

Labour conditions at Peruvian fruit and vegetable producers

Results of field research on the impact of
sustainability certification

Colophon

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The Centre for Research on Multinational Corporations (SOMO) is a critical, independent, not-for-profit knowledge centre on multinationals. Since 1973 we have investigated multinational corporations and the impact of their activities on people and the environment. We provide custom-made services (research, consulting and training) to non-profit organisations and the public sector. We strengthen collaboration between civil society organisations through our worldwide network. In these three ways, we contribute to social, environmental and economic sustainability. For more information, visit www.somo.nl.

About PLADES

PLADES (Programa Laboral de Desarrollo) is a non-governmental organisation established in 1991 specialised in labour issues. PLADES focuses on capacity building of trade unions and aims to promote decent work. For more information, see www.plades.org.pe.

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Executive summary

These are the combined results of field research executed by the non-governmental labour rights organisation Programa Laboral de Desarrollo (PLADES) and desk research done by SOMO (Centre for Research on Multinational Corporations). The research looks at the impacts of sustainability certification initiatives in the Peruvian agro-export industry. It focuses on ten Peruvian fruit and vegetable producers: six companies under review have a sustainability certification (Fair for Life, Rainforest Alliance or SA8000) and four companies are not certified.

The results of this research were discussed at a meeting with the certification initiatives and other relevant stakeholders in May 2016, and feed the overarching paper 'Looking good on paper' on the impact of sustainability certification on working conditions on large farms. The general objective of SOMO's continued research on the workplace impacts of sustainability certification systems in agriculture is to support policy-makers in governments, civil society, companies and sustainability certification initiatives to ensure decent working conditions for agricultural workers.

A large share of fruit and vegetables sold in European supermarkets are grown in developing economies where enforcement of labour laws is often weak as labour inspectorates are notoriously understaffed. While more food is available and traded internationally than ever before, most of the 1.3 billion farmers and agricultural workers producing food still face poor economic, social and environmental conditions. Peru is the world's top producer of fresh asparagus, peppers and organic bananas and the world's second-largest producer of artichokes and fresh grapes.

Sustainability certification initiatives have become a popular way for food companies to reassure consumers that the goods have been produced under decent working conditions. Over the past few decades, a plethora of sustainability certification systems like Fair for Life, Rainforest Alliance and SA8000 have been set up to address environmental, economic or social issues. However, little information is available about the effectiveness or impact of these sustainability certification initiatives for workers.

While no major differences were observed, this study showed that certified companies perform slightly better than non-certified companies, scoring consistently better in almost all categories except for conditions of employment (the number of workers that are hired under the so called special regime which curtails a number of basic rights is higher at the certified companies) and freedom of association where due to near total lack of trade unions and the anti-union attitude of employers in this industry both certified and non-certified companies perform very poorly. However, the study also found that producers do not always comply with the minimum standards laid down by the certification schemes. The most pressing issues are the absence of trade unions and the active blocking of the formation of unions and job insecurity, which leads to a climate of fear that leaves workers unable to speak out.

Voluntary sustainability certification systems have been developed in a context where governmental and corporate actors are failing in enforcing and upholding basic human and labour rights. As food and retail companies and consumers increasingly rely on certification initiatives it is important to independently verify what impact sustainability certification schemes have and if they are reaching their intended goals. However, it should be noted that the role of certification schemes has to be seen as additional to – and certainly not as a replacement of – the roles of governments in developing and enforcing appropriate labour laws in line with internationally agreed human rights and labour rights; the role of companies to abide by these laws and to enter into dialogue and negotiation with trade unions; and the role of trade unions to represent their members and to enter into dialogue with

employers and negotiate employment and working conditions on behalf of their members. Notwithstanding, sustainability certifications have emerged as a gap filling measure. In order for sustainability certification systems to be effective in improving working conditions SOMO and PLADES set out a series of recommendations:

■ **Enable workers to stand up for their rights**

In order enable workers to stand up for their rights, it is recommended that sustainability certification initiatives should take action to make sure that the rights of workers to form and join trade unions and to bargain collectively are respected.

■ **Improve codes on security of employment**

The fact that all of the interviewed workers are hired as temporary workers, even though they might work for the same company for many consecutive years, leaves them in a vulnerable position. The codes of Fair for Life, Rainforest Alliance and SA8000 do not include strong enough clauses on providing security of employment. It is therefore recommended that sustainability certification initiatives should include more ambitious requirements in this regard. Employers should refrain from hiring workers on temporary contracts for permanent jobs. Unlimited short-term contracts should be avoided.

■ **Work towards the payment of living wages**

Employers should pay living wages. To promote living wages it is recommended that sustainability certifications should improve how they articulate the definition of living wages in their standards and specify clear incremental steps towards achieving a living wage. They should also conduct research into what constitutes a living wage in different sectors and countries, and align their mechanisms to evaluate wages in line with these levels.

■ **Address involuntary overtime**

Sustainability certifications should pay more attention to curbing involuntary overtime and ensuring that workers are paid for their overtime work at legal rates.

■ **Improve transparency**

Sustainability certifications should provide public access to (more) details of the complaints they receive, how they follow them up and what the outcome of the complaint and remedy process

has been. In addition, it is recommended that Rainforest Alliance and SA8000 disclose information about the performance of certified operators as well as information on cancelled operators. Fair for Life discloses information about cancelled and suspended operators on its website. However, it is recommended that Fair for Life should disclose information about the reason of cancellation/ suspension.

■ **Engage with stakeholders**

It is recommended that sustainability certifications, individually but especially as a movement, should seek more involvement of stakeholders such as trade unions, national and local governments, NGOs and research organisations in order to develop approaches to improving their impacts on specific labour rights.

■ **Awareness raising and training**

It is recommended that sustainability certifications focus more on different approaches – other than auditing – to support and enable certified producers to improve working conditions. One example might be through awareness raising and training. While it may be too costly to have dedicated programmes for specific farms, and attention should be paid to not taking on the role of legitimate trade unions, possibilities could be further explored for organising sector-wide programmes (e.g. training) for workers on specific labour rights issues such as those highlighted in this report.

1. Methodology

This report is based on a combination of field and desk research and conversations with various stakeholders. For this study field research was undertaken into working conditions at ten Peruvian export-oriented fruit and vegetable producers. Preparation for the research began in October 2013. The field research took place in March to September 2015.

1.1 Investigated companies

Six of ten fruit and vegetable production companies chosen have a sustainability certification; they are (Fair) for Life¹, Rainforest Alliance or SA8000 certified. Four companies are not certified. The companies are all located in the Peruvian departments of Ica (six companies) and La Libertad (four companies).

Table 1: overview of researched companies

Company	Products	Sustainability certification	Location	Workforce
Company 1	Asparagus, dates, cabbage, blueberries sweet peas, figs and mangoes	No certification	Ica	Between 130 (planting season) and 270 (harvesting season)
Company 2	(Seedless) grapes, avocados	Fair for Life – Social & Fair Trade Certification	Ica	Between 700 (low season) and 2,300 (harvesting season)
Company 3	Asparagus, pomegranates, pears	For Life – Social Responsibility Certification	Ica	Between 1,400 (low season) and 2,100 (in harvesting season)
Company 4	Asparagus, grapes, avocados, tangelos and mandarins	No certification	Ica	Between 7,000 (low season) and 11,000 (harvesting season)
Company 5	<u>Canned</u> : Green asparagus, white asparagus, artichoke, Piquillo pepper, Californian pepper, cherry pepper, mango, papaya, Goldenberry, gourmet products (spreads, bruschettas, grilled, sauces, etc.) <u>Dry</u> : Quinoa, Chia, Amaranth <u>Fresh</u> : Green asparagus, white asparagus, table grape, pomegranate, avocado, snow peas, sugar snaps, artichoke	SA8000	La Libertad	Between 8,000 (planting season) and 12,000 (harvesting season)

¹ Fair for Life offers two kinds of certification: Fair for Life Social & Fair Trade Certification (hereafter referred to as Fair for Life) and For Life - Social Responsibility Certification (hereafter referred to as For Life). For Life Social Responsibility Certification focuses on good working conditions and social responsibility while the Fair for Life Social & Fair Trade Certification includes all social standards and additionally fair trade aspects such as fair prices and a fair trade development premium

	<u>Frozen</u> : Artichoke, green asparagus, mango, pomegranate, avocado, Californian pepper, Goldenberry			
Company 6	(Table) grapes	Rainforest Alliance	Ica	Between 370 (low season) and 2,000 (harvesting season)
Company 7	White and green asparagus, pepper, avocado	No certification (until October 2014 Company 7 held a Fair for Life certification). ² The interviews were conducted after the company's certification was withdrawn.	La Libertad	Between 1,400 (low season) and 2,000 (harvesting season)
Company 8	Asparagus, pecans and hybrid seeds	For life – Social Responsibility Certification	Ica	Between 700 (low season) and 1,700 (harvesting season)
Company 9	Artichoke, piquillo pepper, aubergine, courgette, green and white asparagus, mango, quinoa, avocado, various sauces	No certification	La Libertad	Between 14,000 (low season) and 18,000 (harvesting season)
Company 10	Green asparagus, white asparagus white, blueberries, avocados	For life – Social Responsibility Certification	La Libertad	Between 3,800 (low season) and 5,500 (harvesting season)

1.2 Field research

Worker interviews were held to evaluate working conditions at the investigated companies. The interviews focused on core labour rights that are addressed in the codes of each of the certification initiatives under study. Labour issues that were addressed during the interviews included:

- Forced labour
- Child labour
- Freedom of association and collective bargaining
- Non-discrimination
- Occupational health and safety
- Security of employment
- Disciplinary measures
- Working hours
- Wages

During the first phase of the field research, 245 short interviews were held with workers from the ten selected companies. These interviews served to gather quantitative data that made it possible to compare the performance of certified and non-certified companies. Of the workers interviewed in this first phase, 152 work at companies that have a sustainability certification (Fair for Life, Rainforest Alliance or SA8000) and 93 workers work at companies that do not have a sustainability certification.

² The Institute for Marketecology (IMO) informed SOMO that it could not reveal the reason for cancellation of the certification for confidentiality and data protection reasons. IMO, "response to draft version of this report", 10 May 2016.

Interviews were held with 167 male workers (68 per cent) and 78 female workers (32 per cent), in line with the gender composition of the work force at the ten investigated companies.

In the second phase of the field research, in-depth interviews were held with 19 with the purpose of gaining a better understanding of the findings collected in phase one of the research.

The process to identify and select workers for the interviews took a long time as many workers were reluctant to participate as they feared losing their jobs if they spoke out. The situation for workers in Peru is precarious and workers are highly dependent on their income. There have been many cases where workers who organise themselves in labour unions have been dismissed. In addition, several workers indicated that their employers had forbidden them from speaking to ‘outsiders’ about their employment and working conditions.

In this context – and in order to prevent any repercussions for the interviewees – workers were interviewed without the knowledge of company management and in off-site locations where workers felt safe and free to discuss their employment and working conditions.³ Moreover, interviews were conducted by experienced interviewers with experience in the labour movement.

1.3 Desk research

The codes of the three investigated sustainability certification initiatives were analysed regarding content on the labour rights issues that are a topic of this study. This analysis is based on the provisions as included in the certifications’ formal standards (codes). Sustainability certifications may provide further guidance on how auditors and certification applicants should interpret and implement their norms in the standard document and/or separate guidance documents such as audit protocols. Such guidance elements may also be relevant for assessing and comparing the quality of standards. However, this did not fall within the scope of this research.

The versions of the codes used for this report are the versions that were in force at the time the field research was conducted. The following code versions have been used:

- Fair for Life, Social & Fair Trade Certification Programme, Version December 2013.
- Sustainable Agriculture Network (Rainforest Alliance), Sustainable Agriculture Standard, July 2010 (version 3).
- Social Accountability International, SA8000 Standard, June 2014.

1.4 Review procedure

SOMO has guidelines for review procedures stipulating that all companies mentioned in a research report should be given the opportunity to review, respond to and comment on draft passages of research reports that directly relate to the company in question. This opportunity to respond is intended to avoid publishing inaccuracies and is, as such, an essential element of ensuring high-quality research. However, it is important to note that, even if a draft research report is reviewed by a company or companies, the authors of the report remain solely responsible for the contents of the report.

³ In response to a draft version of this report, Rainforest Alliance indicated that it had strengthened its auditing guidelines to deal with such situations. These require interviews for sensitive issues to be held without any supervision or management personnel present. The interviews must take place outside the plantation boundary or in a closed room on the plantation. Rainforest Alliance, “reaction to draft version of the report”, 4 May 2016.

For this report, the SOMO review procedures were followed. The review process consisted of sharing a draft of the report with the investigated companies and the sustainability certification initiatives being studied.

Investigated companies

In February 2016, PLADES shared a draft version of this report with the ten Peruvian companies under review. Additionally, PLADES reached out to the companies with a request for a meeting to discuss the research results. Two of the ten companies responded positively to this request: A meeting (24 February 2016) as well as various telephone conversations (between 10 and 20 March) took place between PLADES and company 1 (not certified). A telephone conversation was also held with company 6 (Rainforest Alliance certified). The other companies did not respond to PLADES' review request.

Certification initiatives

In April 2016, SOMO shared a draft version of this report with Fair for Life, Rainforest Alliance and SA8000. IMO (Fair for Life) and Rainforest Alliance sent detailed comments. Relevant comments have been processed in the final version of this report, albeit in a condensed form. In these responses, IMO and Rainforest Alliance elaborate on particular provisions in their codes and supporting documents and share information about updated code provisions. In addition, both IMO and Rainforest Alliance referred to audit findings related to the investigated companies that in some cases are in line with the findings of this research while in other cases they are not (for more information see Chapter 4).

The reactions are predominantly focused on the certifiers' standards and auditing procedures and results. In their responses, the certifiers do not elaborate on how certified producers are supported/enabled in addressing the identified labour rights issues. IMO writes that opportunities to offer hands-on training on labour rights issues are limited because it would result in a conflict of interest. IMO does offer general training on the Fair for Life standard. In a case where a certified operator faces severe difficulties regarding labour rights issues, a certification condition would be set that the farm needs to seek the advice and support of a trade union/NGO specialised in worker empowerment to ensure that the awareness and understanding of labour rights issues increases, both for the management and the workers, according to IMO.⁴

SAI indicated that it had no additional comments to add to the draft report. SAAS (the organisation that accredits and monitors SA8000 certifying organisations) requested that auditors who carried out the SA8000 audits at company 5 should discuss the research findings with the SOMO/Plades researchers. Contact has been established between the auditors and Plades.

Sustainability certification stakeholder meeting

On 26 May 2016, SOMO invited sustainability certification initiatives, companies, trade unions and non-governmental organisations (NGOs) to discuss the preliminary results of the study from Peru as well as studies from Colombia and India. PLADES and ENS (Escuela Nacional Sindical from Colombia) and ICN5 (India Committee of the Netherlands) presented the results of their field studies. A panel discussion took place with representatives from sustainability certifiers (Rainforest Alliance), companies (Nature's Pride), trade unions (Mondiaal FNV) and civil society (SOMO). Relevant insights from the meeting have been included in this report.

⁴ IMO, email conversation with SOMO, 15 June 2016.

⁵ ICN presented research on Rainforest Alliance certified tea producers in India

2. Context

2.1 The Peruvian agro-export industry

Peru is the world's top producer of fresh asparagus, peppers and organic bananas and the world's second-largest producer of artichokes and fresh grapes.

The European Union (EU) is the most important destination for Peruvian fruit and vegetable exports. In 2014, 45 percent of Peru's fresh produce exports were shipped to Europe.⁶ The main products exported to the European bloc include asparagus, avocados, coffee, peppers and artichokes.

In 2016, the United States, the Netherlands and the United Kingdom were the main consumers of fresh fruits from Peru, a total of US\$1,329 million sales were registered. The Netherlands is the second biggest buyer and in 2016 bought 16.4% more than the year before (a total of US\$ 465 million). The Netherlands resells these fruits to other European countries. The main products exported include avocados, bananas, mangos and grapes.⁷

The Agricultural Promotion Law

In 2000, the Peruvian government adopted Law no. 27360 (Agricultural Promotion Law, *Ley de Promoción Agraria y el Régimen Especial Laboral Agrario*) in order to boost the country's export-oriented agricultural industry. Under the law, several labour rights are curtailed. Whereas the general labour legislation for private companies establishes eight-hour working days, or 48-hour working weeks, the law allows for 'accumulated' workdays in the agricultural sector, with overtime only paid when the average working day over the entire period of the work contract exceeds eight hours. In other words, a worker could be obliged to work 20 hours one day, without overtime pay, and then given very little work on subsequent days, so that the average working day is eight hours. Instead of a monthly minimum wage, this law provides for a daily minimum wage. Unlike the minimum wage that is valid for sectors outside the agricultural sector, this amount already includes remunerations for national holidays; also, the entitlement to holidays is smaller (15 days instead of 30 days).

The law also established a lower tax burden for agricultural companies and smaller contributions to the social security system. It also reduced the amount that agricultural employers must pay for unfair dismissals to one-third of the fine applied in other private companies. Workers are hired as temporary labourers; their contracts can be renewed over and over again without the worker ever attaining the status of a permanent worker.⁸

The law was launched as a temporary measure, meant to expire in 2010. However, despite fierce criticism by trade unions and civil society organisations, the government of President Toledo decided to extend it until 2021.⁹

⁶ Produce Business UK website, "Peru on course to triple fresh fruit and vegetable supply", 9 September 2015 <<http://www.producebusinessuk.com/insight/insight-stories/2015/09/09/peru-on-course-to-triple-fresh-fruit-and-vegetable-supply>> (accessed on 15 March 2016).

⁷ Diario Expreso (Peru), "Crece exportación de frutas frescas peruanas", 21 March 2017 <https://www.pressreader.com/peru/diario-expreso-peru/20170321/281797103815375> (accessed on 29 March 2017).

⁸ CGTP, FENTAGRO, Instituto de Estudios Sindicales, Programa País Peru and FNV, Fact sheet on the Agricultural Promotion Law, no date.

⁹ Oxfam Deutschland, 'Mangos with blemishes - The Market Power of German Supermarket Chains and Unfair Working Conditions in Peru', June 2013; CCTP, FENTAGRO and IESI, 'Law For Promotion of the Agrarian Sector', Memo, no date; Oxfam GB, 'Non-traditional agricultural export industries: Conditions for women workers in Colombia and Peru', 2008 < http://www.lepnet.org/sites/default/files/upload/og_files/Non-Traditional%20Agricultural%20Export%20Industries%20-

2.2 Sustainability certification initiatives

While more food is available and traded internationally than ever before, most of the 1.3 billion farmers and agricultural workers producing food still face poor economic, social and environmental conditions. A small group of large food retailers is dominating the industry in developed countries and hence are the gatekeepers for food traded internationally. With their huge buying power they exert pressure for low prices and set delivery terms in their own interest and consequently influence working conditions throughout the supply chain. While the influence of a small number of large companies over the global food production chain has increased, governments of producer countries – in an attempt to attract and retain foreign investment – have generally eased controls. Enforcement of labour laws is weak as labour inspectorates around the world are notoriously understaffed. In addition, governments have introduced policies and regulations that benefit foreign investors but often are not in the best interest of workers.

Growing consumer concerns about food production methods and their impact on farmers', farm workers' lives and the environment have led to the emergence of various systems of standards. Over the past few decades, a plethora of sustainability certification systems have been set up to address environmental, economic or social issues. Certification systems may focus on one or more, or on all of these areas.

Sustainability certification is perceived as a credible and practical way for food and retail companies to ensure and communicate good social, economic and environmental conditions in agricultural supply chains.

Voluntary sustainability certification systems have been developed in a context where governmental and corporate actors are failing in enforcing and upholding basic human and labour rights. The growing market for sustainability certification and the increasing reliance on it to address sustainability issues make it important for sustainability certifiers to demonstrate their effectiveness at the workplace level. However, it should be noted that the role of certification schemes has to be seen as additional to – and certainly not as a replacement of – the roles of governments in developing and enforcing appropriate labour laws in line with internationally agreed human rights and labour rights; the role of companies to abide by these laws and to enter into dialogue and negotiation with trade unions; and the role of trade unions to represent their members and to enter into dialogue with employers and negotiate employment and working conditions on behalf of their members. Notwithstanding, sustainability certifications have emerged as a gap filling measure.

2.2.1 Rainforest Alliance

Rainforest Alliance (RA), established in 1987, is a certification scheme working under the auspices of the Sustainable Agriculture Network (SAN). In addition to core International Labour Organization (ILO) labour rights, the SAN standard sets norms for the protection of wildlife, wild lands and the rights of local communities.¹⁰ According to Rainforest Alliance, in 2015, there were 1,156,336 certified producers globally and 12,196 in Peru¹¹.

The Sustainable Agriculture Standard of SAN includes ten principles: 1. social and environmental management system; 2. ecosystem conservation; 3. wildlife protection; 4. water conservation; 5. fair

[%20Conditions%20for%20Women%20Workers%20in%20Columbia%20and%20Peru%20-%20March%201%202008%20-%20Nora%20Fern.pdf](#) >

¹⁰ Sustainable Agriculture Network website, 'SAN Principles', no date <<http://sanstandards.org/sitio/subsections/display/7>>

¹¹ UTZ & Rainforest Alliance, reaction to draft report, email, 14 September 2018.

treatment and good working conditions for workers; 6. occupational health and safety; 7. community relations; 8. integrated crop management; 9. soil management conservation; 10. integrated waste management.

Each of the ten principles is broken down into various criteria. The SAN standard (version 3 July 2010) includes 16 critical criteria. A farm must completely comply with a critical criterion in order to acquire or maintain certification. In addition, farms must comply with 50 per cent of the criteria for each principle of the standard and with 80 per cent of the criteria altogether.¹²

With regard to fair treatment and good working conditions for workers, the SAN standard includes the following critical criteria: non-discrimination; wages; prohibition of child labour; prohibition of forced labour; and freedom of association and collective bargaining.

Stakeholder involvement

Stakeholders can comment on draft versions of new RA standards or additional crop criteria in development through public consultations. Rainforest Alliance/SAN has initiated local working groups that develop guidance indicators to interpret the SAN standards for local conditions and specific crops. These working groups are open to farm owners, managers and other stakeholders. Rainforest Alliance/SAN has also formed an International Standards Committees, whose members are landowners, farmers, NGOs, community members, researchers, technicians and other stakeholders interested in improving SAN standards.¹³ Additionally, Rainforest Alliance informed SOMO that it started with a process of annual engagement with stakeholders by Certification Bodies in order to improve understanding of environmental and social risks at a country/regional level.¹⁴

Transparency

Rainforest Alliance/SAN discloses a list of certified farms and operations. However, no information is disclosed regarding the performance of these certified farms and operations nor are audit results disclosed.

Rainforest Alliance	
Type of monitoring	Third-party inspections are required. In addition, a minimum of 2 per cent of the yearly audits have to be unannounced audits. ¹⁵
Frequency of inspections:	Annual inspections
Validity of the certification:	3 years

2.2.2 Fair for Life

Fair for Life (FFL), launched in 2006 and developed by the Swiss Bio-Foundation and Institute for Marketecology (IMO). It is a provider for international inspection and certification services for organic, ecological and social standards. In September 2014 the ownership of the Fair for Life Programme was transferred from Bio-Foundation to IMO. IMO is responsible for the Fair for Life certification

¹² Rainforest Alliance, 'reaction to draft version of this report', 4 May 2016.

¹³ Rainforest Alliance website, 'Stakeholder Feedback', no date <<http://www.rainforest-alliance.org/about/integrity/stake-feed>> (18 February 2016).

¹⁴ Rainforest Alliance, 'reaction to draft version of this report', 4 May 2016.

¹⁵ Rainforest Alliance, 'reaction to draft version of this report', 4 May 2016.

services.¹⁶ FFL offers two kinds of certification: Fair for Life Social & Fair Trade Certification and For Life - Social Responsibility Certification.

For Life Social Responsibility Certification focuses on good working conditions and social responsibility while the Fair for Life Social & Fair Trade Certification includes all social standards and additionally fair trade aspects such as fair prices and a fair trade development premium. According to FFL, this certification is restricted to companies that focus on improving the position of marginalised groups.¹⁷

Both small-holder farmers as well as large companies are eligible for Fair for life certification. However, large hired labour farms need to demonstrate eligibility for Fair Trade certification as the main target group of Fair Trade are smallholders. For Life Social Responsibility certification can either apply for products or for companies. The Fair for Life Social & Fair Trade certification is a product certification only. There are nearly 300 Fair for Life certified operators of which 25 (13 Fair for Life certified and 12 For Life certified operators) can be found in Peru.¹⁸

FFL is available for a range of natural products, e.g. for all agricultural products (like oils, herbs, spices, fruit and vegetables, etc.), wild crafted products, seafood, livestock products, cut flowers, handicrafts, cotton and textiles.

Stakeholder involvement

Programme revisions are based on public consultations that are open to a wide range of stakeholders.

Transparency

All certified operations are published on the Fair for Life website. Cancelled and suspended operators are also listed on the website. However, the reasons for cancellation or suspension are not disclosed. Fair for Life also publishes the performance ratings of all certified operations on its website.

Fair for Life
Type of monitoring Third-party auditing is required.
Frequency of inspections: Annual audits. Additionally, the certification body may at any time conduct unannounced spot checks or additional audits.
Validity of the certification: One year

¹⁶ IMO, 'response to draft version of this report', 10 May 2016.

¹⁷ Fair for Life website, 'FAQ and materials', no date
http://www.fairforlife.org/pmws/indexDOM.php?client_id=fairforlife&page_id=materials&lang_iso639=en > (accessed on 2 September 2015).

¹⁸ IMO, 'response to draft version of this report', 10 May 2016; Fair for Life website, 'Certified operators', no date
http://www.fairforlife.org/pmws/indexDOM.php?client_id=fairforlife&page_id=certified&lang_iso639=en > (accessed on 5 April 2016).

2.2.3 SA8000

Social Accountability International's (SAI) mission is to advance the human rights of workers around the world.¹⁹ SAI has developed the SA8000 standard, a social certification standard for socially responsible employment practices, based on the auditing of workplaces.

As of March 2015, there are 3,490 SA8000 certified facilities in 72 countries. In Peru, there are four companies that hold SA8000 certification.²⁰ SA8000 is mostly used in the textile and garment industry: 26 per cent of all SA8000 certified units are textiles and apparel producers. Food companies only represent 4 per cent of the total number of certified facilities.²¹

The SA8000 standard covers various elements, related to the protection of the basic human rights of workers, such as: child labour; forced and compulsory labour; health and safety; freedom of association; discrimination etc.

The SA8000 certificate is issued after a certification audit has been carried out. The certification audit is carried out in two stages: the readiness review and the certification audit. These two audits are always announced. Certification lasts for three years, with a series of required surveillance audits (announced and unannounced) throughout this three-year period.²²

The audit process focuses on management systems and the eight performance elements in the SA8000 Standard. SA8000 certifications may be issued by certification bodies that have received accreditation from Social Accountability Accreditation Services (SAAS). SAAS is an accreditation agency founded to accredit and monitor organisations as certifiers of compliance with social standards, including the SA8000 standard.²³

Stakeholder involvement

The SA8000 standard revision procedure includes a public consultation that is open to all interested parties. SAI further consults with trade unions, companies and NGOs to provide interpretive guidance: to SA8000 auditors to verify compliance with the standard; and to managers and workers to implement SA8000 at their workplace.²⁴

Transparency

SA8000 publishes a list with SA8000 certified facilities. Information about the performance of certified companies and audit results are not shared.

SA8000
Type of monitoring Third-party auditing is required.
Frequency of inspections: "A series of required surveillance audits throughout this three year period". It is not clear what the exact frequency of these surveillance audits is.
Validity of the certification: Three years

¹⁹ SAI website, 'About SAI', no date <<http://www.sa-intl.org/index.cfm?fuseaction=Page.ViewPage&pageId=1365>> (accessed on 2 September 2015).

²⁰ SAAS, 'SA 8000 certified facilities', 31 March 2015 <<http://www.saasaccreditation.org/certfacilitieslist>>

²¹ SAAS, 'SA 8000 certified organisations by industry', 31 March 2015

<http://www.saasaccreditation.org/SA8000_Certified_Organisations_Pie_Chart_by_Industry>

²² SAAS, 'Requirements for Gaining and Maintaining Accreditation – SAAS Certification Requirements', December 2007 <<http://www.saasaccreditation.org/sites/default/files/u7/Procedure%202000,%20December.2007.pdf>>

²³ SAAS website, 'home page', no date <<http://www.saasaccreditation.org/>>

²⁴ SAI website, 'About SAI', no date <<http://www.sa-intl.org/index.cfm?fuseaction=Page.ViewPage&pageId=1365>> (18 February 2016).

3. Results

3.1 Child labour

International norms and Peruvian legislation on child labour

According to the ILO's Minimum Age Convention, the minimum age for employment is 15 years. According to the Convention on the Worst Forms of Child Labour, the minimum age for hazardous work is 18 years.

Although Peru has ratified both conventions, national legislation specifies the minimum age for employment to be 14 years of age. However, while child labour is prohibited by law, it is a common practice in Peru. Nearly 20 percent of all children aged between 6 and 14 are engaged in work in Peru.²⁵

Certification systems codes on child labour

The codes of Fair for Life, Rainforest Alliance and SA8000 all specify that children under the age of 15 are not allowed to work. Rainforest Alliance, however, makes an exception for light work performed by children above the age of 12 for a limited time [not specified]. The RA code further specifies that such underage work may only be carried out by "family members or neighbours in a community where minors have traditionally helped with agricultural work". The codes of the three initiatives all specify that young workers (workers under the age of 18) should not work in conditions that are hazardous to their physical and mental health and development.

Although child labour is an on-going challenge in Peru, most interviewed workers indicated that child labour (work performed by children under the age of 15) does not exist at their workplaces.

At the certified companies, only five of the 152 respondents (3 per cent) indicated that there are underage workers (younger than 15) among the workforce. At the non-certified companies four out of the 93 respondents (4 per cent) said that there are workers below the age of 15 employed at their companies.

While no major violations were reported regarding child labour, interviewed workers expressed concerns regarding age checks. According to the interviewed workers, at most companies the ages of young workers are not properly checked. Except at company 1 (non-certified) and company 6 (Rainforest Alliance) this is a problem at all investigated companies. There is a difference between certified and non-certified companies. While the lack of adequate age checks is an issue of concern at both certified and non-certified companies, certified companies perform significantly better with 15 per cent of respondents indicating that the ages of young workers are not (adequately) checked while at the non-certified companies 25 per cent of interviewed workers said that age checks are not (properly) carried out.

The lack of proper age checks leads to a risk that there are workers among the workforce who claim they have reached the minimum age for employment when in fact they may be younger. Especially during harvesting season, when there is a high demand for workers, the ages of workers are not properly checked according to the interviewed workers.

It should be noted that, in general, it is very difficult to uncover child labour as underage workers may not want to participate in interviews as they fear losing their jobs. In addition, in the absence of proper age checking mechanisms, workers may lie about their age when they apply for a job. Adult workers aware of underage labour may want to protect their underage colleagues as children and their families might get into trouble if they lose this source of income.

²⁵ United States Department of Labor – Bureau of International Labor Affairs, 'Peru: 2014 Findings on the Worst Forms of Child Labor', no date <http://www.dol.gov/ilab/reports/child-labor/peru.htm#_ENREF_10> (accessed on 30 December 2015).

3.2 Forced labour

International norms and Peruvian legislation on forced labour

ILO Conventions 29 and 105 prohibit all forms of forced or compulsory labour. The ILO defines forced labour as “all work or service which is extracted from any person under the menace of any penalty and for which the said person has not offered himself voluntarily”. The ‘forced labour convention’ (C29) requires that the illegal extraction of forced or compulsory labour should be punishable as a penal offence, and that ratifying states ensure the relevant penalties imposed by law are adequate and strictly enforced. The ‘abolition of forced labour convention’ (C105) is aimed at the abolishment of certain forms of forced labour still allowed under the forced labour convention. Additionally, forced or compulsory labour is considered as one of the worst forms of child labour in the Worst Forms of Child Labour Convention, 1999 (No. 182). The two forced labour conventions have been ratified by Peru and Peruvian legislation is in line with the content of these conventions.

Certification systems codes on forced labour

All three codes make reference to the ILO Forced Labour Convention (C029). Rainforest Alliance and Fair for Life also refer to ILO Convention 105 while SA8000 does not. All three codes include clauses that prohibit practices as described below (forcing workers to stay on the premises and continue working until targets have been reached). The Rainforest Alliance code specifies that “...the use of extortion, debt, threats or sexual abuse or harassment, or any other physical or psychological measure to force workers to work or stay on the farm, or as a disciplinary measure is prohibited”.

The SA8000 code stipulates that “personnel shall have the right to leave the workplace premises after completing the standard workday”. The Fair for Life code says “the company must not retain any part of workers’ salary, benefits, property or documents in order to force workers to remain on the operation. The company must also refrain from any form of physical or psychological pressure requiring workers to remain employed in the operation”.

No forced labour practices were reported by the interviewed workers. However, some workers reported that they are not allowed to leave the fields until they have finished their daily targets which often means they have to work extra hours without proper compensation. In addition, workers had to deal with the constant fear that their contracts would not be renewed if they did not comply with the management and supervisors’ orders. These practices were reported by 8 per cent of the respondents at certified companies and 9 per cent of the respondent companies without certification.

In particular, these practices were reported by workers at company 7 (not certified, five respondents), company 10 (For Life, four respondents) and company 5 (SA8000, three respondents). In contrast, interviewed workers at company 6 (Rainforest Alliance) and company 4 (not certified) did not report any forced overtime practices.

According to the ILO, the imposition of overtime does not constitute forced labour, as long as it is within the limits permitted by national legislation or collective agreements. However, in cases where workers are obliged to work overtime hours in order to earn the minimum wage or keep their jobs, or both, imposing overtime hours may qualify as forced labour. In the words of the ILO: “in cases in which work or service is imposed by exploiting the worker’s vulnerability, under the menace of a penalty, dismissal or payment of wages below the minimum level, such exploitation ceases to be merely a matter of poor conditions of employment; it becomes one of imposing work under the menace of a penalty which calls for protection of the workers.”²⁶

²⁶ ILO website, ‘Q&As on Business and Forced Labour’, no date <http://www.ilo.org/empent/areas/business-helpdesk/faqs/WCMS_DOC_ENT_HLP_FL_FAQ_EN/lang--en/index.htm#Q9> (accessed on 30 December 2015).

3.3 Freedom of association and the right to collective bargaining

International norms and Peruvian legislation on freedom of association and collective bargaining

The right to freedom of association and the right to collective bargaining are among the core conventions laid down by the ILO. These rights are laid down in convention 87 and 98. Peru has ratified both conventions.

- A minimum of 20 members are required to form a union in some cases, and the maximum requirement is 50 in others. As a result of this requirement there are no unions at all in small and medium-sized enterprises
- Trainee workers are excluded from collective bargaining.
- An obligation to observe an excessive quorum to call a strike as Article 73b of the Industrial Relations Law requires a vote in favour by half plus one of the workers in an enterprise in order to declare a strike.
- There is no independent body responsible for declaring whether a strike is legal or not as it is the responsibility of the Administrative Labour Authority to declare whether or not a strike is legal.
- Certain forms of strikes, such as go-slow strikes or work-to-rule, deliberately reducing productivity, or any form of stoppage where the workers remain at the workplace, are banned
- The Ministry of Labour has the power to end a strike if it poses a serious risk to the enterprise or the sector of production or if it could have serious consequences due to its size.

Certification systems codes on freedom of association and collective bargaining

The codes of Fair for Life, Rainforest Alliance and SA8000 all stipulate that workers' rights to join and form trade unions of their own choosing and to bargain collectively should be respected. Fair for Life and SA8000 further specify that trade union members and trade union representatives may not be discriminated against and that trade unions shall have access to the workplace.

Rainforest Alliance is the only initiative that specifies in its code that the company needs to have a formal policy on freedom of association and collective bargaining. In contrast, SA8000 is the only code that explicitly mentions that the company needs to inform workers about their trade union rights. Both Fair for Life and SA8000 specify that where the right to freedom of association and collective bargaining is restricted by law, the employer should facilitate the development of parallel means for independent and free association and bargaining. The three codes do not include clauses regarding not favouring one union above the other, which in the Peruvian context, where yellow unions (unions set up and/or controlled by the employer to prevent the establishment of a genuine trade unions) are not uncommon, would be a meaningful addition.

There are various barriers for workers in the export-oriented agricultural industry to exercise their rights to form and join unions and to bargain collectively. There have been many cases where workers who organise themselves in labour unions have been dismissed. A report (2014) by Solidarity Center, trade union federation FENTAGRO and trade union confederation CGTP describes a range of violations of trade union rights, including violations of existing collective agreements, the existence of blacklists to prevent dismissed union members from working in other companies and the use of temporary hiring structures for anti-union purposes.²⁷ At the time of writing (July 2016), there were only 11 company-level unions active in Peru's export-oriented agroindustry.

Of the ten investigated companies, during the field research period there were only two companies where some workers are unionised. At company 10 (For Life-certified), 130 workers were organised in a company-level union which was founded in 2007²⁸. At company 9 (not certified), there was a union active which had 260 members. The unions only represented a very small percentage of the

²⁷ CGTP, Centro de Solidaridad and FENTAGRO *'Investigación sobre las condiciones de incumplimiento de los derechos laborales en el sector agro-industrial en el Perú.'* CGTP, Centro de Solidaridad y FENTAGRO. Lima, October 2014. In The International Labor Rights Forum (ILRF), *'Public submission to the office of trade and labour affairs under chapters 17 and 21 of the trade promotion agreement between the United States and Peru.'* 23 July 2015.

²⁸ Centro Internacional de Formación de la Organización Internacional del Trabajo, "Trabajo decente, pobreza y empleo agrícola - Experiencias de organización sindical en el sector rural frente a la informalidad en América Latina, 2014" <<http://white.lim.ilo.org/spanish/260ameri/oitreg/activid/proyectos/actrav/forlac/estudios/Pobreza,%20Empleo%20Rural%20e%20Informalidad%20para%20edicion%20v1410v7.pdf>>

workforce as company 10 employs between 3,800 (low season) and 5,500 (harvesting season) workers and company 9 between 14,000 (low season) and 18,000 (harvesting season) workers. This means that the unions represented between 2 and 3 per cent of the workforce. The low membership numbers are explained by the fact that workers are too scared to join a trade union. Their main concern is that their contracts will not be renewed if they join a trade union.

Moreover, workers that were interviewed for this research reported that trade union representatives at their companies were discriminated against by the company. They faced various barriers that made it hard for them to fulfil their roles as trade union leaders. Workers indicated that trade union representatives had to deal with harassment, wage cuts, changing work schedules and unfair disciplinary measures. A worker at the company 10 explained: "Those who have joined the trade union are bullied by the company until they give up. They resign and if they try to apply again the company refuses to rehire them."

In its response to the draft version of this report, IMO referred to the most recent For Life audit carried out on 29 February 2016 at company 10. IMO writes the following: "the annual For Life audits at [company 10] have shown that the company demonstrates openness regarding the syndicate [trade union], that the employees are aware of their right to associate and that each worker has decided for himself / herself to join the syndicate or not. The thorough verifications during the audits have never revealed any indication that workers are afraid or that any discrimination/harassment has taken place. There was no sign of bullying or discrimination of syndicate members. Workers who are no syndicate members indicated that they don't have interest in joining the syndicate."²⁹

3.4 Discrimination

International norms and Peruvian legislation on non-discrimination

ILO Conventions 100 on equal remuneration and Convention 111 on non-discrimination are part of the ILO's fundamental conventions and have been ratified by Peru.

The Peruvian Constitution states that all people have the right to equality before the law and that no one may be discriminated against because of national origin, race, sex, language, religion, opinion, socio-economic or other status. Regarding labour relations, the Constitution states that the principle of equality of opportunity without discrimination is to be respected.³⁰ The Law Against Acts of Discrimination of 2000 prohibits requirements that "discriminate, nullify or impair equality of opportunity and treatment in offers of employment and access to means of educational training". Peruvian law also protects workers from job dismissals based on discrimination. The Law of Productivity and Labour Competitiveness nullifies the termination of employment contracts if the termination was on the basis of sex, race, religion, opinion or language. The law also prohibits the dismissal of pregnant women during pregnancy and 90 days after the birth of a child, unless the employer can show just cause for the termination.

The Law Implementing the National Plan Against AIDS provides that people living with HIV/AIDS may continue working and that job dismissals against people living with HIV/AIDS are deemed to be invalid.³¹

Certification systems codes on non-discrimination

The three codes prohibit any form of discrimination in relation to hiring, pay, benefits and access to training and promotion opportunities. The codes of Fair For Life and SA8000 specify that sexual harassment is not tolerated. Fair for Life further requires that the rights of pregnant women and new mothers should be respected. The SA8000 code prohibits that workers should be subjected to pregnancy or virginity tests.

²⁹ IMO, 'response to draft version of this report', 10 May 2016.

³⁰ US Department of Labor, 'Peru Labor Rights Report', no date < <http://www.dol.gov/ilab/reports/pdf/PLRRreport.pdf> > (19 February 2016).

³¹ Ibid.

The interviews reveal that discrimination is more prevalent on non-certified companies; 11 per cent of interviewed workers reported cases of discrimination while at certified companies only 6 per cent of the interviewed workers indicated that discriminatory practices exist at their companies.

At company 10 (For Life certified) and company 9 (not certified) almost one-third of the workers said that they (or one of their colleagues) had been discriminated against by the management of the company. This discrimination was related to the workers' affiliation with labour unions or to gender-specific issues. It is important to note that these are the only two companies where some of the workers were unionised (see Section 3.3: Freedom of association and the right to collective bargaining) and thus these results are no proof of the absence of anti-union discrimination at other companies surveyed.

Furthermore, the in-depth interviews brought to the fore several cases in which workers' contracts were not renewed after their pregnancy. Two workers from company 2 (Fair for Life certified) indicated that they had been discriminated against based on their origin. A lot of people who work at these companies come from the Peruvian highlands, and reported experiencing discrimination based on their skin colour and the way they speak.³²

3.5 Occupational health and safety

Peruvian legislation regarding occupational health and safety

According to Law 29783 on occupational health and safety, employers have a duty to prevent health and safety risks in the workplace. Employers must maintain a safe and healthy work environment, and must provide employees with adequate protective gear. Employers are also obliged to provide workers with information concerning workplace risks, as well as with occupational safety and health training. The law also requires them to develop an action plan for the prevention of workplace accidents. Employers are liable for all the economic costs related to workplace accidents or injuries. All employers must notify authorities of fatal accidents within 24 hours and must keep records on work-related accidents and risks. Companies that have a workforce of more than 20 employees must establish an Occupational Health and Safety Committee.³³

Certification systems codes on occupational health and safety

The codes of the three initiatives stress the need for health and safety training for workers. Fair for Life and SA8000 further stipulate this training should be given on a regular basis. The Rainforest Alliance code specifies that workers should be trained on the safe use of agrochemicals and that measures should be taken to "avoid the effects of agrochemicals on workers, neighbours and visitors". The Rainforest Alliance code further requires access to medical services and emergency treatment during working hours, access to annual check-ups for workers handling agrochemicals, initial medical check-ups and 6-month regular exams for those handling organophosphates and carbamates.

Fair for Life and SA8000 also stipulate that workers shall be provided with free access to clean toilets, potable water and suitable spaces for meal breaks. The SA8000 code is the only code that stipulates that a health and safety committee (with management and worker representation) should be established. Rainforest Alliance's code includes a provision on access to medical services ("All workers and their families must have access to medical services during working hours and in case of emergency"). The SA8000 code is a bit more limited in this area, specifying that first-aid treatment should be provided in cases of work-related injuries. The Fair for Life stipulates code that "All workers and their families must have access to medical services during working hours and in case of emergency".

³² As for Fair for Life certified Don Ricardo and Fair for Life certified Tal S.A., IMO writes that audits at these companies have never revealed concerns regarding discrimination. The findings of the SOMO/ Plades research will be followed up in the next audits though. IMO, 'response to draft version of this report', 10 May 2016.

³³ The Human Rights and Business Country Guide, 'Peru: occupational health and safety', no date <<http://hrbcountryguide.org/countries/peru/labour-standards/occupational-health-safety/>> (23 December 2015).

Occupational health and safety training

With regard to providing occupational health and safety (OHS) trainings, the ten investigated companies perform quite well. Again, certified companies perform slightly better than non-certified companies: 93 per cent of interviewed workers say that new workers receive training on occupational health and safety issues versus 89 per cent of interviewed workers at non-certified companies.

At four of the ten companies: company 7 (not certified), company 3 (For Life), company 6 (Rainforest Alliance) and company 4 (not certified), all the interviewed workers said that new workers receive training on occupational health and safety. The majority of respondents at company 10 (For Life), company 9 (not certified), company 2 (Fair for Life), company 5 (SA 8000) and company 8 (For Life) indicated that new workers are trained on occupational health and safety issues. Company 1 (not certified) receives the lowest score: five respondents said that new workers are not trained on occupational health and safety.

When it comes to specific guidance on the safe use of materials, equipment and agrochemicals, three companies stand out; at company 7 (not certified), company 2 (Fair for Life) and company 6 (Rainforest Alliance) all workers indicated they had been trained on these matters. At companies 3 and 4, all but one respondent answered positively. Two non-certified companies received the lowest scores: at company 9, four respondents said that they did not receive training and at company 1 there were five respondents who indicated not to have been given guidance on the safe use of materials, equipment and agrochemicals.

Provision and use of personal protective equipment

The majority of interviewed workers – 94 per cent of respondents at certified companies and 89 per cent of respondents at non-certified companies – reported that they are provided with personal protective equipment (PPE). However, at one of the non-certified companies (company 1) a quarter of interviewed workers testified that they were not provided with adequate protective gear. At another non-certified company (company 9) four respondents indicated that they are not provided with adequate protective gear. At company 2 (Fair for Life), company 8 (For Life) and company 4 (not certified) there were also some workers (two at each company) who reported that they had not been given appropriate PPE. At company 1 (not certified), company 10 (For Life) and company 9 (not certified), field workers indicated that they are not adequately protected from the chemicals that they use to fumigate the fields. These workers also indicated that they are exposed to the sun all day, without proper protection. At company 5 (SA8000), in contrast, field workers are provided with caps and long-sleeved shirts to protect them from the sun.

IMO reports that, while workers at company 10 are to their knowledge adequately protected from chemicals, protection from climate conditions needs further improvement. At the company 2 minor issues regarding sun protection for workers in the field and a lack of the correct PPE for workers who were assigned to work in a different area as usual were found during the last Fair for Life audit (December 2015). These cases have been resolved by the company, according to IMO. The audits at the two other For Life certified companies (companies 3 and 8) did not reveal any non-compliances with regard to occupational health and safety according to IMO.³⁴

Health and safety committees

The majority of interviewed workers confirm that health and safety committees exist at their companies. However, various workers expressed doubts about the adequate functioning of such committees. One worker at one company 1 (not certified) said: “Yes, there is a health and safety committee but it doesn’t function. Here, the company manages everything; there have never been elections for the committee. Management appoints people to be part of the committee and instructs them on what to do.”

³⁴ IMO, ‘response to draft version of this report’, 10 May 2016.

Canteens and toilets

The majority of interviewed workers were satisfied with the provision of canteens and toilets. There were, however, some exceptions. At company 9 (not certified), eight interviewed workers (30 per cent) indicated that the company did not provide clean and hygienic toilet facilities. At company 10 (For Life certified), five workers (20 per cent of the interviewees) were unhappy with the toilet facilities. Likewise, five of the interviewed workers at this company were not satisfied with the canteen facilities. IMO, in its response to a draft of this report, confirmed that the sanitary facilities at company 10 had been a topic of concern and that the company was in the process of improving the facilities. IMO has also recommended the company to improve their canteen.³⁵

Access to medical services

While a majority of interviewed workers at both certified and non-certified companies were satisfied with the medical services provided by their employers, in comparison to the other OHS issues the investigated companies performed less well in this regard. Overall, 89 per cent of the interviewed workers at certified companies and 86 per cent of the interviewed workers at non-certified companies said to be satisfied with the medical services.

The Rainforest Alliance certified company and two non-certified companies performed less well. Almost a third of interviewed workers at the RA-certified company and said that their employers did not provide adequate medical services.

Work-related injuries and accidents

At all the companies under review, workers reported that (minor) accidents occurred. Cuts (because of the use of machetes) or people falling off ladders during the harvesting of avocados were the most frequently reported accidents. Over the last two years, however, no serious accidents have occurred at the ten investigated companies.

At company 5 (SA 8000), company 7(not certified), company 2 (Fair for Life), company 3 (For Life) and company 4 (not certified), workers were quite satisfied with the medical services offered by their employers. One worker at company 5 explained: "When a worker is injured, they are taken to the company's clinic where he is attended by the nurse."

Company 6 (Rainforest Alliance), company 1 (not certified) and company 9 (not certified) performed less well. Almost a third of interviewed workers at company 6 and company 1 and nearly a quarter of interviewed workers at company 9 said that their employers did not provide adequate medical services.

3.6 Security of employment

Peruvian legislation regarding security of employment

The Agricultural Promotion Law (see for more information Section 2.1) grants employers in the agricultural industry the opportunity to hire workers on a temporary basis. Employment contracts can be renewed over and over again, without the worker ever attaining the status of a permanent employee.

Certification systems codes on security of employment

The three certification initiatives cover aspects that relate to security of employment. The SA8000 code states: "The organization shall not use labour-only contracting arrangements, consecutive short-term contracts and/or false apprenticeship or other schemes to avoid meeting its obligations to personnel under applicable laws and regulations pertaining to labour and social security".

³⁵ IMO, 'response to draft version of this report', 10 May 2016.

Rainforest Alliance's code specifies that the company must directly hire its workforce, except when a contractor is able to provide specialised or temporary services under the same environmental, social and labour conditions required by the Rainforest Alliance standard. The company must not establish relations or contracts with third parties, form or directly participate in employee-owned companies, or use other mechanisms to avoid the direct hiring of workers and the obligations normally associated with labour contracts. Employment of foreign workers must be subject to a work permit issued by the relevant government agency. The company may not ask for money from workers in return for employment.

The Fair for Life code is most detailed on this issue and stipulates that the company should strive to provide regular employment. "The social focus and commitment to improved working conditions shall also specifically include any seasonal, migrant and temporary workers, who are often those with the weakest bargaining position and the most marginalised social group in the local setting". "To the extent possible, work shall be based on recognised employment relationship, i.e. regular, non-seasonal work shall be undertaken by permanent workers. Time-limited contracts and daily waged labourers shall only be used during peak periods, for special tasks or under special circumstances. If due to specific country circumstances temporary workers are employed all year round, the employer shall grant all workers the same rights and benefits, independent of their employment status; this includes seasonal and temporary labour. Obligations to employees under labour or social security laws and regulations arising from the regular employment relationship shall not be avoided through the use of labour-only contracting, sub-contracting, or home-working arrangements, or through apprenticeship schemes where there is no real intent to impart skills or provide regular employment, nor shall any such obligations be avoided through the excessive use of fixed-term contracts of employment."

Conditions of employment

All of the interviewed workers were hired on a temporary basis. Contracts are renewed every two to six months. Workers are either hired under the '*Régimen Especial*' (special regime) or under the '*Régimen General*' (general regime). Under the special regime (part of the Agricultural Promotion Law), workers are not entitled to a number of basic benefits that are guaranteed under the general regime. Workers that are hired under the special regime are entitled to only 15 vacation days instead of 30 under the general regime; instead of a monthly minimum wage, the regime provides for a daily minimum wage; the regime allows for 'accumulated' workdays with overtime only paid when the average working day over the entire period of the work contract exceeds eight hours (see also paragraph 2.1). The vast majority of the interviewed workers – 65 per cent at certified companies and 61 per cent at non-certified companies – were hired under the special regime. A considerable number of interviewed workers – 20 per cent at certified companies and 19 per cent at non-certified companies – indicated that they did not know the basis on which they were employed.

There were notable differences between the investigated companies. At one non-certified company (company 7) all interviewed workers were hired under the special regime. In contrast, at company 10 (For Life certified), 60 per cent of interviewed workers were hired under the general regime. Also, at company 9 (not certified) a majority (54 per cent) of interviewed workers were hired under the general regime. On the other hand, at the SA8000 certified company (company 5), 92 per cent of the respondents were hired under the special regime. Likewise, the vast majority of workers at company 8 (For Life certified) and company 6 (Rainforest Alliance certified) were hired under the special regime (both making up 84 per cent of interviewed workers).

At all investigated companies there were workers who reported that they feared their contracts were not going to be renewed. Company 10 (For Life certified) and company 1 (not certified) had the worst performance in this regard with nearly a quarter of interviewed workers testifying that supervisors threatened their contracts would not be renewed if they did not meet their production targets or if they made any mistakes. A worker at company 1 testified: "They [the company] are very strict. We have to comply with all their rules and regulations. If not, they can throw us out at any time. The supervisors always push us to do our work and not make any complaints."

IMO said that a 2014 For Life audit at company 10 indeed revealed cases of workers being intimidated by supervisors. To address this issue, supervisors have undergone training. The 2015 audit did not show any indication of intimidation any more, according to IMO.³⁶

The constant fear that contracts will not be renewed leaves workers in a very vulnerable position. Workers feel forced to accept substandard conditions and to keep silent about exploitative practices, as they do not want to lose their job and their income.

A worker at company 2 (Fair for Life certified) said: “Every three or six months, workers should get a new contract. There are a lot of clauses in the contract that are not fulfilled by the company. If the contract is finished and there is work, you get a new contract. If there is no work, you have to go. I have been working at this company for two years now. My contract has expired but I continue working. They have not yet given me a new contract. They make you work without contract. Then, at some point they will make you sign a contract with a date that has long passed.”

Contracts

The majority of interviewed workers – 92 per cent respectively at both certified and non-certified companies – had signed contracts with their employers.

All interviewed workers at the four investigated companies in La Libertad had signed contracts with their employers. In Ica, several interviewed workers at four of the six investigated companies (company 1, company 4, company 6 and company 8) said they had not signed a contract. Company 6 (Rainforest Alliance certified) performed worst in this regard: ten of the interviewed workers (40 per cent) had not signed a contract with their employer. Responding to this issue, Rainforest Alliance indicated that their code does not require written contracts but requires compliance with legislation. In Peru, written contracts are required for permanent contracts but not for temporary contracts.³⁷ Indeed, the interviewed workers who indicated not having contracts were hired on a temporary basis, like the vast majority of workers in the Peruvian agro-export industry. However, although workers are hired on a temporary basis, they may work for the same company for many consecutive years, as the Peruvian Agricultural Promotion Law makes it possible for employers in this industry to hire workers on consecutive temporary contracts.

3.7 Wages and working hours

International norms regarding (living) wages

According to the Universal Declaration of Human Rights, everyone who works has the right to “just and favourable remuneration ensuring for himself and his family an existence worthy of human dignity, and supplemented, if necessary, by other means of social protection”.

Peruvian legislation on wages

Instead of a monthly minimum wage, the Agricultural Promotion Law provides for a daily minimum wage. The daily wage should be no less than the legal minimum wage, which is currently set at 750 soles per month (€202). However, unlike the minimum wage that is valid for sectors outside the agricultural sector, this amount already includes remuneration for national holidays.

Certification systems codes on (living) wages

The Rainforest Alliance does not require farms to pay out a living wage. The code only specifies that workers must receive pay in legal remuneration greater than or equal to the regional average or the legally established minimum wage, whichever is greater, according to their specific job. The Fair for Life code states that wages and benefits for a standard working week meet, at a minimum, national legal standards or industry benchmark

³⁶ IMO, ‘response to draft version of this report’, 10 May 2016.

³⁷ Rainforest Alliance, ‘reaction to draft version of this report’, 4 May 2016.

standards, whichever is higher. In any event, wages should always be enough to meet the basic needs of the workers and their families including some discretionary income. The SA8000 code is most outspoken about living wages, stating that “the company shall respect the right of personnel to a living wage”.

Peruvian legislation on working hours

Whereas the general Peruvian labour legislation for private companies establishes eight-hour working days, or a 48-hour working weeks, the law allows for ‘accumulated’ workdays in the agricultural sector, with overtime only paid when the average working day over the entire period of the work contract exceeds eight hours. In other words, a worker could be obliged to work 20 hours one day, without overtime pay, and then given very little work on subsequent days, so that the average working day is eight hours.

Certification system codes on working hours

All three codes state that a regular working week should not exceed 48 hours and that workers should have at least one day off each week. Overtime must be voluntary and must not exceed 12 hours in a week. The Rainforest Alliance code further specifies that overtime hours must be paid at a premium rate. The Fair for Life code requires that overtime has to be paid and that legal legislation has to be respected (i.e. premium rate if defined so by law).

The Rainforest Alliance code includes a clause that allows for an exception period (if local labour law permits) during which the maximum 60 hours (48 normal hours plus 12 overtime hours) per week can be exceeded during seasonal activities or due to unforeseen circumstances).

All interviewed workers indicated that they earned just above the minimum wage (750 soles per month, equivalent to €205³⁸). However, they have to work more than eight hours a day to obtain this wage. Workers indicated that they have to work extra hours in order to earn a minimum income necessary to meet their basic needs. It turned out to be difficult to assess average wage-to-working hour ratios of the interviewed workers as wages and working hours varied considerably throughout the year.

The wages of the interviewed workers ranged from 200 soles to 320 soles per week (€55 to €88). No substantial differences were signalled between the wage levels at the investigated companies. According to the *Instituto Nacional de Estadística* a living wage that could satisfy the needs of a family of four would be 1,500 soles (€412) per month. Wages of the interviewed workers do not reach the level of a living wage.

At all companies, workers could earn extra money after they had completed their production target. After they had achieved the target, they got paid based on a piece-rate system.

A worker at company 2 (Fair for Life certified) explained: *“Everybody earns the same daily wage. Only supervisors earn a bit more. Per week we earn around 200 soles. Two years ago, the company introduced a piece-rate system. First you have to complete a target of 500 or 600 boxes. After you have reached the target you get paid 0,70 to 0,90 soles per box. In the packing department there is a similar system. First you have to complete 500 boxes. After that, they pay 20 cents extra per box. The production targets are very high and the payment for extra work is very poor. When we work until 1 or 2 am at night, we will be able to earn around 300 soles per week.”*

During the interviews, workers expressed complaints about this system of daily wages and piece-rate wages for extra work. First, their daily wage (based on eight hours) was only paid when the workers reached the daily production target, which could sometimes take more than eight hours. Secondly, they worked many overtime hours to make some extra money but the extra hours they worked were based on a piece-rate payment system. According to Peruvian law, the rate for overtime hours is 125 per cent. Work on Sundays, public holidays or during the night should be paid at the rate of 150 per

³⁸ Exchange rate of 24 June 2016. www.xe.com

cent.

Except for company 3 (For Life certified), there were respondents at all the companies under review who reported problems regarding the adequate payment of overtime hours. At the non-certified companies, 26 per cent of the interviewed workers reported inaccurate payment of overtime hours. Certified companies performed better in this regard; 19 per cent of interviewed workers said that overtime hours were not adequately paid.

At company 6 (Rainforest Alliance) and company 7 (not certified), a third of the interviewed workers said overtime hours were not properly compensated. According to the Rainforest Alliance, however, the audit report of company 6 did not show non-compliance with regard to overtime payments.³⁹

Five interviewed workers at company 7 (not certified), three workers at company 5 (SA8000) and two workers at company 1 (not certified) indicated that they were forced to do overtime work and that they were not allowed to leave the fields until they finished their targets.

One worker at company 1 said he and his colleagues often worked until late at night but “nobody complains; we are like little sheep. There is no other option. The extra work is obligatory.”

3.8 Awareness about certification

The research revealed that almost half (48 per cent) of interviewed workers were not aware of their company being certified.

SA8000 certified company 5 scored best, with 72 per cent of the interviewed workers being aware of the certification. Most of the respondents (61 per cent) had heard about the certification through the company. Others (22 per cent) had heard about the certification through colleagues. Some workers indicated that they had seen documents about the certification posted at the workplace.

At Rainforest Alliance-certified company 6, 64 per cent of interviewed workers said that they knew about the company’s certification. The vast majority knew about the certification through pamphlets posted at the workplace. In response to a draft version of this report, Rainforest Alliance indicated that it was aware of the low level of awareness about the certification among workers. An audit conducted during harvesting season – when a lot of temporary workers were present – had revealed this. Rainforest Alliance said that this point would be addressed in the next audit.⁴⁰

At company 2 (Fair for Life), 52 per cent of interviewed workers knew about the certification. At the other For Life certified companies, the majority of interviewed workers did not know about the sustainability certification their company holds: of the interviewed workers, 63 per cent at company 10; 60 per cent at company 3 and 52 per cent at company 8 were not aware of the companies’ certifications. IMO confirmed that, at companies 3 and 10 workers’ awareness regarding the company’s commitment to For Life is a challenge. “This holds especially true for field workers who are mainly temporary workers. The companies are undertaking measures to increase workers’ knowledge about the certification”. The latest Fair for Life audit at company 8 did not indicate any issues regarding workers’ awareness of Fair for Life certification, according to IMO.⁴¹

The interviews revealed that there was a great lack of awareness among the interviewed workers about what the certification entails. The workers who did know about the company’s certification could

³⁹ Rainforest Alliance, ‘reaction to draft report’, 4 May 2016.

⁴⁰ Rainforest Alliance, ‘reaction to draft report’, 4 May 2016.

⁴¹ IMO, ‘response to draft version of this report’, 10 May 2016.

not tell what this meant. What was encouraging was that the majority of workers who did know about the certification indicated that they had seen improvements in working conditions since the company became certified. At company 6 (Rainforest Alliance certified) and company 3 (For Life certified), all workers who are aware of the certification indicated that working conditions had improved. Likewise, a majority of respondents at company 5 (SA8000 certified), company 8 (For Life certified) and company 10 (For Life certified) who knew about their company's certification indicated that working conditions had improved.

3.9 Other

Grievance mechanisms

International norms regarding grievance mechanisms

According to the United Nations Guiding Principles on Business and Human Rights, companies should have grievance mechanisms in place to deal with workers' needs and complaints. Such grievance procedures should meet the following core criteria: legitimacy; accessibility; predictability; equality; compatibility with internationally acceptable rights; transparency. Complaint procedures should provide a basis for continuous learning and improvement. Company's grievance procedures are an important supplement to collective bargaining, but may never be used to replace this legitimate process.

Certification systems codes on grievance mechanisms

Fair for Life states that employers should have in place procedures through which workers can raise grievances or complaints to the company as well as to the certification body without fear of being penalised. The SA8000 code is more detailed and states that:

- a) a written grievance procedure shall be established that is confidential, unbiased, non-retaliatory and accessible and available to personnel and interested parties to make comments, recommendations, reports or complaints regarding the workplace and/or non-conformance to the SA8000 standard.
- b) the company must have procedures for investigating, following up and communicating the outcome of complaint. These results should be freely available to all personnel and, upon request, to interested parties.
- c) the company shall not discipline, dismiss or otherwise discriminate against any personnel or interested party for providing information on SA8000 compliance or for making other workplace complaints.

The Rainforest Alliance code that was in force at the time the interviews were conducted (version 3, July 2010) does not include a provision on grievance mechanisms. A new version of the Rainforest Alliance code does include a critical criterion on grievance mechanisms.

At the non-certified companies, 74 per cent of the interviewed workers indicated that they were satisfied with the company's complaints mechanism. Certified companies performed slightly better; 77 per cent of the interviewed workers indicated that there was an adequate complaints mechanism available at their company.

Ten interviewed workers at company 1 (not certified) and half of the interviewed workers at company 8 (For Life) indicated that there were no adequate mechanisms available to express grievances or complaints. Likewise, almost one-third of the interviewed workers at company 2 (Fair for Life) and company 4 (not certified) said there were no proper grievance mechanisms. At company 6 (Rainforest Alliance) a quarter of the interviews were not satisfied with available means to express complaints.

In contrast, at company 5 (SA8000), company 9 (not certified) and company 3 (For Life) the majority of workers were satisfied with the available mechanisms. At company 7 (not certified) and company 10 (For Life) all interviewed workers said they were satisfied with the available complaint mechanisms.

Supervisors

With regards to the treatment of supervisors, problems were reported by workers from company 10 (For Life), company 8 (For Life) and company 1 (not certified). At company 8, workers reported serious issues; they testified that one of the supervisors had assaulted female workers. They also claimed that workers' efforts to form a union were met with reprisals. While IMO confirmed that

intimidation by supervisors had been a problem at company 10, which was being addressed, audits at company 8 had never revealed any such issues.⁴² At company 1, three workers said that supervisors treated the workers badly, shouting at them and scolding them.

Audit practices

Regarding audit practices, a worker at company 2 (Fair for Life) explained during the in-depth interviews: “Sometimes management tells us that the next day there will be some visitors who will ask us some questions. On the day of these inspections the toilets are super clean. They tell us to cut our nails and to wear gloves. The worst thing is that when the inspector asks us questions there will always be someone from management or a supervisor nearby who is listening to what we are saying. Before the inspectors enter the compound we already know what they will ask and what we should answer.”

IMO responded to this point saying that the Fair for Life audits at company 2 had not revealed any indication that workers were intimidated or guided regarding their answers during interviews with the auditor. IMO further explained that the company has to inform their workers about their right to discuss information with the auditor confidentially; that during the interviews no management representatives or supervisors are present and that the interviews are voluntary, confidential and anonymous. IMO also said that intimidation of workers or pre-defining answers is verified during the interviews. IMO did not, however, explain how this is verified. Also, IMO writes that off-site audits are a possibility, especially in case of doubts, suspicion of violation of workers’ rights, suspicion of intimidation of workers.⁴³ IMO did not explain whether off-site interviews had been conducted for the companies included in this research.

Workers at company 7 (not certified) told the researchers that the auditors only talk to management and not to the workers. Workers at company 10 (For Life) testified that management announces audits in advance and that everything must look perfect before the auditors arrive.

⁴² IMO, ‘response to draft version of this report’, 10 May 2016.

⁴³ IMO, ‘response to draft version of this report’, 10 May 2016.

4 Conclusions

This research focuses on the impact of sustainability certification systems on working and employment conditions in the Peruvian agro-export industry. While the certification initiatives that are used by the investigated companies (Fair for Life, Rainforest Alliance and SA8000) may also address environmental or economic issues, this study focuses on eight key labour rights that are covered by all three initiatives: no child labour, no forced labour, freedom of association & collective bargaining, non-discrimination, safe and healthy working conditions, security of employment, (living) wages and no excessive working hours.

The sustainability certification initiatives that are the focus of this research aim to ensure decent working conditions at certified workplaces. Their codes are based on international labour standards. In addition, certified companies are sometimes expected to go beyond what is required by national law. Certified companies are expected to uphold minimum standards and to work towards full compliance with the certifiers' standards.

While agricultural production and consumption has become globalised, regulation has not. European retailers sell fruit and vegetables produced in a variety of developing economies where enforcement of labour laws is often weak. The globalisation of business operations has not been accompanied by an effective international regulatory human rights framework. It is in the context of this global governance gap that sustainability certification initiatives have gained popularity over the past few decades. Sustainability certification is perceived as a credible and practical way for food and retail companies to ensure and communicate good social, economic and environmental conditions in agricultural commodity supply chains originating in developing economies. While it is important to assess the effectiveness of these certification initiatives at the workplace level, it is also crucial to understand the boundaries of their roles. The role of certification schemes has to be seen as additional to – and certainly not as a replacement of - the role of governments in monitoring and enforcing labour standards. Likewise, sustainability certification initiatives may play a complimentary role in improving working conditions at certified producers. However, they cannot and should not replace the legitimate process of dialogue and collective bargaining between employers and employees' legitimate representatives.

Performance of certified versus non-certified companies

This research found no major differences between certified and non-certified companies. Overall, certified companies perform only slightly better than non-certified companies. The certified companies scored better in almost all categories except for conditions of employment (the number of workers that are hired under the so called special regime which curtails a number of basic rights is higher at the certified companies) and freedom of association where due to a near total lack of trade unions and the anti-union attitude of employers in this industry both certified and non-certified companies perform very poorly. In other areas the certified companies perform better. For instance, at both certified and non-certified companies there is a risk that underage workers are among the workforce as ages are not always properly checked according to the interviewed workers. However, with 25 per cent of interviewed workers at non-certified companies indicating that ages of underage workers are not always checked, the percentage is significantly higher than the 15 per cent of interviewed workers at certified companies that responded negatively to this question. Likewise, certified companies score better on the subject of adequate payment of overtime hours (26 per cent of interviewed workers at non-certified companies reported that overtime hours are not paid properly versus 19 per cent of interviewed workers at certified companies).

While the lack of awareness among interviewed workers about what the sustainability certification that their employers hold means for them is worrisome, it is encouraging that a majority of interviewed workers that are aware of the company's certification indicate that working conditions have improved since the company got certified.

This research not only looks into the differences between certified and non-certified companies, it also assesses whether employment and working conditions are in line with the (minimum) standards as expressed in the certifiers' codes. This research found that in some areas, the researched companies do not comply with the certification initiatives' standards. Moreover, the research found cases of violations of Peruvian labour law. Below the findings related to the key labour rights issues that are focus of this research are discussed.

Trade union rights denied

The most pressing issue that this research uncovered is the almost total absence of trade unions and the active obstruction of organising efforts. At the time when the interviews for this research were conducted there was only a trade union active at one of the certified companies included in this research: For Life-certified company 10.⁴⁴ In addition at the non-certified company 9 there was also a union active. However, leaders of these trade unions are discriminated and harassed by the companies. The unions have very few members as most workers do not dare to join trade unions as they fear that their contracts will not be renewed. The obstruction of unionising efforts and the discrimination of trade union leaders are clear violations of the codes of the sustainability certification initiatives. Moreover, these practices are in violation with Peruvian legislation.

Job insecurity leads to silenced workers

All the interviewed workers are hired on a temporary basis. They may work for the same company for many consecutive years without ever attaining the status of permanent worker. There is always the threat that contracts will not be renewed. Workers feel they have to accept whatever management and supervisors ask from them as otherwise they fear their contract will not be renewed and they will lose their source of income. This means workers have to accept working overtime hours even if they do not want to. The constant fear of contracts not being renewed also has a great hampering effect on organising efforts. Workers are not inclined to become members of trade unions as this might limit their chances of a new contract. Moreover, workers are not inclined to express any grievances or complaints as they fear repercussions in the form of non-renewal of their contract.

The Peruvian Agricultural Promotion Law makes it possible for employers in this industry to hire workers on consecutive temporary contracts. While the investigated companies may be complying with Peruvian law, the codes of Fair for Life and SA8000 specify that consecutive short-term contracts should be avoided (SA8000) and that companies should strive to provide regular employment (Fair for Life). However, it should be noted that all three sustainability certification codes do not have strong clauses on providing security of employment. The fact that workers are only given temporary contracts leaves them in a vulnerable position. As hiring workers on a temporary basis is the norm in the agricultural industry, not only in Peru but also in other countries, it is a great omission that the certification initiatives' codes do not include clear requirements on the right to job security.

No living wages

No breaches have been found regarding the payment of the legal minimum wage. All interviewed workers earn slightly more than the minimum wage of 750 soles per month. However, the minimum wage of 750 soles per month for agricultural workers is not enough to satisfy basic needs. According to the *Instituto Nacional de Estadística* a living wage which could satisfy the needs of a family of four would be 1,500 soles per month, double the amount of the minimum wage. Therefore, workers feel

⁴⁴ In February 2016 the entire leadership of company's 10 trade union was dismissed. For more information see chapter 3.

forced to work overtime hours to complement their meagre wages. The SA8000 code is the only code that explicitly refers to the right to a living wage.

Child labour

No major violations were reported regarding child labour. Very few workers indicated that underage workers are among the workforce. What is concerning, however, is that, according to the interviewed workers, at most companies the ages of young workers are not properly checked (except non-certified company 7 and Rainforest Alliance certified company 6 this is a problem at all investigated companies). Without proper age checks, there is thus a risk that underage workers are among the workforce.

Forced labour

No forced labour practices were reported by the interviewed workers. However, some workers at company 7 (not certified), company 5 (SA8000) and company 1 (not certified) reported that they are not allowed to leave the fields until they have finished their daily targets which often means they have to work extra hours without proper compensation. In cases where workers are obliged to work overtime hours in order to earn the minimum wage or keep their jobs, or both, imposing overtime hours may qualify as forced labour.

Occupational health and safety

Except for company 1 (not certified), the companies perform quite well regarding the provision of occupational health and safety training and the provision of personal protective equipment. Regarding the provision of medical services, workers at company 5 (SA8000), company 7 (not certified), company 2 (Fair for Life), company 3 (For Life) and company 4 (not certified) are satisfied with the offered services while a quarter of workers at company 1 (not certified), company 6 (Rainforest Alliance) and company 9 (not certified) said that their employers do not provide adequate medical services.

Discrimination

At both company 10 (For Life) and company 9 (not certified) almost one-third of the workers say that he/she (or one of their colleagues) has been discriminated upon by the management of the company. This discrimination is related to the workers' affiliation to labour unions or to gender specific issues. The research shows discrimination to be more prevalent on non-certified farms.

Overview of results

The below table presents a summary of the results of the short worker interviews. Each labour issue was broken down in to various questions (52 questions in total). A selection of questions have been included in the below table. The results are combined for certified and not certified companies as to make a comparison between certified and non-certified companies possible.

Table 16: comparison between certified and non-certified companies

Issue	Answer	Certified companies	Non-certified companies
Child labour			
Have you seen children under the age of 15 working at your company?	Yes	3%	4%
	No	97%	96%
Have you seen young workers (between the age of 15 - 17) perform hazardous work?	Yes	3%	3%
	No	97%	97%
Are new workers subjected to age checks?	Yes	82%	73%
	No	15%	25%
	Don't know	3%	2%
<i>Average score category</i>		92%	87%
Forced labour			
Are you ever forced to work against your will?	Yes	8%	9%
	No	92%	91%
Discrimination			
Have you or one of your colleagues ever experienced discrimination by the company based on race, origin, religion, age, gender, disability, sexual orientation, marital status, HIV/Aids?	Yes	6%	11%
	No	93%	88%
	Don't know	1%	1%
Occupational health and safety			
Do new workers receive OHS training?	Yes	93%	89%
	No	7%	10%
	Don't know		1%
Have you received training on the safe use of materials and machines you have to work with?	Yes	93%	88%
	No	7%	12%
Did the company provide you with PPE?	Yes	94%	89%
	No	5%	11%
	Don't know	1%	
Are first aid kits available at your workplace?	Yes	97%	90%
	No	3%	10%
Are medical facilities available at your workplace?	Yes	89%	86%
	No	10%	14%
	Don't know	1%	
<i>Average score category</i>		93%	88%
Contracts and wages			
Did you sign a contract with your current employer?	Yes	92%	92%
	No	8%	8%
Are overtime hours paid out according to law?	Yes	80%	72%
	No	19%	26%
	Don't know	1%	2%
Are you hired under the general regime (GR) or under the special regime (SR)	GR	15%	20%
	SR	65%	61%
	Don't know	20%	19%
Are you entitled to leave (holidays) according to law?	Yes	84%	77%
	No	13%	18%
	Don't know	3%	5%
<i>Average score category</i>		85%	80%
Freedom of association and access to remedy			
Is there a trade union active at your workplace?	Yes	17%	25%
	No	83%	75%
Access to remedy			
Is there an adequate mechanism available at your company where you can file complaints regarding working conditions?	Yes	77%	74%
	No	22%	26%
	Don't know	1%	

Recommendations

In order for sustainability certification systems to be effective in improving working conditions SOMO and PLADES set out a series of recommendations

Enable workers to stand up for their rights

Initiatives that aim to improve conditions for workers – like the ones currently under review – cannot be effective as long as there is no central role for workers and their representatives in monitoring workplace conditions, expressing grievances and finding solutions to the problems they face.

This research reveals that workers in the Peruvian agro-export industry are hampered in expressing complaints and grievances and in claiming their rights. In fact, it is likely that many workers are not aware of their rights as laid down in the certifiers' codes as there is little awareness about the kind of certification companies hold and what this means for workers' rights. There are hardly any trade unions active in this industry as organising efforts are being actively suppressed. Workers do not dare to express complaints or to say no to substandard working conditions, as there is the constant threat of contracts not being renewed.

In order to enable workers to stand up for their rights, it is recommended that sustainability certification initiatives should take action to make sure that the rights of workers to form and join trade unions and to bargain collectively are truly respected. These enabling rights should allow workers to defend their rights, voice grievances and negotiate recruitment and employment conditions. As a first step, the Rainforest Alliance and Fair for Life could strengthen the provision on freedom of association in their codes by requiring certified companies to actively inform their workforce about the right to form and join unions of their own choosing. Secondly, sustainability certification initiatives could include requirements regarding the provision of training of management, workers and workers' representatives (both separately and jointly) in freedom of association, collective bargaining, labour-management relations. Such training should be delivered by trade unions or credible labour rights organisations. In addition, it is recommended that sustainability certifications should regularly engage with local trade union representatives and labour rights NGOs as well as with industry representatives to gain a good understanding of the barriers to unionisation in order to be able to develop tailor-made approaches to addressing these barriers.

Improve codes on security of employment

The fact that all of the interviewed workers are hired as temporary workers, even though they might work for the same company for many consecutive years, leaves them in a vulnerable position. The codes of Fair for Life, Rainforest Alliance and SA8000 do not include strong clauses on providing security of employment. It is therefore recommended that sustainability certification initiatives should include more ambitious requirements in this regard. Employers should refrain from hiring workers on temporary contracts for permanent jobs. Unlimited short-term contracts should be avoided.

Work towards the payment of living wages

Employers should pay living wages. A living wage is a wage paid for a standard working week meeting the basic needs of workers and their families and to provide some discretionary income. Basic needs include costs like housing (with basic facilities including electricity), nutrition, clothing, healthcare, education, drinking water, childcare, transport and savings. The best way to determine an actual amount is through an ongoing process of sound social dialogue between local social partners. To promote living wages it is recommended that sustainability certifications should improve how they articulate the definition of living wages in their standards and specify clear incremental steps towards

achieving a living wage. They should also conduct research into what constitutes a living wage in different sectors and countries, and align their mechanisms to evaluate wages in line with these levels.

Address involuntary overtime

Sustainability certifications should pay more attention in their approaches to curb involuntary overtime, and ensure that workers are paid for their overtime work at legal rates.

Improve transparency

Sustainability certifications should provide public access to details of the complaints they receive, how they follow them up and the outcome of the complaint and remedy process. In addition, it is recommended that the Rainforest Alliance and SA8000 should disclose information about the performance of certified operators as well as information on cancelled operators. Fair for Life discloses information about cancelled and suspended operators on its website. However, it is recommended that Fair for Life should disclose information about the reason for cancellation/suspension.

Engage with stakeholders

It is recommended that sustainability certifications, individually but especially as a movement, should seek more involvement of stakeholders such as trade unions, national and local governments, NGOs and research organisations in order to develop approaches to improving their impacts on specific labour rights.

Awareness raising and training

It is recommended that sustainability certifications should focus more on different approaches – other than auditing – to support and enable certified producers to improve working conditions. One example might be through awareness raising and training. While it may be too costly to have dedicated programmes for specific farms, and attention should be paid to not taking on the role of legitimate trade unions, possibilities could be further explored for organising sector-wide programmes (e.g. training) for workers on specific labour rights issues such as those highlighted in this report.