

GLOBALG.A.P. Risk-Assessment on Social Practice (GRASP)

GRASP Module – Interpretation for India

GRASP Module Version 1.3-1-i June 2020
Valid from: 1 February 2021
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English Version

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Control Point	Compliance Criteria	Interpretation for INDIA*
<p>*Note: We want to emphasise that in case there is any change in the laws of India, including regulations, the GRASP interpretation would be required to be updated accordingly.</p>		
<p>EMPLOYEES' REPRESENTATIVE(S)</p>		
<p>1</p>	<p>Is there at least one employee or an employees' council to represent the interests of the staff to the management through regular meetings where labor issues are addressed?</p>	<p>Documentation is available which demonstrates that a clearly identified, named employees' representative(s) or an employees' council representing the interests of the employees to the management is elected or in exceptional cases nominated by all employees and recognised by the management. The election or nomination takes place in the ongoing year or production period and is communicated to all employees. The employees' representative(s) shall be aware of his/her/their role and rights and be able to discuss complaints and suggestions with the management. Meetings between employees' representative(s) and the management occur at accurate frequency. The dialogue taking place in such meetings is duly documented.</p> <p>The law does not specifically speak about the employees council to represent the interests of the staff, but Section 3 (7) of Protection of Plant Variety and Farmers Rights Act, 2001 states that the Chairperson shall appoint a Standing Committee consisting of five members, one of whom shall be a member who is a representative from a farmers' organization, to advise the authority on all issues including farmers' rights.</p> <p>Source: https://wipolex.wipo.int/en/text/339105</p> <p>The SHA, 2013 makes it mandatory for organizations with more than 10 employees to constitute Internal Complaints Committee to make workplace environment women friendly and act on any complaints under POSH received thereof.</p> <p>In case of lesser employees/unorganized sector there's provision of local complaints committee to be constituted by the DM of concerned district.</p> <p>Source: http://legislative.gov.in/actsofparliamentfromtheyear/sexual-harassment-women-workplace-prevention-prohibition-and-redressal</p> <p>Workers have the right to establish and join trade unions without prior authorization. Any official form of representation must be registered by the authorities and evidence of it must be presented to the auditor. With this evidence, auditor will accept variations in the requirements of those indicated in CP1.</p>

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			<p>If there are no active labour unions available in a company, or even active, they refuse or ignore the application or roles indicated in GRASP, please select a person that will be the GRASP (only scope) representative of the employees for the company.</p> <p>For GRASP compliance, in addition to the local law, the farm shall have a representative or a form of representation when the farm has more than 1 employee (employee concept is defined in section 9.2 of the GRASP General Rules). Any producer with minimum of one (1) employee shall have a form of employees' representation that can be applied to meet the GRASP requirements as indicated in the different control points with respect to the employees' representative (ER). The ER or in alternative scenarios, the person (people) responsible for the system of representation shall be present during the assessment.</p> <p>This form or representation could take any form (could be a person, group of people, several temporally appointed people, etc.) as long as:</p> <ul style="list-style-type: none"> • It is independent from management • It is decided by the employees • It is communicated to the employees • It is recognized by the employees <p>The non-election of a representative by the workers does not exempt the farm to comply with other CPCCs that underlines roles of the worker representatives. Farm management shall look for an alternative means of workers representation to avoid non-compliance in those CPCCs.</p>
COMPLAINT PROCEDURE			
2	Is there a complaint and suggestion procedure available and implemented in the company through	A complaint and suggestion procedure appropriate to the size of the company exists. The employees are regularly informed about its existence, complaints and suggestions can be made without	A company procedure for filing complaints and grievances needs to be established by the management. It should include that: <ul style="list-style-type: none"> i. Complaints should be reviewed and discussed between employees' representative(s) and the management.

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<p>which employees can make a complaint or suggestion?</p>	<p>being penalized and are discussed in meetings between the employees' representative(s) and the management. The procedure specifies a time frame to answer complaints and suggestions and take corrective actions. Complaints, suggestions and follow-up solutions from the last 24 months are documented.</p>	<ul style="list-style-type: none"> ii. Complaints should be reviewed within 15 days or less from the date of complaint. iii. A system must be accessible in all workers languages and/or consider lack of ability to read or write. iv. Documents must show the process and how this is communicated to the workers in all the languages needed when foreign workers are present v. The system needs to be communicated to all workers and it should be open to all workers without retaliation. vi. There shall be confidentiality clause for complainant. <p>The non-election of a representative by the workers does not exempt the farm to comply with other CPCCs that underlines roles of the worker representatives.</p> <p>Farm management shall look for an alternative means of workers representation to avoid non-compliance in those CPCCs. The alternative means shall keep the objectivity, be decided, appointed or elected by the workers and keep the separation from the management.</p> <p>There shall be a system that replaces the worker representative roles, e.g. complaint box, workers' meeting with management where complaints are discussed.</p> <p>Relevant legislations could be</p> <ol style="list-style-type: none"> 1. Section 43A and Section 72A IT Act, 2000, IT Act rules 2011: <ul style="list-style-type: none"> i. Under Section 43A of the (Indian) Information Technology Act, 2000, a body corporate who is possessing, dealing or handling any sensitive personal data or information, and is negligent in implementing and maintaining reasonable security practices resulting in wrongful loss or wrongful gain to any person, then such body corporate may be held liable to pay damages to the person so affected. It is important to note that there is no upper limit specified for the compensation that can be claimed by the affected party in such circumstances.

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			<p>ii. Under Section 72A of the (Indian) Information Technology Act, 2000, disclosure of information, knowingly and intentionally, without the consent of the person concerned and in breach of the lawful contract has been also made punishable with imprisonment for a term extending to three years and fine extending to INR 5,00,000</p> <p>2. Puttaswamy SC Judgement on informational privacy: It was held that Informational privacy is an aspect of the right to privacy. The right of an individual to exercise control over his data and to be able to control his/her existence on the internet and unauthorized use of such information may, therefore, lead to violation of this right.</p> <p>Source: 1. https://www.meity.gov.in/content/information-technology-act-2000 2. https://indiankanoon.org/doc/127517806/</p> <p>Subcontracted labor shall be included in the scope of GRASP and its obligations.</p> <p>Verify if there is any national legislation on data protection that does not allow to share documents or to visit premises of subcontractor.</p>
SELF-DECLARATION ON GOOD SOCIAL PRACTICES			
3	Has a self-declaration on good social practice regarding human rights been signed by the management and the employees' representative and has this been communicated to the employees?	The management and the employees' representative(s) have signed, displayed and put in practice a self-declaration assuring good social practice and human rights of all employees. This declaration contains at least commitment to the ILO core labor conventions (ILO Conventions 111 on discrimination, 138 and 182 on minimum age and child labor, 29 and 105 on forced labor, 87 on freedom of association, 98 on the right to organize	<p>The organisation must write and communicate a declaration of the commitment to the good social practices to the employees.</p> <p>It should include first mention of the commitment of management to respect all the rights included in the ILO conventions ratified by India, and knowledge of the laws indicated below and acceptance of those rights to be acknowledged by the management.</p> <p>Law of land shall be respected along with ILO convention. Applicability shall be for most stringent one.</p>

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	<p>and collective bargaining, 100 on equal remuneration and 99 on minimum wage) and transparent and non-discriminative hiring procedures and the complaint procedure. The self-declaration states that the employees' representative(s) can file complaints without personal sanctions. The employees have been informed about the self-declaration and it is revised at least every 3 years or whenever necessary.</p>	<p>Specific wording in the self-declaration should indicate the possibility that worker representative can present claims on the rights indicated in the declaration without fear of retaliation.</p> <p>And the self-declaration must indicate how these complaints will be resolved.</p> <p>The declaration must include the willingness to comply, protect and actively have processes to protect those rights.</p> <p>It shall explain how the employee representative shall be able to present complaints on the rights included in the declaration.</p> <p>The non-election of a representative by the workers does not exempt the farm to comply with other CPCCs that underlines roles of the worker representatives.</p> <p>Farm management shall look for an alternative means of workers representation to avoid non-compliance in those CPCCs. The alternative means shall keep the objectivity, be decided, appointed or elected by the workers and keep the separation from the management.</p> <p>The main good social practices are:</p> <ol style="list-style-type: none"> 1. The Factories Act, 1948(Draft Amendment Proposals 2. Industrial Relations 3. Industrial Safety & Health 4. Child Labour 5. The Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013. 6. Social Security 7. Labour Welfare 8. Employment & Training 9. Wages 10. Code on Social Security, 2020; Occupational Safety, Health and Working Conditions Code 2020; The Industrial Relations Code, 2020 11. Others

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			<p>The Core Conventions of the ILO (also called fundamental/ human rights conventions) that were ratified by India are:</p> <ul style="list-style-type: none"> • Forced Labour Convention (No. 29) • Abolition of Forced Labour Convention (No.105) • Equal Remuneration Convention (No.100) • Discrimination (Employment Occupation) Convention (No.111) • Minimum Age Convention (n. 138) • Worst Forms of Child Labor convention (no. 182) <p>https://www.ilo.org/dyn/normlex/en/f?p=NORMLEXPUB:11200:0::NO::P11200_COUNTRY_ID:102691</p> <p>India has subsequently ratified the above six conventions, which have provision in various statutes like As indicated but not limited to Contract Labour (Regulation & Abolition) Act, 1970 & Rules 1971, The Plantations Labour Act, 1951, The Trade Unions Act, 1926 and The Minimum Wages Act, 1948, The Factories Act, 1948.</p> <p>The self-declaration shall indicate that as far the rights concerning GRASP in the ILO conventions 87 on freedom of association, 98 on the right to organize and collective bargaining, 99 on minimum wage), which has not been ratified by India , do not violate local legal regulations. The farm shall implement policies to guarantee those rights.</p>
ACCESS TO NATIONAL LABOR REGULATIONS			
4	Do the person responsible for the implementation of GRASP (RGSP) and the employees' representative(s) have knowledge of or access to recent	The responsible person for the implementation of GRASP (RGSP) and the employees' representative(s) have knowledge of or access to national regulations such as gross and minimum wages, working hours, trade union membership, anti-discrimination, child labor, labor contracts, holiday and maternity leave. Both the RGSP and the	<p>It shall be guaranteed, that access to the labor regulations is always available when the employees' representative and RGSP are present on the farm.</p> <p>If the access is electronically provided, the auditor shall check what resources are provided to guarantee access to the information every time that workers are present.</p> <p>In case the workers do not elect an employees' representative, an alternative system shall be in place to provide for the role of the employees' representation in this CP.</p>

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	national labor regulations?	employees' representative(s) know the essential points of working conditions in agriculture as formulated in the applicable GRASP National Interpretation Guidelines.	<p>Farm management shall look for an alternative means of workers representation to avoid non-compliance in those CPCCs. The alternative means shall keep the objectivity, be decided, appointed or elected by the workers and keep the separation from the management.</p> <p>Awareness to be imparted to the worker representative(s) as well as workers about the national labour regulations. Occupational, health & safety training has to be given to the employees who are working in high risk areas.</p> <p>There can be external advisor or consultant in case of small set-up as having separate manager with given knowledge is not feasible for small setups. There can be small booklets of all information also can be provided to all employees.</p>
WORKING CONTRACTS			
5	Can valid copies of working contracts be shown for the employees? Are the working contracts compliant with applicable legislation and/or collective bargaining agreements and do they indicate at least full names, a job description, date of birth, date of entry, wage and the period of employment? Have they been signed by both the employee and the employer?	For every employee, a contract can be shown to the assessor on request (on a sample basis). Both the employees as well as the employer have signed them. Records contain at least full names, nationality, job description, date of birth, the regular working time, wage and the period of employment (e.g. permanent, period or day laborer etc.) and for non-national employees their legal status and working permit. The contract does not show any contradiction to the self-declaration on good social practices. Records of the employees must be accessible for the last 24 months.	<p>All employees shall be informed in writing and comprehensible data about their employment conditions and its compliance with national legal requirements.</p> <p>According to Section 29 of the Contract Labour Act, 1970, every principal employer and every contractor shall maintain such registers and records giving such particulars of contract labour employed, the nature of work performed by the contract labour, the rates of wages paid to the contract labour and such other particulars in such form as may be prescribed.</p> <p>The Contract Labour (Regulation and Abolition) Act 1970 aims at regulating employment of contract labour so as to place it at par with labour employed directly.</p> <p>http://labour.bih.nic.in/acts/contract_labour_regulation_and_abolition_act_1970.pdf</p>

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			<p>Documents must consider language or education barrier to potential understanding when worker is not instrumental to the local language.</p> <p>For all labour, contract shall be available. Appointment letter along with all terms and conditions and contract conditions shall be signed by all employees and one copy shall be given to them.</p> <p>For GRASP compliance, all type of employment hiring methods, as defined in 9.2 GRASP GR must be in writing and available to the auditor.</p>
PAYSLIPS			
6	Is there documented evidence indicating regular payment of salaries corresponding to the contract clause?	The employer shows adequate documentation of the salary transfer (e.g. employee's signature on pay slip, bank transfer). Employees sign or receive copies of pay slips / pay register that make the payment transparent and comprehensible for them. Regular payment of all employees during the last 24 months is documented.	<p>Pay slips shall consider language or education barrier to potential understanding of evidence of payment. Ensure that all the information requested by the local laws is transparent and comprehensible for workers in the pay slips.</p> <p>According to Section 29 of the Contract Labour Act, 1970, every principal employer and every contractor shall maintain such registers and records giving such particulars of contract labour employed and the rates of wages paid to them, thus documenting the person's salary.</p> <p>When the employee agrees to a document, that document must be in a language that is used by the worker. In case that worker has limited knowledge of the local language, the information must be provided in a language that is familiar to the worker. Auditors shall check that all the information requested by the local laws is transparent and comprehensible for workers in the documents.</p> <p>Salary to be paid by 7th day of the month if employee strength is less than 1000 else within the 10th day of the month. Relevant documents shall be maintained for the same, e.g. employee's signature on pay slip, bank transfer). Employees sign or receive copies of pay slips / pay register that make the payment</p>

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			<p>transparent and comprehensible for them as per the Payment of Wages Act 1936.</p> <p>Source: https://labour.gov.in/sites/default/files/ThePaymentofWagesAct1936_0.pdf</p> <p>Regular payment of all employees during the last 24 months is documented. It shall be respected Minimum Wages Act, 1948 along with applicable social securities.</p>
WAGES			
7	Do pay slips / pay registers indicate the conformity of payment with at least legal regulations and/or collective bargaining agreements?	Wages and overtime payment documented on the pay slips / pay registers indicate compliance with legal regulations (minimum wages) and/or collective bargaining agreements as specified in the GRASP National Interpretation Guideline. If payment is calculated per unit, employees shall be able to gain at least the legal minimum wage (on average) within regular working hours.	<p>Payment shall be through bank transfer and salary slip in local language shall be provided to all employees with appropriate break-ups and deductions.</p> <p>The Minimum Wages Act, 1948 ACT NO. 11 OF 1948, provide for fixing minimum rates of wages in certain employments. Minimum Wages to be paid to employees.</p> <p>Wages to be paid in current coin or currency notes. All wages shall be paid in current coin or currency notes or in both.</p> <p>Pay slips or other instrument used shall mention wages and overtime and shall consider language or education barrier. The documents shall be comprehensible for all workers.</p> <p>Provided that the employer may, after obtaining the written authorization of the employed person, pay him the wages either by cheque or by crediting the wages in his bank account.</p> <p>Unless a local law indicates something different, GRASP indicate that regular weekly working hours do not exceed a maximum of 48 hours, during peak season (harvest), weekly working time does not exceed a maximum of 60 hours.</p>
NON-EMPLOYMENT OF MINORS			

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8	Do records indicate that no minors are employed at the company	Records indicate compliance with national legislation regarding minimum age of employment. If not covered by national legislation, children below the age of 15 are not employed. If children - as core family members- are working at the company, they are not engaged in work that is dangerous to their health and safety, jeopardizes their development or prevents them from finishing their compulsory school education.	<p>In the <u>Constitution of India</u> from 1950, articles 14-16, 19(1)(c), 23-24, 38, and 41-43A directly concern <u>labour rights</u>. Article 23 prohibits all trafficking and forced labour, while article 24 prohibits <u>child labour</u> under 14 years old in a factory, mine or "any other hazardous employment".</p> <p>Only labour above 14 years of age is permitted and proof of age for all workers shall be maintained. The workers involved in spray operation and operation electrical and other machineries shall be 18 or above.</p> <p>See also ILO Minimum Age Convention (n. 138)</p> <p>Children or young workers of company management shall be included in the GRASP assessment.</p> <p>For GRASP compliance, no young worker (between 15 and 18) shall work in any activity that is dangerous to their health and safety, jeopardizes their development or prevents them from finishing their compulsory school education.</p>
ACCESS TO COMPULSORY SCHOOL EDUCATION			
9	Do the children of employees living on the company's production/ handling sites have access to compulsory school education?	There is documented evidence that children of employees at compulsory schooling age (according to national legislation) living on the company's production/ handling sites have access to compulsory school education, either through provided transport to a public school or through on-site schooling.	<p>It is a GRASP requirement, that when there are minors living in the farm premises, the administration shall:</p> <ol style="list-style-type: none"> 1) Keep a list with the location, name, age, parents' information of the minors 2) Provide evidence that the families have been notified of the necessity that their children go to school. <p>This control point only can be marked as non-applicable when there are no minors living on the premises.</p> <p>As per Section 3 of The Right of Children to Free and Compulsory Education Act 2009, every child of the age of six to fourteen years shall have the right to free and compulsory education in a neighbourhood school till the completion of his or her elementary Education.</p>

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			<p>The Plantations Labour Act, 1951, according to this act, free education facilities up to high school are provided to the children of plantation workers. Besides, for pursuing technical and higher studies, Tea, Coffee and Rubber Boards provide stipends towards, tuition fees, hostel charges etc.</p> <p>Appropriate evidences of education shall be maintained and provide to verify. All children of employees living on the company's production/handling site shall be provided access to compulsory school education.</p>
TIME RECORDING SYSTEM			
10	Is there a time recording system that shows working time and overtime on a daily basis for the employees?	There is a time recording system implemented appropriate to the size of the company that makes working hours and overtime transparent for both employees and employer on a daily basis. Working times of the employees during the last 24 months are documented. Records are regularly approved by the employees and accessible for the employees' representative(s).	<p>For GRASP, a recording system of working time shall be included even when is not mandatory by the local law. If this list is used as recording system, it shall be available to the workers at any time to be checked. The document used shall be transparent (to the worker and the employer) working time and overtime. The time recording system shall facilitate the revision of the worker and shall consider language or education barriers.</p> <p>The system should produce reports that are clear to the workers and accessible at any time. In addition, those records must be available to the employees' representative.</p> <p>As per section 14 of The Minimum Wages Act, 1948, where an employee, whose minimum rate of wages is fixed under this Act works on any day in excess of the number of hours constituting a normal working day, the employer shall pay him for every hour or for part of an hour so worked in excess at the overtime rate fixed under this Act or under any law of the appropriate Government for the time being in force, whichever is higher. But the same has not been specifically been mentioned about the farmers or farm workers in India.</p> <p>Timings shall be maintained as per The Minimum Wages Act, 1948.</p>

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			<p>Unless the local law offers more benefits, GRASP does not allow for ordinary hours to be higher than 48 hours.</p> <p>The non-election of a representative by the workers does not exempt the farm to comply with other CPCCs that underlines roles of the worker representatives.</p> <p>Records are regularly approved by the employees and accessible for the employees' representative(s) Farm management shall look for an alternative means of workers representation to avoid non-compliance in those CPCCs. The alternative means shall keep the objectivity, be decided, appointed or elected by the workers and keep the separation from the management. If a daily time recording system is not implemented (e.g. fixed contracts, fixed working hours, fixed monthly salary), alternative way(s) of recording working hours shall be available. Evidence and explanation shall be provided.</p> <p>In Section 51 of The Factories Act, 1948 prescribed the weekly working hours as 48 hours but not more than 9 hours in any day and if you are planning to change it to 5 days working then you can have maximum 45 hours working per week if we have to strictly adhere the legal provisions as defined in Factories Act. For Overtime, Worker shall not be allowed to work for more than 9 hours on any day and more than 54 hours in any week. Records shall be maintained to show compliance with this.</p>
WORKING HOURS AND BREAKS			
11	Do working hours and breaks documented in the time records comply with applicant legislation and/or collective bargaining agreements?	Documented working hours, breaks and rest days are in line with applicant legislation and/or collective bargaining agreements. If not regulated more strictly by legislation, records indicate that regular weekly working hours do not exceed a maximum of 48 hours, during peak season (harvest), weekly working time does not exceed a maximum of 60	<p>The general working hours mentioned in the Labour Laws in India are 8 hours a day with a minimum 30 minutes break after 6 hours.</p> <p>Factories Act requires 30 min minimum break for lunch and 15 Minutes break in the morning and post lunch sessions.</p> <p>Working and break timings shall be displayed in prominent places and shall be communicated to workers.</p>

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		hours. Rest breaks/days are also guaranteed during peak season.	For GRASP compliance, even when allowed by the law, the total number of hours, including overtime and ordinary, SHALL NOT exceed 60 hours per week in any week of the year. This must be checked by auditor.
ONLY APPLICABLE FOR PRODUCER GROUPS INTEGRATION INTO QMS			
QMS	Does the assessment of the Quality Management System (QMS) of the producer group show evidence of the correct implementation of GRASP for all participating producer group members?	The assessment of the Quality Management System of the producer group demonstrates that GRASP is correctly implemented and internally assessed. Non-compliances are identified and corrective actions are taken to enable compliance of all participating producer group members.	No, there is no such provision. The assessment of the Quality Management System of the producer group demonstrates that GRASP is correctly implemented and internally assessed. Non-compliances are identified and corrective actions are taken to enable compliance of all participating producer group members.
ADDITIONAL SOCIAL BENEFITS			
R 1	What other forms of social benefit does the company offer to employees, their families and/or the community? Please specify incentives for good and safe working performance, bonus payment, support of professional development, social benefits, child care, improvement of social surroundings etc.).		The Maternity Benefit Act applies to every establishment whether a factory, mine, a plantation or shops and establishments. The State Governments are responsible for implementation of the Act in agriculture and plantation. It is intended to promote the welfare of the working women. This Act applies to every establishment employing women and provides for the maternity leave and payment of certain monetary benefits and other such amenities as stipulated by law. Provision of Child Care Creches, safe drinking water. Sanitary provisions for women employees <u>Source: As per National Minimum Guidelines, Maternity Benefits Act, 2017</u>

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			<p>https://wcd.nic.in/sites/default/files/National%20Minimum%20Guidelines.pdf</p> <p>Other than the mandatory requirements if company provides any other facilities/benefits to their employees is counted here and the proof for the same shall be evidenced.</p>