



Ethical Trading Initiative
Respect for workers worldwide

Ethical Trading Initiative
Working Hours Clause Revision

Guidance: What do I need to do?

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1. Introduction

The revised wording of Clause 6 of the ETI Base Code on working hours will come into effect on 1 April 2014.

Companies using the ETI Base Code should aim to start following the revised wording as soon as possible. Companies should also ensure that they work closely with their suppliers to plan how to implement the changes. As a guide, ETI has suggested to its members that they use much of 2014 to prepare to implement these important revisions. Even if your company is already implementing the revised wording on working hours, you must make sure you understand how these changes will affect your company and supply chain.

Clause 6 calls for companies following the Base Code to implement limits on daily working hours, overtime and total weekly working hours. International guidelines, many existing company codes of conduct and local laws place a high priority on these rights.

Legal requirements and ETI guidance on working hours are often extremely difficult to meet in practice. Your company depends on the workforce to meet orders and workers want to work to earn money. However, excessive working hours can negatively impact your company and workers' well-being. The revised ETI Base Code Clause 6 wording helps you overcome these challenges. It makes requirements clearer while ensuring that workers' fundamental rights on working hours are upheld.

The business case for avoiding excessive hours

Regulating working hours is not only important for workers' health and safety, but also for the company. It is important to remember that respecting limits on working hours helps ***meet legal requirements, avoid penalties and meet customers' requirements.*** Ensuring that workers work a reasonable number of hours and that these hours are agreed to by the worker, can improve worker satisfaction, morale, safety and welfare. These benefits to workers can also bring ***business benefits***, such as:

- a) Increased productivity due to better worker health and increased alertness. Well-rested workers generally work faster and make fewer mistakes.
- b) Reduced staff turnover.
- c) A more harmonious workplace as rested workers are less irritable and less likely to conflict with co-workers or senior staff.
- d) Increased business from customers and better performance during social audits.

Companies following the ETI Base Code will be responsible for:

- Implementing the revised wording in their operations.
- Notifying HR departments and suppliers of the revisions.
- Negotiating with trade unions and collaborating with worker representatives and employees to implement the revised wording.
- Directing suppliers to ETI for guidance.
- Providing suppliers with in-house briefings and training.
- Guiding and supporting suppliers on updating policies, revising contracts and otherwise implementing the revised wording.

This guidance document is a resource for members and suppliers to get started with this process.

It is important to prepare ahead of time to meet the revised wording. Companies need to understand how changes affect current and future business practices. Preparing now, before the end of 2014, means that you can avoid problems before they happen.

1.1. About this Guidance

The purpose of this document is to ***provide practical guidance on implementing the revised wording of the ETI Base Code clause 6 on working hours.*** It is designed to assist companies that follow the ETI Base Code in updating policies, procedures and other processes. This guidance also offers practical steps that companies can take to work with and support their supply chain business partners during the implementation process.¹

One of the most important things is making sure companies that follow the Base Code have time to determine how to implement these changes. ETI estimate that it may take about six months to develop plans to implement the revised wording (within your company and/or within your supply chain). About three more months should then be allotted to realise these plans before the revised wording is covered by social audits. This guidance document takes you through the steps needed to comply with the revised wording and to be fully prepared for audits to evaluate these changes by the end of 2014.

1.2. What changes have been made to Clause 6?

¹ The main purpose of this guidance is to help you implement these changes in your company and in your company's supply chain. If you are looking to better understand what the revised wording means and how it is interpreted, please refer to the ***Interpretation Note on ETI Base Code Clause 6: Working Hours (Interpretation Note)*** at: www.ethicaltrade.org/resources/key-eti-resources/working-hours-guidance

The Table below contains a comparison of the original wording in Clause 6 with the revised version that you should implement by the end of 2014. You will see the former wording right next to the revised wording in red:

ETI Base Code, Clause 6 - Working hours are not excessive	
<p>Original wording: Working hours comply with national laws and benchmark industry standards, whichever affords greater protection. (original 6.1)</p>	<p>REVISED 6.1 Working hours must comply with national laws, collective agreements and the provisions of 6.2 to 6.6 below, whichever affords the greater protection for workers. Sub-clauses 6.2 to 6.6 are based on international labour standards.</p>
<p>Original wording: In any event, workers shall not on a regular basis be required to work in excess of 48 hours per week. (original 6.2)</p>	<p>REVISED 6.2 Working hours, excluding overtime, shall be defined by contract and shall not exceed 48 hours per week.*</p> <p>* International standards recommend the progressive reduction of normal hours of work, when appropriate, to 40 hours per week, without any reduction in workers' wages as hours are reduced.</p>
<p>Original wording: Overtime shall be voluntary ... shall not be demanded on a regular basis and shall always be compensated at a premium rate. (original 6.2)</p>	<p>REVISED 6.3 All overtime shall be voluntary. Overtime shall be used responsibly, taking into account all the following: the extent, frequency and hours worked by individual workers and the workforce as a whole. It shall not be used to replace regular employment. Overtime shall always be compensated at a premium rate, which is recommended to be not less than 125% of the regular rate of pay.</p>
<p>Original wording: Overtime... shall not exceed 12 hours per week. (original 6.2)</p> <p>(Workers) shall be provided with at least one day off for every seven day period on average. (original 6.2)</p>	<p>REVISED 6.4 The total hours worked in any seven day period shall not exceed 60 hours, except where covered by clause 6.5 below.</p> <p>REVISED 6.5 Working hours may exceed 60 hours in any seven day period only in exceptional circumstances where all of the following are met:</p> <ul style="list-style-type: none"> • this is allowed by national law; • this is allowed by a collective agreement freely negotiated with a workers' organisation representing a significant portion of the workforce; • appropriate safeguards are taken to protect the workers' health and safety; and • the employer can demonstrate that exceptional circumstances apply, such as unexpected production peaks, accidents, or emergencies. <p>REVISED 6.6 Workers shall be provided with at least one day off in every seven day period or, where allowed by national law, two days off in every 14 day period.</p>

The main objective behind these changes is to preserve fundamental provisions and workers' rights. At the same time, changes address concerns expressed about the former wording and provide companies following the ETI Base Code with greater overall clarity, as well as definitions for many terms. Changes also address situations when excessive overtime is unavoidable and national working hours are less than 48 regular hours per week.

In addition, do not forget that there are many ***international standards on working hours*** upon which the revised wording is based (specifically, items 6.2 to 6.6). ***International standards are considered at the core of and fundamental to the ETI Base Code and working hours are no exception.***

Some of the more important standards from the International Labour Organisation (ILO) and United Nations (UN) are:

ILO Conventions:

- C1: Hours of Work (Industry) Convention, 1919
- C47: Forty-Hour Week Convention, 1935
- C14: Weekly Rest (Industry) Convention, 1921
- C171: Night Work Convention, 1990 (No. 171)

Other *International Standards* and *Guidelines*:

- The **United Nations International Covenant on Economic, Social and Cultural Rights** addresses labour rights in Article 6, which states that workers are entitled to sufficient rest and leisure, including limited working hours and providing regular, paid holidays.
- **ILO Recommendations** address working hours, such as the Reduction of Hours of Work Recommendation, 1962 (No. 116).
- The **United Nations Universal Declaration of Human Rights** also states that all persons have the right to rest and leisure, including reasonable limitation of working hours and periodic holidays with pay (Article 24).

1.3. What do these changes mean for my company?

The revisions to Clause 6 are relevant to any company that follows the ETI Base Code. Companies that are committed to upholding labour rights from headquarters through to global supply chains need to understand these changes. If you need more information on how these changes are interpreted, please refer to the ***Interpretation Note***.²

You can best meet the revised wording by reviewing the policies and processes you already use to manage working hours and meet the ETI Base Code. You should look closely at current practices against

² This resource is available at: www.ethicaltrade.org/resources/key-eti-resources/working-hours-guidance

the key areas of change above (see Table in sub-heading 1.2) and then adjust business practices to meet the revised wording.

Since you have a few months to make these changes, it is best to use this time to **anticipate and avoid** potential problems rather than react to them later. Taking the time now to build effective implementation plans for the revised wording is the best way forward. Worker and trade union agreement with changes is critical to this process and will make it more effective, so make sure they are active participants from the beginning. **Companies may also have to re-negotiate collective agreements with trade unions to meet the revised wording.** Do not forget to communicate the revised wording to trade union representatives and then involve them at each stage of your implementation process. Ensure you have enough time for this process.

To meet the requirements in the revised wording, you will need to revise the **controls** to the **processes** that you already use to manage working hours (such as production planning to avoid long hours) and make sure your **policies** and **procedures** are updated to ensure that:

- Workers do not work over the legal or ETI limits for regular or overtime hours.
- Workers are given one day off in seven.
- Legally-required breaks are provided to workers during their working day.
- Workers are paid a premium for their overtime hours, which should be in line with legal requirements or at least 125% of the regular rate of pay.
- Overtime is voluntary and undertaken with the agreement of workers.
- Workers' hours are accurately recorded, preventing underpayment of wages.

It is important that your updated processes are accurately **documented and communicated**. You should also regularly **monitor** processes to make sure they are working, making adjustments if your policy objectives are off track.

Can workers exceed 60 hours per week?

Generally, no. The revised ETI Clause 6.5 does make some exceptions in cases where local law and collective agreements allow this practice.

In addition, exceeding 60 hours per week can only happen under **exceptional circumstances** and when workers' health and safety are guaranteed.

The term "exceptional" means just that – something has to happen that you cannot predict. Remember that if you have a peak season every year (that is, right before December holidays or Chinese New Year); this is not considered exceptional since it happens annually.

On the other hand, if your customer doubles the typical order and needs delivery right away, this is exceptional since you had no way to foresee this (and this is why it is important for sourcing companies to avoid making changes at short notice like this.)

However, you will need to have agreed to this exception with your workforce in advance and even then only within the maximum number of hours permitted by national or local labour laws.

As you make changes to your policies and processes, take care to **work with others, like trade unions, during implementation**. Trade union negotiations and worker agreement as part of this process will not only be necessary, but also helpful.

The next sections of this guidance document will take you through the steps to implement the changes needed to meet the requirements of the revised wording.

2. Steps for implementation

You will not be able to effectively implement the revised ETI wording if you do not **review all of your company's policies, procedures, communication mechanisms and documentation systems**. You need to ensure that all processes used to manage working hours meet revised wording and are appropriately updated to meet these changes. Problems arise when actions and processes designed to prevent excessive working hours are either poorly maintained or are not implemented at all. Your company should undertake analysis and evaluate the **root causes** of potential issues around working hours in order to develop effective and longer-term solutions.

2.1. Revising policies

Revise the **written policies** that define your commitments and describe your practices to meet updated ETI wording. If your company has suppliers that follow the ETI Base Code, you should also work with them to do this.

A company may have many similar policies already in place; but in order to ensure your policies on working hours meet revised ETI wording, a company's policies on working hours should be revised accordingly and include:

- A restriction on working no more than 48 regular working hours per week. Ensure you understand local legal requirements, since you must follow whichever limit is stricter. Many countries have laws prescribing a 40-hour regular work week.
- A commitment to provide all workers with at least one day off per seven day week, or at least two days off in every 14 day period, if this is legally permitted.
- A statement ensuring that overtime will be used responsibly, per revised ETI guidance.

Negotiate with trade unions

If there is a trade union present at the company, it is likely that you will need to re-negotiate the collective agreement as part of the implementation process.

First, communicate the revised wording to workers and union representatives. Then, secondly, make sure the union is involved in all stages of your company's revision process. If the company has unionised sub-contractors, ensure that there is enough time for those negotiations.

Once the negotiation process is complete, communicate the new agreement with the union to all managers, supervisors and workers.

Trade unions have an important role as the independent voice of the workforce. You will find that dialogue with unions is very valuable over the implementation process.

- A limit on overtime that follows legal or ETI requirements, whichever is stricter. Total working hours should not exceed 60 per week except under rare and exceptional circumstances and only if permitted under local law. Make clear in the policy that under no circumstances should workers' health and safety be compromised by excessive working hours. Any work over 60 hours per week can only be considered under a collective agreement that is freely negotiated with a workers' organisation representing a significant portion of the workforce.
- Clear separation between regular and overtime working hours. For example, your policies might state when overtime hours begin and end within various shifts.
- A statement that all overtime is voluntary and agreed to by workers. Workers should not face penalties of any kind for refusing overtime, including threats, intimidation, or loss of opportunity for other overtime work. The policy should guarantee that all workers have the same chances to work overtime and detail the process for workers to approve, accept, or refuse overtime work.
- A commitment that all worker employment contracts specify regular hours, rest days, overtime hours and overtime pay. Contracts should also state that overtime work is voluntary.
- A commitment to pay for overtime work at a premium of no less than 125% of regular wages, or higher as required by laws or a collective agreement. Be aware that many countries legally require that overtime premiums be a minimum of 150% or higher, for example, if the overtime is worked on a holiday.
- A commitment to co-operate on a regular basis with representatives or staff handling wages and benefits to ensure that all hours worked, including overtime hours, are paid in full and on time.
- A grievance procedure to record and respond to all complaints related to issues of working hours and prescribing outlets for workers to ask questions about your policies, with prompt and clear responses. Policies should encourage workers to report cases of concern with Clause 6, including inability to refuse overtime or cases of unsafe situations due to working long hours.
- A commitment stating that any agencies or business partners recruiting and managing workers on your behalf (such as contract or agency workers) follow all of your policies on working hours.

When drafting updated policies, consult with trade unions from the start. Make sure trade unions and worker representatives agree with specific changes. Worker and trade union input while you make changes is important and will help make the implementation process go much more smoothly. In addition, remember that if your company has suppliers that follow the ETI Base Code, you need to support them in updating their policies. This could mean answering questions, helping to interpret the revised ETI wording of Clause 6 and making sure suppliers have resources (such as this guidance document).

2.2. Updating procedures

Once written policies are updated, it is critical that you ***review and update existing procedures*** to make sure these are effective in meeting revised ETI wording. Either a person or a department, depending on

the size and nature of your business, should be assigned to make sure the revised policies are carried out in practice. ***Involve trade unions and workers***, since your changes will likely mean the collective agreement must be re-negotiated. If your company has suppliers that follow the Base Code, make sure there is a person or team assigned to work with suppliers and guide them through implementation.

Please see 4.2 below for details of training on the revised wording available from ETI.

Much like written policies, it is likely that companies already implement many procedures for working hours, but you should review them all while considering the changes in Clause 6. For example, it is likely that you already provide your workers with pay slips. However, in order to demonstrate you are meeting the requirements in the revised clause, you should make sure pay slips clearly distinguish between regular and overtime working hours and also show overtime pay separately.

Make sure ***HR procedures*** are updated to cover:

- A work scheduling process that limits regular working hours to 48 hours per week for all shifts, workers and staff. Regular hours may be fewer according to legal requirements.
- A work scheduling process that limits overtime to within legal limits, or such that weekly working hours do not exceed 60 hours per week.
- A work scheduling process that makes sure all workers are given at least one day of rest (that is, 24 consecutive hours) per seven days worked, or at least two days off per each 14 day period if this is legally allowed.
- An overtime scheduling and approval process that makes sure workers are free to refuse overtime and agree to any overtime worked. This may be specified in updated employment contracts or collective bargaining agreements (if relevant to your company).
- An accurate time recording system in which all workers record their own working hours. This is important under the revised wording since it creates transparency into hours worked. Make sure that supervisors and security guards do not record hours worked for employees.
- A payroll system that provides workers with pay slips indicating the number of regular and overtime hours worked for the pay period, plus any deductions or other relevant items.

Breaks and rest days

Laws and standards that regulate the provision of breaks after every three or four hours of work exist for important reasons. These are based on research indicating that continuous work in excess of those hours contributes to fatigue, as well as a slowdown in brain and motor skills. A 15-minute break allows workers to recharge their energy and actually produce better quality output.

Laws that stipulate the provision of at least one rest day a week and holiday leave recognise the importance of a reasonable, work-life balance. This ensures that other aspects of a worker's life – family, leisure, educational and vocational pursuits – are fulfilled. These aspects contribute to the worker's overall well-being and continuing development. This benefits the company by reducing absenteeism and tardiness, while improving worker productivity and the quality of outputs.

Please note: These facts were taken into account by ETI when developing the revised wording of Clause 6.

- A process to make sure accurate records are kept of the hours (both regular and overtime) that each employee works.
- A process to change existing worker employment contracts to match your policies on working hours that meet Clause 6 requirements. Remember that you have to both update existing contracts and make sure new employees receive a contract that complies with the revised wording.
- A process to negotiate with trade unions and work with employees to make sure you are all in agreement about the changes. You may also have to re-negotiate collective agreements.
- Worker input and feedback. Even if there is not a trade union active at the company, make sure you gather worker input and reflect their feedback in your implementation process.

In addition, work closely with any suppliers to help them revise procedures accordingly. Make sure they have access to guidance and training materials and importantly, answer their questions promptly and clearly. Suppliers will need your support through the implementation process.

2.3. Training and communication

It is important that your updated policies and procedures are disseminated among managers, supervisors and workers. You should use a variety of communication methods so that all employees understand how their responsibilities have changed. Use the following methods to make sure your employees are aware of revised policies and procedures on working hours:

- Provide training programmes³ for existing managers, supervisors and workers on the revised working hours policies and procedures. Make sure that:
 - key changes and how these affect different workers' jobs are communicated;
 - changes to employment contracts are

Communicating policy and procedural changes

Communication is always more effective if you use multiple methods. Simply handing workers an updated policy handbook and asking them to read it won't be effective. In addition to regular training sessions, use some or all of the methods below to ensure your message is received:

- Create summaries of key policy revisions and display them on notice boards.
- Work with trade unions to communicate messages.
- Display reminders in workers' housing.
- Hold meetings where workers can ask questions on changes.
- Always make sure communication is in a language that workers understand.
- Use team meetings and other forums to reinforce key updates.
- Verbally explain changes to workers that may not be able to read.
- Require recruitment agencies or any party managing HR on your behalf to communicate messages.

³ Please see 4.2 below for details of training on the revised wording available from ETI.

communicated;

- workers understand the voluntary nature of overtime;
 - supervisors and production planning personnel understand that overtime must be voluntary, that overtime has to be used responsibly and that work hours generally cannot exceed a total of 60 per week; and
 - all employees understand the importance of managing working hours within legal and ETI limits.
- Provide training programmes for new managers and supervisors and new employees on your company’s policies and procedures on working hours and time off. This will ensure that your revised procedures become a normal part of day-to-day business.
 - Make sure that the training sessions cover laws and regulations and employee rights related to hours of work, particularly on overtime limits, the voluntary nature of overtime and rest time.
 - Regularly retrain all employees – management, supervisors and workers – on the revised procedures for assigning and refusing overtime.
 - Ensure that your training and communication efforts cover all types of workers (for example, domestic migrants, foreign migrants, apprentices, temporary workers, trainees, probationary workers and so on).
 - Display updated company policies, laws, regulations, the ETI Base Code and employee rights on working hours in noticeable locations (in a language workers understand) and include them in an employee handbook that is given to each worker.
 - Work with trade unions or worker representatives to coordinate communication efforts. Make sure the re-negotiated collective agreement is communicated to all employees.
 - Consider whether materials need to be translated for migrant workers.

Communicate with and train your suppliers on their implementation plans. You should work closely with suppliers to ensure that they implement the revised wording

Managing overtime

With the revised ETI wording of Clause 6 on working hours, having a solid system for determining and managing overtime is very important. Certainly these systems will differ from company to company, but in general you should be able to demonstrate that:

- Overtime is always tracked accurately and separately from regular hours.
- Overtime hours are within legal limits, or are no more than 60 hours per week. Overtime should only be allocated or permitted if workers have not already reached these limits, or under an exceptional circumstance.
- Overtime is voluntary. For example, having workers sign overtime approval notices, or maintaining records of workers’ declining overtime are good ways to track this.
- The 60-hour total limit can only be exceeded in to exceptional circumstances. Document these cases carefully, whether it is due to an unexpected order or an extreme weather event that disrupted production.

effectively.

Simply emailing suppliers the revised wording of Clause 6 will not be effective. Use a combination of the following methods to support your suppliers:

- Make sure suppliers are clear on how to interpret the new wording. Point them to the **Interpretation Note⁴** and answer questions they have after reviewing the document.
- Alert suppliers to other ETI guidance materials, such as this document.
- Make sure suppliers have one or more contact persons available to answer questions. Tell suppliers clearly that you are available to support them.
- Make sure suppliers are aware of the training sessions provided by ETI.
- Provide in-house briefings to suppliers. Doing this in person is best.
- Check in regularly on progress over the course of 2014 and help suppliers if they are not on track.

Working hours and homeworkers

Homeworkers deserve equal treatment as other workers and equivalent access to benefits, even where these are not required by national law. These should be covered in contracts, as for any other type of worker.

Homeworkers who are paid by the hour are entitled to the limits on overtime and premium payments of Base Codes 6.1. to 6.6. However, many homeworkers are paid by production or piece-rate. Their work may also be irregular, which means that working hours vary widely; homeworkers may be expected to work long hours with no overtime pay, but are unlikely to refuse if there is no guarantee of regular work; and this may not be visible to companies, especially where work is distributed down sub-contract chains.

- Homeworkers should be paid piece-rates which are equivalent to or greater than the legal minimum wage or industry benchmark standards, whichever is the highest or the minimum wage for a factory worker doing the same task. For guidance on setting piece rates go to www.ethicaltrade.org/in-action/programmes/homeworkers-project/guidelines and scroll down to Additional guidance.
- Once an equitable piece-rate has been agreed, this should be used to calculate how many hours work given to homeworkers will take. Homeworkers should not be obliged to complete more work than can be done in the regular hours for your site.
- Avoid giving unreasonable deadlines for orders. When short deadlines are unavoidable, a premium can be added to the piece-rate, as defined for a factory worker doing the same task.
- Assess the capacity of homeworking contractors to ensure that their pool of workers is large enough to meet your order without demanding excessive hours.
- Homeworkers should not be penalised if they refuse or are unable to complete extra work.
- Simple documentation (eg homeworker log books) should be used to monitor work given to homeworkers; these can be used to demonstrate that homeworkers' hours of work are not excessive.

⁴ This resource is available at: www.ethicaltrade.org/resources/key-eti-resources/working-hours-guidance

In general, you need to aid your suppliers during this process. Suppliers face the same challenges as you do in implementing the revised wording. Work closely with suppliers to help them set and meet implementation goals.

2.4. Implementation in practice

The best plans, policies and procedures will not eliminate challenges in implementation of the revised wording. Although your company may already have mechanisms for managing hours under the original Clause 6, these strategies are even more important under the revised clause. Overbooking, poor capacity planning, unanticipated client demands, production mistakes, high absenteeism and a lack of flexibility in workers' skills are typical contributors to the need to work excessive overtime. Suggestions for managers to reduce the need for overtime and meet the revised wording in Clause 6 include:

- ***Set reasonable production targets and schedules based on realistic labour efficiency rates.*** Measures of worker productivity form the basis for setting targets and schedules. If the efficiency rate is unreasonably set, the timetable is naturally affected and workers will have to work overtime to complete their targets. Make sure that labour efficiency rates consider set-up time and allow sufficient time for workers to eat, rest, stretch and go to the toilet. Failure to consider these factors could result in other, more serious concerns with the ETI Base Code.
- ***Closely coordinate HR plans and production targets.*** Capacity planning should consider past client demands, the complexity of the production process and workers' skills. Make sure you consider how these factors will affect your efforts to implement the revised wording.
- ***Continually upgrade workers' skills through training, mentoring and coaching.*** Having workers with skills that match their jobs reduces the amount of unnecessary extra work, which often leads to the need for irresponsible overtime. Having multi-skilled workers who are competent in more than one operation allows more flexibility and efficiency in the production process, which in turn increases productivity.
- ***Improve communication with supervisors and line managers and between line managers and workers.*** Worker-management dialogue is particularly important as you implement these changes. Make sure work instructions are clear and easy to follow. Reduce errors that could cause costly delays by holding team meetings and giving clear instructions. Listen to worker feedback on how to improve processes.
- ***Form a team of trade union members and/or worker representatives to supervise changes and provide ongoing feedback.*** It is critical that you involve workers throughout the implementation process. Trade unions and worker representatives already work with you on many employment issues, so pay special attention to their feedback on your efforts to meet the revised wording. In addition to re-negotiating the collective agreement, union representatives can give you valuable independent feedback.

- **Establish and maintain a sense of teamwork and high worker morale.** Workers who work under conditions of fear and intimidation, who are dissatisfied due to low wages and long hours and who are exposed to excessive heat, fumes and other unsafe working conditions, are not the most productive workers. In short, the rest of the ETI Base Code will help you improve working conditions and morale. Workers who take pride in the organisation they work for and are treated well by their supervisors and co-workers are in a better position to meet delivery deadlines.

Managing working hours effectively cannot be done overnight, so make sure you think about all of the different ways you can meet your implementation plans.

2.5. Documentation

You need to make sure your processes for meeting the requirements in the revised wording are **well-documented**. This helps track changes in practices, but also ensures that practices are transparent and accountable.

In order to keep working hours within the limits stipulated in the Base Code, you must keep impartial, accurate and transparent records. These should show how many hours (both regular and overtime) are actually being worked and how often and for how long workers are allowed to rest. Documentation also serves as a means for identifying working hour trends and highlighting problem areas responsible for excessive hours. This will be especially useful during implementation, but also come December 2014 when social audits cover the revised wording in Clause 6.

There is generally no single way to keep documentation and records. Companies, from factories to food processing plants, will have different approaches to keeping time and payroll records. However, to comply with the requirements in Clause 6, the documents should always include:

- Accurate records of hours worked for each employee, such as workers' pay slips and summary reports generated from the timekeeping and payroll systems.
- Accurate reflection of regular and overtime hours worked and the rates paid in the payroll register and on pay slips.
- Clear separation between regular and overtime hours in all working hours' documentation.
- Records of any complaints related to inaccurate recording of working hours, or related to inaccurate wage payments based on recorded

Risk control: monitor external agents

A major source of risk for compliance to any social requirement is when workers are employed by an external recruitment agent. Workers employed through agents are not excluded under the revised wording. In many cases, these agents are responsible for HR functions among the workers they recruit (such as recording hours and paying wages). Your company might use these agents, for example, to recruit temporary workers.

It is critical that you require agents to follow your company's updated policies and procedures on working hours. If during the busy season, half your workforce is temporary and you are only monitoring your own direct workers, you are ignoring half of the workforce. Make sure you work with recruitment agencies to implement your revised policies and that you monitor performance.

hours (both regular and overtime).

- Employment agreements (updated or issued to new employees) that show regular hours expected, the process for requesting workers to work overtime and what rates will be paid.
- If relevant, a collective bargaining agreement on working hours.
- Make sure documents are kept for all types of workers (such as temporary or seasonal) and for any agency workers.

Remember that to avoid any confusion or dispute, employment agreements should be updated for existing employees. Contracts containing the same terms should be issued to new employees. Contracts must include detailed information regarding regular and overtime work hours and schedules, as well as regular and overtime pay rates. Agreements should also contain an express statement that overtime is strictly voluntary. Workers' signatures should be secured on the agreement. A complete copy of any collective bargaining agreement governing working hours and wages should be kept on file to ensure cooperation and compliance.

2.6. Monitoring implementation

You will need to **monitor** whether your updated policies on working hours are being followed and that the processes are effective. Use the following steps to evaluate and improve the effectiveness of your programmes by the end of 2014:

- Monitor trends and key performance indicators (KPIs) to identify actual and potential problems relating to your revised policies on working hours. Over the course of this year, consider setting KPIs to progressively meet the requirements in Clause 6. This might include looking at:
 - total overall number of hours, including overtime, worked by individual workers and by groups of workers;
 - regular hours should always be within legal limits or no more than 48 hours per week;
 - overtime hours should always be within legal limits and total weekly hours including overtime should not exceed 60; and
 - rest days – workers should always receive at least one day off in every seven days, or two days off in every 14 day period (if legally permitted).
- Monitor and evaluate trends in recruitment, production needs, working hours and other functions and data to help you comply with the

Plan for all customers

Your business probably has many customers, each with different production and delivery requirements. They may also have different social responsibility codes of conduct.

It is important that you develop management practices for working hours that take into account *all* customers. Work with other departments to plan ahead and understand how your different customers could affect meeting the requirements in the revised wording.

revised wording on regular and overtime hours. This will also help you avoid unexpected production spikes and plan overtime hours accordingly to keep within ETI limits.

- Regularly review the compensation process to make sure that overtime hours are paid correctly (according to legal requirements or, if there are no legal stipulations, at least 125%).
- Perform random checks of the working hours listed on workers' pay slips against timekeeping system records to make sure that hours are being properly recorded. This is important for maintaining transparency in your management activities. Remember, work hour totals are only as accurate as they are verifiable by documentation from at least three sources: personal time records, payroll registers and workers' pay slips.
- Encourage and obtain feedback from workers on problem areas. If there is a trade union at your company, this will be an excellent source of feedback for you.

Once monitoring and reporting have begun and trends and problems become apparent, the process of **investigation and analysis** begins to look at the root causes of any compliance problems with the revised wording.

2.7. Responding and investigating

Investigate potential problems and concerns and analyse why they occur. Throughout 2014 and beyond, when a situation arises that indicates the existence of a potential problem; the company should investigate the **root cause** and what can be done to address it. This will help ensure compliance in 2014 and beyond.

For example, if you find that some workers did not get a day off in every seven days, or worked more than the legal limit for overtime, find out why this happened – whether because of unexpected circumstances like a rush order or broken equipment, or due to a larger problem, like high staff turnover or unreasonable production quotas.

How does the company ensure that overtime is voluntary?

Under the revised wording, overtime must be voluntary and workers must agree to work extra hours. Use the following methods to demonstrate that overtime is voluntary in practice:

- The company policy clearly states that workers may be asked to work overtime at certain times, but that workers can refuse overtime without fear of penalty or harassment.
- The company gives workers at least 24 hours notice when scheduling overtime work. This also gives the business time to make other arrangements in case some workers cannot work overtime as scheduled (for example, to find other workers who can and are willing to do the work).
- Workers sign a consent form if they are willing to work overtime each time they are asked.
- Overtime arrangements have been negotiated with the workforce and are described in a collective bargaining agreement
- There is a grievance process in place that workers can use to report violations of the working hours policy.
- Employment contracts state that overtime is voluntary and specify the overtime hours workers may be asked to work.

If you are a company that follows the ETI Base Code and has multiple suppliers or a large supply chain, it is important to collect data from across all components of your business. Examine trends at various levels – from overall across the company through to individual suppliers or business units – since this can help to:

- Look for particular suppliers or business units where hours are excessive. These business units might need more help or training than others.
- Look for particular suppliers or business units that are more successful in managing hours. This could help you identify good practices for replication elsewhere.
- Work with trade unions to find solutions for potential problems. Workers themselves are among your best resources for finding answers to problems as challenging as managing working hours.
- Look for trends, such as particular times of the year when overtime is excessive, which could be used to help focus resources and management efforts.
- Compare data against multiple factors – such as geography, particular production processes, seasonal production spikes and reliance on seasonal or temporary workers.

The better and more comprehensive your data is, the better you will be able to identify risk and the areas where more efforts will be required to meet the requirements in Clause 6.

2.8. Working together to find solutions

Implementation is more effective if you work with other departments to identify implementation solutions. Remember that the implementation of the revised ETI working hours wording in Clause 6 cannot come at the cost of compliance with requirements covered by other Base Code clauses. Take care to develop solutions so that the problem does not reoccur and the solution itself does not create other problems. For example, your HR team may need to work with procurement or sales in order to better forecast workforce needs to meet upcoming orders. This is important to make sure that overtime is used responsibly and that working hours do not exceed ETI Base Code limits, except under exceptional circumstances. Your company should:

- Consult with trade unions and/or worker representatives for any changes in employment conditions (such as changes to contracts, working hours, or overtime premium rates).
- If there is collective bargaining agreement with your workforce, work with union representatives to re-negotiate the agreement.
- Liaise on a regular basis with both agency and production staff to:
 - make sure your workers' skills match job requirements so that they are able to meet production quotas within legal and revised Base Code limits;
 - always use overtime responsibly and according to the Base Code or legal limits. Planning

ahead is important, since you cannot plan to rely on overtime as part of normal production;

- work with HR to make sure there are enough workers or shifts to meet upcoming customer orders and deliveries. This will help you anticipate and avoid problems; and
 - plan for and schedule overtime as far ahead as possible, based on customer orders and bearing in mind that overtime cannot be relied upon at all times. Again, this helps anticipate and avoid problems.
- Liaise on a regular basis with staff handling wages and benefits to ensure that all hours worked, including overtime hours, are paid in full and on time. Make sure overtime is paid at least at the rate of 125% of the regular wage rates, or higher if required by law.
 - Communicate guidelines to customers on placing and changing orders to avoid last minute or oversized orders that can put a heavy strain on your workforce and therefore lead to excessive overtime hours.
 - Answer questions from workers and other stakeholders regarding revised hours and overtime policies in a prompt and clear manner. This will help avoid confusion as you implement the revised wording of Clause 6.
 - Respond quickly to problems you can fix in the short term, like repairing broken machines or bringing workers from another line or another area to help meet an order with limited lead time.
 - Work with external suppliers, such as labour agents and service providers. If you use agency staff, temporary, or seasonal workers, you need to make sure that these employees are working within the limits of national law and the revised ETI wording.
 - Use your analysis of why problems occur to plan longer-term solutions with other departments or functions. This might mean employing more workers to meet increased demand, or rearranging shifts and production schedules. You should use time before December 2014 to prepare for these eventualities.

Ongoing monitoring is important to the long-term success of your system to manage working hours and meet the revised wording. You cannot just update a few policies and procedures and then stop maintaining them. However, if you keep up your monitoring efforts and make adjustments, you will be in the best position to continuously improve your practices.

3. Other important tips

3.1. How do I prepare for the social audit?

All social audits from December 2014 should use the revised wording. Special audits will not be required and the revised ETI Clause 6 will become part of any audit based on the ETI Base Code. The way to prepare for this is to implement the changes described above, check to make sure you have identified and controlled risk sources and monitoring performance during implementation. You have until December 2014 to do this, so use the remaining time this year to first make changes to your policies and procedures and then monitor your performance leading up to the December 2014 deadline.

The best strategy during an audit is to be transparent about your practices and the obstacles you are working to overcome to meet standards. Since managing working hours is not easy and will not happen overnight, you should focus on an approach of continuous improvement.

Social auditors will want to make sure that they can verify your practices against multiple sources of information, usually three. This means information from management, workers and documents. Worker awareness of policies and procedures; management’s ability to describe risk identification and control process; and well-organised documentation will help you meet audit requirements.

The Supplier Ethical Data Exchange (SEDEX) will be preparing much more detailed guidance on auditing. For more information, please visit SEDEX’s website www.sedexglobal.com

3.2. Anticipate problems

The table below provides examples of non-compliance with the revised Clause 6 requirements, along with suggested risk controls. These are examples only – look at your company’s operations and make sure you understand the risk controls that are needed to meet the revised wording, using this guide as a starting point.

Examples of non-compliance with ETI Base Code Clause 6	Suggested updates to company controls
<p>Working hours (regular and overtime) exceed legal or ETI limits. This could mean:</p> <ul style="list-style-type: none"> • Regular hours exceed 48 in a week. • Overtime limits exceed legal requirements. • Workers work more than 60 total hours per week. <p><i><u>Revised wording reminder:</u></i></p>	<ul style="list-style-type: none"> • Update your policy on overtime such that it indicates the start and end of regular working hours and follows limitations set by the law and ETI, whichever is stricter. • Establish a mechanism for overtime approval that requires sign-off for hours in excess of the code limits under exceptional circumstances. • Ensure that all managers, supervisors, staff and workers are aware of updated company policies related to hours and overtime. • Answer questions from workers, as well

Examples of non-compliance with ETI Base Code Clause 6	Suggested updates to company controls
<p>6.1 Working hours must comply with national laws, collective agreements and the provisions of 6.2 to 6.6 below, whichever affords the greater protection for workers.</p> <p>6.2 Working hours, excluding overtime, shall be defined by contract and shall not exceed 48 hours per week.</p> <p>6.5 Working hours may exceed 60 hours in any seven day period only in exceptional circumstances and when certain conditions are met.</p>	<p>as other stakeholders, regarding updated hours and overtime policies.</p> <ul style="list-style-type: none"> • Monitor and evaluate trends and practices related to Clause 6 implementation and take measures to ensure that all laws and revised policies are being met at all times. • Indicate specified hours of work in the employment agreements of all types of workers (ie domestic workers, foreign contract workers, temporary workers, apprentices, trainees, probationary workers and so on). • Communicate updated policies on work hours to all employees by displaying them in prominent locations, uploading them on the company intranet and including them in the employee handbook that is distributed to workers. • Have national laws and regulations on working hours, including government limitations on overtime, easily available to workers in a language that they understand.
<p>Overtime is involuntary. This could mean:</p> <ul style="list-style-type: none"> • Workers cannot refuse overtime work. • Workers must work overtime until production quotas are met. • Workers must work extra time for disciplinary reasons. <p><i>Revised wording reminder:</i></p> <p>6.3 All overtime shall be voluntary. Overtime shall be used responsibly, taking into account all the following: the extent, frequency and hours worked by individual workers and the workforce as a whole. It shall not be used to replace regular employment.</p>	<ul style="list-style-type: none"> • Establish a policy that expressly states that overtime is, at all times, voluntary. This policy should also clearly state that no penalties can be imposed on workers for refusing overtime. • The policy includes a provision for equal opportunity for overtime among all types of workers. • Communicate the company’s policy that overtime is voluntary to all new and existing workers. • Make sure there is a way for workers to report cases of involuntary overtime to management. • Make sure any production quotas are reasonable and workers can finish them within legal and ETI working hours limits.

Examples of non-compliance with ETI Base Code Clause 6	Suggested updates to company controls
<p>Legally-required breaks are curtailed or not provided. This could mean:</p> <ul style="list-style-type: none"> • Breaks are shorter than the legal minimum entitlement. • Workers work through breaks to meet targets. <p>Note: Provision of breaks at work is almost always required by law and necessary in order to meet Clause 6 requirements.</p>	<ul style="list-style-type: none"> • Establish a policy that states workers are to be provided with all legally-required breaks. The revised ETI Clause 6 wording is clear that laws on hours must be followed and nearly all countries have laws requiring rest breaks at work. • Communicate the company’s policy on breaks at work to all new and existing workers. • Review production quotas, targets, or other productivity requirements to make sure these can be achieved within revised ETI working hour limits. • Communicate to supervisors that practices such as working through breaks or other designated rest times is not permitted.
<p>One day off in seven is curtailed or not provided. This might mean:</p> <ul style="list-style-type: none"> • Workers work on Sundays. • Workers are asked to give up their days off in order to meet quotas. <p><i>Revised wording reminder:</i></p> <p>6.6 Workers shall be provided with at least one day off in every seven day period or, where allowed by national law, two days off in every 14 day period.</p>	<ul style="list-style-type: none"> • Revise company policy to state that all workers receive at least one day off per week, or if legally permitted, at least two days off in every 14 day period. • Inform all workers (new and existing) of the company’s policy on rest days. • Monitor and track all departments, paying special attention to areas of greatest risk, to make sure your updated policy is followed. • Communicate to different departments and supervisors that working on designated rest days is not permitted.
<p>Unequal access to overtime. This might mean:</p> <ul style="list-style-type: none"> • Permanent workers receive overtime, while temporary workers do not. • Workers that refuse overtime are denied future opportunities for overtime. 	<ul style="list-style-type: none"> • Update controls at the policy level. Commit to eliminating discriminatory practices. Practice fairness and provide equal opportunity for all workers. • Embed this policy into the production planning system and into the company’s wage/salary administration system. • Ensure that overtime work assignments are based on production need and on clear agreement with the employee

Examples of non-compliance with ETI Base Code Clause 6	Suggested updates to company controls
<p>Note: unequal access to overtime could lead to other contraventions of the ETI Base Code, such as discrimination.</p>	<p>working overtime.</p>
<p>No record or inaccurate record of working hours. This might mean:</p> <ul style="list-style-type: none"> • Overtime hours show up as regular work hours. • Manual records are poorly entered into a computer system. • The time clock is broken. • Workers are not clocking in and out themselves. • There are systematic errors in recording systems. <p>Note: You must record working hours (regular and overtime) accurately in order to make sure you are meeting the ETI Base Code requirements.</p>	<ul style="list-style-type: none"> • Implement an effective and transparent time recording system. • Maintain accurate and transparent records of regular and overtime working hours for each employee. • Make sure regular and overtime hours are always clearly distinguished in all documentation related to working hours. • Liaise on a regular basis with staff handling wages and benefits to ensure that all hours worked are paid-in-full and on time. • Communicate the company’s policy on keeping accurate records of all work hours to all new and existing workers. • Implement practices that ensure workers personally record their hours (supervisors and security guards should not be recording workers’ hours). • Ensure accurate recording of actual regular and overtime hours worked in the payroll register and on pay slips.

4. Additional resources

There are many online and training resources available to assist you in meeting the revised wording of Clause 6 on working hours:

4.1. Online resources

The following organisations, websites and documents provide additional information on working hours:

- ETI website: www.ethicaltrade.org
 - The ETI Base Code: www.ethicaltrade.org/resources/key-eti-resources/eti-base-code
 - ETI Interpretation Note on ETI Base Code Clause 6: Working Hours: www.ethicaltrade.org/resources/key-eti-resources/working-hours-guidance
 - ETI training www.ethicaltrade.org/training/working-hours
- SEDEX www.sedexglobal.com
- International Labour Organisation: International labour standards on working time - www.ilo.org/empent/areas/business-helpdesk/WCMS_DOC_ENT_HLP_TIM_EN/lang--en/index.htm
- Verité: www.verite.org
 - For Workers' Benefit – Solving Overtime Problems in Chinese Factories: www.verite.org/sites/default/files/Chinese_Overtime_White_Paper.pdf

4.2. Training resources

From May 2014, ETI is offering a new half-day training programme on understanding and implementing the revised ETI Base Code working hours clause. These workshops will provide the opportunity to gain further clarity on the wording, guidance and process of implementation, as well as discuss any issues relating to supply chain implementation. Please see ETI's website for further details: www.ethicaltrade.org/training/working-hours