



Ethical  
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# Study of good practices in the horticulture sector for export

COLOMBIA, MEXICO, PERU



# Good Labour Practices in the Horticulture Export Sector

Colombia, Mexico, Peru

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**Study commissioned by the Ethical Trading Initiative (ETI)**

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## FOREWORD

The authors of this study wish to thank Camposol and Avoselect for enthusiastically participating in the study. We wish to recognise the courageous decision to open their doors to us, whether virtually or physically. We are also grateful for the participation of all the stakeholders who agreed to be interviewed, as this study could not have seen the light of day without their input, with special thanks to Samuel Machacuay, Peru FNV's Representative. And of course, our thanks to ETI and particularly the Latin America Horticulture Working Group which funded this report.



## Executive Summary

This study was commissioned by the Ethical Trading Initiative (ETI), which is a leading alliance of companies, trade unions and NGOs that promotes respect for workers' rights around the globe. Over the past few years, several UK supermarkets and importers have identified Colombia, Mexico and Peru as important sources of fresh produce. As a result of this, The ETI and their members formed a tripartite Working Group (WG) on Peruvian Horticulture. After consultation with the members of the WG, the ETI broadened the scope to include Colombia and Mexico; hence this study looks at all three countries.

The agricultural sector is facing immense challenges and opportunities. Much progress has been made in reducing hunger, poverty, nutrition and improving food security. Gains in productivity and technological advances have contributed to more efficient resource use and improved food safety. But major concerns persist. Among them, how to attract and retain workers, how to meet rising expectations of a better educated, better informed and increasingly mobile and globally aware workforce. Despite increasing automation of processes, Agri-businesses worldwide are facing shortages in skilled labour. In short, the better the working conditions, the more loyal and efficient the workforce.

It is important for the Latin American horticulture sector to not operate in isolation from global trends, notably of rising expectations of consumers around the rights and working conditions of the workers in their supply chain. A more open attitude towards social dialogue, would equip the sector to better meet its need for labour.

Many more retailers and buyers require “decent” working conditions as defined by the ILO and worker representation as a fundamental condition of doing business, in line with ILO conventions. The Engagement of regional producers is key to achieving this, as regional sourcing, particularly direct sourcing (without going through exporters) continues to increase. Direct engagement with supplying companies also implies more oversight of expected ethical requirements. Suppliers need to understand the requirements and have adequate resources and knowledgeable staff who can build and maintain functional internal systems to meet those expectations.

The brand members of the WG interviewed for this project expressed how important it is for them to see suppliers understand the need to not only comply with the law and the ETI base code and other voluntary standards as needed but to also demonstrate an openness to dialogue and willingness to improve, be it through training or other initiatives. While no stakeholder expects a company to be perfect, the attitude from suppliers' management and ability to demonstrate improvement is critical as a condition to doing business.

Growers associations such as AGAP<sup>1</sup> in Peru and AUGURA in Colombia<sup>2</sup> and AHIFORES<sup>3</sup> in Mexico can play a key role in supporting their members in developing their own ethical practices. These organisations can be supported by trade federations such as in the case of Colombia and ILO regional offices such as in the case of Mexico where they have commissioned valuable research on how to improve the working conditions and security of employment of agricultural workers.

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<sup>1</sup> AGAP (Asociación de Gremios Productores Agrarios del Perú)

<sup>2</sup> AUGURA (Asociación de bananeros de Colombia)

<sup>3</sup> AHIFORES (The International Fruit and Vegetables Alliance for Social Responsibility)

Communication and education play critical roles in ensuring that an entire company moves in one direction that encompasses decent work and good business results for the long term. This report shows how developing trusting human relationships is central to managing good labour relations. In closing, the report offers a series of recommendations to be adopted by suppliers, retailers, worker representatives and other stakeholders, such as developing trust and building bridges, implementing effective mechanisms for social dialogue, the practice of transparency, senior management commitment and engagement, the communication and discussion of business goals with workers, the building of capacity across the business and finally, a meaningful dialogue between suppliers and buyers regarding purchasing practices and how they impact on workers as well as the business.

The Ethical Trading Initiative recognises that employment and business practices are complex matters and that they vary by country and industry. Competition can bring benefits for consumers, opportunities for business and steps in economic development for countries. At ETI, we see the need to balance these benefits with the need to act responsibly by respecting internationally defined worker rights and by considering how these contribute to longer-term sustainability – which must be the concern of us all. ETI hopes to use the learning from this study to promote more detailed dialogue among the study's stakeholders. We would like to support local stakeholders and their trading partners to build local forums that can drive responsible future thinking and also can act as a responsible authority to step in with remedy actions where standards of conduct fall short of expectations. ETI would argue that by engaging more fully with workers through their representatives, barriers to improved performance can be most cost effectively met and workers most effectively motivated. We hope that all stakeholders to this study will welcome the report and seek to join in exploring what next steps might follow. We will welcome your comments.

A final word of thanks to all those who contributed to this study. ETI apologises for any inaccuracies in translation, reporting, or any failure to communicate precisely the sentiments of those interviewed. We see your participation in this study as an entirely positive act, given in good faith and we wish you all well.



## Background to The Study

The Ethical Trading Initiative (ETI), a leading alliance of companies, trade unions and NGOs that promotes respect for workers' rights around the globe, commissioned this study. Global supply chains are highly complex and challenging for companies committed to trading ethically. Workers' rights issues are often deep-rooted and widespread and are best tackled through collaborative action. We would like to recognise the critical role that ETI members' suppliers play and the need to fully engage them - and not just international buyers - in dialogue to understand and respond in practical ways to employment challenges. The authors, along with ETI Secretariat, recognise the reality of "no level playing field" and the need for buyers to find ways to reward suppliers who meet international standards where these may exceed local expectations, such as local suppliers' ethical actions. For this reason ETI harnesses the expertise, skills and resources of its members to identify these issues and develop innovative, long-lasting solutions. One of ETI's measures of success is that workers can negotiate effectively for a better working life where their rights are respected and where good employer-employee relations are the norm.

## The ETI Latin American Horticulture Working Group

Over the past few years, several UK supermarkets and importers have identified Colombia, Mexico and Peru as important sources of fresh produce for their direct consumers. As a result of this ETI formed a Working Group (WG) with an initial focus on Peru under its Food and Farming Programme in 2012. In consultation with the members of the WG ETI broadened the scope to include Colombia and Mexico. In line with the ETI approach, the WG is tripartite to ensure a wide range of membership viewpoints are considered. Current members of this WG are Sainsbury, Tesco, Morrisons, Waitrose & Partners (retailers), Greencell, Flamingo Horticulture (Importing/Farming/Sourcing), Banana Link and the NGO Coordinator of Non-Governmental Organisations (NGO's) and the TUC (Trade Union Congress).

The project aims to build shared knowledge among different stakeholders about the labour conditions in these supply chains, the challenges for producers and other stakeholders involved in implementing the ETI Base Code and the priorities of workers involved. This programme is about engaging with key stakeholders both local and international - and including workers - to identify and implement collaborative action plans, which address poor working conditions, improve the lives of vulnerable workers and the sustainability of companies that employ them.

All ETI projects are a collaboration between members and always seek to work in partnership with all relevant, local stakeholders. The programme's objective is to ensure that internationally recognised good labour practices are used throughout ETI member supply chains and that over time these practices are increasingly replicated.



## Objectives of the Study and Methodology

The objective of the study is to identify good practices and particularly, good social dialogue models as found at targeted locations. The study is focused on improving labour conditions in the Latin American horticulture for export sector, with the hope that this can then be replicated more widely.<sup>4</sup>

The intention of the study is to promote discussion and debate regarding what good practice should look like within a small group of responsible companies in preparation for a wider debate that could be supported with advice, guidance and industry leadership to improve practices. This study reports directly from representatives of management and workers on successful working relationships, drawing on good practice examples, understanding how challenges have been overcome and any remaining challenges are being tackled. This study aims to draw the interests of suppliers and international buyers together and to explore how changes might benefit future trading relationships.

The study documents how good practices have changed and developed over time and the practical steps taken to keep these working well in the context of a changing international market place.

### Methodology

The objective of the study is to identify good practices and particularly, good social dialogue models as found at targeted locations. Members of the Horticulture Working Group were asked by the ETI Secretariat to nominate suppliers in the three countries. Producing companies were contacted first by their customers and subsequently by the researchers once consent was given. The two participating companies are: Avoselect in Mexico, and Camposol in Peru. In Colombia the study focuses on the banana sector in Urabá and its sectoral agreement and not on the good practice of any one company. Each country report includes an analysis of the sector and the state of worker voice and representation within the sector

The first stage of this project consists of collating specific case studies of good employment practices in high-risk areas. These high-risk areas were identified through an analysis of anonymised sector-wide audit findings. Research then followed using direct dialogue with stakeholders in Peru and desk-based research for Colombia and Mexico. The focus throughout was on what good company-worker dialogue looked like in practice, how it was maintained and how it could be further improved. The second stage of the project will focus on the dissemination of good practices, shared learning and the exploration of collaborative next steps, with an event planned for late 2019 in Lima.

The consultants looked at good practice(s) at the two selected companies and systems in place in relation to those practices. The intention was to understand what makes them good, including how they were developed and are implemented in practice, how they are maintained and what impact they have on all concerned.

Concretely, the consultants conducted desktop research, documents review and phone interviews with multiple stakeholders<sup>5</sup>. Due to budget constraints, it was determined that only Camposol in Peru, would be visited for a more in-depth study. Information from the other countries was then collected remotely to offer alternative approaches and to reinforce where there was good practice. The consultants used

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<sup>5</sup> Please refer to the list of stakeholders interviewed in Appendix One

questionnaires and a range of interview techniques to effectively engage stakeholders.

The study has documented practical examples of how different companies overcome some of the most important labour relations challenges across the Latin American region and have focused on industrial relations and continuity of employment. It is important to note that the approach taken by the consultants is inspired from Appreciative Inquiry. Very often, the traditional approach to change is to look for the problem, do a diagnosis, and find a solution. The primary focus is on what is wrong or broken; since we look for problems, we find them. By paying attention to problems, we emphasize and amplify them. Appreciative Inquiry suggests that we look for what works in an organisation. Consultants have approached the participating companies with a positive focus aiming to learn how challenges were successfully and sustainably addressed. It does not attempt to make a critical assessment of the companies' efforts but rather focus on what more could be done to achieve improvements and replicate learning.

## Colombia

### 1. Context

#### 1.1. Banana Sector – Economic Performance

Banana production began in Colombia in the 1830's and the country began exporting to the United States of America in 1889 at the same time as The United Fruit Company was established, (now Chiquita). The United Fruit Company began its operations in the Department of Magdalena in 1901 at the same time as the German consortium Albingia established operations in the municipality of Turbo in the Urabá region. The Colombian state induced the growth of the sector with tax breaks and land concessions. During the 1960's other multinational companies such as Castle and Cooke, (Dole) and Delmonte established themselves in Colombia leading to a rapid expansion of the sector (Escobar 2017). Bananas are one of the most consumed and cheapest fruits worldwide: they are the most traded fruit and the fifth most traded agricultural product. The global export value of the banana trade was estimated to be US \$11.8 billion in 2016, with a retail value between \$20 and 25 billion. The four big multinational banana companies: Chiquita, Del Monte, Dole and Fyffes, alongside Noboa are integrated vertically up the chain. ([www.bananalink.org.uk](http://www.bananalink.org.uk) accessed 01.04.19)

The 1970's and 1980's in Colombia were marked by the extreme violence of armed conflict between the guerrilla movement, the army, paramilitary groups and narcotrafficking gangs which had contradictory impacts on the banana sector. On the one hand, there were continuous attacks against the civilian population, including the banana producing areas, and on the other there was a population boom from peasants fleeing the armed conflict and considerable social investment through the work of trade unions and in infrastructure especially in the region of Urubá, (Escobar 2017) which was described as a "crucible of violent armed conflict", (Brown 2011). In spite of the peace process, according to the World Peace Index (2017), Colombia features as number 146 and is still considered one of the most dangerous countries in the world due to the continued existence of armed groups linked to illegal activities such as drug

trafficking among others. In spite of this, Colombia features as the 3<sup>rd</sup> happiest country in the world according to the New Economics Foundation Happy Planet index. (Escobar 2017). However, it is worth noting that, in terms of poverty indicators, the Banana Axis is ten times worse off than the national average for the rest of Colombia, although there are variances between different municipalities. (Escobar 2017).

Colombia today is the fifth largest exporter of bananas in the world and produced 98.4 millions of 20 kilo boxes in 2017 worth US\$850m, an increase of 4.7% on the previous year and the highest since 2008, largely as a result of the absence of labour disputes according to the sector's business association AUGURA. Agricultural products make up 20% of Colombia's exports. Agricultural performance in 2017 showed 4.9% growth compared with the previous year. However, it must be remembered that the previous year, production was negatively affected by the weather phenomenon El Niño. Within agricultural exports, bananas are the third most important product category after coffee and flowers. The growth in volume was due to a 21% increase in productivity in the regions of Magdalena and Guajira. (AUGURA 2017 figures). This is attributed to more favourable climatic conditions for production. Urubá remains the largest area under production with 34,000 hectares (has) out of a total production area of 49,000 has.



**The Banana Axis in Colombia** (Source: Brown 2011)

The export of bananas from the region of Urubá was 65.6m boxes in 2017 with a value of US\$561.4m which was down 1.19% in volume and 0.50% in value compared to 2016 (AUGURA). The FOB price of bananas in 2017 of US\$8.63 was 0.91% less than the price of US\$8.71 in 2016. The so-called “banana wars” where the price of bananas becomes the peg for other supermarket prices, is reported to be putting the squeeze on producers especially given the high costs of production and certification. (AUGURA interview). This is perceived as a threat to the sustainability and commercial viability of the producers in the Urubá region and to the important gains made in industrial relations which is covered in more detail below. However, price is not the only factor affecting producers in Urubá. Productivity was down by 3.9 per cent in 2017 compared with the previous year. The UK is the third biggest importer of Colombia’s bananas accounting for 13% of all exports after Belgium which imports 40% and Italy with 18%. Most of the sourcing of bananas from Colombia is done through exporters.

## **1.2. Employment**

Colombia has a population of almost 49m inhabitants of which 24% live in the rural regions. Out of the 47,000 hectares that make up the Colombian banana sector for export, 35,000 are in Urubá, distributed among four municipalities: Apartadó, Carepa, Chingorogó and Turbo. The production in Urubá creates nearly 20,000 direct and 120,000 indirect jobs in a population of almost 700,000 inhabitants and an annual population growth of 3%, (AUGURA 2017 and 2018). However there remains a high rate of youth unemployment at 45%.

In terms of Decent Work, Colombia has a high percentage of informal workers, (70% urban and 88% rural). (Escobar 2017). Given this context, the number of workers with formal contracts governed by a sectoral Collective Bargaining Agreement can be seen as a major achievement.

## **1.3. Industrial Relations – Sectoral Collective Bargaining Agreement**

Collective bargaining is defined by the International Labour Organisation (ILO)’s Convention No. 154 (1981) as “all negotiations which take place between an employer, a group of employers or one or more employers' organisations, on the one hand, and one or more workers' organisations, on the other, for:

- determining working conditions and terms of employment; and/or
- regulating relations between employers and workers; and/or
- regulating relations between employers or their organisations and a workers' organisation or workers' organisations.” (Article 2)

Collective bargaining agreements (CBA) aim to define the contractual employment relationship between the union and the employer. They involve the participation of representatives for both workers and employers. As the effective recognition of the right to collective bargaining remains a challenge in law and practice, governments need to play an active role in promoting collective bargaining, taking into account its voluntary nature. Collective bargaining agreements can be of two types:

- To replace multiple agreements signed at a company level without negatively affecting previous agreements;

- To establish a minimum level of conditions that must be taken into account in all individual negotiations of the company, both for unionised workers and for those who are not part of any workers' organisation.<sup>6</sup>

In Colombia, the Trade Union SINTRAINAGRO, (National Union of Agricultural and Livestock Industry Workers), was created in 1998 and represents 98% of the banana industry workers in Urabá, though it is also present in the palm oil, coconut and sugar cane industries in several regions of the country. SINTRAINAGRO has a single CBA with the banana sector employers' body AUGURA representing all 344 registered plantations. The Trade Union is deemed by many supporters to be the most powerful in Latin America and is affiliated to the regional federation of banana workers COLSIBA that, in turn, is affiliated internationally to the International Union of Food, Agricultural, Hotel, Restaurant, Catering, Tobacco and Allied Workers' Associations (IUF).

The CBA is renewed every two years and is far-reaching in its provisions. Known as "social unionism" the negotiating strategy goes way beyond the conventional parameters of a CBA and confronts wider needs by cooperating with employers and municipal authorities, (Schouwenburg). Government funded social foundations exist which provide financial support for housing, health, education, sports, culture, and recreational programmes, as well as community development and land-use planning (FINAGRO, 2011; Fundaunibán, no date cited by Brown 2012 and the Social Responsibility Foundation of Banacol, Corbanaco). The Unions have formal agreements with government with budgets for social projects in building houses, providing loans for home purchase, supporting children's education and health provision. (Brown 2012; key informant interview)

Within a national context of overall low trade union membership of just 1.5% of the workforce (ILO regional office), the success of the sectoral CBA in contributing to the peace process in the communities where banana workers reside, following a bloody history of 30 years of violence in which 3,000 people died (of which 1,300 were union members) is remarkable. Much analysis has taken place to examine the success factors, which contributed to this historic development and is summarized below:

- (i) **Trust** - "... When we started the dialogue with producers, there were times in which we came to a standstill... There was no understanding, for the positions of both parties were strong ... But the president of AUGURA said something that made us all think. He said: 'I don't know what's going to happen, but the way we're acting, all I envision for Urabá is a desert ... What we all need is to TRUST each other...'" (presentation by President of SINTRAINAGRO Guillermo Rivera to World Banana Forum WG2 in 2010 cited by Victor Hugo Quesada 2012)
- (ii) **Compliance with rights and duties** - The second aspect to be highlighted and that is present in successful industrial relations, is trust is based on compliance with rights and duties of both, workers and the company. In El Antonjo Farm, Mr. O. Cajello, leader of the SINTRAINAGRO, stated: "We organise working sessions with the company on a regular basis and analyse the critical issues, in order to monitor compliance." (op cit)
- (iii) **Communication** – between the employers' organisation and the Trade Union mediated by the State

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<sup>6</sup> Banana Link website information on World Banana Forum accessed 19.12.18



- (iv) **Information** – the right to information is included in the CBA (*op cit*)
- (v) **Collective bargaining as the basic instrument of industrial relations** (*op cit*)
- (vi) **International support** in this case notably by IUF, COLSIBA, Banana Link and others
- (vii) **The indivisibility of the union with the community** leading to the far-reaching social and political dimensions to the CBA (ILO Regional office interview)

The following are also highlighted by the FAO's World Banana Forum Good Practices Collection based on global experiences of mature industrial relations in the banana industry:

- Ratifying and effectively implementing the ILO's Right of Association (Agriculture) Convention, 1921 (No. C11), the Rural Workers' Organisations Convention, 1975 (No. C141), and the Plantations Convention, 1958 (No. C110). C11 affords the same rights of association to all those engaged in agriculture as to industrial workers and to signatories of the recommendation to repeal any statutory or other provisions restricting such rights. C141 applies to all types of organisations of rural workers and to any person engaged in agriculture, handicrafts or a related occupation in a rural area, to any person either as a wage earner or self-employed person such as a tenant, share cropper or small owner-occupier. C110 applies to plantation workers and includes services carrying out primary processing of products of the plantation.
- Establishing integrated national laws or adapting existing ones to the needs of rural workers to ensure their right to freedom of association and collective bargaining.
- Ensuring that there is adequate machinery, including responsible authority and labour inspectors, to ensure the effective application and implementation of laws, particularly those relating to freedom of association and anti-interference, in rural areas.
- Eliminating obstacles to the establishment of rural and agricultural workers' organisations in accordance with Convention No. C141 (Article 5).
- Protecting rural workers against dismissal or eviction based on their status or activities in workers' organisations and protecting said workers against anti-union discrimination.
- Improving representation and outreach of social partners through capacity building of employers' and workers' organisations to help them to become more effective in organising their diverse potential constituencies.
- Greater gender equality

SINTRAINAGRO (Trade Union Colombia) on the benefits of collective bargaining:

*"And so it is that we can build, not only a strong business, more democratic, more productive and profitable with contented, stable and motivated workers, but also a new road towards peaceful industrial relations in a rural setting."*

(Escuela Nacional Sindical – accessed 22.01.19)

ILO Andean Region Office, Peru on recommendations for the maintenance of good labour practices:

*"It is important to reiterate the importance of maintaining sectoral collective bargaining – for companies it gives them greater predictability, a labour environment with greater stability and it strengthens communication and collaboration as well as reducing the costs of multiple collective bargaining agreements and competition between companies. The benefits for unions are obvious. This recommendation should be extensive and not only apply to one sector, (bananas)".*

#### **1.4. Fairtrade and other certifications**

Fairtrade International develops the internationally agreed Fairtrade Standards, coordinates support for producers, and supports the international Fairtrade system. The Fairtrade system comprises Fairtrade International, FLOCERT the independent certification body of the global Fairtrade system, three producer networks representing the interests of producers, and 28 Fairtrade organisations, which promote Fairtrade to business and consumers in the countries of sale. (Fairtrade International)

Fairtrade was introduced into Colombia in the 1990's firstly in coffee and then in bananas, initially only working with smallholder producers. Since 2004, plantation production systems were also certified as Fairtrade, leading to a rapid expansion of Fairtrade sources. By 2015, Colombia represented 13% of small producers and 51% of plantations production of Fairtrade bananas globally. Colombia is the second country globally with the largest number of Fairtrade certified organisations after Peru. (Fairtrade International). In Colombia, there are 8 certified banana smallholder farms with some 400 producers and 28 companies operating plantation systems with 2,459 workers selling 75% of their produce under Fairtrade conditions. According to data provided by CLAC (the Latin American Network of Fairtrade Producers), the Colombian banana sector received 26.2m Euros in Fairtrade premiums from 2010-2015 (Escobar 2017).

Rainforest Alliance and the application of the SMETA methodology have also yielded many significant improvements.

#### **1.5 Challenges**

In spite of the great gains that have been made in industrial relations in Colombia, internal and external challenges remain:

- (i) The Urubá Axis is also a drug-trafficking corridor and security remains fragile. There have also been incidents of drugs being stowed among banana shipments.
- (ii) Banana plantations are susceptible to diseases.
- (iii) The sector's survival depends on the continuation of demand and the payment of fair prices. As highlighted above, the value per box dropped by 0.5% in 2017 compared to the previous year, (AUGURA) Additionally, there is downward pressure on price from new entrants, (low price retailers), into the market which could have a knock-on effect. Other external economic factors such as the strength or weakness of the dollar also has an impact on pricing and the economy more generally.
- (iv) Political processes – the government has not ratified ILO C110 and is under pressure to do so from the CUT, (Colombia's equivalent to the TUC in the UK).

## **2. Conclusion**

Industrial relations in the Colombian banana sector evolved in a context of conflict and post-conflict. Alongside the peace process, it is an extraordinary story of human endurance. It offers a beacon of hope

to other countries where social dialogue between employers and workers has yet to be established. The emergence of mature industrial relations must be understood as being rooted in the context of extreme conflict, social upheaval and the subsequent peace process. Both parties acknowledge that the starting point was one of acute adversity and, at the same time, mutual acknowledgement that the situation had to change if the sector were to survive and thrive. It seems that a key element for success was a mediated process of trust-building supported by international partners such as IUF and Banana Link, regional partners such as COLSIBA and the national government. The presence of a strong employers' organisation AUGURA with a competent trade union SINTRAINAGRO, provided a solid foundation on which to build negotiations. The indivisibility of the trade union's links into the local communities means that their sphere of action and influence is not confined to the employer-worker relationship but extends into every corner of the broader community bringing improved livelihoods and development to the wider population. Government funding for social development in housing, healthcare and education, together with Fairtrade premiums on Fairtrade certified farms have provided the means for investment in infrastructure.

In spite of the significant gains, the peace remains fragile with the continued presence of armed gangs, drug trafficking and a changing political context both nationally, regionally and globally. The economic challenge of downward pressure on price and the continuation of banana wars calls for responsible sourcing practices from buyers even as they themselves face stiff competition between each other.

The role of international forums such as the ETI, The World Banana Forum, the ILO, the Global Union Federations such as the IUF, and Civil Society Organisations remains vital to continue advocating for what the ILO calls "decent work", fair prices, responsible buying practices and a voice for workers.

Decent work sums up the aspirations of people in their working lives. It involves opportunities for work that is productive and delivers a fair income, security in the workplace and social protection for families, better prospects for personal development and social integration, freedom for people to express their concerns, organize and participate in the decisions that affect their lives and equality of opportunity and treatment for all women and men. During the UN General Assembly in September 2015, decent work and the four pillars of the Decent Work Agenda – employment creation, social protection, rights at work, and social dialogue – became integral elements of the new 2030 Agenda for Sustainable Development. Goal 8 of the 2030 Agenda calls for the promotion of sustained, inclusive and sustainable economic growth, full and productive employment and decent work, and will be a key area of engagement for the ILO and its constituents. Furthermore, key aspects of decent work are widely embedded in the targets of many of the other 16 goals of the UN's new development vision. ([www.ilo.org/global/topics/decent-work/lang--en/index.htm](http://www.ilo.org/global/topics/decent-work/lang--en/index.htm)) accessed 21.02.19

The learning from the process in Colombia can serve as an example to other countries who face similar and difficult challenges.

# Mexico

## 1. Context

### 1.1. Fruit and Vegetables – Economic Performance

For the last 20 years, the fruit and vegetable sector in Mexico has grown exponentially, with exports of over 9 billion USD in 2016, creating job opportunities for 1.4 million horticultural workers across Mexico. (AHIFORES 2018). The International Fruit and Vegetable Alliance for Social Responsibility (AHIFORES), is a non-profit association formed in 2015 focused on improving the welfare of horticultural workers, of their families, and of the agricultural sector of Mexico as a whole. It is made up of producers, government, workers, buyers, consumers, NGO's and academia and claims to represent 80% of the fruit and vegetable sector. Its objective is to promote social responsibility for the improvement of social and labour conditions. It has defined a standard of good labour practices for the sector.

The alliance partnered with the National Agricultural Council and the Mexican federal government to establish an international forum, "From Production and Market Consolidation, To A New Social Environment," in February 2017 that touched on issues of health, education, social security, infrastructure, working conditions and compliance with labour laws. The alliance joined by non-profit organisation, México Calidad Suprema, announced the creation of the responsible agricultural company award, which recognises companies that incorporate the best practices in social responsibility within the domestic and international produce market. (Banderas News April 2017)

Historically, the fruit and horticulture sector has suffered from a shortage of labour which has been exacerbated in recent years by the pull of outward migration to the United States agricultural sector. There is a high degree of competitiveness for labour in a sector characterised by a high degree of informality, contracting of workers through gangmasters and a rapid turnaround on crop harvesting although avocados have a longer cycle,. Before 2015 there was widespread child labour and outsourcing of labour recruitment is commonplace, especially for harvesting. The labour shortage was heightened through the renegotiation of the NAFTA free trade agreement signed with the US and Canada which called for the enforcement of the minimum age of 18 leading to clamp down on child labour. 25% of the workforce dropped and this has reportedly pushed 16-18 year olds into the trade of narco-trafficking gangs and leading to an increase in violence. (Key informant interview Mexico.) To counter the shortage of labour and the additional challenges that come with using outsourced labour contractors, growers are resorting to direct sourcing of migrant labour from areas such as Chiapas in southern Mexico and building on-site accommodation to retain workers by changing their business model to have year-round production and create continuous employment.

In sharp contrast to the rhetoric of the USA Administration's "build the wall" campaign, California's demand for agricultural labourers has led to an increase in the number of workers from Mexico under the H2A visa system quota which saw the number rise from 100,000 in 2017 to 200,000 in 2018 through 400 labour recruitment agencies in the US, (Mexico key informant interview).

A further challenge in Mexico is compliance with complex Social Security contributions requirements. Workers themselves often do not want to pay SS contributions as this would remove their entitlement to free health care directed at the poor. (Key informant interview Mexico)

In terms of standards, the Mexican legal requirements for labour are high but implementation is reportedly weak with little enforcement, (key informant interview).

## 1.2. Employment

13% of jobs in Mexico are in agriculture. Mexico's high rate of informality, excluding agriculture, has declined by two percentage points since 2012, from 55% to 53% (INEGI-ENOE 2016) – or three percentage points with agriculture included (from 60% to 57%). The absolute number of workers with an informal employment relationship ("informal employment") is still high and women are more likely than men to work informally (OECD 2017)

According to information obtained via the ILO Regional Office,<sup>7</sup> in Mexico, salaried agricultural workers represent a significant segment of the rural workforce. 48.9% of workers in the sector are salaried.

	National	Rural
Own account workers (self-employed)	23.9	34.3
Unpaid workers (family labour)	6.3	12.9
Salaried workers (full time, part-time, seasonal workers)	64.8	48.9
Employers (Those employing workers)	5.0	3.9

These men and women who work as salaried workers in agriculture, on the whole are not serviced by trades unions or farmworkers associations in spite of the fact that they represent more than 45% of the people who work in the rural sector. According to definitions of salaried, agricultural workers, they do not own or rent the land on which they work, nor the tools and equipment they use. However, in the rural sector, there are different types of salaried workers:

**Salaried worker dedicated to rural activities:** their work is remunerated with a fixed salary, (weekly, twice-monthly or monthly). These are considered full-time, permanent, agricultural workers.

**Labourers:** their pay is determined according to the days worked on a farm. They are also temporary, seasonal or migrant workers.

These categories of workers, who can be divided in sub-categories, generally maintain a work relationship with a farmer or agricultural firm who decide the type of job to be carried out by the worker or by a labour

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<sup>7</sup> Key informant interview, 23.01.19



contractor who is in charge of transporting the worker to the farm or plantation and is the one who pays the salary.

The working conditions tend to be very precarious: long working hours during harvest time and shorter during the preparation time or after the harvest. However, since it is mostly temporary work, they convert into seasonal migrant workers following the work wherever there is a harvest.

**Migrant worker**: their work is carried out on different farms or plantations in different parts of the State or the country. They are generally transported and taken to the farms by labour contractors known in Mexico as “enganchadores”, (gangmasters).

The ILO Regional Office in Costa Rica has commissioned a piece of research into production chains in the agri-food sector in Mexico to look into the different interactions between the links in the chain and the production systems within each link, forms of payment and mobility in relation to employment relations in each of the links in the chain. The purpose of the research is to propose a decent work agenda around working conditions for salaried agricultural workers from a trade union perspective.

### 1.3. Industrial Relations

There has been a history of adversarial and sometimes chaotic trade union activity, deeply rooted in the political system, in Mexico. The large majority of labour unions in Mexico fall under the umbrella of the Confederation of Mexican Workers (Confederación de Trabajadores Mexicanos) or CTM, which, comprised of approximately 11,000 labour unions, is the primary member organisation (in addition to a few independent unions and considerably smaller confederations) in the labour arm of one of Mexico’s major political parties, the Institutional Revolutionary Party (Partido Revolucionario Institucional) or PRI. The PRI’s labour division is known as the Congress of Labour (Congreso del Trabajo) or CT, and primarily consists of the CTM. This means that the CTM, when the PRI is in power in Mexico’s government, is essentially an arm of the federal government – a status that has bolstered its popularity and power over past decades, but has not meant as much recently (until the 2012 election) since the PRI temporarily lost their majority in the national government during the period 2000-2012.

Among the more notable and prominent members of the CT, besides the CTM, is the Federation of Unions of Workers in the Service of the State (Federación de Sindicatos de Trabajadores al Servicio del Estado) or FSTSE. This organisation was founded in 1938 primarily for labour unions within the federal civil system, and other organisations associated with the government. Other labour unions in Mexico, as well as federations within the CT include the Revolutionary Confederation of Workers and Farmworkers (Confederación Revolucionaria de Obreros y Campesinos) or CROC, the Regional Confederation of Mexican Workers (Confederación Regional de Obreros Mexicanos) or CROM, the National Federation of Independent Unions (Federación Nacional de Sindicatos Independientes) or FNSI, the Confederation of Workers and Peasants, (Confederación de Trabajadores y Campesinos) or CTC, and the International Proletarian Movement (Movimiento Proletario Internacional) or MPI. CTM and CROC are named as two of the biggest “yellow” unions. (IndustriALL) (Yellow or white unions as they are known in Mexico are false unions controlled by employers)

In the early twentieth century, in order to facilitate Mexico’s dramatic post-war economic growth, labour unions in Mexico accepted wage increases that did not exceed productivity gains. This helped reduce the effect of inflation, but fell short of the gains many workers hoped to achieve through their organisations.

Until Mexican labour reforms implemented in 2012 came into effect, the inner workings of labour unions in Mexico were, to a great extent not visible to their memberships. However, recent reform has made Mexican unions more transparent and accountable to the constituencies that they represent.

(<https://www.tecma.com/labour-unions-in-mexico>)

Mexico has been under pressure to eliminate impediments to Freedom of Association within the context of NAFTA (North America Free Trade Agreement), and from the ILO Committee on Application of Standards. (MSN).

Mexican Labour Law was written into the constitution after the revolution in 1917 with few reforms in between. There were reforms in the 1970's and in 2012. Unless specified, an employment relationship is established for an indefinite period to provide employees with job stability and tenure security. If the position is temporary, the promise of job stability and security does not apply. The 2012 Mexican Labour Law reform now enables employers to staff part time, temporary, or seasonal work arrangements, and also allows for a 30 day probationary period to ensure the employee is right for the job. Through this reform, employers could hire for an hourly wage payment which must be at or above minimum wage. (The Offshore Group 2017)

Historically, a major barrier to freedom of association and the right to bargain collectively in Mexico is the existence of "employer protection contracts." Protection contracts are simulated collective bargaining agreements (CBAs) signed by employers and unrepresentative unions or individuals that inhibit workers from joining or forming a union or other worker organisation of their free choice. (Mexico Committee of The Americas Group 2016). In February 2017, a highly anticipated Constitutional Reform to Mexico's labour justice system became law. The reform was the product of many years of public advocacy and lobbying efforts by Mexican and international trade union organisations and other labour rights advocates. (MSN July 2017) However, the Mexican legislative process requires that the adoption of the Constitutional Reform be followed by the passage of secondary or 'implementing' legislation that would bring the Reform's new institutions into existence and ensure that they embody the new Constitutional principles. Throughout 2018 the process was stalled in the Mexican Senate as pro-government trade unions attempted to halt the passage by presenting counter-proposals.

The Presidential Election in July 2018 saw an historic defeat of the PRI party, which has dominated Mexican politics since the 1917 revolution. The MORENA party candidate, Andrés Manuel López Obrador, (known as AMLO) took office in December 2018 with an absolute majority in both houses. The power of the corporatist unions that were blocking the approval of the secondary legislation subsided and it is anticipated that the legislation will go through unopposed. This, and the fact that the government approved ILO C98, (The Right to Organise and Collective Bargaining Convention) in October 2018 will strengthen the legislative framework for positive change in relation to genuine freedom of association. (Key informant interview ILO).

The initiative to reform the Federal Labour Law which was received by the Chamber of Representatives 22nd December has five key elements:

- Democracy in the workplace: workers will elect their representatives via a free ballot that is direct and secret
- Collective contracts: will guarantee that negotiations between workers and employers improve productivity and working conditions

- The creation of an autonomous body: this will promote impartiality and trade union freedoms through a Federal Central for Reconciliation and the Registration of Collective Bargaining Agreements
- Labour Justice: Labour Tribunals governed by the Judicial Power will substitute the existing Conciliation and Arbitration bodies
- The elimination of extortion: with the creation of the Federal Central for Reconciliation and Registration of Collective Bargaining Agreements the politically motivated practice of calling strikes by the politically affiliated Trade Union bodies.<sup>8</sup>

The new government has already put in motion the process of secondary legislation. The government put down a draft text on 3<sup>rd</sup> January 2019. Introducing the motion, a member of parliament for the ruling party said that it means “a new model for labour relations which will make effective the independence of the system of labour justice...” (La Jornada, Mexico 03.01.19)

#### 1.4. Sectoral challenges

Avocado producers, (growers not workers) went on strike in October 2018. This was not the first time that avocado producers had gone on strike. There had been a previous strike in 2016 against low prices. While low prices seriously impact on the sustainability of businesses, these same low prices particularly impact on the livelihoods and employment conditions and prospects for vulnerable workers and their families. The strikes had come about as a group of growers were unhappy with the prices they had been receiving from packers and had demanded that a minimum price be set. However, the packers said that this was not possible under international competition law.

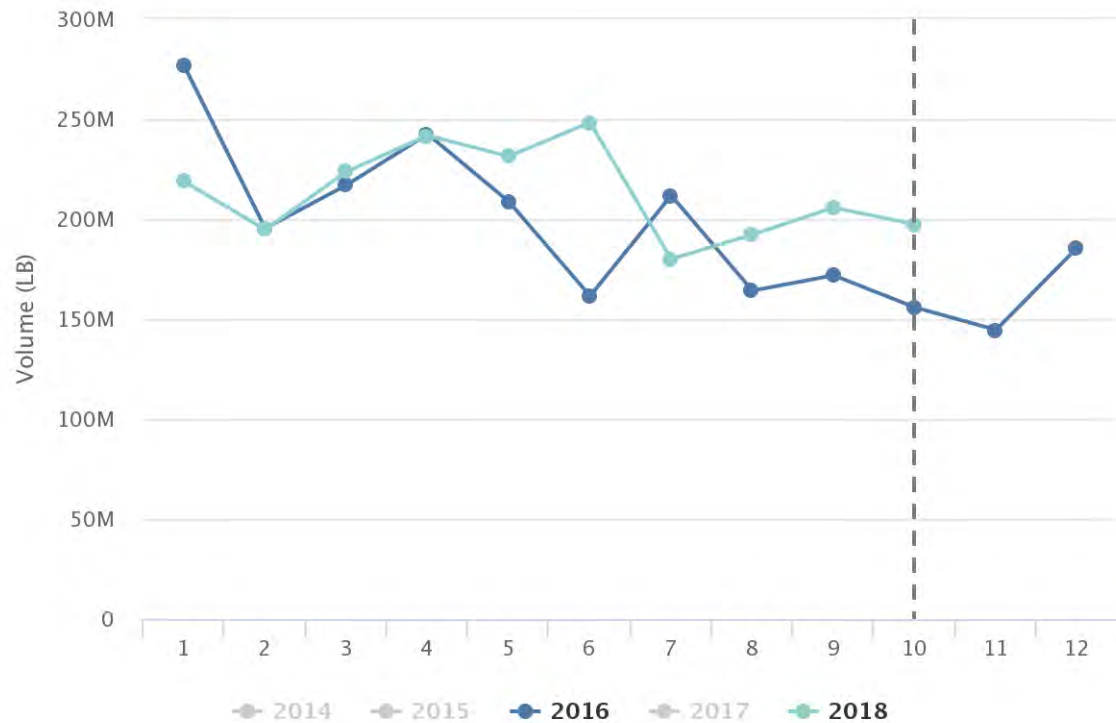
In addition, growers were complaining about avocados being grown in other Mexican states without U.S. access and then being sent to Michoacán where they were repackaged and shipped north of the border.

The strike ended after 16 days as a deal was brokered by The Producers, Packers, and Exporters Association of Avocado in Mexico (APEAM), with growers and packers with the government present. Ramon Paz, a spokesperson for the association, told Fresh Fruit Portal that the parties had “agreed to increase the transparency of information so that everyone knows the reality of the market, the costs and the marketing margins. “The APEAM statement said that the agreement has six points, which include measures to prevent fruit from elsewhere in the country being fraudulently exported to the U.S. from Michoacán. The US is Mexico’s largest export market and the following graphics demonstrate the impact of the strikes in 2016 and 2018:

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<sup>8</sup> Secretaria de Trabajo y Previsiones Social (STPS) Mexico – Mexican Labour Ministry web-site accessed 15.01.19

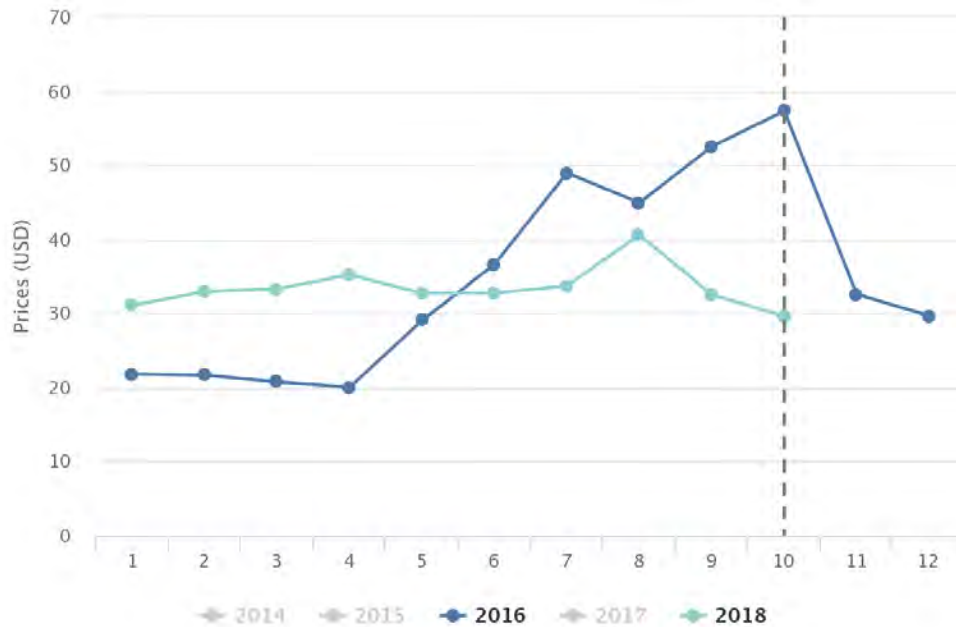
## US Historic Monthly Avocado Volumes



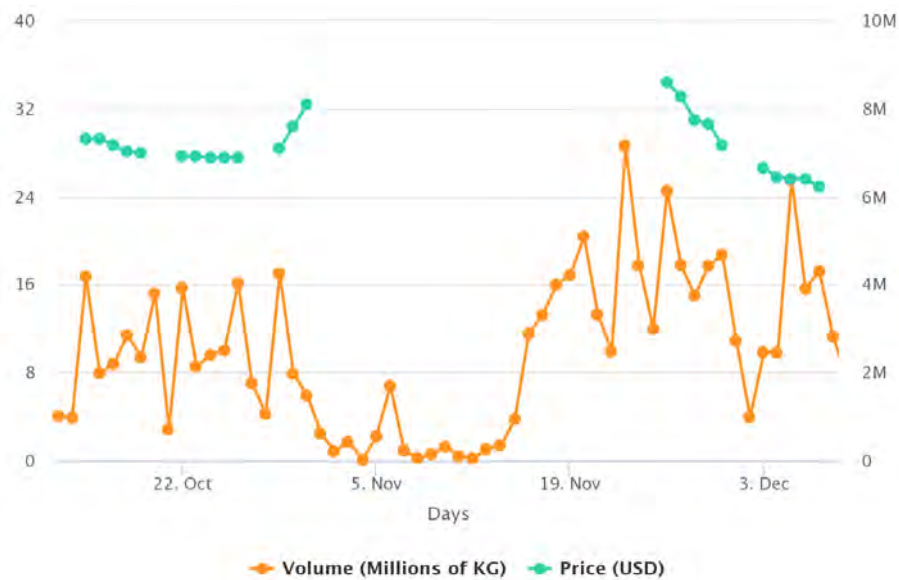
(Source: USDA Market News via [Agronometrics](#)) accessed on Fresh Fruit Portal.com 06.01.1

September and October 2018, however, are quite different from 2016, where these months each saw the largest volumes to have ever arrived on the market. This volume will naturally bring down the price. However, the price is still nowhere near the USD\$20 per box growers were striking over in 2016.

## US Historic Monthly Avocado Shipping Point Prices



## US Avocado Prices and Volumes October-November strike 2018



Source: Fresh Fruit Portal.com accessed 06.01.19

Moving forward in time five weeks, we can see very clearly the effects of the strike which started affecting the markets on October 30<sup>th</sup>, 2018. A massive gap in shipments was complemented by rising prices, followed immediately by a huge swell in volume, quickly bringing prices down even below pre-strike levels. (op cit)



As can be seen from the charts above, the producer strikes have no longer-term impact on the prices which are based on supply and demand. Strikes are, therefore, not an effective bargaining tool to improve terms of trade and are likely to harm farmworkers and packhouse workers. The role of the industry body in resolving the strike is an indicator that they could have a bigger role as a mediator in negotiating better prices

Like Colombia, Mexico faces the challenge of narcotrafficking, gang war-fare and high levels of homicide. Mexico is the poorest performer for safety and corruption across OECD states. (OECD 2017) 88 people a day die in Mexico from drug-related violence that has claimed 200,000 lives in the last 11 years. (The Guardian July 2018)

## 2. Avoselect – Piloting Solutions

Avoselect in Jalisco state in Mexico is part of the Gonzámex Group of companies and specialises in the packing and export of Mendez and Hass avocados with year-round production. It is a supplier to ETI member Greencell. Avoselect's largest customers are Canada, followed by Europe, Japan and then Greencell in the UK. The company has experienced a growing demand for avocados and at the same time an increase in certification schemes and requirements. The company faces the same competitive challenges in securing labour as other companies in the sector. For the past two years they have invested in increasing wages in line with the market in an attempt to attract workers. The advantage of avocados over, for example, berries that competes for agricultural workers but is more seasonal is that production is all year round.

The company employs 157 workers directly in its packhouse, 104 men and 53 women on permanent contracts. The total buildings and plant area covers 10,845.36m<sup>2</sup>. (SMETA audit 2017) The harvesting workforce of 120-150 is sub-contracted through labour contractors and predominantly male. The company has embarked on a pilot to directly employ 13 women and 2 men as a harvesting team with a view to potentially rolling this model out more widely. The company is keen to have more women in harvesting because they are seen to be more diligent workers, (interview with Avoselect Senior Management Team). At the time of interview, (December 2018) the pilot had been underway for just 2 months and there were no results available to share. In general, there are less women working in avocados harvesting than men because of the physical demands on lifting 25k boxes. The pilot has reduced the load for the women workers to 10-15k as the company wants to have a greater number of female workers in harvesting.

As with most farms in the agri-food sector, Avoselect is not unionized. The company is in the process of becoming a member of AHIFORES. There is a workers' committee which meets monthly. The company has been responsive to make positive changes internally and introduced a new, formal work regime which is advertised in the canteen, provides talks on the base code requirements, human values, integration, motivation and orientation with a new suggestion box. The company has a doctor who provides medical checks and vaccinations. They received 10 inspections from the Ministry of Labour in 2017 which contributed to their programme of continuous improvement.

### 3. CONCLUSION

The labour relations landscape is changing in Mexico with the introduction of labour reform legislation. With the new government majority in both houses, there should be no impediment to the passage of the necessary legislation which was halted in the past. It will take time to change the existing institutional architecture which has been in place for so long but there is certainly a fresh wind blowing and momentum has thus far been swift.

The combination of lack of labour supply and stiff competition for it in the agri-food sector is driving companies to seek new ways of retaining workers and, at the same time, change their own business model and employment practices. Salaried workers in the sector, and especially, migrant workers lack protection from trade unions and have little negotiating power apart from their “freedom” to move from farm to farm. The research underway commissioned by the ILO, is timely indeed when the enabling environment is changing to be more favourable to the creation of decent work and the right to freedom of association and collective bargaining. Out of this mix, we can see an opportunity for improvement and continuity of employment in place of precariousness.

Companies sourcing from the agri-food sector in Mexico have an opportunity to work with their suppliers to support the change processes that are necessary to take advantage of the new environment. The learning from Colombia demonstrates that it is possible to develop sectoral collective bargaining agreements and build mature industrial relations between companies and workers from a starting point of acute adversity.

# PERU

Peru is a diverse country within the extensive Andean mountain range dividing its surface into three natural regions: The Costa (arid coastal plains, where about 55% of the population resides) to the west; the Sierra (highlands, with 32% of the population); and the Selva (the lush Amazon rainforest, with 13% of the population) to the east<sup>9</sup>. Non-traditional export agribusinesses are mostly located in the coastal area.



## 1. Context

The context for this study in Peru is what is called “modern agriculture”, which takes into account good farming practices, internationally recognised certification processes – including requirements around labour and human rights, compliance with legal requirements and formal employment, highly efficient processes and the use of environmental techniques.

### 1.1. Modern Agriculture - Sector Economic Performance

Today, agribusiness represents approximately 4.5% of GDP and employs 25% of the working population in Peru<sup>10</sup>. There are three main geographical areas engaged in agribusiness production:

- Coast: represents 11.5% of agricultural land, including river valleys with a focus on modern agriculture and concentrated land ownership
- Highlands: 57% of the land, traditional agricultural area dominated by small farmers
- Amazon basin: 31% of the land, not as significant as the other two areas but rapidly developing

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<sup>9</sup> For more information, please consult [https://www.rimisp.org/wp-content/files\\_mf/1434919932157150523PatronesdelocalizacionPeru\\_editado.pdf](https://www.rimisp.org/wp-content/files_mf/1434919932157150523PatronesdelocalizacionPeru_editado.pdf)

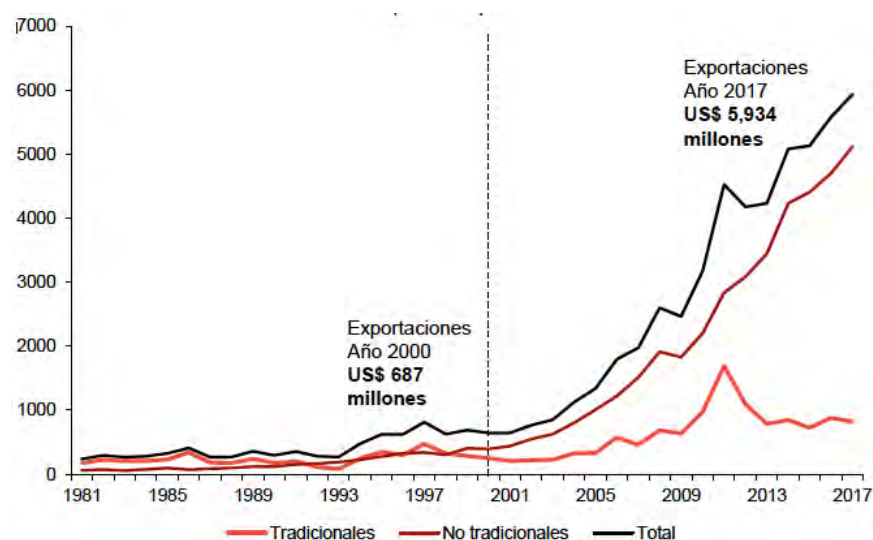
and <http://www.minagri.gob.pe/portal/download/pdf/difusion/2017/mapa-interactivo-minagri-enero2017.pdf>

<sup>10</sup> Gaining momentum in Peruvian agriculture : opportunities to increase productivity and enhance competitiveness, World Bank

Peruvian Agriculture has experienced impressive growth over the past two decades. According to a study conducted by *Apoyo Consultoría* at the request of AGAP, the Trade Association of Agricultural Producers' Guilds of Peru, the productivity of Peruvian agriculture has more than doubled compared with the average for Latin America.

The country's agricultural sector averaged 3.3% annual growth from 2000 to 2015 and is currently experiencing even greater growth. Whereas the traditional measure of agriculture's contribution to Peru's GDP is 7.3%, the authors of a recent study from the World Bank calculated an expanded measure of the sector's economic impact, taking into account upstream and downstream linkages, and found that it actually contributes at least 11.3 % of GDP<sup>11</sup>

The performance of agribusiness exports since 2000 has been outstanding. Agribusiness exports increased eleven-fold compared to 5-fold increase in total and mining exports, the largest sector in Peru. Notably, higher export volumes as opposed to higher prices as in mining drove the surge in agribusiness exports. The surge in exports was especially strong for non-traditional, coastal area crops such as fruits and cereals, but also for cocoa.



Source: Presentation from AGAP

Agri exports are 10% of total exports and traditional exports represent 19% of all agri exports. Traditional exports include cotton, sugar, cocoa (#2/world organic cocoa) and coffee (#7 world). Non-traditional exports, which represent 8% include blueberries, mangoes, grapes, bananas, asparagus, artichokes and avocados among others. Agricultural productivity growth has been very robust in the country's coastal region, where the highly productive and technologically advanced, large-scale farms located between the Pacific and the Andes produce crops such as asparagus, blueberries, avocados, mangoes, grapes and much more. Today, Peru is the largest world exporter of asparagus and organic bananas (from position 68 in 2003), the second largest of blueberries, avocados and processed artichokes, the fourth of mangos and

<sup>11</sup> Gaining momentum in Peruvian agriculture : opportunities to increase productivity and enhance competitiveness, World Bank

the fifth of grapes. Between 2012 and 2017, Peru doubled its blueberry exports<sup>12</sup>. Camposol, the company that will be studied in the next chapter, planted its first crop as a trial in 2009 and expanded production from 2014 onwards.

On November 26, 2018, the agriculture and irrigation minister, Gustavo Mostajo, informed that agricultural exports reached US\$ 5.475 billion between January and October of this year, achieving a growth of 13.1% compared with the same period in 2017. Mostajo stressed that the objective for this year was to reach US \$ 7 billion in agricultural exports while the goal for 2021 is US\$10 billion. The products that stood out the most due to their volume of exports during the referred period were avocados, grapes, and blueberries, among others<sup>13</sup>.

According to the most recent Systematic Country Diagnostic conducted by the World Bank in Peru<sup>14</sup>, both extreme and moderate poverty rates fell faster in Peru than the regional average. Agriculture and services generated the largest increases in income for the poor: the contribution of agriculture was stronger in the reduction of extreme poverty, whereas labour income from services played a more significant role in moderate poverty reduction.

Agriculture is now the second export sector of Peru after mining. Both sectors are heavily dependent on natural resources and proper management of them is critical if the country is to continue prospering. More than a quarter of the Peruvian population is employed in either agriculture or fishing industries, and a large share of the Peruvian economy relies on favourable climatic conditions. Agriculture consumes about 80 % of Peru's total water.<sup>15</sup>

Based on research and interviews, the boom in agriculture is explained by a combination of factors related to both infrastructure and a special regime elaborated for the sector in 2000: la ley de promocion agraria or law for the promotion of agriculture 27360 that we will present further below.

## 1.2. Employment

A big issue facing the country and the agricultural sector in particular is informal employment. While informality rates have decreased in the past decade, more than 70 % of those employed were considered informal workers in 2015<sup>16</sup>. Employment distribution and informal work is illustrated hereunder<sup>17</sup>. The majority of new formal jobs created are fixed-term contracts.

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<sup>12</sup> source: comtrade, FAO

<sup>13</sup> La Republica, digital version, 26 Novembre 2018, p. 15

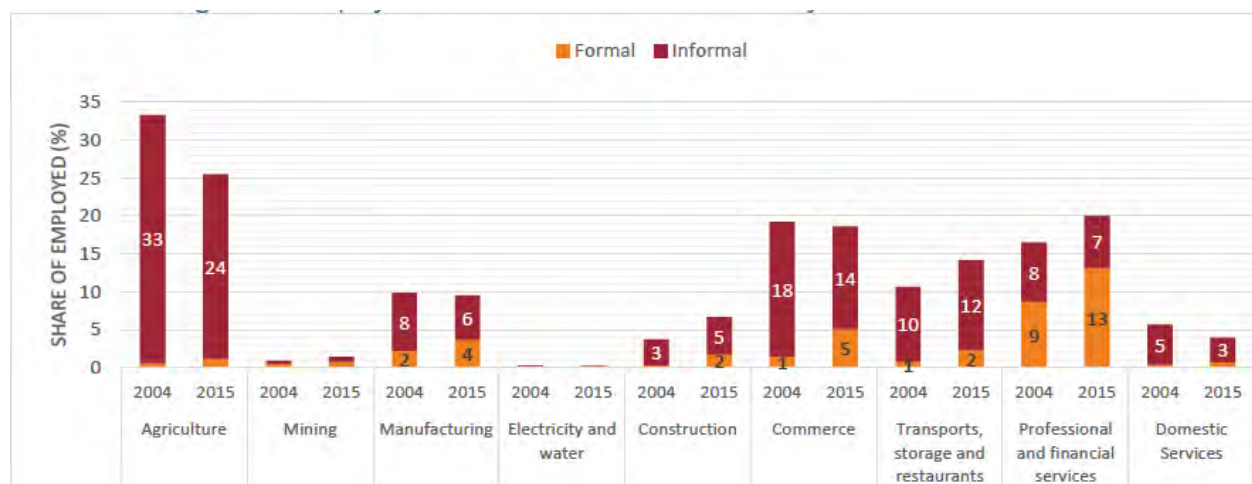
<sup>14</sup> World Bank. 2017. *Peru - Systematic Country Diagnostic (SDC)*. Washington, D.C.

<sup>15</sup> [http://www.fao.org/nr/water/aquastat/countries\\_regions/Profile\\_segments/PER-WU\\_eng.stm](http://www.fao.org/nr/water/aquastat/countries_regions/Profile_segments/PER-WU_eng.stm)

<sup>16</sup> Informal employees as those not covered by social security (*Seguro Social de Salud*; EsSalud), and informal employers or own-account workers as those not registered with the tax authorities.

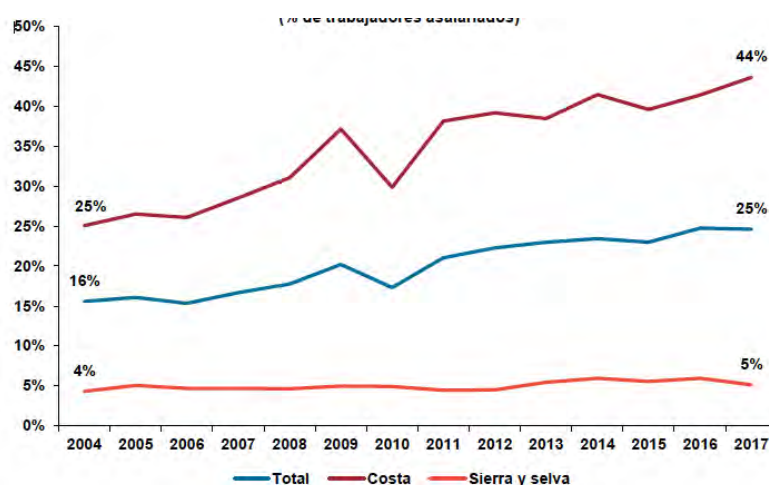
<sup>17</sup> SDC World Bank report p. 43





According to a study conducted by *Apoyo Consultoría* on behalf of AGAP and as confirmed by Gabriel Amaro, Executive Director of AGAP during interviews, the formality in the sector would have increased by about 10 points in the last 15 years: from 16% in 2004 to 25% in 2017, as illustrated by results from the National Households Survey<sup>18</sup> hereunder. The biggest increase in formality, 19% (from 25 to 44%, see the burgundy line in the graph hereunder), is to be found in the coastal area where most of the companies benefiting from the special regime (developed in next point) are located.

## Formality in agricultural activity and agro-industry: Peru, 2004-2017



(% of salaried workers) – National Household Survey

In burgundy – coastal area

In orange - highlands and Amazon

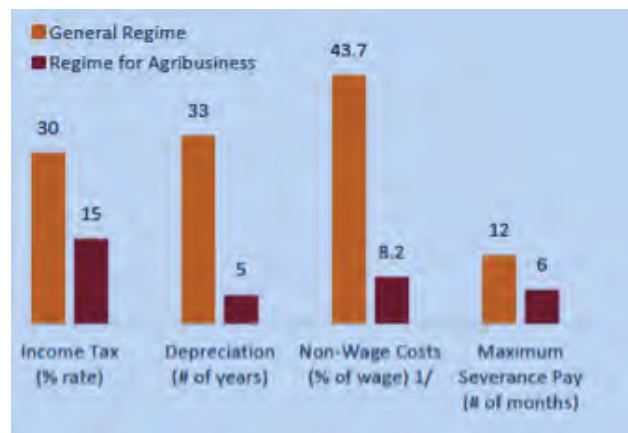
In blue – average increase in formality

<sup>18</sup> National institute of Statistics : <https://www.inei.gob.pe/buscador/1/?tbusqueda=enaho>

### 1.3. Special Regime for Agriculture: Ley 27360

In 2000, the government introduced a special regime for agriculture: Agrarian Promotion Law (Ley 27360). The regime is applicable to the entire agricultural sector<sup>19</sup>, not only for the export sector. To date, around 4,000 companies are affiliated to this regime<sup>20</sup>, half of them exporters.

The regime grants a lower tax rate of 15% instead of the regular 30 %, an accelerated depreciation of only 5 years instead of 33 for water and irrigation infrastructure, and the recovery of VAT for the purchases of capital goods, construction contracts, and other inputs. It also established a special labour regime for workers, including less vacation days (15 instead of 30), lower health insurance payments (4 instead of 9 % of the salary), and lower severance pay (6 instead of 12 months of salary), and defining a fixed daily wage which incorporates bonuses and unemployment insurance and is higher than the regular minimum daily wage. As a result, the non-wage labour cost of hiring an agricultural worker is only 8% of the wage compared to 44% under the general regime. Initially, these benefits were intended to remain in effect until 2010, but most of the sector privileges were extended until 31 December 2021.



Source World Bank SDC report 2017

At the time of writing this report, the extension of this regime is again being debated, as the sector is pushing for its extension until 2031 or later. AGAP is seeking the extension of the law based on the arguments that it is thanks to this law that the agro-industrial sector is now the second export sector of Peru, which has generated close to 400,000 formal jobs in rural areas where poverty has decreased as a result. *“The number of total formal jobs generated by agricultural activity and agro-industry amounts to 809,000 in 2017 compared to 462,000 in 2004 with an average increase of 4.4% per year. Also, the average salary went from s/.658 in 2004 to s/. 1472 in 2017. Salaries that reflect the purchasing power of workers have grown at a rate of 3.4% per year on average since 2004, above the national average of other sectors of the economy. [...] Through the generation of direct and indirect formal employment the law has contributed to reducing poverty from 81.3% in 2004 to 38.3% in 2017. This decrease was considerably higher in the coastal area where agribusinesses are located. In this region it was reduced from 67% to 19%”* says Gabriel Amaro, Executive Director of AGAP<sup>21</sup>.

This position is facing some opposition from trade unions and other stakeholders promoting labour rights who estimate that the law was created to promote agriculture when modern agriculture was rather

<sup>19</sup> except agroindustries related to tobacco, wheat, oilseeds, oil and beer.

<sup>20</sup> Please refer to Appendix Three - include ppt presentation on the law given by AGAP

<sup>21</sup> This is an excerpt from an opinion piece that can be found in Horizonte, a magazine produced by AGAP, in its edition 2018-II.

nascent (in the 1990s) and its expansion demonstrates that the sector is now an integral part of the economic success of the country and, therefore, no longer needs such a law. On 3 July 2018, a group of Civil Society Organisations (Plades, Equidad, Cedal, Solidarity Center, Trabajo Digno, the Institute for Union Studies) and specialists (among them law professors) issued a statement in the newspaper La República warning of the implications and risks involved in the extension of Law N° 27360, Agrarian Promotion and underlining the lack of further debate or participation of those directly affected. The text of the statement lists a number of reasons why it is not justified to extend the validity of a rule that was born on a "temporary" and "promotional" basis that some business associations aspire to convert it into the "general" regime that regulates private employment. According to this collective, after 18 years of implementation, it is clear that the sector has grown exponentially in the number of exporting companies and above all in the export volumes. Under these conditions, they see granting a "permanent" character to a rule that favours mainly a few companies that today lead the production and marketing of agricultural commodities, is equivalent to granting a subsidy to those who do not need it. In addition, from their point of view, the law has not achieved one of its formal objectives to promote formal employment in the sector (19%). While they see Camposol as an exception because of the company's efforts to formalize employment and promote its continuity, in their views, the law does not change the global panorama of precariousness that dominates in the agro-industry. According to this group, the only result that would come from the extension of the law would be to deepen the economic inequality between a small group of companies, and an important contingent of workers (around 276,000 covered by this law) that are torn between the instability of work and precarious working conditions, the product of a sub-standard labour regime<sup>22</sup>.

Throughout interviews with stakeholders the major sticking point is actually the chapter covering the provisions of the law dealing with labour rights not the dispositions related to tax cuts. While actors have to maintain a certain posture in public, in private they recognise they are willing to sit down and negotiate. Taking a step back, there seems to be more common interests that unite stakeholders on both ends of the spectrum (employment opportunities, increase of exports and income etc.) than divide them (labour provisions). *"After twenty years of this law, we think that the sector has had time to learn about the export business and develop markets for their products. So we consider that this law has already fulfilled its objectives. We do not mind that companies keep getting fiscal benefits, the change we would like to is that article 7 of the law 27360 be modified so workers can receive the same vacation and gratuities as under the general regime. Finally, our proposal is that the law can continue but only for new businesses in this sector. For those companies that have benefited from it for the last twenty years, we think they should pay full benefits to workers"*<sup>23</sup>.

In June 2018, the Agrarian Commission of the Peruvian Congress approved, by majority, a commission opinion or pronouncement recommending passing the proposed legislation that would extend the validity of Law 27360 until December 31, 2031 (see table hereunder). The next step would be that the Plenary of Congress vote the proposed legislation. If Congress passes it, then the law proposal will be sent to the Executive for approval. Once this step is completed, the law will be published in the official newspaper "El Peruano" and be effective from the following day. If the plenary session of the Congress does not pass the proposal, then the enforcement of Law N° 27360 will end. In the case of approval by the plenary Congress but disapproval from the Executive, Congress can still insist in passing the law by overriding the Executive's disapproval. As the time of writing this report, no date has been set for a vote in Congress.

<sup>22</sup> <http://trabajodigno.pe/2018/07/03/organizaciones-de-sociedad-civil-y-especialistas-se-pronuncian-sobre-el-regimen-laboural-agrario-precariza-el-empleo-y-profundiza-la-desigualdad/>

<sup>23</sup> Excerpt from an email exchange with Jesus del Castillo, Legal adviser to Peruvian trade union CGTP on 21 Dec.2018

	<b>General labour law regime</b>	<b>Agricultural promotion regime (Law 27360)</b>	<b>Bill with Congress Commission's opinion in favor</b>
<b>General features</b>	General regime	Special labour regime of a temporary and special nature applicable to: (i) natural or legal persons dedicated to agriculture and/or animal husbandry (with the exception of the forest industry), and (ii) natural or legal persons engaged in agro-industrial activities outside Lima and Callao. Valid until December 31, 2021.	Special labour regime of a temporary and special nature applicable to: (i) natural or legal persons dedicated to agriculture and/or animal husbandry (with the exception of the forest industry), and (ii) natural or legal persons engaged in agro-industrial activities outside Lima and Callao, if they mainly use products acquired by persons dedicated to agriculture and/or animal husbandry. Valid until December 31, 2031.
<b>Working day</b>	Maximum 8 hours per day and 48 hours per week. Beyond those limits overtime is to be paid.	The general regime rules apply	No changes.
<b>Remuneration</b>	Basic monthly salary not lower than the Legal Minimum Salary (S/ 930.00). Plus, the following social benefits: <ul style="list-style-type: none"> <li>• Compensation for Time of Services ("CTS") on May and November.</li> <li>• Legal Bonuses ("gratificaciones") on July and December.</li> <li>• Extraordinary Bonuses ("bonificación extraordinaria")</li> </ul>	Daily minimum salary includes Legal Bonuses ("gratificaciones") and Compensation for Time of Services ("CTS"). Its value is automatically adjusted when the Legal Minimum Salary is increased.	Daily minimum salary includes basic salary, Legal Bonuses ("gratificaciones") equivalent to 16.66% of the daily salary and Compensation for Time of Services ("CTS") equivalent to 9.72% of the daily salary. Its value is automatically adjusted when the Legal Minimum Salary is increased.
<b>Holidays</b>	Paid holidays for thirty (30) calendar days per year of services.	Paid holidays for fifteen (15) calendar days per year of services.	Paid holidays for thirty (30) calendar days per year of services.

<b>Legal Bonuses</b>	Two Legal Bonuses a year: one in July and the other in December, in each case of an amount equivalent to the monthly remuneration received by the employee at the opportunity of the payment. In the same opportunity, the Company must pay a extraordinary bonus, for an amount of 9% of the Legal Bonuses or 6.75% if the employee has a Private Healthcare Insurance (EPS) hired by the Company.	Its payment is included in the daily wage.	Its payment is included in the daily wage.
<b>Compensation for Time of Services</b>	Employers deposit as many twelfths of the calculated compensation for time of services as received by the worker for complete months he/she has worked.	Its payment is included in the daily wage.	Its payment is included in the daily wage.
<b>Severance payment for arbitrary dismissal</b>	Equivalent to an average of a monthly and half remuneration for each year of services, plus the corresponding fractions, with a maximum of twelve (12) monthly salaries.	Equivalent to fifteen (15) daily remuneration for each year of services, plus the corresponding fractions, with a maximum of 180 daily remuneration.	Equivalent to forty-five (45) days daily remuneration for each year of services, plus the corresponding fractions, with a maximum of 360 daily remuneration.
<b>Health insurance</b>	Monthly contribution by the employer of 9% of the employee's monthly remuneration.	Monthly contribution by the employer of 4% of the employee's monthly remuneration.	Monthly contribution by the employer of 6% of the employee's monthly remuneration. It does not include the Compensation for Time of Services ("CTS") or Legal Bonuses ("gratificaciones").

*The table above has been verified by a Legal Expert contracted by Camposol*

## 1.4. Industrial Relations

According to the Peruvian legislation on Collective Labour Relations (Ley 25593 – Ley de Relaciones Colectivas de Trabajo), workers have the right to organise and join unions in the workplace, also known as “sindicatos” (first level organisations). These unions can affiliate to labour federations (regional or sectoral second level organisations), and the labour federations can be part of national unions or “confederaciones” (third level organisations). FENTAGRO, the National Federation of Agricultural Workers, a second level union organisation, is a member of the CGTP, the General Confederation of Peruvian Workers, the main national union organisation in the country. CGTP is affiliated at the international level to the WFTU (World Federation of Trade Unions), but maintains a close working relationship with the ITUC (International Trade Union Confederation) and the Global Union Federations, (GUFs). FENTRAIR (Peru National Federation of Agroindustrial Workers’ Unions - Federación de trabajadores del sector agroindustria y riego del Peru) is another Federation covering agriculture and affiliated to the ITUC.

As part of the stakeholder outreach for this study, the consultants had conversations with Alistair Smith from Banana Link who recommended that we reach out to representatives of the Peru National Federation of Agroindustrial Workers’ Unions (Federación de Trabajadores del Sector Agroindustria y Riego del Peru - FENTRAIR) who were involved in supporting the creation of a union at Marinasol, the seafood division of Camposol. While this division is not part of the scope of the report, the ETI agreed that it would be interesting to get another look into how Camposol as a company has been managing their relationships with trade unions at their other business units. The following is a recap of consultations with Ms. Santos Carranza, Secretary of Women Affairs at FENTRAIR, and Marinasol (through Camposol).

The union at Marinasol, SITECRISA, was registered on July 14, 2017. At the beginning, communication between union representatives, including members of FENTRAIR who were supporting the union, and management was difficult. During the rest of 2017, the dialogue was strenuous and maintained either through conciliation or directly. In December, the union presented their list of demands.

Ahead of negotiation, the company decided to launch a workshop in January 2018, with the objective to build a single vision and effective relationships. From the union, the entire Board of directors participated (seven women and three men) as well as the members of the negotiating commission and FENTRAIR Secretary General and the Secretary for Women’s Affairs. Several members of the Human Resources department represented Marinasol as well management. The training lasted for two full days.

For Ms. Carranza, this workshop changed everything. *“We realized we did not have anything against each other and we only wanted the rights of the workers to be respected and the operations to be successful. This training allowed us to arrive with good dispositions before the collective bargaining. None of the parties wanted a “no can do” position. We understood that each party on its own could not achieve much. The role-plays made us understand both parties’ perspectives. During and after the training we saw some changes in ourselves and in management : we both had the will to reach an agreement in favour of both parties and were addressing each other “de tu a tu” (meaning in an informal way). Those who were representing the company were really looking for a dialogue. Now the union and the company have months of dialogue using ‘tu’ (the informal way of addressing each other), nobody sees oneself above the other - that is very clear - and neither does the company refuse to listen. I think that this training changed all of us. We understood that the benefit was for both parties: for the company to continue growing and for the workforce and their family. The agreement applies to all workers because the company itself gives them to all workers whether they are affiliated or not. From this training was born a transparent dialogue and people are heard. We cannot complain. It was a negotiation that was better than what the sector has.”*

During the month of January, five negotiation sessions took place and the agreement was signed for three years. According to Carranza, *“it is a good agreement that includes many clauses for women as they make up 60% of the workforce”*. For instance, the agreement includes six additional days for women who gave birth by caesarean, paid leave for expectant mothers on the day of their pre-natal control and reiterates that it will respect the law regarding breastfeeding breaks.

Throughout 2018, Marinasol and SITECRISA organised 13 round tables to jointly implement the provisions of the CBA. At the beginning of the year, the health and safety committee was elected. Workers received training sessions on sexual harassment, gender violence, leadership (first line supervisors) and how to understand pay stubs. Specific training was supported by the National Superintendency of Labour Inspection – SUNAFIL - (working hours etc.)

In parallel, Marinasol launched “Marinasol te escucha” in March 2018, a programme aimed to strengthen workers’ confidence and perceptions. Regular meetings are carried out with a maximum of 10 workers to listen and resolve their concerns. This program complements the contact centre that employees go to when they have questions or concerns. Around 1000 cases were attended to during the first three quarters of 2018.

The union structure in Peru is mainly comprised of primary level unions (at company level), due in part to the legal model that favours union organising at this level. As a result, unions are small and dispersed, with few resources and scarce to no leverage in labour negotiations. Historically, unions and the private sector have not been able to meaningfully engage and there is a high level of mistrust. At the national level, the union rate is only 5.3 %, including unionised workers in the private and public sectors. Based on interviews with various Peruvian stakeholders, the relationship that has developed between Camposol and the union movement that we will present hereunder is rather unusual.

## 2. Camposol

### 2.1. Company Overview

Camposol is a vertically integrated company that offers high quality, healthy, and fresh foods to consumers around the world. The Company has three business areas: Fruit and Vegetables, Marinasol and Camposol International, its commercial division. Camposol is the largest agro-industrial group and producer of fruit and shrimps in Peru. It is also one of the main private employers in Peru, with more than 15,000 workers in high season, and is committed to supporting sustainable development through socially responsibility policies and projects intended to increase the shared-value for all its stakeholders. It is worth noting that the company joined the Global Compact in 2008<sup>24</sup>.

Camposol focuses on developing "super-foods" which are characterised by their overall health benefits and convenience. Its strategy is to increase production to meet growing demands for blueberries, avocados (the company recently acquired land and plantations in Colombia), grapes, mangoes and

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<sup>24</sup> [https://www.camposol.com.pe/quienes-somos/nosotros\\_en.html](https://www.camposol.com.pe/quienes-somos/nosotros_en.html)



tangerines (it recently acquired plantations in Uruguay) and other products under study that follow in this category.

In Peru, fruit and vegetables are grown in the area of Chao and Piura while the shrimp production is based in Tumbes. For the purpose of this study, we visited the operations in Chao.

The Company strategy is also to differentiate itself from its competitors by demonstrating that Camposol branded products can be traced back to sustainable and environmentally conscious growing practices. The company has its own code of conduct that covers the following points:

1. Child labour
2. Deprivation of freedom and force labour
3. Safety and Health at work
4. Freedom of association and collective bargaining
5. Work schedule
6. Discrimination
7. Disciplinary measures
8. Salary
9. Sustainability and Environment
10. Supply chain
11. Integrity
12. Conflict of interest
13. Anti-corruption practices.

The company also has code of business practice and an ethical hotline to report allegations of misconduct in relations to the codes.

In October 2017, the company launched “The Berry that Cares” campaign that is present on its own website<sup>25</sup> as well as its blog, Facebook, Instagram and QR Codes to engage directly with consumers. We are not doing this to get higher pay for our products , *but customers can choose to buy our products*” says Jorge Ramirez, Camposol CEO. *“Our first battle was to win the supermarkets, now.... we aim to win the consumers, We strive to have international certifications such as OHSAS 18001, ISO 14001 and look at how our model can be expanded. This is part of our integral value proposition and the way we conduct our operations here in Peru will guide how we operate abroad<sup>26</sup>”.*

The company was founded by a Venezuelan entrepreneur who purchased 3,075 hectares of arable land in the area of Trujillo, around 550 km North of Lima, in 1997. Since its foundation, the area in which it is located has been transformed from a desert to green fields through modern agriculture, using cutting-edge and sustainable irrigation technology that provides formal work to thousands of families. In 1999, the company set up its small-scale production of white asparagus. In 2001, it began the production and exports of piquillo pepper while in 2003 it launched its production of mangoes. In 2007, the Dyer and Coriat Group (D&C Group), a family business, which has been making investments in various sectors, such as the agro-industry, aquaculture, afforestation, and real estate acquired Camposol. Currently, the D&C Group is the majority shareholder of Camposol. Camposol no longer produces fresh or canned asparagus.

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<sup>25</sup> <https://www.theberrythatcares.com/>

<sup>26</sup> Interview at Camposol offices in Lima, 12 November 2018

It gradually transitioned towards fresh products such as avocados and berries and is now the leading Peruvian exporter of avocados and second of blueberries. Camposol owns more than 24,000 hectares of which 5,000 are currently planted. Today the company employs up to 17,500 workers, of which 4% are working in administration and 96% in operative positions either in the fields or in processing plants.

## 2.2. Good Practices At Camposol

### 2.2.1. Social Dialogue

The most salient good practice at Camposol is the dialogue that takes place nowadays between its workers, their elected representatives and the management teams. Camposol and their union partners call it Social Dialogue. Social dialogue is an important part of good governance. Because it involves the social partners - employers' and workers' representatives, it encourages accountability and participation in decisions that affect employees and organisations. Solutions that are built on trust and enjoy the genuine support of both sides are more likely to be respected. This is due to the sense of participation and ownership inherent in the process. As a result, unnecessary disputes, and disruptions through industrial action, can more easily be avoided<sup>27</sup>.

#### 2.2.1.1 Historical perspective

It took a several years for workers to successfully organise within the company and in 2007, after a week-long strike and with support from the CGTP SITECASA was created. *"Workers were working 12 hours a day, they had to ask permission to use the toilet, there was a lot of overtime. There was a huge strike and as a result, the company fired 200 workers. They were not able to find other jobs. In the end, we managed to create the union<sup>28</sup>"* explains Nelson Huaman, current General Secretary of SITECASA. A month later, two other unions were formed: el Sindicato de Planta (PLANTA – members were originally from the processing plant) and el Sindicato de Campo (CAMPO – members were originally workers from the fields). PLANTA and CAMPO were formed for several reasons as per members interviewed: *"We wanted to defend our rights but we did not want violence, so we created a separate union. People who affiliated with us had been with the company for a long time<sup>29</sup>"* mentions Rodolfo Garcia, current Secretary General of CAMPO. *"PLANTA members were workers from the processing plant and we felt SITECASA whose members are field workers would not be able to represent us"* says Juan Gutierrez, current Secretary General of PLANTA.

All trade union representatives interviewed mentioned that at the time and for a few years, the company was not treating workers well and would discriminate against union members and leaders. *"The company used to be very rough with the workers. When it seemed convenient to them, they would remove people. We saw it as an injustice. That is why the unions were created"* says Gutierrez from PLANTA. *"There was a lot of turnover. The abuse was very strong. Supervisors and managers were authoritarian, despots. They did not listen. They have had to change their mindset to understand that we are all equal<sup>30</sup>"* adds Jenny Castro, Secretary for the Economy at PLANTA.

The three unions are still present today. SITECASA is the largest, with around 731 members located in the operations in La Libertad and also Piura. CAMPO has 278 members and PLANTA 168. Those members are

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<sup>27</sup> ILO publication "Promoting Collective Bargaining No.154" booklet [https://www.ilo.org/ifpdial/information-resources/publications/WCMS\\_172186/lang--en/index.htm](https://www.ilo.org/ifpdial/information-resources/publications/WCMS_172186/lang--en/index.htm)

<sup>28</sup> Individual interview at Mar Verde, 6 November 2018

<sup>29</sup> Individual Interview at Mar Verde, 6 November 2018

<sup>30</sup> Individual Interview at Mar Verde, 6 November 2018

now located in different areas of the production process as people have moved positions. There have been consultations among unions to see whether a consolidation was possible under SITECASA but no agreement was reached. SITECASA is the only union affiliated to a federation, FENTAGRO, itself affiliated with CGTP. The union fee paid by workers is therefore higher for SITECASA than for the other two unions.

UNION	# LEADERS	# MEMBERS
SINDICATO DE CAMPO	9	278
SINDICATO DE PLANTA	14	168
SINDICATO SITECASA	22	731

Source: Payroll at the end of November 2018

#### 2.2.1.2. Factors that contributed to entering into a social dialogue model / Industrial relations at Camposol - Historical background

Until 2014, Camposol was facing roughly one work stoppage per year. *“This is something that came with the acquisition in 1999 and lasted until 2014”* says Alejandro Arrieta, Camposol Central Manager of Legal and Corporate Affairs.

The last confrontational events in 2014 generated an internal reflection; *“We regrouped and tried to understand what we had missed that led to this discontent”<sup>31</sup>*

In a separate interview, Javier Morales, now Managing Director of Camposol Fruit and Vegetable division adds *“We simply did not listen to workers. Initially, we were cultivating asparagus. When the area planted grew, the number of people grew. We lost the contact with our people. The white asparagus is very delicate and can only be harvested within an 8-hour window). Supervisors were pressing workers to harvest quickly. We were prepared to harvest but not to handle people. The trigger was a daily bonus for perfect attendance. It was not made clear to the workers if it was gross or net. The communication channels between the administration and the unions were not good. Our leaders lacked preparation to handle people. In 2014 things were broken between the union and the company. At the end, human relationships mean more than money. It was a wake up call so we decided to look at how we could improve and the first thing was to listen<sup>32</sup>.”* Additional new comers were brought in, mostly millennial professionals with a different mind-set, more oriented towards communication.

#### 2.2.1.3. A step by step approach

The company adopted a multi-pronged approach: after their self-examination, a series of steps were taken. With the strike the company not only lost revenues but also its reputation took a hit. At the time, Camposol was in the process of switching from asparagus to blueberries and the amount of workers

<sup>31</sup> Group interview with the local management team, Mar Verde, 6 November 2018

<sup>32</sup> Interview with Javier Morales, Camposol operations in Chao, 8 November 2018

needed to harvest blueberries was going to be much bigger. The management team recognised that if they did not change and improve the labour relationships, the company was not going to be able to grow. Javier Morales became Managing Director of Camposol Fruit and Vegetable division. As per team members interviewed, *“his personality and experience within the company contributed to a culture change within the company because Javier started working in the fields as a field worker and had grown within the company. He could understand the problems experienced by workers, he also knew the lack of connection between workers and management. And, people trusted and spoke to him”<sup>33</sup>*.

## REBUILDING TRUST WITH UNIONS

By 2015, Camposol had already signed various collective bargaining agreements with the three unions, nevertheless, the Ministry of Labour (MOL) always had to intervene. Unions were raising a lot of complaints to the MOL and judicial processes were common.

## FNV AND SOCIAL DIALOGUE

During previous discussions, SITECASA had brought CGTP to the table and the latter brought the Dutch Federation of Trade Unions (FNV, in Dutch), the largest in the Netherlands and their local representative, Samuel Machacuay. In November 2014, FNV organised a one-week visit to the Netherlands for members of the business community and CGTP, with which FNV was already involved in a project to promote social dialogue, and labour and union rights. AGAP and Camposol participated.

The outcome of this mission was a turn-around in the relationship between CGTP and Camposol. Carmela Sinfuentes, General Secretary of CGTP explains: *“I came back thinking that we should be implementing a dialogue and sit down to look for common objectives at the country level apart from workers and companies. With Camposol, we became friends. We had this “chip” that we were enemies. Since this trip, both parties gained trust and we can be candid with each other. When we returned, we had a meeting with the Senior management team and that is when we decided that we had to prepare for the negotiation”*.

In May 2015, at the initiative of the CGTP, a high-level meeting was held between a CGTP delegation including the General Secretary of the union affiliated to CGTP (SITECASA), the CAMPOSOL management staff and the local programme manager of FNV cooperation in Peru. The initiative was within the FNV framework of the promotion of social dialogue. It was agreed that a commission would be set up to prepare an agenda of common interest and exchange views on the possibility of advancing its initiation and training unions in negotiation.

## Training and Negotiations

### Negotiation 2015

To prepare for the negotiation, Camposol either on its own initiative or with the support of CGTP and FNV conducted and participated in a series of trainings around social dialogue. Some of the training sessions are highlighted hereunder:

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<sup>33</sup> Group interview with the local management team at Mar Verde, 6 November 2018

- The negotiating team of Camposol was trained, in diverse subjects like the Harvard Method for Negotiation, or how to develop lasting labour relationships based on trust and win-win solutions. Team members also developed their soft skills with internationally certified organisational coaches.
- Union leaders were technically trained on labour legislation, so that they have full knowledge of their rights and obligations as collaborators. They were also trained on how to negotiate also using the Harvard Method of Principled Negotiation, so that future negotiations are fruitful and based on real, concrete, achievable and sustainable requests over time. In addition, they were trained in subjects related to personal development and soft skills like how to communicate effectively, how to generate trust etc. Samuel Machacuay participated in the training for the first time as well as Jesus del Castillo, Adviser to Fentagro and representative of CGTP.

The negotiation began on July 30, 4 months before the legally established deadline to negotiate before the previous contracts ends, as a result of the training and dialogue that was taking place. The goal of this negotiation was to conduct it directly without the intervention of the MOL (in a previous agreement the direct deal was broken with the union there were strikes and dismissals). The direct actors of the negotiation were the company CAMPOSOL and the union SITECASA. CAMPO and PLANTA negotiated separately. In Peru the legislation establishes that when there is no majority union, each union negotiates

### **Principled Negotiation – Harvard Method – Overview**

The method of principled negotiation was developed at the Harvard [Program on Negotiation](#) by Fisher, Ury, and Patton. Its purpose is to reach agreement without jeopardizing business relations. The method is based on five propositions

#### **1. Separate the people from the problem**

The authors point out that negotiators are people first—people who have values, cultural backgrounds, and emotions that vary by person. Communication is the main aspect of negotiating, and the authors point out three common problems in communication:

- (i) Not clearly speaking with the other party, but instead attempting to impress those within one's constituency by taking a side instead of working toward a mutual agreement;
- (ii) Not actively listening to the other party, but instead only listening to rebut the other party's statements;
- (iii) Misunderstanding or misinterpreting what the other party has said.

#### **2. Focus on interests, not positions**

The authors recommend that negotiators should focus on the interests behind the position that each party holds. Both parties should discuss their interests and keep an open mind to the other side of the argument. It is crucial to put yourself in the shoes of the other side to try to understand "why" the other side is acting the way they are or rather "why they are not".

#### **3. Invent options for mutual gain**

This principle aims to help the parties find an option that will impact each party in a positive way, making both sides feel like they did not get taken advantage of during the negotiation. It is important to listen to the other party and not make a decision until both parties feel that they have been heard. Both parties should clearly explain their intentions and what they want out of the conversation.

#### **4. Insist on using objective criteria**

The parties are making deals based on objective and practical criteria. The three steps to using objective criteria are to find out what the other party's intentions are, keep an open mind, and never give in to pressure or threats. Each party is in charge of keeping the other party committed to the conversation.

#### **5. Know your BATNA**

When negotiating, the parties must resist the urge to constantly compromise for fear of completely losing the negotiation. Such compromises may allow for a shorter negotiation, but may also leave the primary party with a deal that didn't benefit them to the full extent. Establishing a "bottom line" can protect the negotiator's final offer, but may limit the ability to learn from the negotiation itself and may preclude further negotiation that possibly could result in a better advantage for all parties involved. When considering final decisions, each party may want to take a step back and consider all possible alternatives to the current offer being made.

only on behalf of its affiliates. In the case of CAMPOSOL, since 2015, the three unions recognised that the benefits agreed in the CBAs cover all the workers<sup>34</sup>.

The negotiation commission met 19 times if we only count SITECASA. SITECASA was advised by CGTP supported by a staff of economists and lawyers.

An extra-high-level coordination committee was set up (by decision of the union and the company) made up of the General Manager of CAMPOSOL, the legal and corporate affairs manager and the human resources manager of Camposol, the vice president of the CGTP, the person in charge of the agricultural sector of the CGTP and as facilitator of the commission, the local head of the FNV participated. The commission had three roles:

- Generate an environment of political trust, transparency and commitment on the dialogue,
- Discuss and clarify impasses arising in the direct deal between the trade union and the company's negotiating committee, and
- Support in the analysis of information and preparation of proposals alternatives to the clauses, as long as the trade union or company's negotiating commission so requests.

This committee met six times. Examples of actions taken from the high-level committee include coordinating with CGTP economists to collect information regarding the financial management of the company<sup>35</sup>, The agreement was closed on December 19 in an environment satisfactory to both parties. The 39 clauses contemplate improvements in working conditions, in the economy, union rights, social aspects, safety and health.

The training continued and in 2016 and 2017 leadership training events were organised for the company and its three unions representatives. CGTP and the local FNV representatives assisted as well.

In parallel, FNV worked with CGTP and organised a series of training in 2016 and 2017 for the two leaders of SITECASA: the previous general secretary and the current one. Both participated in the first specialised union training program (business competitiveness, social dialogue, legal defence, union management) interacting with entrepreneurs who were presenters. Also during this period, other leaders were trained in four courses on negotiation, certifications, social dialogue and value chain (as part of the FNV program).

In May of 2017, another trip to the Netherlands was organised. This time a bipartite delegation from Camposol composed of some of its managers and all three union General Secretaries travelled to Holland along with Samuel Machacuay from FNV and CGTP representatives. The invitation was extended by DECP, (the Dutch employers' group) and FNV jointly. Camposol participated as a member of the delegation to represent the agro-industry. Other representatives were part of the construction sector, AGAP and the National society of Industry (Sociedad Nacional de Industrias - SNI).

### *Negotiations 2018*

Ahead of the upcoming negotiation and under the umbrella of the social dialogue model already consolidated and shaped, the company and unions, agreed to "upgrade" their way of negotiating. The

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<sup>34</sup> Most of the three CBAs are similar as we will see later in the document. The few differences are related to specific community projects

<sup>35</sup> This exercise was conducted to explain why the company could not distribute dividends in 2015 (it was still in debts) and to explain the amounts proposed by the company related to salary increase that were negotiated.



parties agreed that they had to strengthen their negotiating capacities to achieve beneficial results for both parties.

A series of meetings between CGTP and SITECASA as well as CGTP and CAMPOSOL took place, along with meetings with Camposol and the two other unions and were accompanied by the local representative of FNV as requested by all the actors involved. The outcome of these meetings was:

- An agreement to start the negotiations in June, five months before the closing of the CBA in place
- That CGTP economics specialists would receive information related to economic and financial performance of the company in 2017 so they could use it to prepare its negotiation proposal.
  - This practice is highly unusual; companies usually do not provide this information until the negotiation process is underway and at the request of the MOL
- That a training workshop will be organised for both sides of the negotiation committees (representatives of the company and the union),
- Set a maximum deadline of three months to conclude the negotiation (shorter term than the negotiation of 2015)

In parallel, Camposol organised a meeting with the heads of each of the work areas (direct chiefs and heads of area) to raise their awareness and understanding of the implications of collective bargaining in the company and the functions performed by the participating union leaders.

Based on the trust existing between the two social partners, it was decided to use a virtual media to have a fluid, fast, permanent and direct contact. A What's App group was created for each union, where the negotiating teams of both parties actively participate. This allowed to not only coordinate activities but also to strengthen bonds of friendship.

The joint training for the negotiation committees was requested to the FNV, which in turn coordinated with the business cooperation programme of the Dutch employers' group (DECP). Both entities sponsored a mission of two consultants of the DECP specialized in negotiation with a win-win approach (within the framework of agreements between the two Dutch entities to promote social dialogue in Peru). The workshop was held in Trujillo in the first days of June and all the members of the negotiation commissions participated (company and representatives of three unions). The training was two-fold 1) training in soft skills to strengthen the leadership capacity of each leader and especially to teach innovative assertiveness techniques that are useful in negotiation; and 2) training in technical skills specific to collective bargaining, which were carried out jointly by the trade union - company, with the participation of SUNAFIL (the DOL inspectorate ) and by the Dutch consultants.

A few days after the training the negotiations started and culminated in two and a half months of direct communication without any state intervention. Parties agreed that the collective agreements are better than the previous ones in three aspects: More gender equity clauses (food supplement for pregnant women, differentiated uniforms for men and women, violence prevention programme for the protection of women, reproductive health programme, permanent contracts for workers who have completed four years of work (improvement that goes beyond what is established in the law of agrarian promotion that contemplates this scheme after five years), and strengthening the union organisation (contribution to building an office for one of the unions, repairing another office for another and training licenses).

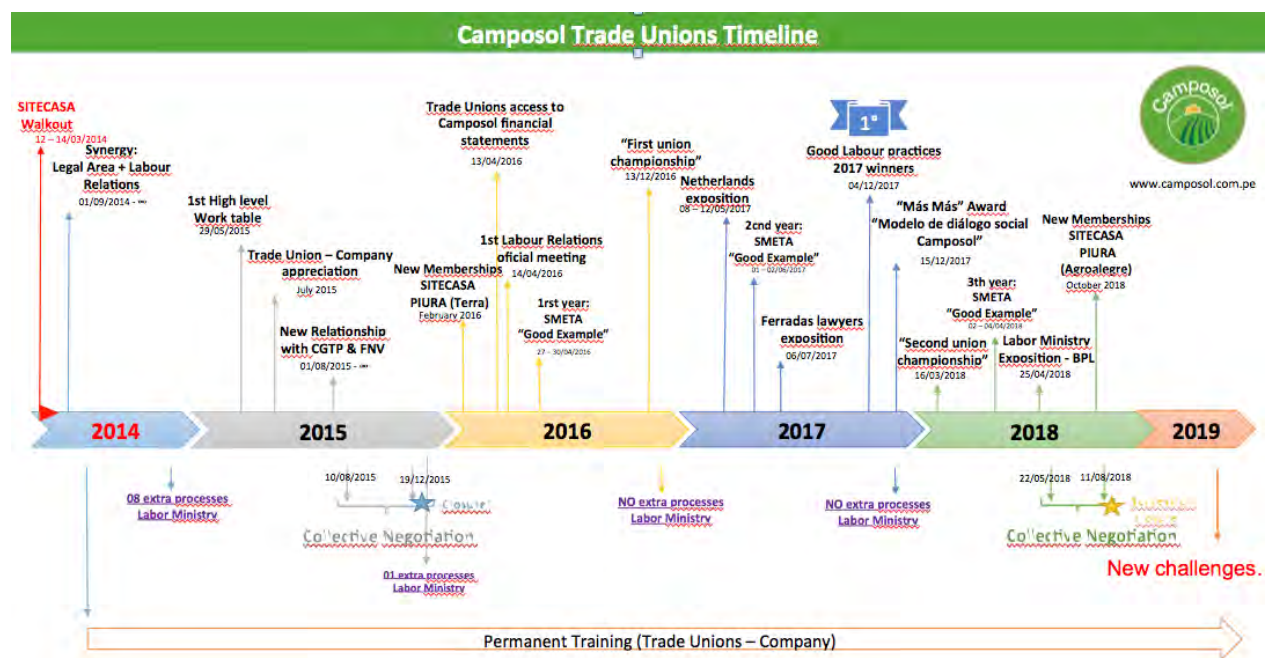
Nelson, SITECASA SG explains: *"Before, we only went to the Ministry of Labour. Since 2014 came Samuel from FNV, the CGTP who had been supporting us since 2007. The FNV helped us. We started talking about social dialogue, from there the trust started. The leadership training was the initiative of the FNV and after*

the company took over. The benefit was for both. Even the company has been trained too. We did role play, which was critical because we exchanged roles. I played the owner of a company losing money and the union wanted money. A company representative played a union representative. With the support of Martin Merino<sup>36</sup>, the dialogue is being built. The CBA negotiation in 2015 lasted 5-months- it's not easy. In 2018, I learned more because I was the person leading the negotiation. I had to take the time off to study the topics to be able to negotiate them. The CGTP prepared me in Lima for 6 months on the subject of leadership<sup>37</sup>”.

During the collective bargaining, Camposol granted paid leave to each member of the negotiating team: days prior to the negotiations meetings so union representatives could prepare, and days during the negotiation. The company covered 100% of the costs of transportation and food for all the members of the negotiating team of the trade union organisations and their advisers.

The schedule of the negotiation for the company was a cycle of 3 days twice a week. One day with union A, the following with union B, the last with union C and repeat. 38 out of the 41 clauses are similar in the three CBAs. The only differences are related to “social responsibility” (a heading in the CBA): SITECASA requested a medical post or a recreational park while PLANTA requested a recreational park. Under the heading “union aspects”, SITECASA will build a new office whereas the other two unions will get an allocation for their office. Communication channels requested by the three unions to reach their members also differ slightly as well as authorisation to train delegates.

Fuente: Departamento de Relaciones Laborales de Camposol F&V



<sup>36</sup> Human Resources Manager in Chao

<sup>37</sup> Interview at Mar Verde, 6 November 2018

### 2.2.2. Day to day implementation - Grievance mechanisms

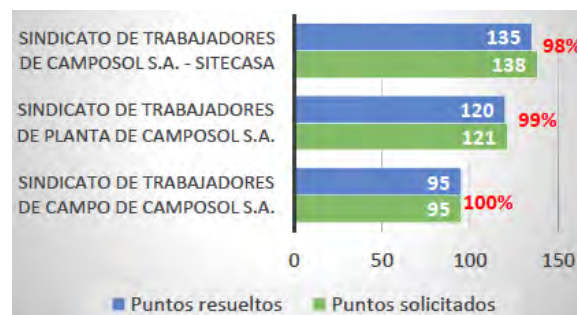
As presented above, Camposol has focused on developing the mutual capacity of the three unions and the company representatives to facilitate the understanding of and finding solutions to problems in a direct, efficient and sustainable way. While constant training is an important feature of Camposol social dialogue model, the latter also revolves around other pillars:

- Involvement of unions in key issues
- Implementation of round table dialogues
- Unannounced visits to the field and plant,
- Co-monitoring of collective bargaining agreements

#### 2.2.2.1. Round tables

Camposol has established “mesas de trabajo”/round tables to ensure a regular dialogue with the three unions. Meetings take place once a month with each of the unions (mesas de trabajo ordinarias). Before the meeting, each union prepares an agenda that is shared with human resources. At the end of the meeting, minutes are prepared and shared with participants who sign them. This continued dialogue enables parties to monitor the implementation of the CBAs. If social interlocutors request to discuss specific topics, specific round tables are then organised as well (mesas de trabajo extraordinarias). These sometimes involve the senior management team depending on the agenda. Parties maintain a record of issues raised and solutions found. It is worth noting here that the effectiveness of these round tables can be seen in the very high rate of resolving issues raised.

#### Issues resolved through round tables - 2016 – Oct.2018



#### 2.2.2.2. Field Visits

At the end of each monthly meeting, participants agree on a date for a field visit. A representative from the company joins two representative of the union who decide on the spot where the visit will take place. It can be to the fields, cafeteria, toilet, or plant in the operations of la Libertad or Piura. Both parties check if working conditions in the area meets the requirements and if the CBA is properly implemented. and they take note of any possible issue. At the end of the visit, a report is prepared and if issues are found they are resolved jointly. These visits take place three times a month, once per union.

#### 2.2.2.3. Involvement of unions in key issues

Another mechanism that supports the process of social dialogue is the involvement of unions in the key issues. Union members collaborate with management to find solutions to those issues. For instance, unions have been instrumental in supporting management when it switched its pay system to direct deposit. Union members were trained to understand how the new payment system would operate and were, therefore, able to assist workers at ATM locations. Likewise, union leaders were involved in the

process of modifying pay slips. They gathered feedback from workers and shared those with management. The end result was simpler and clearer payslips that workers can now understand. Finally, regarding the change of identity check and the implementation of electronic photo identification, Camposol trained union leaders first to hear about their experience, gather feedback and clarify any issues.



#### 2.2.2.4. Additional steps taken

Other initiatives are strengthening communication between management and workers that seek to prevent and address grievances as they arise.

#### Supervisors' Training

Since 2015, Camposol has also invested in training for first line supervisors and above. At the beginning, the company conducted a diagnosis to understand where the gaps were in terms of managerial skills and to develop training material that would help first line supervisors get properly equipped to manage teams of workers. The company worked with the University Cesar Vallejo, located in Trujillo. Together they identify 120 issues that needed to be addressed. The university created the Leaders' Development Program (PDL in Spanish) that was first implemented in 2015. Since then, the company has worked with various consultants and the programme is now permanent and courses are given internally. *"In the agro industry, as it grew rapidly, the best operators become supervisors without proper training. The PDL is a permanent programme at Camposol. No operator will become a supervisor without going through this programme"* explains Jean Pierre Lama from the HR department. Between 2015 and 2018, 415 heads of plot, coordinators, supervisors and operators (those who sometimes act as supervisors) benefited from the 10-day programme.

In 2018, Camposol started a programme with the University of Zamorano, in Honduras, to welcome international trainees (students). Training is seen as an investment and a way to support the company growth and prepare its succession plan.

Training and Organisational Development is the area responsible for managing the training, development and organisational culture of the company, through the organisational and transversal actions, needs assessment, development and leadership programs and action plans of organisational culture with the aim of developing the knowledge, skills (including soft ones) of collaborators. This contributes to enhancing their performance and professional development for the achievement of organisational objectives.

### **Communication**

“Gestoras de atención al trabajador” (GAT for its acronym in Spanish - Worker Care Program) is the name given to a group of workers whose sole role at the company is to accompany work brigades in the fields and engage in a regular dialogue. After the unrest of 2014, CAMPOSOL opted to analyse possible new communication channels. The GAT is a human 24x7 field service channel that covers the entire area of field operations and has included up to 60 specially trained workers whose job is to accompany workers in Piura and La Libertad. The (GAT) is a two-way communication channel that provides personalised attention to employees, reinforces and aligns key messages, answers questions and queries in real time and during the working day. Each person is equipped with a note book and mobile phone and maintains regular communication with the various HR branches (payroll, personnel) as well as social services to resolve issues on the spot where possible. As of Nov 2018, 25 people had addressed 18,273 queries in the Chao – Viru operations.

*“The suggestion box usually does not work” says Martin Merino, Operations HR Manager “more and more here we treat issues one by one on a personal basis. Our network of “gestoras” are in the field and listen with empathy. There is no suggestion box but a platform of attention for workers. HR personnel are generalists who can resolve issues inside work and outside (if the husband beats the wife, he does not pay the pension etc.). On the Camposol payroll, we have around 15 to 20 social workers. In other Peruvian companies, they would have one or two but not so much. For instance, in case of illness, the employer pays the first 21 days and then the State pays. The social workers deal with recovering payment from the State. In Camposol, social workers make sure to visit workers in their house. “Gestoras” know “human management first aid”, who to call in case of problems. They are always in the field and interact mostly with the harvester population - up to 9000 workers in La Libertad. They coordinate with HR management supervisors who are with vehicles and can bring them to the office when they need to resolve an issue on the spot”.*

### **2.2.3. Continuity of Employment**

Article 7 of Ley 27360 states that employers of agricultural activity (agroindustrial) can hire staff for fixed term or indeterminate periods and allows the subscription of intermittent service contracts, to precisely cover the needs of the activities of companies, which by their nature are permanent but discontinuous (decree DS. 003-97-TR).

With the last CBA negotiations, Camposol agreed to switch intermittent contracts to indefinite contracts for workers who have worked over four years. Article 7.1 of the CBA valid from 2018 to 2021 stipulates the company will provide those workers who exceed four years with the company with indefinite and

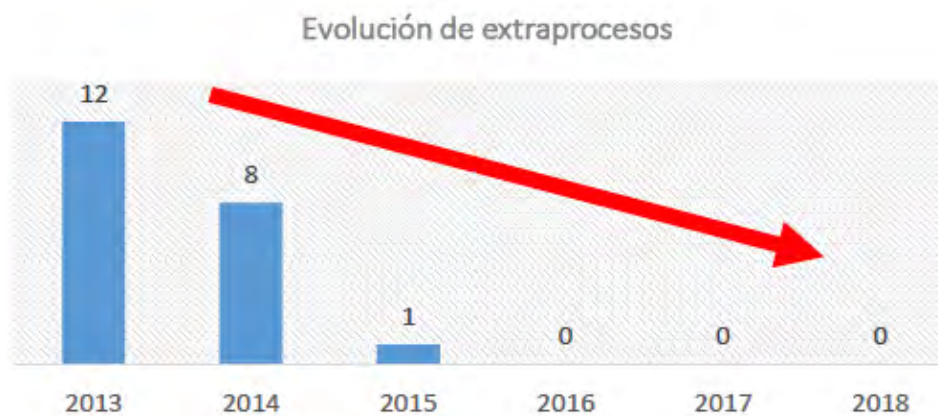


permanent contracts. Nevertheless, despite having indefinite contracts, the work is still subject to seasonality. Because Camposol produces different types of fruit and vegetables, some employment can be provided year round if and when employees agree to be relocated to other types of crops or functions. Camposol's main goal is to offer employment all year round or during as many months as possible per year.

In 2018, 17,500 workers were employed throughout the year. At the time of writing this report, Camposol was in the process of analysing their employment data but around 5,000 operators work all year round and 8,000 work for about nine months and the rest of the workers work for a range of months.

### 2.3. Good Practices Impact

The communication mechanisms established by the company through social dialogue has reduced complaints to the Ministry of Labour to none in 2016, 2017 and 2018 as illustrated hereunder.



Source: Camposol Human Resources department – Nov 2018

#### 2.3.1. Operational

*“We have been able to be profitable while focusing on people. Before, workers did not necessarily want to work for Camposol, now they do. The worker turnover in the field is less, here the salary is also an emotive subject. Now workers come to Camposol because they choose to, not because they have to as in the past. Competitors are raising the salaries to attract workers more but it is not the only thing that workers seek. What they seek is also a healthy emotional relationship with their employer. We demonstrate that we can align the interests of workers and shareholders”* explains Javier Morales.

Throughout this transformational process towards the consolidation of social dialogue, the greatest lesson Camposol has learned is to see trade unions as allies for the development of the company. Union representatives acknowledge the progress made by the company when it comes to taking them into account throughout the approach of social dialogue. Both parties recognize that if they were to start all over again, they would go straight to a dialogue instead of opposing each other.

#### 2.3.2. Reputational

In 2017, the company won an award from the Peruvian Ministry of Labour and Employment Promotion (MTPE, in Spanish) that is given to companies committed to defending, respecting and promoting employees' fundamental rights. Camposol was awarded the recognition for the work they do in the category of social dialogue. In December 2018, Camposol was acknowledged with three distinctions during the last edition of the Good Labour Practices Award. For the second year in a row, Camposol gained

the two first places in the Union Freedom Promotion and Respect category thanks to its good labour practice called “Camposol’s Social Dialogue Model – Reinforcing the commitment”, and the Participation in Business Management category thanks to its acknowledgement program called “The very best of Camposol”, respectively. Likewise, Camposol also ranked second in the Promotion of Equal Opportunities for Vulnerable Groups” category with the “Sembrando oportunidad para todos (*Sowing opportunities for everybody*) and its Wawawasi Rayito de Sol” program. Stakeholders interviewed perceive this competition as fair and rigorous.

A Study called DQT (Donde quiero trabajar-where I want to work) and developed by Arellano Marketing looks at the sectors and companies in which students and economically active population want to work. Camposol was the first finalist for the award in 2017 in the seafood and agroindustry sector, Austral came second and Talsa third.

The Merco Talent 2018 study acknowledged CAMPOSOL as one of the more successful organisations for attracting and holding talent at a national level (Top100). This study considers variables such as work quality, talent attraction, and reputation, among others. For this study, 16,000 surveys and inquiries to eight stakeholder groups were taken into consideration, among them employees.

The social dialogue model has been recognised by SMETA audits as a “Good Example” in 2016, 2017 and 2018.

In 2015, Peruvian unions, Peru Equidad, and the International Labour Rights Forum (ILRF) filed a complaint with the U.S. Department of Labour, alleging that the Government of Peru is failing to adhere to the labour standards contained in the United States-Peru Trade Promotion Agreement (PTPA). Camposol was featured in this complaint based on events that took place between 2010 and 2014. In October 2017, the same information gathered to file the complaint with the US Department of Labour was used in a complaint against Peru presented at the European Commission for failure to comply with some of the labour and environmental international standards, which were reaffirmed under Title IX of the Trade Agreement between Peru and the European Union. The company no longer features in an update published in March 2018 as confirmed by Javier Mujica<sup>38</sup>, President of Equidad, a civil society association that defends and promotes human rights and its full compliance and that was instrumental in organising the complaint. During an interview. Juan Jose Gorriti, CGTP head of international relations confirmed that *“The original complaint was made in 2014 and based on problems that happened between 2010 to 2014. During a couple of meetings with the EU and Peruvian civil society organisations and ambassadors, we have mentioned as an example the efforts that have been made with Camposol to formalise the union, the CBA, the salary raise, cafeteria, bathrooms, etc. In the meeting with the EU we put it as an example that you can have good management practices and that it is easier for a company to discuss with a union instead of discussing one on one with each individual”*.

### 3. Conclusion

The company operates in continuous improvement mode and stakeholders interviewed recognised the progress made as well as opportunities. . The steps taken by Camposol have greatly improved its ability to

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<sup>38</sup> Phone interview, 16 November 2018.



grow and expand and demonstrate the evolution of a relationship based on adversity and conflict to one of mature industrial relations.

When asked about what changed at Camposol for it to have a closer relationship to unions and workers, Jorge Ramirez Rubio, CEO of Camposol, replies *“It’s not that we have changed, it’s a progression. We have a triple bottom line approach, environment and social aspects are as important as financial. We cannot be sustainable and profitable in a society that is not, or when you are passing the bill to someone else. We had to have a social licence to operation. Our programmes with workers were far behind and we had to adapt. Treatment of workers used to be old school to preserve hierarchy, the top had to be respected. We had to change the people. Our mind-set was very clear about that, and at some point it seemed impossible. But we persisted. Our beliefs are shared with the Dyer family. And in the end, the only way you can eat an elephant is bit by bit”*<sup>39</sup>.

According to Astrid Kaag, Policy Adviser at Mondiaal FNV, *“the basis for sustainable improvement is having a genuine dialogue process with unions. Not only a bargaining process but also a more general dialogue, because you can’t solve everything through a CBA. Camposol took this very seriously and we were able to support the unions in this process. So, slowly we managed to establish a good working relationship with both sides and now they see that there is a win-win situation. Of course there are still problems to be solved, and there always will be, but unions and company believe in bargaining/dialoguing to solve these problems.”*

## Overall Conclusions

The agricultural sector is facing immense challenges and opportunities. Much progress has been made in reducing hunger and poverty and improving food security and nutrition. Gains in productivity and technological advances have contributed to more efficient resource use and improved food safety. But major concerns persist. Among them, how to attract and retain workers, how to meet rising expectations of a better educated, better informed and increasingly mobile and globally aware workforce. Despite increasing robotization, agriculture companies worldwide are facing labour shortages. In short, the better the working conditions, the more loyal and efficient the workforce.

It is important for the horticulture sector to not operate in isolation from global trends, notably of rising expectations of consumers in their key markets around the rights and working conditions of the workers producing food they eat. The sector in general would benefit from a more open attitude towards social dialogue, which will equip it to better meet its need for labour.

More and more retailers and buyers are taking into account working conditions and worker representation as a condition of doing business. Engagement of the producers in the region is key to them as they are increasing sourcing from the region and particularly direct sourcing (without going through exporters). Direct engagement with supplying companies also implies more oversight of expected ethical requirements. Suppliers need to understand the requirements and have adequate resources and knowledgeable staff who can build and maintain functional internal systems to meet those expectations.

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<sup>39</sup> Interview with Jorge Ramirez, Lima, 12 November 2018

All the buyers of the working groups have departments dedicated to working with suppliers and monitoring their performance. Buyers interviewed for this project expressed how important it is for them to see suppliers understand the need to not only comply with the law and the ETI base code and other voluntary standards as needed and to demonstrate an openness to dialogue and willingness to improve, be it through training or other initiatives. While no stakeholder expect a company to be perfect, the attitude from suppliers' management and ability to demonstrate improvement is critical as a condition to doing business.

Growers associations such as AGAP in Peru and AUGURA in Colombia and AHIFORES in Mexico can play a key role in supporting their members in developing their own ethical practices. These organisations can be supported by trade federations such as in the case of Colombia and ILO regional offices such as in the case of Mexico where they have commissioned valuable research on how to improve the working conditions and security of employment of agricultural workers.

## OVERALL RECOMMENDATIONS

The following is a series of specific recommendations that aim to help companies in their effort to implement their decent work agenda and develop or strengthen relationships with their customers. Communication and education/learning play critical roles in ensuring that an entire company moves forward in the same direction to encompass both decent work and good business results for the long term.

### 1. Develop trust and build bridges

#### Between workers representatives and management

Based specifically on Camposol's experience in Peru and Colombia's wider experience in bananas – including the perspective of company and union representatives, building trust takes time. Without this trust and understanding of one's interlocutors, it is easy to incorrectly deduce the intentions of the other party based on one's own fear or perception. Through dialogue and the possibility of meeting outside of the 'usual' context (e.g. a room within a factory or at HQ), parties have realized that they had more in common than originally perceived. They were able to develop relationships that allowed room to discuss themes candidly and sometimes agree to disagree without any fear of retaliation from the other side.

While it takes time and effort to build trust, this same trust can be easily lost again. Respectful and constructive conversations take will power and a change of attitude of both sides. The shift of philosophy and attitude with regards to labor relations, seeing trade unions as allies in an effort to provide decent work to all employees needs to come from the top management and be cascading down throughout the company.

The decision of the Camposol management team to take stock and conduct their own internal reflection and accept support from an external third party was critical to enabling a change in their behaviour and management styles. Of course, not every company will have the possibility of being supported by a third party that is willing to open their doors and expose participants to « other ways » of implementing labour relations but it is worth thinking about ways to get to meet your employees and partners outside of a regular set-up to establish relationships outside the company premises.

Likewise, in the case of Colombia, the process was mediated by the national union confederation, (CUT) international stakeholders and government.

#### Recommended employer action

- Agree a “safe space” to allow dialogue to develop
- Develop a joint strategy to develop trust between stakeholders (with trade union, managers)
- Through wide consultation with the trade union / workers’ representatives and managers reflect and identify the common or shared agenda (for example, long term sustainability of business and therefore jobs)
- Explore common ground – common hopes and fears and aspirations
- Build understanding of one another
- A mutually agreed facilitator should be considered to help this dialogue
- Agree on a framework for the dialogue eg social dialogue guidance, Harvard Principled Negotiation methodology etc.
- Agree that workers participating in the process will be free from harassment or intimidation
- Ensure that all levels of the organization understand the top commitment to dialogue
  - Communicate internally on company strategy to adapt behaviours in working with workers’ representatives
  - Train staff in supervisory position on processes described above and include them in a feedback loop

#### Between suppliers and retailers

Trust is also important to develop between suppliers and buyers as both parties stand to benefit from an open and transparent relationship. In the words of a key informant from a buying company “ *to enable change you have to build up trust, by working collaboratively and providing support and guidance in all things ethics, you can overcome barriers by suppliers becoming open to change through trust and open dialogue*”.

With the growth of Peru and others in the region as important global sourcing countries retailers are hoping to be able to work more closely with growers, either directly or through local partnerships to support them with the implementation of good labour standards that is a requirement for many importers.

#### With other stakeholders

Stakeholders interviewed for study have stressed the need to collaborate in order to benefit from different perspectives and experiences. This is necessary for sustainably and a positive impact on workers, business and the broader community. Clearly, the involvement of stakeholders like FNV and others (ETI among others) has been critical in supporting Camposol in maturing its labour relations.

## **2. Implement effective mechanisms for social dialogue**

As we have seen in this report, effective mechanisms for social dialogue support a company strategy and implementation, and contribute to business continuity and stability of employment for workers and management. In a sector facing labour shortages worldwide, it is critical to ensure that workers’ voices are effectively represented and taken into consideration when making strategic and operational decisions that will impact working conditions (for instance switching from one type of crop to another). In order to embark on the pathway to social dialogue we have seen that external mediation from third parties whether it be Global, Regional or local Union Federations, government or Civil Society Organisations, or a

combination of all of these stakeholders, can facilitate the beginning of taking those first steps from a background of sometimes acute adversity to more harmonious relations.

#### Recommended employer action

- Allow workers to elect their own representative committees and ensure these to be a fair representation of workers by gender, tiers of authority, types of work activity
- Identify trade union, where present, or independently elected worker representatives and the combination of stakeholders who will participate in the process (for example labour CSOs or managers)
- Agree on the need to create an enabling environment and to level the playing field for workers and managers. For workers or trade union representatives, this may include training on consultation and communication skills
- Provide educational materials about worker rights and invite a trade union representative to provide training
- Invite a third party to facilitate worker-management discussions and introduce the principles of social dialogue
- Invite trade union speakers to meet with management to explain what they can offer to strengthen relations and business sustainability
- Managers may need better understanding of labour law, co-operation and consultation skills



### **3. Practice Transparency**

The first time Camposol invited CGTP to look into the company financial situation was critical. In the negotiating processes both parties need to have the relevant information that will enable them to

understand the facts and negotiate constructively. So transparency on economics, including business plans, growth strategies etc. is very relevant.

In the case of Colombia, the companies include business challenges such as downward pressures on price as part of the collective bargaining process so that the union also gains an insight into the economics of the business operations and can contribute towards solutions.

All aspects of the success of the business are the concern of workers as much as management. In addition, concerns from the community and the personal concerns of workers and of management and owners are relevant. Sharing these issues can be the basis for building trust and ensuring that negotiations are based on commonly accessed and understood information. Working with members of the trade union organization(s) can contribute to business success and a fair reward for workers.

#### Recommended employer action

- Educate workers to provide them with the knowledge they need to be more effective and able to adapt to the daily changes that take place throughout their working lives
- Educate workers to give them a larger perspective of where their daily tasks fit in with meeting the business objectives of the company so they can better understand their role within the supply chain and contribute to continuous improvement of work processes
- Management recognise that what workers think and understand really impacts productivity

#### **4. Senior Management Commitment and Engagement**

Trust-building processes need two-way traffic. Companies have a better chance to be successful and sustainable when the leadership is inclined and interested to engage candidly in the practical concerns of workers, to learn and to bring improvements for all stakeholders. In societies where there are often entrenched social norms regarding class and often hierarchical structures, it is important to ensure that negotiations are conducted on a level playing field with mutual respect.

#### Recommended employer action

- Obtain high level (Directors for example) buy in and commitment which is communicated to all workers and process stakeholders
- Commit resources for meetings, facilitation and training
- Keep top management informed and engaged
- Share agreements with worker representatives
- Cascade throughout the organisation

#### **5. Communicate your goals**

Businesses move forward by setting goals and then working to attain them. Breaking down the walls between employees and management through sound two-way communication mechanisms can improve the long-term sustainability of a business and avoid disruption.

For goals to be common between staff and management they need to be communicated from the business owner to all involved, along with the concrete steps they involve and how important everyone's role is – including workers whether they are permanent, temporary or seasonal.

#### Recommended employer action

- Invite all sides to share their goals and agree on these
- Allow worker representatives time to consult with workers and to prepare for meetings
- Agree regular communications on progress and on challenges
- Agree how information will be cascaded – worker representatives or external parties will need access to email for example
- Agree protocols for engagement and discussion for example confidentiality during the process

## 6. Capacity Building

Building effective worker representation and effective dialogue requires a certain skill set including active listening, defined processes and good facilitation. We would recommend that to achieve effective social dialogue both company and worker representatives get access to training and capacity building separately and jointly. Training can be internal or in partnership with other stakeholders, support organisations, service providers and NGOs. When workers choose to organise and join a union, companies and union organisations should ensure that both worker and management representatives are well prepared to start negotiating.

### Recommended employer action

- Conduct training needs analysis involving workers' participation to identify and prioritize training focus
- Research capacity building options for all stakeholders – providers and core knowledge and skill gaps to be filled
- Identify skilled training provider who will be accepted by all to ensure maximum impact
  - Role plays have been felt as particularly relevant and impactful in changing behaviours
- Establish training programme to ensure maximum participation of target audience while taking business imperative into account
- Ensure that trade union representatives have resources at their disposal in order to build their own capacity or be supported by a national or international federation

## 7. Grievance Mechanisms

The United Nations Guiding Principles on Business and Human Rights (UNGPs) encourage enterprises to establish, or participate in, effective operational-level, or company grievance mechanisms to support the provision of remedy if the said company cause negative impacts on workers' human rights through its activities. It is highly recommended to have efficient grievance mechanisms at operational level in order to address as early as possible potential negative impacts. Yet, it is important to take into account trade unions and workers' representatives as channels for workers to voice concerns. As noted in the UNGP, *"Operational-level grievance mechanisms can be important complements to wider stakeholder engagement and collective bargaining processes, but cannot substitute for either. They should not be used to undermine the role of legitimate trade unions in addressing labour-related disputes, nor to preclude access to judicial or other non-judicial grievance mechanisms"*<sup>40</sup>.

### Recommended employer actions

- Recognize the importance of developing a systematic approach towards conflict resolution in the enterprise
- Set up an efficient grievance mechanism at the work place. This would include, among others, a policy approved at the top and cascaded throughout the entire workforce, processes and an

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<sup>40</sup> Page 33: [http://www.ohchr.org/Documents/Publications/GuidingPrinciplesBusinessHR\\_EN.pdf](http://www.ohchr.org/Documents/Publications/GuidingPrinciplesBusinessHR_EN.pdf)



- understanding of how to use these mechanisms from those they are designed for
- Ensure involvement of workers' representatives in the set up and running of a grievance mechanism
- Investigate and resolve grievances at the earliest and if possible where they occur
- Evaluate current grievance mechanisms in place and identify performance gaps for system improvement
- Set up an effective system of actual impacts and outcomes of complaints procedures
  - Record and analyse all grievances, their outcomes and what changes followed
  - Management and workers' representatives can work together to identify root causes of industrial disputes and jointly identify sustainable solutions

## 8. Purchasing Practices

Research demonstrates a link between conventional purchasing practices and the impact on working conditions in production countries. Consumers are offered ever lower prices and expect high availability of produce all year round, which drives buyers to adopt practices that might have unintended consequences for workers. Suppliers are increasingly under pressure to lower their costs while improving working conditions, a tension that is often hard to tackle.

Buyers who have committed to implementing the ETI base code or other ethical standards in their supply chain should take into consideration the ethical performance of the suppliers they do business with, in addition to the usual criteria of quality, delivery, price, seasonality etc. Their ethical requirements should be clearly laid out and suppliers should be provided with guidance and support so they can meet those requirements. In parallel, they should ensure that their practices will not have a negative effect on workers nor on the company they do business with. There is a growing body of evidence that shows a direct impact of buying companies' purchasing practices driving poor working conditions in global supply chains. There are also good examples of companies who have recognised this and acknowledge that they also have to change their own purchasing practices, systems and communications to alleviate pressure on suppliers.

Buyers / retailers should provide positive incentives for suppliers producing in a socially responsible and sustainable manner and, if applicable, having internal systems aligned with ETI and other ethical standards requirements.

### Recommended actions

- Making labour standards and other ethical criteria a core part of buying negotiations
- Support your suppliers in understanding your ethical requirements and provide guidance regarding implementation
- Build a deeper understanding of the suppliers operation and production processes to ensure
- Check that your purchasing practices and requirements do not have a direct negative impact on workers' welfare
- Forge a constructive, on-going dialogue with suppliers to promote continuous improvement
- Reward suppliers for better practices (special recognition, increased production, longer contracts, shared strategic planning etc.)
- Work with your suppliers to support the implementation of living wages throughout the supply chain. This might influence the way of costing a product or lead to improving efficiency throughout the supply chain



## Appendix One – List of stakeholders contacted for this project

### EUROPE

#### ETI Working Group members

- All those members receive a questionnaire (Q). Most of the members answered it and some of the members were interviewed (I).
- Nick Kightley as ETI Food, Farming and Fisheries Category Lead for input throughout the project
- Maryam Duale Assistant Category Lead for her help with this report.

#### Retailers and Suppliers

- Greencell - Elizabeth Williams, CSR Manager (Q & I)
- Waitrose - Sam Ludlow Taylor, Ethical Trade Manager and Hella Lipper, (Q & I)
- Sainsbury's – Laura Falk, Group Sustainable Sourcing Manager (Q) Stephanie Vélez, Sustainable Sourcing Manager
- Tesco - Edgar Monge, Responsible Sourcing Manager, Americas and Rachel Munns (no Q received)
- Morrison's - Danny Miles, Ethical Trade Manager based in the UK and Melissa Ganoza, Technical Food Manager based in Peru (Q & I)
- Flamingo Horticulture - Martin de la Harpe & Zeri James – Flamingo (Q)
- Candida Barbato and Marion Avril (separate interviews – Driscoll's supplier of berries from Mexico to ETI members)

#### Civil Society Organisations

- Banana Link - Alistair Smith, International Coordinator (No Q received and several interviews)
- ETI NGO Coordinator - Peter Williams (Q)

#### Trade Unions

- TUC - Stephen Russell, International Policy Officer covering Business & Human Rights, and Coordinator of the Playfair (I)

#### Other Important Stakeholders

- FNV - Astrid Kaag, Policy Officer Peru / Lobby, Advocacy, Research & Knowledge / FNV Solidarity (Q&I)
- ETI - Beverley Hall, Industrial Relations Adviser/Specialist
- Embassy of Peru in the UK - Jaime Cardenas, Director Trade and Investment Office (Q & I)

### PERU

#### Camposol

##### In Lima:

- Jorge Ramirez, President and CEO
- Alejandro Arrieta, Central Manager of Legal and Corporate Affairs.

- Francesca Carnesella, Manager Marketing, Communication and Social Responsibility
- Karen Ortega, Social Responsibility and Integrated Management System
- Jossue Yesquen, Manager Investors Relations

#### **In Trujillo:**

- Javier Morales, Managing Director, Fruit and Vegetables Division
- Martin Merino, Human Resources Manager
- Luis Alfaro, Superintendant, Attention to Workers
- Emmanuel Meza, Head, Human Resources
- Rosa Eslava, Head, Human Resources Packing
- Margarita Avalos, Head, Social Welfare
- Mijail Tupayachi, Head, Communications
- Jean Pierre Lama, Head, Training and Development
- Jesus Arasti Barrios, Field and Packing Operations Manager
- Miguel Luna Victoria, Head, Blueberry Production
- Jorge Jimenes Sanchez, Head of Irrigation Maintenance
- Fran Rodriguez, Irrigation Supervisor
- Patrick Huaman, Supervisor, Integrated Management System (IMS)
- Cynthia Rojas, Assistant Manager, IMS
- Rocio Enciso, Manager IMS
- Michael Ruiz, Head, Labour Relations
- Katherine Placencia, Coordinator, Labour Relations

#### **Unions at Camposol**

- SITECASA – Nelson Huaman, Secretary General
- Packing - Juan Gutierrez Cavel, Secretary General and Jenny Alejandrina Castro Valdeon, Secretary, Economic Affairs
- Field – Rodolfo Ivan Garcia Vial, Secretary General

#### **Trade Association**

- AGAP - Gabriel Amaro, Executive Director and Jean Requena, Regulatory Affairs and Development Analyst

#### **Trade Unions**

- CGTP - Carmela Sifuentes Inostroza, President, Jesus Del Castillo Rivero, Assessor Legal FENTAGRO and Juan Jose Gorriti, Secretary General
- FNV - Samuel Machacuay, Peru Representative
- FENTRAIR – Santos Carranza

#### **Civil Society and International Organisations**

- Equidad – Javier Mujica, President
- Plades – Giovanna Larco
- Pontificia Universidad Católica del Perú - David Campana, Professor and Consultant
- ILO – Olga Orozco, Programme Manager, SCORE and Eduardo Rodriguez, Specialist in Workers' Activities for the Andean Region

#### **Other Important Stakeholders**

- SIPAS – Kennly Mora, Executive Director and Felix Estevez, Consultant

Several attempts were made to meet representatives of the Ministry of Labour in Trujillo and Lima, to no avail.

## **COLOMBIA**

**Banafrut** – Nicolas Echeverria, Owner Q

### **Trade Unions**

Adela Torres, General Secretary, SINTAINAGRO I

Other important stakeholders:

- Alistair Smith, Banana Link I
- Eduardo Rodriguez Calderón, ILO Peru (covers Andean región) I
- Marike Runneboom de Pena (Fairtrade International former Chair, serving member of FTF Board and taking up coordination of LA, Asia and Africa Producer Networks) I
- Marco Tulio Calvo, AUGURA (Employers' organization) Q & I

## **MEXICO**

### **Avoselect**

- Mila Villanueva, (HR Manager) Roberto Ceballos, (Quality Manager), Ignacio Gonzalez (Operations Director). Separate call with Patricia Magana Lopez (Sales) I

### **Other important stakeholders**

- Oscar Valverde, ILO Costa Rica, (covers Mexico) I
- Roberto Wilde, consultant to ILO conducting research on Mexico I



## Appendix Two - Non Exhaustive List of Documents Consulted (this list does not include internal documents received from Camposol)

### Peru

- *Labour conditions at Peruvian fruit and vegetable producers*, SOMO & Plades, July 2016
- US State Department *Human Rights Report* 2017
- UN Human Rights Council
  - *Report of the Working Group on the issue of human rights and transnational corporations and other business enterprises on its mission to Peru*, May 2018
  - *Report of the Working Group on the Universal Periodic Review*, March 2018
  - *Written statement\* submitted by the International Commission of Jurists, a non-governmental organisation in special consultative status*, March 2018
  - *Summary of stakeholders' submissions on Peru*
  - *Report of the Office of the United Nations High Commissioner for Human Rights*
- *Ficha Tecnica, Ley 27360, Informe Laboral*, January 2011
- FNV Report *Derecho Laboural en el sector de la agro-exportacion*, 2014
- Universidad Pontifica, *Plan estrategico de recursos humanos para la mejora de las relaciones laborales en Camposol*
- Instituto de Estudios Sindicales, *Los grupos económicos en el sector agroexportador peruano*
- Camposol *Sustainability Reports*
- Apoyo Consultoria, *Impacto de la Ley de Promocion del Sector Agrario*, 2018
- Civil Society Organisations, *Complaints against the Peruvian Government for breach of respect of labour rights (and environment) within the framework of Trade Agreement to the European Union and to the United States*
- *Posicion del Gobierno del Peru respecto de la comunicacion presentada por organizaciones de la sociedad civil por un supuesto incumplimiento del Peru de sus compromisos laborales y ambientales*, 2018
- Ghent University, *Labour rights in Peru and the EU trade agreement Compliance with the commitments under the sustainable development chapter*, 2016
- International Juri Commission, *Los derechos sociales y regímenes especiales de promoción a la exportación: El caso de la agricultura de exportación en el Perú*
- World Bank, *Systematic Country Diagnostic*, 2017
- World Economic Forum, *The Global Competitiveness Report 2016–2017*
- Information provided by AGAP

### Websites :

- <https://www.camposol.com.pe/>
- <https://www.theberrythatcares.com/>
- <https://www.ilo.org/lima/publicaciones/lang-es/index.htm>
- <https://www.ilo.org/Search5/search.do?searchLanguage=en&searchWhat=Peru+working+conditions+in+agriculture>
- <http://www.bananalink.org.uk/>
- <http://www.fao.org/world-banana-forum/about-the-forum/en/>

- <https://www.freshfruitportal.com/>
- <http://www.cgtp.org.pe/>
- <https://en-gb.facebook.com/pages/biz/Fentrair-Peru-149921732256126/>
- [https://www.fnv.nl/over-fnv/internationaal/mondiaal-fnv/projecten1/projectenvoorbeelden/projecten\\_peru/](https://www.fnv.nl/over-fnv/internationaal/mondiaal-fnv/projecten1/projectenvoorbeelden/projecten_peru/)

Many articles from the international and Peruvian Press

## Colombia

- Collective Bargaining Agreement 2017-2019 SINTRAINAGRO (Trade Union) and AUGURA, (business association) (Acuerdos Generales 2017-2019)
- 100 Years of Labor Control: Violence, Militancy and the Fairtrade Banana Commodity Chain in Colombia, Sandy Brown *Environment and Planning A* 2013, volume 45, pages 2572 – 2591
- What Can We Learn From The Banana Experience In Colombia?
  - Study of Industrial Relations on Fairtrade Certified Farms in the Urabá Region by Victor Hugo Quesada A. – Consultant
  - Translation by Yasmin Gonzalez
  - Research commissioned by FLO March 2013
- Derechos y Reveses: de las trabajadoras de la agroindustria bananero, Clara Gomez, Ensayos Laborales 10, Escuela Nacional Sindical
- El Comercio Justo en el Banano Colombiano: Sueños que Transforman Vidas, Carlos Andres Escobar Fernandez, Conexión Ecológica, ECONEXOS, 2017
- Coyuntura Bananera, 2016, 2017, 2018 AUGURA
- Labour relations: Successful cases within the banana industry – World Banana Forum

## Mexico

- <https://www.tecma.com/labor-unions-in-mexico>
  - Article on Labour Unions In Mexico
  - Guidance for Apparel Brands
- Policies and Actions to Ensure Respect for Freedom of Association In Mexico
- Mexico Committee of The Americas Group
- The Americas Group Is Made Up Of Global Apparel Brands, FLA, MSN and Industrial
- Mexican Labor Law, Ebook, The Offshore Group, USA
  - Labor Justice Reform In Mexico, MSN, July 2017
  - Debate on Mexican Labour Justice Reform Continues as Counter-Reform Bill Suspended Maquila Solidarity Network May 2015
  - Mexican Labor Law: an introductory guide to Mexican Labor Laws and how to navigate them, The Offshore Group (undated)
  - OECD Economic Surveys Mexico, 2017
  - Factsheet H2A, US Department of Labor

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The Ethical Trading Initiative (ETI) is a leading alliance of companies, trade unions and NGOs that promotes respect for workers' rights around the globe. Our vision is a world where all workers are free from exploitation and discrimination, and enjoy conditions of freedom, security and equity.

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