

## **The SAN Standard and Relevant International Labour Organization (ILO) Conventions**

By Dorianne Beyer, Esq.

April 2011

The SAN standards were first developed through a multi-stakeholder process in Latin America in the early 1990s. Regional ILO staff, union representatives, farmworkers, NGOs and community leaders helped ensure that the standards covered key issues related to workers rights and benefits as defined by local laws, the ILO conventions and other sources. Both the standards and ILO conventions have evolved over the ensuing two decades. The ILO Conventions are designed to broadly guide the development of government regulations and serve as benchmarks in international law and for private standard development. SAN's more detailed and implementational standards are designed to help farm managers improve practices and to set the provisions for SAN's independent certification of progress.

Some researchers have noted that some ILO Conventions are not specifically named in the SAN critical criteria. However, that does not affect the fact that broadly speaking, the worker rights and benefits protected by the fundamental labor Conventions are covered by the SAN standards. A close comparison of the SAN standards as a whole and the essential relevant ILO Conventions supports this conclusion. The lack of the inclusion of an ILO reference in some of the criteria may not easily make this clear to casual or non-expert standard readers.

As the SAN prepares for the next (2012) revision of the global standard, I conducted an analysis to see how completely the standard addressed the fundamental ILO Conventions. I brought to bear my 30 years' experience in reviewing, writing and analyzing labor standards and labor legislation. I am a member of the SAN International Standards Committee and a founding and current member of the Advisory Board of Social Accountability International, where I have been particularly involved in the original composition of and revisions to SA 8000 and its Guidance. I have been a founding member of the U.S. Department of Agriculture's Consultative Group to Eliminate the Use of Child Labor in Imported Agriculture, General Counsel to the National Child Labor Committee and an attorney specializing in workers' rights. I found that the standard substantially covers the selected Conventions, but needs to be clarified in some areas and amplified or strengthened in others.

An example of needed amplification is SAN standard 5.12, which largely restates Convention 87, establishing workers rights to organize and join bargaining organizations of their own choice. But the conformance of the SAN standard to Convention 87 could be made more complete in SAN standard 5.2, which only states a requirement of non-discrimination based on union membership – a reference to Article 2 of the Convention.

An example of needed clarification is SAN standard 5.8. Although it conforms with Convention 138, which seeks to abolish child labour and progressively increases minimum employment age, improvements are needed to clarify its conformance with Convention 182 prohibiting the worst forms of child labour. Altering the wording of 5.8 by naming the Convention and including some of its text would clarify its conformance.

It is not necessary to name ILO Conventions or use ILO language throughout the standard, as the two documents have different purposes and readers. But naming the ILO conventions in key standards will help researchers see the linkages between the documents.

These editorial improvements and other changes will be made during the standards revision. Research and field testing for the revisions is well under way, and a public consultation process will begin soon.

It's important to confirm that the fundamental ILO Conventions are substantially covered by the SAN standard. Additionally, SAN auditors are trained to determine – through interviews with workers, direct observation, review of farm-management records, and other techniques – whether or not a farm provides workers with the rights and benefits they are afforded under ILO conventions, national laws and the SAN standard.

Although no standard-setting and auditing agency can claim infallibility in either role, the SAN is proud of its record thus far and has scheduled significant and continuing upgrades in both roles. The wording and content of the standard will continue to be improved, by clarification, amplification and strengthening of its provisions.

Additional standards, as indicated by changed agricultural and auditing conditions, will also be considered during the review and revision period next year. The SAN will continue to train its auditors to improve their skills, particularly as relates to its labor provisions.

The SAN International Standards Committee welcomes questions and comments about the standard. We are volunteers so may not be able to quickly respond to every question, but all remarks are recorded and included in the public consultation process.

### Fundamental Conventions According to the ILO

Eight ILO Conventions have been identified by the ILO's Governing Body as being fundamental to the rights of human beings at work, irrespective of levels of development of individual member States. These rights are a precondition for all the others in that they provide for the necessary implements to strive freely for the improvement of individual and collective conditions of work.

- 029 [Forced Labour](#) 1930
- 087 [Freedom of Association and Protection of the Right to Organize](#) 1948
- 098 [Right to Organize and Collective Bargaining](#) 1949
- 100 [Equal remuneration](#) 1951
- 105 [Abolition of Forced Labour](#) 1957
- 111 [Discrimination \(Employment and Occupation\)](#) 1958
- 138 [Minimum Age Convention](#) 1973
- 182 [Elimination of the Worst Forms of Child Labour](#) 1999