



# Chapter 5: Social

## 5.2 Freedom of Association and Collective Bargaining

## What is a union, worker's organization and workers' council?

A **trade or labor union** is a **group of workers formed to protect and promote** their interests.

A **workers' organization** is a **voluntary, independent group** aiming to protect and promote workers' rights and interests.

A **workers' council** or **committee** is an **elected group of employee representatives** that communicates with management about grievances, working conditions, and wages.



## What is Collective Bargaining?

Collective bargaining is a key mechanism for social dialogue in the workplace and involves **negotiations between employers and workers** to determine:

- Working conditions,
- Terms of employment and,
- To regulate relations between them.

The result is a written agreement called the **Collective Bargaining Agreement (CBA)**, which is made between the employer (or employers' organization) and the workers' representatives.



## 5.2 Freedom of Association and Collective Bargaining

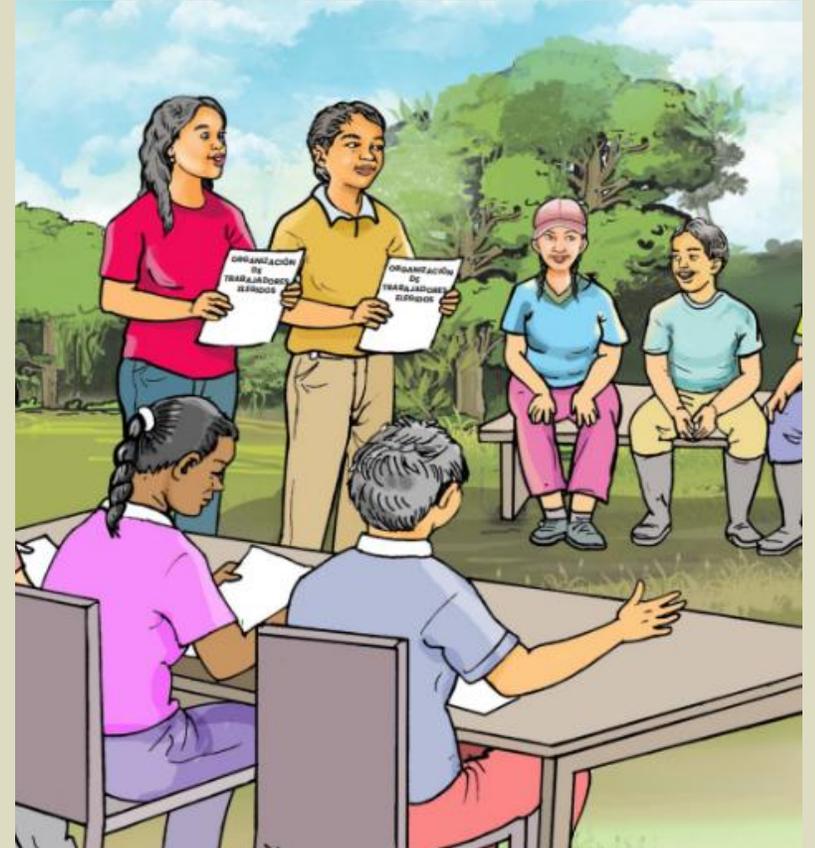
| No.   | Base requirements  | Group certification |         |            | Ind. cert. |
|-------|--|---------------------|---------|------------|------------|
|       |  | S-farms             | L-farms | Group mgt. | S/L        |
| 5.2.1 | <p>Workers can form and join unions or <u>workers' organizations</u> of their choice and participate in collective bargaining without employer approval, as per applicable law. Workers' representatives are elected democratically in regular free and fair elections.</p> <p>Management has a written policy on workers' rights and ensures workers understand it, displaying it visibly in the workplace at all times. If laws restrict <u>freedom of association</u> and collective bargaining, management supports alternative methods for independent and free association, bargaining, and dialogue with workers.</p> <p><b>ILO Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87)</b><br/> <b>ILO Workers Representatives Recommendation, 1971 (No. 143)</b></p> <p><i>For small farms, the requirement only applies if they are hiring:</i></p> <ul style="list-style-type: none"> <li>- 10 or more temporary workers each working for three consecutive months or more, and/or</li> <li>- 50 or more temporary workers per <u>calendar year</u></li> </ul> | ✓                   | ✓       | ✓          | ✓          |
| 5.2.2 | <p>Workers are protected from discrimination or <u>retaliation</u> due to union activities. Management cannot punish, bribe, or influence union members or representatives. Termination records include reasons and union affiliations. Management must not interfere in workers' organizations, their elections, or duties.</p> <p><b>ILO Right to Organise and Collective Bargaining Convention, 1949 (No. 98)</b><br/> <b>ILO Workers Representatives Recommendation, 1971 (No. 143).</b></p> <p><i>For small farms, the requirement only applies if they are hiring:</i></p> <ul style="list-style-type: none"> <li>- 10 or more temporary workers each working for three consecutive months or more, and/or</li> <li>- 50 or more temporary workers per <u>calendar year</u></li> </ul>   | ✓                   | ✓       | ✓          | ✓          |

*Read the requirements and their applicability before you move on to the next page*

## 5.2.1

# Do the workers need to seek permission to join a worker organization?

- All workers have the right to form and join a union or workers' organization and to take part in collective bargaining in accordance with national law.
- Workers **do not need employers' authorization**, and they must not be prevented participating in union activities.
- If there is an **elected group** of employee representatives, they must be elected **democratically** in regular free and fair elections.



If laws restrict freedom of association and collective bargaining, management must support alternative methods for independent and free association, bargaining, and formal dialogue with workers.

## 5.2.1

Management has a written policy on workers' rights and ensures workers understand it, displaying it visibly



- Group manager **Sonia** must make sure that there is a written **policy on workers' rights**.
- The policy must be **publicly displayed** and that it is written in a language that workers **understand** it and **know their rights**.
- Sonia must ensure that **at the start of employment**, each worker is individually **informed** of his or her **rights** and **duties**.



## 5.2.1

# What commitments are included in the written policy on workers' rights?

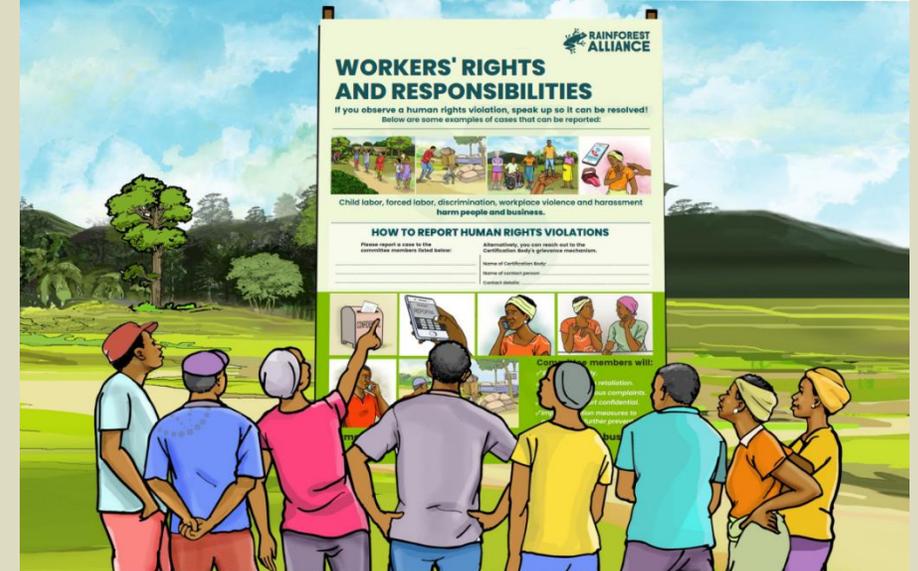
- The **company supports workers' rights** to freedom of association and collective bargaining.
- There are **guarantees** that **no negative consequences** in hiring, promotion, or other employment arrangements due to **union involvement**.
- Workers **can form and join** organizations of their choice and **negotiate** with management.



## 5.2.2

# Workers are protected from discrimination or retaliation due to union activities

- This requirement means that group manager Sonia **cannot punish, bribe, or influence union members or representatives.**
- Sonia must also not **interfere** in workers' organizations, their **elections**, or **duties.**
- **Records of terminations of employment should** include the reason for termination and workers' affiliation with a union or workers' organization.



## Case scenario

Let's look at a case scenario on workers' organization activities to see what we have learned so far.



This banana farm has more than **100 workers**. During an audit, many workers told the auditor that the **management refuses** to **negotiate wages** with their workers' organization.

The management justifies this by stating that the workers' organization **has not been officially recognized by law**.

?

Is the justification provided by the management valid?

*Think about the answer before you move on to the next page*

## Case scenario - Solution



The answer is “**No**”, the justification is not valid.

Where the right to freedom of association and collective bargaining is restricted under law, management should **not hinder the development of bargaining and dialogue** of the workers’ organization with management.

The management must support **alternative methods** for **independent and free association, bargaining, and dialogue with workers.**

| No.   | Specialized requirement  | Group certification |         |            | Ind. cert. |
|-------|--|---------------------|---------|------------|------------|
|       |  | S-farms             | L-farms | Group mgt. | S/L        |
| 5.2.3 | <p>Management provides workers' representatives with reasonable paid time off to perform their representation functions and attend meetings. When necessary, management offers these representatives reasonable facilities, including meeting space, communication tools, and childcare.</p> <p>Management allows worker organizations and/or trade unions access to a notice board for posting information about their activities. Management establishes dialogue with freely chosen workers' representatives to collectively discuss and address working conditions and terms of employment. Management maintains records of the minutes from meetings with worker organizations and/or trade unions.</p> <p><b>ILO Workers' Representatives Convention, 1971 (No. 135)</b><br/> <b>ILO Workers Representatives Recommendation, 1971 (No. 143)</b></p> <p><i>For small farms, the requirement only applies if they are hiring:</i></p> <ul style="list-style-type: none"> <li>- 10 or more temporary workers each working for three consecutive months or more, and/or</li> <li>- 50 or more temporary workers per calendar year</li> </ul> | ✓                   | ✓       | ✓          | ✓          |



*Read the requirement and its applicability before you move on to the next page*

## 5.2.3

# Management provides workers' representatives with reasonable paid time off



- To allow workers' representatives to fulfil their representation duties and attend meetings, group manager **Sonia must provide them with reasonable paid time off.**
- Where needed, Sonia offers these representatives **reasonable facilities**, such as meeting space, childcare and **notice boards**. The worker organizations and/or trade unions can then use these notice boards for **posting information** about their **activities**.
- Sonia actively engages in dialogue with workers' representatives to **collectively discuss and address working conditions** and terms of employment.
- She **maintains records** of the minutes from meetings with worker organizations and/or trade unions.

## Case scenario

Let's now check what we have learned.



Sonia, our group manager, is **avoiding contact** with workers' representatives.

She is afraid of getting into arguments with the representatives and the possible consequence of stalled production.



?

Is Sonia's approach appropriate?

*Think about the answer before you move on to the next page*

## Case scenario - Solution



The answer is "No", Sonia's approach is not appropriate.

While it is true that Sonia should **not punish, bribe, or otherwise influence** union workers' representatives, however, **she should be in contact** with worker representatives for a **genuine dialogue** to collectively raise and address working conditions and terms of employment.





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