

Developing a Forced Labor Response Protocol

This guidance was prepared by Verité for Mars, Incorporated for sharing with select Mars cocoa suppliers.

Introduction

Response protocols can be an important tool in the toolbox for suppliers to use in their fight against forced labor in their cocoa supply chains. Use of a response protocol can help ensure that remediation is both prompt and meaningful when an indicator of forced labor risk or an actual case of forced labor is found.

The purpose of a response protocol is to provide guidance for company actors on the actions they should take if they come across indicators of forced labor risk or cases of forced labor while monitoring farms or carrying out other field activities, or when they learn of such indicators or cases from others – for example from a community member voicing concern about conditions on a nearby farm, or through a worker complaint filed via a grievance hotline. Because forced labor is illegal and a grave human rights abuse, inaction is not an option when indicators or cases of forced labor in the supply chain come to a company's attention.

Cocoa suppliers differ from one another in many ways, including in their supply chain partners, the ways that they source cocoa beans, and in the geographic and social contexts in which they operate; consequently, the profile of forced labor risk will vary for each company. No one-size-fits-all approach for responding to forced labor will work for every company, and each supplier should develop an approach that suits its needs and internal ways of working.

Similarly, it is not possible to anticipate every situation in which forced labor indicators may occur, or the specific form that an indicator might take in particular, real-life circumstances. Rather than trying to prescribe specific actions that field personnel or managers should take in response to specific situations, this guidance is meant to help sustainability managers and field staffers think through various aspects and steps to consider as they structure their approach to responding to forced labor findings, and suggests principles and questions to keep in mind as you develop an approach that is right for your company. Users are encouraged to tailor the guidance to their specific needs and supply chains – to make it their own, and integrate it into their broader due diligence framework for human rights and sustainability generally.

What is a response protocol in relation to a comprehensive due diligence framework?

Importantly, a response protocol is not the same thing as – or a substitute for – a comprehensive company framework for due diligence to prevent forced labor. A response protocol is a specific, fairly narrow tool designed to help a company clarify the decisions and steps that need to be taken when an indicator or case of forced labor is identified in the supply chain. This tool is best thought of as a resource to be deployed in specific situations, within the context of a company's overall approach to addressing forced labor.

In 2019, Verité and the International Cocoa Initiative (ICI) published [recommendations for private sector actors](#) on addressing the risk of forced labor in Côte d'Ivoire, and collaborated again in July of 2020 to train ICI members on the issue. Verité also provided training for sustainability managers at Mars cocoa supplier companies on program design related to forced labor due diligence in August of 2021. This was followed by additional trainings of trainers (ToTs) in English and French (in August and September 2021) for Mars supplier country team leads.

As a reminder, a comprehensive forced labor due diligence framework should include the following core elements:

- robust policies related to prevention and reduction of forced labor risk;
- systematic means of assessing the nature and distribution of forced labor risk factors within the supply chain;
- regular programming for awareness-raising, training, and stakeholder engagement;
- effective supply chain management systems to identify, remediate, and prevent cases and indicators of forced labor;
- access to grievance mechanisms for workers;
- independent verification of program effectiveness; and
- transparent reporting on progress and integration of learnings to improve performance over time.

All Mars cocoa suppliers are expected to continuously improve their performance on human rights issues such as forced labor, and more support related to development of due diligence approaches is available from Verité or Mars, if needed.¹ Additional tools specifically related to understanding, identifying, remediating, and preventing forced labor are also available from the U.S. Department of Labor-funded [Verité Forced Labor Indicators Project \(FLIP\)](#), the [International Cocoa Initiative](#), and [Rainforest Alliance](#). For

¹ In-depth guidance on the implementation of due diligence frameworks for businesses is available in the [OECD \(2018\) Due Diligence Guidance for Responsible Business Conduct](#), which accompanies the [OECD Guidelines for Multinational Enterprises](#), and aligns with the requirements of the [UN Guiding Principles on Business and Human Rights](#). Cocoa suppliers may also find the OECD-FAO (2016) [Guidance for Responsible Agricultural Supply Chains](#) helpful.

more information, please feel free to reach out to Verité, or to ICI or Rainforest Alliance directly.

Preparing for Effective Response

A company's ability to implement a response protocol effectively will depend in part on how well-prepared its managers and field personnel are in advance of an occurrence requiring a response. Some basic steps can be taken by both managers and field personnel to ensure they are prepared to respond successfully to a finding of indicators or incidents of forced labor in the supply chain.

Preparatory steps for supply chain sustainability managers:

- Managers should either implement or draw upon existing **research and monitoring systems** to ensure that they and their teams have a good understanding of the nature of forced labor risk within their sourcing footprint. What are the most common forced labor indicators in each country context? Which populations and regions are most vulnerable and why? Having a solid understanding of the dynamics that lead to forced labor risk is crucial to designing an effective approach to remediation. Information about the presence of indicators or incidents of forced labor, and about the dynamics underlying forced labor risk, may come from suppliers' own field staff or from other actors such as NGOs or community members.
- Managers also need to ensure their **field staff are adequately trained** to monitor for and identify forced labor indicators successfully, to evaluate the severity of any indicators found, and to identify the root causes that led to them. They also need to be trained to distinguish between indicators and incidents of forced labor, and on what to do when they are found – both immediately and longer term. More information on this subject can be found below.
- Managers are also responsible for **development of their company's response protocol**, including guiding any necessary process of legal review, and thinking through issues such as governance of protocol implementation and data handling and reporting, as well as laying out the actual actions to be taken when cases or indicators are found.
- Managers can also help their company prepare for findings of forced labor indicators or incidents by **conducting or supporting the mapping of referral resources and other services for victims** in the regions where they buy cocoa and risk is known to exist. Some forced labor indicators may require immediate intervention by law enforcement or social service agencies, while others may be more effectively addressed via more incremental or informal interventions such

as engaging with the producer to adjust a problematic employment practice or involving a local leader to mediate a dispute. Having advance knowledge of which resources exist where, and how these relate to the kinds of risks that exist in your supply chain, can be invaluable in designing effective corrective actions and handling any emergency situations that may arise.

Preparation by field personnel:

- Field staffers from supplier companies need to **familiarize themselves with the profile of forced labor risk** in the geographic regions of the supply chain for which they are responsible. Using the [ILO forced labor indicators framework](#) (see below), field staff can ask themselves questions such as: Which forced labor indicators are most common among the workforce in my area? Which types of workers and regions are at the highest risk for forced labor and why? Keep in mind that the demographic profile of vulnerable workers might differ from region to region, and their vulnerability to indicators of involuntariness or threat/menace of penalty might take different forms in one context versus another.
- Field personnel also need to **understand how to identify indicators of forced labor** in field settings. What are the warning signs to look out for as you visit a region, or talk to a farmer or farmworker? What topics do you need to explore and what information do you need to gather in order to determine whether a forced labor indicator is present? What questions can you ask to find out what you need to know?
- Field personnel also need to **be able to evaluate the severity of the indicators** they identify, to determine whether urgent intervention is needed immediately to remove a victim from harm's way, or whether a slightly slower, less drastic approach could suffice.
- Crucially, field personnel need to be able to **differentiate between the presence of one or more indicators of forced labor, and a situation where an actual incident of forced labor is taking place**. This means being familiar with the forced labor indicators framework (see below) and understanding well the difference and connection between indicators of “involuntary work” and those of “threat or menace of penalty.” Work must both be involuntary and be done under the threat or menace of penalty in order for forced labor to be present.



A free online refresher on these concepts and helpful downloadable resources are available via the [Verité Forced Labor Indicators Project \(FLIP\)](#).

- Other ways field personnel can prepare themselves to respond to forced labor indicators or incidents in their supply chain is to **learn how to identify the root causes** that lead to forced labor risk, **and how to develop corrective action plans** to address them. To facilitate effective root cause interventions and corrective action planning, field staffers should **familiarize themselves with** law enforcement resources, referral services, and other **relevant programming and resources for victims** that are available in their regions of operation. Managers should support training for field staff on a regular basis. More information about responding to indicators or incidents of forced labor is provided below.

Remember, a variety of resources are available to build the expertise you need to respond to forced labor risk effectively. Training materials and other tools are available from the U.S. Department of Labor-funded [Verité Forced Labor Indicators Project \(FLIP\)](#), the [International Cocoa Initiative](#), and [Rainforest Alliance](#), including many in French and in graphical formats appropriate for use in rural settings.

The ILO Forced Labor Indicator Framework	
Indicators of Involuntary Work	Indicators of Threat or Menace of Penalty
<input type="checkbox"/> Unfree recruitment at birth <input type="checkbox"/> Unfree recruitment through transaction such as slavery or bonded labour <input type="checkbox"/> Situations in which the worker must perform a job of different nature from that specified during recruitment without a person's consent <input type="checkbox"/> Abusive requirements for overtime or on-call work that were not previously agreed with the employer <input type="checkbox"/> Work in hazardous conditions to which the worker has not consented, with or without compensation or protective equipment <input type="checkbox"/> Work with very low or no wages <input type="checkbox"/> Work for other employers than agreed	<input type="checkbox"/> Threats or violence against workers or workers' families and relatives, or close associates <input type="checkbox"/> Restrictions on workers' movement <input type="checkbox"/> Debt bondage or manipulation of debt <input type="checkbox"/> Withholding of wages or other promised benefits <input type="checkbox"/> Withholding of valuable documents (such as identity documents or residence permits) <input type="checkbox"/> Abuse of workers' vulnerability through the denial of rights or privileges, threats of dismissal or deportation

<ul style="list-style-type: none"> <input type="checkbox"/> In degrading living conditions imposed by the employer, recruiter, or other third-party <input type="checkbox"/> Work for longer period of time than agreed <input type="checkbox"/> Work with no or limited freedom to terminate work contract 	
<p>Key Question (Involuntariness): <i>Did workers freely consent to enter into this work or job, and did they freely consent to conditions of work (such as type of work, wages, hours, and hazardous tasks?)</i></p>	<p>Key Question (Threat of Penalty): <i>Can workers leave their job or employer without threat or penalty to themselves (or their family members/associates) if working conditions are abusive?</i></p>
<p>Red Flags (Involuntariness):</p> <ul style="list-style-type: none"> ➤ Someone other than the worker coerced worker into accepting this job/working for this employer (including coercion through pre-existing debt). ➤ Worker was deceived about the nature or conditions of work (such as wages, length of employment, overtime, hazardous tasks, identity of employer). 	<p>Red Flags (Threat of Penalty):</p> <ul style="list-style-type: none"> ➤ Any fees, loans, bonds, or other forms of debt are acting to bind the worker to their job or employer. ➤ Wage structures (such as withholding earnings) are acting to bind the worker to their job or employer. ➤ Workers fear that attempts to express grievances or leave employment will be met with retribution. ➤ Workers are prevented from leaving worksite or surrounding area by physical control or withholding of necessary documents.

What to do when forced labor indicators are found?

When a company receives information that an indicator or indicators of forced labor are present on a cocoa farm in its supply chain, it must take action, no matter whether it learns of this news from its own field staff, from other actors such as NGOs, community members, a worker grievance system, or some other pathway. All indicators of forced labor are serious labor rights violations in and of themselves, even when they do not combine to define a situation of forced labor. Any finding of an indicator of forced labor in a company's supply chain requires a response.

When news of a forced labor indicator in the supply chain comes to the attention of the company, what should happen next?

There are three immediate questions that need to be asked:

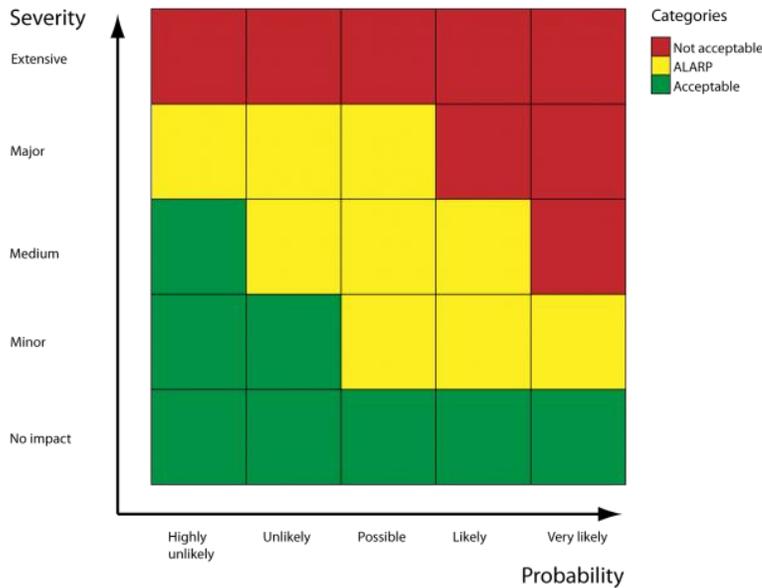
1) Can the finding be verified?

However the information about a forced labor indicator reaches the company, it is important to verify whether the claim is accurate. If the finding is not able to be verified, the company may still wish to take the report of the finding as itself a red flag that something may be amiss, and monitor the situation – for example through extra farm visits – to make sure there is truly nothing going on that needs to be addressed. Information related to forced labor received through a worker grievance hotline or other grievance mechanism should always be treated as a red flag and investigated, ideally in multiple ways so as to triangulate and establish the veracity of findings.

2) Is anyone in immediate danger of serious harm?

If the report is confirmed to be true, the next question is whether the situation involves immediate risk of direct harm to the victim. Whether or not the worker is at risk of immediate harm will shape the actions that company representatives should take next.

Companies may wish to use a tool for evaluating the risk of serious immediate harm in different situations that could arise. For example, a simple risk matrix such as the generic one below can help analyze the likelihood of an adverse effect in relation to the severity of its impact on the worker, to help guide decision-making in the field about whether immediate intervention such as rescuing a victim or contacting law enforcement is warranted. In many cases, a less drastic intervention will be appropriate, but companies will want to ensure that field personnel are equipped to determine which scenarios require immediate action.



Example of a matrix for evaluating the severity of harm vs. the probability of risk to the worker

3) Are there indicators of involuntariness or of threat of penalty, or of both?

This is a crucial question to clarify, since it determines whether the finding refers to an individual labor violation – which in most cases can be addressed by the company through implementation of an internal corrective action plan – or to a finding of a forced labor incident – which may require involvement of the authorities.²

Remember, indicators of both involuntary work *and* threat or menace of penalty must be present in cases of forced labor. In other words, workers in forced labor are working under conditions to which they did not give their full consent and are unable to leave the job if they wish.

With good advance preparation and the answers to these questions in hand, company actors are equipped to begin responding to indicators or cases of forced labor. Field personnel and sustainability managers (or commercial managers, if sustainability functions are among their responsibilities) at country or regional level are the key relevant actors in a company’s response. Each have different roles to play, and companies should be sure to include guidance for both of these levels of staff within their forced labor response protocols.

² Certain individual indicators, such as acts of violence or sexual violence against workers, may also require the involvement of the authorities.

Some companies may wish to clarify responsibilities and steps to be taken by other internal actors such as their legal and communications teams in the event of forced labor findings as well.

The following outline of key steps to be taken in the event of a finding is offered as a starting point, but it is up to each company to adapt this approach to its internal management systems for supply chain due diligence. Managers developing a forced labor response protocol should think about the processes and procedures they already have in place for responding to other issues such as child labor and deforestation, leveraging existing systems and ways of working where possible.

Key steps for field personnel:

- **If a forced labor indicator is identified or reported:**
 - **Determine that the problem identified does not represent an actual case of forced labor.** Using the forced labor indicators framework, establish that only one kind of indicator is present, rather than indicators of both involuntary work and threat/menace of penalty. (For incidents of forced labor, see below.)
 - **Confirm the finding is true.** This can be done through further investigation, collection of conclusive evidence, or “triangulation” of the finding through confirmation by additional sources. Given the sensitivity of the forced labor issue, good documentation and proper handling of data is important, not only for confirming the existence of indicators, but in formulating effective responses.
 - **Determine whether the victim is in immediate danger**, and promptly take steps to remove them from harm’s way if this is the case. Appropriate steps will depend on the nature of the danger and on the availability and reliability of resources such as law enforcement or social services in the region in question. Rather than trying to anticipate every scenario, response protocols should emphasize the importance of field staff being familiar with the local social landscape, exercising good judgement, and doing all they can to avoid causing additional harm to the victim.
 - **Report the indicator finding to a manager.** Reporting requirements and data handling procedures will vary from company to company, but any finding of a forced labor indicator indicates a serious labor rights violation, and should be brought to the attention of company management.
 - **Conduct root cause analysis** to identify the underlying cause of the forced labor indicator in question. Guidance on how to carry out root cause analysis

is included in the curriculum shared during the Verité ToT for Mars cocoa suppliers earlier this year. For more information, please contact Verité.

- **Develop a corrective action plan** based on the root cause analysis and input from the victim or victims (where possible). The process of developing a corrective action plan may also include gathering of input or collaboration with the producer or other relevant stakeholders. Be careful that the process does not contribute to additional harm to the victim or victims. Corrective action plans should be ambitious and feasible, with measurable results and specific timelines. Guidance on how to develop corrective action plans is included in the curriculum shared during the Verité ToT for Mars cocoa suppliers earlier this year. For more information, please contact Verité.
 - **Ensure** that the corrective action plan is carried out and has resulted in **effective remediation of the forced labor indicator**. This will usually involve collaboration with the worker and/or producer, or with other relevant actors such as social service providers or law enforcement. Company field staffers should actively support corrective action plan implementation, and track progress against the measurable and timebound goals set out in the plan.
 - **Report regularly on follow-up** on the indicator finding to a manager until the finding has been successfully resolved. Ask for help if you are struggling to achieve results.
- **If an incident of forced labor is identified or reported:**
- **Confirm that the situation is in fact a case of forced labor.** Using the forced labor indicators framework, establish that indicators of both involuntary work and threat/menace of penalty are present. In other words, the worker did not give full consent and cannot leave the job despite wishing to do so.
 - **Confirm the constituent indicator findings are true.** As with a single indicator finding, this can be done through further investigation, collection of conclusive evidence, or “triangulation” of the findings through confirmation by additional sources. Be sure to document carefully.
 - **Evaluate level of severity and risk of immediate harm to the victim**, and promptly take steps to remove him or her from harm’s way if necessary. As noted above, the steps that are most appropriate will depend on the nature of the danger and on the availability and reliability of resources such as law enforcement or social services in the region in question. Knowledge of the local social landscape, good judgement, and taking care to protect the victim from harm are key.

- **Report the forced labor incident to a manager.** Any finding of forced labor in the supply chain is a very serious matter, and should be brought to the immediate attention of management.
- **Report the incident to law enforcement if the victim wishes, or is in imminent danger.** Victims of forced labor should have the opportunity to have their cases handled by government authorities if they wish. If a victim expressly consents to having their case reported to the authorities, field staffers from cocoa companies should support them and help facilitate this. In general, if a victim has not provided such consent, but you deem them to be in immediate danger, you should, nonetheless, communicate the case to the authorities. Examples of such situations could include (but are not limited to) cases of physical or sexual violence against children, workers who are in imminent danger from physical or sexual violence, injuries, or illness, or cases in which workers state that they are being physically restrained in the workplace. The only exception to this guideline is when there is reason to believe that reporting the incident to the authorities will increase risk of harm to the victim, in which case another strategy for bringing the victim to safety should be sought. Be sure to let victims know if the authorities have been notified about their situation.
- **Conduct root cause** analysis to identify the underlying causes of forced labor. Guidance on how to carry out root cause analysis is included in the curriculum shared during the Verité ToT for Mars cocoa suppliers earlier this year. For more information, please contact Verité.
- **Develop a corrective action plan** based on the root cause analysis and input from the victim (where possible). The process of developing a corrective action plan may also include gathering of input or collaboration with the producer or other relevant stakeholders. Be careful that the process does not contribute to additional harm to the victim! Corrective action plans should be ambitious and feasible, with measurable results and specific timelines. Guidance on how to develop corrective action plans is included in the curriculum shared during the Verité ToT for Mars cocoa suppliers earlier this year. For more information, please contact Verité.
- **Ensure** that the corrective action plan is carried out and has resulted in **effective remediation for the victim of forced labor.** This will usually involve collaboration with the worker and/or producer, or with other relevant actors such as social service providers or law enforcement. Company field staffers should actively support corrective action plan implementation, and

track progress against the measurable and timebound goals set out in the plan.

- **Report regularly on follow-up** on the forced labor finding to a manager until the finding has been successfully resolved. Ask for help if you are struggling to achieve results.

Key steps for managers:

- **If notified of a finding of a forced labor indicator:**
 - Review the evidence and **verify that the analysis of the situation is correct**, that the issue in question is in fact a forced labor indicator and not of an incident of forced labor.
 - **Assist the field staff** to evaluate the severity of the indicator finding, make and implement an appropriate short-term plan of action if necessary, and develop a longer-term corrective action plan.
 - **Review the corrective action plan** developed by the field staff and provide feedback as needed. Insist on improvements if the plan is not sufficiently ambitious and feasible, or will not result in a measurable outcome within a specified timeframe.
 - **Verify that the corrective actions are implemented and achieve the desired outcome within the specified timeframe.** Ensure that root causes have been addressed, and that the issue does not recur. **An independent third party should be used** to verify remediation and other follow-up actions on findings of serious labor violations such as forced labor indicators if possible.
 - When an issue is not successfully resolved by a corrective action program, **managers may need to exert influence or impose consequences on the supply chain partner** involved to drive progress. Supply chain partners that refuse to make improvements in labor practices may ultimately need to be removed from the supply chain. Some actions, such as physical violence against workers, should be treated as zero-tolerance issues, resulting in immediate removal of the supplier from the supply chain. Managers may wish to include guidance on such aspects in their forced labor response protocols or other procedural or policy documents.
- **If notified of a finding of an incident of forced labor:**

- Review the evidence and **verify that the field staff's analysis of the situation is correct**, that an incident of forced labor has in fact taken place.
- **Assist the field staff** to evaluate the severity of the forced labor incident, and to develop and implement an appropriate short-term plan of action. Managers may wish to become directly involved in situations where a forced labor case must be referred to government authorities.
- **Support the field staff to develop a corrective action plan** and provide feedback as needed. Insist on improvements if the plan is not sufficiently ambitious and feasible, or will not result in a measurable outcome within a specified timeframe.
- **Verify that the corrective actions are implemented and achieve the desired outcome within the specified timeframe.** Ensure that root causes have been addressed, and that the issue does not recur. **An independent third party should be used** to verify remediation and other follow-up actions on a finding of forced labor if possible.
- When a finding of forced labor is not successfully resolved by a corrective action program, **managers may need to exert influence or impose consequences on the supply chain partner** involved to drive progress. Supply chain partners that refuse to cooperate in making necessary changes may ultimately need to be removed from the supply chain. Some actions, such as physical violence against workers, should be treated as zero-tolerance issues, resulting in immediate removal of the supplier from the supply chain. Managers may wish to include guidance on such aspects in their forced labor response protocols or other procedural or policy documents.
- Managers should **implement systems for recording data on forced labor findings and tracking the status of case remediation and resolution.** Companies are encouraged to collaborate with their peers and with government authorities and relevant civil society organizations to share insight into forced labor risk in order to facilitate coordinated and collaborative approaches to addressing the issue at the systemic level.