



Development Bank of Namibia

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DBN PS2-LABOUR AND WORKING CONDITIONS STANDARD

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a) Version Control

The table below serves to track the key revisions made to this document for change control purposes.

Date	Version	Change Description	Author/Editor
08/02/2016	0.01	Initial Draft for first review	Manager: Environment & Social Development
24/04/2016	0.02	Initial Review	Head: Risk and Compliance –John Jacobs
23/05/2016	0.03	2 nd Review	Risk and Compliance Committee
	0.04	Departmental Review	Audit Risk and Compliance
10/10/2016	0.05	Second Review	Senior Manager: Risk and Compliance –Saima Nimengobe
7/11/2016	1.00	DBN Board Approval	Chairperson: DBN Board of Directors
10/01/2019	2.00	Change logo on first page	Manager: Environment & Social Development

1. DEFINITIONS, TERMS & ABBREVIATIONS

Contractor	Contractors refer to companies that undertake a contract with the promoter to provide materials or labour to perform a service or do a job.
DBN	Development Bank of Namibia
ESMS	Environmental, and Social Management System
ESMP	Environmental and Social Management Plan
PROMOTER	The legally authorised and registered entity that obtained or is applying for funding from DBN to implement a project
ILO	International Labour Organisation
Labour practices	Refers to fair, safe and healthy working conditions.
Minor	A minor is a person under the age of 18, who may be legally entitled to work in compliance with the standards of the ILO Convention 138 on minimum age for employment.
Supplier	The supplier is a company, whether large, global enterprise or a small or medium-sized business based in one region or locale, which sells goods (including raw materials, semi-finished, component, and intermediary products) or provides services to a promoter. Suppliers that sell directly to a promoter are known as first-tier or direct suppliers.
Worker	Refers not just to formal employees of a company but also to contract labour, migrant workers, seasonal workers, and day labourers.

2. BACKGROUND

The International Finance Corporation (IFC) Performance Standards are an international benchmark for identifying and managing environmental and social risk and has been adopted by many organizations as a key component of their environmental and social risk management.

IFC's Environmental, Health, and Safety (EHS) Guidelines provide technical guidelines with general and industry-specific examples of good international industry practice to meet IFC's Performance Standards.

In many countries, the scope and intent of the IFC Performance Standards is addressed or partially addressed in the country's environmental and social regulatory framework.

The workforce is a valuable asset for any company. Sound management of human resources and of worker relations is key for sustainable business practices. The development of fair, safe and healthy working conditions based on respect for workers' rights fosters efficiency and productivity. In contrast, the failure to create and maintain sound worker-management relationships can undermine workforce commitment and effective project implementation.

Good labour practices and the use of appropriate codes of conduct are important to extend and protect the reputation of firms, governments and lenders; whilst labour rights violations can on the contrary damage the promoter's and the DBN's reputation.

This standard aims at ensuring that the DBN and promoters respects the Labour Act No 11 of 2007 which contains regulations relating to the Health, Safety and Welfare of employees at work. Also important to adhere to are the Core Labour standards of the International Labour Organisation (ILO);

- a) Freedom of association and the effective recognition of the right to collective bargaining (Convention No. 87 & No. 98)
- b) The elimination of all forms of forced and compulsory labour (Convention No. 29 & No. 105 which Namibia ratified on the 15 November 2000)
- c) The effective abolition of child labour (Convention No. 138 & No. 182)
- d) The elimination of discrimination in respect of employment and occupation (Convention No. 100 & No. 111)

The standards set out herein seek to protect and support the fundamental rights of workers in DBN and DBN financed operations. All operations financed by the DBN, are subject to these standards throughout their entire project lifecycle (Agreement, Construction, Commissioning, Operation and Closure) and while the DBN has a commitment via the loan and, will be enforced by the Risk and Compliance Department-Environmental and Social Development.

The Standard generally addresses what must be done but does not specify how each clause should be implemented. In assessing a projects compliance with the Standard, reviewers should expect general conformance to this Standard unless the project can demonstrate that it meets the intent of the Standard by an alternative approach.

3. SCOPE

This Standard applies in full to all workers and sub-contractors directly engaged by the DBN and promoters throughout the project life cycle. With regard to workers engaged through third parties, such as first-tier suppliers and primary contractors, to perform core work related to the project for a substantial duration (contract workers) and workers related to the promoter's primary suppliers (supply chain workers), the promoter will determine that such third parties are legitimate, reputable and that their workers are protected consistently with these standards. Additional due diligence may be required further down the supply chain in case of concerns.

This standard is applicable to all the DBN and Development Bank of Namibia's (DBN) clients/customers and extends to their assets, facilities, operations, projects and activities, including activities undertaken by any contractor on behalf of the Company, business units and managed operations including corporate/administration offices and other facilities located off site.

Failure to comply with the implementation of this standard requirement will be treated as non-compliance or a breach of any precedent or subsequent loan agreements with the promoter.

4. INTENT

The intent of this standard is to ensure that the responsibilities of the promoter are defined to ensure that the project embraces the principles of International Labour Standards. The specific objectives of these standards are to:

- Ensure, develop and maintain a sound worker-management relationship;
- Promote the freedom of association and collective bargaining;
- Foster and realise non-discrimination and fair and equal treatment and opportunity at work;
- Protect workers, including vulnerable categories (such as migrants, indigenous peoples or illiterate workers) and workers engaged by clients/customer's primary contractors and direct suppliers, from unacceptable forms of labour and employment practices, exploitation and violation of the core labour rights; and,
- Promote compliance with national labour and employment laws and with internationally recognised labour standards as defined by the ILO, particularly its Core Labour Standards
- Avoid the use of forced and child labour.

5. PLANNING

- 5.1. The DBN have on its exclusion list for financing the, production and activities involving harmful or exploitative forms of forced labour and/or child labour as defined by national regulations. Thus the bank will not finance projects that employ, use or benefit from harmful child labour, that use or knowingly benefit from forced labour, and that do not comply with national law on worker representation and organisation.
- 5.2. The DBN recognises the difficult challenges associated with eliminating all forms of discrimination but expects promoters nonetheless to pursue equal opportunity policies and the respect of human rights in business practices.
- 5.3. The promoter shall comply, at a minimum, with the relevant national labour laws and implement and operate the project in respect of the principles of the Core Labour standards outlined in the ILO Declaration on Fundamental Principles and Rights at Work.
- 5.4. The promoter shall ensure that all workers have employment contracts, independently of their type (e.g. direct employees, contractors, workers in the supply chain).
- 5.5. The promoter shall ensure similar adherence to these minimum standards in the cases of its primary contractors and first-tier suppliers, duly reflecting these standards in procurement documents, contracts and monitoring arrangements. To these ends, the promoter will develop and update an appropriate human resources policy, as well as an effective management system.
- 5.6. This management system shall cover the enforcement and compliance of labour standards, and the monitoring of the promoter's contractors/suppliers.

- 5.7. Enforcement of compliance to these requirements will be undertaken by the Risk and Compliance; Environmental and Social Development department through site visits, inspections, audits, meetings and report reviews.

6. IMPLEMENTATION AND OPERATION

- 6.1. In line with the ILO Minimum Age Convention No. 138 and the Worst Forms of Child Labour Convention No. 182 the promoter will not employ, use or benefit from the exploitation of child labour.
- 6.2. This covers work by children that is economically exploitative or likely to be hazardous or that deprives children of their childhood, their potential and their dignity, and that is harmful to their physical and mental development.
- 6.3. The promoter will report to the DBN the presence of persons under the age of 18 and the nature of work they perform. Minors shall not be employed informally, even when this is socially or culturally acceptable practice in the sector, region or country.
- 6.4. Further to the above minimum age requirements, in compliance with the list of activities excluded from DBN lending and independently of the age of the worker, no project involving the worst forms of child labour (as defined in article 3 of Convention 182) will be eligible for financing by the DBN.
- 6.5. The promoter will oversee that its primary contractors and first-tier suppliers apply the same standards and practices concerning child labour.
- 6.6. The promoter will not employ forced or compulsory labour. Forced or compulsory labour is understood as all work or service expected from a person under the threat of penalty or for which the person has not offered her or himself voluntarily. This covers any kind of involuntary or compulsory labour, such as indentured labour, bonded labour, or similar labour-contracting arrangements as well as human trafficking.
- 6.7. Taking into account security considerations and the nature of work, the promoter shall avoid any restriction of freedom of movement of its labour force during the course of their employment. Further, the promoter shall not engage in or tolerate the use of corporal punishment, mental or physical coercion and verbal abuse of personnel.
- 6.8. If forced labour is identified in the client's/customer's workforce, including direct and contracted workers throughout its supply chain, immediate steps should be taken to terminate the practice, offer conditions of work that are not coercive and refer the case to the competent law enforcement authorities. The promoter shall not tolerate such practices from its primary contractors and first-tier suppliers.

- 6.9. Consistent with the 1990 UN Convention on the Protection of the Rights of all Migrant Workers and Members of their Families, the promoter will identify the employment of migrant workers and will ensure their treatment is not less favourable than that of no-migrant workers undertaking similar functions. This includes enjoyment of same rights and of equal opportunities and treatment.
- 6.10. The promoter will avoid any physical or psychological coercion on migrant workers, including unnecessary restrictions on movement or retention of worker's identity documents, such as passports, or personal belongings. The promoter will ensure that its primary contractors and first-tier suppliers uphold the same principles
- 6.11. The client's/customer's human resources policy will be non-discriminatory and shall observe equal opportunities. The promoter shall ensure that employment related decisions will be based on professional skills and competencies. Employment relationships must be fair and equal in all its aspects, including remuneration, recruitment, promotion, termination of employment and disciplinary practices.
- 6.12. Non-discrimination requires that the promoter does not make employment related decisions based on personal characteristics which are unrelated to inherent job requirements: gender, race, ethnic, social and indigenous origin, religion, political opinion, nationality, disability and sexual orientation cannot impair equality of opportunity or treatment in suitable employment or occupation, including access to vocational training.
- 6.13. Particular procedures may be required to prevent gender discrimination. The promoter shall ensure that human resources' decisions are not affected by the reproductive role of women. Workplace policies and a complaints mechanism shall be put in place to deal with sexual harassment.
- 6.14. Where the Labour Act No 11 of 2007 and its regulations provides for these standards, the promoter will comply with these laws. The promoter is encouraged to respect the spirit of this Standard through consistent behaviour and is expected to apply a similar due diligence towards its primary contractors and first-tier suppliers.
- 6.15. The promoter will develop and/or maintain a human resources policy that is appropriate to its size and workforce, and that is clear, understandable and accessible to workers
- 6.16. Such a policy should outline the clients/customer's approach to managing employees and, at a minimum, contain information on the employee's rights under national labour and employment law and demonstrate consistency with the objectives of this Standard.
- 6.17. The human resources policy should cover subjects such as working conditions (including health and safety as well as privacy standards for company provided facilities); hiring and

promotion practices; terms of employment (including entitlement to wages, hours of work and breaks, overtime arrangements and compensation, rest days and holidays, leave, annual, maternity, illness absences, benefits); training, capacity building and skills development; freedom of association and collective bargaining rights, non-discrimination and equal opportunity practices (including anti-harassment procedures), grievance resolution; freedom of association and collective bargaining; disciplinary procedures and dismissals.

- 6.18. Accordingly, the promoter will ensure that information relating to the human resources policy is documented, accessible and clearly comprehensible to all the workers. Clients/customer's will seek to develop recruitment plans outlining the hiring practices (including no hiring at the gate), training and skills development. When necessary, retrenchment management plans will also be developed in the spirit of transparent access to information.
- 6.19. Workers and the workers' authorised, freely-elected representatives (shop stewards and unions) will be provided all information necessary to undertake meaningful negotiations on employment conditions with representatives of management who are authorised to take decisions on the matter.
- 6.20. The promoter will improve working conditions through the establishment of consultative forms of worker participation with management on matters of mutual concern, without prejudice to bargaining of working conditions.
- 6.21. The promoter will engage with workers, individually or through their associations, in good faith and provide them with timely and adequate information needed for meaningful negotiation. Freedom of association and collective bargaining is enshrined in the Labour Act No 11 of 2007 and its regulations and the promoter will duly comply with such laws and regulations.
- 6.22. The promoter will allow for alternative acceptable mechanisms to express grievances and protect workers' rights regarding the working environment and terms of employment. In either case, or where the law is silent, the promoter will not restrict workers from, or discriminate or retaliate against workers, who seek to participate in collective organisations and bargaining. The promoter will not seek to control such mechanisms or adversely influence their establishment and function.
- 6.23. The promoter will respect collective bargaining agreements undertaken with workers' organisations and will promote fair working conditions. These should not be less favourable than comparable national conditions and industrial relations.
- 6.24. The promoter will give reasonable notice before major business changes in order to allow for the effective and adequate mitigation of potential adverse impacts. Particularly, before

collective dismissals are planned and implemented, alternatives must be taken into consideration.

- 6.25. In the event of retrenchment as the only viable option, consultation with workers and with government where appropriate will be undertaken, collective bargaining agreements will be respected and mitigation measures will be planned for. Workers' dismissal will generally be preceded by an adequate notice period and timely payments of all due sums (also referred to as severance payment) carried out in accordance with the Labour Act No 11 of 2007 and its regulations. It is good practice to establish a specific grievance mechanism to deal with claims related to collective dismissals.
- 6.26. The promoter will set up an independent grievance mechanism where workers (and their organisations, where they exist) can raise reasonable workplace concerns. The promoter will grant workers free and easy access to this grievance mechanism. The mechanism shall address complaints in a timely and effective manner without fear of retribution and will thus allow for anonymous complaints.
- 6.27. Access to the grievance mechanism shall not replace or impede the subsequent access to other redress mechanisms, such as arbitration procedures, judicial, administrative or extrajudicial means of complaint. The promoter will inform workers of the grievance mechanism at the time of hire and make it accessible to them.
- 6.28. Compliance with labour standards should be screened for all operations financed by the DBN. The promoter will provide the DBN with satisfactory information on its labour practices, both at appraisal stage and through regular monitoring.
- 6.29. Where labour-associated risks to the project are expected or appear to be significant, a labour assessment should be carried out and where necessary, appropriate mitigation and monitoring requirements agreed and implemented.
- 6.30. Enforcement of compliance to these requirements will be undertaken by the Risk and Compliance; Environmental and Social Development department through site visits, inspections, audits, meetings and report reviews.

7. PERFORMANCE MANAGEMENT

- 7.1. Appropriate mitigation measures to address perceived inadequacies should be identified, as well as indicators for measuring and reporting on improvements (e.g. improved working conditions, support for vulnerable groups, provisions for worker welfare, representation). Special attention may need to be given to the ways that first-tier suppliers treat their labour force.

- 7.2. The promoter is recommended to regularly carry out due diligence in order to identify and assess any actual or potential adverse impact with which it may be involved (i.e. impacts that it may cause or contribute to as a result of its own activities or which may be directly linked to its operations, products or services by its business relationships).
- 7.3. This process should: (a) draw on internal and/or independent external expertise; and (b) involve meaningful consultation with potentially affected groups and other relevant stakeholders, as appropriate to the size of the business enterprise and the nature and context of the operation.
- 7.4. To these ends, arrangements for ensuring respect, promotion and realisation of international labour standards as described in the present Standard should be agreed between the DBN and the promoter prior to disbursement, monitored periodically throughout implementation and operation, and reported on at project completion. The promoter will be contractually required to adhere to the principle of the ILO Core Labour Standards. If the identified risks (either during the appraisal or the monitoring phase) are moderate to significant, the promoter may be further asked to undertake an independent labour audit. The exact scope of this labour audit will be discussed and agreed with the DBN.
- 7.5. The promoter will ensure that risks of labour right violations are being addressed in a satisfactory manner and within a reasonable timeframe. The promoter will further take appropriate and prompt steps to remedy any identified incident. When remedy proves impossible, the promoter will resort to different primary contractors and first-tier suppliers that can prove compliant.
- 7.6. In the case of third-party auditing, it is advised that specialists with local expertise and having the trust of all stakeholders (management, workers, and supervisors) are sought. The promoter shall enable a truly independent audit that allows auditors to ensure that (i) off-site, confidential worker interviews can take place; (ii) all types of workers including contract, migrant, casual and female workers can be interviewed; and, (iii) all Core ILO standards are covered, including special attention to freedom of association and equal treatment and equal opportunity. The selected auditor shall be independent and trustworthy and have suitable credentials.
- 7.7. The audit will result in comprehensive feedback on its findings that the promoter shall make available to the primary contractors/first-tier suppliers and workers. Robust and time-bound corrective action plans need to be established agreed and followed up on. If the corrective measures are not duly and timely undertaken, the DBN reserves the right to withdraw from its financing.

8. REVIEW

The principles contained in this standard will be reviewed on an annual basis to facilitate improvement.

9. GENERAL REFERENCES FOR STANDARD METHODS

- Performance Standard 2, Labour and Working Conditions, IFC, January 1, 2012
- ILO Declaration on Fundamental Principles and Rights at Work
- The Labour Act No 11 of 2007 and regulations relating to the Health, Safety and Welfare of employees at work.
- African Development Bank Group Integrated Safeguards System (ISS) - Approved 17 Dec 2013
- European Investment Bank (EIB) Environmental and Social Handbook, Environment, Climate and Social Office Projects Directorate, Version 9.0 of 02/12/2013

10. BOARD APPROVAL OF STANDARD



Development Bank of Namibia

12 Daniel Munamava Street, Windhoek • PO Box 235, Windhoek, Namibia • Tel: +264-61-290-8000 • Fax: +264-61-290-8049
5626 Main Road, Trade Fair Grounds, Ongwediva • PO Box 3226, Ongwediva, Namibia • Tel: +264-65-230-130 • Fax: +264-65-230-126
206 Sam Nujoma Drive, Erf 735, Central Business District, Walvis Bay • PO Box 4514, Walvis Bay, Namibia Tel: +264-64-220-924 • Fax: +264-64-221-857
E-mail: info@dbn.com.na • Web: www.dbn.com.na

EXTRACT OF THE UNAPPROVED ORDINARY BOARD MINUTES OF THE BOARD OF DIRECTORS' MEETING HELD ON 7 NOVEMBER 2016 AT 12 DANIEL MUNAMAVA STREET, WINDHOEK, NAMIBIA

"7. RISK, COMPLIANCE AND POLICIES

7.1 The Board reviewed and approved without any amendments thereto the following environmental standards,

- 7.1.1 Environmental and Social Management System Standard
- 7.1.2 Occupational Health and Safety, Public Health and Security Standard
- 7.1.3 Rights and Interests of Indigenous People Standard
- 7.1.4 Stakeholder Engagement Standard
- 7.1.5 Labour and Working Conditions Standard
- 7.1.6 Land Acquisition and Involuntary Resettlement Standard
- 7.1.7 Cultural Heritage Standard
- 7.1.8 Emergency Prevention, Preparedness and Response Standard
- 7.1.9 Pollution Prevention and Control Standard
- 7.1.10 Biodiversity and Ecosystems Standard
- 7.1.11 Greenhouse Gas Emissions and Climate Change Standard

A handwritten signature in black ink, enclosed in an oval shape.

Company Secretary

R Brusa

14 December 2016