age.

Another significant challenge is to determine whether the company applying for certification contracts out production to home workers, and if so, to what extent. In many developing countries, it is normal for children to do piecework at home or at other premises hidden from public view. As a consequence, these children may be subject to long working hours, minimal pay far below legal requirement, and little or no health and safety protection. Possible approaches to carrying out such investigations include but are not limited to: checking production capacity against output and business orders; interviewing workers and management; consulting with government agencies, local trade unions, NGO and

Returning children home:

In some countries (eg. China), national law requires that once a child worker is found, he/she should be sent home or transferred to his/her parent or guardian's custody immediately.

According to SA8000 clause 1.2, those children should be returned home with scholarship funds – “adequate support” – to enable them to return to school. In taking this type of action the company should inform and involve government and NGO experts (see text box on the *Brazil Model* below).

In some cases, repatriation may be more difficult – especially where children are working abroad or risk being sent out again to other work. In any case, enabling and supporting child workers' return to school should be the primary remedy unless or until repatriation to the family is an equal or better option.

community groups (such as home-worker organizations);⁷ and, if possible, arranging interviews and meetings with the children working at home.

Because of the complexity of detection, some certification bodies hire a local NGO to conduct interviews in the areas where workers live. Families are asked the ages of their children and whether they are regularly in school or work; school teachers and local health clinics are consulted as well. In industry sectors or countries where there is a recent history of child labor, audit teams will do best to hire local NGO or community organization representatives. If children (and parents) are not aware of remediation programs, they may believe it is in their interest (as well as their employers' interest) to conceal child labor. Thus, only people who are well-connected in the community and have the trust of the community are able to uncover child labor.

3) Provide immediate protection for those children who are working – Remediation

The need to protect under-aged children from exploitative conditions must be balanced with the risk of taking precipitous action(s) that could harm the children or significantly worsen their overall welfare. Any children engaged in hazardous work or any worst forms of labor (see section III) should be taken out of work and immediately enrolled in a remediation program, as prescribed by the national legislation and the intent of SA8000. **They should not simply be dismissed.**

The remediation program should be evaluated by the auditor to assess its effectiveness in educating the child. Since most of these children will be illiterate and, in some cases not allowed to attend local school if they are migrants, the company would do best to work with local government and development organizations to develop its own plan for ensuring that the children get an education.⁸ Local schools may view such children as special needs requiring special

The Brazil Model – Scholarships and After-school programs:

In 1995, Brazil's Ministry of Social Security started the Child Scholarship Project, which aims to eradicate the widespread practice of child labor in this developing nation. The program pays the parents of children who are proved to be in school a small monthly stipend per child in school, which partially substitutes for the wages these children could be earning if they were working. In addition, for every child in the program, the local government receives from the federal government the same amount in stipends to run extra-curricular education and after-school programs for these children, so to induce the interest of local governments to keep children in school.

These programs have been rolled out in stages, targeting the poorest regions in the country first and in areas where sectors that use child labor are located. Thanks to the support and mobilization of the Brazilian civil society, businesses and NGOs have worked together to involve the supply chains and to make the program a success.

⁷ In most countries, even in those who have not ratified key ILO Conventions on child labor, there are government agencies, local representative offices of international organizations, social services, or NGO and community groups focusing on eliminating child labor and protecting underage workers. Ongoing communication with these groups can be very beneficial to the SA8000 auditing process.

attention and costly care and supervision. The children themselves may also lack be uncomfortable socially and balk at attending public schools. It is thus important that the company develop a program that will effectively encourage children to learn and to stay at the facility and attend classes rather than leave the job and go to another factory to earn money. Although it is up to the discretion of the company it would be most effective for the company to replace lost income for the child by hiring a sibling in the family (or other family member) or simply paying the child the same salary for attending the school or class.

Children who are between 12 and 15 years of age (if national legislation permits them to carry out light work under ILO recommendation 146) and young workers (e.g. older than 15, but not having completed compulsory education yet) cannot be employed during school hours or after dark (8PM-8AM per ILO Convention 33). According to ILO Convention 33, the duration of light work should not exceed 2 hours per day during school days and/or public holidays and the combined hours of work and school should not exceed 7 hours per day.⁹ SA8000 includes transportation time in the total of 10 hours per day allowed for school, work and transit time. Auditors should conduct a thorough investigation to determine whether working conditions affect the children's health and safety in any way and whether those children are exposed to any situations in or around the workplace that are hazardous, unsafe, or unhealthy. If required by law, young workers should be registered with or monitored by government labor ministry personnel.

If youth between 15 and 18 (young workers) are working, even if it is part-time/light work or they are hired under apprenticeship arrangements, the company should have guidelines in place for the types of employment conditions that are acceptable for employees under the age of 18. The company should also make sure that they are kept away from dangerous equipment and that the conditions of work will not endanger their health. Young workers should be safeguarded immediately from dangerous equipment, toxic chemicals, and excessive working hours. Auditors will need to check for environmental health and safety non-conformances generally, but they should also look for situations that, while safe for adults, may pose hazards for youth. For example, machinery sized for adults may strain or pose a hazard to a small body. Lifting heavy loads, working night shifts, or working excessive hours can harm a young person's health and affect his or her physical development.

Other than health and safety risks, underage workers, including those under apprenticeship arrangements, are also vulnerable to economic exploitation, such as: long (illegal) overtime hours; subsistence (or no) wages; and/or remuneration below what adult workers earn for the same work. Auditors should look at these types of issues

⁸ ILO Recommendation 146, clause I.3. recommends: "Particular account should as necessary be taken of the needs of children and young persons who do not have families or do not live with their own families and of migrant children and young persons who live and travel with their families. Measures taken to that end should include the provision of fellowships and vocational training."

⁹ ILO *Convention 33: Minimum Age (Non-Industrial Employment)* (1970), Art. 3c.

carefully and determine whether a company's policies and management procedures in this area meet national legislation and the SA8000 requirements.

Underage work is such a critical issue that we recommend auditors apply extra vigilance throughout the auditing process. If auditors find evidence of child labour, they should consider arranging follow up visits or investigation, even beyond the routine auditing schedule, to make sure the underage workers receive due protection and remediation.

4) Company policy and planning

In order to be certified, companies will need to have a defined company policy and remediation plan, whether or not children are found to be working in the factory. And the policy and plan should be effectively communicated to workers, underage workers (if any) and their families.

- a) The company should be prepared to protect underage workers and enroll them in a long-term program (until each child is 15 or exceeds compulsory schooling age as required by national legislation, whichever is higher) so as to remove child workers from the workplace, help enroll them to school and ensure they do not suffer more than if they were to remain working or do not end up working with other factories. The company should work with the child's parents and local social service organizations (NGOs, community groups, etc.) if appropriate to ensure that adequate schooling or day-care facilities are available, or to serve as a catalyst to encourage the provision of such services by local government.
- b) The company should have a clear policy and management-tracking tool for supervising young workers to ensure their jobs are low risk and their schedule permits them to continue schooling.
- c) Effective procedures for halting new hires of children should exist prior to certification. This may involve additional training for managers and/or a program in collaboration with local health workers or school administrators who may be better able to monitor child workers.

The complexity and the level of detail in the policy should be commensurate with risk. For example, in an industry where child labor is highly uncommon, the company policy may be a simple statement and stated procedures in the hiring process.

5) Long-term alternatives to the use of under-age workers

The causes of child labor are complex. Poverty, the main cause, is exacerbated by the lack of social and educational services and other developmental opportunities. Child labor, in turn, perpetuates poverty. The principal means to eradicate child labor is self-compliance by employers, governmental enforcement, industry/trade incentives, and the government's provision of minimally adequate social, development and educational services for children, so that the private cost-burden is not an issue.

Companies can help prepare children to take jobs in the industry through age-appropriate training programs. At the same time, they can support/collaborate with local government or NGOs in creating schools.¹⁰ In most cases, supporting improvements to the state educational system should be prioritized. Auditors should be aware of local efforts, such as those in India where the child labor laws require the state to remedy child workers; companies should be working closely with those programs.

B. Evidence of Compliance

The following are some examples of evidence that may indicate compliance with SA8000. This list is not exhaustive, nor is every item obligatory. And fulfilling every item on the list does not guarantee compliance automatically. Auditors should adapt or expand this list depending on the context and what they find during actual audits. Workers' statements should remain confidential to avert potential retaliation.

- 1) Compliance with local/national legal requirements is evident through: cooperation with government social service and/or department of labor inspection agencies, and local union and NGO verification.
- 2) Documentation of hours of work indicate special schedules and duties for child and young workers and the production schedules do not evidence any hidden work (e.g. more production than would be feasible according to the documented hours worked).
- 3) Documentary evidence exists for proof of age upon recruitment, including copies of such documents as birth certificate, religious or other local record or passport.
- 4) Apprenticeships are not being misused in order to pay young workers less than adults, while demanding the same amount and kind of work from them; payroll records show that young workers receive equal pay for equal work and apprenticeship schemes are for a defined period of time with structured oversight by or registration with a government agency.
- 5) The number of apprentices is a low enough portion of the workforce, indicating they are not being used to replace or avoid permanent, adult hires.
- 6) Local school records on attendance by young workers in facility demonstrate compliance.
- 7) Records of payment of stipends, tuition, books and/or uniforms by company exist.
- 8) Workers' knowledge and understanding of company policies and programs – for remediation of child workers and for managing young workers doing light work – is evident during interviews.

¹⁰ Some SA8000 certified facilities in South Asia have already set up affiliated schools near the factories.

- 9) Workers' and their families' testimony supports documentary evidence of compliance
- 10) Community interviews, especially with teachers, social workers and child welfare advocates, confirm they have worked with the factory to address any child labor risks.

C. Worker Interview Strategy

The following is a recommended general strategy for conducting interviews with working children or all underage workers. Auditors can refer to the strategy and adapt it to suit specific local conditions and cultural settings.

Auditors should be extremely careful in interviewing underage workers, because they may have attitude, motivation, and psychological needs distinct from adult workers or children not working. It will be helpful if the auditing team can include experts who understand children's development issues. Or auditors can consult local experts on a regular basis.

It is important to keep in mind that it is the employer, rather than the child, who is violating the law. Therefore auditors should never give the child the impression that he or she is under interrogation or investigation. Instead, auditors should treat the child as a caring friend, or a friendly partner to analyze and better understand the situation. Throughout the interview, auditors should fully respect the child's right to speak or keep silent. In cases where children are found working, auditors should follow-up in the short and medium term to verify that an adequate remediation plan is being followed.

It is also important to conduct the interview in a place where the child will feel safe and comfortable, preferably away from the production line and the management – ideally away from the workplace. However, it should be kept in mind that if the interview is too long, the child might feel uneasy, fearing punishment by the management or even team workers. One good option is to conduct the interview during a lunch break, or after work in the dormitory.

Since most children start working to support their family and family is usually their chief concern, auditors may break the ice by asking about their family: hometown, parents, siblings, etc. Auditors may also start the interview by giving "compliments" to the child for his/her capability to support his/her family. In many developing countries, children may be *expected* to contribute to family income; many children may even take pride in doing so. Auditors should inquire about training received and how they are supervised.

The chief goal of the interview is to find out how underage workers are treated – what work they do, how many hours they work, during what times of day, how they feel about the workplace conditions, how long they have been working there, and whether they have access to legally required schooling. Again, we recommend that auditors use more open-

ended questions to encourage the child's own assessment of the working conditions. For instance, instead of simply asking: "Do you like working in this factory?" auditors may try different ways such as:

- 1) How long have you been working here? What year did you start?
- 2) How much longer do you want to stay here?
- 3) How do you like people around you? Who is your best friend here?
- 4) How often do you talk to your parents? How often do you see them?
- 5) What do you usually do after work?
- 6) What do you want to be when you grow up?

Wherever young workers are employed, auditors should also interview them about any training received and if/how they are supervised; their supervisors should be interviewed as well. Underage workers are usually the group with the least amount of training in health and safety issues, and yet they are most vulnerable to workplace hazards. Therefore it is vitally important for auditors, through the interview, to assess their knowledge and capability in this respect.

Underage workers are also vulnerable to other types of mistreatment, such as lower wages (than adults) and longer working hours. Children generally do not speak out even when they know that they are being underpaid. That is one of the major reasons some employers prefer underage workers to adults. It also presents a challenge for auditors to understand the real situation of these working children. A well-conducted interview offers a good opportunity to uncover these issues.

§ III. BACKGROUND INFORMATION

A. International Efforts to End Child Labor

According to the latest ILO estimates for the year 2000, there are 211 million children aged 5-14 engaged in some form of economic activity, of which 88% or 186 million children are engaged in the types of child labour to be abolished (including in its worst forms). Of an estimated 141 million children aged 15-17 engaged in economic activity, 59 million are working in the worst forms of child labor or under hazardous conditions.¹¹

Poverty is widely regarded as a major cause of child labor, indicated by a strong negative association between the level of economic development and the scale of the child labor problem. The ILO 2002 Global Report on Child Labour reveals that 98% of the 211 million working children are in developing countries. However, poverty is not the only cause of this problem. Cultural beliefs, traditional mores, inequality in wealth distribution, market demand (for children at rates cheaper than adults), and lack of political will to tackle the problem, all contribute to the perpetuation of child labor. For instance, in many societies, children are traditionally *expected* to contribute to family

¹¹ ILO, 2002, *Global Report: A future without child labour*.

income; and a working childhood is considered as a natural phase in the social integration process.¹² In other societies, local, clan or family tradition and development includes child labor as a tool for the socialization of children.

Despite all the complexities related to this problem, there are growing international consensus, including many countries where child labor is a serious problem, that:¹³

- 1) Childhood should be dedicated to education and development, not to work.
- 2) Child labor often jeopardizes children's chances of becoming productive adults.
- 3) Child labor perpetuates poverty and social inequality.
- 4) Child labor can jeopardize a country's reputation and productivity, as well as global acceptance of its exports.

Since 1919, the year of its establishment, the International Labour Organization has adopted more than ten conventions addressing problems related to child labour, among which Convention 138 (Minimum Age Convention) and Convention 182 (Worst Forms of Child Labor Convention) are the two cornerstones.

B. International Norms – ILO Conventions 138 and 182

Convention 138, adopted in 1973, consolidated the principles of previous conventions addressing child labor and remains a fundamental instrument on child labor. It applies to all sectors of economic activity and all types of work. The key requirement of Convention 138 is that national governments pursue a national policy designed to ensure the effective abolition of child labor and to progressively increase the minimum age for admission to employment to a level that enables “the fullest physical and mental development of young persons.” Though Convention 138 (with Recommendation 146) allows some developing countries to set a minimum age for general employment at 14 and a minimum age for light work at 12, the goal is to urge member states to progressively increase the minimum age for general employment to 16. Another important requirement is that a higher minimum age of at least 18 must be established for hazardous work – i.e. work that by its nature or the circumstances in which it is carried out is likely to jeopardize the health, safety or morals of young persons.

In June 1999, the ILO unanimously adopted its most recent instruments on child labor, against the Worst Forms of Child Labour: Convention 182, and Recommendation 190. It is recognized that the abolition of the full range of child labor is a gradual process, and the ILO therefore decided to make the eradication of the worst forms of child labor a matter of top urgency.

Per Convention 182, *the worst forms of child labour* include:

¹² IPEC (International Programme on the Elimination of Child Labour), 2002, *Combating child labour: A handbook for labour inspectors*.

¹³ Ibid.

- (a) all forms of slavery or practices similar to slavery, such as the sale and trafficking of children, debt bondage and serfdom and forced or compulsory labour, including forced or compulsory recruitment of children for use in armed conflict;
- (b) the use, procuring or offering of a child for prostitution, for the production of pornography or for pornographic performances;
- (c) the use, procuring or offering of a child for illicit activities, in particular for the production and trafficking of drugs as defined in the relevant international treaties;
- (d) work, which by its nature or the circumstances in which it is carried out is likely to harm the health, safety or morals of children.¹⁴

The Convention allows for determination at the national level of what constitutes work likely to harm the health, safety or morals of a child. The Convention stipulates that the national authority should, after consultation with the employers and workers concerned, make such determinations. It also provides that consideration be given to Article 3, *inter alia*, of Recommendation 190 as it provides further guidance on which types of work are likely to be harmful to children. Particular attention should be given to:

- 1) Work that exposes children to physical, psychological or sexual abuse;
- 2) Work underground, underwater, at dangerous heights or in confined spaces;
- 3) Work with dangerous machinery, equipment and tools, or work which involves the manual handling or transport of heavy loads;
- 4) Work in an unhealthy environment that may, for example, expose children to
- 5) hazardous substances, agents or processes, or to temperatures, noise levels or
- 6) vibrations damaging to their health;
- 7) Work under particularly difficult conditions such as work for long hours or during the night, or work where the child is unreasonably confined to the premises of the employer.

As of November 2002, 120 countries ratified Convention 138, 132 countries ratified Convention 182, and a number of other countries are undergoing the ratification process, indicating national governments' acceptance of and commitment to the eradication of child labour, particularly in its worst forms.¹⁵ By ratifying ILO conventions, national governments are generally obliged to:

- 1) Establish and/or revise national legislation to reflect the ILO principles;
- 2) Establish appropriate specific regulations governing work/employment conditions; and
- 3) Establish appropriate penalties or other sanctions to ensure the effective enforcement of its provisions.

¹⁴ ILO *Convention 182: Worst Forms of Child Labour* (1999), Art. 3.

¹⁵ For complete lists of ratifying countries, please check ILO's website: <http://www.ilo.org>.

In addition to the major international and national initiatives focusing on the prevention and elimination of child labor,¹⁶ there have been an increasing number of initiatives in the private sector. For instance, almost all the major codes of conduct developed since the early 1990s by multinational corporations contain a “No Child Labor” element. Despite their different monitoring and implementation approaches, all of the existing external labor standards such as SA8000, the ETI base code, the WRC model code, etc., have a clear policy against child labor.

¹⁶ For example, more than 60 countries participate in the ILO’s *International Programme on the Elimination of Child Labour* (IPEC). In one decade, the program has removed hundreds of thousands of children from workplaces and significantly raised general awareness of the issue.

FORCED LABOUR

§ I. STANDARD REQUIREMENTS AND INTERPRETATION

A. SA8000 Requirements

SA8000 2.1 *The company shall not engage in or support the use of forced labour¹⁷, nor shall personnel be required to lodge 'deposits' or identity papers² upon commencing employment with the company.*

B. Definitions and Interpretations

- 1) Forced labour refers to all work or service that is extracted from any person under the menace of any penalty for which said person has not offered him/herself voluntarily or for which such work or service is demanded as a means of repayment of debt.¹⁷ The “penalty” here can imply a form of monetary sanctions, or physical forms of punishment such as loss of rights and privileges or restrictions on movement or employers’ holding of “deposits” or identity papers (e.g. passports, etc).

The intent of this definition is to understand all forms of forced labour, including the use of compulsory prison labour by private business entities,¹⁸ debt bondage or indentured servitude. All are prohibited under SA8000 (please see section II.A.1. below: *Bonded Labour*).

- 2) The employer has no rights or legal authority to retain employees’ original identification papers such as passports, birth certificates, work permits, residence permits, travel documents, or any other documents that might limit the worker’s legal status/ compliance, his/her freedom to travel or the ability to leave his/her job temporarily or permanently.

C. Intent of SA8000

SA8000 prohibits all kinds of forced or compulsory labour under any and every condition, including bonded, indentured, and/or compulsory prison labour. SA8000 calls for full disclosure to every prospective worker of the terms and conditions of employment prior to his or her recruitment, pre-employment procedures or employment. The terms of the employee contract should be fully communicated to and understood by

¹⁷ This definition is based on the ILO *Convention 29*, Art. 2.1.

¹⁸ About the topic “Prison Labour” compare ILO *Convention 29*, Article 2.2c: “(c) any work or service exacted from any person as a consequence of a conviction in a court of law, provided that the said work or service is carried out under the supervision and control of a public authority and that the said person is not hired to or placed at the disposal of private individuals, companies or associations;”

every worker and should in no way be linked to the worker becoming indebted in any way. In short, *no one shall be forced to work*.

§ II. AUDITING CONSIDERATIONS

A. Key issues to review

*The following are examples of issues for auditors' review: **bonded labour, freedom of movement, migrant workers, and subcontracting**. This list of issues is not exhaustive. Auditors can adapt and/or expand the list depending on the production facility and other local conditions.*

1) Bonded Labour

SA8000 forbids **bonded labour** in which a person is forced by the employer or creditor to work to repay a financial debt to the crediting entity. Bonded labour may be suspected in any case where employees are subject to financial sanctions which effectively force them to remain employed at the facility.

The most common variety of bonded labour is centered on debt bondage, whereby a worker (or dependants or heirs) is tied to a particular creditor for a specified or unspecified period until the loan is repaid. For instance, a factory in Taiwan may hire workers from the Philippines. Before they are hired, the Philippine workers may have to pay a recruitment agency such an unreasonably large service fee, that they virtually lose the option to leave the factory in Taiwan.

We recommend that auditors carefully review any practices employed by the facility or by agencies contracted by the facility that may indicate financial coercion of employees. These may include deposits paid by workers upon hire, unreasonable recruitment service fees, or unfair employee loan, credit, or purchasing schemes managed directly or indirectly by the employer that might deprive workers of their financial freedom. Other methods of financial intimidation may include the retention by employers of a portion of monthly wages until the end of year or the expiration of employment, or refusal to pay legally required severance. These practices can effectively deter employees from leaving the facility of their own will. Particular attention must be given when young workers are found, since children are more vulnerable to bonded labour. They may even have been 'sold' to the employer by their own family due to poverty.

Some factories require workers to pay for their initial training since workers are often lured away by another factory for a little more money after the training has been completed. Some workers are also required by the factory to pay for expensive equipment because of the potential for theft. These practices are typically not allowed and the auditor should analyze such a practice to determine its degree of reasonableness by balancing the needs of the business with the inherent rights of the workers against abuse.

Auditors should analyze the levels of worker indebtedness to the factory or factory-related businesses (e.g. recruiters, company stores, etc). If these levels of indebtedness consume a significant portion of workers pay – and there is no realistic way for workers to default on those loans – this may be an indication that an abusive and coercive employment relationship exists.

2) Freedom of Movement

The chief purpose of this SA8000 element is to guarantee employees' physical freedom while in the workplace. Employees should be free to leave the workplace and manage their own time while not on duty, without interference or intimidation from management or security guards. If someone chooses to quit their job, they should be free to do so, so long as they have fulfilled their obligations agreed to under a fair and transparent employment agreement. Loan payments should be considered separately from the employment contract. Typical employment contracts will contain a clause allowing the termination of such contract by either party with a specified number of days advance notification. Management must refrain from imposing any form of sanctions against such choice.

Imprisonment is an extreme example of such sanctions, yet its occurrence is not uncommon in factories, particularly in small, private workshops hidden from public view or in dormitories belonging to a bigger production site. One way to investigate such violations is to check the security guards' contract terms against the actual service rendered. Security guards should be used to guarantee workplace security, and should in no way be used to intimidate workers or confine their freedom. Auditors should interview both guards and workers to verify the nature of the security guards' work.

Though not as blatant, other types of sanctions can still compromise employees' free choice. For instance, deposits upon employment, retaining any portion of monthly wages till the end of year or expiration of employment term, and refusal to pay legally required severance can effectively deter employees from leaving the facility out of their own will. In some parts of the world it is common to require a newly hired worker to purchase a financial bond which will be returned to the worker upon termination of contracted employment. Known most commonly as "runaway insurance", this financial instrument is held by the factory and a worker defaults should they leave without factory permission. This practice is not allowed if the bond is purchased under duress as a condition of employment. Auditors should investigate whether employees may be restricted, coerced or intimidated in any way to remain at the worksite or in company dormitories. We recommend that auditors look into these issues carefully. Employment contracts, wage records, contracts between company and recruitment agencies and all other relevant documents should be thoroughly checked, and evidence of compliance should be collected through interviews with workers, family members and local community groups if appropriate.

Auditors should also be aware that some employment relationships are obscured by the use of labor 'contractors' or 'sub-contractors', where those *workers are paid by an*

employment agency or indebted to a third party recruitment agency. Through worker interviews and by checking with management and local community groups, auditors should ascertain how the company recruits its workers, where they come from and who helps find them. The actual workplace managers may not retain documents or give loans, but auditors should also review any recruitment or employment agencies involved (see section 4 on subcontracting below).

3) Migrant workers

Migrant workers are particularly vulnerable to forced labour in comparison to local workers. Migrants often lack the basic subsistence that a home can provide. They are less likely to be represented by a trade union or other workers' organizations, and they are probably less aware of their basic rights and of how best to protect such rights. Many migrant workers may have been indebted, and, as a consequence, they must work away from home under exploitative arrangements made by their creditors. Other migrant workers may have signed contracts with recruitment agencies before they move to the factories, without a clear understanding that the contracts might contain elements that compromise their rights and limit their freedom.

Keeping such background in mind, whenever there are a large portion of migrant workers in the workforce, we recommend that auditors use due diligence to check through relevant documentation and conduct extensive interviews to ensure that no migrant worker is subject to any form of exploitation, coercion, or discrimination. (Please see also Chapter 5: Discrimination).

4) Subcontracting

Although companies do not necessarily use forced labour directly, they may still support the use of it by entering into business relationships with other labor suppliers, contractors, sub-contractors, or recruiters. Auditors should take this into consideration before signing off on a "no forced labour" statement. For instance, the company might use temporary workers from a sub-contractor, or contract out a portion of their production. The company may rely on products or service offered by other suppliers or sub-suppliers, where various forms of forced labour might exist. For example, it is a serious violation of SA8000 (meriting a major corrective action request) and other core international labour standards if a factory orders goods or services from any organization that uses prison labourers who are not properly protected according to ILO Convention 29, article 2.2.c.

In such cases, we recommend that auditors carefully review all available business orders, contracts, and personnel files (of temporary workers) to ensure that the company has appropriate policies and procedures to address, at a minimum, the practice of their prime suppliers, contractors, and sub-contractors in this regard.

B. Evidence of Compliance

The following are some examples of evidence that may indicate compliance with SA8000, though none are sufficient on their own. This list is incomplete, however and its meeting its requirements does not automatically or necessarily indicate compliance automatically. Auditors need to develop their own strategy to collect evidence depending on the context and what they find during actual audits.

- 1) The company or management policy does not allow the practice of holding possess original documents belonging to employees, such as passports, work permits or birth certificates.
- 2) Employees confirm they are not asked to lodge deposits, either of identity papers, salaries or money.
- 3) Workers do not have to pay illegal fees or for training programs undergone while with the company.
- 4) Employees confirm they have other options – for shopping, housing etc. – other than accruing debt with the company or company-run organizations. In cases where there are no other services or goods accessible (e.g. due to distance), these goods are subsidized and made available by the company at or below market cost.
- 5) Workers do not have a large or long-running debt with the company, which they have no other way to pay back except to keep working.
- 6) Wage records indicating that full payment of wages is made on time to employees themselves, and no method of payment deprives workers' of their rights to terminate employment.
- 7) Employee handbooks, training manuals, grievance procedures, and/or contracts exist and employees are aware of their purpose and the extent to which they benefit workers, thus demonstrating the voluntary nature of employment.
- 8) The company utilizes transparent, fair and easily understandable employment agreements (written and communicated in the languages of all employees), containing reasonable terms and conditions on early termination of employment and workers understand the agreement.
- 9) If security guards are policing the production site and employee dormitories for safety reasons, workers have free access to come and go from these places. Workers' family members are allowed to visit freely.
- 10) Workers' testimony corroborates all documentation and management claims regarding bondage and terms of employment.

- 11) Some workers live outside the complex when dormitories are provided for migrant workers indicating that they have the right to choose their accommodations.

C. Worker interview strategy

The following is just a recommended general strategy for conducting interviews with workers. Auditors can refer to this strategy and adapt it to suit specific local conditions and cultural settings.

As we mentioned above, many companies do not necessarily use forced laborers, but they may support the use of it in other ways: hiring temporary workers through sub-contractors to work on their premises; contracting out their production; imposing overtime work upon their employees without seeking their consent; or limiting their freedom of movement after work. The purpose of conducting interviews with workers therefore is not only to find forced labour on a particular worksite at a particular time, but also to determine whether any labour practice at the facility is non-voluntary by nature.

Before visiting the facility, it will be helpful for auditors to consult extensively with local trade unions, NGOs and community groups about the general labour situation in an industry or in a particular facility. If forced or any form of compulsory labour is a concern, auditors should prioritize this issue when setting up the interviews with workers.

A transparent and fair employment contract is an indicator of a good labour management system. Auditors can ask about interviewees' knowledge and understanding of the employment contract, particularly under what terms and conditions employees can terminate the contract before the expiration date.

Auditors can also inquire how workers were hired for their jobs. If they used recruitment agents, auditors should ascertain if they paid high service fees (e.g. for recruitment or transport, document processing) and if they have any "shadow agreements" (e.g. pending debts or a hidden contract which defines conditions of employment of the worker) with the recruitment agencies outside of the formal employment contract that might state a minimum employment term.

A great number of workers pay some form of deposit upon recruitment, such as training fees, uniform fees, etc. Auditors should probe for specifics to determine whether any such deposit will in effect limit employees' freedom. When appropriate, auditors can ask and verify if the originals of major identification papers are in the workers' possession.

It may also be useful to ask: if the interviewees get paid directly, or via family members or any other entities; if they can explain the deductions taken out of their wages; and if full payment is made on time. Payment should be rendered in a timely manner and in accordance with the law. Normal payment should typically be made within no more 7-10 days of the completion of the pay period.

§ III. BACKGROUND INFORMATION

A. International norms and national legislation

The term “forced labour” brings to mind images of chained prisoners sweating at a quarry or a plantation, carefully watched by armed guards or military personnel. In reality, this form of forced labour still exists, but only in a handful of countries. Other forms of forced labour, such as debt bondage are less known, but are far more prevalent in the world today. According to “The United Nations Working Group on Contemporary Forms of Slavery” about 20 million people were being held in debt bondage around the world in 1999.¹⁹

As with the issue of child labour, the major causes of forced labour include poverty and the lack of a government-provided, free education. In some regions, traditional cultural beliefs may help perpetrate the situation. The phenomenon is not limited to the developing world. For example, in some industries and regions of such highly developed countries as the United States and the United Kingdom, it is highly likely for migrant workers to become the victims of bonded labour.

Forced labour and its numerous forms are universally condemned.²⁰ The Universal Declaration of Human Rights, adopted 50 years ago, proclaimed that “no-one shall be held in slavery and servitude.”²¹

The ILO Forced Labour Convention 29 (1930) provides that national governments should take all necessary measures to prevent and suppress the use of compulsory or forced labour.

The ILO Protection of Wage Convention 95 (1949) provides that wages shall be paid regularly and prohibits methods of payment which deprive the worker of a genuine possibility of terminating his employment.

The ILO Abolition of Forced Labour Convention 105 (1957) provides that ILO members that have ratified the Convention undertake to suppress and not to make use of any form of forced or compulsory labour as a means of political coercion for purposes of economic development, or as a means of labour discipline, etc.

The vast majority of ILO member states have ratified the two key conventions combating forced labour. As of December 2002, 158 countries ratified Convention 105 and 161 countries ratified Convention 29. These countries agreed to create new legislation or revise existing legislation to reflect the intent of ILO conventions and indicate governments’ commitment to eliminating forced labour in its numerous forms.

¹⁹ UN Working Group on Contemporary Forms of Slavery, 1999, *Report*, No. 17.

²⁰ ILO, 2001, *Global Report: Stopping Forced Labour*, 1B (International Labour Conference, 89th Session); and UN Working Group on Contemporary Forms of Slavery, 2000, *Report*, No. 23.

²¹ UN, 1948, *The Universal Declaration of Human Rights*, Art. 4.

B. Case study: Bonded Labour in the United States 22

In September 2002, a historic settlement was reached among garment workers, human rights advocates, top clothing retailers in the U.S. and garment factories in Saipan, also known as the US Commonwealth of the Northern Mariana Islands, the largest of a chain of islands in the Pacific Ocean.

26 U.S. clothing retailers that buy garments manufactured in Saipan and 23 Saipan garment manufacturers agreed to settle claims against them in a federal class-action lawsuit alleging violations of wage and hour laws and other workers' rights.

In January 1999, Sweatshop Watch, Asian Law Caucus, Global Exchange, UNITE, and Saipan garment workers filed three separate lawsuits against several retailers and garment factories alleging violations of U.S. labour code and international human rights standards.

Plaintiffs in the lawsuits claimed that thousands of garment workers live and toil in deplorable conditions on Saipan, working up to 12 hours a day, 7 days a week, and making U.S. \$3.05 an hour or less, often without pay of overtime required by the U.S. Labour Law.²³ Clothes made in Saipan are labeled as "Made in USA". Yet the majority of garment jobs on Saipan are held by migrant workers from China, the Philippines, Bangladesh and Thailand. With promises of high pay and a better quality of life in the U.S., these workers had agreed to repay recruitment fees up to several thousand dollars. Many workers also claimed that they signed "shadow contracts" waving basic human rights, including the freedom to join unions, attend religious services, quit or marry after they start their jobs. These circumstances, plaintiffs contended, trap these garment workers in a state of indentured servitude.

The settlement agreement adopts a strict code of conduct including a guarantee of premium pay for overtime work, safe food and drinking water, and other basic workers' rights. Workers who want to return to their home countries will be eligible for up to \$3,000 in relocation fees.

The historic agreement brings the total settlement fund to more than \$20 million. Each company will make a one-time contribution to the fund, which will finance the monitoring program, compensate up to 30,000 former and current garment workers, and cover administration costs and attorneys' fees. Some worker rights advocates remain concerned and watchful however, of the make up of the tribunal membership, its limited access to factories, and its weak verification and enforcement mechanisms.

²² Based on: Sweatshop Watch, 2002, *Report*, Vol. 8 No. 4.

²³ U.S. Labor Law provides \$5.15 an hour as the national minimum wage.

HEALTH & SAFETY

§ I. STANDARD REQUIREMENTS AND INTERPRETATION

A. SA8000 Requirements

SA8000 3.1 *The company, bearing in mind the prevailing knowledge of the industry and of any specific hazards, shall provide a safe and healthy working environment¹ and shall take adequate steps to prevent accidents and injury to health arising out of, associated with or occurring in the course of work, by minimizing, so far as is reasonably predictable, the causes of hazards inherent in the working environment.²*

SA8000 3.2 *The company shall appoint a senior management representative³ responsible for the health and safety of all personnel, and accountable⁴ for the implementation of the health and safety elements of this standard.*

SA8000 3.3 *The company shall ensure that all personnel receive regular⁵ and recorded health and safety training, and that such training is repeated for new and reassigned personnel.*

SA8000 3.4 *The company shall establish systems⁶ to detect, avoid or respond to potential threats to the health and safety of all personnel.*

SA8000 3.5 *The company shall provide, for use by all personnel, clean lavatories, access to potable water, and if appropriate, sanitary facilities for food storage.*

SA8000 3.6 *The company shall ensure that, if provided for personnel, dormitory facilities are clean, safe, and meet the basic needs of the personnel.*

B. Definition & Interpretation

- 1) Safe and healthy working environment as defined by national laws and/or industrial standards.
- 2) Hazard defined by the ILO as “the inherent potential to cause injury or damage to peoples’ health” - for instance, specific hazards associated with the use of chemicals or machinery.
- 3) The health and safety management representative should have authority and adequate resources to implement company policies and corrective action plans if needed.

- 4) In addition to the management representative, responsibility and accountability for the health and safety of employees resides with all levels of management, from direct supervisors to senior management.
- 5) The term “*regular*” is defined as at least once per year.
- 6) The term “*systems*” refers to the general Management Systems, which are addressed in Chapter 9.

C. Intent of SA8000

The health and safety of all employees is the responsibility of the employer. SA8000 seeks to ensure that workers have a safe and healthy workplace, where adequate preventive measures are taken to minimize, and where possible eliminate health and safety risks both in the *short* and *long term*.

Management is responsible for workplace conditions, and therefore for ensuring that workers are able to perform their functions throughout their adult lifetime without actual or latent health damage. An effective system is key to the achievement of a safe and healthy workplace. In order to ensure its effectiveness, all employees should be regularly informed and trained.

§ II. AUDITING CONSIDERATIONS

A. Key Issues to Review

The following are examples of some issues that auditors should review. This list is not exhaustive. Auditors should adapt and/or expand it and create a specific auditing strategy depending on the circumstances at the production facility and other local conditions.

Pursuant to Auditor Advisory number eleven on documentation requirements, Health & Safety should be addressed in every Audit Report.²⁴

1) Occupational Safety and Health Management System

SA8000 requires the establishment of systematic policies and procedures to prevent workplace hazards and risks at their source and to seek continual improvement. Such policies and procedures should constitute an indispensable component of the overall SA8000 management system.

The ultimate responsibility of a safe and healthy workplace resides with the employer. Some examples of this responsibility follow. Are production speeds too fast to allow workers time to take necessary safety precautions? Are workers aware of the risks they face and how to minimize them? Is it too hot to wear safety equipment or masks? Is

²⁴ SAI, *Advisory*, No. 11 (Apr. 2003), New York.

safety equipment free of charge? Is seating ergonomic or is it conducive to careless posture?

The employer's commitment and leadership are key to the establishment and implementation of OSH policies and procedures. Therefore we recommend that auditors check employer commitment first when reviewing the readiness of an OSH management system. This should be a key focus in management interviews and one or two interviews are recommended to determine the level of knowledge and technical understanding possessed by key staff and leadership (see Chapter 9 for more about manager interviews).

The OSH management system, as with the overall SA8000 management systems, should contain the primary elements of *policy, planning and implementation, performance review and evaluation, corrective action, training and communication*. (Please refer to Chapter 9: Management Systems).

Also at the core of a successful OSH management system are clearly delegated and defined lines of duty and responsibility throughout all levels of the organizational structure, from shop-floor workers to top management. SA8000 Clause 3.2 requires that the company appoint a Senior Management Representative who is responsible and accountable for the implementation of the OSH system throughout the company or site. It is important to ensure that such a person is given appropriate authority, support and resources to adequately address OSH issues at all levels. The role of the OSH representative should be augmented and supported by other personnel, particularly shop-floor workers, whose role is to advise, review and implement OSH matters.

Please see the following sections for a related discussion. Another useful source regarding OSH Management Systems is the ILO's *Guidelines on Occupational Safety and Health Management Systems* (ILO Safe Work: 2001).

2) Employee participation and management commitment

Employee and union participation at all levels is a crucial element in creating a safe and healthy work environment, and is seen by the ILO as a "fundamental workers' right" as well as a duty.²⁵ Employees should be invited to participate in OSH program design, development and reviews. They should take an active part in identifying risks and designing solutions, creating a culture of ownership and responsibility. Employee participation is especially important when a major development is proposed that is likely to have OSH implications, and when new OSH measures are proposed. It is important that employees are also involved in incident reporting, OSH inspections, design and implementation of corrective actions and general decision-making concerning OSH issues.

²⁵ B. O. Alli (ILO), 2001, *Fundamental Principles of Occupational Health and Safety*, p. 51, published at: <http://www.ilo.org/public/english/support/publ/pdf/fundamen.pdf>.

Institutionalized employee participation, through mechanisms such as worker OSH committees, ongoing management-trade union dialogue, suggestion boxes, and complaint procedures can be good indication of management commitment. Auditors can look for evidence of participation in committees, open consultations with employees, worker delegates and health and safety officers. Worker interviews can provide valuable information about the level and effectiveness of participation.

3) Training

Training is a vital part of any OSH program. Auditors should look to verify that employers conduct regular and effective training programs and that workers are trained on how to perform their tasks safely and with minimum risk to health. At a broader level, employers should provide training about the potential hazards of the workplace. Such training might include information about the nature and risks of activities and chemicals, information about risk prevention and control, and in particular, emergency drills. Auditors should check to see that fire drills are repeated frequently enough to match the level of staff turnover and that a walk-through of the facility to review health and safety hazards and preventive procedures is part of the orientation for all new workers.

Relevant training should be extended free of charge to all employees in their native language. All training should occur during work hours, not as an added task. If it occurs during weekends, workers should be compensated with overtime premium rates of pay, or with rest days to offset time spent in training. Where appropriate, training should also be offered to contractors and/or temporary workers working on site. If appropriate, the employer should invite external health and safety experts to deliver the training.

4) Accident prevention and risk control

Risk prevention and control measures should be applied throughout the facility:

- a) Employers should seek to eliminate risk where possible. For example, the use of alternative, less volatile or flammable substances and less toxic chemicals and products, in the case of glues, paints and solvents, can make a workplace significantly safer. Similarly, well-maintained machinery and equipment used in conjunction with appropriate safety features can prevent unnecessary accidents and injuries.
- b) Where alternatives are not available or prohibitively costly, engineering solutions and work practices can significantly reduce exposure to hazardous substances and dangerous activities. Significant risks to workers can be eliminated by mechanizing activities such as dipping components in toxic solvents or cutting material with sharp power tools.
- c) Where human exposure cannot be eliminated, maximum protection should be provided to avoid injury. No worker should be required to perform a hazardous task without adequate protective equipment and gear.

- d) Emergency response procedures such as evacuation and first aid should exist, and all workers should be aware of the appropriate action in case of an accident. OSH representatives and on-site medical staff should have clear knowledge of where to seek external medical aid in emergency. The cause, impact and response to accidents should be investigated and recorded in writing.

Auditors should keep in mind that accidents are more likely to happen when workers work long hours and overtime, when they perform risky duties, and when written or oral instructions, training and protection are insufficient. Accidents and injury frequently occur during peak season, when overtime is common. Exhaustion and lack of concentration are significant contributing factors to occupational accidents. Long hours leading to exhaustion also reduce workers' resistance and ability to cope with external stress, increasing their susceptibility to illness and reducing their ability to recover from accidents or chemical poisoning.

5) Rehabilitation and compensation

Workers injured in workplace accidents or suffering from work related diseases often lose their jobs and the working capacity to seek another job. In such cases, companies should ensure that the affected workers are provided with adequate rehabilitation and/or compensation. To verify this, auditors can study national laws and OSH regulations, look for the existence of policies, as well as records of past incidents. Worker interviews can illuminate and expose past practice. Where the issue is of significant concern auditors may wish to consult local labor NGOs and ex-workers.

6) Documentation

Auditors should expect all important OSH matters to be documented and available for inspection. The following is a list of the types of issues that are generally recorded and documented by audited companies. The list is by no means exhaustive. It is meant to provide examples of the documentation that should be kept by the company and made available to auditors.

- a) Company-wide, broad OSH policy;
- b) Specific policies for issues as diverse as fire safety, employee participation and disciplinary practice;
- c) OSH systems, management structure and lines of responsibility;
- d) Goals and objectives for improving worker health and safety and lowering accident rates;
- e) Monthly, quarterly or annual reviews of performance against goals and objectives;
- f) Corrective action taken to improve performance;
- g) Guidelines and procedures to minimize risks and respond to possible incidents, both general (e.g. fire, poor ventilation) and specific (e.g. specific work station, machine or chemical);

- h) Records of decision-making and communication (e.g. minutes of meetings, memos sent to staff or management, posters used to communicate and inform);
- i) Information sheets on specific hazards employees may encounter;
- j) Regular reviews of preparedness and preventative action such as machinery maintenance and emergency drills;
- k) Incident reports for all incidents, including cause, impact, number of people affected, remedial action taken and rehabilitation/compensation provided to victims or their families.

B. Corroborative Evidence

The following are some examples of evidence that may corroborate compliance with SA8000. This list is not exhaustive, nor is every item obligatory. And it does not indicate compliance automatically. Auditors should adapt or expand this list and create their own strategy to collect evidence depending on the context and what they find during actual audits. Workers' statements should remain confidential to avert potential retaliation.

1) Overall OSH Management:

- a) A comprehensive OSH management system exists and is effectively implemented, documented and communicated.
- b) Management at all levels can explain their responsibilities with regard to SA8000, the company's health and safety program and local government regulations.
- c) A compliance officer or equivalent is appointed to ensure compliance with national and municipal OSH regulations and industry codes of conduct. This officer has authority and resources to carry out his/her compliance duties; in case of non-compliance even using disciplinary measures.
- d) Emergency procedures exist, including records of regular emergency drills.
- e) Documentation and records are complete.

2) Workers awareness and involvement

- a) Workers and their representatives confirm and can explain the functioning and effectiveness of the health and safety program.
- b) Workers are informed of occupational risks, such as exposure to specific chemicals, and can explain how those risks are minimized.
- c) Workers know what to do in case of an emergency, and who to talk to if they have a health or safety concern.
- d) Training records indicate appropriate content and extent of training.
- e) A mechanism exists to encourage input from workers on OSH issues.
- f) Take note of worker appearance: do workers have injuries, rashes, or other signs of exposure to harmful substances or inappropriate use of machinery, lack of protective clothing?
- g) Take note of worker attitude: do workers feel comfortable talking about OSH issues? Is there a culture of openness or is there a sense of secrecy and lack of trust?

3) Specific risks, hazards and precautions

- a) Regular tests on level of toxic substances used in the factory are performed and documented.
- b) Protective equipment is freely available to workers and is in consistent and correct use.
- c) Special care is to be given to chemicals, asbestos and dust, electricity, machines, and steam boilers at the facility.
- d) The first aid supplies and number of trained personnel are adequate for the size of the facility and the industry, and they are accessible to all workers.
- e) Qualifications of first aid personnel are adequate for the needs of the facility.
- f) Fire extinguishers are charged, visible and accessible to all workers. Fire exits are adequate for the number of employees, well signed and clear of obstacles.
- g) Emergency exits are accessible and unlocked.
- h) Reports of emergency drills are well-maintained.
- i) Tests are regularly performed to ensure water is potable and results are documented.
- j) The temperature and air quality in the factory is periodically verified by a reputable, independent source, records are up to date, and employee reports of illness do not contradict these records.
- k) Inspections of the transport system for workers to or within the production site are regularly performed and documented.
- l) The company maintains accident reports and the workers' association, health committee and trade union have access to them (see SA8000 clause 9.12).
- m) A certificate attesting to the implementation of health and safety measures from the local inspecting agency, if available, should be considered, but should not form the sole basis for compliance with this portion of SA8000.

C. Worker interview strategy

The following is a recommended general strategy for conducting interviews with workers. Auditors can refer to the strategy and adapt it to suit specific local conditions and cultural settings.

Interviewing workers is critical for an evaluation of OSH conditions. Workers can confirm or contradict inspection findings and management claims, and highlight issues that escape the auditor's attention. More importantly, worker interviews offer the best opportunity to measure workers' awareness of workplace hazards and knowledge of preventive measures, without which no OSH program can be effectively implemented.

Auditors should review the OSH history of the site, and make specific attempts to interview workers who were involved in accidents, fell ill, or are working in roles in which illness or accidents occurred in the past.

It is generally recommended that auditors give workers a chance to say what they think about OSH conditions. General, open-ended questions are a good way to ensure that the

conversation is not confined to the auditor's pre-designed questionnaire and such issues such as levels of light, odor and noise are not excluded as 'unimportant' or trivial.

Auditors should expect that workers' level of knowledge on OSH issues may vary. A general recommendation is to avoid the use of technical jargon. For instance, instead of asking "Do you have access to MSDSs?" consider asking "Are these [chemicals/paints/solvents mentioned by the worker] dangerous?" "Do you know which ones can be toxic?" etc. It should be evident from the conversation what mechanisms are in place and how effective they are.

An auditor can design questions in a way that would not make workers' responses sound accusatory to the factory management. For instance, instead of asking "Do you feel that your health is at risk working here?" consider asking "Are there times when you feel less safe than others?" Instead of asking "Do you think anything needs to be changed?" consider asking "What would you suggest if the manager asked for your opinion on making improvements in the factory?"

Sample questions:

- 1) Do you generally feel safe at work?
- 2) Are there times that you feel less safe than others? Can you tell me more about those times?
- 3) Are there any ways to make the workplace safer for you or for other workers? What would you change if the manager asked for your opinion?
- 4) If you saw something that was of concern, for example [X, Y or Z problem], what do you think would be the best thing to do? Who would you talk to about the issue? Has that ever happened in the past?
- 5) What do you know about the chemicals you are working with? (prompt for the following if not mentioned: names, health issues, safety issues, handling procedures, appropriate and safe use, safety precautions, emergency response, treatment for overexposure) How is the information presented? (look for training, notices in native language, signs)
- 6) If a new worker starts working on a dangerous machine [specify the machine/s in question], how does she/he know how to work safely? Look for a more detailed response than "the manager shows her."

§ III. BACKGROUND INFORMATION

A. International norms and national laws

Over recent decades, the level and sophistication of the attention given to occupational safety and health issues has increased significantly. Improved science and technology allow accurate analysis and monitoring of OSH issues, and better understanding of cause and effect – and therefore prevention and treatment. At the international and national levels, enhanced administrative and legislative frameworks lay out the roles, responsibilities and rights of authorities, employers and workers. At the enterprise level,

especially in the developed world, there is increasing recognition of the need to provide a safe and healthy work environment. Such recognition is driven by tougher penalties and higher costs of non-compliance, as well as cost savings, efficiency and employee retention gains.

Achieving a safe and healthy work environment is the responsibility of society as a whole, and will only be achieved through cooperation between actors at the international, national, and local level. When auditing for OSH issues, the team should therefore bear in mind all the relevant stakeholders, legislation, standards and codes of conducts. In addition to international standards such as ILO conventions, the auditing team should consider the specific national, provincial and municipal rules and legislation that might be relevant to the site. Many countries and many states have substantial government departments set up specifically to oversee OSH issues. Their standards and guidelines can provide detailed and valuable information. Industry codes of conduct can provide further insights into the specific OSH issues the team may encounter at the inspection site.

About 70 ILO Conventions and Recommendations address occupational safety and health issues. Further guidance on specific issues and industries provided in the ILO codes of practice, manuals and guides such as the *ILO Encyclopedia on Health and Safety*. Following are some of the ILO standards that may be relevant to SA8000 auditors. For more information check: www.ilo.org

The Occupational Safety and Health Convention 155 (1981) and its accompanying Recommendation 164 laid out the requirements for national OSH policies and the progressive application of preventive measures. The Convention and Recommendation also establish employers' responsibility to provide a safe and healthy work environment.

The Occupational Health Services Convention 161 (1985) and its accompanying Recommendation 171 call for the establishment of occupational health services responsible for advising employers, workers and their representatives on maintaining a safe and healthy working environment through preventive measures. The Convention and Recommendation emphasize the importance of clear responsibilities within the company, best use of the company's resources and cooperation between employers and employees rather than specific administrative structures.

The Convention concerning Safety in the Use of Chemicals at Work 170 (1990) and its accompanying Recommendation 177 aim to protect workers against the health and safety impacts of chemical use in the workplace. The standard emphasizes the roles and responsibilities of authorities, suppliers and employers, as well as the duties and rights of workers in the safe handling, storage and use of chemicals.

The Prevention of Major Industrial Accidents Convention 174 (1993) and its accompanying Recommendation 181 seek to protect workers, the public and the environment from major industrial accidents. The Convention and Recommendation focus on the prevention and minimization of harm caused by major accidents involving hazardous substances.

A number of ILO standards deal with specific toxins and agents, such as the Asbestos Convention 162 (1986) and its accompanying Recommendation 172; White Lead (Painting) Convention 13 (1921); Radiation Protection Convention 115 (1960) and Recommendation 114; and Benzene Convention 136 (1971) and Recommendation 144 (1971).

Other ILO standards deal with specific risks or groups of people such as Occupational Cancer Convention 139 (1974) and Recommendation 147; Guarding of Machinery Convention 119 (1963) and Recommendation 118; Maximum Weight Convention 127 (1967) and Recommendation 128; Maternity Protection Convention (Revised) 183 (2000) and Recommendation 191; Medical Examination of Young Persons (Industry) Convention 77 (1946).

B. Typical hazards and risks in manufacturing

The following is an outline of some of the most common *health* and *safety* issues reported in factories and similar work environments. Some areas do not apply in all circumstances, however the auditor should be satisfied that an issue is NOT of concern at the site before dropping it from the inspection. For instance exposure to asbestos may not be relevant to the toy manufacturing process, however the auditor should check that the building itself does not contain crumbling asbestos. In every case the national legal regulations on first aid material and first aid facilities as well as trained personnel must be followed.²⁶

1) Latent Health Hazards

By ILO estimates, more than 2 million people died in 2002 from work related diseases, and some **160 million** suffered non-fatal work-related disease²⁷. Health hazards at the workplace can be obvious at times, but are often more subtle, causing damage to health through long term exposure to chemicals, radiation, asbestos, dust and noise. According to the ILO, among all the estimated work-related fatalities in 2002, only about 15% were caused by accidents or workplace violence, while 85% were caused by less visible factors such as communicable diseases, malignant tumors, respiratory system diseases, neuro-psychiatric illness, etc.²⁸ The latency of many health effects means it can be difficult to make the link between cause and effect, to establish the source of exposure and at times to find all the affected past workers in order to ensure appropriate medical treatment and

²⁶ See also ILO and Juan Carlos Hiba, 1998, *Improving Working Conditions and Productivity in the Garment Industry: An Action Manual*, Geneva; and B. O. Alli and ILO, 2001, *Fundamental Principles of Occupational Health and Safety*, Geneva.; and ILO, 1998, *Encyclopaedia of Occupational Health and Safety*, 4th edition, Geneva. Regarding the following sections check for more information the websites of national Departments of Labor, like that of the USA: <http://www.osha.gov> (the U.S. Department of Labor provides links to the OSH web-site: <http://www.osha.gov/SLTC/generalshreferences/otherresources.html>, and a self auditing checklist: <http://www.osha.gov/SLTC/smallbusiness/chklist.html>).

²⁷ J. Takala, 2001, *Introductory Report: Decent Work – Safe Work*, (Geneva 16th World Congress on Safety and Health at Work), Vienna, published at: http://www.ilo.org/public/english/protection/safework/wdcongrs/ilo_rep.pdf.

²⁸ Ibid.

compensation. Prevention of occupational health hazards is therefore of utmost importance and auditors should be aware of the long-term risks for any given industry they audit.

2) Exposure to Chemicals

Hazardous chemicals are used in many workplaces, and can cause a wide variety of short and long-term health hazards, from mild irritation to cancer. The risk of exposure depends on the dose, concentration and duration of exposure, the exposure route (inhalation, skin contact or ingestion), the mixing of the chemical with other hazardous substances, and the employee's personal sensitivity to the substance. Some countries for many hazardous substances set maximum exposure standards. Exposure should not exceed those levels, and preferably be kept as low as practicable, since the effect caused by the mixing of one chemical with other substances and personal sensitivities are rarely considered in standards.

Management should identify and collect information about all hazardous chemicals used within the facility, and make that information available to workers. Material Safety Data Sheets (MSDS) should be available and accessible. The employer should ensure that workers are aware of the nature and risks associated with the substances to which they are exposed. Where exposure to hazardous substances is necessary, employees should be trained and the levels of hazardous substances in the work environment should be monitored regularly to ensure exposure does not exceed safe levels.

The hierarchy of risk minimization should apply when dealing with hazardous chemicals:

- a) **Replacing** products such as paints, glues and solvents **with less toxic alternatives** should be the first step.
- b) Where a replacement is not feasible, **safe-working practices** including storage, handling, minimized skin exposure and appropriate ventilation is necessary.
- c) Where exposure is still likely or inevitable, **personal protective equipment** should be used to protect skin, eyes and respiratory tracts.
- d) Finally, **spill control, first aid and emergency procedures** should exist and be available at short notice in case of accidents and incidents involving hazardous substances.

Chemicals are not the only hazardous substances found on a worksite. Heavy metals such as lead and mercury can pose significant health risks, as can cigarette smoking in the workplace. Workers may not associate adverse health effects with exposure to hazardous substances. Nausea and dizziness caused by exposure to chemicals may be falsely attributed to heat or fatigue instead.²⁹

²⁹ For further information see: University of California – Berkeley, without year, Labor Occupational Health Program (LOHP), *An Introduction to Chemical Hazards in the Workplace*: a booklet prepared for the Hazard Evaluation System and Information Service (California Occupational Health Branch), at: <http://www.dhs.ca.gov/ohb/HESIS/uts.htm>.

3. Exposure to asbestos and dust

The inhalation of dust and asbestos fibers by workers can cause serious diseases of the lungs and other organs, and the health effects may not appear until years after the exposure has occurred. Lung diseases are the leading cause of occupational health problems in countries such as China, accounting for approximately more than two-thirds of all verified occupational diseases.

Exposure to **asbestos** can cause a buildup of scar-like tissue in the lungs and result in loss of lung function that may progress to disability and death. Asbestos fibers associated with these health risks are too small to be seen with the naked eye. The U.S. Occupational Safety and Health Authority (OSHA) sets exposure limits for asbestos at 0.1 fibers per cubic centimeter (cc) of air over an 8-hour period, and at 1.0 fiber per cc of air over any given 30-minute period.³⁰

Exposure to **cotton dust** can lead to conditions such as byssinosis or “brown lung disease” and cancer. OSHA recommends twice-yearly measurements of cotton dust using a vertical elutriator or equivalent equipment. The exposure limit for respirable cotton dust is set by OSHA between 200-1000 micrograms per cubic meter of air, measured over an 8-hour period, depending on the type of operation.³¹

Exposure to **wood dust** can cause a variety of health problems, from nose and throat irritation to allergic reactions to contact dermatitis and cancers such as sino-nasal adenocarcinoma. Additional health problems can result from inhaling fungi and molds that grow on the wood and chemical residues from wood treatment, such as formaldehyde and copper naphthanate. Exposure and concentration standards for wood dusts vary, depending on the type of wood. If the audit team deems wood dust to be a significant issue, the type of wood should be determined and appropriate standards and measurement techniques applied.

Common sources of exposure:

- a) Manufacturing, cutting or processing dust-producing materials such as wood, cotton and other fabrics.
- b) Manufacturing and processing asbestos-containing products such as textiles, building material and brake and clutch components.
- c) Contact with deteriorating asbestos-containing buildings.
- d) Disturbance of asbestos-containing materials during the renovation or demolition of buildings.
- e) Dusty environment common in construction sites and agriculture.

Employers should limit asbestos and dust exposure to match or remain below the levels specified by legislation using engineering controls and work practices to the extent feasible. Where those measures do not ensure adequate worker protection, respiratory

³⁰ U.S. Department of Labor - *Occupational Safety and Health Administration*, 2002, OSHA Asbestos fact sheet, published at: http://www.osha.gov/OshDoc/data_AsbestosFacts/asbestos-factsheet.pdf.

³¹ Ibid.

protection equipment and task rotations can be used to further reduce exposure. Where personal protection equipment is used as the primary means of reducing exposure, the audit team should take special care to ensure the equipment is always used, and is not simply 'on show' for the audit.

4) Handling of Electricity

The incorrect handling of electricity may cause danger to the health of employees. Facilities must comply with the national legal regulations related to electric power. Auditors should observe the following items:

- a) Electrical contacts are not freely accessible or bare.
- b) Power sockets, switches etc. must function properly and be in good condition.
- c) Electric installations are installed in a fixed and secure manner.
- d) Electric cables are not impeding access to workspaces or run alongside open knives/blades.
- e) Electric installations are grounded to avoid the conduction of electricity through metal components and machines.
- f) High-voltage warning signs are displayed next to main power connections or main fuse boxes.
- g) Electrical junction boxes, electrical control rooms and fuse boxes are secured with a lock and made of flameproof material; they are accessible only to authorized personnel.
- h) Work on electrical systems is done by qualified personnel only.
- i) Electrical installations are inspected for safety at regular intervals.

5) Safety of Machines

Machines such as saw blades, band knives, punches or presses are normally fitted by their manufacturers with safety devices. There is particular danger from machines where the necessary safety devices are missing or are defective. There is likewise increased risk if the employees working on the machines have not been properly instructed on the use of the machines. Facilities must comply with the national legislation for machine safety. The following items should be observed by auditors:

- a) Access to rotating or oscillating machine parts and the corresponding working zone a safe distance from other workers or passersby.
- b) Protective devices that guard against injury, including finger guards, drive belt safety covers, ventilator guards and other safety devices, are properly installed and function effectively.
- c) Machines must in all cases be fitted with fully operational emergency cut-off switches.
- d) Warning signs are prominently placed on dangerous machines.
- e) Machine operators are given accident prevention training when they start work at a new workplace/machine, and this is repeated at regular intervals.

- f) Workers can explain safety precautions and emergency plans related to all machines.

6) Safety of Steam Boilers

Steam boilers are a major source of potential danger, since the water inside is heated to a high temperature and subjected to high pressure. If the boiler is damaged, there may be the risk of an explosion. Hot steam escaping the boiler may burn or scald employees. The combustion chamber of a steam boiler creates a fire risk, as does the storage of fuels such as gas, oil or coal. Facilities must comply with the national legal regulations for steam boilers. The following items should be observed by auditors:

- a) Steam boilers operated with gas, oil, coal or other combustible materials are not installed close to dormitories, staircases or escape routes.
- b) Stationary steam boilers are installed in separate rooms or buildings, which are secured with a lock; only authorized persons have access to these rooms.
- c) High-pressure safety relief valves are installed in every steam boiler.
- d) The steam boiler system must be in good condition and tested regularly.
- e) There are safety rules and operating instructions for the steam boilers and these are available on site.
- f) Employees who operate the steam boilers are appropriately qualified to do so and have completed safety training.

7) Fire safety and emergency cases

Fire is a significant risk in many sites, and can result in the injury and death of many workers. Fire prevention and preparedness is therefore extremely important for the protection of workers. The audit team should note the general level of preparedness on the site. The following is a partial list of hazards auditors should review:

- a) Flammable vapors and dusts should not come in contact with exposed flame, hot surfaces or sparks from welding or similar activities.
- b) Risky activities involving exposed fire, sparks, hot temperatures or flammable materials should not take place in the vicinity of flammable building materials, floors, walls and roofs.
- c) Flammable substances should be stored in safe areas and preferably fireproof containers, and workers handling them should be aware of their combustible nature and appropriate handling procedures.
- d) Electrical wiring, circuits and machinery should be well maintained in order to minimize the risk of electrical fire.
- e) The number and placement of fire alarms and fire extinguishers should be adequate for the size of the site, and be inspected regularly.
- f) Fire extinguishers should be appropriate for the type of fire risks – different chemical extinguishers may be used for fire involving wood, material, paper, etc. than for fires involving flammable liquid, live electrical components and oils.

- g) Fire wardens should be present on each site, preferably on each floor, and should be trained in using fire-extinguishing equipment.
- h) Emergency evacuations should be practiced regularly. Each worker should participate in at least one evacuation practice a year in order to be familiar with emergency exits and procedures.
- i) There should always be an adequate number of emergency exits based on number of occupants. These exits should always be unobstructed, clearly marked, well lit and lead to safe areas outside of the building. The “International Council of Toy Industries” (ICTI) requires a minimum of two exits per floor, and recommends that no worker should be farther than 200 feet away from the nearest exit.

8) Workplace Hygiene and Sanitation

All workers should have access to sufficient potable water in working, eating and sleeping areas. The water source should be tested annually to ensure it is safe to drink, and the employer should be able to produce certification documents to verify test results. Adequate, functional, accessible and clean toilet and hand-washing facilities should be provided in both work areas and dormitories.

Food and water should be stored safely to avoid contamination from the air or from chemical residue on containers. Where food is prepared or sold on site, management must ensure that it is safe from contamination, and that preparation, handling and storage comply with local regulations and sound hygienic standards. Refuse should be disposed of safely and hygienically on a regular basis, avoiding odors and pests.

If the company provides dormitory facilities, it is recommended that the audit team check that the facilities:

- a) Are clean, tidy, and not overcrowded;
- b) Are well-ventilated and heated/cooled to ensure comfortable conditions;
- c) Have adequate and culturally appropriate toilets and warm showers;
- d) Have appropriate and culturally acceptable arrangements for laundering clothing.

9) Exposure to Heat and Cold

Beyond mere discomfort, extreme or prolonged exposure to hot or cold conditions can cause serious damage to health and even death. Heat stress can cause burns, rashes, cramps, exhaustion, heat fatigue, collapse, or stroke. Cold can cause hypothermia, frostbite and, in certain cases, such as with liquid nitrogen, cold burns.

- a) Heat and cold injury can result from:
- b) Prolonged exposure to high or low air temperatures and high humidity;
- c) Exposure to radiant heat sources such as furnaces or direct physical contact with very hot objects such as molten plastics or hot water’
- d) Direct contact with cold objects such as refrigerated or frozen food and very cold water;
- e) Strenuous physical activity;

- f) Lack of adequate clothing in cold and exposed work environments.

Clearly, the ambient temperature varies considerably throughout the year. If the time of inspection is not the coldest, hottest or most humid time of the year, workers, management and medical personnel should be asked about conditions during extreme weather conditions. If air-conditioners, fans or heaters are present, workers should be asked if those are used every time they are needed. If the electricity supply is inadequate or unreliable, ensure a back-up plan exists so that a non-air-conditioned or non-heated site does not become too hot or too cool.

Workers handling extremely hot or extremely cold items, working in hot or cold environments or with hot or cold liquids should be given special considerations. Ensure protective equipment exists and is used where needed. Ensure duration of exposure is not excessive and that rotation is used in places like cool-rooms and near furnaces to avoid discomfort and over-exposure. Ensure plenty of potable water is readily available. If in doubt, measure air temperatures and workers body temperature (using a thermometer). Workers’ deep body temperature should not exceed 38°C (100.4°F)³².

10) Noise

Although it may not seem as important as fire risk or exposure to hazardous chemicals, according to the World Health Organization (WHO) noise-induced hearing impairment is the most common irreversible (and preventable) occupational hazard worldwide.³³ Exposure to noise can interfere with concentration, cause stress and fatigue, reduce efficiency, lower morale and interfere with sleep. Prolonged or excessive exposure to noise can reduce the ability of workers to understand speech under normal conditions, and can lead to permanent medical conditions such as hypertension and heart disease.

According to the WHO, exposure for more than 8 hours a day to sound in excess of 85 dB is potentially hazardous.³⁴ The audit team can use existing records if they are deemed reliable, or measure noise levels using noise dosimeters or sound level meters. The U.S. Department of Labor offers the following distribution of allowable exposure:

Exposure per day (hrs)	Sound Level (dBA)
8.0	90
6.0	92
4.0	95
2.0	100
1.0	105
0.5	110
0.25	115

³² US Department of Labor, Occupational Safety and Health Authority, without year, *OSHA Technical Manual*, Section 3 Chapter 4, published at: http://www.osha.gov/dts/osta/otm/otm_iii/otm_iii_4.html.

³³ World Health Organization (WHO), 2001, *Fact Sheet 258: Occupational and Community Noise*, , published at: <http://www.who.int/inf-fs/en/fact258.html>.

³⁴ Ibid.

Hearing protection should be provided free of charge where noise levels exceed allowable exposure. Where workers are exposed to high levels of noise, the employer should also provide annual audiometric testing to monitor impact on workers' hearing. The WHO states: "Audiometric testing must be made available at no cost to all employees who are exposed to an action level of 85 dB or above"³⁵. Records of audiometric tests should be kept for the duration of employment for each affected employee.

³⁵ Ibid.

**FREEDOM OF ASSOCIATION AND THE RIGHT TO
COLLECTIVE BARGAINING**

§ I. STANDARD REQUIREMENTS AND INTERPRETATION

A. SA8000 Requirements

SA8000 4.1 *The company shall respect the right of all personnel to form and join trade unions of their choice¹ and to bargain collectively.²*

SA8000 4.2 *The company shall, in those situations in which the right to freedom of association and collective bargaining are restricted under law³, facilitate parallel means of independent and free association and bargaining⁴ for all such personnel.*

SA8000 4.3 *The company shall ensure representatives of such personnel are not the subject of discrimination⁵ and that such representatives have access to their members in the workplace.*

B. Definitions & Interpretation

- 1) *Form and Join Trade Unions of Their Choice:* Workers have the freedom to form and join any trade union they choose, free of any form of interference from employers or competing organizations set up or backed by the employer. ILO Convention 98, Article 2, prohibits, in particular, “acts which are designed to promote the establishment of workers' organizations under the domination of employers or employers' organizations, or to support workers' organizations by financial or other means, with the object of placing such organizations under the control of employers or employers' organizations.” (For further explanation of trade unions, worker organizations, and worker representatives, see text box 2, section II.)
- 2) *Bargain collectively:* Collective bargaining is understood to be the “voluntary negotiation” between employers and organizations of workers in order to establish “the regulation of terms and conditions of employment by means of collective agreements.” Key phrases are quoted from ILO Convention 98, Article 4.
- 3) *Restricted Under Law:* The term “restricted under law” refers to situations where – on a national level – interference by the state prevents independent, collective representation of workers freely elected by their peers; and/or where workers are not permitted to establish trade unions.
- 4) *Parallel Means...:* Where these rights are “restricted under law” the company shall “*facilitate parallel means of independent and free association and collective*

FREEDOM OF ASSOCIATION AND THE RIGHT TO COLLECTIVE BARGAINING

bargaining” This means that even where these rights are restricted under law, the company needs to make clear to workers that they are willing to engage workers in collective dialogue through some representative structure and that they are willing to provide them with the opportunity to do so, if workers so wish.

- 5) *Not the subject of discrimination* refers to Article 1 of ILO Convention 98, which states:
- a) Workers shall enjoy adequate protection against acts of anti-union discrimination in respect of their employment.
 - b) Such protection shall apply more particularly in respect of acts calculated to—
 - i. make the employment of a worker subject to the condition that he shall not join a union or shall relinquish trade union membership;
 - ii. cause the dismissal of or otherwise prejudice a worker by reason of union membership or because of participation in union activities outside working hours or, with the consent of the employer, within working hours.

C. Intent of SA8000

The intent of SA8000 is to promote ongoing, constructive social dialogue between workers collectively and management. SA8000 requires that employers permit, without any direct or indirect impediment or negative consequences for any workers, non-violent efforts towards worker organizing, trade union membership, and collective bargaining. As per ILO Convention 98, Article 2, the employer shall not promote competing workers’ organizations or seek to control the activities of workers’ organizations.

SA8000 does not require the establishment of a trade union. SA8000 seeks to:

- 1) protect workers’ right to organize and represent themselves in collective negotiation with management;
- 2) protect against international trends in discrimination against worker representatives and members of worker organizations, particularly trade unions; and
- 3) ensure that management does not unreasonably refuse to bargain collectively with workers’ organizations that have been properly established.

In countries where some or all aspects of workers’ rights to freedom of association and collective bargaining are restricted or prohibited by law – and only in those countries – employers have a special obligation. They shall enable workers (if they so choose) to develop forms of collective representation and to engage in collective negotiation with management. Even in these cases, management shall not seek to influence or interfere with workers’ discussions, voting processes or related activities.

§ II. AUDITING CONSIDERATIONS

A. Key Issues to Review

Pursuant to SA8000 Auditor Advisory #11 on documentation requirements, workers' ability to exercise their rights to freedom of association and collective bargaining shall be addressed in every Audit Report.³⁶ Also, this is an element of SA8000 where consultation with local, regional and national trade union representatives on a regular basis will be crucial to auditors' effectiveness.

The following are examples of some issues that auditors should review, including: legal challenges to trade union rights, parallel means of freedom of association and collective bargaining, discrimination against trade union members, employer's interference with trade union activities, and the distinct role of a (non trade union) workers' representative. Auditors should adapt and/or expand it depending on the production facility and other local conditions.

1) Legal challenges to exercising freedom of association and collective bargaining

There are a variety of ways that some national governments have imposed legal limitations on workers' right to establish and join organizations of their own, trade unions in particular. In some countries, free and independent trade unions are either forbidden or made impossible by state interference; in these cases, ***and only in these cases***, the SA8000 parallel means clause should apply (see II.A.2. below and I.C. above).²

a) Export Processing Zones

In other countries, national legislation may limit trade union rights and related activities within a certain sector, such as the Export Processing Zones.³ But these laws generally do not forbid the factory from recognizing a trade union and bargaining collectively with workers, should the workers seek to organize. In most countries where limitations on organizing apply to such zones, the laws do not require punishment of workers exercising those rights (even though they may not explicitly protect those workers). In such cases, ***auditors should verify that workers in the workplace being audited are still permitted to organize if they choose and that trade union representatives are able to talk to workers about their options for protecting their rights.*** In order to assess such a situation, auditors should:

³⁶ SAI, *Advisory*, No. 11 (Apr. 2003), New York.

² For instance, in China and North Korea only government-affiliated unions are allowed and union leaders are assigned through the union hierarchy. For details see the ILO's *Annual Reviews* on "Freedom of association and the effective recognition of the right to collective bargaining".

³ Bangladesh, Pakistan, Dominican Republic and Panama are some of the countries that have denied or restricted workers the right to establish and join trade unions in export processing zones. For details see ILO, 1994, *General Survey of the Reports on Freedom of Association and the Right to Organize*, 4B (International Labour Conference, 81st Session).

FREEDOM OF ASSOCIATION AND THE RIGHT TO COLLECTIVE BARGAINING

- i. interview local and national representatives of any existing trade unions for the industry sector in question;
- ii. carefully review how this issue is addressed in any training and/or communications to workers and managers about the company's SA8000 policy.

b) Migrant and Foreign Workers

A number of countries prohibit certain categories of workers – particularly foreign or migrant workers – from joining and benefiting from the protection of a trade union.³⁷ Similar to the case of the export processing zones, employers are still expected to ensure these rights are extended to all their workers and subcontractors. In such cases, auditors should interview a significant number of the migrant and/or foreign workers in secure locations, preferably outside the workplace or company-provided dormitories. Auditors should include such queries in their procedures as outlined above (III.A.1.a.) – interviewing unions and reviewing communications about the company's SA8000 policy.

c) Bureaucratic Hurdles

The vast majority of countries do not forbid union membership. In practice, however, a great number of indirect restrictions or bureaucratic hurdles can make it exceedingly difficult for workers to exercise their free association and collective bargaining rights. For example, if workers' request to form a union is being contested by the employer in the courts, auditors should investigate further, particularly checking to see if any worker organizers have been demoted or fired during this time period. By investigating the extent to which regulatory hurdles have stymied workers' organizing attempts, auditors may find indication of more direct discrimination toward worker organizers. The auditor should seek to understand whether or not the employer has sought to bargain with workers in good faith. Therefore, it is extremely important that auditors study and understand the local context, past and present, vis-à-vis trade union rights. (Please see an example from Indonesia in the background section of this chapter.)

2) Parallel means of freedom of association and collective bargaining

It is important to clarify that only in situations where trade union rights are seriously restricted under the law – such that interference by the state impedes independent trade union organizing and/or representation – will a company need to facilitate parallel means of freedom of association and collective bargaining. The company should have in place a policy and documentation of actions taken to communicate these opportunities in a clear, non-manipulative, manner to workers.

³⁷ According to the *2004 Annual Survey of Violations of Trade Union Rights*, published by the ICFTU, "Migrant workers represent a significant percentage of the labour force in Kuwait, Lebanon, Oman, Saudi Arabia and the United Arab Emirates, where they constitute the largest category of workers who have been deprived of their trade union rights."

FREEDOM OF ASSOCIATION AND THE RIGHT TO COLLECTIVE BARGAINING

The ‘parallel means’ clause of SA8000 requires that – regardless of national laws and practice – companies must be willing to negotiate with workers collectively and that it is the company’s responsibility to make sure workers know they are free to organize themselves. This communication might consist of a clear outline from management on workers’ rights and responsibilities in such a dialogue and the benefits management sees to an ongoing dialogue. The decision to set up a representative dialogue structure, however, should be left to workers.

Determining where the SA8000 ‘parallel means’ clause should apply is challenging in many of today’s changing economies. There are two macro criteria for identifying where the clause may apply:

- a) where trade unions are banned; and
- b) where interference by the state or the governing party (in dictatorships or one-party states) prevents independent, collective representation by workers.

Unions Banned

In the first category there are three countries that currently ban trade unions: Saudi Arabia, Oman, and Burma (SA8000 certifications not permitted until ILO sanctions are lifted). Annual updates on this list can be derived from the *Annual Survey of Violations of Trade Union Rights*, published by the International Confederation of Free Trade Unions (www.icftu.org).

State Interference

Determining state interference can be more challenging and it is important to not confuse state interference with state regulation. Countries where the parallel means clause may apply are often those countries ruled by a dictator or a single political party. It is possible however, that political interference by the state or a single, ruling party is not pervasive in every factory. To that end, if one or more of the following restrictions on workers rights occur, then the parallel means clause should apply. In each case, auditors should confirm that the condition is mandated by law or public policy and not just a de facto condition.

- a) workers are not permitted by law to voluntarily apply or not to apply for membership in a trade union; or
- b) workers are not legally permitted to directly elect their own trade union representatives; or
- c) only one official trade union structure is permitted by the state and workers have no choice concerning the trade union organization with which they can affiliate; or
- d) workers’ first-level organizations are not free to establish and join federations and confederations and any such organization is not free to affiliate with international organizations of workers; or
- e) the right to bargain collectively is not granted to federations and confederations of workers’ first-level organizations; or

The chief purpose of the SA8000 “parallel means” clause is to make sure workers are able to choose how they want to organize, express their concerns and collectively negotiate solutions with management when there is no other means to do so – and only

FREEDOM OF ASSOCIATION AND THE RIGHT TO COLLECTIVE BARGAINING

where there is no other means to do so. This is the case in only a small group of countries. Even within those countries, the situation may be changing.

It is critical that auditors ensure that a company's facilitation of parallel means does not in any way lead to the company setting up or manipulating worker organizations. If auditors have any questions about whether or not the parallel means clause should be accepted in a given situation, they should contact SAI headquarters directly.

This list may change over time, however, as countries seek to comply with ILO membership requirements, which are based on compliance with Conventions 87 and 98. If an auditor has doubts about a particular country, he or she should review the ICFTU *Annual Surey of Violations of Trade Union Rights*, or if necessary, contact SAI headquarters directly.

3) Discrimination against Trade Union Members

Employer's discriminatory action against workers, based on union membership and activities, is a chronic problem in workplaces around the world. This problem exists even in countries with little or no statutory restriction on trade union rights. Of all the forms of action against employees, dismissal is the most obvious deterrent to worker organizing and carries the most serious consequences for workers.³⁸ Other measures may also constitute serious prejudice against the worker, for example, transfer, relocation, demotion, and denial of remuneration, social benefits and/or vocational training.

SA8000 prohibits any form of anti-union discrimination, both at the beginning and during the course of employment.

Auditors should be aware, however, that it may be extremely difficult to establish whether or not the union membership or any other worker organizing activities are the real cause for any of the punitive actions listed above. Sometimes workers suffer the same forms of discriminatory treatment even when they are not attempting to organize a union, but simply to speak up for better conditions. When a worker alleges that he/she has been discriminated against due to his/her union involvement. Organizing efforts, or other efforts to defend his or her colleagues' rights, auditors should conduct further investigation with management and fellow workers, including records such as performance reviews, prior disciplinary warnings, and whether or not the worker contested such actions. In cases where dismissed workers had an average evaluation profile, further investigation should be pursued. Consultation with local trade unions and concerned NGO groups also helps auditors make a better assessment of such situations. Off-site interviews are strongly recommended for assessing employee treatment.

4) Employer's interference in workers' organizations

³⁸ Protection against acts of anti-union discrimination, in: ILO, 1994, *General Survey of the Reports on Freedom of Association and the Right to Organize*, 4B Chapter 8 (International Labour Conference, 81st Session).

FREEDOM OF ASSOCIATION AND THE RIGHT TO COLLECTIVE BARGAINING

Article 2 of the ILO Convention 98 provides that workers' and employers' organizations shall enjoy adequate protection against any acts of interference by each other or each other's agents or members in their establishment, functioning or administration. ILO Convention 87, Article 10 defines the employers' and workers' organizations to mean "any organization of workers or of employers for furthering and defending the interests of workers or of employers." Nevertheless, in the vast majority of cases where employers seek to interfere with or discriminate against workers' organizations, trade unions are at risk.

Auditors are not mandated to evaluate the effectiveness of the trade union, but they should seek to determine whether or not the union was/is in any way manipulated or put in place by management.

Employer interference in the establishment or administration of trade unions may take various forms. In some cases, an employer may contribute to the financing of a particular trade union or workers' organization and thus gain a controlling interest in its activities or management. In other cases, an employer may interfere by offering access to the premises or facilities only to a particular union preferred by the management.³⁹ There is no exhaustive list of the acts or evidence of interference, but some common examples include:

³⁹ For instance, some employers in a number of Latin American countries have used these tactics to set up the "Solidarist" organizations or associations – which promote or are often linked to worker committees – in order to phase out workers' own unions. The ILO does not consider the "Solidarist" as independent organizations in the collective bargaining process because they are often started up by employers, partly financed by them and some of its members are from management: ILO Committee of Freedom of Association, without years, *278th Report*, Case No. 1483, *281st Report*, Case No. 1568 and *295th Report*, Case No. 1734.

- a) The existence of two executive committees within a trade union, one of which is manipulated or controlled in some way by the employer;⁴⁰
- b) The setting up or facilitation of a parallel or competing trade union or workers' organization under management's influence and granting such a parallel organization the exclusive right to representation within that workplace;
- c) Discriminatory acts against the existing trade union such as the dismissal of its leadership and denial of the right to collective bargaining.

When more than one trade union or workers' organization exists in a facility, auditors should be careful to use diverse methods to assess the situation, including more extensive interviews with workers and consultations with local NGOs, regional trade unions or possibly the global union federations (GUF) (formerly referred to as international trade secretariats (ITS). Auditors should also be apprised of national laws on how dual representation structures should be handled.

5) SA8000 Worker Representative:

The SA8000 worker representative required under the management systems section 9 of SA8000 should

not be confused with workers' right to organize and bargain collectively. These are distinct concepts. The required SA8000 worker representative – described in the Management Systems Chapter below – is solely concerned with SA8000 implementation and monitoring – not workers' collective negotiation with management. In any case, the

Clarifying Non-Interference:

In one case, a European buyer wanted to ensure ongoing compliance with SA8000 among its Asian suppliers. The buyer thought that one of the best ways to ensure workers' rights is to bargain collectively with a freely elected trade union or workers' organization in order to establish terms and conditions of work (that comply with SA8000), which the elected group would monitor.

During one of the buyer's pre-assessment visits, workers made it clear that they did not trust or want to join the local trade unions. The buyer asked SAI if it would be in accordance with SA8000 for management to explain to workers various options for collective representation, such as forming a workers' organization not affiliated with a trade union.

SAI considered this undesirable because no matter how well-intentioned, this would constitute interference by the employer with workers' organizing. Employers are responsible to educate workers on their rights, but the employer cannot go into detail about workers' organizing options. Even the best intentioned employer will not be viewed as unbiased. If the employer were to distribute a list of options including trade unions and non-affiliated workers' organizations, workers would, in the vast majority of countries, interpret the employer's intention to be encouraging the non-trade union option. This likelihood is based on international trends among employers and trade unions.

⁴⁰ It is not a problem for two trade unions to exist in the same workplace. It is only a problem if one of those unions exists as a way for management to skirt the representational authority of another more legitimate union.

FREEDOM OF ASSOCIATION AND THE RIGHT TO COLLECTIVE BARGAINING

SA8000 worker representative should in no way undermine the role of the trade union in its activities, including collective bargaining. To that end, the SA8000 worker representative should be chosen in coordination with or through the trade union, if there is one present in the company.

Unless the SA8000 representative is also a previously elected representative of a freely elected trade union or worker organization, he/she should not engage in collective bargaining. Although some countries may allow for such representation (see section III.A.), this function does not apply to the SA8000 representative. If the SA8000 worker representative was elected as part of the company's coming into compliance with SA8000, then that representative was to some degree elected through a process organized at the request of the employer. For that reason, the SA8000 representative's role is restricted to SA8000 policy and implementation issues only. For the same reason, there should never be more than one SA8000 worker representative; if the company were to seek to meet this requirement of the standard by asking (or even allowing) workers to select various worker representatives, they may be seen as initiating a worker organization.

B. Evidence of Compliance

The following are some examples of evidence that may indicate compliance with SA8000. This list is not exhaustive, nor is every item obligatory. It does not indicate compliance automatically. Auditors should adapt or expand this list depending on the local context and what they find during actual audits. Workers' statements should remain confidential to avert potential retaliation.

NOTE: Confidential worker interviews are an important means for verifying compliance with SA8000, particularly the free association and collective bargaining elements. Off-site interviews are strongly recommended to ensure effective and confidential interviews.

In all countries:

- 1) Testimony from workers that they know and/or can describe:
 - a) the name of their union;
 - b) the identity of their union representative/s;
 - c) how the representatives get nominated and elected; and
 - d) the basic content of the collective bargaining agreement with management.
- 2) Copies of agreements signed by union leaders of a union freely chosen by the workers;
- 3) Copies of collective bargaining agreements signed with a union freely chosen by the workers;
- 4) Testimony of workers that the union named in the agreement was chosen by them to represent their interests;

FREEDOM OF ASSOCIATION AND THE RIGHT TO COLLECTIVE BARGAINING

- 5) An assessment of complaints of former workers or NGO's regarding unjust dismissal/s compared to records of dismissals over the previous two years (note: cases can often drag out in court for at least two years or longer);
- 6) Reports from trade union representatives in the facility about how the collective bargaining process went;
- 7) Testimony of union leaders confirming that the employer does not hinder or interfere with their organizing activities;
- 8) Testimony of workers that management allows use of meeting rooms for private workers' meetings upon request;
- 9) Reports from trade union regional or national offices and human rights NGOs that were able to enter the facilities and talk to workers confirm fair treatment of worker organizers (see also the Chapter on the Auditing Process for recommendations on NGO and trade union consultations);
- 10) Workers confirmation there has been no disciplinary action taken by management against organizing activity;
- 11) Reports on strikes, walkouts, work stoppage, or related labor demonstrations that occurred within a two-year period, records on the means of resolution and *the absence of* police or military involvement.

In cases where free association is restricted by law:

- 1) Workers describe how management communicated to them their choice of whether or not to organize and engage in collective negotiations and the role management played in their exercise of that choice (e.g. management did not influence their choice nor get involved in the nomination or election process if there was one);
- 2) Minutes from meetings of worker organizations such as a worker committee.
- 3) Workers can report when the last election of committee representatives took place and they can explain how it was organized.
- 4) Workers testify that worker committee activities are not controlled or restricted by the management.
- 5) Workers can report the frequency of worker committee meetings and/or the names of a representative on the committee. Workers are aware of recommendations that have been made by the committee to management; and workers know what management's response has been to these recommendations and there is evidence of management's report or actions taken on them.

- 6) Workers understand they have the choice to organize and raise their concerns collectively to management.

C. Worker Interview Strategy

The rights to freedom of association and collective bargaining are an integral part of fundamental human rights and a building block to ensuring respect for all other rights advocated in SA8000. It is therefore important to determine, through interviews with workers and any possible means of investigation, whether these rights are impeded or restricted in any way at the facility and verify that workers are not threatened inside or outside the workplace. Therefore, we recommend that auditors monitor the regional situation closely and keep ongoing communication with local, regional and national trade union representatives. NGOs and other concerned people and organizations can also be helpful, but they cannot fully substitute for the trade union perspective. Offsite interviews with workers are strongly recommended.

Freedom of association is a sensitive issue in many places. It is particularly important for auditors to inform workers that all information is highly confidential, and that there are mechanisms available for workers to lodge confidential complaints outside the factory – through the auditors or other local organizations – if they experience any discrimination or retaliation afterwards. Both management and workers should be informed that future audits will include reviews of the continued employment of workers who are interviewed.

If there is a trade union in the facility, auditors should interview trade union leadership and membership on a regular basis. ***Auditors are not there to check on the effectiveness of the trade union, but they should seek to determine whether or not the union was/is in any way manipulated or put in place by management.*** To that end, as noted above, auditors should seek to determine through worker interviews, the extent to which workers know:

- 1) the name of their union;
- 2) who their union representative/s is/are;
- 3) how the nominations and election of union representatives occurred; and
- 4) the basic content of the collective bargaining agreement with management.

If strikes, walkouts, work stoppage, or any related labor conflicts occurred within a two-year period prior to the audit, auditors should give special attention to these issues and conduct separate interviews – preferably off-site – with particular personnel involved in the conflict. In order to get a comprehensive understanding, auditors should separately interview trade union representatives, managerial staff, union members and non-members, those who supported the labor dispute with the management and those who opposed. For further information, auditors may also consult other regional trade unions and/or other local sources of information such as a government labor dispute arbitration center.

FREEDOM OF ASSOCIATION AND THE RIGHT TO COLLECTIVE BARGAINING

Considering the complex nature and crucial importance of these rights, we recommend that auditors use as many indirect and open-ended questions as possible. Auditors should also note that in asking questions, they should avoid the use of leading questions or any other behavior, which may compromise auditors' impartial and independent stance. See the text box below for sample questions, to which auditors should try to find answers.

Key questions to ask when auditing a workplace against Requirement 4 of SA8000

The list of questions is not exhaustive, nor is every question obligatory

- 1) Can workers establish and join organizations of their own choosing without previous authorization?
- 2) Can the workers' organizations draw up their constitutions and rules?
- 3) Can the workers' organizations elect their representatives in full freedom?
- 4) What facilities have been afforded by the employer, in the workplace, to enable the elected representatives to carry out their functions promptly and efficiently?
- 5) Can the workers' organizations organize their administration, activities and programs without any outside interference?
- 6) Has any workers' organization, in the workplace, been dissolved or suspended by administrative authority?
- 7) Can workers' organizations establish and join federations and confederations, and can they in turn affiliate with international organizations of workers?
- 8) Can the elected representatives engage in collective bargaining on behalf of the workers?
- 9) If the workers so choose, can the officers of the federations and confederations engage in collective bargaining on behalf of the workers?
- 10) Has the employer placed any restrictions on the scope of negotiable issues?
- 11) Can workers voluntarily apply, or not apply, to join a trade union?
- 12) Has any worker been discriminated against in any manner whatsoever, or dismissed by reason of union membership, or participation in union activities?
- 13) Has the employer attempted to bring the workers' organizations under his control by financial or other means?
- 14) Has the employer attempted to promote the establishment of a rival workers' organization?
- 15) Has there ever been a strike in the workplace?
- 16) If so, what were the reasons for the strike and how was it settled?

In assessing national laws on workers' rights to free association and collective bargaining, auditors should consult local offices of the ILO or contact SAI headquarters.

§ III. BACKGROUND INFORMATION

A. International Norms and National Legislation

FREEDOM OF ASSOCIATION AND THE RIGHT TO COLLECTIVE BARGAINING

Well before the establishment of the International Labour Organization and the United Nations, workers' organizations demanded recognition of the right to associate freely and bargain collectively. Today, freedom of association and collective bargaining are considered fundamental human right and recognized as cornerstone principles of the United Nations and the ILO. The United Nations' 1948 *Universal Declaration of Human Rights*, the 1966 *International Covenant on Economic, Social and Cultural Rights* and the 1966 *International Covenant on Civil and Political Rights* set forth rights and freedoms which are essential to the free exercise of trade union rights and worker representation. These documents provide everyone with the right to freedom of peaceful assembly and association, the right to form and to join trade unions for the protection of their interests, and the right to bargain collectively. In 1944, the Constitution of the ILO was supplemented by the inclusion of the Declaration of Philadelphia concerning the aims and purposes of the ILO, which reaffirmed "the fundamental principles on which the Organization is based and, in particular, that freedom of expression and of association are essential to sustained progress."⁴¹

In 1948 and 1949, respectively, the ILO adopted the Freedom of Association and Protection of the Right to Organize Convention 87 and the Right to Organize and Collective Bargaining Convention 98, which together constitute the basic instruments governing freedom of association.

The vast majority of ILO member states have ratified Conventions 87 and 98,⁴² demonstrating increasing recognition of freedom of association and collective bargaining as the lawful rights of workers. As mentioned in the previous section, however, there still exist direct and indirect restrictions on the exercise of these rights in practice, even within many ratifying states. Under the Declaration of Fundamental Principles and Rights at work (adopted by the ILO in 1998), all member states of the ILO – whether they have ratified the conventions or not – are required to report on national compliance with these eight core conventions (which include C. 87 and C. 98). A good source for countries' efforts and progress in ensuring the rights codified in these conventions is the ILO Annual Review, published on the ILO website: www.ilo.org.

As stated in Convention 87, national governments are to ensure the following key provisions for freedom of association:

- 1) Article 2- Workers and employers have the right to establish and join organizations of their own choosing without previous authorization.
- 2) Article 3.1- Workers and employers have the right to draw up their own rules, elect representatives in full freedom and organize their administration and activities and to formulate their own programmes.
- 3) Article 3.2 and 4- Public authorities must not interfere with any of these mentioned rights and cannot dissolve or suspend such organizations

⁴¹ ILO, 1944, *Declaration of Philadelphia*, Art. Ib.

⁴² ILO *Conventions* 87 and 98 have been ratified by 141 and 152 countries, respectively.

FREEDOM OF ASSOCIATION AND THE RIGHT TO COLLECTIVE BARGAINING

Convention 98 on the Right to Organize and Collective Bargaining reiterates in Article 1 the protection of workers “against acts of anti-union discrimination in respect of their employment.” In such aspect, no employment can be made subject to the condition of not joining a union, nor can workers be dismissed or otherwise prejudiced against by reason of union activity. Article 2 prohibits interference of union activities by other members, including the domination of such organizations by employers through financial or other means.

Additional supplements designed to augment these conventions were adopted in 1971 and then again in 1981. The Workers’ Representatives Convention 135 was enacted in order to further define and protect the rights of workers’ representatives.

- 1) Article 1 protects workers’ representatives from unlawful dismissal based on their status or activities as a workers’ representative.
- 2) Article 2 affords workers’ representatives the granting of appropriate measures to be able to carry out their functions promptly and efficiently.
- 3) Article 3 defines workers’ representatives, depending on national law, as either:
 - (a) Trade union representatives designated or elected by trade unions or by members of such unions; or
 - (b) Freely elected workers’ representatives
- 4) Article 5 deals with the co-existence of non-trade union workers’ representatives and trade union representatives in the same workplace:

“Where there exists in the same undertaking both trade union representatives and elected representatives, appropriate measures shall be taken, wherever necessary, to ***ensure that the existence of elected representatives is not used to undermine the position of the trade unions concerned or their representatives*** and to encourage co-operation on all relevant matters between the elected representatives and the trade unions concerned and their representatives.” (emphasis added)

Collective Bargaining Convention 154 further defines the scope, definition, application and promotion of collective bargaining rights. Article 3 provides parameters for national law to define and protect collective bargaining when there is a non-trade union workers’ representatives involved. These workers may, if national law allows, be permitted to engage in collective bargaining legitimately as long as they do not undermine the position of the workers’ organizations concerned.

B. Indonesia in Transition -- Lessons for Auditing in Context⁴³

In certain cases, such as times of rapid political transitions, auditors may need to conduct additional research to continue being effective SA8000 auditors. One example is the case of Indonesia’s democratic transition in the late 1990s and early 2000s. Since the fall of Suharto in 1998, auditors’ regular consultations with local trade unions and human rights NGOs are essential for effective auditing in Indonesia. These consultations need to seek

⁴³ This case is based on original field research contributed by Vic Thorpe, of Just Solutions Network (www.just-solutions-net.com).

FREEDOM OF ASSOCIATION AND THE RIGHT TO COLLECTIVE BARGAINING

out an expert opinion and a balance of perspectives, while looking at both long and short-term historical context. The following is drawn from a field report by Vic Thorpe, which illustrates some of the complexities of industrial relations dynamics. Based on extensive interviews with workers and local NGO experts, this case illustrates how important it is for auditors to understand the local context and adjust their audits accordingly.

Labor's freedom to organize under the principles accorded by the ILO Convention 87 on Freedom of Association and Protection of the Right to Organize was one of the key demands of the democracy movement that eventually resulted in the fall of Suharto. The incoming Habibie government ratified Convention 87 as an early act of the administration in June of 1998. However, it was slow to support this ratification by real changes in the Indonesian legislation. The ratification was more of a conciliatory gesture to buy time. A Trade Union Law was passed, that allowed registration of trade unions other than the official state union, FSPSI, but supporting laws to protect the right to organize, to lay down laws for their recognition by employers or to give a legal basis to collective agreements were not passed. Such legislation is still before Parliament to this day. The Suharto legislation was revoked, however. A period of legal vacuum has ensued, during which the ILO Convention 87 ratification and Trade Union Law had effectively given notice that the single legal vehicle of labor 'representation', the FSPSI, could now be challenged by alternative, independent structures, but the law to protect such alternative organization was not yet on the statute book. In practice the only law remaining is that used during the earlier Sukarno years, which dates back to 1957. This law also has many inadequacies as a means of supporting a modern industrial relations framework.

A rash of alternative workers' organizations began to organize during the build-up to the 1998 changes and since. Some arose from the activities of intellectuals and political activists who sought a base among the workers, others from workers themselves in the factories. However, the prevailing institutional and legal situation still meant that most attempts to organize at factory level were heavily repressed. Several cases of severe repression and killings of union activists by army forces were brought into the public eye during this period – especially in the apparel industry. Despite the existence of the new Trade Union Law under which (Article 14) non-FSPSI unions were free to apply for registration, the Ministry of Manpower was resisting registration of any union in a plant where there was an existing branch of the FSPSI – effectively therefore in most existing plants, since the old official union had been a compulsory structure supported by a direct payroll tax on companies. The wing led by the efforts of intellectuals (e.g. Pakpahan's SBSI – or 'Welfare Union') was less repressed as being more visible, better able to defend itself and better connected to liberal elements in the ruling apparatus that gave it cover. However, such unions had a very limited base among blue-collar workers and comprised mostly teachers, journalists and the like.

The FSPSI remains in a privileged position. Its Chairman is still the Minister of Manpower. New unions that wish to challenge its presence at factory level by organizing must register via the Ministry of Manpower, which is given the role of arbitrating the decision. Unions that wish to register in this way must submit to the Ministry of

FREEDOM OF ASSOCIATION AND THE RIGHT TO COLLECTIVE BARGAINING

Manpower a list of the names of the members of their union at the factory. Although the new Trade Union Law forbids employer interference with union formation, it is widely alleged that there is a regular ‘leakage’ of such lists from the Ministry to the FSPSI and to employers, followed by victimization of the named members for reasons that apparently have nothing to do with union organizing – e.g. forced redundancies for ‘economic reasons’, unfavorable treatment, etc.

In the situation described above, trade union representation has polarized between those committed and tough enough to fight through bitter institutional opposition and those seeking a quiet life of collaboration with the old state and employer-friendly structures of the SPSI. Observations by external observers that the alternative union activists are more strident than conciliatory have to be set in this context. The familiar recourse to the law and the regulatory apparatus of a neutral administration are not generally available in Indonesia as they are in many liberal democracies.

In 1998 a group of the old SPSI, calling itself the ‘Reform Group’ – or ‘Reformasi SPSI’ – decided that the only way out of the impasse was to lead secession from the old state union by taking over leadership of its branch and sector structures. By August of 1998 this group separated formally from the SPSI and took with it a majority of important industrial sector federations – among them the Textile & Garment Federation, TSK. The SPSI then sought to replace its vacant sector structures from the top by appointing new leaders and then striking ‘sweetheart deals’ with employers to re-gain paying membership in the factories through check-off agreements on behalf of all the employees. Since there was (and still is) no law that governs the process of trade union recognition or of trade union democratic legitimacy at the factory level, the law of the frontier has prevailed, with such institutional weight as exists firmly on the side of the old SPSI structures.

Despite this situation, the TSK breakaway is now the largest sector level union in Indonesia (with some 550,000 members – mostly in East Java). It does have many collective agreements with major employers and its initially chaotic and untutored attempts have been improved as a result of supportive training of its officers via its international links. Nonetheless, its inheritance from the old SPSI of many branches means that it still lacks democratic legitimacy in the eyes of many trade unionists, since it has not always been based on factory-wide elections, but often on internal ‘coups’ within the factory committee.

Auditors should be aware of such context and the ways in which management might be taking advantage of the situation to ensure the presence of a compliant (but unelected) trade union on its premises.

DISCRIMINATION

§ I. STANDARD REQUIREMENTS AND INTERPRETATION

A. SA8000 Requirements

SA8000 5.1 *The company shall not engage in or support discrimination¹ in hiring, remuneration, access to training, promotion, termination or retirement based on race, caste, national origin, religion, disability, gender, sexual orientation, union membership, political affiliation, or age.*

SA8000 5.2 *The company shall not interfere with the exercise of the rights of personnel to observe tenets or practices, or to meet needs relating to race, caste, national origin, religion, disability, gender, sexual orientation, union membership, or political affiliation.²*

SA8000 5.3 *The company shall not allow behavior, including gestures, language, and physical contact, that is sexually coercive, abusive or exploitative.³*

B. Definitions and Interpretations

- 1) *Discrimination* refers to any distinction, exclusion or preference, which has the effect of nullifying or impairing equality of opportunity or treatment. Not all distinction, exclusion or preference constitutes discrimination. For instance, a merit or performance based raise or bonus is not by itself discriminatory. Positive discrimination in favor of people from certain underrepresented groups may be legal in some countries (see examples below).
- 2) *Age* is not included in SA8000 clause 5.2 (although it is clause 5.1), on the basis that there are no “tenets or practices” specific to age.
- 3) Any unwelcome advances of a sexual nature by a manager to a subordinate also violate SA8000.

C. Intent of SA8000

SA8000 seeks to ensure equal and respectful treatment for all workers in all matters. Employees shall be employed, trained, promoted and compensated solely on the basis of their job performance and they will be free from all types of indecent verbal, physical and sexual harassment and other discriminatory practices.

§ II. AUDITING CONSIDERATIONS

A. Key Issues to Review

The following are examples of some issues that auditors should review. This list is not exhaustive. Auditors should adapt and/or expand it and create a specific auditing strategy depending on the production facility and other local conditions.

The main guiding principle for auditors is to ensure there is “equal pay for equal work”. Auditors also need to look at the opportunities each worker has for promotion to higher paid work, access to overtime hours and other benefits.

1) Cultural Norms and Discrimination

The auditor should seek to distinguish between forms of discrimination and cultural norms. In some cases, forms of discrimination are culturally accepted, sometimes even by national law. For example: it may be common practice to pay women less than men who are performing the same duties. However, this type of cultural norm violates international labor standards and SA8000.

a) Division along discriminatory lines – auditing lessons learned

In the 1999 SA8000 Guidance Document, SAI referenced an example where a group of factories in Pakistan addressed gender discrimination by providing equal jobs with equal pay for men and women – while still respecting religious segregation laws – by establishing separate work centers for men and women. Experience shows, however, that ensuring non-discrimination at work while respecting discriminatory religious norms is extremely difficult to verify. For that reason, auditors encountering such cases should conduct background research and broad-based, off-sight interviews with workers and other community members to verify that female workers are earning comparable salaries, and comparable jobs and opportunities for advancement are available. Such cases should be particularly well documented so as to facilitate SAI surveillance audits.

b) Two-way discrimination in one factory

Many factories are dominated by either a male or female workforce, reflecting social or historical divisions of labor. For instance, in many apparel factories, auditors may find that 70% to 80% of the workforce is female. Although such a social division of labor does not always indicate discrimination, it does merit further analysis. Auditors should be aware that in many cases employers prefer to hire female workers because they are seen as less expensive than male workers and are reportedly more ‘obedient.’ It is not uncommon to find a factory with a majority female workforce that discriminates against unskilled male workers in favor of women, while they also discriminate

against skilled female workers in favor of men (e.g. men more quickly get promoted to a maintenance team or to be line supervisors).

c) Positive Discrimination

One way to check on management's commitment to stated policies of non-discrimination is to look for indication of *positive discrimination*, where an employer has policies or programs to counter entrenched discrimination practices in the society. Three examples of positive discrimination, which are actually mandated by law include:

- i. Some countries, such as South Africa for example, require positive discrimination by law in order to help black South Africans to overcome decades of harsh discrimination.
- ii. Another example can be seen in the U.S. and the U.K., among other countries, where legal guidelines encourage employment discrimination *in favor* of disabled people (see point 7 below).
- iii. Dozens of countries have adopted legislation to enable lactating mothers adequate time to nurse during the working day.

Reasonable adjustments based on individual needs or challenges may have to be made to ensure every worker has the same opportunity to perform his or her role well. Auditors should be aware of these laws for each country where they work.

d) Changing Entrenched Discrimination Norms

More generally, however, auditors should always look for indicators of more than just a passive policy of non-discrimination by employers; otherwise employers may be perpetuating pre-established discriminatory norms (intentionally or unintentionally). One case, described in the text box below, comes from Eastern Europe; where gender discrimination appeared to correlate with expertise levels, but when consulted the women indicated that they did not have adequate opportunities to gain such expertise. In such cases where discrimination is obscured by "ability", auditors should look carefully at worker training programs and opportunities for experience. Another example is the skill of pruning a banana field – a skill traditionally handed down from father to son – where women have almost no chance to learn this skill unless the employer initiates, collaborates on or sponsors a training program for women or changes the gender division of labor to allow women to gain skills on the job. *In such cases where discrimination is entrenched in cultural norms or traditional opportunities, auditors should look for proactive company policies and programs aimed at distributing opportunities for advancement more equally. In this way, management can avoid falling into a perpetuation of entrenched discriminatory norms.*

Overcoming Traditional Discrimination: A Case from Central Europe

During interviews, women workers' voiced concerns that men were receiving more opportunities for promotion. In the Purchasing Department, auditors checked the scope of responsibilities for men and women, taking into account not only "formal" activities (dealing with papers) but also the "essence of the matter".

- Men were responsible for purchasing more important materials used in production (spare parts for turbines, etc.); to do this, deeper knowledge of production specificity is considered important for the work.
- Women were responsible for purchasing "supporting" materials, for which knowledge of the company's sourcing procedures and national regulations is required (but not technical knowledge of the production).

As women in the department raised the problem of "discrimination", management met with them to understand their perspective. In the department there was one case of a woman being promoted (better job position, higher remuneration as the result of a diploma obtained) so it was also decided to foster women to be more active and to think about their development and how it could result in better job positions for them. The case of the woman being promoted seems to indicate there was no discrimination by management, but the company still proceeded to actively discourage future discrimination by identifying ways they could work with women workers to improve their access to opportunities for advancement.

2) Discrimination Against Pregnant Women

Discrimination against pregnant women is a grave and prevalent form of gender discrimination. If a company requires women to be tested for pregnancy, forces them to use contraception as a condition for employment, or pressures workers to quit when their pregnancy comes to the attention of management, the company is violating SA8000. Even in situations where women are allowed to continue working until their babies are born, they are sometimes denied their legally required postpartum benefits and/or may not be allowed to nurse after returning to work.⁴⁴ This too is a violation of SA8000.

In addition to evaluating potential discriminating restrictions on women relating to pregnancy, auditors should also be aware of protections that should be given to pregnant women. Protections should be in place to ensure that the principle of "non-discrimination" is not used as a means for increasing a pregnant worker's physical workload. This tactic is often used to pressure women to resign and forfeit their maternity leave benefits.

3) Sexual Harassment

Sexual harassment is an extreme form of discrimination. Though sexual harassment is illegal in many countries, it is widespread in workplaces worldwide. Examples of sexual harassment include but are not limited to: unwelcome sexual advances, unwanted hugs or

⁴⁴ Some national laws require employers to allow nursing mother's time to nurse.

touches, suggestive or lewd remarks, requests for sexual favors, and derogatory or pornographic posters, pictures or drawings as well as permitting a generally gender-harassing environment.

In order to ensure the safety and dignity of female workers, management should promote a culture of respect for women and zero-tolerance for mistreatment and degrading attitudes or behavior. Incidents of sexual harassment should be dealt with promptly and effectively, leaving no doubt about the willingness of management to discipline perpetrators in a way that would deter future incidents. A discreet, effective complaint procedure should be in place for female workers. A trusted person, such as an appointed (preferably female) counselor, can encourage women to report incidents without fear of being dismissed or penalized.

Auditors should study national legislation and/or regional regulations concerning sexual harassment before conducting audits. Primary forms of investigation include checking records to determine whether any complaints have been lodged as well as interviewing complainants or victims of sexual harassment and peer workers. Auditors should also determine: whether the company has an explicit policy and defined disciplinary measures in cases of sexual harassment; whether such policy and measures have been communicated to all personnel; and whether any cases have been processed and resulted in the appropriate discipline.

4) Discrimination Against Migrant Workers

In many places, migrant workers and members of ethnic minorities or even illegal immigrants/workers are the groups most vulnerable to discrimination in terms of employment opportunities and working conditions. Immigrants and ethnic minority groups may not have equal access to legal protection, which may be available only to citizens or permanent residents. Poverty, lack of proficiency in the local language, and cultural misunderstanding may also invite prejudice and unfair treatment.

If a company hires migrant workers, auditors should verify that the company has a policy and takes appropriate action to ensure equality of opportunity and treatment between migrant and local workers and members of all ethnic groups. For instance, migrant workers should get equal treatment with respect to remuneration, career advancement, legally required social security, overtime arrangements, and trade union rights, among others. Given that government and private benefits (e.g. social security, health insurance plans, etc.) are not available to undocumented workers, workplaces employing those workers cannot meet certification level requirements.

5) Age Discrimination

SA8000 forbids discrimination against older workers, though only a few countries have explicit legislation on this issue.⁴⁵

Stereotypes of older people are numerous. Older people are said to be less productive, more vulnerable to illness and injury and less adept at change and learning new techniques. Oftentimes these perceptions are not pertinent to the actual job requirements, nor do they reflect the actual abilities of the individual. One method for determining whether age discrimination exists is to review job postings and position descriptions to identify the company's stated requirements for a particular job category. When an employer imposes age limits on candidates that they will consider for a particular position, auditors can review if such limits are justifiable.

6) Discrimination against Trade Unions

An employer's discriminatory action against a worker based on his/her union membership and an activity is a chronic problem in workplaces around the world, in both developing and developed countries. Of all the forms of action against employees, dismissal is the most obvious deterrent against worker organizing and carries the most serious consequences for workers.⁴⁶

Auditors should be aware that there are many subtler forms of union discrimination. For instance, an employer may offer financial or other incentives to a group of workers to denounce their union membership. Or an employer may set up a workers' association to carry out trade union activities in order to phase out an existing independent union.⁴⁷ These actions violate the ILO principles on trade union rights (explained in section IIIA below) as well as SA8000.

7) Discrimination against workers with disabilities

ILO Convention 159 on Vocational Rehabilitation and Employment (Disabled Persons)⁴⁸ sets out guidelines for member countries to promote the employment and equal treatment of workers with disabilities. Key concepts for guiding auditors' verification of non-discrimination against persons with disabilities are laid out in article 4, which states:

“The said policy shall be based on the principle of equal opportunity between disabled workers and workers generally. Equality of opportunity and treatment for disabled men and women workers shall be respected. Special positive measures aimed at effective equality of opportunity and treatment between

⁴⁵ Ali Taqi, 2002, *Older People, Work and Equal Opportunity*, in: *International Social Security Review*, Vol. 55.

⁴⁶ See Chapter 4: Freedom of Association and Collective Bargaining for details.

⁴⁷ An example of such a case is the Solidarist Associations in South American countries (see comments in the previous chapter on Free Association and Collective Bargaining).

⁴⁸ Convention 159 was adopted by the ILO in 1983. As of June 2004, 76 countries had ratified the convention, with Mauritius the most recent to have done so.

disabled workers and other workers shall not be regarded as discriminating against other workers.”

Some additional resources for more information and tool kits on this issue include:

- a) The ILO Code of Practice on Managing Disability in the Workplace (adopted October 2001);
- b) The Global Applied Disability Research and Information Network on Employment and Training (GLADNET – www.gladnet.org); and
- c) The Employers’ Forum on Disability (www.employers-forum.co.uk)

The Employers’ Forum on Disability recommends the following considerations as important for employers seeking to ensure fair and equal treatment of people with disabilities:

- a) Potential employees with disabilities should have access to fair recruitment, assessment and selection processes;
- b) Training and development opportunities should be provided to disabled employees to the same extent as to their peers, taking account of disabled employees’ needs, ambitions and circumstances. Training should be provided to disabled employees in accessible formats; for example using large-print documents, making reasonable adjustments to rooms, etc.;
- c) Reasonable adjustments to working processes and environments to enable employees with disabilities to perform to their full ability and to the required standard.
- d) Disabled employees should have the same degree of access to company communications as other employees and companies should make reasonable adjustments to achieve this; for example enabling wheelchair access to meeting rooms and providing documents in a suitable format for employees with visual impairment.

B. Evidence of Compliance

The following are some examples of evidence that may indicate compliance with SA8000. This list is not exhaustive, however, and it does not indicate compliance automatically. Auditors should supplement this list according to the context and what they find during actual audits.

- 1) The Company has a non-discrimination policy and it is communicated to all personnel; that policy is implemented with a transparent administrative system and evidence of compliance must show activity of that policy; e.g. relevant discipline measures have been considered and or applied.
- 2) All workers understand how to file a complaint or raise concerns about any management action that violates that policy.

- 3) Wage slips or wage records of workers indicate equal pay for work of equal value (Auditors should look for discrepancies in pay, especially after training, seniority and previous experience have been factored in.).
- 4) Testimony of workers supports documentary evidence of compliance. It may be necessary to conduct interviews anonymously, especially in cases where recent or past complaints have been lodged against the company.
- 5) Testimony of trade union representatives supports documentary evidence of compliance.
- 6) Job announcements and advertisements concerning the company are posted prominently in the workplace and do not specify race, gender or other personal characteristics of potential employees. Announcements should also not be placed exclusively in single gender or ethnic group locations.
- 7) Records for hiring, promotion, compensation and access to training support worker, union representative and management testimony and other evidence of compliance.
- 8) Records of applicants rejected for positions support worker, union representative and manager testimony and other evidence of compliance.
- 9) The worker population includes members from the diverse social/ethnic groups that comprise the local population.
- 10) Workers report they are able to observe religious holidays.
- 11) Workers and company records confirm that pregnant and nursing women are employed, and that they receive maternity (and nursing mothers') benefits as stipulated under national or local law.
- 12) Does background data on the local population indicate possible discrimination; e.g. the absence of minorities.
- 13) Management staff diversity indicates equal opportunities for advancement.
- 14) Absence of lawsuits or government citations for discriminatory practices.

C. Worker Interview Strategy

Questions related to discrimination can be incorporated into the general interview with workers. However, if auditors receive complaints or have reason to believe that discrimination is an issue, special interview sessions should be arranged. In conducting interviews with workers, auditors can ask questions about the positions they have held

and whether their gender, race, pregnancy status or other personal characteristics have affected and/or continue to affect their application or advancement.

Auditors should study all relevant national laws and local regulations regarding anti-discrimination issues. Auditors should keep in mind that even when legislation does not address these issues, any company applying to be certified under SA8000 is obligated to adopt an anti-discrimination policy and to put the necessary procedures in place.

The victims of workplace gender discrimination are often women. It helps if an auditing team includes female members, because women workers may feel more comfortable talking with a female interviewer about sensitive topics such as sexual harassment or abuse. Female, minority and disabled auditors are also extremely useful during management interviews; they are more likely to pick up on discriminatory attitudes than male, non-minority auditors.

During interviews with both workers and managers, auditors should be careful to put the answers in context. For example, during interviews in Latin America a disproportional number of supervisors were men, but the women reported that the men were promoted because they have more education. Upon further review during management interviews, however, auditors found that the men (who started with the same education levels as the women) received additional training and had more opportunities to fulfill a greater variety of jobs in the facility – thus facilitating their promotion and confirming discriminatory training and promotion (see text box in II.A.1. above).

§ III. BACKGROUND INFORMATION

A. International Labor Standards and National Legislation

Among the ILO's eight core or fundamental conventions, two are related to the workplace equality issue: Discrimination Convention 111 (1958) and Equal Remuneration Convention 100 (1951).⁴⁹ These core conventions are considered fundamental to the rights of workers, irrespective of levels of development of individual member States.

Convention 100 aims to eliminate wage discrimination between men and women through the application of the principle of equal pay for work of equal value. Convention 111 prohibits discrimination on the basis of gender in employment and occupation.

Other international standards promoting workplace equality and women's rights include:

- 1) UN Convention on the Elimination of All Forms of Discrimination against Women

⁴⁹ Conventions 100 and 111 are two of the eight core ILO Conventions highlighted in the Declaration of Fundamental Principles and Rights at Work; all ILO member countries are accountable to these core conventions, whether they have ratified them or not (see www.ilo.org).

- 2) ILO Workers with Family Responsibilities Convention 156 (1981) and Recommendation 165
- 3) ILO Maternity Protection Convention 183 (2000) and Recommendation 191
- 4) ILO Migration for Employment Convention (Revised) 97 (1949)
- 5) ILO Night Work (Women) Convention (Revised) 89 (1948)

As of 2002, 160 countries ratified ILO Convention 100, and 158 countries ratified ILO Convention 111, indicating a common international stance against discrimination in the workplace. Some countries have not ratified these conventions even though they already have national legislation prohibiting discrimination based on race, sex, age and other personal characteristics. For instance, Lao PDR (Laos) has not ratified either Convention 100 or 111, but gender discrimination is prohibited in its Constitution.

Many national laws cover the following issues:

1) Equal opportunity in employment

An increasing number of countries have outlawed gender-biased practices that compromise men or women's opportunities for employment and advancement.

2) Equal pay for equal work

The principle of equal pay for equal work is central to the promotion of equality in workplaces. Wage discrepancies between men and women still exist in a vast majority of countries, a consequence of both direct wage discrimination and women's limited access to higher income jobs, such as positions in management. Currently most labor legislation prohibits direct wage discrimination, yet only a few nations address the issue of unfair division of labor in their legal codes. SA8000 auditors should, however, seek to verify there is no such unfair division of labor.

3) Maternity protection and promotion of family responsibilities

Many nations' legal systems offer three basic protections for women workers: maternity leave, cash benefits payable during leave and employment security. However not all workers are eligible for such protections. For instance, in some countries maternity leave only applies to workers in the private sector (Malaysia); and most countries have not yet extended the legal protection to migrant workers, part-time employees, or home workers. And only recently have some countries granted paternal leave (e.g. Australia: Workplace Agreements Act (1996); Philippines: Paternity Leave Act (1996)).

4) Occupational health and safety

A number of national laws protect women from certain categories of work, which might pose a danger to women's health and safety. For instance, in both Korea and China, special protection is required for women engaged in hazardous work, night work, underground work and work during pregnancy and/or nursing period.

Despite a variety of legislative measures, discrimination in the workplace persists. Enforcement mechanisms set up by national governments are often inadequate,

particularly regarding the application of national laws in the private sector.⁵⁰ Auditors should be aware that they cannot fully rely upon government regulators' confirmation of non-discrimination. In some cases, regulators even overlook non-compliance in order to enhance their country's ability to attract foreign investment.

B. Case Study: African-American Employees vs. Coca-Cola⁵¹

April 22, 1999, a group of African-American employees filed a class-action lawsuit accusing the Coca-Cola Company of discriminating against African-American employees in pay, promotions and performance evaluations throughout the United States. This story illustrates some of the indicators that might be used to check whether discrimination exists or not. The lawsuit was filed in United States District Court in Atlanta by four past and current employees ranging in position from a security guard to a former executive who earned nearly \$100,000 a year. The four brought the action on behalf of as many as 2,000 African-American employees who worked hourly or held salaried positions in Coca-Cola's U.S. operations for any time between April 1985 and the time of the case.

The plaintiffs contended that Coca-Cola paid its African-American employees on average nearly \$27,000 a year less than white employees. The suit cited the experience of at least one of the plaintiffs, Kimberly Gray Orton, a supervisor in Atlanta, who for two years was paid less than white employees who worked for her. The complaint contended that Coca-Cola limited African-American workers' chances for promotion and that those who were promoted were relegated to less powerful management positions in areas such as human resources, public relations and community affairs that offered little chance for further advancement.

Another crucial accusation in the suit was that African-American employees consistently received poor evaluations from their supervisors. According to figures compiled by the plaintiffs' lawyers on white-collar employees at Coca-Cola's corporate headquarters, 55.8% of whites received one of the top three of six performance grades in 1998 while only 46.1% of blacks received such evaluations.

In November 2000, the Coca-Cola Company agreed to pay \$192.5 million to avoid further litigation, the largest workplace discrimination settlement in U.S. history. The settlement included \$113 million in cash, \$43.5 million to adjust salaries, and \$36 million to institute oversight of the company's employment practices. Coca-Cola also paid \$20 million in attorneys' fees and planned to donate \$50 million to its foundation for community programs.

The centerpiece of the settlement was the creation of a seven-member taskforce charged with making sure Coca-Cola remained fair in pay, promotions and performance evaluations. Three members were appointed by the plaintiffs' lawyers, three by Coca-Cola and Ms. Alexis M. Herman, former US Secretary of Labor, was appointed jointly by both parties to chair the taskforce.

⁵⁰ ILO Regional Review, 2002, *Equality in Economic Activities and Employment*.

⁵¹ All information is based on reports by the New York Times and the Associate Press.

DISCIPLINARY PRACTICES

§ I. SA8000 REQUIREMENTS AND INTERPRETATION

A. SA8000 Requirements

SA8000 6.1 *The company shall not engage in or support the use of corporal punishment, mental or physical coercion, and verbal abuse.*¹

B. Definitions & Interpretations

- 1) All legal disciplinary measures, other than the prohibited forms listed above, should be communicated to all personnel before application.

C. Intent of SA8000

When determining disciplinary measures or giving performance reviews, employers should demonstrate respect for workers' mental, emotional and physical well-being. Procedures should be defined and followed for matters relating to employee performance evaluations and disciplinary action. These procedures should be applied consistently and not arbitrarily to every employee. If disciplinary action is necessary, SA8000 encourages a progressive course of action, beginning with verbal or written warnings before more serious disciplinary action is taken. Fines or wage deductions for disciplinary purposes also violate SA8000.

§ II. AUDITING CONSIDERATIONS

A. Key Issues to Review

The following are examples of some issues that auditors should review, including Discipline versus Abuse, Fines and Wage Deductions, and Alternative Disciplinary Measures. However, this list is not exhaustive. Auditors need to adapt and/or expand it and create specific auditing strategy depending on the production facility and other local conditions.

1) Discipline versus Abuse

All organizations, from government agencies to family businesses, need certain disciplinary measures to maintain orderly and effective operations. In many workplaces around the world, however, disciplinary measures tend to take the form of harsh punishment and abusive behavior.

In many manufacturing facilities, for example, corporal punishment, mental or physical coercion, and verbal abuse are still widely used. There are documented cases of workers being hit over the head by their supervisors, having their mouths taped for talking, being forced to stand in the sun or kneel with hands in the air for extended periods, and female workers being stripped in theft investigations.

Even though some cultures may tend to tolerate harsh disciplinary action, the practices mentioned above may still violate those countries' national laws and would be considered improper discipline under SA8000.

2) Mental (Psychological) Abuse

In addition to physical abuse, mental or psychological abuse is a chronic problem in some workplaces. It is characterized by the intentional use of power, including verbal abuse, isolation, sexual or racial harassment, intimidation, threat of physical force, etc., against an individual or a group of employees. As with physical abuse, mental abuse can result in harm to employees' physical, mental, moral or social well-being, which in turn can reduce productivity.⁵²

3) Fines and Wage Deductions

Although not stated in SA8000 clause 6.1, SA8000 does not allow fines or deductions for disciplinary purposes. **SA8000 clause 8.2** states: "The company shall ensure that deductions³ from wages are not made for disciplinary purposes..."

Fines and/or wage deductions are a widespread, but **unacceptable** method for disciplining the workforce. Many employers habitually rely on it to deter or punish lateness, absenteeism, failure to complete quotas, mistakes during operation, and sometimes bathroom breaks longer than allowed.

Though employers may choose to give bonuses to employees for outstanding performance, it is not appropriate for them to impose fines and wage deductions to prevent negligence or mistakes. Because wages are remuneration for the employees' normal service, once the workers provide the service, the employers have a contractual obligation to pay for it. Therefore wage deductions for disciplinary purposes constitute a failure of this obligation and are a violation of the workers' basic right to be paid for the labor they offer. For this reason SA8000 (and other voluntary workplace codes) prohibits fines and wage deductions for disciplinary purposes.

B. Evidence of Compliance

The following are some examples of evidence that may substantiate compliance with SA8000. This list is incomplete, however, and it does not indicate compliance

⁵² According to a report by Global Alliance, 2001, *Workers' Voices: An Interim Report on Workers' Needs and Aspirations in Indonesia*, among 4004 workers in Nike contract factories in Indonesia, 57% of workers interviewed observed verbal abuse by factory supervisors, and about 14% observed physical abuse.

automatically. Auditors need to develop their own list depending on the context and what they find during actual audits.

- 1) A procedures log is maintained which details any violations of the discipline policy by management and it is up-to-date on cases requiring action.
- 2) Records support the existence of appeal procedures in cases where disciplinary measures have been questioned by employees.
- 3) Workers, unions and local NGOs are familiar with the company's disciplinary policies and procedures and feel able to register appeals without any negative repercussions.
- 4) Workers know their rights vis-à-vis management and the procedures for filing complaints accordingly.
- 5) Training and/or written information is offered to all employees regarding disciplinary policies and procedures.
- 6) Workers' testimony supports the evidence that no physical or mental abuse occurs and no security personnel are involved in implementing disciplinary decisions.
- 7) Disciplinary actions against employees are well documented.
- 8) Disciplinary actions comply with national laws and related regulations.

C. Worker Interview Strategy

Worker interviews regarding disciplinary practices can be incorporated into the general interview process, or can be treated as a separate session depending on the particular situation at the facility under auditing.

Because the topic of disciplinary practice may cover some sensitive issues such as physical abuse or sexual harassment, auditors should take all appropriate precautions to guarantee workers' safety from any potential punishment due to their participation in the audit, while encouraging them to share their knowledge and genuine feelings about the work environment.

To win workers' trust, it may be helpful to collaborate with local organizations that have previously established a rapport with the workers. For instance, certification bodies may invite local organizations to join the auditing team to conduct interviews with workers.

Questions should cover key aspects of discipline, such as workers' knowledge of disciplinary procedures, whether workers have opportunities to respond to or challenge disciplinary decisions, whether workers feel comfortable raising grievances, etc.

Questions should be asked in a way that will make the workers feel relaxed. For instance, some workers, particularly female workers, may find it hard to talk with auditors about any sexual harassment they may have experienced. In this case, auditors may first ask if they saw or heard about any cases involving sexual harassment, physical or verbal abuses. Then the auditor might ask if they have experienced such abuses themselves. Different cultures may have different terminologies for issues as “sexual harassment,” “physical abuse,” “mental coercion” and so on. Auditors should make sure that the workers understand the meaning that the auditor is trying to convey before formal questions are asked.

§ III. BACKGROUND INFORMATION

A. International norms and national laws

The ILO does not have a specific convention addressing workplace disciplinary practices. However, three United Nations agreements are directly relevant as references: the Universal Declaration of Human Rights (1948), the International Covenant on Civil and Political Rights (1966), and the Declaration on the Protection of All Persons from Being Subjected to Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (1975).

Aiming to protect both the dignity and the physical and mental health of any individual, these instruments explicitly forbid torture or cruel, inhuman or degrading treatment or punishment anytime by any authority, even in situations of public emergency.⁵³

The vast majority of the UN member states have ratified these treaties, indicating their commitment to abolish any practice that may compromise or damage an individual’s physical and mental well-being. Many countries have specific national legislation making abuse in the workplace a criminal offense.

B. Additional Notes on Disciplinary Measures

As mentioned before, disciplinary measures are necessary for maintaining orderly operations. The primary objective of such measures should be to enable organizations to promote a high standard of employee conduct and performance, rather than to punish, humiliate, or intimidate.

SA8000 requires that employers adopt a progressive course of action if discipline is necessary. Following are some basic principles on this issue. They do not constitute an exhaustive list of components of progressive disciplinary procedures. Employers may find them useful when setting up disciplinary procedures that can meet the intent of SA8000.

⁵³ UN Office of the High Commissioner for Human Rights, 1992, *International Covenant on Civil and Political Rights General Comments*, No. 20.

1) Setting up Procedures

Disciplinary procedures are part of the management systems required by SA8000. In drafting the procedures, management is encouraged to seek the involvement of workers and/or their representatives. This may reduce the chances that the level and type of disciplinary action is arbitrarily decided, and may enhance the effectiveness of disciplinary measures in achieving company goals.

Company policy and procedures should be well communicated to and well understood by all workers. Training programs can be conducted upon hiring or during employment. These policy and procedures could also be included in a personnel handbook and be circulated among all employees.

All disciplinary policies, procedures and actions should be well documented, including the nature and specifics of any alleged infraction, the worker's response or appeals, the opinion of trade union representatives, the final decision, and the action taken, etc. Workers, trade union representatives, and/or other interested parties should have access to such documentation and related materials (per SA8000 Management Systems clause 9.12 on Outside Communication).

2) Alternative Disciplinary Actions

SA8000 calls for alternative methods that fully respect employees' basic rights and dignity. Following are examples of alternative methods employing a progressive course of action:

In the case of minor infractions, managers could use an **oral warning** to put the employee on notice that his/her conduct or level of performance is unacceptable.

If the unsatisfactory performance or conduct continues or becomes more serious, managers should issue a **written warning** identifying the details of the infraction that led to the warning. The written warning may also contain a request for corrective action, a timeline for correction, and the consequences if the employee fails to comply with the request. If the worker fails to improve, the manager may issue a **final written warning**, which may indicate the continued misconduct or poor performance by an employee and may point out the possibility of suspension or even dismissal.

As a last resort, a manager may **suspend, demote, or dismiss** a worker. The worker, however, should be given reasonable prior notice and the opportunity to appeal the decision before such action is taken.

3) Workers' Rights in Disciplinary Process

When disciplinary action is taken, the worker should have access to the details of the allegations (or infractions) and have the right to respond to and/or appeal any disciplinary

DISCIPLINARY PRACTICES

decisions without any negative repercussions.⁵⁴ The worker should also have the right to consult with and be represented either by a trade union or by worker representatives when evaluating and contesting disciplinary decisions.

Disciplinary measures, if required, should be applied consistently and fairly among all personnel. Personal characteristics, such as race, national origin, religion, etc. should not affect the results of the investigation of misconduct or the severity of any potential penalty.

Disciplinary procedures are a management tool to deter misconduct or poor performance by employees. To guarantee the fairness and effectiveness of these procedures, the company should set up complaint or grievance procedures accordingly so that workers have the channels to express their concerns and redress their grievances.

⁵⁴ This is also a basic requirement of SA8000's complaint and appeal system; see Management Systems clauses 9.10 and 9.11 under Addressing Concerns and Taking Corrective Action.

WORKING HOURS

§ I. STANDARD REQUIREMENTS AND INTERPRETATION

A. SA8000 Requirements

SA8000 7.1 *The company shall comply with applicable laws and industry standards on working hours. The normal workweek shall be as defined by law¹ but shall not on a regular basis² exceed 48 hours. Personnel shall be provided with at least one day off in every seven-day period.³ All overtime work shall be reimbursed at a premium rate⁴ and under no circumstances shall exceed 12 hours per employee per week.⁵*

SA8000 7.2 *Other than as permitted in Section 7.3 (below), overtime work shall be voluntary.*

SA8000 7.3 *Where the company is party to a collective bargaining agreement freely negotiated with worker organizations (as defined by the ILO)⁶ representing a significant portion of its workforce, it may require overtime work in accordance with such agreement to meet short-term business demand. Any such agreement must comply with the requirements of Section 7.1 (above).*

B. Definitions & Interpretations:

- 1) The normal workweek is a maximum of 48 hours, or the maximum hours allowed under national law, local law, or a collective bargaining agreement, if any of the latter set limits lower than 48 hours. For instance, in China, 40 hours per week should be regarded as the normal workweek.
- 2) Workers should not be required to work overtime (or exceed the maximum normal workweek hours) regularly, meaning constantly or the majority of the time.
- 3) Workers must be given one day off in every seven-day period under any circumstances. One day off should be interpreted as at least twenty-four consecutive hours (per ILO Convention 14).
- 4) “Premium rate” refers to a higher rate of pay than the regular workweek rate. The premium rate of pay should comply with national laws or regulations; where it is not defined by law, this may be defined in the company’s SA8000 policy. Senior management personnel are exempt from this requirement, but frontline management and operational, supervisory personnel are not exempt from this requirement.

- 5) Based on a maximum normal workweek time of 48 hours and a maximum weekly overtime of 12 hours, the maximum weekly work schedule allowed per employee is 60 hours. If national law, local law, or a collective bargaining agreement restricts the normal workweek to less than 48 hours, the maximum weekly work schedule will be less than 60 hours (e.g. 40 + 12 = 52).
- 6) Per ILO Convention 87: *Freedom of Association and Protection of the Right to Organise*, Article 10, worker organization refers to: “any organization of workers [or of employees] for furthering and defending the interests of workers [or of employees].” Convention 87, Article 3 further states that a workers’ organization “shall have the rights to draw up their constitutions and rules, to elect their representatives in full freedom, to organize their administration and activities and to formulate their programmes.”

C. Intent of SA8000

SA8000 aims to limit the widespread abuse of overtime. Overtime hours must be voluntary, unless a collective bargaining agreement allows for required overtime under certain conditions, and are not to exceed 12 hours per week, even when the regular workweek is less than 48 hours. Accordingly the 60 hours rule should be regarded as a guide only.

§ II. AUDITING CONSIDERATIONS

A. Key Issues to Review

The following are examples of 5 issues for auditors’ review: voluntary overtime, piecework, production review, fatigue-related accidents, and subcontracting and homework. This list of issues is neither exhaustive, nor is every item obligatory. Auditors can adapt and/or expand the list depending on the production facility and other local conditions.

Pursuant to *SAI Auditor Advisory* number eleven on documentation Requirements, Overtime and Homework should be addressed in every Audit Report.⁵⁵

1) Voluntary Overtime

To verify the voluntary nature of overtime, auditors should review agreements made between management and workers. In-depth interviews with workers are also important to verify that workers voluntarily signed the agreement. Equally important to determining the voluntary nature of overtime is a review of the system for distributing overtime hours. In some cases this system may be set up to penalize anyone who declines overtime hours on one or more occasions, thus, limiting the extent to which workers are actually working

⁵⁵ SAI, *Advisory*, No. 11 (Apr. 2003), New York.

these hours voluntarily. It is also important to ensure the system for distributing overtime is not susceptible to discrimination (see discrimination chapter above).

In cases where the company is party to a collective bargaining agreement freely negotiated with worker organizations (as defined by ILO Convention 87 Article 10), that agreement may allow for some overtime hours as long as they are not required on a regular basis.

Auditors should investigate other related questions, including but not limited to the following:

- a) Is overtime paid in accordance with local/national laws or regulations and at a premium rate?
- b) Are workers given reasonable breaks during shifts?
- c) Are workers free to leave at end of their shift?
- d) Are vacations and personal leave allowed, in compliance with national laws and regulations?
- e) Is there a transparent system for the fair distribution of overtime hours, such that refusal to work overtime does not result in the automatic withdrawal of overtime in the future?

2) Piecework

Auditors should understand the mechanisms of piecework and how it is managed in the workplace being audited. Many factories use complex and often arbitrary systems of piece rate pay and incentives based on the total production output. When the production quota is unreasonably high and pay rates by piece are too low, excessive overtime may result and it may not be voluntary in nature.

Auditors should investigate whether any schemes for imposing excessive hours and underpaying workers are in place. Production quotas should be reasonable **and allow the majority of workers to complete quota within eight hours**. Workers cannot be obligated to work more than the regular workweek, even if they do not make quota.

Averaging Overtime Hours:

Some countries and some industries allow for the averaging of overtime hours, such that monthly or weekly limits can be extended, provided the monthly or weekly average over a specified period of time does not exceed the proscribed limits. Where this is permitted by national legislation, the weekly limits set by SA8000 still apply.

For example, in China, this is permitted under the *Comprehensive Working Hours* regulations. Employers can seek permission from the local labor bureau to exceed Chinese labor law limits of 36 hours overtime per month, provided the monthly average of overtime during a six-month period does not exceed 36 hours. Auditors can accept such averaging, provided:

- 1) they verify the legitimacy of the permit from the local labor bureau; and
- 2) working hours do not exceed limits set by SA8000, which would be 52 hours per week in China: 40 hours per week (given the Chinese labor law on the regular work week) plus the maximum 12 hours per week of overtime.

Auditors should distinguish between written policies on the extent to which such obligations exist and what the majority of workers believe the repercussions will be if they leave before making quota.

Any piecework beyond the 40-hour week (or 48-hour, depending on national laws) should be paid at a premium rate. Because piece rate compensation varies according to the products being produced on a given day or at a given time, calculating overtime incentives can be difficult and cumbersome for managers. Thus, some managers may use a simple incentive system such as a flat rate: e.g. 1 cent extra per item for piece rate production above quota and/or beyond the 40- or 48-hour week. Whatever system is being used, auditors should analyze the system to determine that there is some premium-rate for overtime work and that workers understand how this incentive rate is calculated. Where a collective bargaining agreement is in place, auditors should verify that these rates have been agreed upon with workers through their elected representatives.

Time cards or other records should be maintained whether workers are paid by the piece or by the hour and workers should understand how their wage is calculated. Auditors should also investigate the extent to which workers may be taking piecework home, thus extending their hours beyond the allowable limit.

3) Sub-Contracting and Homework

In labor-intensive industries, manufacturers increasingly use sub-contracting and/or homework to reduce costs and in many cases to evade legal obligations. The sub-contracting system poses a challenge to the implementation of any social compliance program. There is evidence that farther down the sub-contracting chain, there is an increased chance that workers work excessive hours, receive lower pay, obtain little or no payment of legally required benefits, and have little or no safety and health protection.

To make sure that a facility complies with SA8000 requirements on working hours, auditors need a good understanding of the use of sub-contracting and homework by the facility. Possible ways to conduct such investigations include but are not limited to:

- a) Review facility capacity and check it against production records and other capacity indicators.
- b) Conduct a statistical trend analysis in situations where the number of full-time workers is gradually decreasing and/or the number of part-time workers is increasing. This should be done in cases where the auditor needs to clarify whether short-term contracts are given in response to fluctuations in business needs or are being used to avoid paying benefits.
- c) Conduct worker interviews to verify company recordkeeping.
- d) Check the national laws for possible regulations for home workers concerning savings plans, health care, child care, policies on damaged materials or products.

- e) Conduct interviews with local trade unions and other advocates for the rights of (home) workers in order to ascertain the local employment practices with home workers.

4) Production Review

It is important that auditors have a solid understanding of the manufacturing process in order to conduct capacity and production reviews, which in turn help to substantiate the company's records. For instance, checking time cards and the number of workers employed by the facility against production records and/or overall manufacturing capacity of the facility will help determine whether off-book overtime work, contracting, or homework are used.

It is advisable that certification bodies develop systematic, industry-specific criteria and procedures for evaluating production capacity in a given industry and region. When visiting the facility, auditors can review production records, monthly and daily averages and compare that to the production level on the day of the audit. Auditors should seek to avoid auditing the facility on a slow production day. This may help the auditor evaluate the size of the workforce, the pace of production, and whether any work is subcontracted or completed as homework.

In regions where extensive overtime work is the norm, auditors should seek to ascertain how management was able to reduce working hours. ***Also, because double sets of books are common, auditors should seek positive demonstration of: how management was able to reduce working hours.*** Auditors should also inquire as to how management is able to compete with neighboring workplaces and how workers have reacted to fewer hours of work.

5) Fatigue-related Accidents

The amount of time spent working is closely related to workers' health and safety. Before beginning the audit, auditors should obtain region- and industry-specific data on industrial accidents. This data will be helpful to auditors in determining whether the rate of industrial accidents within the facility is excessive for the type of industry and production activity. Auditors should carefully review whether medical records and accident reports are properly maintained in the factory and assess whether any accidents are fatigue-related. According to a study on Chinese factories, 60 hours per week seems to be a threshold; workers working 60 hours or more are 13% more likely to be involved in accidents than those working less than 60 hours per week.⁵⁶ This data is also important in cases where very few accidents are reported, particularly when these numbers are much lower than the industry norm. In such a case auditors will need to look at why this might be: is there something significantly better about the facility or is there cause for doubt about the veracity of the health and safety records?

⁵⁶ Anita Chan, 2001, *Working Hours and Industrial Accident Rates in China* (working paper presented at SAI's Roundtable on Containing Working Hours in Guangzhou - China).

B. Evidence of Compliance

The following are some examples of evidence that may indicate compliance with SA8000. This list is incomplete, however, and no item verifies compliance automatically. Auditors need to develop their own list depending on the context and what they find during actual audits.

- 1) Overtime and piecework wage records.
- 2) Worker testimony on voluntary overtime.
- 3) Company corrective action plan to address any problems with working hours. This plan is executable and verifiable.
- 4) The quantities of products produced are feasible based on the number of workers and home workers reported, and the numbers are consistent with the capacity of the workers to complete if working normal hours.
- 5) Levels of fatigue-related accidents are not excessively high (or low) for the type of industry/activity.
- 6) Review of labor agreement (per SA8000 clause 7.3) defines employer-worker agreement on when or under what circumstances overtime can be required and those clauses are in compliance with national law.

C. Worker Interview Strategy

The chief purpose of the interviews with workers is to make sure that overtime in the facility is voluntary, not excessive, and paid appropriately. The strategy below is for reference only. Auditors need to plan their own worker interview activities taking into account the facility's particular work environment.

Regarding company policy on working hours, it is recommended that auditors conduct interviews with the first-line supervisors who directly implement and convey policy issues to workers. These are the managers who assign workers' shifts and approve vacation time and personal leave. Then auditors should interview shop-floor workers to see whether the same message has been communicated to them.

It is important for auditors to learn how working time is calculated and recorded, and whether time cards are used. If time cards are used, auditors should determine whether supervisors or workers themselves punch the cards. If no time cards are used, auditors should determine what method the facility uses to keep track of time worked.

Even when auditors have only a limited amount of time, it is recommended that they do not raise direct questions such as "How many hours do you usually work in a week?"

because auditors may only get simplified or even coached answers. Auditors should draw their own conclusions based on their conversations with workers. To get a better sense of the average hours worked per day or per week, auditors may want to create a list of indirect questions. Based on the answers they receive, auditors may be able to draw an accurate picture of the working hours situation. Below is a sample of possible questions provided for reference only:

- 1) When is your regular shift (daytime or night)?
- 2) When did you come to work and when did you leave yesterday?
- 3) What do you usually do after work? What do you like to do after work?
- 4) What did you do on your last day off? When was that?
- 5) Did you do anything fun last Sunday (or whatever the typical day off is)?
- 6) Did you go home to your family on New Year's Eve/National Holiday?

If auditors decide that workers do work overtime on a regular basis, they should probe for specific reasons such as “I need the money,” and/or “I need to get all my work done in time.” Depending on the answers, questioning should follow to discover if overtime is voluntary and if premium wages are paid for overtime. It is important to determine if the workers are permitted to leave after a regular shift or if there is pressure to continue working. Talking to line managers about filling orders and making production quotas can also help indicate whether or note workers are able to refuse overtime.

Before and during the interview, auditors should also be cognizant of the differences in workload and demand between the peak season and the slow season. When the interview is conducted in the slow season, auditors need to consider and ask questions about how the situation differs during the peak season. If the audit is during the slow season, auditors should seek to conduct a surveillance audit or unannounced spot check during the peak season.

When conducting worker interviews, it is advised that auditing teams seek technical assistance and/or direct involvement from local trade unions, NGO groups, academics, and concerned individuals.

§ III. BACKGROUND INFORMATION

A. International norms and national laws

The International Labour Organisation has published dozens of conventions specifically addressing the issue of working hours, and applying to a variety of industrial undertakings and workplaces. The general rule for working hours, as stated, is that workers shall not work more than 8 hours a day or more than 48 hours a week.⁵⁷

⁵⁷ ILO *Convention 1: Hours of Work (Industry) (1919)*, Art. 2.

There are some conditions and/or circumstances in which it is permissible to work more than 48 hours on a regular basis. For example, the general rule mentioned above does not apply to persons holding positions of supervision,⁵⁸ nor does it apply to sailors.⁵⁹

A review of a sample of national labor laws found that national laws commonly limit overtime hours.⁶⁰ Among nine countries reviewed – Vietnam, China, Italy, India, Indonesia, Pakistan, Thailand, Brazil, and Mexico – there are explicit limits on hours worked within a particular period. For instance, in Vietnam’s Labor Act of 1994, there are daily and annual overtime limits of 2 hours and 200 hours respectively; China’s 1995 national labor law sets a maximum for overtime at 3 hours per day and 36 hours per month; Indonesia, Italy and Brazil all have daily overtime limits of 2 hours.

Regarding the issue of voluntary overtime, the nine countries mentioned have specific requirements, though each differs somewhat. The Mexican law states that workers are not obligated to work overtime under normal circumstances; the Italian law and the Chinese law require prior negotiation with trade unions or workers’ representatives; the Brazilian law requires workers’ agreement on overtime in writing.

B. Case study/Country Example: Working hours in China

Many agree that excessive overtime work constitutes one of the most prevalent and serious labor problems in Chinese factories. It is a common belief that *migrant workers* in China’s SEZs (Special Economic Zones) *are eager* to work extra hours. This theory holds that migrant workers, who come from remote villages and are not able to settle in the SEZs permanently,⁶¹ are so eager to send more money home, that if the factory in which they work does not offer them overtime, they will seek a second job to supplement their pay or simply quit and relocate to a new factory.

It could be countered, however, that workers *choose* to work overtime because their salary is so low that they can not make a living on their regular workweek pay. In addition, rush orders from buyers usually leave workers with little choice but to comply with overtime demands. Some business and NGO groups in China believe that if provided with other choices, such as after-work training programs, workers would be less eager to work overtime.

Two businesses in China reported positive gains after implementing SA8000; both state that reduced working hours led to significantly lower turnover rates, and thus training

⁵⁸ Ibid., Art. 1B.

⁵⁹ ILO *Convention 180: Seafarers' Hours of Work and the Manning of Ships* (1996).

⁶⁰ Labor laws reviewed include: China: *Labor Law* (1995) and related regulations; Brazil: *Constitution of Brazil - Consolidation of Labor Laws* (1943); Italy: *Italian Constitution and Italian Labor Code*; India: *The Factories Act* (amended 1987); Indonesia: *Decisions of the Ministry of Manpower*; Vietnam: *Labor Law* (1994); Mexico: *Labor Law* (1970); Thailand: *Labor Protection Act* (1998); Pakistan: *The Factories Act (Amended 1987)*.

⁶¹ Due to China’s current Hukou (household residence permit system), it is merely impossible for immigrant workers to seek permanent residency in cities where they work.

costs for new recruits were reduced. Other benefits they found included higher product quality and better worker-management relations.⁶²

In fact Chinese national labor law contains stringent provisions governing working hours, and establishes 8 hours per day and 40 hours per week as the Standard Number of Working Hours. 63 Overtime is permitted only under “exceptional circumstances”⁶⁴ and the maximum allowable is 3 hours per day and 36 hours per month. The law also forbids overtime work that might affect workers’ health. Employers are required to consult trade union or workers’ representatives and seek their agreement prior to any overtime arrangements.

There is, however, another category of working hour regulation, called Comprehensive Working Hours. This provision allows averaging and seasonal fluctuations for particular industries such as the postal service and public transportation.⁶⁵ An increasing number of manufacturing facilities have found ways to become eligible for such arrangements. To make the situation even more complicated, exemptions to the Standard Working Hours are often issued by local agencies that do not actually have the authority to do so.

The validity of local variances to national laws must be verified carefully:

- 1) Not all local exemptions are valid or legal. For instance, according to a national regulation, only labor bureaus/departments have the authority to issue exemptions on working hours.⁶⁶
- 2) If local exemptions permit excessive hours beyond those permitted by SA8000, it violates the SA8000 standard requirement. SA8000 Section III of SA8000: Normative Elements requests that: “when national and other applicable law, other requirements to which the company subscribes, and this standard address the same issue, that provision which is most stringent applies.”

⁶² Reported by two supplier representatives at the SAI’s Roundtable on Containing Working Hours held in Guangzhou (Nov. 2001).

⁶³ China’s 1995 Labor Law states 44 hours per week as standard, but in February 1995 the State Council issued a directive (*Document 174*) making 40 hours per week the new standard.

⁶⁴ “Exceptional circumstances” is a term SAI no longer uses (due to difficulties in defining the term); however, the use here is a reference in Chinese law, which is interpreted locally.

⁶⁵ Ministry of Labor (PRC), Document 187: *Q&A on State Council’s Regulations on Working Hours*(Apr. 1995).

⁶⁶ Ministry of Labor of the People’s Republic of China, *Application procedures for enterprises applying for Non-fixed Working Hours and Comprehensive Working Hours*, Document Number 503 (Dec. 1994).

REMUNERATION

§ I. STANDARD REQUIREMENTS AND INTERPRETATION

A. SA8000 Requirements

SA8000 8.1 *The company shall ensure that wages paid for a standard working week¹ shall always meet at least legal or industry minimum standards and shall be sufficient to meet basic needs of personnel and to provide some discretionary income.²*

SA8000 8.2 *The company shall ensure that deductions³ from wages are not made for disciplinary purposes, and shall ensure that wage and benefit remuneration are detailed clearly and regularly for workers; the company shall also ensure that wages and benefits are rendered either in cash or check form, in a manner convenient to workers.⁴*

SA8000 8.3 *The company shall ensure that labor-only contracting arrangements⁵ and false apprenticeship schemes⁶ are not undertaken in an effort to avoid fulfilling its obligations to personnel under applicable laws pertaining to labor and social security legislation and regulations.*

B. Definitions & Interpretation:

- 1) A company shall pay basic needs wages for a standard working week (i.e., no more than 48 hours per week or as prescribed by national law if this specifies lower limits), and workers shall not be obligated to work overtime to earn this wage.
- 2) A “basic needs wage” enables workers to support half the average-sized family above the poverty line, based on local prices near the workplace.⁶⁷ Basic needs include essential expenses such as food, clean water, clothes, shelter, transport, education, a discretionary income, as well as legally mandated social benefits (which may include health care, medical insurance, unemployment insurance, retirement plan, and so on).
- 3) Deductions for disciplinary purposes are not permitted under SA8000. For example, obligatory deductions for taxes and social insurance are acceptable. Deductions for transport, meals, medical assistance and lodging are also allowable, as long as these items are not required to complete the work and deductions for them are chosen by the worker voluntarily. Charges for services offered by the company to its workers

⁶⁷ SAI Auditor Advisory number ten requires auditors to calculate workers basic needs from price levels in and around the workplace. SAI, *Advisory*, No. 10 (March 2002), New York .

should not exceed the cost of providing such services or goods. Moreover, payment for work completed must be made in full and given to workers in a timely manner.

- 4) Payment in “*a manner convenient to workers*” is one that ensures workers are not obligated to travel any significant distance or make an extra trip or incur any cost to collect their pay. Employers may not use promissory notes, coupons, products, or merchandise to replace cash or check payments. Payment by electronic funds transfer is allowed if accepted by the worker.
- 5) “*Labor-only contracting arrangements*” refer to the practice of hiring workers without establishing a formal employment relationship for the purpose of avoiding payment of regular wages or the provision of legally required benefits, such as health and safety protection.
- 6) “*False apprenticeship scheme*” refers to the practice of hiring workers under apprenticeship terms without stipulating the duration of the apprenticeship and the wages under this type of contract. The apprenticeship is “false” if the chief purpose is to underpay people or to avoid legal obligations otherwise required for formal employees. In some cases, child labor may be used under the name of apprenticeship.

C. Intent of SA8000

Workers must be compensated for the adequate performance of their work and they must be paid in full. Wages earned for regular hours worked (i.e. no more than 48 hours a week or lower as prescribed by law) must be sufficient to meet the basic needs of the worker and at least half of his/her dependents. It should not be necessary to work overtime to earn a basic needs wage. Labor-only contracts or apprenticeship schemes should not be used to avoid paying benefits or to fulfill ongoing, routine tasks integral to the work of the organization.

§ II. AUDITING CONSIDERATIONS

A. Key Issues to Review

Pursuant to Auditor Advisory number eleven on documentation Requirements, Wages should be addressed in every Audit Report.⁶⁸

The following are examples of some issues that auditors should review, including basic needs, method of remuneration, piecework, false apprenticeship schemes, labor-only contracts and homework, and deductions and fines. However, this list is not exhaustive. Auditors need to adapt and/or expand it depending on the production facility and other local conditions.

⁶⁸ SAI, *Advisory*, No. 11 (Apr. 2003), New York.

1) Basic Needs Wage

Minimum wages often do not cover the basic needs of workers. In addition, enforcement of minimum wage laws is often lax. To combat this situation, the international community has made the consideration of basic needs a priority when setting a minimum wage (See Section III). For these reasons SA8000 requires that a basic needs wage be the base level of pay within a facility.

Consulting with workers and/or their representatives is the best way to have an accurate determination of the local basic needs wage. Given that it may be difficult for some facilities to raise wages immediately to the target level, a step-by-step approach is acceptable under SA8000:

- a) First, a company shall at least meet the higher of the following two: local minimum wage, or the industry minimum standard.
- b) Second, the company should develop a well-defined plan for achieving the indicated basic needs wage.
- c) Third, the company follows the plan and reaches the goal of paying a basic needs wage within 18 to 24 months depending on the size of the facility and the extent of the gap between the target and the current wage.

Please note that auditors should review all documentation when assessing whether wages meet workers' basic needs. Following are a few possible elements to review:

- a) The company's method of determining basic needs wage should be carefully reviewed and recorded;
- b) If a plan to move towards a basic needs wage exists, it should be executable and verifiable;
- c) The management should display a high level of commitment;
- d) During subsequent audits, auditors should verify and record any progress made in relation to the schedule presented by the management.

2) Method of Remuneration

SA8000 Clause 8.2 states that payment to workers shall be made in cash or by check and in a manner convenient to workers. Employers may not use promissory notes, coupons, products, or merchandise in place of cash or checks. We recommend that auditors carefully review issues related to methods of remuneration and any deductions from workers' pay, including the following:

- a) Frequency of remuneration should comply with national laws and regulations. Wage, incentive or bonus payments made to workers should be current.
- b) Workers, including those paid by piece rate, should be given wage slips with each payment. The wage slips should provide adequate information as to how the wage was calculated and should identify the amount and reason for any deductions from

their pay. (Note: fines or wage deductions for disciplinary purpose are not acceptable under SA8000).

“Indirect wages” (or deductions for services) are a problematic form of remuneration that should be examined by auditors. These often take the form of services or benefits provided by the employer in place of monetary compensation and may include transport, meals, medical assistance and lodging. Auditors should evaluate whether these services are in fact benefits or whether they are essential for employees to carry out their work (e.g. special equipment (protective gear or tools) or special medical exams or coverage). Auditors should also evaluate whether these benefits are provided at or below market rate and whether workers have any other choices (e.g. deductions for rent on company housing where no other housing options are available and workers’ families live elsewhere). Deductions or reductions in pay related to services provided should be optional for worker to avoid any misuse.

3) Piecework

As discussed in *Chapter 7: Working Hours*, piece rate is a complex, often arbitrary pay system, and in many labor-intensive industries, it is increasingly popular. Piece rate is an incentive system in which workers are given production quotas and paid bonuses to exceed those quotas in an effort to drive up production efficiency. Workers often do not understand how base pay and bonuses are calculated, however, and they have little chance to participate in the determination of production quotas and pay rates. In many factories, failure to reach production quotas on time leads to fines, deduction of wages, or verbal or physical abuse. In such cases, piece rate incentives become the primary cause for excessive overtime as workers try to meet unreasonable quotas to avoid penalties or simply to earn the minimum wage.

Auditors should establish criteria to determine whether the production quota is reasonable. As a general reference, a reasonable, minimum daily quota would be achievable by all workers within an 8 hour shift – allowing each worker to earn a basic needs wage within that time. In the event that a worker is unable to attain the daily quota then the company must provide the difference between the amount produced and the daily target.

Whether piece rate or hourly rate calculations are used, employers should keep accurate records of hours worked, and overtime should be paid at a premium rate.

4) False apprenticeship schemes

Apprenticeships are often used as a way to hire workers at reduced wages and/or benefits under the guise of training. This often happens to young workers.

Where workers are employed in apprenticeships, there should be a clearly defined training agenda for that period. Governments often register and/or monitor such programs, especially when young workers are involved. For instance, according to the

Vietnamese Labor Act of 1994: “The apprenticeship period shall be counted as a period of service within the enterprise offering such a scheme; and individuals and organizations are strictly prohibited from making a profit from apprenticeship arrangements.”⁶⁹

If workers receive reduced apprentice-level pay without an apprenticeship contract, auditors should verify that this is not done beyond a reasonable period of time. One example of note occurred in the Bangladesh garment sector where workers were ‘in training’ for two to three years.

In cases where workers receive a lower wage during a vocational training period after the commencement of employment, the length of the period should be strictly limited and enforced, a maximum number of weeks for the training period should be defined, and the wage may not be lower than the legal minimum.

5) Labor-only contracts and Homework

Contract labor and Homework are becoming increasingly prevalent in labor markets worldwide. There is no universally accepted definition for ‘contract labor;’ in many cases a worker under such an arrangement may be called a ‘casual worker’ or ‘temporary worker.’ There are, however, some common elements in a contract labor or homework situation:

- a) There is no formal employment relationship established between employers and employees;
- b) No benefits and protections prescribed by national legislation for employees are guaranteed;
- c) At the completion of short-term contracts, workers are either terminated and rehired or their short-term contract is renewed (without any accrual of seniority or job security);
- d) In most cases, there is no union or other parties to represent workers’ interests.

Labor-only contracts or homework may:

- a) Deprive workers of protections under national and internationally-accepted labor standards;
- b) Deny workers of contractual rights such as overtime, sick and holiday pay;
- c) Prevent workers from maintaining continuity of employment and gaining experience for which they may be promoted; Limit workers’ access to insurance and social security benefits where available;
- d) Leave workers with no recourse in the event of work-related disease, accident or death.

In assessing whether contract labor is used to deprive workers’ their rights, auditors should interview contract laborers directly, review documentation and seek to answer a series of questions:

⁶⁹ *Vietnam Labor Act*, Section 23-25 (June 23 1994).

- a) *Is this labor being used in routine tasks, that are done repeatedly, or due to some special circumstances?* In some cases, such as regular service delivery, contract labor may come into a workplace routinely (e.g. to clean or service machinery); these may not be cases of abuse and would then need to be reviewed under the control of suppliers clause in the Management System section of the Standard.
- b) *Do contract labor arrangements allow the employer to avoid benefits mandated by law, such as the payment of a 13th month at the end of the year; or social security payments or health insurance? Have alternative arrangements made to pay partial benefits for contract laborers?*
- c) *Are migrant laborers entitled to accrue benefits or the equivalent thereof? Or does their legal status prohibit such benefits as health care or housing?*

6) Deductions and fines

SA8000 requires that employers impose no fines or wage deductions for disciplinary purposes. It is common practice in some workplaces for management to impose fines for unsatisfactory performance or conduct. For instance, workers in some facilities are often fined for reasons such as ‘negligence’ or ‘sleep at work,’ etc. Under the SA8000 management system, managers are encouraged to employ progressive disciplinary practices. Managers who rely on fines for disciplinary purposes should substitute alternative means, such as verbal warnings, followed by one or more written notifications, to maintain order (See Chapter X: Disciplinary Practices). Auditors should seek evidence that this policy is in use and both workers and managers understand disciplinary procedures and the prohibition on fines.

The following are other issues related to deductions:

- a) Workers understand the extent to which legally required deductions, such as health care, social security or taxes will be made from their pay. One way managers can inform workers is to explicitly state such deductions in the employment contract and on wage slips.
- b) Workers understand their options and confirm their consent on other legally permissible deductions for company-provided services such as housing, meals, child care or transportation fees.
- c) Minimum wages do not include in-kind payments such as meal coupons or financial aid for housing, or child care, unless workers elected to pay for those services.
- d) Costs for room and board charged by the factory to the worker should not exceed the costs incurred by the factory to provide such services.
- e) Workers should not be charged for supplemental services such as water, electricity, and guard services, or for the use of tools and the loss or damage of tools which may occur in the normal course of operations.
- f) Deductions for repayment of loans or for advance wage payments granted must not exceed a reasonable amount, and the charging of interest is at or below market rates.

The avoidance of **social security contributions** by employers is a major challenge. Auditors should verify that employers deduct and properly administer the legally prescribed social security contributions for their employees. It may not be possible for every company to change this policy overnight, but the employees should be registered for social security as soon as possible – prior to certification. Companies may argue that the employees themselves do not want deductions taken from their pay for social security contributions. SA8000 requires, however, that employers comply with national law.

There is an increasing tendency of companies to engage temporary workers from an agency to avoid the issue of benefits and social security. In such cases the auditor should assure that the agency is paying the appropriate benefits to the worker(s)

B. Evidence of Compliance

The following are some examples of evidence that may indicate compliance with SA8000. This list is not exhaustive, however, and it does not substantiate compliance automatically. Auditors need to develop their own list depending on the local context and what they find during actual audits.

- 1) Wage slips, payroll records and/or time cards confirm adequate wage payments are being made in a timely fashion and clearly explained to workers.
- 2) Worker testimony
- 3) Wage adequacy (confirmed by worker interviews, local government data, and/or local experts such as trade union representatives)
- 4) Employment contracts
- 5) Wages equal or exceed the higher of: the minimum wage, the prevailing industry wage, or wages in a comparable unionized workplace.
- 6) Basic needs calculation

C. Worker Interview Strategy

Since wages are inextricably linked with working hours, auditors can interview workers on these two issues at the same time. Auditors should seek to determine two basic points:

- 1) Can wages paid meet a worker's and (at least half of) his/her dependents' basic needs?
- 2) Does the worker have to work overtime to earn this wage?

1) Pre-interview Data Gathering

Before conducting interviews with workers and worker representatives, auditors need to obtain some key information related to wages by researching national legislation, tracking published data and reports, interviewing management, and checking employment contracts and payroll records. The following is a partial list of useful data that auditors are encouraged to acquire beforehand whenever it is available:⁷⁰

- a) Regional average and/or median wage statistics
- b) National and/or regional minimum wage requirements
- c) Regional data on average household expenditures and food basket
- d) Regional demographic data such as average family size
- e) Prevailing industry wage
- f) Legal information about apprenticeship (wage & term) requirements and limits
- g) Legally required social benefits such as medical care, accident insurance etc.
- h) Legally and/or contractually permitted wage deductions
- i) Pay system and calculation methods at the facility (piece rate vs. hourly rate; base rate vs. bonus)
- j) Pay schedule at the facility

2) Interviews

As a general recommendation, auditors should ask workers indirect questions and draw conclusions based on workers' responses. For example, instead of asking: "Are you satisfied with your current wage?" auditors may ask workers to compare their current wage against what they made in previous jobs, or against what they know of wages in other factories.

An auditor may start the interview by asking how much a worker was **actually** paid on the last payday. The auditor could then ask whether there were deductions and/or fines that had been withdrawn. If so, auditors can probe whether the worker understands the method of wage calculation, and whether he or she thinks these deductions were reasonable.

If piece rate is used in the factory, the key question that auditors should ask is whether the worker must work overtime to meet the production quotas (either individual or team quotas). If the worker does work overtime, auditors need to determine whether the overtime hours exceed the limit allowed by SA8000 and whether a premium rate was paid.

Auditors should also verify that wages paid meet workers' basic needs. Auditors may start with questions about workers' expenditure patterns. In addition auditors should ask the workers what expenses they need their wage to cover. Open-ended questions and a conversational style is the best interview format to elicit workers' genuine opinions on these issues.

⁷⁰ For a detailed discussion, please see Section III of this chapter.

§ III. BACKGROUND INFORMATION

A. International norms and national laws

ILO's Minimum Wage Fixing Convention Number 131 (1970) specifies in Article 3 (a) and (b) that the following two elements be taken into consideration in determining the minimum wage:

- 1) "The needs of workers and their families taking into account the general level of wages in the country, the cost of living, social security benefits, and the relative living standards of other social groups;
- 2) Economic factors, including the requirements of economic development, levels of productivity, and the desirability of attaining and maintaining a high level of employment."⁷¹

In most countries, these two considerations are often at odds and tend not to be weighted equally in the determination of the minimum wage. To attract foreign investment and international buyers, countries emphasize economic growth and development. Minimum wages are often set to compete with low cost suppliers in other countries and not to promote workers' interests. Therefore many countries have minimum wage levels that do not meet the basic needs of workers and their families. These wages frequently do not reflect inflation and other factors that affect actual standards of living.⁷² Lack of enforcement of even these minimal rates of pay is common, forcing workers to work excessive overtime just to earn the legal minimum wage.

B. Wage Analysis: Quantitative and Qualitative Methods

As discussed in the above section, minimum wages often do not meet the basic needs of workers. Hence it is possible that a company complies with national legislation, but is in violation of SA8000. Assessing whether or not basic needs are being met is a critical challenge.

SAI recommends that auditors use a combination of quantitative and qualitative analysis to assess the adequacy of wages. Each method helps to verify the accuracy of the other method. For example, if there is a problem in the calculations made, an auditor may review some of the basic assumptions made in the quantitative analysis with workers to better assess the situation. The qualitative verification process is equally important to any quantitative process, particularly when workers are free to speak openly and have

⁷¹ ILO, 1996, *International Labour Conventions and Recommendations 1977-1995*, Geneva.

⁷² In 2000, CREA (The Center for Reflection, Education and Action) conducted a *Purchasing Power Index* (PPI) study in 15 cities in Mexico, and found that in none of the 15 cities does the minimum wage provide sufficient purchasing power to meet the basic human needs of the workers.

independent avenues of representation. To that end, we begin with a presentation of the qualitative process and refer readers to discussions of worker interviews in this chapter and through out the Guidance.

1) Qualitative Study

Quantitative analysis can offer auditors an initial point of reference to understand what may constitute a fair wage, but it may not be useful in addressing various cultural and economic situations. For example, issues like health insurance – depending on the social system – are not always incorporated within ‘basic needs.’ Therefore the process-oriented or qualitative methods of verification are recommended here as a means of verifying the appropriate application and analysis of the quantitative measures.

a) Consultation with workers

Workers and their representatives in the factory should be consulted whenever possible to understand whether workers’ wages are sufficient to meet basic needs for themselves and their dependents. Quantitative analysis, no matter how well defined, may only partially reflect these real needs. Workers are the most important source of information on the topic of basic needs. Auditors should note, however, that workers may feel uncomfortable sharing their personal opinions about their basic needs. In order to conduct discussions more objectively, auditors could construct a market basket with workers, using the quantitative analysis as a point of reference. Workers and trade union consultations may also be useful for developing an adequate corrective action plan and timetable.

Where appropriate, auditors should document their consultation with workers and their representatives.

b) Consultation with other stakeholders

Since wages are one of the chief indicators of working conditions, many other stakeholders in a particular region, such as trade unions, labor rights NGOs, government agencies, and research institutions may have accumulated much knowledge and research data on the topic. Some may even have conducted independent research on the basic needs wage, or the living wage. By maintaining regular communication with local groups auditors may learn of locally relevant wage information and research.

Where appropriate, auditors should document their consultation with local stakeholders on the basic needs wage.

c) Comparison with a unionized company

Within a defined geographic area, auditors should compare the wages paid at the facility being audited to the industry mean of wages paid at unionized companies. This simple approach will not work in locations where independent unions do not exist. In such cases, auditors should consult with both local trade unions and

NGO representatives. By building an ongoing dialogue auditors will be able to better assess the wage situation in a given region.

2) Quantitative Study

There are two quantitative methods recommended below for determining if the wages being paid meet workers' basic needs and provide for some discretionary income:

a) Market basket survey

One method is a market basket or 'consumption needs' survey conducted by an independent and reputable institution. The market basket survey requires a complete analysis of the local diet and the amount of food that must be consumed to meet the minimum 2,100-calorie per adult per day diet (see World Food Programme). In addition, it requires an extensive household survey to observe specific consumption patterns, household sizes and the number of (adult) income earners and their earnings. Therefore the survey should be carried out by an independent, reputable institution, not by the certification body itself. Several organizations have carried out such studies, including:⁷³

- i. The Center for Reflection Education and Action (CREA), *In Whose Interest? Using the Purchasing Power Index to Analyze Plans, Programs and Policies of Industrialization and Development in Haiti*, Hartford CT, 1996.
- ii. The Center for Reflection Education and Action (CREA), *Making the Invisible Visible: A Study of the Purchasing Power of Maquila Workers in Mexico 2000*, Hartford CT, 2001.
- iii. Interfaith Center on Corporate Responsibility (ICCR), *Footwear Manufacturing Fact-Finding Report: Nike and Reebok Plants in Indonesia, Vietnam, China*, New York, 1998.

b) Poverty line assessment

Another method is a calculation based on poverty or subsistence line data for a given country, using statistics generated by the government, United Nations Agencies, international financial institutions, or other reliable economic research institutions.

⁷³ Regarding other comment/discussion on basic needs please check: Center for Reflection, Education and Action (CREA) for a *discussion on using the Purchasing Power Index to determine basic needs wage*, at: <http://www.crea-inc.org>; and Clean Clothes Campaign (CCC), 2002, *Wearing Thin: the State of Pay in the Fashion Industry*, published at: <http://www.cleanclothes.org>; and Ethical Trading Initiative (ETI), 2000, *The "Living Wage" Clause in the ETI Base Code: How to Implement It*, published at: <http://www.ethicaltrade.org>; and Robert M. La Follette Institute of Public Affairs (University of Wisconsin-Madison), 1999, *Report on the Living Wage Symposium*, published at: http://www.lafollette.wisc.edu/livingwage/Final_Report/report.htm.

Basic Needs Formula ⁷⁴

Step 1: Determine the cost of the basic food basket needed for an adequate diet in the community under review. In the majority of countries this is determined by the local government through national/regional household surveys. If this food basket is based on poor nutritional assumptions (e.g. a 90% rice diet), auditors should adjust upward.

Step 2: Determine what percentage of household expenditure is spent on food. Divide the cost figure calculated in Step 1 by this percentage. The result is an estimate of what the average household needs to spend per person. ⁷⁵

Step 3: Determine the appropriate number of household members; SAI recommends using half of the average household size for the area. This assumes there is at least one other income contributing to the household expenditures. In a local economy where there is a strong tendency toward single parent households, auditors may need to consider raising the number above half. This number will be informed by the qualitative analysis recommended above.

Step 4: Determine the percent multiplier to provide for some discretionary income. SAI recommends providing at least 10% and therefore using a multiplier of at least 1.1.

Step 5: Insert the defined numbers into the following formula:

[Basic food basket x (1 / % of avg. household expenditure spent on food) x (0.5 x avg. household size) x 1.1]

Example: Assuming that the basic food basket costs \$15 per week, the average household size in the area is 5.6 people, and the percent of expenditure spent on food is 40%, then the estimated basic needs wage would be \$115.50 per week.

The equation would be: \$15.00 x (1/40%) x 2.8 x 1.1 = \$115.50

Step 6: Analyze the quality of the data and verify the results. The government-determined basic food basket cost may also be inflated or reduced for political reasons. Auditors should learn the process used in each country for determining the basket of goods. To that end, local auditors will need to verify three things:

- 1) That the food basket meets the general recommendation of a daily 2,100 calorie diet;
- 2) That the prices assigned to the food stuffs adequately reflect the current market situation; and,
- 3) That subsidies and severe inflation have been taken into account where necessary.

⁷⁴ Steps 1 and 2 may be combined if the price of the overall basic market basket (food plus basic needs) is previously defined by the local government or an international development institution.

⁷⁵ The ILO and the UN (Habitat Programme) publish statistics on this issue. One reference is ILO, 1991, *Household Income and Expenditure Statistics 1979-1991*, No. 4, Geneva.

Adjusting for significant fluctuation:

In the case of both quantitative studies, it is important to note that certain situations may require adjustments in the data:

- 1) When government subsidies (e.g. for basic food stuffs) are withdrawn, inflation measures should be adjusted, since this will disproportionately affect the basic needs market basket, which is primarily composed of food.
- 2) In cases of severe monetary crisis, figures will need to be adjusted for inflation more frequently. SAI recommends reassessing wages mid-year whenever inflation rises to more than twice what it was the year before.

MANAGEMENT SYSTEMS ⁷⁶

§ I. STANDARD REQUIREMENTS AND INTERPRETATION

A. SA8000 Requirements with Definitions & Interpretation

1) Company Policy

SA8000 9.1 *Top management*¹ shall define the company's policy for social accountability² and labour conditions to ensure that it:

- a) includes a commitment to conform to all requirements of this standard and requirements to which the company subscribes;³
- b) includes a commitment to comply with national and other applicable law,⁴ and to respect the international instruments listed in Section II⁵ and their interpretation;
- c) includes a commitment to continual improvement;
- d) is effectively documented, implemented, maintained, communicated and is accessible in a comprehensible form⁶ to all personnel, including directors, executives, management, supervisors, and staff, whether directly employed, contracted or otherwise representing the company;
- e) is publicly available.

- a) “Top management” refers to people on the highest management level in the company; people who report to the owners or the board of directors and who are accountable for the company’s compliance with the requirements of this standard.
- b) The “company’s social accountability policy” should be concise, clearly written, dated and signed by the top management of the company. In addition to a general commitment to SA8000, the social accountability policy should include specific guidelines corresponding to each of the major requirements of SA8000.
- c) “Requirements” include industry standards, voluntary codes of conduct, union contracts, etc.
- d) “Commitment to comply” should be evidenced by a process in place and functioning for management to identify and review all applicable laws.
- e) “International instruments listed in Section II” Companies must comply with local and national regulations as well as the international instruments listed in

⁷⁶ For a general discussion on the management system, please see the background information in this chapter.

Section II of SA8000, *Normative Elements and their Interpretation*. For further interpretation of these instruments, see www.ilo.org.

- f) At a minimum, the company’s social accountability policy should be written in the primary language(s) used by the employees to be considered “comprehensible form.” If some employees are illiterate, the management is obligated to communicate the policy to those employees via alternative means, such as special training programs, graphics, and/or oral presentations.

2) Management Review

SA8000 9.2 *Top management shall periodically¹ review the adequacy, suitability, and continuing effectiveness of the company’s policy, procedures and performance results vis-à-vis the requirements of this standard and other requirements to which the company subscribes. System amendments and improvements shall be implemented where appropriate.*

- a) To maintain the quality of the system implementation, management review should be conducted once every six months and more frequently if possible. Top management shall be involved with this process.

3) Company Representatives

SA8000 9.3 *The company shall appoint a senior management representative¹ who, irrespective of other responsibilities, shall ensure that the requirements of this standard are met;*

SA8000 9.4 *The company shall provide for² non-management personnel to choose a representative from their own group³ to facilitate communication³ with senior management on matters related to this standard.*

- a) The senior management representative has decision-making authority and direct access to executive management.
- b) Provide for means workers **can** do this selection – *if they so choose* – on company premises and company time. ‘Provide for’ does **not** mean the company is coordinating or involved in the selection process in any way; this would go against the principles of Article 2 of ILO Convention 98 (see chapter on Free Association and Collective Bargaining above)..
- c) The “non-management (worker) representative” shall be chosen by non-management personnel through a free and independent election. Management shall make provisions – such as allowing space and time for such elections. Management shall not interfere with or manipulate the election. In workplaces

where there is freely-elected trade union representation the filling of this position and the related functions will be coordinated with the union.

- d) “*Facilitate communication*” means the worker representative serves as an avenue for workers to communicate with management their recommendations or complaints relating to SA8000 policy and implementation. Collective bargaining should remain the function of a freely elected worker organization or trade union.

4) Planning and Implementation

SA8000 9.5 *The company shall ensure that the requirements of this standard are understood and implemented at all levels of the organisation; ¹ methods shall include, but are not limited to:*

- a) *clear definition of roles, responsibilities, and authority;*
- b) *training of new and/or temporary employees upon hiring;*
- c) *periodic training and awareness programs for existing employees;*²
- d) *continuous monitoring of activities and results to demonstrate the effectiveness of systems implemented to meet the company’s policy and the requirements of this standard.*

- a) Personnel at all levels, from senior management to temporary workers, should understand the requirements of the standard. Training records and other evidence of such efforts should be maintained.
- b) If appropriate, the company may invite external specialists to deliver such training programs.

5) Control of Suppliers/Subcontractors and Sub-Suppliers

SA8000 9.6 *The company shall establish and maintain appropriate procedures¹ to evaluate and select suppliers/subcontractors (and, where appropriate, sub-suppliers) based on their ability to meet the requirements of this standard.*

SA8000 9.7 *The company shall maintain appropriate records of suppliers'/subcontractors' (and, where appropriate, sub-suppliers') commitments to social accountability, including, but not limited to, the written commitment² of those organizations to:*

- a) conform to all requirements of this standard (including this clause);*
- b) participate in the company's monitoring activities³ as requested;*
- c) promptly implement remedial and corrective action to address any nonconformance identified against the requirements of this standard;*
- c) promptly and completely inform the company of any and all relevant business relationship(s) with other suppliers/subcontractors and sub-suppliers.*

SA8000 9.8 *The company shall maintain reasonable evidence⁴ that the requirements of this standard are being met by suppliers and subcontractors.*

SA8000 9.9 *In addition to the requirements of Sections 9.6 and 9.7 above, where the company receives, handles or promotes goods and/or services from suppliers/subcontractors or sub-suppliers who are classified as home workers,⁵ the company shall take special steps to ensure that such home workers are afforded a similar level of protection as would be afforded to directly employed personnel under the requirements of this standard. Such special steps shall include but not be limited to:*

- a) establishing legally binding, written purchasing contracts requiring conformance to minimum criteria (in accordance with the requirements of this standard);*
- b) ensuring that the requirements of the written purchasing contract are understood and implemented by home workers and all other parties involved in the purchasing contract;*
- c) maintaining, on the company premises, comprehensive records detailing the identities of home workers,⁶ the quantities of goods produced/services provided and/or hours worked by each home worker;*
- d) frequent announced and unannounced monitoring⁷ activities to verify compliance with the terms of the written purchasing contract.*

- a) *“Appropriate procedures” means that the rigor of evaluation is commensurate with the significance of the supplier, subcontractor or sub-supplier. It is not realistic to expect that all selected suppliers, subcontractors or sub-suppliers will be fully compliant with the SA8000 standard, especially in terms of formal policies and documentation requirements. As a first step, the company may focus on the qualifications and performance of their primary suppliers and subcontractors and those where they have a significant amount of control or influence. It is important to seek evidence that those procedures are in use and showing progress over time.*

- b) A “*written commitment*” is only one indicator of suppliers’, subcontractors’ and sub-suppliers’ willingness to comply with the standard. The company should also have criteria and concrete measures to monitor and evaluate the actual performance. (See Section III below: *Process Evidenced by Result*).
- c) “*Monitoring activities*” should be conducted periodically and monitoring reports should be maintained appropriately.
- d) “*Maintain reasonable evidence*” means the documentation required for requirement 9.7 demonstrates suppliers’, subcontractors’ and sub-suppliers’ compliance and management is tracking that compliance through mechanisms such as audits, contractual agreements, communications, corrective action plans and follow-up to those plans.
- e) *Home workers*: Based on the ILO Convention 177, SAI added the requirement to SA8000 that home workers be afforded a similar level of protection as formal employees.
- f) *Identities of home workers* should be documented just as other employees or suppliers are documented, including information such as: name, age, address where products are made, and contractual agreements.
- g) *Announced and unannounced monitoring*: SAI recommends unannounced monitoring visits as a highly effective tool for verifying compliance; nevertheless, the company should respect the privacy of home workers and their family members, and obtain approval from (or at least inform) those workers of an acceptable format for such monitoring activities.

6) Addressing Concerns and Taking Corrective Action

SA8000 9.10 *The company shall investigate, address, and respond to the concerns of employees and other interested parties with regard to conformance/non-conformance with the company’s policy and/or the requirements of this standard; the company shall refrain from disciplining, dismissing or otherwise discriminating against any employee for providing information concerning observance of the standard.¹*

SA8000 9.11 *The company shall implement remedial and corrective action and allocate adequate resources appropriate to the nature and severity of any non-conformance identified against the company’s policy and/or the requirements of the standard.²*

- a) Addressing concerns and taking corrective action is an important element of the SA8000 management system. It is an indispensable component of the communication mechanism between employees and management. The company should recognize the importance of concerns raised by employees and interested parties and establish a system for processing and investigating complaints and for reporting out on how such complaints were addressed.
- b) If the company receives notice of non-conformance to the standard, either from employees or other interested parties, appropriate corrective action should be taken in a timely fashion. Remedial and corrective action should guarantee that all standard requirements are met. Priority, in terms of time and resources, should be given to areas where major violations of SA8000 requirements have occurred.

7) Outside Communication

SA8000 9.12 *The company shall establish and maintain procedures to communicate regularly¹ to all interested parties² data and other information regarding performance against the requirements of this document, including, but not limited to, the results of management reviews and monitoring activities.*

- a) *“Communicate regularly”* means management has a system in place to inform stakeholders – particularly workers – about certification to and ongoing compliance with SA8000.
- b) *“All interested parties”* means management makes this information available publicly. The chief purpose of external communication is to keep the SA8000 management system open and transparent to any interested party. Management should, upon request, provide regular communication to any interested party about the results of their internal management reviews and monitoring activities. By sharing relevant data and other information, management can expect feedback and suggestions that may facilitate continual compliance and improvement.

8) Access for Verification

SA8000 9.13 *Where required by contract¹ the company shall provide reasonable information and access to interested parties seeking to verify conformance to the requirements of this standard; where further required by contract, similar information and access shall also be afforded by the company's suppliers and subcontractors through the incorporation of such a requirement in the company's purchasing contracts.²*

- a) “*Contract*” refers to the audit contract between the company and the certification body.
- b) “*Purchasing contracts*” refer to the contracts between the company and its suppliers and subcontractors. Appropriate terms and conditions can be included in this type of contract to encourage the company’s suppliers and subcontractors to seek conformance with SA8000 requirements.

9) Records

SA8000 9.14 *The company shall maintain appropriate records to demonstrate conformance to the requirements of this standard.*¹

- a) The purpose of maintaining records goes beyond documenting evidence of conformance to the standard requirements. More importantly, proper record maintenance helps management to evaluate and review its performance in implementing the SA8000 standard and management system and to respond competently to complaints. Please note that record keeping does not on its own guarantee compliance.

Pursuant to Auditor Advisory number eight on Surveillance Audits, all issues concerning the management system, especially worker training and awareness, should be addressed during each surveillance audit.⁷⁷

B. Intent of SA8000

The management system requirements of SA8000 require management to develop policies and track performance improvements resulting from those policies.

To succeed in the implementation of social standards, a company must have a functional management system. In this regard a company must have documented proof of compliance and systems to ensure continued compliance with all elements of SA8000. The burden of proving compliance is on the audited company. The intent of these management system requirements is to institutionalize and substantiate the eight SA8000 performance requirements; these requirements assume continuous improvement will be evident over time – both prior to certification and following certification. Procedures to verify and sustain implementation of the eight SA8000 elements consistently over time are the key to the system. The company’s records should substantiate that the required practices were followed in the past in order to give the auditor reasonable confidence that these same practices will be followed – and can be verified – in the future. More than requiring the submission of documents for review, SA8000 certification also requires

⁷⁷ SAI, *Advisory*, No. 8 (July 2001), New York.

demonstrated commitment from management evidenced by ongoing communication and participation mechanisms.

The primary objectives of the SA8000 management system differ from other management systems that focus on production processes. The SA8000 management system is designed to protect workers' basic rights, to improve working conditions, and to enhance worker-manager communication. The SA8000 management system therefore has several unique features. For example, to be certified, a company must take responsibility for working conditions beyond its own facilities. Under SA8000, companies must monitor and control suppliers, subcontractors and sub-suppliers to ensure they also comply with SA8000. Another distinguishing feature of the SA8000 management system is the requirement of participation by non-management personnel to ensure that employees at all levels are served by the system and requirements that there be a system for outside communication with interested parties about the company's performance.

§ II. AUDITING CONSIDERATIONS

A. Key Issues to Review

The following are examples of some issues that auditors should review, including: *Results-based Evidence, Social Accountability Representative, Internal Auditing, Worker Participation, and Worker Training*. However, this list is not exhaustive. Auditors should adapt and/or expand it depending on the production facility and other local conditions.

Pursuant to Auditor Advisory number eleven on documentation requirements, "Status of Control of Suppliers" the progress (or lack thereof) reflected in the company's monitoring reports on their suppliers, subcontractors and sub-suppliers should be addressed in every Audit Report.⁷⁸

1) Process Evidenced by Results

Proper record-keeping is only one component of the SA8000 management system. In conducting audits, it is more important to verify that the company has taken concrete and adequate action to improve performance and guarantee continued compliance. Reasonable evidence of compliance should not be one-dimensional. Auditors should look at a variety of evidence sources and the extent to which real change is evident.

Auditors should check the following: How are written policies on the SA8000 elements implemented? What processes does the company follow? How are these processes and procedures evaluated? How have they been improved over time? Are workers and managers aware of the SA8000 elements and procedures related to implementing them?

⁷⁸ SAI, *Advisory*, No. 11 (Apr. 2003), New York.

These are some of the core issues that can help auditors shape their review process. This also means that good worker and manager interviews are key.

Auditors should seek to verify that there is a consistent process in place for ensuring ongoing compliance on every issue relevant to the standard. Evidence of effective systems includes broad understanding among management and workers. But more importantly than workers' and managers' ability to explain a given process or system, auditors should look for evidence of change and improvement. Some examples follow:

- a) If a system is in place for ensuring the health and safety of workers, then accident rates should go down or be consistently low.
- b) If a factory is complying with SA8000 working hours requirements while all of the factory's competitors are constantly working 20 or 30% more, then auditors should ask how that factory is able to comply. What changes were made and what are the results that enable such a drastic reduction in working hours?
- c) If there have been several communications with suppliers, subcontractors or sub-suppliers, is there also evidence of change and compliance among them?

If performance results indicate an ineffective system, auditors should dig deeper to determine if the system documented on paper is actually in use.

2) Management Systems and Small- and Medium-sized Enterprises

SA8000 seeks to promote systemic compliance – not a 'check-list' or 'inspection-day' approach. For this reason, the management system requirements of the standard are important. If interpreted correctly, these requirements should not be disproportionately challenging to small- and medium-sized enterprises (SMEs).

The fundamental elements to verify throughout in a management systems review are: *commitment, communications, and effectiveness*. For SMEs, these elements of their SA8000 implementation system should be easier to manage than larger enterprises:

- a) *Commitment*: a smaller management staff should enable close coordination and the involvement of a larger portion of managers in all aspects of the SA8000 planning and implementation process.
- b) *Communications*: a smaller workforce should greatly facilitate communications by top management directly to workers about the company's plans and intentions with regard to social compliance. This also makes it easier to monitor managers' and supervisors' performance vis-à-vis the standard.
- c) *Effectiveness*: Documentation of compliance can be fairly simple for SMEs. Management communications with workers can rely more on verbal means and group meetings. Auditors can also rely more on worker interviews, since they can

realistically reach a larger portion of the workforce than they might in a larger workforce.

3) Social Accountability Management Representative and Worker Representative

SA8000 requires that there be social accountability representatives – one for management and one for workers – in each certified facility. There are two major categories of SA Representatives: the Management Representative and the worker-selected Non-Management Representative.⁷⁹

The Management Representative is responsible for addressing workers' concerns, participating in the management review, and facilitating implementation and continual improvement in carrying out the elements of SA8000. This *social accountability management representative* can be appointed by the top management⁸⁰ and should have the decision-making and budgetary authority to implement preventive and/or corrective actions as needed.

The Non-Management Social Accountability Representative (worker representative) is to be elected freely by other non-management workers (this does not include any supervisory personnel). Auditors should verify, through worker interviews and other means, that management did not interfere with or manipulate the election or functioning of the worker representative. In facilities where there is a freely elected trade union or workers' organization representing workers, the SA8000 worker representative's position should be filled and activities conducted in cooperation with the union.⁸¹

The role of the SA8000 worker representative is to facilitate communication between management and workers. Auditors should also verify that all workers at the facility are aware of the existence and role of the SA8000 worker representative. The representative should have a channel by which to receive anonymous recommendations and complaints from other workers about non-conformance with the standard. The worker representative should have the authority to facilitate communications with senior management regarding matters relating to the standard. SA8000 implementation is not the responsibility of the worker representative, however, and accountability for compliance rests with (top) management.

The SA8000 worker representative should not be used in any way to undermine the trade union or its representatives (as per ILO Convention 98, Article 2). As explained in Section II of the preceding chapter on Free Association and Collective Bargaining, the SA8000 worker representative has a limited function, especially if he or she was elected as part of the company's effort to come into compliance with SA8000. For that reason, there should only be one SA8000 worker representative who does not seek to fill

⁷⁹ To this term sometimes is referred to as "SA8000 Worker Representatives".

⁸⁰ Top management altogether may assume the role of Social Accountability Management Representative.

⁸¹ Depending on the country, one or more unions or worker organizations may be functioning officially in the same workplace. Auditors should be familiar with national trade union law and the criteria for determining which trade union or unions are officially representing workers.

representational roles, such as collective bargaining, unless that SA8000 worker representative is also the previously elected representative of a freely elected trade union or workers' organization.

4) Worker Training

Auditors should verify that every employee is trained in social accountability issues on a regular basis, that the frequency of training is adequate for the factory's level of employee turnover, that requirements of SA8000 are known and understood at all levels, and that clear lines of responsibility in carrying out SA8000 requirements are defined. This is particularly important among the top management, who are ultimately responsible for conformance with the standard.

If managers are not fluent in the primary languages spoken by their workers or if workers are illiterate, the auditor should ask workers and managers separately how the training and communications required by SA8000 are carried out. In order for workers to fully understand directions and benefit from training, the company should provide all training materials in the local language(s) of those working at all levels in the company. The SA8000 standard itself should be translated into the local language(s), as should related materials for implementation, such as company policies and procedures relevant to the standard. In factories with illiterate workers, managers should provide a verbal explanation plus illustrations, and maintain records that they conducted this type of training and how they did it. .

5) Worker Participation

Workers make substantial and essential contributions to the successful implementation of the SA8000 management system; therefore, when conducting audits, auditors consider worker participation as a key indicator of compliance. Auditors can check the following to determine the level of participation by workers:

- a) Have company policy and procedures been communicated to all workers?
- b) Do workers have opportunities to participate in the implementation and review of SA8000 compliance?
- c) Are workers' concerns or complaints addressed?
- d) Are corrective actions timely and adequate?

6) Internal Audits

Internal audits are a practical means of ensuring continual improvement, and are required under the SA8000 management system. Auditors should verify that regular and comprehensive internal audits take place and that senior management review and act upon them.

7) Control of Suppliers/Subcontractors and Sub-suppliers

SA8000 Section 9.7 requires that the company seek a written commitment to SA8000 from its suppliers, subcontractors and sub-suppliers if appropriate. Auditors should note that a written commitment is required as evidence of compliance, but is not a sufficient guarantee. To better assess a company's performance, auditors should focus on the company's plan of implementation, and verify that there is a system for the evaluation and selection of suppliers and subcontractors on the grounds of social accountability policy. Auditors may want to investigate the following:

- a) how the company selects business partners in the supply chain;
- b) how it engages and encourages its suppliers, subcontractors and sub-suppliers to seek compliance;
- c) what training and support the company is providing for staff making the selection; and
- d) how it contributes to the suppliers', subcontractors' or sub-suppliers' plan to meet the intent of the standard, such as ensuring adequate lead times on orders, establishing better contractual terms in return for demonstration of (or substantial advances towards) compliance with the standard's requirements.

These requirements apply equally to labor suppliers, including temporary employment agencies and home workers. In reviewing the treatment of contract laborers and home workers, auditors should investigate the intent of these arrangements. Are these contracts significant in number and regularity? If so, do they indicate an effort to avoid legally-mandated wages and benefits for full-time worker? Many countries, for example, require the payment of a 13th or even 14th month at the end of the year. In Latin America, for example, employers sometimes avoid long-term labor contracts in order to escape this "aguinaldo" payment.

8) Complaints and Appeals

SA8000 requirements 9.10 and 9.11 address company commitments to *address concerns and take corrective actions*. In addition to the company's complaint system, SAI-accredited certification bodies and SAI headquarters provide two additional levels where workers (or interested parties) can file complaints. Auditors should confirm that workers and other interested parties understand and have access to all three levels of the complaints and appeals process, and that workers are trained in how to utilize that access.

- a) Company Level:

Complaints: Complaints can be filed directly with the factory in question and may be resolved without the involvement of third party auditors. SA8000 companies are required to establish a complaint procedure that provides workers the option to file a complaint anonymously. Companies are encouraged to establish suggestion boxes or a free mail-in system to facilitate workers expressing their concerns. These complaints should be able to be lodged anonymously. If names are given, no repercussions should result. This may encourage an internal discussion and resolution prior to or instead of a formal complaint.

The company's Social Accountability Manager should ensure there is a confidential, accessible and free system for workers to lodge complaints or appeals regarding the company's conformance to SA8000. Also, the Corrective Action taken to rectify the complaint should be communicated to the workers filing the complaint or, in cases of anonymous complaints, to the worker-elected SA 8000 representative. In companies where a trade union is present, trade union representatives should be involved in the complaint processing and settlement procedures.

In some cases, workers may feel the need to take their complaint to the certification body. Such cases include situations where: a) the complaint resolution is not satisfactory to workers; or b) workers feel too intimidated to lodge a complaint directly with management.

b) Certification Body Level:

Appeals: If the company does not satisfactorily address and resolve complaints, workers have access to the appeals procedure, enabling them to bring an appeal before the certification body (CB) that verified the company's compliance with SA8000. Workers' ability to file an appeal with a Certification Body should not rely on their meeting auditors during surveillance visits. The Certification Body should also have a mechanism for receiving complaints and appeals from workers and/or interested parties.

Any interested party, including workers unions, trade unions or NGOs, can appeal the decision to certify a facility, if it presents objective evidence of serious violation of any element of SA8000. For example: a community group with evidence that workers are being fired for unionizing could appeal the company's certification by contacting the CB that approved the certification. After receiving complaints from workers or other interested parties, a CB may use unannounced audits and/or off-site interviews with workers to better assess the situation.

c) Accreditation level:

Complaints and appeals: Any interested party can also file a complaint or appeal with SAI about the accreditation of a certification body. The complainant however, should first seek to exhaust the complaints and appeals process at the company and certification body levels. For more information about this process, please consult the SAI Procedures for Complaints and Appeals (See appendix).

B. Evidence of Compliance

The following are some examples of documents and activities that auditors should review as indicators of compliance with SA8000. This list is incomplete, however, and none of these guarantee compliance on their own. Auditors need to develop their own strategy to collect evidence depending on the local conditions.

- 1) Comprehensive commitment to all SA8000 standard requirements confirmed by top management in writing.
- 2) Top management reports regularly on social compliance to facility owners and/or the board of directors and there is evidence in correspondence or meeting minutes of these discussions.
- 3) Social Accountability Statement that defines program and policies for social accountability implementation, providing for preventive policies and programs, such that the whole of SA8000 is covered.
- 4) SA Statement that is published in language(s) used by employees and it is distributed to and understood by all employees.
- 5) Management review and monitoring reports are up-to-date, on file and available for review. These reviews show progress in continual improvement and worker interviews confirm these points of progress.
- 6) Workers report that the Management Representative is accessible and responsive to workers' concerns.
- 7) Workers are familiar with the Social Accountability Representative and they can identify ways in which the Representative has facilitated communication on matters relating to the standard.
- 8) Top management's statement of commitment to SA8000 is known and understood by all workers.
- 9) Workers understand and effectively use the internal, confidential complaints system. Examples: a suggestion box is privately accessible to workers. There is evidence that the system is in use (e.g. complaints resolved, resolutions reported); and/or a free complaint mail-in system exists.
- 10) The names, addresses and signed statements of commitment to implement SA8000 are on file for all primary suppliers and subcontractors, especially any contract labor suppliers.
- 11) There is evidence that company representatives have audited or otherwise monitored supplier, subcontractor and sub-supplier operations.

- 12) Contract labor providers are accessible and cooperative during an audit and can demonstrate compliance with SA8000.
- 13) Contract (or casual) labor and home workers are compensated and treated decently (in line with SA8000) and they do not indicate an avoidance of paying worker wages and benefits in line with SA8000.
- 14) Where trade unions are present, the SA8000 worker representative has been elected through the trade union procedures.
- 15) The company's policies on each element of the standard are published in local language/s, and workers know where to locate additional copies of these policies.
- 16) The internal monitoring reports from the Social Accountability Management Representative are in agreement with those of the trade union and with those of other workers interviewed.
- 17) There is a system for distributing management monitoring and review reports⁸² to workers and to other interested parties on the company's policies and performance vis-à-vis the SA8000 standard (see clause 9.12).
- 18) Workers and interested parties know how to obtain these reports.
- 19) Company annual report references certification to SA8000 or the company has made its certification public by other means.
- 20) On surveillance audits,⁸³ interested parties confirm knowledge that the facility was certified and are familiar with its related policies.

Auditors should also look for evidence that good overall management systems are in place. The following are examples of items that auditors might look for:

- General business license
- Company social accountability policy
- Senior management representative(s) for Social Accountability
- Documentation of SA8000 requirements and their implementation
- Management compliance reviews of SA8000 compliance and corresponding reports to workers
- Procedures to recruit and monitor subcontractors/sub-suppliers/home workers
- Cost accounting and capacity planning for the facility – indicating stability of jobs, production capacity, and ability to maintain compliance (e.g. firms with severe cash flow problems, may only comply during short periods of the year)
- Personnel data files
- System to record hours worked by employees

⁸² This distribution system includes SA8000 auditing summary reports issued by the Certification Body.

⁸³ Surveillance audits refer to audits conducted after certification.

- Wage lists and pay slips
- Production records; compared to payroll to verify veracity of hours worked
- Documentation of payments to social insurance funds
- Employee awareness and internal as well as external communication structures for social accountability policies
- Health and safety risk management system
- First-Aid certificates and capacity
- Documentation on health and safety trainings
- Documentation on hazardous chemicals
- Inspection documents for lifts and machinery
- Accident records and remediation reports
- Employment contract with security guards
- Documentation of maternity leaves

C. Worker Interview Strategy

Auditors should interview the worker representative, any trade union members and rank-and-file workers. These interviews will be particularly sensitive for management as comments may easily be seen as criticism of managers and not the system/s in place. For this reason, these interviews must be confidential and, where possible, conducted away from the workplace.

Interviews with workers regarding the SA8000 management system can start by determining workers' level of awareness of the company's specific social accountability policies/procedures and the role and responsibility of the SA8000 Worker Representative.

Some minimum threshold questions workers should be able to answer include:

- 1) Do workers know the content of the standard and where it is posted?
- 2) Do workers understand how to file a complaint?
- 3) Is there a worker representative? Do most workers know who that is, how and when he/she was chosen and his/her role in the workplace?

If workers' awareness is low, auditors may further investigate the adequacy and efficiency of management's training and orientation programs for workers on SA8000 policies and procedures. If worker turnover is high, auditors may further investigate wage and hour conditions.

If workers' awareness is high, auditors may move on to more complex questions regarding workers' and/or worker representatives' participation in implementing the SA8000 management system. Useful lines of questioning include, but are not limited to:

- 1) Does worker representative have the opportunity to maintain effective communication with management on issues of concern to the workers;
- 2) Do workers effectively use SA8000's confidential complaints/appeals system;

- 3) Does worker representative regularly convey any workers' complaints to the management;
- 4) Does worker representative have the opportunity to participate in the internal audits and monitoring of the company's suppliers/subcontractors and sub-suppliers;
- 5) Does worker representative have access to all SA8000-related information and reports;
- 6) Does worker representative have the opportunity to participate in the management review;
- 7) Does the worker representative have the opportunity to participate in the opening and closing meetings of the audit?
- 8) Does worker representative report back to peer workers on any corrective action taken.

§ III. BACKGROUND INFORMATION

A. International norms and national laws

Convention 177: Home Work

SA8000 is not intended to perpetuate home work, but to protect home workers. Nevertheless, it is important for auditors to verify that management does not use home workers in order to evade legally mandated wage and benefit laws. To that end, the ILO adopted Convention 177 to encourage countries to develop and implement policies to protect these workers.

The core principles of article 4 can serve as guiding principles for managers and auditors:

- 1) Promote, as far as possible, equality of treatment between home workers and other wage earners, taking into account the special characteristics of home work and, where appropriate, conditions applicable to the same or a similar type of work carried out in an enterprise.
- 2) Equality of treatment shall be promoted, in particular, in relation to:
 - a) the home workers' right to establish or join organizations of their own choosing and to participate in the activities of such organizations;
 - b) protection against discrimination in employment and occupation;
 - c) protection in the field of occupational safety and health;
 - d) remuneration;
 - e) statutory social security protection;
 - f) access to training;
 - g) minimum age for admission to employment or work; and
 - h) maternity protection.

B. SA8000 Management System

A management system is comprised of the structures, procedures and resources used by an organization to achieve its objectives. It is an operating system that integrates a company's activities in a systematic, consistent way.

A management system to ensure safe and decent workplace conditions is most effective when:

- 1) It is integral to the overall business plan (e.g. compliance can't depend on good business cycles); and
- 2) The owners of the facility or the board of directors are directly invested in the social as well as the financial aspects of the management system.

Socially responsible investors currently look for a business to have board-level commitment to the social goals of the company and for the board to receive regular updates on social performance just as they do for financial performance. SA8000 calls for commitment from top management, but top management is only as committed as the facilities' owners and board members.

To adopt a comprehensive management system, a company needs to invest time and financial resources. For small- and medium-sized enterprises this investment can be formidable. However, it has been recognized that management systems bring added value, help improve operational performance, and help a company become and remain more competitive. Some perceived specific benefits include:

- 1) Effective management of risks associated with achieving objectives;
- 2) Consistent control of key processes;
- 3) Reduction of administrative, training and operational costs;
- 4) Avoidance of performance gaps and duplication of efforts;
- 5) Facilitation of communication by offering a common information base for personnel at all levels;
- 6) Facilitation of compliance with legislation and standards;
- 7) Institutionalization of good working practices;
- 8) Continual improvement.

There are various types of standardized management systems, including quality management systems such as the ISO 9001:2000, and environmental management systems such as the ISO 14001. SA8000 differs from these and other management systems in that the central concerns of the SA8000 system are workers' rights and working conditions. Despite the differences, all of the above-mentioned management systems have some common elements - Policy, Planning and Implementation, Performance Review and Evaluation, Corrective Action, and Communication:

- 1) Policy: The policy is a central element of any kind of management system. It contains the overall goal, objectives, and, in the case of SA8000, states the

company's commitment regarding labor rights and working conditions. This may be referred to as the company's social accountability policy (please refer to SA8000 Clause 9.1).

- 2) Planning and Implementation: Planning and implementing specific structures, procedures and processes are crucial to carrying out a company's policy. SA8000 requires an additional component, "control of suppliers," when planning and implementing the company's social accountability policy (SA8000 9.5/9.6/9.7/9.8).
- 3) Performance Review and Evaluation: Periodic performance reviews and evaluations are necessary to make sure that the company's implementation processes and procedures are adequate and effective, and that they represent a suitable means to carry out the company's policy. By reviewing and evaluating the status of each policy implemented, a company can establish a performance baseline and goals for improvement. Workers' feedback is essential to ensure an effective and meaningful performance review (SA8000 9.2, 9.3, 9.4, 9.6).
- 4) Corrective Action: Corrective action is an integral component of a management system. When a company is found to be out of compliance (vis-à-vis legislation or voluntary standard requirements to which the company is committed). The management system provides procedures for making corrective actions and monitoring continual improvement. (SA8000 9.4, 9.9-9.10).
- 5) Communication: An effective management system should have an open system of communication. Internally, the company should guarantee, through regular training, consultation, and other means, that personnel at all levels understand and have access to information on the company's social accountability objectives, policies, and procedures. Externally, interested parties need sufficient information to make an independent assessment to verify the company's compliance with SA8000 and overall working conditions (SA8000 9.11-9.12).

Communications – Best Practice Examples:

All SA8000-certified workplaces are required to publicize their certifications and post them on the SAI website. Recently in the field of social reporting, MNCs have started to publish increasingly detailed compliance reports about their suppliers.

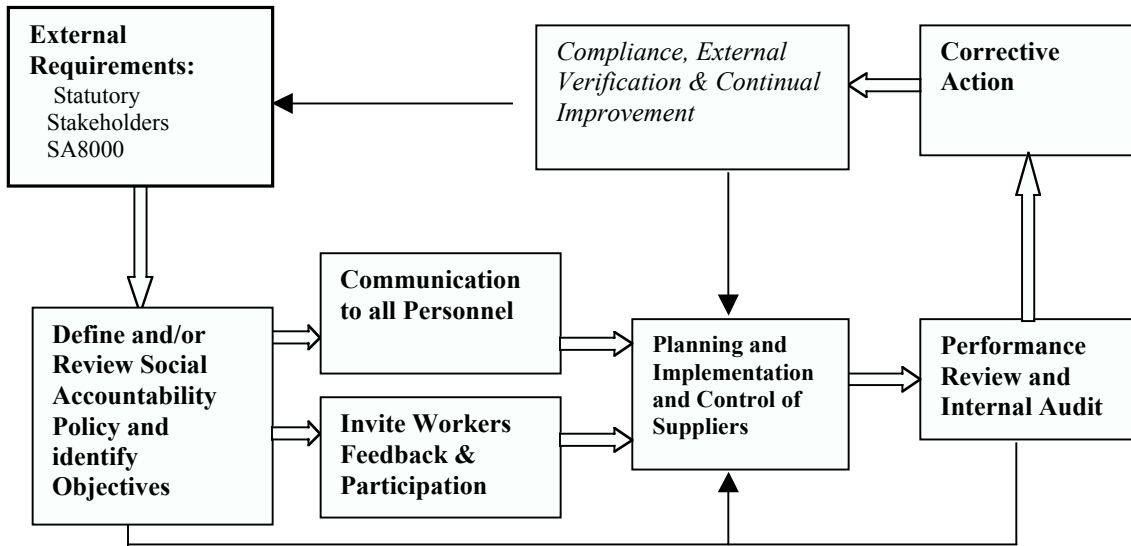
- Both Chiquita and Gap Inc. have published such reports. Chiquita reports on the degree of non compliance found among farms in different countries. Gap Inc. publishes the percent of factories where violations were found in each of 11 regions around the world.
- The companies participating in the Fair Labor Association are publishing summary audit reports for factories monitored through the FLA program.

All of these examples indicate a trend toward greater transparency.

SA8000 integrates traditional management system elements with policy and procedures focusing on improving workplace conditions, while enhancing the relationship between employees and management. SA8000 shares some key elements with other management systems and should therefore be familiar to those using other systems. However, considering SA8000's unique focus on workers and working conditions, the company needs to invite participation from personnel at all levels, particularly from frontline supervisors and rank-and-file workers. For this reason, SA8000 requires the employer to fully consult and inform worker representatives on all aspects of SA8000 (SA8000 9.3-9.4). In addition, both management and worker representatives should have time and resources to play an active role in various stages such as planning, implementation, performance review, and the internal audit.⁸⁴

The following figure can illustrate the key processes of an SA8000 management system:

⁸⁴ Please refer to Chapter 4: Freedom of Association and Collective Bargaining for further recommendations.



AUDITING PROCESS

§ I. GENERAL PARAMETERS OF THE AUDITING PROCESS

To ensure that the audit is substantive, auditors must gather anecdotal evidence through interviews and observation as well as documentary evidence found in company records. In addition, due to the social objectives of the SA8000 system, auditors should place a higher priority on verifying the performance of the system than on the existence of documentation.

Pursuant to Auditor Advisory number eleven on documentation Requirements, each SA8000 element should be addressed in the report (certain issues which need more specific notations are mentioned in the chapters respectively). In addition, auditors should include notations on any accepted deviations, a brief overall description of the facility and the format of the interviews.⁸⁵ An external and an internal photograph are encouraged, taking care to not record any proprietary equipment or process.

§ II. PREPARING THE AUDIT

The following section is written primarily for auditors' use. Companies will find, however, that what follows is useful guidance for the company's preparation for the audit, just as the above sections should be useful for companies seeking to understand how to interpret SA8000 in their workplace. Before a company is audited for certification, the company requesting the audit should investigate and ensure that it satisfies the requirements of the SA8000 Standard. In this process, the company should have conducted its own self-assessment with the assistance, if appropriate, of any of the following parties: locally-based NGOs, trainers, consultants, union representatives, other certified facilities, industry associations or other specialists with expertise or experience in SA8000 implementation. The SA8000 management system section requires that a company have systems in place for managing on-going social accountability issues and these should be supported by all necessary documentation. As documentation is crucial in maintaining system oversight and integrity there should be a structured format for documentation control established to ensure that appropriate records are identified, controlled and retained.

A. Pre-assessment activities

1) Preparatory work for the company and suppliers

To prepare for a certification audit, company management should take the following steps:

- a) Explain the nature of the audit to the staff, stipulating the need to provide accurate information;

⁸⁵ SAI, *Advisory*, No. 11 (Apr. 2003), New York.

- b) Request the complete collaboration of staff in information exchange, assuring workers that management is interested and willing to hear constructive comments from workers.
- c) Conduct an internal assessment and put into place procedures and practices self-identified as missing and needed.
- d) Train all staff and employees on procedural updates as required.

2) Examples of pre-assessment steps

A company should develop a pre-assessment plan based on particular working conditions of its own facility:

- a) The company requests a certification audit by completing the appropriate forms (each certification body has a set of basic information they request before initiating an audit so its auditors can plan the audit appropriately);
- b) Discussion and agreement takes place concerning the scope and (if third party) cost of the assessment with an accredited certification body;
- c) The lead auditor should conduct a preliminary visit, at which point the organization provides the auditor with a copy of its documented SA8000 system. At this time the lead auditor conducts a tour of the facility and considers options for the best location(s) to conduct worker interviews during the assessment.
- d) The lead auditor has a discussion with the trade union (s) representing workers at the facility, if there is one.
- e) The lead auditor conducts a desk study of the management system and notes any significant omissions or deviations from SA8000 requirements in a report which is then forwarded to the company applying for certification for appropriate action;
- f) The company modifies the management systems and procedures as appropriate;
- g) Auditors alert the facility as to the types of records which will need to be available for inspection; (see sections on evidence)
- h) The auditor requests the following records and information to be assessed before the visit:
 - average wage information and wage levels for highest and lowest paid workers in the facility;
 - sample employment contracts;
 - basic needs wage calculation
 - compensation plan including piece rate quotas and production bonus, if any (see compensation chapter above);
 - records of overtime hours for past two months
 - sample contracts with workers, subcontractors, and suppliers;
 - copy of any and all agreements signed with unions and currently in force;
 - copies of any inspections carried out by local labor, health and safety or fire authorities;
 - training manuals on SA8000 and related issues;
 - training records of workers'

- copies of statistics on incidence and severity of accidents and illness and any such reports to relevant government agencies;
 - total number of workers with a break out by gender (and if legal and available a break down of other minorities)
 - monthly production records.
 - current plan for controlling/monitoring suppliers
 - number of work shifts (if a third or night shift is employed, the audit team should schedule a visit to monitor workers on that shift)
 - languages spoken at the facility and percentage of workers that speak each language.
- i) Having reviewed the requisite records, the auditor will arrange the assessment visit. A copy of the audit schedule should be sent to the client in advance of the audit to facilitate planning operations accordingly and arranging for required personnel to be available to the audit team.
- j) Once the company is certified, the auditors are required to conduct surveillance every six months unless no CARs are issued or outstanding during two consecutive visits (then surveillance can be annual);.

B. Defining the Audit Scope

Prior to a company preparing for certification to SA80000 it must first establish the scope of the audit. The scope specifies the location(s) to be covered by the audit and all the processes and operations to be audited under the management system. (See also section II-B. – Defining Scope – in the Auditing Process Chapter.)

The overall intent of SA8000 is to avoid certifying a facility which has adopted a social initiative but doesn't apply it evenly or completely throughout its operation. Specifically, SA8000 certifications should cover the complete premises and operations, including remote sites and home workers operating under a common management system

The issue of scope is a major issue and must be defined carefully in order to meet the intent of SA8000. There will always be an element of judgment required of an audit team and certification body in determining proper scope and that decision should be reviewed and approved by the proper chain of command within the certification body to maintain the integrity of the process. Questions about special cases should be forwarded to SAI headquarters.

1) Examples of proper scope follow

- a) A facility with four buildings in a compound, each with a different line of products but all operating under the central direction of the company with a common management system. (One certificate)
- b) Same facility but with one building on site, one in another part of town and two in another part of the country. (Each site could have a separate certificate. In fact, each probably would require a separate certificate to avoid potential

problems with sampling, another issue that must be monitored on a regular basis to assure adequate oversight in industries considered high risk.)

- c) A facility in a compound with two directly owned factory facilities and one sub-contractor factory, materials from which are used as critical components in the main company manufacturing process. (One certificate for the two company sites and, if appropriate, a separate certificate for the subcontractor. This assumes the subcontractor is a business completely separate from the main company.)

2) Common abuses of scope applications

It is common in some areas today for companies to request the certification of only a portion of their facility, often due to the fact that a specific buyer has required attainment of certification to SA8000 for a particular product line. The company then pursues certification of a piece of its production line by erecting a dividing wall, containing the affected product line in a separate building on the same premises, etc. In some cases the company attempts to reduce the scope of certification simply to reduce its overall cost of certification. *Auditors should investigate the whole premises where production is happening, including adjoining rooms, floors, wings, and buildings in order to determine the relationship among neighboring operations.* Most often this information comes to the auditor's attention through interviews of workers or external contacts.

3) Industry Scope

It is not the intent of SAI to deny any industry or sector the right to attain certification to SA8000 but there are some sector for which meeting the standard requirements poses special difficulty because of unique operating norms and requirements within their respective industry. The oil industry is a case in point since offshore operations on drilling platforms typically require extended working hours and a continuous work schedule for up to two weeks at a time followed by compensatory time off of equal or greater length. While such schedules are normal in this sector and are typically allowed by law, such a schedule requires of the workers overtime hours that exceed the limits of SA8000 and does not provide one day off in every seven-day period as stipulated in the standard. Such operations would not be allowed to be certified to SA8000. The marine sector also would face difficult issues involving extended hours for ship's crew (and hotel staff for cruise ships) as well as pay and benefit issues as the industry is governed by a separate set of ILO conventions. SAI is currently evaluating both sectors for consideration of possible exceptions and application of international norms specific to these sectors.

C. Compliance with Local Laws

The *Normative Elements* section of SA8000 states the following:

“The company shall comply with national and other applicable law, other requirements to which the company subscribes, and this standard. When national and other applicable law, other requirements to which the company subscribes, and this standard address the same issue, that provision which is most stringent applies.”

In order to verify a company’s compliance with this clause, auditors will need to be familiar with relevant local laws and international laws cited in the standard. To that end, all local offices of a Certification Body should:

- 1) Maintain copies of relevant laws on file, e.g. labor codes, health and safety regulations and building codes.
- 2) Establish a system for being informed about changes in local law;
- 3) Ensure that local auditors understand the implications of those laws for the implementation of SA8000.

D. Consultations with Interested Parties

Auditor(s) are required to meet on a regular basis with key interested parties to anticipate problem areas (required as per the Accreditation Requirement Guideline #150). The interested stakeholders to be consulted include: workers, trade unions, research institutions, NGOs, community organizations, and labor experts. The groups being consulted may be asked if any facility in the area has particular problems and/or for comments on a list of facilities including the audited facility, but auditors should not identify the applicant facility prior to certification. This is in order to respect the confidential nature of the audit. Once facilities are certified, however, that information is public and should be shared openly. This enables them to build up a picture of working conditions at the enterprises in advance of the verification process and to establish a complaints and appeals process.

1) Purpose of the meeting/s

These informal consultations are an effective means of both gathering information on possible problem areas, and encouraging local organizations to monitor a company’s continual compliance. Such consultations reduce the risk that auditors will overlook a nonconformance and they can help encourage a constructive feedback loop. During these meetings, auditors should describe the complaint and appeals process and explain the different ways in which NGOs, trade unions and other interested parties can play an important role, prior to initial audit and surveillance audits.

These discussions might include:

- a) A general introduction of SA8000 and the role of the auditors;
- b) Participants’ views on the overall situation in the industry concerned;
- c) Current proposals for improving local labor conditions;
- d) The key problems under each of the elements of SA8000;
- e) Information participants have on specific companies in the area; and
- f) A list of any facilities already certified in the area.

2) Convening a group meeting

Auditors may want to request that a local organization coordinate a meeting of local groups, including, wherever possible, representatives from trade unions, human rights organizations, educational and social development organizations, children's and women's organizations, and religious organizations. The auditing agency should provide the convening organization with a stipend to cover the cost of the meeting and/or administrative support. In addition, auditors should provide the convener(s) and participating organization(s) with copies of SA8000 in advance of the briefing. Organizations that are unable to attend the session are requested to submit comments in writing. In the case of key organizations that are unable to attend, however, auditors should set individual appointments to seek their input and develop a direct relationship. It is crucial that the organizations involved be allowed to speak candidly and off the record, and be assured anonymity (unless they request otherwise).

Such a group meeting may help auditors begin to get a sense of key groups in the area. In the long run, however, auditors will need to periodically visit with key labor rights organizations and trade unions on an individual basis in order to develop a relationship of information sharing.

3) Key Actors

a) Trade Unions

Meetings with trade union representatives during the due diligence gathering stage should be in addition to – not a substitute for – interviews with trade union representatives at the facility being audited. Auditors should meet with national, regional and local union representatives during the due diligence gathering phase and/or the factory audit. Relevant trade union experts include those representing the workers in the audit site and those who are working for similar companies and/or companies from the same industry.

Most trade union organizations are structured through organizations at factory-level, commonly known as a branch or the local. The branches are then represented at town/city level, commonly known as the district. Districts are represented at regional level, commonly known as the region and a combination of representation from each of these structures goes to make up the national trade union organization. At the sectoral level, national unions generally affiliate to Global Union Federations (GUF; formerly known as International Trade Secretariats (ITS), thus establishing a link from union members at plant level through to the international trade union movement.

Verification of compliance with SA8000 should include contacts with trade union organizations, at the factory and at the district and/or national levels. If auditors interview union representatives present in the factory, they should realize that it is likely that those representatives are also informing the union leaders at the district level. Sharing such basic information and generally updating the trade unions

about progress in certifications are important ways to build trust and constructive engagement with local trade unions. Building trust with the union representatives in the country will be important to auditors' ability to gather information in a timely and accurate manner from those representatives.

Determining local structures: The auditor should first establish details of local trade union representation and structures and through general discussion assess the standing of local trade unions in the communities concerned. If auditors have difficulty identifying the appropriate national or local unions, they may need to seek recommendations from the Global Union Federations.

Meeting District Representatives: Auditors should include representatives from the district/regional trade union grouping in their meetings with third parties. Prior to granting certifications, this information will be general, with regards to the industry. Once certifications are granted, auditors should share those lists with union representatives; this will help improve surveillance audits and help encourage constructive, internal complaints that can lead efficiently to corrective actions or other resolution, rather than public campaigns.

Meeting Branch representatives: At the factory level – both before and during the verification process – the auditors should engage in discussions with the trade union(s) elected to represent workers in the factory to ascertain their views on each of the following:

- Overall working conditions in the company.
- What are the key challenges under each of the SA8000 standards?
- Relations between management and workforce?
- Existing recognition and collective agreements.
- Arrangements for secure interviews with union representatives and with individual workers.

Follow-up: Immediately after the verification exercise, both the union at factory level and the district/regional structures should be advised of any certifications *after they have been* awarded and of the procedures for complaints and appeals under SA8000.

b) Community organizations, NGOs and other labor experts

There are a wide variety of organizations that may be able to provide valuable information about local labor conditions. Auditors should carry out background research on the common problems they may confront. It is best if this information is as locally-specific as possible.

Often good sources of local information are the individuals working as labor rights activists or social workers in the community where workers live. Since these organizations do not have a structure like the trade union movement, it is difficult to ascertain the best means to identify key experts. Below is a partial list of the types of organizations and the information they may have about workplace conditions.

Auditors should seek to be open in their consultations, taking into serious consideration the information presented, regardless of a group's political affiliation.

Human rights NGOs: these organizations may document violations of workers' rights to free association and collective bargaining, cases of discrimination, forced labor, child labor or abusive discipline. They should be a good source for information regarding the local and international laws on these issues.

Community organizations: Although these groups may be focused primarily on community issues, such as sanitation, health care, public safety, etc., they may also be able to provide useful information about the lives of workers and to facilitate confidential interviews with workers.

Labour lawyers and academics focusing on labor issues: These professionals may provide research and/or knowledge about local labor laws.

Women and minority rights groups: These can be NGOs or community organizations. They can contribute specific information regarding discrimination and the concerns of their members.

Children's rights and/or welfare NGOs: These groups will be essential partners for auditors working in counties where child labor has been a problem.

National Labor Department: The labor department should maintain files and statistics on subjects such as national and regional working conditions, labor disputes, etc., and may have relevant surveys or analytical studies.

Development NGOs: These organizations carry out a diverse range of projects and studies covering health problems, economic needs and education. Some of the international development organizations, such as Action Aid, Care and Save the Children (UK) have become involved in worker training or programs to remediate child workers.

Health Workers: Local clinics may have information relating to occupational health problems. They may be able to help identify workers' over-exposure to chemicals or pesticides and the health effects.

Given the complexity of carrying out a social audit, some certification bodies may want to conduct investigations into areas of concern by contracting with a local research firm, academic group or NGO. Such organizations can help to enhance the credibility of audits and are often cost-effective, if the organization already has a great deal of information on specific issues, such as the local child labor situation, or the economics of the national market basket.

4) Documentation of consultations

- a) The certification body's local office should have a list of contacts available with the names of representatives from (legally recognized) NGOs or unions, which have been consulted.
- b) Each organization consulted should be asked if they prefer to remain anonymous. If groups agree, however, meetings with the local NGOs or unions should be documented with verification from the local NGO or union that they were oriented on the objectives of SA8000 and consulted about local workplace conditions.
- c) Documentation of consultation prior to each surveillance audit should be maintained by the certification body's local offices.
- d) Minutes from the third party consultation meetings (respecting any anonymity requested) should be written, detailing the discussions, comments and advice of the participants. Copies should be provided to everyone who participates as an audit team member for the certification body's (CB) audits; copies should be available at each of the CB's offices.

5) Auditing Issues

Difficulties may arise when auditors seek to identify the appropriate third party organizations to consult.

- a) Multiple trade unions
In some countries, there will be a number of unions active in the sector concerned and auditors may even find more than one union represented in individual factories. In these situations, the auditors should also make contact at the district or regional level with all the relevant union organizations. At the factory level, the auditors need to meet with all union organizations claiming to have membership there, whether or not the unions are recognized by the company.
- b) When Trade Unions are not Free
In a handful of countries trade union organizations are subject to very strict control by a single political party or by the state. In such situations, these organizations are not representative of the workers concerned. However, auditors should meet with these organizations, both at the district and factory level as outlined before, because these organizations can still provide useful information on working conditions. Auditors, however, should be aware of the fact that the views given by these organizations may not necessarily reflect the views of the workforce they claim to represent. *For this reason, audits in such conditions should put greater emphasis on the interviews with individual workers through a larger sample of interviewees and/or longer interview time than generally recommended by this document.* Such measures may also be necessary if the audit team finds that the trade union has not been freely

elected by workers, but put in place through some collaboration with facility management.

c) Lack of NGOs or unwillingness to collaborate

In some countries, typically where freedom of speech is restricted, there may be a lack of NGOs to consult, or few NGOs may trust auditors sufficiently to discuss labor problems with them. It is for this reason that ongoing relationships with the NGO community should be developed. Where NGO consultations are difficult to arrange, auditors should seek to supplement these consultations by talking over issues with appropriate international organizations, reviewing local press reports and conducting independent research. *More importantly in these situations, the time spent conducting worker interviews should be expanded to overcome the lack of third party information sources.*

§ III. CONDUCTING THE AUDIT

A. Components of the Audit

1) The Initial Meeting

At the initial meeting, the auditor(s) and key staff members discuss the scope of work. The key staff may include the owner (especially if resident in the country), Managing Director, Human Resources Manager, Trade Union Representative, the Social Accountability representative (if different from the trade union representative), Health and Safety Coordinator, and others.

Based on review of the documents prior to the certification audit, an in-depth appraisal of the company's procedures and overall management structure for compliance with SA8000 is made. The key elements of the initial meeting include: introductions, a general explanation of purpose and procedures for the audit, a review of the audit paths to minimize impact on operations and facilitate confidential interviews with workers, the signing of confidentiality agreements, and addressing questions as they arise. At this time, the auditor(s) should reconfirm that they have copies of any other voluntary agreements or codes of conduct to which the facility is a signatory.

Since implementing SA8000 requires a team effort, with strong oversight from key leaders, the auditor should obtain evidence of clear lines of responsibility.

Note: Management staff should facilitate auditors' access to all parts of the facility, but should not interfere with the audit. Management should never be involved in the selection of workers for interview and never be present during interviews with workers and should not be informed of the workers' statements. Workers' anonymity is crucial to the verification process both prior to certification and during surveillance audits.

2) Records Review

SA8000 Clause 9.14 requires that a company applying for SA8000 shall maintain appropriate records to demonstrate conformance to the requirements of this standard. Clause 9.7 requires that the company maintain appropriate records indicating its suppliers, subcontractors and sub-suppliers' commitment to social accountability. To verify that a company and its' primary business contacts are in conformance with these requirements, auditors need to check relevant records and documents. (See also section III-A.6 – Control of Suppliers – in the Management Systems Chapter; and section II-E – Scope – of the Introductory Chapter.)

The above-referenced SA8000 clause (9.7) requires the certified company to assure that its suppliers are committed to meeting the requirements of the standard; it is important that those suppliers understand what is expected of them and for the company itself to have a plan for monitoring their suppliers for conformance. This is important if the auditor expects to have something to measure over a period of time in order to evaluate the level of compliance and continual improvement being attained vis a vis SA8000 clause 9.7. The following is a list of potential actions that a company could take to ensure an ability to monitor the level of conformance of its suppliers:

- a) Conduct a supplier training to outline requirements and potential benefits inherent in the system to prime suppliers
- b) Perform supplier audit (second party)
- c) Require certification or a compliance assessment to SA8000
- d) *Ask for copy of system procedures and policies*
- e) Ask for copies of internal audits
- f) Ask for results of code of conduct audits (2nd party)
- g) Have supplier request a second party audit
- h) Have client complete a questionnaire relating to requirements of SA 8000
- i) Letter of commitment by senior management
- j) Contact by telephone to review policies.
- k) Have use of digital photos, PDF files and e-mail to facilitate exchange of electronic data for use in corroborating information.

Good, consistent documentation (even just a basic system) is a *required condition* to set up and operate a functional management system. Through records review, auditors may identify the missing or inadequate components and procedures in a systematic approach improving workplace conditions. The purpose of management maintaining documents on their conformance to SA8000 is to help systematize compliance and ensure ongoing, effective communication between workers and management. For small workplaces, the systems for ensuring compliance – like the avenues for communication – can be simpler and more direct than a larger workplace may require. Thus, documentation requirements are less complex as well.

Even if documentation is extensive, it can *not sufficiently* indicate conformance with all SA8000 requirements because it does not always reflect performance. Since SA8000 is primarily a benchmark of worker rights and working conditions, we recommend that

auditors pay closer attention to essential verification means, such as interviewing workers and consulting with trade unions, local NGOs, and individuals concerned with worker rights.

3) Facility inspection

After the initial meeting and preliminary document checking, auditors shall tour the facility to inspect working conditions, particularly on issues such as workplace safety, hygiene and sanitation, dormitory conditions, and so on. Visual inspection can work best to detect the *tangible* problems as mentioned above, but more in-depth verification methods are necessary to identify fundamental problems, such as issues on freedom of association, basic needs wage etc.

4) General recommendations for contact with management

The following is a general strategy for contact with management. However, the issues mentioned below are for reference only:

- a) The efficiency of the communication with management representatives on all levels depends on the qualifications of the auditors. Auditors should have profound knowledge about managerial and operational processes and pressures, speak the language used within the management, and know how to build up rapport with businesspeople.
- b) Seeking management's cooperation is crucial for the success of an audit. Auditors should have comprehension of the difficulty to run a socially responsible company in a competitive surrounding, and could clarify the close relationship between the social performance and the productivity of the employees whenever required.
- c) Since most management decisions are put into action by representatives on the lower managerial levels, these managers should be integrated into the audit procedures in particular. They should be interviewed directly, without more senior managers present and their comments should be kept strictly confidential.
- d) Checklists should be developed to ensure that key issues are checked within the initial meeting, in the records review and during the facility inspection.

5) Interviews with workers: general recommendations

Just as interviews with company managers and supervisors are crucial in determining levels of conformance to the standard, interviews with workers - both on and off site - are fundamental to determining conditions at the site being evaluated. These interviews can *corroborate, supplement or invalidate* information obtained through other means by the audit team and can also provide valuable information which may lead to issues which can be pursued for objective evidence.

The following is a general strategy for conducting interviews with workers, including some examples of questions to ask. Readers may also refer to individual worker interview strategies and examples in the chapters covering core SA8000 requirements. The procedures and key elements of interviewing mentioned in the chapters above and below are for reference only. Auditors need to develop their own interview plan and procedures to address specific local conditions.

a) Plan ahead

Considering the complexity of social audits and the unique features of SA8000 management systems, we advise that **at least 30% of the on-site audit time should be spent interviewing workers** (please see Auditor Advisory number 14 on Audit Day recommendations and/or IAF Guidance on the Application of ISO/IEC Guide 62).⁸⁶ At sites where workers do not have independent organizations to represent themselves, a greater portion of the audit time should be spent interviewing workers.

Given the time constraints when conducting on-site audits, auditors should create a concrete interviewing plan before the audit occurs. The plan can be based on information collected from pre-assessment activities and/or provided by local trade unions, NGO groups, concerned individuals or other sources. The interviewing plan should reflect the specific conditions of the facility to be evaluated, such as its size, production scope, demographics of the worker population, and existing and potential problems.

Auditors should take great care early in the planning stages to calculate the number of workers who will be involved in the process and determine the location(s) where the interviews will be carried out. While the audit team members should not identify individual workers at this point in the process, they will have to indicate to management the number of workers, types of jobs involved and the general time frame required. This way management can anticipate the interruption of production lines and disruption to normal work flow.

Interviews should cover every aspect of SA8000, but focus particularly on areas where there has been an indication of problems or potential problems. Checklists could be developed to ensure that key questions and appropriate follow up questions are asked. Above all, audit teams should be sensitive to the demographics of the worker groups being interviewed. Gender should be taken into account when scheduling interviews and selecting the audit team. Auditors should not read from such a guide during the interviewing process, however, as that would make the atmosphere too formal. As important as planning the interview is, however, an effective interview should be more like a conversation, not a formal survey. Auditors should avoid taking notes

⁸⁶ SAI, *Advisory*, No. 14 (Apr. 2003), New York.

during the interview, but plan time to note their impressions and plan to follow up immediately afterwards.

Finally, protecting worker confidentiality is critical. It is absolutely critical that no member of management be present during any interview sessions with workers, for fear that workers may feel intimidated by their presence and thus skew or withhold crucial information. Auditors should make this clear to management from the very beginning of the planning process.

b) Select workers for interview

One of the major challenges auditors face is the selection of workers for interview; it is a critical step to make sure that the views of workers selected can reflect those of the whole workforce and that information gathered is an accurate reflection of the actual conditions in the facility.

SAI recommends that the number of workers selected to be interviewed should be the square root of the workforce rounded up to the higher number for companies with a workforce of 400 workers or less. For companies with more than 400 workers the auditor should take 5% of the total workers up to 100 workers. This is only a guideline and must be adapted to the situation based upon the judgment of the audit team. In workplaces where there is no representation and no independent worker rights advocates in the community, auditors should seek to interview a larger portion of workers. Finally, the sample of workers to be interviewed should also be representative of key fields of work, gender, pay grades, and different levels of responsibilities.

Another key point is that auditors should always retain autonomy in selecting which workers to interview. This is delicate because auditors also need to seek management's consent and assistance in the process. ***If management appoints workers for interview, this is unacceptable***; it will create sampling bias and/or "coached answers". For instance, management might only pick a few skilled workers who get better pay than an average worker. On the other hand, if auditors do not get management's consent, workers are not likely to feel comfortable offering accurate and adequate information. Management consent should also help ensure that workers chosen for interviews do not lose wages or benefits due to the interview process. Although management will know which workers attend the formal interviews, this should ***in no way compromise the confidentiality*** of the worker/s (otherwise, off-site interviews are necessary).

c) Qualifications of an interviewing team

To a large extent, the quality of interviews depends on the qualifications of the interviewing team. The following are some of the knowledge and skills required for a good interview team.

Language skills: The auditor should be able to speak the primary language spoken by workers, to assure that information is correctly understood and that rapport between the worker(s) and the auditor is established. Translation should be a last resort because it inhibits the gathering of accurate information and greatly lengthens the amount of time required for the interview process. Further, it adds to cost without adding value, compared with fluent auditors.

Human rights knowledge: A solid understanding of international human right and the local situation will greatly assist the audit team to identify critical issues and potential problems in interviewing.

Technical expertise: Familiarity with industrial production process and knowledge in health & safety issues will significantly reduce the time required to identify existing and potential problems and help auditors to ask the right questions. For example, a sound knowledge of the production process will help auditors to ask the most relevant questions about production quota and piece-rates.

Cultural sensitivity: To conduct interviews in an effective way, it is also important that auditors demonstrate an appropriate cultural sensitivity. For example, in many Western countries, it is considered impolite or even intruding to ask personal questions, such as about marriage or children; whereas in countries such as China, asking such questions would be a useful approach to break the ice and build rapport with interviewees, as it would demonstrate that the auditors care about the workers' family.

Understanding of gender issues: Previous experience suggests that, in general, it is much easier for female interviewers to gain the trust of and elicit information from female workers. Furthermore, a pilot study in Vietnam indicates that female workers there usually feel more comfortable answering questions in a group setting than in one-on-one interviews. Moreover, auditors can expect more active response and participation from an all-women group than from a mixed group of both male and female workers.⁸⁷ However, this particular observation may only apply to cultures in East Asia. Auditors working in other regions need to adapt their interviewing design respectively.

Collaborating with experts: It is not always possible for one audit team to possess all the important skills and expertise required for a high-quality job. Therefore whenever possible, interviewing teams should include experts in the field, such as union representatives, local NGOs, labor rights groups, OSH experts, and/or academics. An effective approach for a large facility would be to invite some of the independent experts with complementary skills to set up a multi-disciplinary team to conduct the interviews. If that is not feasible, an interviewing team should set up an ongoing consultation with the local

⁸⁷ ActionAid Vietnam, 2001, *Consultation with footwear factory workers: report of a pilot study* (unpublished).

groups. In addition, regular training programs can play an important role to improve the quality of an interviewing team.

Audit teams are required to have a subject matter expert with them who has expertise in conducting worker interviews. SAI strongly encourages certification bodies to build multi-disciplinary audit teams that include current or former trade union representatives or representatives from labor rights NGOs or community organizations that serve workers in the community.

Subject Matter Experts for Worker Interviews

Auditing Procedure Requirement 150.6

To this end, new language was added to Audit Procedure requirement 150.6, effective September 1, 2003: *“All SA8000 audit teams shall include someone with expertise in interviewing local workers, additionally familiar with local and national labor and human rights issues and legislation.”*

The notes on procedure 150.6 do allow that *“An accredited Certification Body (CB) employee can be demonstrated to have such expertise...”* Nevertheless, the notes go on to encourage a multi-disciplinary approach: *“Current or former staff of NGOs and Trade Unions may be particularly skilled at worker interviews; their service on audit teams may also build or strengthen relations between certification bodies and those organizations.”*

d) Timing, location & issues of interview

Auditors are strongly encouraged to conduct worker interviews off site; this is the best way to obtain frank and open interviews. In cases where workers are clearly not sharing information, auditors should consider holding off certification until they can conduct off site interviews.

Off-site interviews should be at a location where workers feel comfortable to share their opinions about work conditions. Dormitories without security guards' presence, apartments shared by workers, and entertainment facilities such as a karaoke center or billiards room can be good places to conduct interviews. Auditors can consult with local organizations trusted by workers for good locations.

If on-site interviews are conducted, auditors should still select the interview site carefully. For example, at a cafeteria during lunch breaks, shop floor during workers' rest periods, conference room or other common areas. No matter where the interview is conducted, no management presence should ever be allowed, since it may intimidate workers.

Auditors should limit interview sessions to 30-40 minutes as a rule and remain focused on several key issues to maximize the level of details. Too many

questions can confuse the interviewee and produce too much data to be assimilated effectively. Issues of concern can be noted and followed up in subsequent group and individual sessions with workers. Auditors should avoid check lists, leading questions and note taking during the interviews; all of these are likely to compromise the frankness of the workers' answers. Control must be maintained by the interviewer at all times. That requires an ability to manage the interview process and to keep workers focused on the issues being addressed, while also making sure workers are relaxed and at ease.

Whenever it is possible, workers from all production processes and all shifts should be included in the interview, including casual or contracted labor at the facility. Often, interviews with a third or late night shift are very useful, since this shift often has less supervision than the others, and procedures and rules are often overlooked or applied differently.

e) Other interviewing principles and techniques

The following is a further discussion on some useful principles for conducting successful interviews with workers. The discussion below, however, is by no means exhaustive and the principles reviewed can not necessarily be applied universally. Auditors should treat them as a general reference and if necessary, adapt them to suit the actual situation in the audit process.

Safeguard worker confidentiality: It is critical to assure the worker that the interview is confidential and that responses made by workers will not get back to management in a manner that could jeopardize those providing the information. Before conducting the interview, auditors should, consider all possible repercussions due to worker participation, such as compromised job security, lost wages or bonuses, corporal or oral punishment etc., and all necessary measures should be taken to prevent their occurrence.

Auditors should be careful to ensure that information being gathered through the interviews is a fair representation of the actual workplace situation. This is one of the biggest challenges facing auditors because workers may feel intimidated or threatened if they reveal sensitive information to the audit team. Such a feeling would only be reinforced if management were to be present during the interview process. If intimidation seems likely – based upon the site pre-assessment or indications from local groups – the Lead Assessor should consider conducting worker interviews off-site. In such a case, the auditor should arrange to meet with some workers off-site, after-hours, possibly coordinating this through the local union representative or an NGO. In many cases, these interviews may be best conducted by NGO or trade union representatives with the substance of the meeting(s) reported back to the audit team.

Seek management's cooperation: One possible way to ensure workers' safe participation in interviews is to seek management's cooperation and commitment not to punish workers in any way afterwards. Workers will be more likely to provide accurate information if they are assured that management is supportive of such interviews. At the same time, auditors still need to retain their autonomy in the process of interviews.

Establish rapport with workers: Workers are not always willing to provide their opinions without reservations due to such reasons as: worry about possible repercussions, interruption of their work (particularly for pieceworkers), lost wages, bonuses, and their perception of auditors as "outsiders". Therefore, it is critical for auditors to establish a rapport with workers when setting the stage for an interview to assure that repercussions will not occur.

Auditors can identify themselves, give a brief introduction to the auditing team members and clearly state the purpose of the interview. Some key messages to the workers: ***auditors are independent of the management; information being provided is highly confidential; management is supportive of the auditing process; and there is complaint/appeal system in place so that workers can contact auditors if any problems arise after or as a result of the interview.***

Interviewer should seek to put workers at ease. This can be done by asking basic information about how long the worker has been at this factory or a particular job or by asking unrelated questions, such as whether they support a local soccer team. Personal questions, regarding marital status or children, might be considered invasive in some cultures but not others. Auditors should be sensitive to the worker's feelings and possible anxiety in participating in this process.

The questions should be sufficiently general in nature at the beginning of the interview to put the worker(s) at ease and get a sense of potential problem areas. They should then gradually focus on issues perceived to be the main problems at the site. Each auditor should become comfortable with an approach which best works for him/her in accomplishing this critical aspect of the interview. Gradually the interview should move into more precise questions that can help to cross check reports made by management, union representatives, and other organizations or found in paper reviews. Auditors should look for significant differences in answers from specific groups (i.e. union members compared to non-union members, women compared with men, or members of minority groups compared with majority groups).

Explain complaints process: The interview provides an excellent vehicle for explaining the complaint and appeals procedure to the workers. The auditor should explain both the local company's commitment to the process and that

of the certification body and SAI to assure that problems are resolved in a timely manner with no penalties or retribution taken against any worker(s) making a complaint. Certification bodies have each developed their own procedures to satisfy this requirement as a condition of their accreditation. One method of doing this would be to give workers a business card with the telephone number of the certification body or individual auditor. Emphasis should be placed on the fact that such complaints can be lodged anonymously to protect workers against any form of reprisal.

Ask indirect questions: There is a good chance that many factories have been exposed to various types of inspections before, and as a result, some or even all of the workers might have been “coached” to answer auditors’ questions. Therefore, whenever possible, auditors should avoid asking direct questions. For instance, trying to figure out a worker’s age, it seldom helps to ask: “How old are you?” Questions such as: “When were you born?”; “What’s your animal sign (under the Chinese zodiac)?”; “Do you have any siblings?”; “Are you the eldest?”; “How long have you been working in this factory?” are better. For more examples of indirect questions, please go to individual chapters on specific SA8000 requirements. In general, auditors need to pin down pieces of information by asking indirect questions, and ***draw their own conclusions***.

The challenge is to combine indirect questions and a conversational approach, while not losing track of important answers – and silences, for that matter. It is better to ask short questions, but avoid yes or no questions. Questions should focus on one issue at time – single issue questions – and allow workers to answer them.

Design appropriate format of interview: Interviews can be conducted either with a group of workers or one-on-one with an individual worker. The dynamics of both types of interviews are different and information can be readily calibrated or validated by asking common questions of each and matching the results for consistency. For instance, group interviews are more likely to encourage participation, interaction and be useful in gathering workers’ considered opinion; whereas an individual interview is conducive to eliciting more in-depth individual concerns.

Group interviews should be limited in size to eight to ten workers where possible. This group is sufficiently large to make workers more comfortable in their surroundings but is not so large that control of the group becomes difficult. Whenever possible, auditors should make sure that the composition of a group is such that the conversation will not be dominated by a single speaker (such as a worker with senior status among newcomers, or a male among female workers).

Auditors should cross check responses from various sources, such as those from management compared with those from workers; or the response from an individual worker compared with that from a whole group.

Avoid technical jargon: Whenever possible, auditors should avoid the use of technical jargons. A worker interview should not be simply a technical Question & Answer session, but **an interactive two-way communication** process from which auditors may elicit workers' opinions, and understand their concerns.

In special cases in which the auditor may be interviewing a worker who has experienced abuses, such as sexual harassment or corporal punishment, the auditor should try to interview the worker in private, and safeguard her/his privacy and security. These workers may not want to speak publicly about this issue.

Convene a formal meeting with trade unions represented in the factory in order to gain their perspective on the issues that may arise or have arisen during the audit.

f) Closing meeting with the management

The last stage of the on-site audit is a closing meeting with the management. We recommend that auditors invite trade union or SA8000 worker representatives to attend this closing meeting. Auditors can provide the management with a brief summary of findings, and if appropriate, issue major or minor Corrective Action Requests (CARs). Management should be given the opportunity to challenge the findings or CARs at the closing meeting. It is important, however, that all findings should be reviewed in advance in order to gain the understanding and acceptance of key management *before* the closing meeting. This meeting is designed to summarize findings and not to debate them.

B. Timing

In order to ensure the integrity of the audit process, innovative scheduling and techniques are required:

- 1) Visits scheduled on pay day provide the auditor with the opportunity to confirm the manner in which workers are paid. Visits can also be scheduled near lunch time, so auditors can confirm whether or not workers receive a lunch break, if there is adequate sanitary space for meals, and approximately how long the break lasts.
- 2) Visits can last through the end of the work day to confirm whether or not employees work a full eight hour shift or overtime. Auditor(s) can depart, but

remain where they can observe the facility at closing time, noting the number of workers who clear the premises (and comparing that with the number who worked that day) and the time.

- 3) Any delaying tactics from managers (long lunches away from the factory, missed appointments, poor directions to and from the site, etc.) should be preempted.
- 4) Auditors should keep track of the audit time once they are on site. Auditors should spend at least 30% of time on site interviewing workers. To follow this recommendation, auditors should list priorities and allocate audit time proportionally.
- 5) Auditors reserve the right to make unannounced follow-up visits if they receive evidence of concern, such as filed complaints from workers or other key interested parties

C. Recommendations for gathering evidence

- 1) Make copies of key documents, including those where discrepancies are noted.
- 2) Keep information in the order given in the checklist.
- 3) Make notes of worker interviews, using a code or number to identify each interview, but never attach their initials or any description that could later be used to identify them.
- 4) Keep written records of the names of managers interviewed to facilitate follow-up visits.

D. Translations

Auditors should be able to communicate with workers and management in their native language. Substantial effort **must** be made to ensure that the auditors themselves comprehend workers. Auditor pools should include fluent speakers of all major languages and dialects in the communities represented. Difficulties may arise regarding language, for example: the language spoken by some employees might be an unusual dialect not widely spoken in the country or a minority of the workforce may be composed of refugees speaking a language unknown to any local auditors. In such cases, if the audit team lacks the requisite language skills, an independent translator **must** be hired. (The auditor may charge the extra cost to the company.) Auditors should never rely on interpreters selected or hired by the company being audited, in order to avoid any possible conflicts of interest on the part of the translator(s).

§ IV. POST-AUDIT ACTIVITIES

A. Non-conformances

1) Managing non-conformances

An SA8000 company **must** – according to SA8000 management systems requirements – establish, document, and maintain procedures to:

- a) Investigate the cause of non-conformance(s);
- b) Develop and assess appropriate corrective measures for implementation in order to remedy the non-conformance(s) and prevent recurrence;
- c) Implement corrective and preventive actions at a level corresponding to potential risks identified;
- d) Apply systems to assure that corrective actions were promptly undertaken and are effective;
- e) Implement, record, communicate, and train personnel in procedural changes.
- f) In case of severe violation of the penal code, but only in such cases, auditors will need to report their findings to the authorities. Examples of such situations include cases of imminent danger or risk to workers, forced, or physical abuse.

2) Auditor reports

Per standard audit procedures, the report prepared by the auditor(s) **must** include:

- a) All non-conformances found and mutually agreed upon, dates by which corrective and preventive action plans will be proposed to the auditors as well as by which such matters will be corrected; auditors should evaluate the feasibility of these action plans and procedures and accept only those deemed likely to succeed and with an appropriate timeframe.
- b) The signatures of key managers;
- c) Evidence of non-conformance found,;
- d) Audit reports should be concise yet informative. For instance, regarding critical issues such as wage and working hours, it is not sufficient to simply put that “no non-conformance found.” Auditors are advised to provide more specifics such as how the employer managed to reduce overtime work and yet fulfill business orders. The benefit of reporting this way is to assure the accuracy and validity of the audit findings and conclusions.

Note: Certified auditors cannot make specific recommendations, as this is regarded as consulting. However, given the fact that most companies today have little idea how to address effectively some of the more complicated issues involving SA8000 implementation, it is advisable that auditors share their experiences with clients in order to establish expectation levels and provide some insight into options that a company may want to consider going forward. This is seen as critical to the process of continual improvement. Auditors can confirm that a company has developed a

realistic plan – in terms of meeting workers’ needs for safe and decent working conditions (and resolving any outstanding minor CARs) – and that the plan includes a responsive and practical schedule.

B. Prioritizing Corrective Actions

In many cases, a company will have a significant number of issues to address after an audit, making it difficult to assess which actions must be taken first. In setting a schedule for addressing concerns, the facility seeking certification should first resolve any major Corrective Action Requests (CAR) (meaning severe, systemic, potentially endangering workers, and/or certification-stopping) and any minor CARs [requiring a remedial plan and schedule, but not serious and systemic or certification-stopping] that can be resolved quickly. Major CARs include: fire hazards and exposure to harmful chemicals. Certain types of corrective action can be addressed quickly and without incurring great expense, e.g. clearing a blocked aisle. Such measures should be implemented immediately. Remedying other non-conformances may take time. Placing working children into schools and hiring parents can also take months, especially if there are no schools in the area. If the facility fails to remediate the children or places children at risk – due to a worse job situation and continued lost school time – then a major CAR will be given.

If a facility has any major CARs outstanding, it cannot be certified for compliance with SA8000. Ultimately, all of the outstanding corrective action requests should be time bound, in order to prepare the company for a surveillance audit.

D. Surveillance Visits

Six months after the audit, the certification body will return for a surveillance visit. At that visit, the audit team will assess whether or not all CARs (Corrective Action Requests) have been properly addressed. Auditors may also address new concerns and reassess overall conformance. Consultation with national or local trade union representatives and other NGO and community groups in order to learn if any new problems or issues have arisen would be a good idea.

The following items should be addressed:

- 1) Are workers aware of changes made to correct and prevent the recurrence of CARs?
- 2) Is there evidence the correction is effective, has addressed root causes, and that preventive steps have been taken to avoid recurrence?
- 3) Have complaints been promptly and properly addressed?
- 4) Have CARs and the related resolution to CARs been properly documented?

Wherever possible, the auditor(s) conducting the surveillance site visit should be the same auditor(s) who conducted the audit. After several audits, however, rotation is a

useful way to assure the independence of auditors and to bring fresh eyes and ears to the audits. Typically, one fourth of the system would be reviewed at each surveillance audit - in addition to CARs follow-up, so that the whole system will have been reviewed by the time of re-certification after three years.

Pursuant to Auditor Advisory number fourteen on Surveillance Scheduling and Audit Days, surveillances must take place after six months. If there are no major or minor CARs after twelve months (two consecutive surveillance audits), then surveillance can be scheduled every twelve months for the remaining time on the three-year certification. The total number of days on surveillance should equal at least 1/3 of the days of the initial visit.⁸⁸

E. Guide to Training

Training on the importance of SA8000 should be provided to every worker and manager. The emphasis should be on training and consulting with workers to incorporate SA8000 into their daily activities and to having social accountability become part of management and company culture (i.e. the way of doing business).

1) Development of Manuals

Auditors can review training materials to ascertain whether or not they are user-friendly, specific and contain all of the necessary definitions, procedures, and guidelines in the local language understood by staff. Where workers may be illiterate, illustrations and oral explanations should be used.

2) Training

The auditor should confirm that introductory training was given to all staff and to contractors. Check for records detailing the names of staff members who have received training and the dates of training; and ascertain that all new employees were given the same training and proper records maintained.

F. Inside Communication and Verification

To verify that progress updates were provided on a regular basis, look for recorded announcements at meetings and amendments to systems manuals. Procedures for ensuring that the changes are clearly understood by staff should also be documented. Look to see if updates are posted in visible locales throughout factories and distributed to staff. Ascertain if contributions to the SA8000 program are incorporated within the performance review criteria of managers.

⁸⁸ SAI, *Advisory*, No. 14 (Apr. 2003), New York.

G. Keys to Success

The following are keys to a successful social accountability development process:

1) Keys to effective implementation on the companies' side

- a) Commitment of top management;
- b) Coordinated staff effort with worker participation;
- c) Improved communication with workers, trade union and other relevant groups;
- d) Integration of compliance and production goals;
- e) Screening of suppliers;
- f) Continuing education of contractors;
- g) On-going information gathering and management reviews;
- h) Appropriate and timely responses to problems found as complaints & concerns raised.

2) Keys to effective auditing on the certification bodies' side

- a) Commitment of the top management of the certification body;
- b) Ongoing communication with trade unions, NGO groups and other experts;
- c) Effective training of all personnel involved with SA8000 audits;
- d) Effective management of documentation and reports related to the auditing;
- e) Appropriate and timely responses to complaints made by workers or interested parties.

APPENDICES

§ I. SA8000 STANDARD

INTERNATIONAL STANDARD

SAISA8000®: 2001

I. PURPOSE AND SCOPE

This standard specifies requirements for social accountability to enable a company to:

- a) develop, maintain, and enforce policies and procedures in order to manage those issues which it can control or influence;
- b) demonstrate to interested parties that policies, procedures and practices are in conformity with the requirements of this standard.

The requirements of this standard shall apply universally with regard to geographic location, industry sector and company size.

Note: Readers are advised to consult the SA8000 Guidance Document for interpretative guidance with respect to this standard.

II. NORMATIVE ELEMENTS AND THEIR INTERPRETATION

The company shall comply with national and other applicable law, other requirements to which the company subscribes, and this standard. When national and other applicable law, other requirements to which the company subscribes, and this standard address the same issue, that provision which is most stringent applies.

The company shall also respect the principles of the following international instruments:

- ILO Conventions 29 and 105 (Forced & Bonded Labour)
- ILO Convention 87 (Freedom of Association)
- ILO Convention 98 (Right to Collective Bargaining)
- ILO Conventions 100 and 111 (Equal remuneration for male and female workers for work of equal value; Discrimination)
- ILO Convention 135 (Workers' Representatives Convention)
- ILO Convention 138 & Recommendation 146 (Minimum Age and Recommendation)
- ILO Convention 155 & Recommendation 164 (Occupational Safety & Health)
- ILO Convention 159 (Vocational Rehabilitation & Employment/Disabled Persons)
- ILO Convention 177 (Home Work)
- ILO Convention 182 (Worst Forms of Child Labour)

Universal Declaration of Human Rights
 The United Nations Convention on the Rights of the Child
 The United Nations Convention to Eliminate All Forms of Discrimination Against Women

III. DEFINITIONS

1. **Definition of company:** The entirety of any organization or business entity responsible for implementing the requirements of this standard, including all personnel (i.e., directors, executives, management, supervisors, and non-management staff, whether directly employed, contracted or otherwise representing the company).
2. **Definition of supplier/subcontractor:** A business entity which provides the company with goods and/or services integral to, and utilized in/for, the production of the company's goods and/or services.
3. **Definition of sub-supplier:** A business entity in the supply chain which, directly or indirectly, provides the supplier with goods and/or services integral to, and utilized in/for, the production of the supplier's and/or company's goods and/or services.
4. **Definition of remedial action:** Action taken to make amends to a worker or former employee for a previous violation of a worker's rights as covered by SA8000.
5. **Definition of corrective action:** The implementation of a systemic change or solution to ensure an immediate and ongoing remedy to a nonconformance.
6. **Definition of interested party:** Individual or group concerned with or affected by the social performance of the company.
7. **Definition of child:** Any person less than 15 years of age, unless local minimum age law stipulates a higher age for work or mandatory schooling, in which case the higher age would apply. If, however, local minimum age law is set at 14 years of age in accordance with developing-country exceptions under ILO Convention 138, the lower age will apply.
8. **Definition of young worker:** Any worker over the age of a child as defined above and under the age of 18.
9. **Definition of child labour:** Any work by a child younger than the age(s) specified in the above definition of a child, except as provided for by ILO Recommendation 146.
10. **Definition of forced labour:** All work or service that is extracted from any person under the menace of any penalty for which said person has not offered him/herself voluntarily or for which such work or service is demanded as a means of repayment of debt.

- 11. Definition of remediation of children:** All necessary support and actions to ensure the safety, health, education, and development of children who have been subjected to child labour, as defined above, and are dismissed.
- 12. Definition of homeworker:** A person who carries out work for a company under direct or indirect contract, other than on a company's premises, for remuneration, which results in the provision of a product or service as specified by the employer, irrespective of who supplies the equipment, materials or other inputs used.

IV. SOCIAL ACCOUNTABILITY REQUIREMENTS

1. CHILD LABOUR

Criteria:

1.1 The company shall not engage in or support the use of child labour as defined above.

1.2 The company shall establish, document, maintain, and effectively communicate to personnel and other interested parties policies and procedures for remediation of children found to be working in situations which fit the definition of child labour above, and shall provide adequate support to enable such children to attend and remain in school until no longer a child as defined above.

1.3 The company shall establish, document, maintain, and effectively communicate to personnel and other interested parties policies and procedures for promotion of education for children covered under ILO Recommendation 146 and young workers who are subject to local compulsory education laws or are attending school, including means to ensure that no such child or young worker is employed during school hours and that combined hours of daily transportation (to and from work and school), school, and work time does not exceed 10 hours a day.

1.4 The company shall not expose children or young workers to situations in or outside of the workplace that are hazardous, unsafe, or unhealthy.

2. FORCED LABOUR

Criterion:

2.1 The company shall not engage in or support the use of forced labour, nor shall personnel be required to lodge 'deposits' or identity papers upon commencing employment with the company.

3. HEALTH AND SAFETY

Criteria:

3.1 The company, bearing in mind the prevailing knowledge of the industry and of any specific hazards, shall provide a safe and healthy working environment and shall take adequate steps to prevent accidents and injury to health arising out of, associated

with or occurring in the course of work, by minimizing, so far as is reasonably practicable, the causes of hazards inherent in the working environment.

3.2 The company shall appoint a senior management representative responsible for the health and safety of all personnel, and accountable for the implementation of the Health and Safety elements of this standard.

3.3 The company shall ensure that all personnel receive regular and recorded health and safety training, and that such training is repeated for new and reassigned personnel.

3.4 The company shall establish systems to detect, avoid or respond to potential threats to the health and safety of all personnel.

3.5 The company shall provide, for use by all personnel, clean bathrooms, access to potable water, and, if appropriate, sanitary facilities for food storage.

3.6 The company shall ensure that, if provided for personnel, dormitory facilities are clean, safe, and meet the basic needs of the personnel.

4. FREEDOM OF ASSOCIATION & RIGHT TO COLLECTIVE BARGAINING

Criteria:

4.1 The company shall respect the right of all personnel to form and join trade unions of their choice and to bargain collectively.

4.2 The company shall, in those situations in which the right to freedom of association and collective bargaining are restricted under law, facilitate parallel means of independent and free association and bargaining for all such personnel.

4.3 The company shall ensure that representatives of such personnel are not the subject of discrimination and that such representatives have access to their members in the workplace.

5. DISCRIMINATION

Criteria:

5.1 The company shall not engage in or support discrimination in hiring, remuneration, access to training, promotion, termination or retirement based on race, caste, national origin, religion, disability, gender, sexual orientation, union membership, political affiliation, or age.

5.2 The company shall not interfere with the exercise of the rights of personnel to observe tenets or practices, or to meet needs relating to race, caste, national origin, religion, disability, gender, sexual orientation, union membership, or political affiliation.

5.3 The company shall not allow behaviour, including gestures, language and physical contact, that is sexually coercive, threatening, abusive or exploitative.

6. DISCIPLINARY PRACTICES

Criterion:

6.1 The company shall not engage in or support the use of corporal punishment, mental or physical coercion, and verbal abuse.

7. WORKING HOURS

Criteria:

7.1 The company shall comply with applicable laws and industry standards on working hours. The normal workweek shall be as defined by law but shall not on a regular basis exceed 48 hours. Personnel shall be provided with at least one day off in every seven-day period. All overtime work shall be reimbursed at a premium rate and under no circumstances shall exceed 12 hours per employee per week.

7.2 Other than as permitted in Section 7.3 (below), overtime work shall be voluntary.

7.3 Where the company is party to a collective bargaining agreement freely negotiated with worker organizations (as defined by the ILO) representing a significant portion of its workforce, it may require overtime work in accordance with such agreement to meet short-term business demand. Any such agreement must comply with the requirements of Section 7.1 (above).

8. REMUNERATION

Criteria:

8.1 The company shall ensure that wages paid for a standard working week shall always meet at least legal or industry minimum standards and shall be sufficient to meet basic needs of personnel and to provide some discretionary income.

8.2 The company shall ensure that deductions from wages are not made for disciplinary purposes, and shall ensure that wage and benefits composition are detailed clearly and regularly for workers; the company shall also ensure that wages and benefits are rendered in full compliance with all applicable laws and that remuneration is rendered either in cash or check form, in a manner convenient to workers.

8.3 The company shall ensure that labour-only contracting arrangements and false apprenticeship schemes are not undertaken in an effort to avoid fulfilling its obligations to personnel under applicable laws pertaining to labour and social security legislation and regulations.

9. MANAGEMENT SYSTEMS

Criteria:

Policy

9.1 Top management shall define the company's policy for social accountability and labour conditions to ensure that it:

- a) includes a commitment to conform to all requirements of this standard;
- b) includes a commitment to comply with national and other applicable law, other requirements to which the company subscribes and to respect the international instruments and their interpretation (as listed in Section II);
- c) includes a commitment to continual improvement;
- d) is effectively documented, implemented, maintained, communicated and is accessible in a comprehensible form to all personnel, including, directors, executives, management, supervisors, and staff, whether directly employed, contracted or otherwise representing the company;
- e) is publicly available.

Management Review

9.2 Top management shall periodically review the adequacy, suitability, and continuing effectiveness of the company's policy, procedures and performance results vis-a-vis the requirements of this standard and other requirements to which the company subscribes. System amendments and improvements shall be implemented where appropriate.

Company Representatives

9.3 The company shall appoint a senior management representative who, irrespective of other responsibilities, shall ensure that the requirements of this standard are met.

9.4 The company shall provide for non-management personnel to choose a representative from their own group to facilitate communication with senior management on matters related to this standard.

Planning and Implementation

9.5 The company shall ensure that the requirements of this standard are understood and implemented at all levels of the organisation; methods shall include, but are not limited to:

- a) clear definition of roles, responsibilities, and authority;
- b) training of new and/or temporary employees upon hiring;
- c) periodic training and awareness programs for existing employees;

d) continuous monitoring of activities and results to demonstrate the effectiveness of systems implemented to meet the company's policy and the requirements of this standard.

Control of Suppliers/Subcontractors and Sub-Suppliers

9.6 The company shall establish and maintain appropriate procedures to evaluate and select suppliers/subcontractors (and, where appropriate, sub-suppliers) based on their ability to meet the requirements of this standard.

9.7 The company shall maintain appropriate records of suppliers/subcontractors (and, where appropriate, sub-suppliers') commitments to social accountability, including, but not limited to, the written commitment of those organizations to:

- a) conform to all requirements of this standard (including this clause);
- b) participate in the company's monitoring activities as requested;
- c) promptly implement remedial and corrective action to address any nonconformance identified against the requirements of this standard;
- d) promptly and completely inform the company of any and all relevant business relationship(s) with other suppliers/subcontractors and sub-suppliers.

9.8 The company shall maintain reasonable evidence that the requirements of this standard are being met by suppliers and subcontractors.

9.9 In addition to the requirements of Sections 9.6 and 9.7 above, where the company receives, handles or promotes goods and/or services from suppliers/subcontractors or sub-suppliers who are classified as homeworkers, the company shall take special steps to ensure that such homeworkers are afforded a similar level of protection as would be afforded to directly employed personnel under the requirements of this standard. Such special steps shall include but not be limited to:

- (a) establishing legally binding, written purchasing contracts requiring conformance to minimum criteria (in accordance with the requirements of this standard);
- (b) ensuring that the requirements of the written purchasing contract are understood and implemented by homeworkers and all other parties involved in the purchasing contract;
- (c) maintaining, on the company premises, comprehensive records detailing the identities of homeworkers; the quantities of goods produced/services provided and/or hours worked by each homemaker;
- (d) frequent announced and unannounced monitoring activities to verify compliance with the terms of the written purchasing contract.

Addressing Concerns and Taking Corrective Action

9.10 The company shall investigate, address, and respond to the concerns of employees and other interested parties with regard to conformance/nonconformance with the company's policy and/or the requirements of this standard; the company

shall refrain from disciplining, dismissing or otherwise discriminating against any employee for providing information concerning observance of the standard.

9.11 The company shall implement remedial and corrective action and allocate adequate resources appropriate to the nature and severity of any nonconformance identified against the company's policy and/or the requirements of the standard.

Outside Communication

9.12 The company shall establish and maintain procedures to communicate regularly to all interested parties data and other information regarding performance against the requirements of this document, including, but not limited to, the results of management reviews and monitoring activities.

Access for Verification

9.13 Where required by contract, the company shall provide reasonable information and access to interested parties seeking to verify conformance to the requirements of this standard; where further required by contract, similar information and access shall also be afforded by the company's suppliers and subcontractors through the incorporation of such a requirement in the company's purchasing contracts.

Records

9.14 The company shall maintain appropriate records to demonstrate conformance to the requirements of this standard.

§ II. ADVISORIES

SAI Auditor Advisories are issued periodically, by SAI headquarters. Accredited certification bodies are required to incorporate the procedures detailed in these advisories into their auditing practices around the world as quickly as possible. Once an Auditor Advisory has been issued, SAI accreditation auditors will seek to verify its implementation in a timely manner during subsequent surveillance audits.

Over time, some Advisories are superseded by subsequent Advisories (thus, the following Advisories are not numerically sequential). The following Advisories are current as of December 2004. Auditors and other interested parties should check SAI's website (www.sa-intl.org) or contact SAI headquarters to obtain the most up to date set.

A. The use of SA8000 in agriculture

December 1998

Advisory number two

Certification of an entity in the Agricultural sector [pursuant to SIC Major Group 01] is authorized within existing scopes; agricultural production facilities can be certified for conformance to Social Accountability 8000 (SA8000), provided the audits comply with the following requirements.

- 1) The agricultural audit team (including, where appropriate, any Subject Matter Expert – SME) shall demonstrate adequate knowledge of the use of agricultural chemicals, herbicides and pesticides, and their potential impact on worker health.
- 2) In cases where the agricultural team cannot demonstrate previous experience of the agricultural sub-sector to be audited, a preparatory site visit shall be conducted to facilitate effective audit planning.
- 3) The agricultural audit team shall interview personnel and verify personnel records, especially those pertaining to age, health, wage, working hours and conditions, training and discipline, for every category of employee controlled under common management responsibility and/or structure, including subcontracted labor.

B. Requirement of 5.1 of SA8000 certification scope

October 2000

Advisory number five

The Advisory Board has determined to add "age" to the listing of non-discriminatory criteria in Section 5.1 of the SA8000 standard. The revised version of the standard will be published

in 2001, but the criterion has been added already, please inform applicants and include this in auditing procedures.

Advisory number six

Certification shall apply to all parts of a continuous process or premises. For example, in a situation with several assembly lines, all must be audited for certification. Similarly, in a continuous process of fabrication and finishing and packing, the entire process must be compliant in order for certification to be awarded.

C. Complaints and appeals

February 2001

Advisory number seven

Pursuant to the SAI Advisory Board, complaints or appeals must be responded to within 30 days of receipt.

D. Accreditation requirements: Certification surveillance audits

July 2001

Advisory number eight

Pursuant to the request of the SA8000 Advisory Board for more standardization of surveillance audits:

In addition to items otherwise scheduled for review, at every surveillance of a certified organization, auditors shall verify objective evidence of compliance with requirements on:

- 1-worker training in SA8000
- 2-worker awareness of SA8000, including complaints procedures
- 3-management systems

E. Certifications in Myanmar (Burma)

March 2002

Advisory Number Nine

Pursuant to the request of the SA8000 Advisory Board, Certifications are disallowed in Myanmar (Burma) until the ILO lifts its sanctions, put in place against that country on November 30, 2000.

F. Basic Needs Wage

March 2002

Advisory number ten

The applicable basic needs wage, pursuant to SA Requirement 8.1, is based on meeting needs at the location of the facility seeking certification.

G. SA8000 audit report format**April 2003***Advisory number eleven***REQUIREMENTS:**

- 1) Each SA8000 element should be addressed in the report as a macro-area of assessment, and more specific and descriptive notations should be provided for those issues (single requirements) that are relevant to the specific facility/area, for example:
 - a) Overtime. e.g. if there is no overtime problem, auditors will report the evidence supporting compliance with the working hours criteria of SA8000, for example that the factory has adequate equipment and staff to fill the orders it has accepted. Similarly, if there is excessive overtime, the corrective action plan should be attached to the report along with a summary of overtime in the last month.
 - b) Status of control of suppliers. Include a brief summary on the status of “control of supplier” programs. e.g., a brief description of the plan and current results in terms of suppliers certified, demonstrated compliance or pending certifications.
 - c) Wages. Forward basic wage information as an example of wages paid. This could be accomplished with a payroll sheet and a brief explanation of wage method utilized. If BNW criterion not being met, the plan for attaining BNW over the two-year period should be attached.
 - d) Homework. Include a brief description of homework if/when it is encountered, with emphasis on method of control and number of workers involved.
 - e) Freedom of association. Freedom of Association issues (Element 4) arise very often. Therefore, provide a brief description of how any worker representatives, both TU and SA8000 representatives, were elected. Include any evidence of meetings, minutes, negotiations, whether workers know who is their representative.
 - f) Health and safety. Confirm conditions compliant.
- 2) Make notations of any decision by the audit team where the team had to accept a deviation from either the law or the standard. This is intended to provide the CB’s oversight function with adequate information to accept or reject the decision made.
- 3) Include a brief overall description of the facility being evaluated, with some information on the nature of the business, the size, number of employees and make up of the facility and attach where necessary the CB’s regional background materials.
- 4) Note ‘interview formats’ used—along with reports of information (i.e. number of interviewees per group, number of groups, on or off site).

TIMING:

These enhanced report formats need to be in use by September 1, 2003; earlier implementation is advisable.

NOTES:

- a) By May 15, 2003, SAI will distribute an optional template for CB use.
- b) Confidential information - raw data/notes, name, and address of client) will be redacted if data is shared with third parties such as researchers.

H. Current and Continuing Education Requirements **April 2003**

Advisory number twelve

REQUIREMENTS FOR MAINTAINING OR UPGRADING STATUS:

- 1) Lead Auditor status maintenance: attend an “Advanced SA8000 Training Course” before the country-specific deadlines in #3 below
- 2) Team Auditor status maintenance
 - a) If completed 4-day auditor training course prior to April 2001: update skills at an updated four-day auditor training course or an “Advanced SA8000 Training Course” by the country-specific deadlines in #3 below
 - b) If completed 4-day auditor training course between April 2001 and October 2002: update skills at an updated four-day auditor training course or an “Advanced SA8000 Training Course” before June 1, 2004
 - c) Effective June, 2004: complete a refresher course every two years
- 3) Team Auditor upgrade to Lead Auditor requires satisfactory completion of an “Advanced SA8000 Training Course”, irrespective of the dates of previous training
- 4) Country specific deadlines
 - a) September 30, 2003: India
 - b) December 31, 2003: Bangladesh, China, Pakistan, Turkey, Vietnam
 - c) June 30, 2004: all other countries

NOTES:

SAI will seek assistance in development of web-based versions of both advanced and refresher courses.

Development of refresher course curriculum guidelines is scheduled for late 2003.

I. Accreditation criteria, procedure 150.5, 150.6 **April 2003**

Advisory number thirteen

Part 1: Accreditation Criteria, Procedure 150.5: Auditor Training Requirements Revision
New text in Procedure 150.5, replacing the existing text:

“The certification body shall document and demonstrate to SAI that it satisfactorily ensures that audit personnel are trained in the elements and application of SA8000 and the Guidance Document, minimally by successful completion of an accredited SA8000 four-day auditor course, and such continuing education requirements as may be promulgated by SAI and administered by accredited training bodies.”

Part 2: Accreditation Criteria, Procedure 150.6:
Audit Team Membership Requirements: “Subject Matter Experts” in the field of worker interview and labor legislation

Added text in Procedure 150.6:

“All SA8000 audit teams shall include someone with expertise in interviewing local workers, additionally familiar with local and national labor and human rights issues and legislation.”

NOTES

- 1) Both requirements are effective as of September 1, 2003.
- 2) Re 150.5: SAI will develop and distribute a standardized auditor course exam as a quality control.
- 3) Re 150.6: An accredited Certification Body (CB) employee can be demonstrated to have such expertise; CB general auditor assignment and training criteria are expected to provide auditors familiar with manufacturing environments-- production processes and health and safety issues.
- 4) Re 150.6: Current or former staff of NGOs and Trade Unions may be particularly skilled at worker interviews; their service on audit teams may also build or strengthen relations between certification bodies and those organizations.

J. Surveillance Procedures**April 2003**

Advisory number fourteen – replacing Advisories 3 and 4

Clause 1–Term of Certification

- 1.1 Certification of an entity’s conformance to SA8000 is not to extend for a term longer than three years.
- 1.2 Re-certification requires a complete re-audit of the entity.

Clause 2–Surveillance Scheduling

- 2.1 Surveillances, reviewing a consistent fraction of activities as well as previous corrective action areas, will ordinarily take place every six months throughout the term of the certification, HOWEVER
- 2.2 A certified organization, which has no major or minor CARs at its 6-month surveillance audit, may skip the 12-month surveillance audit and have the next surveillance take place at 18 months. If that audit is CAR-free, the 24 month audit may be omitted.
- 2.3 Similarly, if there are CARs at the 6-month but none raised nor open from the second (12- month) surveillance, the 18-month surveillance may be omitted. And, if the 24-month surveillance exhibits no major or minor CARs, the 30-month surveillance may be omitted.
- 2.4 In no case may the initial (6-month) and re-certification (36 month) audits be omitted.

Clause 3–Audit Days

3.1 General:

- 3.1.1 Effective immediately, Certification Bodies should develop their SA8000 audit plans using the auditor time chart contained in the (revised) IAF Guidance on the Application of ISO/IEC Guide 62:1996.
- 3.1.2 The days on this matrix should be adjusted accordingly to reflect significant factors applying to the organization being assessed.
- 3.1.3 At least 90% of the days must be spent on site for the purposes of system assessment.
- 3.1.4 Customarily, at least 30% of the on-site time will consist of worker interviews.

3.2 Surveillance:

- 3.2.1 The total annual number of surveillance days should equal at least 1/3 of the days allocated for the initial assessment (rounded to the upper whole number).
- 3.2.2 The number of annual surveillance visits can be either one or two depending upon SA8000 system conformance status as per Clause 2 above.

Clause 4

Advisories 3 (July 1999) and 4 (April 2000) are both hereby withdrawn.

§ III. THANK YOUS

A SPECIAL THANK YOU

SAI thanks all those who have contributed to the revision of this *Guidance Document*. The input from individuals with diverse experiences and backgrounds has helped enrich the document tremendously. SAI takes full responsibility, however, for any mistakes the document may contain.

The following individuals made significant contributions to the revision process: researching, reviewing and providing advice and comments on various drafts of the *Guidance Document*:

SAI Staff-

Martin Ma (Ma Ying) and Judy Gearhart coordinated the research and did the majority of writing and editing of this edition of the *Guidance Document*. Many other (current and former) SAI staff members also made significant and invaluable contributions in the research, editing and drafting process:

Elena Arengo, Deborah Case, Krishna Corbo, Doug DeRuisseau, Eileen Kohl Kaufman, Jennifer Lewin, Alice Tepper Marlin, Desta Raines, Phan Thi Hai Yen, and Rochelle Zaid

Research Assistants-

The following graduate students and volunteers made significant contributions to the research, writing and editing of this document.

Gerald Audaz, Helge Bass, Yasmina Schmidt, Elya Tagar, and Jenna Wimberly

SAI Advisory Board Guidance Committee

The SAI Advisory Board Guidance Committee provided critical advice, debating key issues of this document during conference calls and meetings over the years.

Dorianne Beyer, Sylvain Cuperlier, Tom Deluca, Pietro Foschi, Jan Furstenborg, Amy Hall, George Jaksch, Neil Kearney, Andrew Kirkby, Achim Lohrie, Alice Tepper Marlin, Helio Mattar, David McLaughlin, Marisa Parmigiani, Ken Sylvester, Morton Winston, Lynda Yanz, and David Zwiebel

Guidance Committee-

SAI sent out several announcements inviting people to review and comment on draft Guidance chapters, on a confidential basis. We are grateful to the many committee members who gave substantial feedback on these early drafts. We continue to welcome all interested parties to participate in future committees.

Maragtas Amante, Herbert Amman, Renée Anderson, Mark Bateman, Dominique Be, Bruce Bergstrom, Simon Billenness, Mick Blowfield, John Brookes, Lary Brown, Kunquan Cai, Richard Carney, Anita Chan, Jim Childress, Enrico Cusinato, Francesco Gesualdi, John Goldberg, Badrinath Guler, Katherine Hagen, Karen Hui, Wick Ingeberg, Christian Jakobsson, Michelle Johnston, Alex Kaufman, Hans-Heinrich Kuhn, Jouko Kuisma, Surinder Kumar, Lisa Kurbiel, Phil Lally, Alan Lam, Deborah Leipziger, Christian Lemasson, Quang Dai Luu, Paul Martin, Franziska Meyer, Frits Nagel, Steve

Newman, Marcos Oliveira, Huan Amor Palafox, Jacob Park, Olaf Paulsen, Carolina Quinteros, Andre Raghu, KT Ramakrishnan, Giusy Chiovato Rambaldo, Paul Robere, David Roe, Ruth Rosenbaum, Dennis Smith, Vic Thorpe, Frances Truscott, Louis Vanegas, and Ben Vivian