**FSC Self-Assessment for FSC Core Labor Requirements – United States**

This tool is designed for all FSC Chain of Custody (CoC) Certificate Holders (CHs) in the United States. With the revision of FSC-STD-40-004 V3-1, CH’s are required to complete a Self-Assessment of their conformance to FSC Core Labor Requirements (hereinafter: Self-Assessment) as part of their annual audit.

Existing and current CoC CHs have a transition period from September 1, 2021 until December 31, 2022.

The Self-Assessment is designed to give the FSC CoC CH the ability to efficiently identify and document measures that demonstrate conformance with the FSC Core Labor Requirements.

The certification body will use the completed Self-Assessment to guide the audit and verify conformance with the standard. The process applies the organization's knowledge of its operations and compliance with applicable laws to assist the auditor in completing the audit.

Certificate Holders and organizations wishing to become certified are not required to use this template Self-Assessment but would need to substitute with a similar tool. The use of this template does not guarantee conformity with the FSC core labour requirements. It is the responsibility of the organization to conform with FSC requirements. Please refer to Indicator 2.2 in the [FSC US Controlled Wood National Risk Assessment](https://us.fsc.org/en-us/certification/controlled-wood/fsc-us-controlled-wood-national-risk-assessment-us-nra) (pages 71-86) to review the US federal regulations most relevant to the FSC core labor requirements which shows the US is low risk for the FSC Core Labour Requirements. Certificate Holders may reference additional specific state laws which are not part of the FSC US National Risk Assessment, which may provide increased protections for workers. This may even lower the risk of non-conformance as state legislation may not reduce protections provided by federal legislation but only increase it. While national laws closely align with the FSC requirements, organizations must still provide practical examples of how the organization complies with the requirements (e.g. listing relevant laws is not sufficient). Organizations must submit a completed and signed Self-Assessment to their certification body prior to the scheduled audit. The template was prepared by FSC US. For further clarification, you can contact FSC US at info@us.fsc.org.

**Version History**

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| **Version**  | **Date**  | **Comment**  |
| 1.0  | 27 Aug 2021  | Publication  |

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### FSC core labor requirements self-assessment

**Attestation:** I      , hereby affirm that the following statements are true and correct to the best of my knowledge, and I acknowledge making a knowingly false statement can result in the suspension or termination of the certificate or non-issue of the certificate.

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Name Date

Referenced is the [FSC US National Risk Assessment](https://us.fsc.org/en-us/certification/controlled-wood/fsc-us-controlled-wood-national-risk-assessment-us-nra). Pages 71-86 details the US National and local laws which are in compliance with the FSC Core Labor Requirements.

**Child Labor**

|  |  |  |
| --- | --- | --- |
| **Requirement** | **Questions and additional Requirements** | **Answer and evidence** |
| 7.2 The organization shall not use child labor. 7.2.1 The organization shall not employ workers below the age of 15, or below the minimum age as stated under national, or local laws or regulations, whichever age is higher, except as specified in 7.2.2. 7.2.2 In countries where the national law or regulations permit the employment of persons between the ages of 13 to 15 years in light work, such employment should not interfere with schooling nor, be harmful to their health or development. Notably, where children are subject to compulsory education laws, they shall work only outside of school hours during normal day-time working hours. 7.2.3 No person under the age of 18 is employed in hazardous or heavy work except for the purpose of training within approved national laws and regulation. 7.2.4 The organization shall prohibit the worst forms of child labor.  | a) Does your organization comply with Clause 7.2? If yes, continue at c).  | [ ] Yes, I comply with the US Federal Legislation which addresses this Core Labour Requirement, which is identified in Annex 1. [ ] No, see b) |
| b) If the answer is no to a) above, please describe how or why your organization does not comply with Clause 7.2. |       |
| c) For the individuals employed by you at the site/sites holding the certificate, describe how your organization knows it complies with Clause 7.2. | I can demonstrate this compliance in the following ways: [ ]  Employment Eligibility Verification I-9 Forms are used for each employee. The I-9 form includes date of birth, which demonstrates that we meet this FSC Core Labour Requirement.[ ]  Other:       |
| d) Identify any documents or other records (and their location) that you rely upon to verify compliance with Clause 7.2. | Documents, records or policies, etc. that show compliance with this FSC Core Labour Requirement are as follows: [ ]  Employment Eligibility Verification I-9 Forms [ ]  Other/Further Details        |
| e) Identify any legal obligations that you believe may impact your ability to comply with Clause 7.2. Please describe them, and how they impact your ability to comply with Clause 7.2. |       |
| f) Attach a policy statement, or statements, made by your organization that encompasses Clause 7.2. | [ ]  See attached policies, statements, etc. [ ]  See online public policies at:      [ ]  Other:       |

**Forced Labor**

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| **Requirement** | **Questions and additional Requirements** | **Answer and evidence** |
| 7.3 The organization shall eliminate all forms of forced and compulsory labor. 7.3.1 Employment relationships are voluntary and based on mutual consent, without the threat of a penalty. 7.3.2 There is no evidence of any practices indicative of forced or compulsory labor, including, but not limited to, the following: * physical and sexual violence
* bonded labor
* withholding of wages /including payment of employment fees and or payment of deposit to commence employment
* restriction of mobility/movement
* retention of passport and identity documents
* threats of denunciation to the authorities.
 | a) Does your organization comply with Clause 7.3?If yes, continue at c). | [ ] Yes, I comply with the US Federal Legislation which addresses this Core Labour Requirement, which is identified in Annex 1. [ ] No, see b) |
| b) If the answer is no to a) above, please describe how or why your organization does not comply with Clause 7.3? |       |
| c) For the individuals employed by you at the site/sites holding the certificate, describe how your organization knows it complies Clause 7.3? | I can demonstrate this compliance in the following ways: [ ]  We have a policy on the prohibition of forced labor, which demonstrates that we meet this FSC Core Labour Requirement.[ ]  Our Employment offer letters/work agreements/contracts demonstrates that employees can leave upon notice to the employer and therefore we meet this FSC Core Labour Requirement.[ ]  Other:       |
| d) Identify any documents or other records (and their location) that you rely upon to verify compliance with Clause 7.3. | Documents, records or policies, etc. that show compliance with this FSC Core Labour Requirement are as follows: [ ]  Policy on the prohibition of forced labor[ ]  Employment offer letters/work agreements/contracts[ ]  Other/Further Details        |
| e) Identify any legal obligations that you believe may impact your ability to comply with Clause 7.3. Please describe them, and how they impact your ability to comply with Clause 7.3. |       |
| f) Attach a policy statement, or statements, made by your organization that encompasses Clause 7.3. | [ ]  See attached policies, statements, etc. [ ]  See online public policies at:      [ ]  Other:       |

**Discrimination in Employment and Occupation**

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| **Requirement** | **Questions and additional Requirements** | **Answer and evidence** |
| 7.4 The organization shall ensure that there is no discrimination in employment and occupation. 7.4.1 Employment and occupation practices are non-discriminatory.   | a) Does your organization comply with Clause 7.4? If yes, continue at c). | [ ] Yes, I comply with the US Federal Legislation which addresses this Core Labour Requirement, which is identified in Annex 1. [ ] No, see b) |
| b) If the answer is no to a) above, please describe how or why your organization does not comply with Clause 7.4. |       |
| c) For the individuals employed by you at the site/sites holding the certificate, describe how your organization knows it complies with Clause 7.4. | I can demonstrate this compliance in the following ways: [ ]  We have an equal opportunity policy, which demonstrates that we meet this FSC Core Labour Requirement.[ ]  Our Employment offer letters/work agreements/contracts include an equal opportunity statement, which demonstrates that we meet this FSC Core Labour Requirement.[ ]  Our job announcements have an equal opportunity statement, which demonstrates that we meet this FSC Core Labour Requirement.[ ]  Other:       |
| d) Identify any documents or other records (and their location) that you rely upon to verify compliance with Clause 7.4. | Documents, records or policies, etc. that show compliance with this FSC Core Labour Requirement are as follows: [ ]  Equal opportunity policy[ ]  Employment offer letters/work agreements/contracts[ ]  Job advertisements[ ]  Other/Further Details        |
| e) Identify any legal obligations that you believe may impact your ability to comply with Clause 7.4. Please describe them, and how they impact your ability to comply with Clause 7.4. |       |
| f) Attach a policy statement, or statements, made by your organization that encompasses Clause 7.4. | [ ]  See attached policies, statements, etc. [ ]  See online public policies at:      [ ]  Other:       |

**Freedom of Association and the Right to Collective Bargaining**

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| --- | --- | --- |
| **Requirement** | **Questions and additional Requirements** | **Answer and evidence** |
| 7.5 The organization shall respect freedom of association and the effective right to collective bargaining. 7.5.1 Workers are able to establish or join worker organizations of their own choosing. 7.5.2 The organization respects the full freedom of workers’ organizations to draw up their constitutions and rules. 7.5.3 The organization respects the rights of workers to engage in lawful activities related to forming, joining or assisting a workers’ organization, or to refrain from doing the same, and will not discriminate or punish workers for exercising these rights. 7.5.4 The organization negotiates with lawfully established workers’ organizations and/ or duly selected representatives in good faith and with the best efforts to reach a collective bargaining agreement.7.5.5 Collective bargaining agreements are implemented where they exist. | a) Does your organization comply with Clause 7.5? If yes, continue at c). | [ ]  Yes, I comply with the US Federal Legislation which addresses this Core Labour Requirement, which is identified in Annex 1. [ ]  No, see b) |
| b) If the answer is no to a) above, please describe how or why your organization does not comply with Clause 7.5. |       |
| c) For the individuals employed by you at the site/sites holding the certificate, describe how your organization knows it complies with Clause 7.5. | I can demonstrate this compliance in the following ways: [ ]  We have organizational policies, which demonstrates that we meet this FSC Core Labour Requirement.[ ]  Our Collective bargaining agreement demonstrates that we meet this FSC Core Labour Requirement.[ ]  We have minutes or documents from meetings related to the development of the collective bargaining agreement.[ ]  We have documented evidence and records of the workers’ representative(s) elections[ ]  Other:       |
| d) Identify any documents or other records (and their location) that you rely upon to verify compliance with Clause 7.5. | Documents, records or policies, etc. that show compliance with this FSC Core Labour Requirement are as follows: [ ]  Organizational policies[ ]  Collective bargaining agreement[ ]  Minutes or documents from meetings related to the development of the collective bargaining agreement[ ] Documented evidence and records of the workers’ representative(s) elections[ ]  Other/Further Details        |
| e) Identify any legal obligations that you believe may impact your ability to comply with Clause 7.5. Please describe them, and how they impact your ability to comply with Clause 7.5. |       |
| f) Attach a policy statement, or statements, made by your organization that encompasses Clause 7.5. | [ ]  See attached policies, statements, etc. [ ]  See online public policies at:      [ ]  Other:       |

### Examples of questions to answer in completing the self-assessment:

FSC has provided the following open questions that may be helpful to the organization to take into consideration when completing the self-assessment. The questions are divided into four categories addressed by the FSC core labor requirements. The level of detail required will depend on the location of the organization’s facility, including the organization’s assessment of risk, and the labor environment. This list of questions is not exhaustive.

|  |  |
| --- | --- |
| **Category** | **Question** |
| **Child Labor** | * What is the statutory, legal, or regulated minimum age at the place of your operations?
* What measures have you taken to ensure that child labor is not used in your operations?
* Do you register the age (birthday) of your workers and how do you verify that this is the actual age? Do you check the identification papers?
* If there are legal or regulatory restriction which to your understanding would limit your ability to comply with the requirement, describe how you mitigate those limitations.
* If you employ workers below the age of 18, describe what measures you have taken to ensure that they don’t perform hazardous or heavy work. If there are a requirement for training and education, indicate supporting documents.
* Is the employment of children between the age of 13 or 15 legally allowed? Do you employ children between that age? If yes on both accounts, specify measures you have taken to ensure that they only perform light work that is not harmful to their health or development and that allows them to work outside school hours only.
 |
| **Forced Labor** | * Describe your recruitment and contracting practices to show compliance with this principle.
* Do you grant loans or salary/wage advances that would require a worker to extend his/her working beyond the legal or contractual agreements? If so, can you describe how you mitigate the risk of bonded labor in such a case?
* How do you ensure that there are no employment fees deducted, or payments or deposits made to commence employment?
* How do you ensure that the workers do not experience any form of mobility restriction?
* How do you ensure that the workers have access to their passports and identification documents at all times while at the same time offering a safe place for storing the documents?
* How do you ensure that there are no threats of denouncing workers to the authorities?
 |
| **Discrimination** | * How do you ensure that wages and other working conditions are non-discriminatory?
* Is there gender/age ratio parity?
* Do you have an ethnically diverse workforce?
* Do you have policies about non-discrimination?
* Do you ensure all employees have equal opportunity for promotion?
* How do you ensure applicants have equal opportunity for employment?
* If there are legal or regulatory restriction which to your understanding would limit your ability to comply with these requirements, describe how you mitigate these restrictions?
 |
| **Freedom of Association and the Right to Collective Bargaining** | * Are workers organised into a trade union? To the best of your knowledge, describe why you believe the workers have or have not chosen to be represented by a trade union.
* If workers are represented by a union, is the union autonomous and independent?
* What forms of worker representation other than unions exist at the site?
* Are there collective bargaining agreements in place that cover workers, and if so, how do you ensure compliance with such agreements?
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**ANNEX A:
Excerpt of Indicator 2.2 (Labour Rights) from
the FSC US Controlled Wood National Risk Assessment**

**EXCERPTED FROM:**

**FSC National Risk Assessment**

**For the conterminous United States of America**

DEVELOPED ACCORDING TO PROCEDURE FSC-PRO-60-002 V 3-0

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| **Version****Code** | V 1-0FSC-NRA-US V1-0  |
| **National approval** | National decision body: FSC US Board of DirectorsDate: 17 October 2018  |
| **International approval** | FSC International Center: Performance and Standards UnitDate: 05 April 2019 |
| **International contact****Period of validity****Body responsible for NRA maintenance** | Name: Amy Clark EagleEmail address: a.eagle@us.fsc.orgDate of approval: 05 April 2019Valid until: (date of approval + 5 years)FSC US – Amy Clark Eagle, Director of Science & Certification, a.eagle@us.fsc.org |

**INDICATOR 2.2: LABOR RIGHTS**

*“Labor rights are upheld including rights as specified in ILO Fundamental Principles and Rights at Work. “*

**Assessment:**

*General Social Rights*

The Declaration on Fundamental Principles and Rights at Work reads as follows [Source: 25]:

“All ILO Members, even if they have not ratified the Conventions in question, have an obligation arising from the very fact of membership in the Organization to respect, to promote and to realize, in good faith and in accordance with the Constitution, the principles concerning the fundamental rights which are the subject of those Conventions, namely:

1. freedom of association and the effective recognition of the right to collective bargaining;
2. the elimination of all forms of forced or compulsory labour;
3. the effective abolition of child labour; and
4. the elimination of discrimination in respect of employment and occupation.”

This indicator specifically addresses whether the country being assessed upholds the ILO Fundamental Principles and Rights at Work – which may be demonstrated by ratification of the 8 relevant ILO Core conventions, or using other evidence. Therefore, the fact that the United States has not ratified all 8 of the Conventions does not automatically infer that the country is not in compliance with the indicator.

The United States has extensive legislation protecting the social rights of individuals and workers. The following pieces of the US legal framework uphold the ILO Fundamental Principles and Rights of Work in the United States:

* The First Amendment to the United States Constitution, adopted in 1791, provides that “Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof; or abridging the freedom of speech, or of the press, or the right of the people peaceably to assemble, and to petition the Government for a redress of grievances”. In practice, this means that the Constitution protects employees’ rights of association, thereby prohibiting their discharge for union activity.
* Freedom of association in the US is protected by the 1935 National Labor Relations Act (NLRA; 29 USC §151-169), with primary responsibility for enforcement by the National Labor Relations Board (NLRB). Additionally, the US Code (29 USC §171(a)) states that, “it is the policy of the United States that, “sound and stable industrial peace and the advancement of the general welfare, health, and safety of the Nation and of the best interests of employers and employees can most satisfactorily be secured by the settlement of issues between employers and employees through the processes of conference and collective bargaining between employers and the representatives of their employees”
* Forced and compulsory labor is prohibited by the 13th Amendment to the United States Constitution, and is codified in 18 USC § 1589. The amendment specifically outlaws slavery and involuntary servitude, except as punishment for a person duly convicted of a crime
* The Trafficking Victims Protection Act (most recently reauthorized in 2013) authorizes measures to combat human trafficking. Additionally, federal legislation requires every employer to pay each employee a minimum wage (29 U.S.C.§ 206) and overtime pay (29 U.S.C.§ 207).
* The Fair Labor Standards Act of 1938 (29 USC § 201-262) restricts the employment of children under the age of 16 with the exception of children working on farms owned by their parents, and forbids the employment of people younger than 18 in jobs deemed too dangerous (including logging).
* Discrimination with respect to employment is prohibited in the United States by Section VII of the Civil Rights Act of 1964 (Public Law 88-352), and is overseen by the U.S. Equal Employment Opportunity Commission. There are several additional and complementary pieces of legislation, such as: the Equal Pay Act of 1963 (EPA), which protects men and women who perform substantially equal work in the same establishment from sex-based wage discrimination; the Age Discrimination in Employment Act of 1967 (ADEA), which protects individuals who are 40 years of age or older; Title I and Title V of the Americans with Disabilities Act of 1990, as amended (ADA), which prohibit employment discrimination against qualified individuals with disabilities in the private sector, and in state and local governments; Sections 501 and 505 of the Rehabilitation Act of 1973, which prohibit discrimination against qualified individuals with disabilities who work in the federal government;

All indicators In the Category 1 (legality) assessment were designated as ‘low risk’ at a national scale, indicating that the relevant legislation is enforced.

*Freedom of Association & Collective Bargaining*

Even though the US has not ratified either of the associated Core Conventions, it has been a member of the ILO since 1980 (and previous to that was a member from 1934 to 1977). As a member, the US has obligations under the ILO Constitution, including a commitment under the Declaration on Fundamental Principles and Rights at Work. [Source: 26] Additionally, the US is subject to annual ILO review and reporting processes and also complaint processes (through the Committee on Freedom of Association, CFA). A report by the International Organisation of Employers (IOE) notes that “Most CFA case examinations of U.S. law have resulted in conclusions and recommendations that the law or practice subject of the complaint is consistent with the principles of freedom of association” and that “there has never been a wholesale criticism of the NLRA or NLRB by the CFA or the ILO” [Source: 27]. There are 42 closed complaints cases listed in the US member profile [Source: 26]. All of this provides strong evidence that the United States respects, promotes and realizes, in good faith, workers’ rights to “freedom of association and the effective recognition of the right to collective bargaining.”

Some sources question whether the United States is truly respecting workers’ rights to freedom of association and the effective recognition of the right to collective bargaining. Concerns include the exemption of a small number of worker categories (such as agricultural workers) from the NLRA [Source: 28,29,30,31], the ability of employers to hire replacement workers for those on strike [Source: 31], the perceived ability of employers to pressure employees against organizing in the workplace [Source: 31], the predominance of enterprise-level bargaining [Source: 9], the perceived lack of fair election processes [Source: 30], and the perceived lack of adequate enforcement [Source: 31].

* While the NLRA is an important piece of legislation that protects workers’ rights, it is not the only source of protection for workers in the US. The Member profile for the United States lists 80 separate pieces of national legislation associated with ‘Freedom of association, collective bargaining and industrial relations’ [Source: 26]. As noted above, the constitution itself protects the rights of all workers to associate and the US Code establishes in federal policy the respect of the country for collective bargaining – both of these cover all workers, regardless of whether they are covered by the NLRA. Additionally, in the 2003-2005 US Annual Reports to the ILO, the Government writes, “No Government’s authorization is required to establish a workers’ organization, or to conclude collective agreements. The exercise of freedom of association and the right to collective bargaining is recognized at enterprise, sector/industry, national (and international) levels for the following categories of workers: (i) medical professionals; (ii) teachers; (iii) agricultural workers; (iv) workers engaged in domestic work; (v) workers in export processing zones (EPZs) or enterprises/industries with EPZs status; (vi) migrant workers; (vii) workers of all ages; and (viii) workers in the informal economy.” [Source: 28]
* US labor relations are different than those in other parts of the world. A predominance of enterprise-level bargaining reflects these differences, but does not indicate that collective bargaining is not respected, just that it is done differently. Employers have rights in the US that are different from other countries, including being allowed to actively communicate with employees during collective bargaining, but again this does not indicate that collective bargaining is not respected. While employers are allowed to hire replacement workers so that they may remain in business during strikes, they are required by law to bargain in good faith to resolve those strikes. [Source: 34]
* Concerns about election processes do not take into account (and were published prior to) recent changes in union election procedures that are universally considered to favor unions [Sources: 35,36]. It also fails to consider that, according to election statistics, unions are successful in approximately 70% of the elections that are held [Source: 37].
* There is a very robust system for enforcement of these rights. On the federal level, they are guaranteed by the NLRA, which protects the rights of employees and employers, “to encourage collective bargaining, and to curtail certain private sector labor and management practices, which can harm the general welfare of workers, businesses and the U.S. economy.” [Source: 38] The Act also established the National Labor Relations Board (NLRB), which has primary responsibility for enforcement of the NLRA. Each year, approximately 20,000 charges are filed with the NLRB alleging unfair labor practices, and each one is investigated by regional field examiners and attorneys. More than half of these are withdrawn or dismissed, and of those that receive full investigation, a little over 1,000 each year result in formal complaints detailing the alleged violations. After a decision by a judge, the remaining cases are litigated and reviewed by the NLRB itself each year [Source: 39]. The US Annual Reports to the ILO summarize the millions of dollars that have been repaid to workers as a result of these enforcement actions [Source: 28]. This represents a heavily utilized and strong enforcement system.

In its 2017 report, the International Trade Union confederation (ITUC) categorizes the US as a Status 4 (Systemic violations of rights) in its annual index [Source: 32]. The categorization is based upon surveys of national unions and review of legislation and then comparison of these results with 97 indicators derived from the ILO Conventions and jurisprudence that represent violations of workers’ rights. The primary concerns highlighted in the 2017 report were lack of consultation with unions regarding labor law and policy, and limits on certain types of strike actions.

* This index is based on the opinion of the unions, not metrics, and the views of employees and employers are not included.
* Other global indices and indicators that address labor rights recognize the US as being above the median [Sources: 39,70]
* The status categorization within this index is built upon indicators that are drawn from the ILO Conventions, but as noted by ILO itself, ratification of and conformance with the Conventions is not required for respect of the Fundamental Principles and Rights [Source: 25], and it is the Fundamental Principles and Rights that are the focus of Indicator 2.2 for this risk assessment. Therefore, lack of complete alignment with the Conventions and a lower status in this index does not *per se* indicate that the US does not respect the basic rights of association and collective bargaining.
* The issues highlighted in the report (e.g., consultation with unions regarding labor law and policy, and limits on certain types of strike actions) provide no information regarding whether the US respects the basic rights of association and collective bargaining.
* Therefore, it is still possible for the US to respect the Fundamental Principles and Rights, while being categorized with a lower status in this index.

It is possible to conclude from the information presented that while the US has not ratified and may not conform with all specifics in the associated Core Conventions, it respects the fundamental rights of freedom of association and the effective recognition of the right to collective bargaining.

*Compulsory or Forced Labor*

The US ratified Core Convention 105 (Abolition of Forced Labour Convention) in 1991 and the ILO web site indicates the status as ‘In Force’ [Source: 26]. The US has not yet ratified Convention 29 (Forced Labour Convention), but as noted above has legislation that addresses fundamental rights associated with compulsory or forced labor. There are also numerous additional policies, reports, action plans and executive orders that provide evidence of the country’s efforts to ensure these rights, particularly as they relate to human trafficking [Source: 28].

The United States is consistently categorized as Tier 1 (the highest tier reflecting a country’s efforts to address human trafficking problems) in the U.S. Department of State’s Trafficking in Persons annual report [Source: 40]. The Global Slavery Index’s 2016 assessment identifies the United States as a country with one of the lowest estimated prevalence of modern slavery and as a country with one of the strongest responses to modern slavery [Source: 41].

Some sources identify the situation of migrant workers in the agricultural sector as an area of concern [Sources: 42,43,44]. The agricultural sector is important for this assessment, as it includes both farmworkers and forest workers.

* One of the sources is an ILO report on forced labor [Source: 42]. The report is 57 pages in length and the United States is mentioned in a single paragraph within a section on the Agricultural, forestry and fishing sector. The US is identified as an example of a country with a high population of migrant and seasonal farmworkers. The report acknowledges that a high share of migrant workers is reflected in the number of cases of forced labour in the sector as a whole (globally), but does not indicate that the US is of specific concern.
* One of the sources identified is Anti-Slavery International, the world’s oldest international human rights organization [Source 43]. While this organization has awarded organizations that are fighting forced labor in the United States agricultural sector, it does not identify the United States as a country in which they focus their anti-slavery efforts and a search of ‘United States’ at the web site does not bring up any reports or other articles about specific concerns in the US or the US in general. Additionally, Anti-Slavery International recognizes the US Department of State’s Trafficking in Persons Report (see above) as a valid global index of human trafficking and efforts to eliminate it.
* One of the sources is an article written for an online topical research digest hosted by the University of Denver [Source: 44]. The article notes a high occurrence of forced labor in the US, but does not provide any data or specific references as evidence. It states that the high occurrence is due to the absence of labor standards and regulations in the industry, and to the increasing number of undocumented immigrant farm workers that have no legal protection. The article recognizes the importance of the Trafficking Victims Protection Act and some limitations, but was written prior to reauthorizations of the act that increased the protections that it provides. However, the article does not recognize the Migrant and Seasonal Agricultural Worker Protection Act which is the principle federal employment law for farmworkers in the US [Source: 45].
* Perhaps most pertinently, these sources focus almost entirely on farmworkers, which are one component of the agricultural sector. However, forest workers are a separate component of the agricultural sector, but are not specifically addressed in these sources. While the 2017 Trafficking of Persons report [Source: 40] does identify forced labor in the forestry sectors of Burma, Czechia, Guyana, Mongolia, Sweden, and Uganda, and the 2016 List of Goods Produced by Child Labor or Forced Labor [Source: 46] identifies forced labor for timber in Brazil, North Korea, and Peru, the US is not mentioned in association with forestry or timber in either report.

While the US has not ratified both relevant Core Conventions, it is still possible to conclude that the US respects the fundamental right to the elimination of all forms of forced or compulsory labor, and in particular that there are no concerns identified in the forest sector.

*Child Labor*

The United States ratified Core Convention 182 (Worst Forms of Child Labor Convention) in 1999 and the ILO web site indicates the status as ‘In Force’ [Source: 26]. The US has not yet ratified Convention 138 (Minimum Age Convention), but as noted above has legislation that addresses fundamental rights associated with child labor. Additionally, every state has legislation that further limits the hours and days per week that minors may work in non-farm employment and 34 states have similar limits for farm work [Source: 47]. And all states have compulsory education until at least 16 years of age [Source: 28]. The US Annual Reports to the ILO also detail statistics on the effective enforcement of the federal legislation, including hundreds of cases, thousands of children affected and millions of dollars paid in fines each year [Source: 28].

The United States does not feature in the ILO Child Labour Country Dashboard, which indicates a low risk for child labour in the United States [Source 53]. The 2016 List of Goods Produced by Child Labor or Forced Labor [Source: 46] does not associate any goods produced in the US with child labor.

Some sources identify the situation of children in the agricultural sector as an area of concern [Sources: 43,48,49,50,51,52]. The agricultural sector is important for this assessment, as it includes both farmworkers and forest workers. However, the focus of all of these sources are exemptions in the US legislation that allow children under the age of 16 to work on family farms, and does not in any way include children working in forests. The US Labor legislation clearly prohibits the employment of minors between 16 and 18 years of age in forestry service occupations and associated occupations as they are “occupations particularly hazardous or detrimental to [the minors’] health or well-being” [Source: 54]. No sources of information were identified that suggest that child labor in the forest sector is a concern.

While the US has not ratified both relevant Core Conventions, it is still possible to conclude that the US respects the fundamental right to the effective abolition of child labor, particularly in the forest sector.

*Discrimination*

Even though the US has not ratified either of the associated Core Conventions, it has been a member of the ILO since 1980 (and previous to that was a member from 1934 to 1977). As a member, the US has obligations under the ILO Constitution, including a commitment under the Declaration on Fundamental Principles and Rights at Work. Additionally, the US is subject to annual ILO review and reporting processes. [Source: 26]

As noted above, the US has a suite of federal laws that prohibit discrimination in the workplace, including discrimination based on race, color, religion, sex, national origin, gender, age, pregnancy, disability, gender identity, sexual orientation, and genetic information. The Equal Employment Opportunity Commission (EEOC) is responsible for enforcement of these laws. In 2015, the EEOC received 89,385 private sector charges of discrimination and achieved 92,641 resolutions, including more than $356.6 million in monetary benefits [Source: 59].

Some sources question whether the United States is truly respecting workers’ rights to elimination of discrimination. Concerns include differences in unemployment rates between African Americans and whites [Source: 55,56], wage gaps between races and genders [Sources: 56,57], discrimination against workers with family responsibilities [Sources: 49,56,58], slow progress on affirmative action, an increase in religious discrimination and age discrimination claims, and wage gaps and unemployment rate gaps for persons with and without disabilities [Source: 56].

* The US generally scores well or very well on global indices and reviews of gender equality in the workplace [Sources: 60,61], on social progress [Source: 38], fundamental rights (including discrimination) [Source: 63], and discrimination in employment & vocational training [Source: 64]
* Conclusions about racial, gender, religious, age and other discrimination cannot be drawn from simple statistics such as wage and unemployment gaps without delving deeper into the issues. FSC-GUI-60-008 (V1-0) states, “Concerning non-discriminatory employment and occupation practices, the working group clarified that differences in remuneration between workers are not considered discriminatory where they exist due to inherent requirements or specifics of the job, e.g. due to length of employment, experience, technical expertise and performance” [Source: 68]. There must be recognition or consideration of the many different factors that may contribute to employment differences where they do exist. For example, research results indicate that a majority of racial and gender wage gaps in the US can be explained by differences in education, labor force experience, occupation or industry and other factors that can be measured [Source: 67]. Therefore, while lack of a wage or unemployment gap could be used as evidence that discrimination does not exist, existence of a gap does not automatically infer that the US does not respect the fundamental right to the elimination of discrimination.
* In recent years, the US has significantly improved protections for workers with family responsibilities, including the 2010 Patient Protection and Affordable Care Act that amended the Fair Labor Standards Act to require that employers provide break time for nursing mothers [Source: 65], and the Family and Medical Leave Act of 1993 that requires the provision of leave time for family reasons (i.e., maternity/paternity leave) and for medical reasons [Source: 66]. A number of the sources with concerns were published prior to implementation of these new laws.
* No sources of information were identified that suggest that any form of discrimination related to race, religion, disability or age in the forest sector is a concern.

It is possible to conclude from the information presented that while the US has not ratified and may not conform with all specifics in the associated Core Conventions, it respects the fundamental rights of the elimination of discrimination in respect of employment and occupation, particularly in the forest sector.

*Low Risk Thresholds that Apply:*

(10) Applicable legislation for the area under assessment covers all ILO Fundamental Principles and Rights at Work, AND the risk assessment for the relevant indicators of Category 1 confirms enforcement of applicable legislation (‘low risk’); AND

(12) Other available evidence do not challenge a ‘low risk’ designation.

*Indicator 2.2 Risk Designation:* Low Risk for the entire assessment area, particularly in the forest sector

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