



Models for Monitoring Codes of Conduct: *A guidance document for recruitment agency associations in the Greater Mekong Sub-region*

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ABOUT BSR

A leader in corporate responsibility since 1992, BSR works with its global network of more than 250 member companies to develop sustainable business strategies and solutions through consulting, research, and cross-sector collaboration. With offices in Asia, Europe, and North America, BSR uses its expertise in the environment, human rights, economic development, and governance and accountability to guide global companies toward creating a just and sustainable world.

Since the 1990s, BSR has been an active voice and practitioner in board rooms, management settings and factories to promote a continuous improvement of companies' approaches to sustainable supply chains. In addition, BSR has acted as a convener and facilitator between businesses, workers, unions, NGOs and government. BSR's key work includes the ILO/IFC Better Work Program where meetings are facilitated with buyers at the global level as well as in-country in Cambodia, Vietnam, Indonesia, Haiti, Nicaragua, Jordan and Lesotho www.betterwork.org. This work provides direct exposure to methods of encouraging and enforcing improved ethical conduct.

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Contents

- 1 Introduction**
 - Context
 - Report Objectives
 - Approach
 - Evaluation Framework
- 2 Governance Mechanisms – Code of Conduct**
- 3 Monitoring Mechanisms - Code of Conduct**
- 4 Lessons Learned**
- 5 Synthesis**
- 6 Proposal**
- 7. Appendix**
 - Case Studies:
 - » Electronic Industry Citizenship Coalition (EICC)
 - » Ethical Trading Initiative (ETI)
 - » American Industrial Hygiene Association (AIHA)
 - » Forest Stewardship Council (FSC)

The TRIANGLE Project

The International Labour Organization (ILO) Tripartite Action to Protect Migrants from Labour Exploitation (TRIANGLE Project) aims to significantly reduce the exploitation of migrants through the formulation and implementation of improved recruitment and labour protection policies and practices in the Southeast Asian region.

The TRIANGLE Project also aims to promote greater cooperation between governments, to improve bilateral and multilateral work on the recruitment, employment and protection of migrant workers.

The TRIANGLE Project operates in Cambodia, Lao PDR, Malaysia, Myanmar, Thailand and Viet Nam. The ILO has and will partner with the recruitment agency associations in these countries to develop and implement codes of conduct. This self-regulation tool is seen as an important step in improving recruitment practices and preventing the exploitation of labour migrants.

1. Introduction

Context

The Greater Mekong Sub-region (GMS) and neighbouring countries comprise one of the world's most dynamic labour migration hubs. The continued growth of labour migration within and from the region can be attributed to a number of factors, including demographic evolution, income disparities, human security concerns, established migrant networks and improved transportation links.

Given the high numbers of migrants and the growth envisioned, governments in the region and national associations representing recruitment agencies are aware that there is a critical need to manage the process of protecting workers rights in order to position their countries at the forefront of progressive and high quality labour recruitment.

Specifically, recruitment agencies need to:

- » Develop quality workers for potential overseas employment
- » Recruit such workers in an ethical manner in line with national legislation
- » Build demand for such migrants, and
- » Develop a reputation for supporting such migrants both locally and in receiving countries in order to ensure the success of, and confidence in, such overseas working assignments.

In recent years, several recruitment agency associations and labour ministries have sought technical support from the International Labour Organization (ILO) in the formulation and promulgation of Codes of Conduct for recruitment agencies sending workers for overseas employment. The goal of these codes of conduct is to promote and protect

workers going abroad, bring industry practices in line with national laws and international standards, to help develop and recruit high-quality migrants as well as build demand for such migrants. In order to meet these objectives, associations of recruitment agencies are looking to strengthen the implementation and monitoring of their code of conduct.

This report has been commissioned by the ILO TRIANGLE Project in order to help national recruitment agencies associations in the Greater Mekong Sub-region better understand the frameworks and tools currently available to implement and monitor codes of conduct. Specifically, the report looks at what works, what the challenges are and how these associations could take the lead in an innovative approach in code implementation with its members.

Report Objectives

The objectives of this report include:

Objective 1: Provide an overview of how other organizations and initiatives monitor the application of codes of conduct in terms of both governance and accountability mechanisms.

Objective 2: Assess what has worked well in other contexts, as well as challenges in monitoring the application of codes of conduct.

Objective 3: Review the tools for self-regulation and an assessment of the advantages and disadvantages of these different tools and mechanisms.

Objective 4: Introduce innovative concepts in driving and monitoring ethical business conduct.

Approach

Information to write this report was drawn from sources internal to BSR as well as publicly available information. We have relied on BSR's experience in helping organizations develop and implement appropriate governance structures and our continued work with organizations to improve how they operate and implement codes of conduct. BSR has direct experience from working with initiatives including electric utilities and industrial users of coal (Better Coal), information, communication and technology companies in the Electronic Industry Citizenship Coalition (EICC), and pharmaceutical companies in the Pharmaceutical Supply Chain Initiative (PSCI). We have relied on BSR insights as well as publicly available information to build case studies. Where possible, we have conducted phone interviews with the organizations themselves and/or BSR project managers who work directly with these organizations. To better understand the national and regional context, we have interviewed members of the ILO team to gain a clearer understanding of the TRIANGLE Project and the vision and current organizational structure of national recruitment agencies associations, in particular the Vietnamese Association of Manpower Supply (VAMAS).

Case studies were chosen based on differing organizational structures and monitoring mechanisms in order to provide a range of examples to the ILO and associations of recruitment agencies. Case studies include the:

- » **Electronic Industry Citizenship Coalition (EICC).** The EICC is an industry-led organization that promotes an industry-wide code of conduct for global electronics supply chains to improve working and environmental conditions. EICC membership is open to electronic manufacturers; software firms; information, communications and technology firms; and manufacturing service providers, including contracted firms that design, manufacture, or provide electronic goods. In short, EICC members cover the vast majority of the electronics supply chain.¹ The EICC arose out of supply chain problems within the electronics industry and as such, their primary audience are stakeholders like NGOs as well as the EICC members themselves. The EICC tends to focus its efforts on issues and supply chain risk management and less on engaging consumers.
- » **Ethical Trade Initiative (ETI).** Established in 1998, the ETI is a multi-stakeholder alliance of over 80 companies, trade unions and NGOs that work together to identify and promote good practice in labour code implementation, including monitoring and verifying compliance with code provisions.² All corporate members of ETI agree to adopt the ETI Base Code of labour practice and sign up to ETI's Principles of Implementation, which set out the approaches to ethical trade that member companies should follow.³ The ETI, is concerned with making a change in labour practices

¹ United Nations Global Compact and BSR, Supply Chain Sustainability: A Practical Guide for Continuous Improvement, p. 53

² Ibid, p. 53

³ Ethical Trade Initiative. <http://www.ethicaltrade.org/>

throughout the entire value chain and as such is both internal (risk facing) as well as consumer facing.

- » **American Industrial Hygiene Association (AIHA).** Founded in 1939 as a nonprofit organization, the AIHA is one of the largest international associations serving the needs of occupational and environmental health and safety professionals practicing industrial hygiene. The AIHA is devoted to achieving and maintaining the highest professional standards for members. AIHA members, who number over 10,000, are primarily individuals. ⁴ AIHA is extremely member and consumer focused. It needs its members to maintain high quality standards in order to build good recognition of their work (prestige) and build their market. With market recognition of high standards, the AIHA is able to build trust in their work, and differentiate within the marketplace.

- » **Forest Stewardship Council (FSC)** The FSC is an independent, non-governmental, not-for-profit organization established to promote the responsible management of the world's forests. As a multi-stakeholder organization, FSC applies the directive of its membership to develop forest management and chain of custody standards, deliver trademark assurance and provide accreditation services to a global network of businesses, organizations and communities.⁵ FSC arose out of a shortage of natural resources (forests) and less with working conditions. Nevertheless, it too has a need to be consumer facing, build trust with consumers and members, and thus requires a structure to meet its needs.

BSR's analysis suggests that recruitment agency associations fall between the FSC and AIHA. These associations may need to have influence over their members (as a few bad apples can have a major negative impact on the associations), and at the same time they need to communicate to key stakeholders such as the government, international organizations, potential employers at destination countries, governments and stakeholders at destination countries, as well as migrant workers themselves. Thus it is both internal facing, and consumer/market facing.

Evaluation Framework

Each case study we have chosen has a different purpose, audience and mission. These differences are further amplified by the types of members within each organization – be they large Fortune 100 companies, small enterprises or individuals. In addition, each organization is at a different stage of development. All of the above has implications as to the limits and abilities of an organization to implement a code of conduct.

In analyzing the case studies, we have applied a common framework of evaluation to develop recommendations for code of conduct monitoring and implementation. The framework provides a practical lens to evaluate how organizations are performing vis-à-vis code of conduct implementation and revolves around three distinct questions:

⁴ American Industrial Hygiene Association. <http://www.aiha.org>

⁵ The Forest Stewardship Council. <http://www.fsc.org>

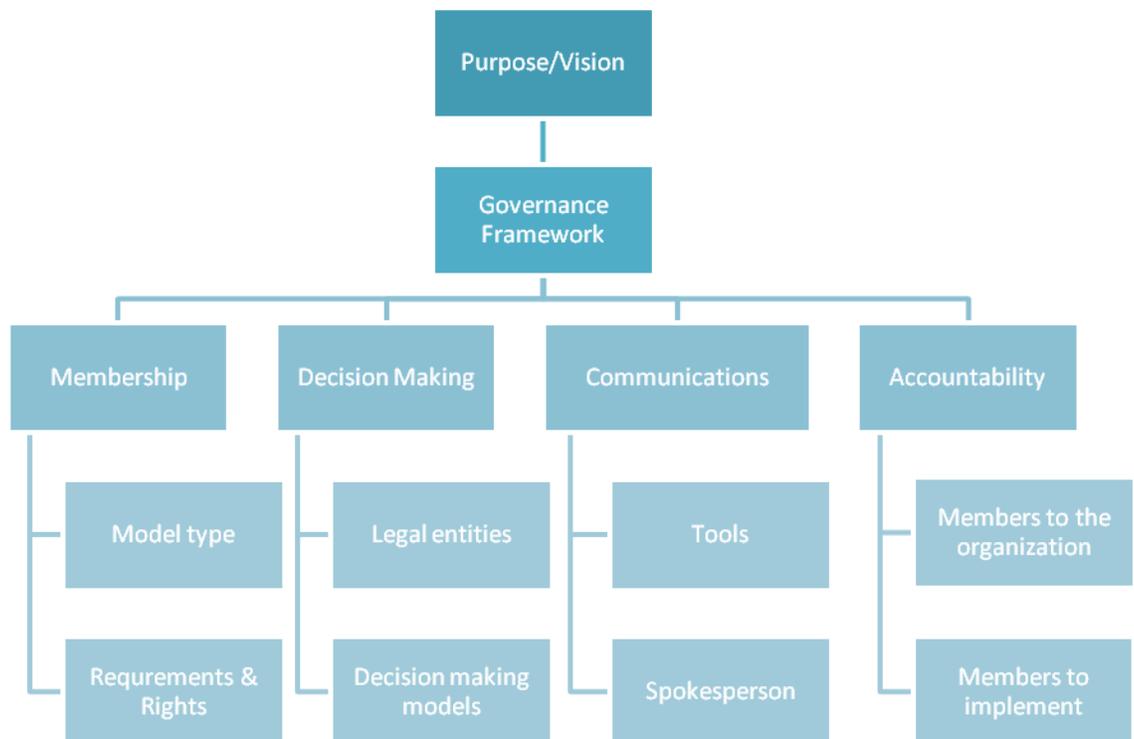
- » What does the governing organization want to achieve? What is its vision and level of ambition?
- » What accountability measures does the organization have in place to meet its ambitions? How does it hold its members accountable?
- » How do members apply the organization's vision (i.e. a code of conduct) within their own base? How does the organization monitor this level of compliance?

2. Governance Mechanisms – Code of Conduct

The governance framework of an organization is fundamentally linked to both the code of conduct and aspiration or intent towards the implementation of the code, as well as the monitoring, transparency and incentives necessary to move a code of conduct from a piece of paper, to policies actively embedded in participating organizations and their base.

A governance framework includes four areas, each with its set of key questions:

- » Membership – what is the membership model of the organization? Who are the members (large companies, small enterprises, individuals)? What are membership requirements and rights?
- » Decision Making – what are the legal and key decision-making bodies? How are decisions made – formally, informally, majority vote, consensus, by edict?
- » Communication – how does the organization communicate about its work? What communications tools exist?
- » Accountability – how are members held accountable by the organization? How does the organization ensure that members are implementing what they sign up for?



Below is an illustration of the governance framework and its subcomponents.

Membership

Model types

Industry-led memberships are typically open to businesses and trade associations. Non-members and other stakeholders such as NGOs, academia, and community members are consulted and involved to varying degrees, but are not formally part of the organization. The Electronic Industry Citizenship Coalition (EICC) is a good example of an industry-led membership.

Multi-stakeholder memberships are open to a wide and broad group of members including industry/business members and non-business stakeholders. Non-business stakeholders are formally included in the governance structure and as a result have voting rights and decision-making power in the organization. The Ethical Trade Initiative (ETI) is a good example of this type of membership.

Individual memberships is one where the members are primarily individuals, and not companies or representatives from other organisations. The AIHA is an example of this sort of individual-based membership.

The type of membership within an organization has implications for code of conduct implementation as the motivations of the members vary significantly and this has ramifications on monitoring and compliance mechanisms as we shall see in the next section.

Requirements and Rights

Membership requirements can be quite **stringent** – such as the AIHA, where individuals (members) must prove that they have the required professional certification to be admitted into the organization. Conversely at the FSC, membership is less stringent and is **open** to all types of entities except government bodies.

Furthermore, not all members of an organization are necessarily equal. Members within an organisation can have different rights and privileges. At the FSC, founding members have special rights. While at the EICC, membership is split into full members and applicant members with the requirements for full members being more stringent. For example, full members are expected to publicly acknowledge that they have adopted the code of conduct and demonstrate progress toward conformance of the code. As a result only full members have access to voting rights and decision-making power.

Decision Making

All the organizations reviewed have formal decision-making bodies. In most cases, the Board of Directors is the main decision-making body, and is supported by a Secretariat or Executive. Composition and size of the Board varies significantly from organization to organization. Board members may be elected or appointed, include internal members or external representatives, and serve a limited amount of time or have an open-ended term with no limits.

Decision making authority may lie with the Board of Directors, membership committees, or individual members. For example, within the ETI decisions are voted upon at the Board level while decisions at the EICC are voted upon by all members holding full membership status.

The EICC, given its relatively narrow membership model (industry-led) has a relatively simple decision making model where full members vote on decisions based on a simple majority. In addition, members are involved in deciding on which activities to focus on through the formation of member-led Working Groups. The day to day organizational matters at the EICC are handled by a small secretariat (executive).

The decision-making model has implications on monitoring the code of conduct as ultimately it is this legal entity which decides on the level of sanctions or awards that can be given to members for best practices or non-compliance. The time and bureaucracy around decision making may incentivise members in a positive or negative way. For example, those practicing non-compliance may not be incentivised to change if they know that the decision making process to implement sanctions is long and inefficient. Furthermore, how decisions are reached – whether by democratic vote, or consensus by small team—impacts member perception of the fairness of the organization and thus impacts how inclined members will be to adopt and adhere to a code of conduct.

Communications

Whether an organization is primarily internal facing (to its members) or external facing (to consumers and external stakeholders) has implications for its communications around code of conduct adoption and implementation.

The most common form of public reporting is the organization's Annual Report, which typically clarifies the organization's mission and goals, who the current members are and provides an update on its key initiatives. Included in these reports are key performance indicators (KPIs) and measures which track the progress that members are making in particular areas such as adoption of the code of conduct. This is found for example in the EICC, which reports on the activities of its member-led working groups annually, as well as the FSC which runs a Monitoring and Evaluation Program.

In addition to or in lieu of, the Annual Report, organizations sometimes require members to submit a report on progress on key initiatives/requirements (such as the adoption of the organization's code of conduct) to the Board of Directors. Information in the report may be held confidential or included in a larger report, which may then be shared publicly.

At the ETI, which has a strong external facing element to it, communications include various tools and means to engage concerned citizens. For example, key documents such as the code, as well as aggregate data on how ETI members are performing in accordance to the code is available under a section called Member Performance. Additionally, on its website, one can sign up to "Get Involved", help lobby governments as well as sign up for basic information from the organization through its newsletter, blog, or social networking sites. A variety of short films and videos showcase why members are part of the organization as well as giving voice to workers to bring the message of why ethical trade matters to a wide community.

Accountability

Accountability mechanisms ensure that members comply with membership requirements. These mechanisms take a variety of forms ranging from the informal to the formal and from self-assessments to third-party audits. At the EICC, a Membership Compliance Administrator is responsible for ensuring that members comply with membership requirements, which includes among other requirements, adopting the EICC code of conduct in their business operations for

full members. Given the focus of this report, further attention is provided to monitoring mechanisms as it relates to codes of conduct in the next section.

Finally, it is important to acknowledge that accountability mechanisms necessarily link back to the overall governance structure and decision making of the organization. Where accountability mechanisms of both the membership organization and of the monitoring mechanism require performance to standards, the ability to judge this performance is key to the long term trust and credibility of both the standard and the membership organization. Through the accountability and governance process, the membership organization must be able to make appropriate decisions to differentiate between performers and non-performers, and invoke appropriate incentive mechanisms (either positive or negative) to either reward or punish such performance. Failure at the governance level can lead to a gradual “hollowing out” of the trust in the strength, appropriateness and fairness of Code of Conduct standards and implementation.

3. Monitoring Mechanisms - Code of Conduct

Role and ability of members to implement the code

Who implements the code of conduct depends significantly on the type of membership of an organization. Are members directly responsible for adhering to the code – such as the case of the AIHA, where individuals are responsible for ensuring that they are qualified hygienists, or are members conduits to a sub-tier of companies where the code is to be implemented. This indirect role is the case with the ETI and EICC. Both depend on their members to implement the code into their supplier base. The level of authority and influence of the associations’ members to implement is thus different and actual implementation requires a variety of incentives – positive and negative – to ensure compliance.

In the case of recruitment agency associations, the situation is mixed. On the one hand members (recruiting agencies) have a direct connection to their own organizations and as such should have full ability to implement the code directly. However, the role of free-agents who operate at the village level and work on a commission with recruitment agencies is an issue. Recruitment agencies will need to find creative and innovative ways to ensure that these free-agents adhere to the code and are accountable for their actions. Furthermore, for some recruitment agency association members’ implementation of the code within the receiving country may have its own set of challenges such as language barriers or lack of labour attaches at the receiving country level.

Ability of associations to provide an enabling environment

Associations are also responsible for creating the right environment for code adoption by making sure potential and new members understand what is expected of them. This “education of the code” can be done through seminars, introduction courses on membership requirements and written communication on the code of conduct. Furthermore, organizations must ensure that information is accessible (for example downloadable of the web), easy to understand (for example in multiple languages) and correctly distributed (for example requiring that each member select a representative (Code Owner) tasked with understanding member commitments).

A refresher in membership requirements is often deployed to all members (existing and new), when updates to key membership requirements occur - such as addendums to a code of conduct or changes in membership requirements.

Member motivation and aligned incentives

The real question however is what motivates members to be a part of an association. Is it required by law? Is it voluntary? In the case of recruitment agency associations, the question is: what is the perceived value of the association from the point of view of recruitment agencies? Once this “value to members” aspect of the associations is clear, then incentives toward participation can be created. How much would it help members themselves to be part of the solution, and therefore aligned with associations to be part of the solution?

There are a number of compelling factors facing recruiting agencies in the context of migration in the Greater Mekong Sub-region which can be used to drive membership recruitment for agency associations and encourage members to adopt and implement their codes of conduct.

» **Recruit and retain workers**

BSR’s understanding is that the business model of most of the recruitment agencies is based on a service charge from migrant workers. Since 2009, recruitment agencies have faced dampened labour demand due to market conditions including the economic downturn and jobs crisis, unrest in the Middle East and North Africa, Japan’s earthquake and tsunami, etc. In Vietnam and Thailand, recruiting agencies are having difficulties recruiting migrant workers due to a shortage of supply as shrinking wage differentials make wages in destination countries less attractive.

As a member of the national recruitment agency associations, agencies would have a mark of distinction signaling to migrants and employers that they are agencies of repute. In addition, as members of these associations recruitment agencies would have opportunities to share learnings, benchmark against others in the industry, benefit from shared trainings and tools, all of which will potentially lower costs while building capacity to improve recruitment and retention of overseas workers.

» **Differentiate locally and internationally**

The image of recruitment agencies in the Greater Mekong Sub-region is hardly positive. A rating system will help position top-performing agencies in a positive light in the local market. For example, one could envision a rating system similar to that employed by the Better Business Bureau or by hotels (star rating), and distinguishes those agencies that prove to be have the workers’ welfare in mind. Association members could use this distinction to further build their brand and differentiate themselves in the local market.

Internationally, membership in associations of recruitment agencies could be viewed by employers and governments of destination countries as a hallmark of quality and reliability. Membership in these associations, and adoption of an internationally aligned code of conduct, would signify willingness that these recruitment agencies are practicing good labour standards, and thus raise the prestige of these countries in the international labour pool as a reliable source of high quality workers whose rights and welfare are valued.

» **Access to tools and training**

Many recruitment agencies do not yet pay attention to improving the quality of their services to support migrants - through in-depth pre-departure training, on-site protection services, return and reintegration assistance, etc. Other possible trainings include management training on expanding operations or trainings on how to improve efficiency. There is a need in the market to develop such capacity and national associations of recruitment agencies are well-placed to offer such training (workshops, courses, e-learning) and tools

to its members. Access to these tools and trainings is a major incentive and should be used to drive adoption and implementation of the codes of conduct. In addition to the above associations of recruitment agencies may offer participation in overseas marketing missions carried out by them or Governments as an incentive or reward to members who go above and beyond their code of conduct.

» **A central point of connection**

A challenge in the recruiting marketplace is the wide variety of pathways migrants, recruiting agencies, and employers create on the way to overseas employment. Consequently it can be difficult to systematically track overseas migrants; to provide appropriate training to migrants, agencies and employers; to update and receive updates from overseas migrants; and to enable migrants to anticipate and review their migration experience. Consequently, the ability of national associations of recruitment agencies to create a central point of connection, perhaps in the form of a website, linkages to government ministries and a registrar of migrants, could have profound implications not only on the experience of the migrant, the value that agencies can bring, and security for the employer, but as a means of linking the codes of conduct to the entire journey of a migrant worker overseen by the agency from recruitment to employment. Such a central connection point could also enhance the efficiency and reputation of associations of recruitment agencies and their members.

Incentive Tools

Based on our case studies, incentives can take the form of neutral, positive or, as needed, negative incentives or sanctions. Examples include:

Incentive	Tools	Strengths	Constraints
Positive	Awards/Recognition » AIHA	Encourages members to support best practices and innovative solutions; Provides distinction to members that go above and beyond	Only highlights members that are operating at the highest levels
	Platform for showcasing initiatives » ETI » EICC » AIHA	For businesses interested in reputation, a platform showcasing initiatives provides a business incentive for members to implement the code of conduct; Encourages members to support the code; creates public pressure; creates peer pressure	Members may only be concerned with their public image rather than the actual implementation of the code
	Certification » FSC	Certification produces a business incentive to comply with the code	Requires validations before certification and

			can be costly and difficult to implement
Neutral	Confidential Recommendations » ETI	Allows members to build on learning process and rectify mistakes/shortcomings	Members may simply ignore recommendations
	Recommendations made and disclosed publicly	Creates public pressure to change	May undermine public confidence in the association
Negative	Financial penalty	Acts as a strong deterrent to non-compliance	Is only effective if the penalty cost exceeds benefits of free-riding
	Membership Suspension/expulsion » ETI » EICC	Acts as a deterrent to free riding ⁶ ; Removes poor performing members from association	Often viewed as extreme by members
	Expulsion publicized	Demonstrates stringency of the initiative, creates credibility in the eyes of the public – i.e. the organization is willing and able to act against those that do not adhere to the code	If expulsion occurs only in reaction to negative media, rather than as a result of monitoring steps taken by the association, expulsion may undermine public confidence in the association. Expulsion must be a result of the associations' own monitoring and system of sanctions.

Adopting and implementing the code of conduct

There is much that members can gain from recruitment agency associations and the long-term value will be linked to the long-term credibility of these associations. Credibility, in terms of code of conduct, comes down to making sure members are compliant with the code. Because the risk of reputational loss for the association and long-term credibility of what it stands for, it is vital that associations make sure that members are complying to the code. Associations of recruitment agencies need to validate both (a) that members agree with and

⁶ Free Riding is the practice of enjoying the benefits of something without paying for it or meeting the expectations. For example, a Free Rider might be one who enjoys the positive reputation that being a member of VAMAS provides, while not actually upholding the code of conduct.

commit to implement the code, as well as (b) actually and substantially implement the code within their larger sphere of influence. Consequently, monitoring a code of conduct takes place at different levels within an organization.

The first level is at the **organizational level**, and answers the question if members are agreeing to the spirit and intent of the code.

Organizations monitor this level of adherence in a variety of ways including:

- » **Promoting self testing and registration.** A registration process where potential members provide information about themselves and why they qualify for membership is the first step. This application process is reviewed and vetted at the highest level of the organization (typically the Board) or by a specific Membership sub-committee answerable to the Board. The EICC requires that all potential members sign a Commitment Letter signed personally by a senior person within the member company.
- » Requiring accepted members to make a **public commitment**. For example at the EICC and ETI, members have their company names published on the organization website and a full list of members is included in the organizations' public annual report.
- » Requiring members to undergo an **annual evaluation survey** to ascertain if members are adopting the code and to what degree. At the EICC, members are required by the association to make available a company representative to complete an extensive 5-6 hour survey answering about 60 questions including a large section on code adoption and implementation. This data is then used to gauge the organization's success in ensuring adoption of the code, and provides feedback as to why members are unable to implement the code. The survey data is collated, analysed and shared publically in the EICC's Annual Report.

The second deeper and more challenging level of code monitoring is at the **implementation level**. Are members actually implementing the code of conduct to themselves or to their supplier base? In the case of national associations of recruitment agencies, are members implementing their code throughout the recruitment, sending, employment and repatriation process?

Organizations apply a variety of mechanisms to monitor at this level. Two of the most common include:

- » **Member site visits and in-person interviews** – the ETI visits 20% of its members each year, on a random basis. These in-person site visits allow for verification that members are implementing the code, and provide a practical way to understand first-hand the areas that need improvement and to engage directly with members.
- » **Self Assessment Questionnaires and Audits** – either carried out by the organization itself, or by 3rd party auditors. The EICC has tools available for its members to use with their supplier base to determine if codes are being implemented. As a first step, members can use a Supplier Self Assessment Questionnaire (SAQ) to test the level of compliance. Should a supplier be considered a “high risk” supplier, a Validated Audit Process which is EICC sanctioned and carried out by a 3rd party auditor, is available to members to use.
- » **Open Access Tools** – some brands in particular have experimented with open access tools. Examples might include a worker hotline, an on-line web platform, or other means to enable participants in the process which is being monitored to voluntarily, anonymously and at non-specified times add input to the evaluation process.

Monitoring tools

Monitoring	Tool	Strengths	Constraints
Self Assessment	<p>Self Assessment Questionnaire</p> <ul style="list-style-type: none"> » EICC Self Assessment Questionnaire (SAQ) <p>Self Reporting of Activities</p> <ul style="list-style-type: none"> » FSC 	<p>Encourages ownership of the process;</p> <p>Low cost;</p> <p>Simple to use</p>	<p>Lower level of credibility;</p> <p>Does not involve external stakeholders</p>
Association-Assessment	<p>Site Visits and In-person Interviews</p> <ul style="list-style-type: none"> » ETI <p>Audits (conducted by Association)</p>	<p>Higher level of credibility;</p> <p>Enables the association to understand areas that need improvement;</p> <p>Enables association to engage with members directly;</p> <p>Association assessment may identify issues that are difficult for those member to recognize</p>	<p>High Cost;</p> <p>Requires extensive personnel resources;</p> <p>Audits often support a lowest common denominator where only the basic level of achievement is monitored</p>
Third Party Assessment	<p>Audits</p> <ul style="list-style-type: none"> » EICC Validated Audit Program (VAP) 	<p>Higher level of credibility</p> <p>External assessment may identify issues that are difficult for those internal to an organization to recognize</p>	<p>High cost;</p> <p>Audits often supports a lowest common denominator where only the basic level of achievement is monitored, and thus may hinder innovation;</p> <p>Time consuming;</p> <p>Does not involve other stakeholders such as NGOs;</p> <p>Lacks member ownership of the</p>

			project
Open Access Tools	Hotlines » Clear Voice Worker Hotline	Involves external stakeholders; Grievances are reported at any time rather than only during instances of formal monitoring.	Only reveals cases of non-compliance when reported; Stakeholders must be aware of complaints procedures; Stakeholders must feel safe and not suffer any consequences for using the hotline.

4. Lessons Learned

Creating enduring and long-lasting change amongst participants in mission driven organizations is a challenge which all the organizations grapple with. Codes of conduct are an important tool to bring together different groups around a common goal. However, implementing such codes and making sure they are adopted and embedded is a challenge.

Monitoring member support and implementation of codes of conduct are one way in which an organization can support the mission of the organization. Monitoring alone, however, is insufficient to affect change. Members must have the right incentives in place to encourage them to take up the code and implement it.

What does the governing organization want to achieve? What is its vision and level of ambition?

Focus on the desired outcomes and goals. Ultimately, the codes of conduct support the vision of the organization. The fundamental question that must be addressed when building governance and monitoring mechanisms is the desired outcome. The purpose of an organization is not to uphold codes of conduct, but to support a vision through the implementation of a code of conduct. When an organization forgets about its vision and reason for being, it runs the risk of monitoring the wrong input, at the wrong frequency and in the wrong way.

One of the key learnings from the EICC is that despite its success in creating and implementing monitoring programs, the organization is overly focused on monitoring its code and as a result lacks strategic vision. The mission of the EICC is to improve working conditions in the global electronics supply chain. However, while the EICC has developed a comprehensive system for identifying risks and failures, it lacks a map for improvement, which is fundamental to the mission.

Determine the level of ambition of the organization and align resources accordingly.

What impact does the organization want to have? How will it go about achieving this impact? How much money will need to be invested in order to support this strategy? What is reasonable in the short term, how can ambitions be scaled commensurately?

Implementing and making sure codes of conduct work requires a thoughtful and long-term strategy. Such a strategy requires on-going support in terms of people, time and money. We have seen that for many organizations, this requires significant and steady funding. The ETI, which was founded in 1998, is today funded from a diverse range of sources including member dues (50%), conference and seminar fees, and government funding from DFID (40%). The annual budget for the ETI in 2010 is about USD 0.8 Million⁷

Determine member commitment to the vision of the association and incentivize members accordingly.

Member commitment to the vision of the association should inform the types of incentives (positive/negative) and the degree to which incentives are used.

⁷ This figure was converted from GBP. The total GBP is 1,3 Million . Source: ETI website

There is typically a base reason for members to comply with the codes of conduct. For example, the ethics of the AIHA promote good health and safety habits. Both of these components (health and safety) are of direct interest to the individual member due to the fact that member employability and promotion is directly tied with his/her knowledge and practice of good health and safety habits. Therefore, in the case of AIHA, few formalized incentives are needed for members to comply with the ethics of the organization. Because basic compliance to the ethics is considered a given the AIHA incentivizes its members to pursue the gold standard. It does this through a system of rewards for excellence. Members can apply for awards that recognize the most significant contribution to industrial hygiene in recent years or distinguished service in the advancement of industrial hygiene.

The EICC provides a very different example. Members have some incentive to comply with the codes of conduct as it affects their companies' reputation and members (particularly large brands) are constantly watched by external stakeholders and NGOs. Membership of the EICC is a signal to the market that Company X is upholding the principles of the code of conduct and is therefore a company which is doing "good business". However, there is a possibility, particularly among smaller companies that are less reputation-driven, that risk to reputation is perceived as being less important. For these companies there is less incentive to implement the code to the level required by membership.

What accountability measures does the organization have in place to meet its ambitions? How does it hold its members accountable?

Mechanisms to understand if and how members are adopting the code are a first step.

A good example here is the EICC Annual Member survey. This detailed self-assessment questionnaire is administered every year and must be completed by members. It covers a range of questions and provides the EICC with a benchmark as to how its members are performing. From a members point of view the survey also provides information on how it is doing vis-a vis peer companies and competitors. This information can and is used in a number of ways, including helping companies see where they have room for improvement, helping companies prioritize as well as helping companies communicate to their stakeholders about what they are doing well in comparison to an acknowledged peer group.

How do members apply the organization's vision (i.e. a Code of Conduct) within their own sphere of influence?

Align monitoring mechanisms with the vision and ambition of the organization.

While the EICC is not a certification organization, it nevertheless provides a stamp of approval to its members. Given this risk, it is vital that it ensures that its members are actually applying the code of conduct fully through its supply base. To do this the EICC has invested in tools such as the Validated Audit Program, which has external 3rd party auditors who have been vetted and approved by the EICC. At the inception of this program the EICC created a venture capital funding pool to fund audits, as they realized that neither companies nor suppliers alone would agree to fund costs alone. Today the costs of these audits are borne by suppliers.

Random Validation Visits: Each year, the ETI Secretariat, together with representatives from member trade unions and NGOs, conducts random

validation visits to a minimum of 20 percent of reporting members. The purpose of these visits is to check that the company's management processes and systems for collecting data for its annual report are consistent and reliable. The visits also help build dialogue with member companies about what progress they are making as well as about any problems that arise.

Monitoring mechanisms are insufficient to affect change on their own, associations must help build member capacity to implement codes

For all the organisations reviewed, learning is cited as a critical part of organizational development and growth. Successful organizations have formalized learning and provided the environment, resources and the tools to enable continuous improvement.

While organizations in theory recognize the need for learning and improvement mechanisms, the requisite investment in learning tools and capacity building is lacking. The priority to build a learning environment and provide good tools which members can use for continued development is low, with lack of funding cited as one of the main reasons for weak improvement mechanisms.

The majority of EICC resources are focused on monitoring the code of conduct. As a consequence, very few resources are given to other components of accountability such improvement mechanisms. Given that improvement is an important goal of any association, the over-focus of resources on monitoring has hindered the EICC from achieving its ultimate goal of industry wide improvement.

5. Synthesis

Adoption and use of the code depends on (1) a mix of shared vision and goals, (2) the business incentive to apply these standards, (3) the understanding of the needs and impacts that require a code and the business, (4) information to evaluate the implementation of the code and (5) the ability of skilled practitioners to apply the code.

In BSR's experience, governance and monitoring systems have fallen short due to an over-emphasis on detailed standards and outcomes, without clarity and focus on the larger strategic questions. In general there is an over-dependence on compliance-based mechanisms and an underestimation on the basic building blocks of implementation and monitoring. These core building blocks of **People, Knowledge, Connections**, and **Incentives** are inter-related and form a feedback loop which will ultimately allow organizations to embed change within their member base, and help them meet their long term goals and objectives.

As recruitment agency associations approach this question, BSR suggests a framework of choices through which it can analyze and build its approach to monitoring the code of conduct. This approach is based on, for initial analysis purposes, three choices:

- » *Low*, means that the option requires low resource but produces low outcomes;
- » *Medium*, means that moderate resources are required but that the results are moderate; and
- » *High*, means that a large amount of resources are required but that the outcomes are similarly high.

People

The first and most important block within this system is People. Any system for code monitoring and enforcement requires people – whether as self-reporters, as monitors, as advocates, or as participants. Those within a member organization (i.e. recruitment agencies) that are responsible for the implementation of the code are called the codes owners. The success of the adoption and implementation of a code of conduct can generally be correlated with the vision, flexibility, training, engagement and empowerment of these code owners. Their ability to clearly understand their roles, the values embedded in the code and the necessity of training on these values, the specific components of the goals and objects of the code and the importance of implementation have an impact on outcomes.

Table: Agency Code Owner Scenarios

Level	Resources	Outcomes
Low	No specified code owner	General awareness and code accountability seated at the member level
Medium	A specified code owner at the participant level, some basic training requirements	Specified code accountability at the firm level, basic level of code understanding
High	Code owner certification process including training, on-going engagement and inclusion	High levels of code understanding at the firm level, implies allocation of personnel and other resources, linking to senior management oversight and accountability, with individual accountability and inclusion

Knowledge: Continuous Improvement Loop

The designated team must have relevant knowledge on the subject of the code of conduct and have access to additional knowledge on a regular and systematic basis.

One way of effectively gathering information is through an annual learning loop or review process, which should move beyond simply gathering member opinions. This is particularly critical for industry-led organizations where non-industry points of views are not formally represented. This follows normal business practice of constructing a “Plan, Do, Check, Act” loop.

Finally, it is imperative that a return loop exists to ensure that information from the outside is included in updates and that external views are adequately and effectively represented in the organization’s code so that it remains a living document that is relevant to market conditions.



Table: Continuous Improvement Loop Scenarios

Level	Resources	Outcomes
Low	No specific knowledge set	The code stands by itself, and implementation tools, standards, knowledge or data are the responsibility of the individual firm
Medium	Code implementation knowledge and sample standard operating procedures (SOPs)	Built from insight based on the work of practitioners, a common body of sample SOPs; frequently asked questions, definitions, resources and knowledge is created to aid the implementation of the code by participating firms.
High	Annual External Feedback Loop: Sponsored Annual Migrant Survey Case study creation and best practice development	An annual migrant survey queries participants to obtain actual data to enable understanding of challenges, performance of firms, and continuous improvement; Exploration of on-going key issues, creation of up to date knowledge, and continued evolution of the insights and interests associated with the code and the migrants enables robust learning

Connections

In addition to People and Knowledge, we see Connections as being another critical factor in embedding change. The management team of the association must have connections with the board to make structural decisions and connections with members in order to influence the implementation of a code of conduct.

Table: Internal Connections with Board and Members Scenarios

Level	Resources	Outcomes
Low	No formalized connection among participant firms	General awareness based on associations web and other communications
Medium	Recurring training or other engagement process	Enhanced communication, knowledge and engagement with the firms, providing general feedback and communication
High	Annual Conference	

These connections, however, also need to expand beyond the organization itself to include connections throughout and across local communities and throughout the value chain (be it local or international). Such connections include:

- » Connections to influencers in society (e.g. local government, media, business associations, religious associations, international organizations etc.)

- » Connections to wider society and organizations and stakeholders who have an interest in the issue of labour rights and women workers in particular (e.g. migrant advocacy groups, lawyer associations, trade unions and other civil society NGOs, ILO);
- » Connections up and down the value chain (e.g. employers, sub- recruiters, remittances organizations like Western Union)

Connections with external stakeholders produce multiple benefits. These connections can enable the continuous learning identified above as well as the possibility for partnership and innovation. Connections with influences in society also enable improvement in identified areas of concern.

It is important that these connections are actively maintained and even formalized into the systems of the organization. Continuous connections with external stakeholders help to identify and mitigate risks early on. Furthermore, continuous connections enable the organization to develop relationships with external stakeholders and watchdogs in positive circumstances and before crisis hits.

Table: External Connection Scenarios

Level	Resources	Outcomes
Low	No formalized connections with stakeholders	General awareness based on associations web and other communications
Medium	Stakeholder querying and information gathering	Enhanced communication, knowledge and engagement stakeholders, providing feedback and communication
High	Stakeholder engagement and dialogue	Exploration of on-going key issues, creation of up to date knowledge, and continued evolution of the insights and interests associated with the code and the migrants enables robust learning. Enablement of rights support assistance within receiving countries.

Incentives

Monitoring of a code of conduct will fall short or cease completely if adequate incentives are not in place. Organizations must seek an enabling environment which includes incentives to drive change. Incentives can be soft, medium or hard and must be carefully selected by the governing body and executive team depending upon the structure of their respective organizations (membership model, governance authority, history) and the overall desire, intention and expected outcomes of the performance by the members.

- » **Soft Incentives:** Peer pressure, company image
- » **Medium Incentives:** Self certification, public reporting
- » **Hard Incentives:** Legal Impact

Table: Incentive Scenarios

Level	Resources	Outcomes
Low	No specific incentives	Performance entirely voluntary and non-verifiable
Medium	Simple listing of participants in good standing	Builds basic brand equity in the value and impact of organizations upholding code standards
High	Linkage to business license, detailed public reporting	High levels of transparency and linkage to government license encourage appropriate attention and allocation of resources

6. Proposal

We have put forward a proposal for recruitment agency associations in the Greater Mekong Sub-region to review. The model may not be fully implementable immediately and in all contexts – it is an ideal, but we believe it provides associations of recruitment agencies with the right focus of where they would like to end up – a world leader in the recruitment, deployment and protection of migrant workers.

Table: Proposal for Recruitment Agency Associations

Component	Best In Class: Resources	Association specific example
People	Code owner certification process including training, on-going engagement and inclusion	Each association member identifies a code owner; code owners are trained on the values of the recruitment agency code and its specific components Code owners refresh their knowledge of the code annually through a self-assessment submitted to the association Formalization of a “practitioners’ network” of code owners
Knowledge	Annual Feedback Loop: Sponsored Annual Migrant Survey; Case study creation and best practice development	Associations to create a survey of migrant workers distributed annually to understand the performance of the agencies and allow for continuous improvement Associations inspection department to present quarterly or bi-annual updates on best-practices and lessons learned Training provided to code owners on how to improve upon areas of non-compliance in a way that supports the business case
Connections		Associations] to host annual conference inviting key stakeholders, labour attaches, and associations executive team to discuss key labour migration issues and develop connections in positive environment Associations inspection department report findings to the Executive Board annually Associations inspection department to formalize connection with member code

		owners to answer questions, provide recommendations and promote the continuous adoption of the code
Incentives	Linkage to business license, detailed public reporting	<p>Public recognition (potentially certification) of “good” companies by associations</p> <p>Associations to provide public reports on list of members and member achievement to be published within Viet Nam. Report to highlight best case examples</p> <p>Public recognition through awards of companies employing “best practices” above and beyond the code</p> <p>Sanctions of companies (suspension/expulsion) continuously identified during annual survey as being non-compliant</p> <p>Associations to link adoption of code or lack thereof with government operating licenses</p>