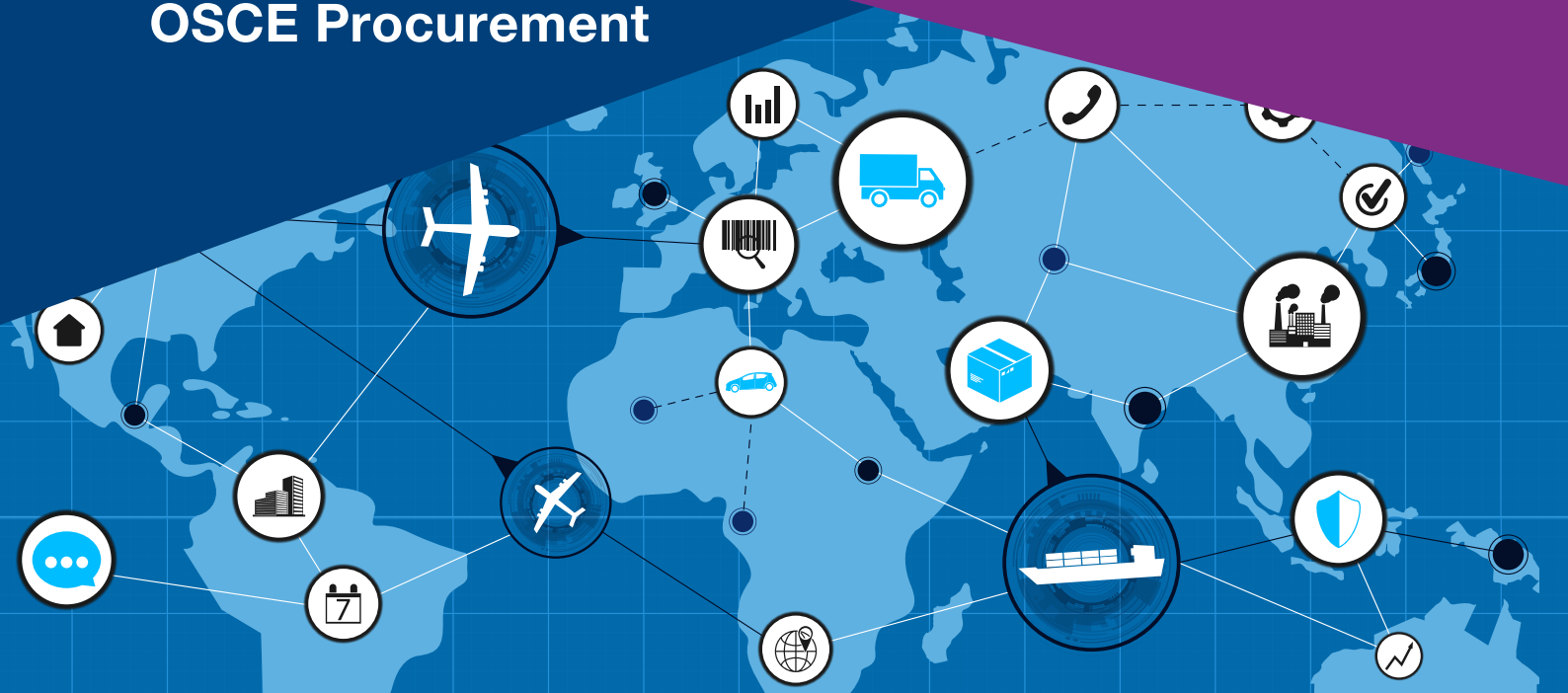


COMBATING TRAFFICKING IN HUMAN BEINGS AND LABOUR EXPLOITATION IN SUPPLY CHAINS

Guidance for
OSCE Procurement



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Guidance for OSCE Procurement (Vienna, 2021)

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OSCE Office of the Special Representative and
Co-ordinator for Combating Trafficking in Human Beings and
OSCE Department of Management and Finance

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**Guidance for
OSCE Procurement**

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Acronyms and abbreviations

CFA	(OSCE) Chief of Fund Administration
CIPS	Chartered Institute of Procurement & Supply
CTHB	combating trafficking in human beings
CTHB/LE	combating trafficking in human beings and labour exploitation
DMF	(OSCE) Department of Management and Finance
GLAA	Gangmasters & Labour Abuse Authority (UK)
HTRT	Human Trafficking Risk Template
ICT	information and communications technology
ILAB	(U.S. Department of Labour) Bureau of International Labour Affairs
ITB	Invitation to Bid
ITUC	International Trade Union Confederation
ILO	International Labour Organization
ISTAC	International Survivors of Trafficking Advisory Board
ITUC	International Trade Union Confederation
LUPC	London Universities Purchasing Consortium (UK)
ODIHR	(OSCE) Office for Democratic Institutions and Human Rights
OECD	Organisation for Economic Co-operation and Development
OIO	(OSCE) Office for Internal Oversight
OSCE	Organization for Security and Co-operation in Europe
OSR/CTHB	(OSCE) Office of the Special Representative and Co-ordinator for Combating Trafficking in Human Beings
PCU	(OSCE) Procurement and Contracting Unit
RFP	Request for Proposal
RFQ	Request for Quotation
SDGs	Sustainable Development Goals
SR/CTHB	Special Representative and Co-ordinator for Combating Trafficking in Human Beings
THB/LE	trafficking in human beings and labour exploitation
ToR	Terms of Reference
UNDP	United Nations Development Programme
UNGPs	United Nations Guiding Principles on Business and Human Rights
UNODC	United Nations Office on Drugs and Crime
UNSC	United Nations Security Council
UNTOC	United Nations Convention against Transnational Organized Crime
USAID	United States Agency for International Development
VERLT	violent extremism and radicalization leading to terrorism
WHO	World Health Organization



Foreword

Combating trafficking in human beings in its own supply chains is a commitment the OSCE made through Ministerial Council Decision No. 6/17 on Strengthening Efforts to Prevent Trafficking in Human Beings, which instructs the Secretary General “to ensure that no activities of the OSCE executive structures, including the issuing of contracts for goods and services, contribute to any form of trafficking in human beings”. Ministerial Council Decision No. 6/17 sits alongside Ministerial Decision No. 4/16 on Strengthening Good Governance and Promoting Connectivity; Permanent Council Decision No. 1107 on the Addendum to the OSCE Action Plan to Combat Trafficking in Human Beings; and Ministerial Declaration 1/11 on Combating All Forms of Human Trafficking.

Acting on these commitments, the OSCE has taken a leadership role in the international community in combating trafficking for forced labour in the OSCE’s own supply chains. The knowledge and expertise we develop through our activities are also actively shared with the participating States to support them in fulfilling their international commitments and with our partners at other international organisations.

The implementation of anti-trafficking measures in the OSCE’s procurement has been a collaboration between our offices, the Office of the Special Representative and Co-ordinator for Combating Trafficking in Human Beings (OSR/CTHB) and the Department for Management and Finance (DMF), to align the OSCE’s mandates and own processes, as well as to leverage our respective anti-trafficking and procurement expertise. This procurement guidance is now a key step in building on this collaboration by rolling out the implementation of anti-trafficking measures in our procurement across the OSCE to foster collaboration between anti-trafficking staff and procurement staff at the OSCE field operations, and to foster also further collaboration between the Secretariat and field operations. This guidance document will be supported by training workshops, procurement risk analyses and the development of local action plans for each field operation and institution, and is an important step forward from policy to implementation of the OSCE’s efforts to combat trafficking in human beings for forced labour.

The guidance’s aim is to support procurement and anti-trafficking staff in the OSCE with the background knowledge to implement anti-trafficking measures in our procurement activities across the OSCE. Its effective implementation relies on local tailoring and expert input that only practitioners with robust knowledge of local circumstances, supply markets, trafficking risks, and supply and procurement needs of individual field operations can provide. Progress will also rely on our ability to share with and learn from each other.

Preventing trafficking and labour exploitation in supply chains is no easy task and we recognise that many challenges and imperfections will lie on the way forward. By taking these first steps, we are not only working towards our own commitments, learning and developing further expertise, but also crucially supporting our colleagues in OSCE participating States and the international community in their ongoing efforts to prevent trafficking for forced labour in their supply chains. The more we work together in this challenge and use every procurement case as an opportunity to promote prevention and action against trafficking, the more likely we are to succeed and to improve the lives of the people working in our supply chains.

The development of this procurement guidance was led by Julia Rutz and Alexander Trautrim from the OSR/CTHB, and Niamh Mercer and Balazs Fule at the Procurement and Contracting Unit (PCU). We are grateful for the input from our expert friends and colleagues Julia Gin and Vanja Ostojic (ILO), Carsten Hansen (UNDP), Daniel Morris (DIHR), Mihail Maciucă, Boris Topic, Radu Cucos, and Maaïke van Adrichem (OSCE), Dragoljub Kelecevic (OSCE/ODIHR), and Bukola Oriola (ISTAC). We would also like to thank the consultant authors Olga Martin-Ortega and Don Bowman.

Valiant Richey

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for Combating Trafficking in Human Beings

Gelfiya Shchienko

Director, Department of Management
and Finance

Executive summary

When moving towards mitigating or ultimately preventing trafficking in human beings and labour exploitation (THB/LE) in supply chains, a wider perspective is needed, one that includes human rights and decent working conditions. THB/LE is the extreme end of the spectrum of labour exploitation. In practice it is often difficult to differentiate clearly whether a severe case has passed the legal threshold, or despite being below that threshold can nevertheless be seen as exploitation. Exploitation might include infringing a worker's legal or contractual rights, or working conditions that are poor or unacceptable, such as unpaid overtime, recruitment fees, or hazardous work conditions without adequate personal protective equipment. If poor treatment of workers and poor working conditions remain unchallenged, they become normalized and create an environment that enables more severe exploitation.

The OSCE Ministerial Council decisions of 2011 and 2017, the 2013 Addendum to the OSCE Action Plan to Combat Trafficking in Human Beings, and the UN Sustainable Development Goals 8 and 12 commit the OSCE to take action against THB/LE in its own supply chains.

THB/LE can be found in almost all contemporary supply chains. Although the OSCE has limited resources and cannot guarantee that all of its supply chains are 100% free of THB/LE, we cannot be complacent or stop attempts to prevent THB/LE in our supply chains to the greatest extent possible. The initial step is mapping our supply chains to identify and prioritize areas of highest risk. While the OSCE has some provisions against THB/LE in contracts through its Supplier Code of Conduct, areas of high risk require more attention. Engaging our suppliers and the inclusion of new tender evaluation criteria will incentivize suppliers to take action against THB/LE in their supply chains.

Regular interaction with suppliers on improving their activities against THB/LE will support continuous improvement, particularly when THB/LE incidents or other human rights abuses are reported. Contractual clauses whereby a contract is terminated if THB/LE cases are found in the supply chain are important. However, the focus should be on supporting the situation of victims and workers. Thus contract termination should be triggered only if a supplier fails to engage meaningfully in remediation and acts to prevent recurrence.

In the implementation road map for combating THB/LE in OSCE supply chains, next steps include localized risk analyses, action plans for all OSCE field operations, and opportunities to exchange experiences, learn about challenges and develop best practices. Central OSCE-wide documents and corporate window contracts will increasingly include provisions for mitigating or preventing THB/LE in OSCE supply chains.

Purpose and use of this guidance

This Guidance for OSCE Procurement is designed to support the OSCE procurement and programme staff of the Secretariat and its executive structures as well as of the OSCE field operations to achieve the OSCE's procurement goals and commitments. It aims to help OSCE procurement staff to better understand the risks of trafficking and labour exploitation faced by persons working in OSCE supply chains and to review how they address such risks. In this way they can take part in the wider effort to combat trafficking in human beings (THB) and labour exploitation (LE) in supply chains. Greatest efficiency and lowest risks can be achieved by means of collaborative efforts between procurement staff and national CTHB focal points. Working together, over time OSCE staff will be able to develop due diligence processes enabling them to identify, prevent and mitigate direct and indirect risks. This will contribute to remedying violations of human rights in the OSCE's procurement transactions, and thus also in its supply chains. The first step of this development is reflected in this publication.

Whilst procurement practitioners are the main persons responsible in procurement processes, it is the duty of all OSCE employees to ensure that THB/LE risks are understood and mitigated where possible, and that correct procedures are followed when risks or cases of THB have been identified. The OSCE Code of Conduct for Staff/Mission Members is very clear in this regard.

Box 1:
OSCE Code of
Conduct for
Staff/Mission
Members
(2003, extract)¹⁵

Art. 4. Compliance with accepted human rights standards

OSCE officials shall refrain from any conduct which could be detrimental to the goals of the OSCE. This includes but is not limited to an affiliation with any person who is suspected of being involved in any activity that violates national or international law or accepted human rights standards, or an affiliation with any person who could reasonably be suspected of engaging in the trafficking in human beings.

OSCE officials shall be aware that the use of the services of a person suspected of being a victim of trafficking contributes both to the profit of traffickers and the harm to victims. OSCE officials shall adopt exemplary standards of personal behaviour to ensure the OSCE is contributing to combating trafficking in human beings, and is not exacerbating the problem. OSCE officials shall be accountable to their respective national authorities, and when appropriate to local authorities, for any illegal activities inciting this criminal trade or behaving in contravention of the above mentioned standards.

Similar regulations have also been adopted by the UN. At the UN, responsibility for ethical spending practices also rests with all UN staff. UN Procurement Officers ensure that principles of public procurement are respected in purchasing activities, guide budget holders ("clients") in executing appropriate procurement actions, and provide advice for proper contract management, which is the responsibility of the client.¹⁶

This Guidance for OSCE Procurement advocates an approach to addressing THB/LE in supply chains that is based on risk, both direct and indirect. It and contains key steps for addressing THB/LE in supply chains that can be applied to existing supplier arrangements, or during the procurement process when tendering new contracts. The mandatory OSCE Public Procurement Training to Prevent Human Trafficking and Labour Exploitation in Supply Chains is a supplement to this Guidance.¹⁷

Tackling THB/LE in supply chains is not an easy task. It cannot be undertaken overnight or by a single body. There are also significant differences between what procurement staff can and should do when a risk is close to home, when people working for our direct suppliers are suffering harm or are at risk, and what to do when such risks are further away in the supply chain. Being able to make decisions, particularly "when" and "how" procurement is carried out, can have a significant influence on the working conditions and lives of the persons producing the goods or providing the required services. This places procurement staff at the forefront of efforts to combat exploitation and human trafficking.

¹⁵ OSCE Code of Conduct for Staff/Mission Members, Appendix 1 to the OSCE Staff Regulations and Staff Rules, Permanent Council Decision 550/Corr.1, 27 June 2003, available at: <https://www.osce.org/secretariat/31781> (accessed 27 April 2020).

¹⁶ United Nations Procurement Manual, Ref. No.: DOS/2020.9, example: https://www.un.org/Depts/ptd/sites/www.un.org.Depts.ptd/files/files/attachment/page/pdf/PM_2019.pdf (accessed on 26 August 2020).

¹⁷ The OSCE Public Procurement Training to Prevent Human Trafficking and Labour Exploitation in Supply Chains was developed as mandatory training for OSCE procurement and programme staff. It consist of half day core training and two additional modules, one on Risk Analysis and one on Procurement and Contract Management.

Introduction

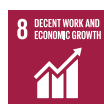
Human rights abuses are present in both private and public supply chains, supply chains that we all share. Media interest in preventing such abuses has grown in the consumer and retail sectors. But the public sector, including international organizations, is also not immune to exploitation risks in its supply chains. There is increasing pressure on public buyers to pay closer attention to the sources of the goods and services they purchase, not only how these goods are made and delivered, but also who the workers making and delivering them are.

Whilst many private companies have developed responsible sourcing strategies over the years and attempt to monitor their supply chains, it is only recently that public procurement staff are being called on to scrutinize their supply chains for human rights risks and act on such risks when found. This is not easy. It requires effort and resources, and also changes in some of our common practices and understandings.

States and international organizations have the obligation to respect and protect human rights.¹ New international standards promote the commitment to eradicate human trafficking and labour exploitation in global supply chains. These standards include public procurement. The 2011 United Nations Guiding Principles on Business and Human Rights² set out the principles governing the relationship between commercial activities and human rights. Here it is clearly established that states (and therefore international organizations) have the duty to protect human rights and that one way to do this is by promoting respect for human rights when conducting commercial transactions. This includes procurement (Principle 6). Additionally, the International Labour Organization (ILO) and the Organisation for Economic Co-operation and Development (OECD) clearly refer to the obligation of companies to undertake active mitigation of human rights violations.^{3, 4}

In 2015 the United Nations Sustainable Development Summit adopted its 2030 Agenda for Sustainable Development, which include the UN Sustainable Development Goals (SDGs).⁵ The SDGs contain important commitments and targets that are relevant to this Guidance for OSCE Procurement.

Amongst the UN SDGs, 8 and 12 are particularly relevant for this Guidance:



SDG 8: Decent Work and Economic Growth

Target 8.7: Take immediate and effective measures to eradicate forced labour, end modern slavery and human trafficking and secure the prohibition and elimination of the worst forms of child labour, including recruitment and use of child soldiers, and by 2025 end child labour in all its forms.



SDG 12: Responsible Consumption and Production

Target 12.7: Promote public procurement practices that are sustainable, in accordance with national policies and priorities.

The OSCE participating States and the OSCE itself⁶ have committed to the implementation of the SDGs, and are therefore committed to taking steps to eradicate forced labour and human trafficking, and to promote responsible public procurement practices.

This demonstrates that public authorities are explicitly tasked with respecting and promoting human rights, including within their procurement activities.⁷ By extension, also procurement staff in international organizations must aim at respecting and protecting human rights.

1 The International Bill of Rights, integrated into the Universal Declaration of Human Rights, the International Covenant on Economic, Social and Cultural Rights, and the International Covenant on Civil and Political Rights, establish the obligations of States to respect, protect, fulfil and promote human rights.

2 The UN Guiding Principles on Business and Human Rights state that “companies are expected to seek to prevent or mitigate adverse human rights impacts that are directly linked to their operations, products or services by their business relationships, even if they have not contributed to those impacts”.

3 The ILO’s Tripartite Declaration of Principles requires enterprises to avoid causing or contributing to adverse impacts through their own activities, to address such impacts when they occur, and to seek to prevent or mitigate adverse human rights impacts in the business relationships that are directly linked to their operations, products or services. It also requires companies to carry out human rights due diligence.

4 The OECD Due Diligence Guidelines for Multinational Enterprises and Social Policy underline that companies must incorporate supply chain policies and due diligence processes into contracts with suppliers.

5 The Sustainable Development Goals are accessible at: <https://sustainabledevelopment.un.org>.

6 The OSCE and the Sustainable Development Goals, <https://www.osce.org/sustainable-development-goals> (accessed 27 April 2020).

7 For the relationship between procurement and human rights, see Martin-Ortega and O’Brien (2019) Public Procurement and Human Rights. Opportunities, Risks and Dilemmas for the State as Buyer.

UN Security Council Resolution 2388, §31 (2017)

Calls upon United Nations system organizations to enhance transparency in their procurement and supply chains and step up their efforts to strengthen protections against trafficking in persons in all United Nations procurement and to that effect request major suppliers to establish and implement anti-human trafficking policies and disclose information on measures taken to counter trafficking in persons in their operations and supply chains; (...).

The OSCE is at the forefront of international protection against human trafficking and labour exploitation. These abuses concern all OSCE participating States, as effectively all of these States are countries of origin, transit or destination, or a combination thereof.⁸ The OSCE has 16 field offices,⁹ also in countries where the risk of THB when procuring goods and services is quite high. The OSCE has adopted strong commitments on the prevention of human trafficking in government supply chains:

The 2011 OSCE Ministerial Declaration on Combating All Forms of Human Trafficking¹⁰ encourages governments “to work with the business sector to apply principles of due diligence and transparency in assessing and addressing risks of exploitation throughout supply chains and ensuring that workers have access to mechanisms for the redress and remedy of abusive practices. We encourage the dissemination and implementation of the newly adopted United Nations Guiding Principles on Business and Human Rights. Similarly, we encourage governments to consider incorporating similar standards, including ‘zero-tolerance’ policies, in government procurement of goods and services.”

Two years later, the OSCE participating States tasked the Secretary General to ensure that OSCE supply chains are free from trafficking.

2013 Addendum to the OSCE Action Plan¹¹ foresees:

“The relevant OSCE executive structures will update, within existing resources, the relevant internal regulations to ensure that no activities of the OSCE executive structures, including contracts for goods and services, contribute to any form of THB.”

OSCE Ministerial Council Decision/6/17¹² calls on participating States to

“... task the Secretary General to review existing policies, audit and reporting procedures and recruitment safeguards, and to ensure that no activities of the OSCE executive structures, including the issuing of contracts for goods and services, contribute to any form of trafficking in human beings, in accordance with the 2013 Addendum to the OSCE Action Plan to Combat Trafficking in Human Beings, (...).”

In this context, the work of the Office of the Special Representative and Co-ordinator for Combating Trafficking in Human Beings (OSR/CTHB) is to improve the understanding of trafficking in human beings and labour exploitation (THB/LE) and the measures required to address and prevent it. These include working to address violations in the supply chains of participating States and the OSCE's own supply chains.¹³

This Guidance for OSCE Procurement is part of this OSCE work. It has been developed in the framework of the Supply Chain Project. The Guidance for OSCE Procurement aligns with the existing OSCE Model Guidelines on Government Measures to Prevent Trafficking for Labour Exploitation in Supply Chains,¹⁴ which contain recommendations for States and their procurement activities.

This Guidance for OSCE Procurement builds the basis for activities of OSCE procurement and programme staff, supported by the OSCE Public Procurement Training to Prevent Human Trafficking and Labour Exploitation in Supply Chains.

⁸ OSCE, Combating Human Trafficking, <https://www.osce.org/secretariat/trafficking> (accessed 13 February 2020).

⁹ OSCE in the field: The OSCE's field operations assist host countries in putting their OSCE commitments into practice and fostering local capacities through concrete projects that respond to their needs. See “OSCE In the field”, <https://www.osce.org/whatistheosce> (accessed 3 June 2020).

¹⁰ OSCE Ministerial Council, Vilnius 2011, MC.DOC/1/11/Corr.1, para. 15.

¹¹ 2013 Addendum to the OSCE Action Plan to Combat Trafficking in Human Beings: One Decade Later (chapter III, Action for OSCE institutions and bodies, para. 2.)

¹² OSCE Ministerial Council Decision/6/17, para 16.

¹³ Report of the OSCE Special Representative and Co-ordinator for Combating Trafficking in Human Beings: New Challenges and New Opportunities 2018-2019, available at <https://www.osce.org/secretariat/439712?download=true> (accessed 13 February 2020).

¹⁴ OSR/CTHB, OSCE Model Guidelines on Government Measures to Prevent Trafficking for Labour Exploitation in Supply Chains, 2018, available at: <https://www.osce.org/secretariat/371771?download=true> (accessed 10 February 2020).


SECTION 1


HUMAN RIGHTS RISKS IN SUPPLY CHAINS




Human rights risks in OSCE supply chains

Our supply chains extend from our direct suppliers, the people who clean our fleets of cars or work at the hotels we stay in during work trips, to the factories producing the goods we use, but also as far as the mines where the minerals in our mobile phones are extracted. The people affected by our purchasing decisions are therefore not only the persons employed by direct suppliers in the country where we are located (tier 1 suppliers) (see below for a more in-depth definition), but also persons who work for our indirect suppliers. While these may also be local, often they are farther away, such as in the above example, in the countries where the minerals for our mobile phones are mined. Our ability to assess, prevent, mitigate or remediate THB/LE in these suppliers varies. Some suppliers and supply chains can be influenced directly by our procurement, such as when we hire a local catering service. Other suppliers and supply chains are more difficult to influence. This is particularly the case when possible human rights risks are many tiers away from us, for example when they involve labour recruitment in remote parts of a supply chain.

 **Supply chain:** a set of entities (organizations or individuals) directly involved in the upstream and downstream flows of products, services, finances, and/or information from a source to a customer.¹⁸

 **Upstream and downstream:** Think of a supply chain as a river. Downstream refers to the demand side of the supply chain where goods flow. Upstream refers to the source, that is, the supply side of the supply chain.¹⁹

 **Global supply chains:** the cross border organization of the activities required to produce goods and services, and bring them to consumers through various phases of development, production and delivery.²⁰

All the products and services we purchase are produced or delivered through complex networks referred to as global supply chains. Supply chains are often composed of hundreds of suppliers and subcontractors, with thousands of people working for them, both formally and informally. Some work in stable conditions, but some work in very precarious and risky conditions. Due to the nature of supply chains requiring high levels of flexibility to respond to rapidly changing demand, persons working in such supply chains are often exposed to significant risks. And yet the need for flexibility and low costs are constant features in our consumer habits. This is particularly acute in the procurement of goods or services for public institutions or as part of the activities of international organizations, where resources are limited and a value–cost balance is essential. However, in many cases flexibility and pressure for low costs are enablers of abuse. Such abuse can go as far as workers being trafficked for the purpose of labour exploitation. It is important to be aware that what may look as value for money may have hidden human costs involving the exploitation of those who have worked to produce the goods or services. Obtaining a cheap deal on the basis of human rights violations is not an option for the OSCE. It contravenes international human rights laws as well as OSCE standards and values.

Supply chain tiers

Global supply chains are organized in “tiers”, counting from the position of the purchaser, the OSCE. The term “tier 1 supplier” is used to refer to commercial relationships with our direct suppliers. Most tier 1 suppliers source their components, and often labour, from other companies. The suppliers and labour providers to the tier 1 supplier are tier 2 suppliers to us. The tiers move successively upstream the commercial chain to the first supplier. Risks to human rights might be found at any tier. However, at the raw material upstream tier of a supply chain, workers are less visible to the buyer. We often know little about the companies at this tier and their compliance with human rights and labour standards.

¹⁸ Mentzer et al. (2001), Defining supply chain management, *Journal of Business Logistics*, 22(2), 1–25.

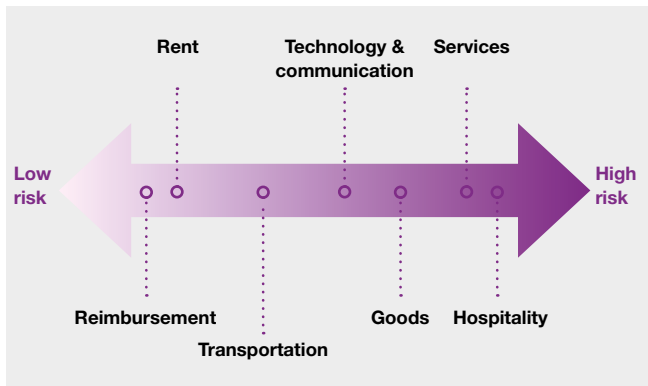
¹⁹ Council of Supply Chain Management Professionals, Glossary.

²⁰ This definition includes foreign direct investment by multinational enterprises in wholly owned subsidiaries, or in joint ventures in which a multinational enterprise has direct responsibility for the employment relationship. See: ILO, Decent Work in Global Supply Chains, Report IV (ILC.105/IV), 2016.

Trafficking in human beings and labour exploitation

Some sectors are known for a high prevalence of forced labour and human trafficking. We are connected to many of these sectors indirectly. But human trafficking also takes place closer to home and work situations with which we are more directly connected, such as in cleaning, hospitality, recycling, local factories and farms. In a pilot study analysing the THB/LE risk in procurement at one OSCE field mission, we found high risks in commoditized services delivered locally. This is shown in Box 2.

Box 2: High-risk sectors in OSCE Mission to Serbia procurement



Source: OSCE, Analysis of procurement data for the risk of trafficking in human beings – Pilot project for the OSCE Mission to Serbia.

Human trafficking is an international crime. It requires three key elements: acts, means, and purpose.

Acts: recruitment, transportation, transfer, harbouring or receipt of a person;

Means: threat/use of force, other forms of coercion, abduction, fraud, deception, abuse of power or of a position of vulnerability;

Purpose: sexual exploitation, forced labour or services, slavery, slavery-like practices, servitude, removal of organs.

Trafficking in human beings (THB) is defined in the UN Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children (the “Palermo Protocol”²¹) as follows:

Article 3 Use of Terms

For the purposes of the Protocol:

(a) “Trafficking in persons” shall mean the recruitment, transportation, transfer, harbouring or receipt of persons, by means of the threat or use of force or other forms of coercion, of abduction, of fraud, of deception, of the abuse of power or of a position of vulnerability or of the giving or receiving of payments or benefits to achieve the consent of a person having control over another person, for the purpose of exploitation. Exploitation shall include, at a minimum, the exploitation of the prostitution of others or other forms of sexual exploitation, forced labour or services, slavery or practices similar to slavery, servitude or the removal of organs;

(b) The consent of a victim of trafficking in persons to the intended exploitation set forth in subparagraph (a) of this article shall be irrelevant where any of the means set forth in subparagraph (a) have been used; (...).

The offence of THB has been committed even if the victim has consented to the travel or to certain acts. A victim may have been deceived by the promise of a better life or job, or may be a child who was convinced to travel by an adult. Moreover, the exploitation of the potential

21 UN Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the UN Convention against Transnational Organized Crime, 2000 (the “Palermo Protocol”).

22 ILO, Forced Labour Convention, 1930 (No. 29)

victim does not need to have taken place for the offence of THB to have been committed. Arranging or facilitating the act of recruitment or transportation, etc., with a view to abusing another person for an exploitative purpose, whether sexual or non-sexual, is already a criminal offence. This includes trafficking in human beings for labour exploitation.

This Procurement Guidance focuses on THB/LE.

Trafficking for labour exploitation is part of the crime of human trafficking. The expression is generally used in a broad sense, referring to THB for purposes of forced or compulsory labour or services, slavery or practices similar to slavery, and servitude. Also other forms of economic exploitation can be considered such a purpose, if they are indicators of or lead to such practices.

The key elements to identify forced or compulsory labour are that the work or service has been exacted from a person under the menace of penalty and that person has not offered himself or herself voluntarily. Forced or compulsory labour is defined by the ILO's Forced Labour Convention of 1930²² as follows:

Article 2

1. For the purposes of this Convention the term forced or compulsory labour shall mean all work or service which is exacted from any person under the menace of any penalty and for which the said person has not offered himself voluntarily.

Victims of trafficking can be lured into travelling in many ways. They can be coerced, or threatened with violence to them or their families, or they can be deceived by promises of an inexistent job. Victims of trafficking may be asked to pay job recruitment fees, or for transport and accommodation. Once at the destination, such fees can become huge and effectively trap a person into forced labour until they are paid back. This means that the offence of THB can be committed even if the victim consents to the travel. Children may be influenced to travel by an adult, often with the promise of education, and even with the consent of their families.

“Many people who fall victim of trafficking want to escape poverty, improve their lives, and support their families. Often they get an offer for a well-paid job abroad or in another region. Often they borrow money from their traffickers in advance to pay for arranging the job, travel and accommodation.

When they arrive they find that the work they applied for does not exist, or the conditions are completely different. But it's too late, their documents are often taken away and they are forced to work until their debt is paid off.”

Extract from the Anti-Slavery International website²³

Labour exploitation per se is not an internationally defined legal term. The expression is generally used to refer a range of violations of labour standards or laws that do not rise to the level of crimes or trafficking in human beings, violations in which employers take advantage of workers' vulnerability and subject them to abusive conditions. These practices include wage theft, certain types of hazardous working conditions, and unethical recruitment practices.

While there is no exact data on the prevalence of human trafficking for labour exploitation, the International Labour Organization (ILO) estimates that there are 24.9 million people in forced labour across the world.²⁴

This Guidance for OSCE Procurement is concerned in particular with trafficking in human beings for labour exploitation, as well as labour exploitation in supply chains more generally. When referring to combating human trafficking and labour exploitation in the supply chain, we mean the range of measures that international organizations, governments, national and international agencies and entities and private organizations, including commercial organizations, take or can take to identify, prevent, mitigate and remedy abusive labour situations and human rights violations related to the commercial activities they undertake.

²³ Anti-Slavery International is one of the leading civil society organizations working to combat human trafficking and forced labour. See: “What is human trafficking”, available at: <https://www.antislavery.org/slavery-today/human-trafficking/> (accessed 7 February 2020).

²⁴ ILO, Forced Labour, Modern Slavery and Human Trafficking, available at <https://www.ilo.org/global/topics/forced-labour/lang-en/index.htm> (accessed 23 June 2021).

Potential abuses and risk factors

As explained above in Section 1.1., a supply chain extends from direct suppliers to the mines, fields and countries where raw materials come from. The complex character of supply chains, including their hundreds of thousands of suppliers, constitutes a significant challenge in attempting to prevent THB in supply chains. Huge numbers of people work along these long chains, people who are exposed to many potential risks. They may have been trafficked through coercion or deception, they may be in bonded labour (forced to work to repay a debt that they will never be able to repay and restrained from leaving through violence or other means of control), or they may even be children.

Beyond such serious abuses, workers, including those who provide goods and services to the OSCE, whether directly or indirectly through the supply chain, may be exposed to other risks in their employment:

- restrictions on freedom of association and the right to collective bargaining;
- poor, unhygienic or unsafe working conditions;
- very low pay that does not amount to a living income;
- excessive working hours and forced overtime;
- discrimination, including sexual harassment;
- harsh and inhumane treatment.

This could be the case, for example, for staff working in our cleaning and security services, persons employed at our construction sites, staff that provide hospitality, or staff at the hotels and restaurants we use in official capacities such as public events, receptions or trade fairs. Some of these abuses may be potentially easier to identify, for example when they happen on OSCE premises or are witnessed directly by OSCE staff. Nevertheless, victims of trafficking and labour exploitation will find it difficult to disclose their situation. This may be due to threats or violent control by the perpetrator, feelings of embarrassment, or uncertainty about the consequences of disclosure, such as immigration law enforcement or harm to family members.

Examples of situations that should raise immediate concern:

- workers' movements seem restricted;
- a worker is often isolated from others;
- working or living conditions that are substandard;
- a worker showing signs of constant fatigue or hunger;
- a worker showing signs of being intimidated, threatened or physically abused.

It is much more difficult to know what is happening further upstream in a supply chain, in other countries or in very complex industries with hundreds of suppliers. However, this does not mean that we can turn a blind eye to the abuses workers may suffer; they too are part of our supply chain. Indeed, the OSCE procures goods and services from sectors in which labour exploitation and abuse are highly likely.²⁵ We need to understand what may be happening to workers in these sectors and what risks they are being exposed to.

→ **Section 3 focuses on how to identify risks and related factors when assessing whether someone in the OSCE supply chain may be at risk of exploitation, be it on OSCE premises or in distant factories.**

There is a clear risk to the reputation of the OSCE if it does not act against THB/LE in its supply chains. The OSCE is devoted to the protection of human rights and democratic principles. This must be reflected in how we manage OSCE supply chains. If problems in our supply chains are uncovered and we have failed to act, this can cause significant damage to the OSCE's reputation.

→ **Section 3 provides guidance on how to know whether these risks may be present in products or services being procured.**

²⁵ See for example: The Global Slavery Index analysis of G20 imports, available at: www.globallslaveryindex.org/2018/findings/importing-risk/overview/ (accessed 21 June 2021). See also sector-specific resources provided by the Gangmasters & Labour Abuse Authority (GLAA), available at: <https://www.gla.gov.uk/publications/labour-exploitation/> (accessed 21 June 2021).

Box 3:
Examples of direct and indirect THB/LE risk

Direct THB/LE risk

What all these workers have in common is that they tend to be “invisible” to us in our everyday coming and going at work.

Cleaning services

For example, services for cleaning offices or vehicle fleets. Cleaners entering OSCE offices and premises are generally not directly employed, but are employed through several levels of subcontracting. This increases the risk of exploitation. It is important to note that whether a fleet of 800 OSCE cars are being cleaned by several local suppliers, or just a few cars by a single supplier, the level of risk that THB/LE is taking place is the same.

Hospitality services, including catering

Those who deliver hospitality services, including persons who provide catering, may be exposed to potential abuse. This can also be the case for persons working at external events we attend, or at the hotels or restaurants we use in an official capacity.

Construction of new buildings and building maintenance

Construction workers often work in hazardous conditions with short-term jobs. Often they are forced to stay on site while working, or are provided living conditions by recruiters or employers that are precarious or unsanitary.

Indirect THB/LE risk

What these workers have in common is that they are far away from us. While it is difficult to monitor their working conditions, their work is nevertheless connected to us.

ICT hardware

Electronic equipment bought by the OSCE may have been built in conditions involving exploitation, and therefore ICT hardware presents a risk in the OSCE supply chain.

Food industry

When the OSCE contracts catering services, the provided food may come from supply chains that are known as being high risk, such as the seafood industry or the production, harvesting and transportation of fresh vegetables. Also coffee and tea production presents high risks of exploitation and child labour.

Construction materials

Stone and bricks are at particular high risk of having been produced by workers who are exploited. If such materials are used for constructing our new buildings, those suffering in their production are also part of our supply chain.

SECTION 2

HUMAN RIGHTS DUE DILIGENCE IN SUPPLY CHAINS



Combating THB/LE in supply chains is the responsibility of all OSCE employees. To support the efforts of the OSCE as a whole, procurement and programme staff must develop strategies for human rights due diligence.

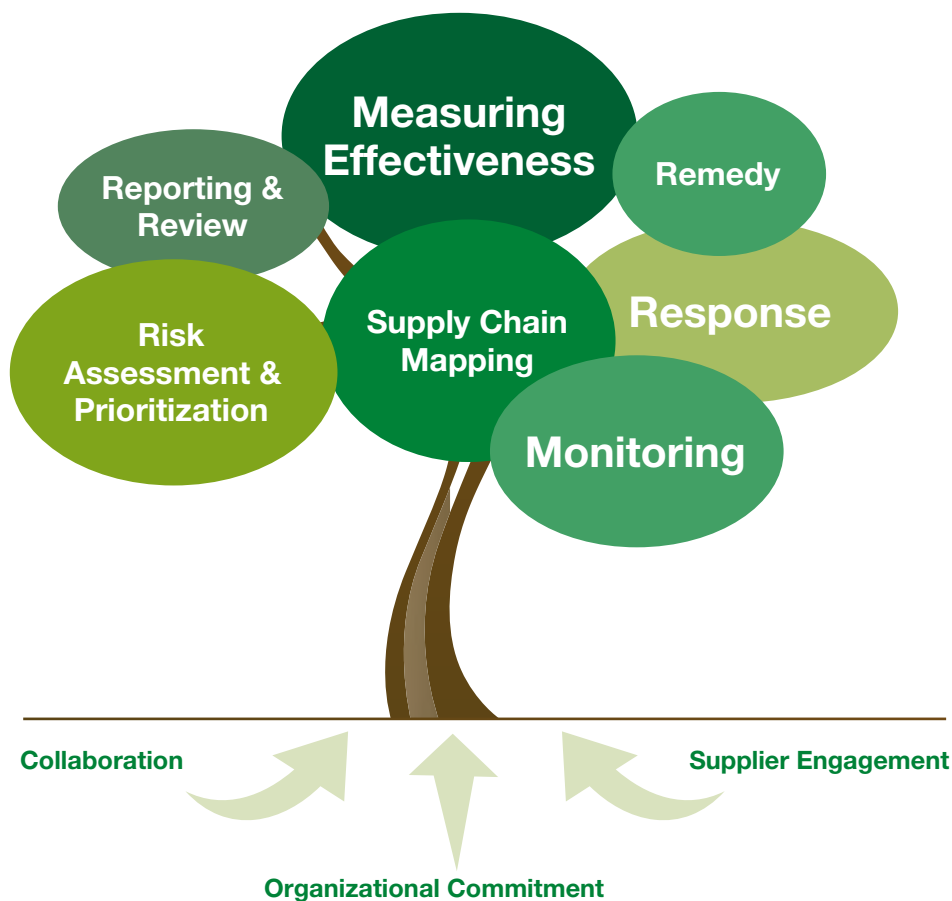
Human rights due diligence in supply chains

Human rights due diligence in the supply chain refers to processes for identifying, preventing, mitigating or remedying human rights violations linked to commercial activities and business partnerships. It involves designing and implementing sets of measures to understand what risks may exist for people who make the products we buy or provide the services we contract.

Human rights due diligence was first defined in the United Nations Guiding Principles on Business and Human Rights, referred to above. It applies to private commercial organizations as well as public buyers, and thus also to those buying on behalf of international organizations. The most comprehensive guidance on human rights due diligence has been developed by the OECD: The OECD Due Diligence Guidance for Responsible Business Conduct (2018).²⁶

OSCE staff need to plan and organize how to manage the risks they face when sourcing products and services, whether from global supply chains or in local commercial activities. Promoting respect for human rights in supply chains is not merely a compliance issue. It requires organizations to take pro-active steps to know their supply chains, identify human rights risks involved in them, and act upon problems found. OSCE buyers – procurement staff, supported by programme colleagues – must make all reasonable efforts to exercise human rights due diligence in every purchasing decision and action, and ensure that the OSCE, in its procurement activities, does not exacerbate the risk of people being exploited.

Figure 1:
The tree of due diligence²⁷



²⁶ Available at: <https://www.oecd.org/investment/due-diligence-guidance-for-responsible-business-conduct.htm>

²⁷ CIPS (2017) Protecting Human Rights in the Supply Chain. A Guide for Public Procurement Practitioners.

Enablers and activities

The fundamental elements for defining and developing an organization's approach to human rights due diligence are rooted in organizational commitment and engagement. Whilst the OSCE has clearly developed objectives and policies in this area, it must be ensured that OSCE staff and suppliers understand these commitments and how they include procurement contractual relationships.

The success of any human rights due diligence procedure is based on a series of organizational enablers, which are undertaken before implementing effective human rights due diligence. These enablers are: organizational commitment, supplier engagement, and collaboration. These are the three roots in the "Tree of Due Diligence" (Figure 1 below). These enablers then provide the resources, energy and impetus needed for all due diligence activities.

The next subsection explains these enablers in general and the specific activities involved in the processes of due diligence. The following subsection explores specifically how procurement staff at the OSCE can develop these processes in their professional context.

The general activities are:

- Understanding our supply chain (including mapping) and establishing ways to monitor it;
- Assessing risks and prioritize action on those we can deal with in short, medium and long term;
- Responding to identified risks through action plans and specific strategies, including engaging with our suppliers;
- Measuring the effects of our actions;
- Monitoring and reporting on our own progress;
- Getting involved with remediation for victims;
- Highlighting and reporting identified issues.

These are not necessarily sequential activities; they can run simultaneously, parallel to one another. Finite resources mean that procurement practitioners will have to prioritize what to do and how, depending on the severity of the risks and the availability of resources for supply chain human rights due diligence.

Exercising human rights due diligence as a procurement practitioner at the OSCE

Procurement staff working for the OSCE are in a privileged position because of the level of commitment and prioritization the OSCE gives to this problem. This Guidance for OSCE Procurement is part of the effort to support and apply the understanding of and requirements for addressing and preventing THB/LE.

Procurement staff at the OSCE have the further advantage of being supported by the CTHB focal point at each OSCE field operation, who maintains information flow with the OSR/CTHB and provides expertise and general information about THB/LE, including local THB/LE risks, on a continuous basis. This expertise can also be used by individual field operation procurement teams. Initially it may be necessary to set up a formal collaboration with each field operation (see also Box 9: Who does what?).

The OSCE has already made progress in positively and actively communicating its expectations regarding CTHB/LE to its suppliers. These expectations are found in the OSCE Supplier Code of Conduct, which discusses the main risks we face. The OSCE's engagement with its current and potential suppliers will continue and be intensified. Although it is the responsibility of the supplier to adhere to both normative frameworks²⁸ and emerging national legislation,²⁹ procurement staff can improve suppliers' awareness and enhance their compliance with regulations. It is important that procurement practitioners across the OSCE, whether in its executive structures or at the OSCE field operations, strengthen and monitor the incorporation of CTHB/LE principles into their procurement management with both current and new suppliers.

The following sections of this Guidance explain how to do this from various perspectives.

- How to map supply chains, and identify and prioritize risks (Section 3);
- How to manage risks in the procurement process and exercise leverage (Section 4);
- How to manage contracts, supplier engagement and monitoring (Section 5);
- How to ensure transparency and continuous improvement (Section 6);
- How to take action when victims are found (Section 7).

²⁸ The 2017 OSCE Ministerial Declaration No. 6 [MC.DEC/6/17] tasks the Secretary General to "ensure that no activities of the OSCE executive structures, including the issuing of contracts for goods and services, contribute to any form of trafficking in human beings".

²⁹ For an overview of existing national legislation on corporate responsibility, see the OSCE compendium of relevant reference materials and resources on ethical sourcing and prevention of THB/LE in supply chains. Available at: <https://www.osce.org/secretariat/450769>, chapter A, pp. 14–86 (accessed 21 June 2021).

SECTION 3

WHERE TO START MAPPING SUPPLY CHAINS TO IDENTIFY AND PRIORITIZE RISKS



Only if an organization knows the risks it is facing can it address them. To be able to identify risks in our supply chains, it is important to be clear about who our suppliers are, and in turn, who they supply from. To understand the supply chains of products purchased by the OSCE, we need to know where products are sourced, produced and manufactured, and by whom. For the supply chains of the services the OSCE uses, we need to know how they are contracted and subcontracted, who undertakes recruitment, and who is ultimately doing the work. The first step in identifying human rights risks, including THB/LE, is therefore to map supply chains. Mapping starts with tier 1 suppliers. Initially such a map may be a relatively rough overview, but it can be continuously updated, expanded and made more detailed.

Mapping OSCE supply chains

Supply chain mapping is a good starting point for identifying the risks in a supply chain and for prioritizing which ones to respond to. Mapping provides an overview of suppliers and the locations they operate from. Mapping can also reveal how many tiers a supply chain has, as well as where the companies in each tier are located. A helpful way to begin mapping is to categorize suppliers by industry type and country of origin. The likelihood that THB/LE exists in particular countries or among certain suppliers can then be assessed and the risks in a supply chain can be identified.

In the following, you find two examples of mapping. Box 4 presents a risk assessment exercise undertaken by the London Universities Purchasing Consortium (LUPC).³⁰ The LUPC undertook the assessment in 2019, identifying the countries where its suppliers were located or did their producing, and assessing the risk of THB/LE occurring within these suppliers based on information contained in the Global Slavery Index.³¹ The results were published in LUPC's 2019 Slavery and Human Trafficking Statement, from which the following two graphs are reproduced.³²

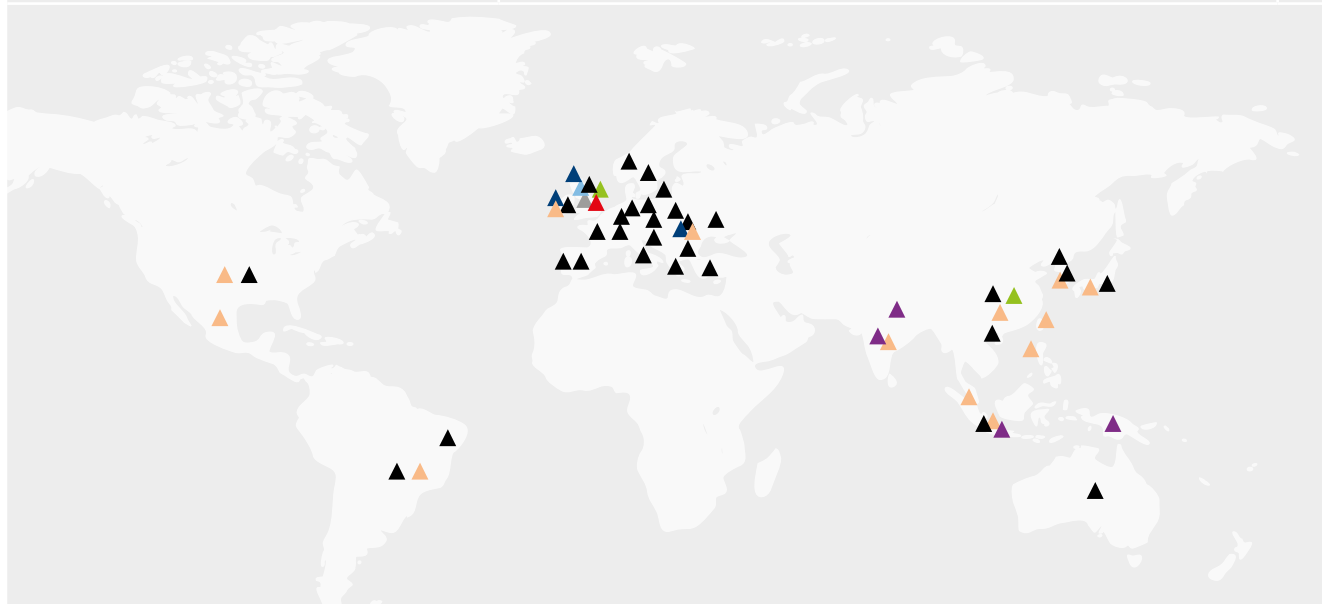
30 LUPC is a UK non-profit buying organization which that has over 80 members in the higher education sector, including research institutes, museums, galleries, theatres and charities.

31 Global Slavery Index, available at: <https://www.globalslaveryindex.org> (accessed 22 June 2021).

32 LUPC Slavery and Human Trafficking Statement: Year Five: A Review of August 2018 to July L 2019, available at: <https://www.lupc.ac.uk/sites/default/files/LUPC%20MSS%20-%20August%20%202018-%20Jul%202019%20Final%20.pdf> (accessed 22 June 2021).

Box 4:
London Universities Purchasing Consortium’s risk assessment exercise

Category	Country	
Laboratory consumables, including gloves	Malaysia, Indonesia, India, Pakistan	▲
ICT equipment	China, India, Mexico, Taiwan, Brazil, Poland, Czech Republic, Malaysia, USA, Ireland, Philippines, Japan, Vietnam, Thailand, South Korea*	▲
Cleaning services	UK	▲
Security Services	UK	▲
Catering Services	UK	▲
Graduation gowns	UK, China	▲
Furniture	UK, Poland, Republic of Ireland	▲
Office, computer and library supplies	Austria, Australia, Belgium, Brazil, Bulgaria, China, Estonia, Denmark, Finland, El Salvador, Czech Republic, France, Germany, Greece, Hong Kong, India, Ireland, Italy, Malaysia, Poland, Portugal, Spain, Netherlands, South Korea, Republic of Korea, UK, US, Japan, Serbia, Sweden, Turkey, Norway	▲



Another example is an OSCE pilot project to analyse the supply chains of the Mission to Serbia and their THB/LE risks. The following Box 5 shows some key findings from that pilot project:

Box 5:
Analysis of procurement data for the risk of THB.
Key findings from the pilot project for the OSCE Mission to Serbia

Key findings ³³
→ In 2017 the Mission issued 2,667 purchase orders totalling 2,212,177 EUR;
→ It had 480 suppliers from 24 countries;
→ Procurement activities were largely concentrated in Serbia;
→ Of the 480 suppliers, 403 were based in Serbia, accounting for 91% of the total spending;
→ All 77 international suppliers were based in relatively low-risk countries, but no information on the location of suppliers beyond tier 1 was available.

Mapping a supply chain is useful since it not only helps identify where products come from, but also who a suppliers’ subcontractors are, who subcontracts what activity, and – in terms of human rights – where the weakest links lie in sometimes very long chains.

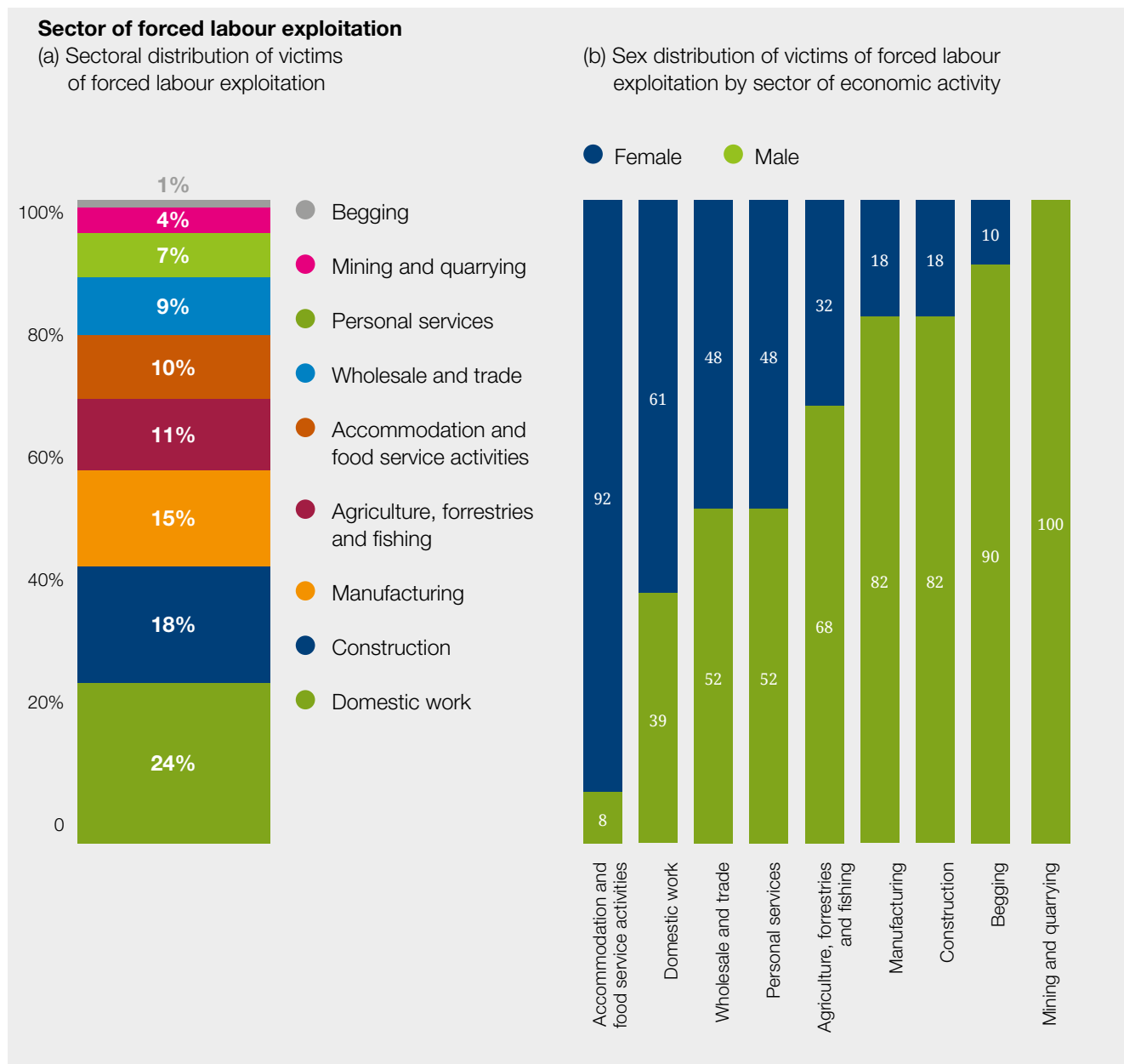
Mapping tier 1 suppliers is the first step. But supply chain mapping for a particular contract is not only used to establish risks related to direct suppliers, but also in the supply chains of those suppliers. For this reason, direct suppliers should also be involved in the mapping process, since they will understand their own sector and supply chains better than anyone else. It is useful to gather information from suppliers about their suppliers (their tier 1 suppliers, which are OSCE tier 2 suppliers). Working with suppliers in this way provides a better understanding of our supply chains and assists in identifying and prioritizing risks.

Considering whether a sector is high risk

Some sectors present more risks than others. This depends on industry type, nature of the work, composition of the workforce, and the context in which the supplier operates, such as whether labour rights are protected in that country.

Alliance 8.7, together with the ILO and the Walk Free Foundation, has provided estimates of the number of THB victims in individual sectors as well as of the gender split amongst victims in these sectors. The graph below shows these results.

Figure 2:
Forced labour and gender makeup according to sectors³⁴



33 Analysis of procurement data regarding the risk of trafficking in human beings. Pilot project for the OSCE Mission to Serbia, available at <https://www.osce.org/secretariat/450775> (accessed 27 April 2020).

34 See: https://www.ilo.org/wcmsp5/groups/public/@dgreports/@dcomm/documents/publication/wcms_575479.pdf (accessed 22 June 2021).

The following characteristics in a particular spending category should trigger additional scrutiny by procurement staff:

- Production sites located in countries with poor human rights records;
- Production based on work that is generally low skilled with an easily replaceable workforce;
- A sector with a high presence of migrant workers or workers from marginalized communities;
- Production that possibly involves work in hazardous conditions;
- Most labour contracts arranged through recruiters, agents or other intermediaries.

Sometimes the above characteristics are hidden in products or services that are attached to the main product or service. An example is recycling of electronic waste included in the purchase contract of a new device. Hence it is important to understand the sector in detail at the planning stage of a purchasing contract.

Box 6:
Global Slavery Index – selected categories of high risk of THB/LE³⁵

Industry type	Nature of workforce	Context in which the supplier operates
<p>High-risk industries characterized by the nature of the work (often work that involves raw materials or is labour intensive) include:</p> <ul style="list-style-type: none"> → Construction; → Manufacturing and electronics; → Garment/textile production, including footwear; → Food processing; → Services, including hospitality, security services, cleaning and catering; → Logistics, including warehousing, transport; → Healthcare, social care, both home-based and facility-based; → Domestic work. 	<p>High-risk characteristics linked to the nature of the workforce include:</p> <ul style="list-style-type: none"> → Reliance on low-skilled or unskilled labour: typically work that is low-paying and undervalued, often undertaken by vulnerable workers; → High numbers of temporary, seasonal, or agency workers: worker vulnerability heightened by employment uncertainty, women workers and children particularly vulnerable; → Dangerous or physically demanding work: isolation of workers, work in rural locations, home-based/unmonitored/unregulated environments. 	<p>High-risk characteristics linked to context of work include:</p> <ul style="list-style-type: none"> → Inadequate labour laws and regulations in the country of origin, or little or no enforcement of such laws → Presence of cheap labour and high numbers of vulnerable workers, including women, children, young people, migrants, minorities, groups with a history of discrimination, or workers with disabilities; → Absence of effective grievance mechanisms or representative workers agencies/collective agreements; → Workers discouraged or prevented from joining independent trade unions, or collective agreements reached between union and employer without consultation with workers – known as protection contracts; → Lack of business and/or government accountability; → Widespread discrimination against particular groups, for example women or certain ethnic groups; → Wars/conflicts, high levels of poverty and unemployment.

35 See: <https://www.globallslaveryindex.org/2018/data/maps/#prevalence> (accessed 22 June 2021). Key information related to particular categories or industries is also contained in the ILO forced labour indicators, available at: <https://www.ilo.org/global/standards/subjects-covered-by-international-labour-standards/forced-labour/lang--en/index.htm> (accessed 14 February 2020).

If a sector is considered high risk, it is important to gather further information to determine where labour rights violations have been reported in that sector, if the suppliers in question were connected to those labour rights violations, and how any identified labour rights violations can be prevented and/or remediated. Generally, the higher the risk in a sector, the more effort that should be spent on the risk assessment of its supply chain. This includes the need to find specialized sources of information, and to investigate specific risks related to the product or service being purchased.

Box 7:
Where can I find information about THB/LE risks for a particular procurement category?

- Speak to the CTHB focal point;
- Involve the CTHB focal point in the work of gathering information about local conditions, especially information about human rights issues in the relevant supply chain;
- Utilize external resources, such as reports from NGOs, professional bodies, industry associations, media coverage and labour authorities.
- Use local intelligence for direct suppliers located in the same country: such intelligence may be available through unions, reports from other users interacting with the same supplier, or local media coverage. When dealing with direct suppliers it is usually easier to gather information about workers' conditions.

→ **Annex I contains useful sources and tools for finding information to assess the risks in a supply chain**

→ **Annex II provides a resource for communicating with suppliers.**

For THB/LE risks involving workers with whom OSCE staff interact directly, such as workers delivering services or products to the OSCE, the ILO forced labour indicators are useful. The ILO indicators were produced to help law enforcement, labour inspectors, trade union representatives, NGO workers and others to identify persons who may be THB/LE victims. Additionally, the UK's GLAA has produced a comprehensive list of indicators when interacting with potential victims.³⁶ Section 7 below provides more guidance on possible action when suspected cases of THB/LE are found in OSCE operations or supply chains.

Box 8:
The ILO forced labour indicators³⁷

- 1 Abuse of vulnerability
- 2 Deception
- 3 Restriction of movement
- 4 Isolation
- 5 Physical or sexual violence
- 6 Intimidation and threats
- 7 Retention of identity documents
- 8 Withholding of wages
- 9 Debt bondage
- 10 Abusive working and living conditions
- 11 Excessive overtime

³⁶ See: <https://www.gla.gov.uk/who-we-are/modern-slavery/who-we-are-modern-slavery-spot-the-signs> (accessed 21 June 2021).

³⁷ International Labour Office, ILO Indicators of Forced Labour (Geneva, 2012), available at: https://www.ilo.org/wcmsp5/groups/public/---ed_norm/---declaration/documents/publication/wcms_203832.pdf (accessed 10 February 2020).

Prioritizing risks

As shown in the previous subsection, any category of product or services procured by the OSCE may have THB/LE risks. Whilst the aspiration is to be able to address all risks associated with our supply chains, the reality is that time and resources do not allow for all risks to be addressed at once.

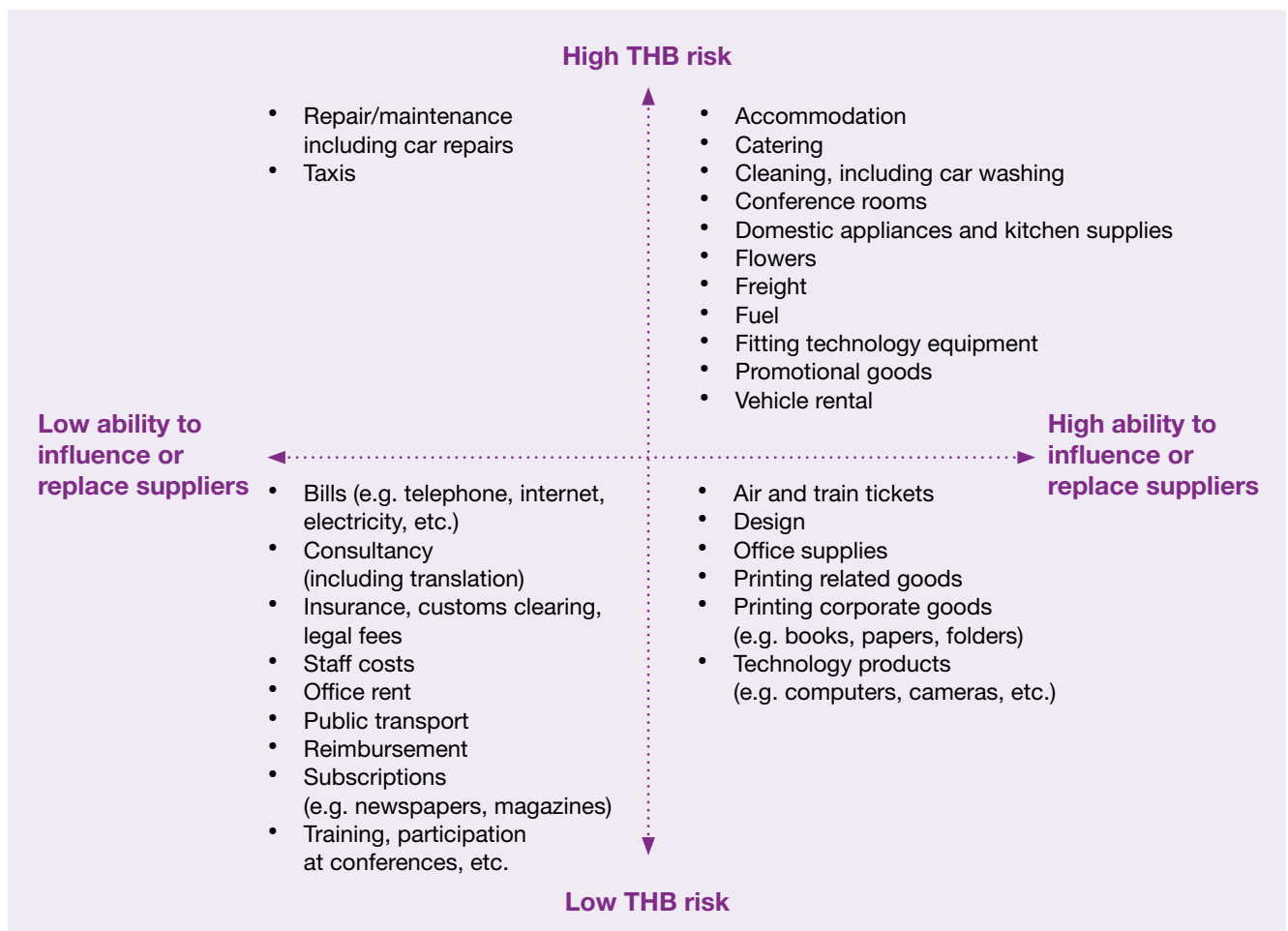
We thus must prioritize which procurement categories, goods and services we want to work on first. Then we must create effective processes to manage them.

A good way to start prioritizing is to understand which categories have an increased risk. Then specific high-risk goods and services within these categories can be identified. When looking for THB/LE risks, one should consider the vulnerability of workers, as vulnerability often leads to a person becoming a THB/LE victim.

Further aspects to consider when prioritizing is whether a supplier might be readily influenced and where the largest expenditures lie. Focusing on higher spending categories in OSCE procurement within identified high-risk sectors is useful. This can be supplemented by considerations regarding how readily it is possible to engage or influence a supplier. An example from the pilot project for the OSCE Mission to Serbia is displayed in Figure 3.

It is important to mention that it is our suppliers who are responsible for understanding and addressing THB/LE risks in their supply chains. We expect that the products and services we buy to be free from THB/LE.

Figure 3:
THB risk and ability to influence suppliers³⁸



³⁸ From: Analysis of procurement data for the risk of trafficking in human beings. Pilot project for the OSCE Mission to Serbia, available at: <https://www.osce.org/files/f/documents/3/1/450775.pdf> (accessed 27 April 2020).

SECTION 4

MANAGING RISKS EXERCISING LEVERAGE IN THE PRE-CONTRACTUAL PHASE



This section explains in detail the processes to adopt when procuring categories of goods and services that have been identified as high risk. Risks can be found in suppliers of all sizes and purchases of any volume.

In applying this Guidance for OSCE Procurement, practitioners must ensure that any action taken is proportionate to the volume of the proposed contract and the size of the supplier. A small supplier will not have the same resources or capacity to address their risks as a large supplier. Moreover, if the proposed contract is very small, the effort in the tender submissions needs to be proportional to it. It should be clear that whilst conveying the priority for the OSCE to combat THB/LE in its supply chain, we recognize practical procurement aspects of supply market competition and proportionality.

Leverage should be utilized at all stages of the procurement process, but the mechanisms and strength of any leverage used vary according to the procurement engagement with a supplier. Box 9 below shows how leverage changes through procurement engagement.

In the pre-contract phase, buyers can manage supply chain THB/LE risks by articulating specific expectations and relevant obligations to their suppliers, taking into account the risks identified for these suppliers in the mapping phase. More difficult is managing newly identified risks in existing contracts. Here the OSCE may have less leverage to introduce or implement changes addressing these risks. Nonetheless, it is not impossible. Changes to existing contracts are addressed in Section 5 on contract management.

What is leverage and how can it be exercised through procurement?

Leverage over suppliers refers to the buyer's power and ability to influence its supplier's actions and activities during the business relationship between them. This leverage can be considered alongside THB/LE risks as shown in Figure 3. Combating trafficking in the OSCE supply chain requires working with suppliers and changing behaviour in the supply chain - for which exercising leverage is key.

The capacity to influence suppliers or have an impact on conditions in supply chains varies depending on the phase of the procurement process. Building foundations for leverage in CTHB/LE can be undertaken particularly in the planning stage for a tender. When designing tech-

nical specifications, award criteria, and contract performance conditions, it is essential to define the parameters of the future relationship with a supplier. It sends a powerful message of the OSCE's commitment to CTHB/LE if tendering documents and communication make it clear that CTHB/LE is part of the OSCE's supplier selection process.

Nonetheless, while the inclusion of CTHB criteria is important, the level of inclusion must be balanced with other aspects, such as assuring sufficient supply and the supply market, the capabilities of relevant suppliers, urgency of the supply, the capacity available in procurement departments, and local circumstances. Understanding leverage means being realistic about such aspects and recognizing limitations, whilst also being ambitious to improve CTHB/LE provisions by OSCE suppliers.

While the basis for leverage and engagement with suppliers is built during the stages of planning, tendering and awarding a contract, engagement needs to be continued also after a supplier has entered a contractual relationship with the OSCE. Particularly when the OSCE has had a long and stable relationship with a supplier, the OSCE has the right to expect specific behaviour based on the contractual obligations. This is where the OSCE's leverage becomes the most tangible. Carefully designed and written conditions need to be included in contracts, conditions that clearly establish the relationship between supplier and the OSCE, include requirements for human rights due diligence in the supply chain, and explain how due diligence is to be exercised during the contract. This should include the stipulation that breaches related to THB/LE may result in contract termination.

Box 9:
Leverage during the procurement process



The pre-contractual phase, in particular the competitive tendering process, is an early and crucial opportunity to build foundations for CTHB/LE leverage. While all other phases can offer opportunities for leverage, this will be the case only if the relevant foundations were built in the earliest stages of dealings with a supplier. Policy and strategy can be communicated to bidders; CTHB/LE evaluation criteria can be mentioned in the cover letter. Tender documents can include clauses requiring suppliers to acknowledge commitments to promoting respect for human rights and to co-operate actively with the OSCE in undertaking due diligence in their supply chains.

39 CIPS (2017) Protecting Human Rights in the Supply Chain. A Guide for Public Procurement Practitioners.

Box 10:
CTHB/LE is not just another tendering requirement³⁹

Do not squeeze CTHB/LE requirements into the tendering process at the last minute or as an afterthought. CTHB/LE requirements must be planned and implemented strategically. There are several factors that can impede the implementation of CTHB/LE requirements.

- The supply market may not be ready: Many markets supplying the public sector are possibly not ready to demonstrate their ability to conduct real due diligence in their supply chains.
- Tendering processes are relatively short: Within the timespan of a typical tendering process, it is only possible to observe the surface of a supplier's due diligence. Ideally, a buyer should aim at understanding a supplier's capability and real practice of due diligence in its own sourcing and supply chain management.
- There are many competing priorities: During the tendering stage, public buyers are busy with many obligations, such as assessing suppliers' technical or financial capabilities, or their track record on equality, sustainability and social value. Adding yet another award criterion encourages a "tick-box" approach on the side of buyers. This would not do justice to the problem and probably will not help protect workers from exploitation. The public sector needs to work with markets to develop suppliers' own capabilities in CTHB/LE.
- Buyers have neither the time nor resources to achieve due diligence on their own and for every category. When dealing with a large group of bidders in a tendering process, due diligence must take place in a close working relationship with suppliers. Moreover, to make effective use of limited resources, public buyers need to address spending categories based on risk, addressing those categories with the highest risk first. It will be more difficult to address due diligence if tender documents are examined in the order they come up for award or renewal.

Procurement planning stage

When facing a new procurement need, it is vital to understand the market, the supply base and the opportunities available to buyers.

Box 11:
Familiarize yourself with the THB/LE risks in the expenditure category

Liaise with your CTHB focal point. They are anti-trafficking experts with knowledge of vulnerabilities and trafficking risks in your region and spending category. Understanding the vulnerabilities of workers in combination with the supply chain of the spending category is a helpful basis.

For some industries, it is possible to find sector-specific guidance on THB/LE risks. Such guidance, often produced by industry experts, professional bodies or charities, is more tailored to the sector than general guidelines and will help you understand the THB/LE risks in the sector in more detail. For example, sector-specific guidance on THB/LE risks in the hotel sector can be found in the Hotel Industry Network's Framework for Working with Suppliers, which is available at: http://www.stopslavery-network.org/wp-content/uploads/2018/03/SF17_SHIN_framework_dec17-11-links-RGB-min-1.pdf

Relevant resources can be found in the OSCE Compendium of Relevant Reference Materials and Resources on Ethical Sourcing and Prevention of Trafficking in Human Beings for Labour Exploitation in Supply Chains: <https://communities.osce.org/display/CTHBSOURCE>

In the planning stage, it is important to undertake market research to assess the THB/LE risk in the particular sector of goods or services to be procured. This must be relevant to the potential supplier base and proportionate to the market. As mentioned above, procurement staff and CTHB focal points should work together in the early planning stage.

A Procurement Planning Checklist that can be adapted to specific OSCE procurements can be found below in Annex III. For reporting and documentation purposes, this Procurement Planning Checklist, if used, should be filed together with the procurement records.

If procurement activities are taken to attract a large number of suppliers to bid, there will be more engagement with the supply base. This can offer more opportunities to spread the message that the OSCE sees CTHB/LE as a high priority and will be alert to THB/LE problems associated with the market in question. For example, if a supplier indicates that there is a potential THB/LE risk in recruiting workers for something they would deliver, procurement staff should consider asking other potential suppliers why they have not mentioned this risk.

Tendering stage – instructions to bidders

Mapping and market research will have identified THB/LE risks that are relevant for a proposed contract. OSCE procurement staff must then ensure that these risks are addressed during the tendering process, in agreement with the programme staff that has made the procurement request (the requester).

Certain OSCE documents, such as the OSCE Supplier Code of Conduct, refer specifically to THB/LE risks. Selected CTHB provisions from the Supplier Code of Conduct are shown in Box 12.

Box 12: Selected provisions in the OSCE Supplier Code of Conduct

5. Forced or Compulsory Labour

The OSCE expects its suppliers to prohibit forced or compulsory labour in all its forms.

6. Child Labour

The OSCE expects its suppliers not to employ: (a) children below 14 years of age or, if higher than that age, the minimum age of employment permitted by the law of the country or countries where the performance, in whole or in part, of a contract takes place, or the age of the end of compulsory schooling in that country or countries, whichever is higher; and (b) persons under the age of 18 for work that, by its nature or the circumstances in which it is carried out, is likely to harm the health, safety or morals of such persons.

10. Human Rights

The OSCE expects its suppliers to support and respect the protection of internationally proclaimed human rights and to ensure that they are not complicit in human rights abuses. In particular, OSCE suppliers and their personnel shall not, directly or indirectly, engage in any practice inconsistent with international human rights laws and standards that prevent, inter alia, child labour, sexual exploitation and trafficking in human beings.

11. Harassment, Harsh or Inhumane Treatment

The OSCE expects its suppliers to create and maintain an environment that treats all employees with dignity and respect and will not use any threats of violence, sexual exploitation or abuse, verbal or psychological harassment or abuse. No harsh or inhumane treatment coercion or corporal punishment of any kind is tolerated, nor is there to be the threat of any such treatment.

Other OSCE documents will be, or already have been, amended centrally by the Secretariat to include references to THB/LE, such as the documents Instructions to Bidders, and the General Conditions of Contracts (Goods and Services). Other documents, Invitations to Bid (ITB) / Requests for Proposals (RFP) or Requests for Quotation (RFQ) including as applicable, Specifications, Terms of References, Technical Specifications or Scope of Works need to be amended locally as required. This can be done in consultation with Secretariat PCU as needed and should be taking in to consideration the value and risks related to the procurement requirement and the ability of the market to respond.

As part of tendering documents, the risk assessment questionnaire in Annex II might be presented to a supplier in full, or amended as applicable. A questionnaire can ensure that key questions regarding labour are addressed as part of the procurement process. Requested information might include the following:

- Operation policies and procedures for mitigating THB/LE risks;
- Disclosure of human rights due diligence processes;
- Evidence of compliance with applicable labour/employment laws;
- If applicable, action taken/planned to tackle THB/LE issues within the supplier's business, including within the supply chains involved in the contract.

When establishing evaluation methodology, procurement staff, in collaboration with programme staff, should carefully consider formulating evaluation points that include THB/LE risks. It is possible to check with the OSCE procurement office at the Secretariat whether documents from similar previous tenders are available. However, staff at OSCE field operations are best placed to consider local circumstances and to adjust evaluation methodology accordingly. Individual field operations have different spending profiles and operate in different settings; tailoring CTHB/LE requirements to each country and location is important.

A decision should be made as to whether a least cost or quality cost based evaluation method is to be adopted, in line with the Common Regulatory Management System (CRMS). Technically acceptable least cost tenders are more suitable for standardized goods and services, and where the procurement effort is high in comparison to the expenditure. However, these goods and services are often commodities and price competition only increases the risk of THB/LE in the supply chain.

Basic CTHB/LE criteria can be included in pre-qualification questions to exclude suppliers who do not match basic expectations. When scoring is used, there must be sufficient incentive to encourage bidders to offer socially responsible supply chain management; this should be clearly listed in their cost proposals as well. When feasible, it is also recommended to ask for examples of action beyond the provision of policy documents (questions such as the following: What percentage of your workers have permanent employment contracts? Where in the delivery of this contract would you use workers from subcontractors or labour agencies, or workers who are not directly employed by your company?). Evaluation criteria should receive appropriate weighting. When checking your evaluation framework, aim to prevent suppliers with poor scores in CTHB/LE from being able to still win contracts through very low prices, for example, by setting a minimum cost threshold.

Box 13:
Simulate the effect of your evaluation methodology in advance

If possible, test your evaluation methodology to ensure that a supplier could not win the bid with a very low price despite not acknowledging THB/LE risks.

If relevant, it is possible to specify particular standards as a technical standard for tenders. When doing so, however, it is important not to favour a particular certification system without allowing for equivalent standards. For example, do not specify Fair Trade as a technical specification without allowing for other standards that are equivalent.

A typical example for a pre-qualification criterion in tenders, especially for high-risk proposed contracts, is to oblige any supplier to provide evidence that they have implemented human rights standards in their supply chain, or would ensure the implementation of such standards, also describing how they would do so. Although such pre-qualification requirements are often criticized for not having an immediate effect on CTHB/LE, they are nevertheless an important communication tool. They build leverage for demanding remediation and improvement if THB/LE is found in the supplier's supply chain, as otherwise the contract can be terminated.

Case study from OSCE model guidelines – clothing ⁴⁰

In 2009, the city of San Sebastian included social clauses in the technical specification of a tender for clothing and footwear. The social clauses encompassed compliance with ILO standards and verification. If bidders are unable to provide compliance, they are excluded from the process. Bidders have to provide a declaration in which they guarantee that the production throughout the supply chain adheres to the standards of ILO core conventions: freedom of association and the effective recognition of the right to collective bargaining; the elimination of all forms of forced or compulsory labour; the effective abolition of child labour; and the elimination of discrimination in respect of employment and occupation.⁴¹ In addition, bidders have to disclose subcontractors and suppliers.

Sometimes it is possible to include industry-specific labour or employment standards applicable to the contract in the specification. It is also possible to include compliance with these as a contract condition, such as adherence to ILO Labour Standards.

For example, service contracts (including sectors such as cleaning, security and hospitality) are often HTB/LE high-risk areas. Workers are often the most vulnerable at the point of recruitment. Practices such as charging workers recruitment fees and confiscating identity documents can take place, compelling workers into debt bondage and forced labour. Knowing where a supplier's workers come from and the supplier's recruitment methods are key to reducing THB/LE risks.

Box 14:
Example questions for suppliers of high-risk services

- Provide evidence of the recruitment policy that is or will be used to recruit the workers who will deliver the contract.
- If using agency or subcontracted workers in the delivery of the contract, describe how you will ensure fair working practices for these workers.
- Provide evidence that all workers delivering the contract are paid a fair rate of pay (relative to the relevant national context) and that this is not impacted by excessive charges for accommodation, transport, etc.
- Do you have a policy clearly stating the minimum age for employment for the workers who will deliver the contract?

⁴⁰ OSR/CTHB, OSCE Model Guidelines on Government Measures to Prevent Trafficking for Labour Exploitation in Supply Chains, 2018, available at: <https://www.osce.org/secretariat/371771> (accessed 10 February 2020).

⁴¹ The eight core conventions were identified by the ILO Governing Body, covering principles and rights that are considered to be fundamental for workers. These principles and rights are also covered by the ILO Declaration on Fundamental Principles and Rights at Work (1998).

Box 15: Tender for Apple iOS devices

In 2021, the OSCE Secretariat Procurement and Contracting Unit (SEC PCU) ran a tender for the provision of Apple iOS devices, including repair and maintenance services, as well as recycling programmes for old devices, covering 18 countries. The planned corporate contract duration is five years, with an estimated total turnover of ca. 2 million EUR. Although a substantial expenditure for the OSCE, this is probably not a significant contract for the equipment manufacturer. However, THB/LE issues in the electronics supply chain are well documented. Ignoring what is known is not an option. The OSCE does not yet have a direct contract with Apple, but rather with regional authorized suppliers.

The OSCE has joined Electronics Watch, a non-profit organization that works towards better labour conditions in the supply chains of electronic equipment. Together with Electronics Watch, OSCE Procurement tailored Electronics Watch's "best practice" tender evaluation criteria to the OSCE's situation. In the tender questions, two areas of THB/LE risks were considered: in the product supply itself, and the general sourcing practices and policies of the potential bidders.

The OSCE's communication with the electronic equipment market included the evaluation framework. A maximum of 600 points can be awarded in the technical evaluation. In addition, CTHB criteria contribute up to 200 points. A threshold of 110 points was set for the CTHB evaluation criteria for a proposal to be considered acceptable for financial evaluation. Missing points from the CTHB category cannot be substituted by more points earned in other categories.

As a result of extensive market research, OSCE Procurement communicated with 18 potential suppliers to alert them to the tender and to highlight the new criteria. All other tender evaluation criteria remained similar to previous tenders for the contract. In the introductory text of the tender documentation, new paragraphs containing information about CTHB were introduced to direct bidders' attention to the new tender questions and why they are important for the OSCE. Upon the completion of the solicitation phase, six bidders had submitted a bid, which was a larger number of submitted bids than in previous tenders for the contract. This was the result of active engagement of OSCE Procurement with the invited bidders, to ensure they all fully understood the new tender requirements on CTHB. Of the six bidders, two failed the technical evaluation. Of the remaining four bidders, two did not achieve the threshold score for the CTHB requirements (including the previous supplier for a similar contract). One previous bidder decided not to submit for the contract in this round, since they could not satisfy the new CTHB evaluation criteria.

The evaluation criteria related to THB/LE for this contract can be found in Annex VI.

For technical requirements, questions for bidders should be relevant to the contract's subject matter. They should deal with how products are produced or services are provided, as well as the impact on the workforce of the working conditions or materials used.

OSCE expectations regarding human rights in supply chains are covered in the OSCE Supplier Code of Conduct. It is mandatory for all contracted suppliers to sign the Supplier Code of Conduct; refusal to do so is a valid cause for exclusion. Information about performance regarding human rights and THB/LE-related criteria can also be debriefed to unsuccessful bidders following the conclusion of the tendering process.

If a sector is not accustomed to dealing with THB/LE risks, not yet ready to do so, or has a wide range of practices, it may be appropriate to begin with basic evaluation criteria and expectations. Particularly for longer term contracts, one might consider embedding a continuous improvement process in the contract, whereby a supplier can demonstrate progress based on certain key requirements. Over time this will lead to CTHB/LE performance improvement of the supplier, and thus of the supply market overall.

Submission stage

The earlier phases of the procurement process are vital for establishing a foundation for exercising future leverage. Nonetheless, in practice they do not necessarily give buyers much influence over the behaviour of suppliers. For this reason, a balance must be found between CTHB/LE ambitions and the resulting efforts for procurement staff and suppliers. During the submission stage, procurement staff should be mindful of not deterring bidders or overburdening them with excessive requests for data and information. There is a risk of smaller suppliers being overwhelmed by the complexity of the OSCE procurement process and thus becoming excluded.

Exclusion criteria must take the market into consideration. Moreover, competition must be maintained in the tendering process. If an exclusion seems too harsh, procurement staff might consider asking a supplier what measures it can put in place to achieve the minimum standard of ILO core conventions across their supply chains. To ensure that this is then done, their actions can be monitored.

At the award stage, it is important to be pragmatic and proportionate, and to consider whether the demands of CTHB/LE can be met by businesses of all sizes and types. This will naturally vary between field operations based on the conditions of their local supply markets.

At the submission stage, procurement officers can check the Business Report of individual suppliers. Bidders that in the past have been linked to THB/LE offences must be excluded unless the supplier can provide evidence that substantial and effective remediation and improvement have since been implemented. If the Business Report includes allegations of THB/LE or poor working conditions more broadly, similar pledges should be sought from the supplier and necessary caution be exercised in the selection process.

Box 16: Who does what?

- OSCE programme staff (ideally the CTHB focal point) can help with evaluating CTHB-related parts of a technical bid and offer advice regarding whether respective offers are technically acceptable or not.
- OSCE Procurement leads the procurement process and defines the roles and responsibilities of the evaluation team.
- OSCE programme staff can help with assessing Supplier Due Diligence Reports.
- OSCE Procurement “owns” the relationship with the supplier. All communication must go through the relevant procurement team.
- OSCE Procurement provides the experts for the local supply market.
- In case of a failure to meet CTHB requirements, this is documented in the technical evaluation report; procurement staff ensures that the evaluation report complies with the requirements of the procurement procedures and the tender documents.

Tender evaluation

After submissions are received, they must be evaluated. This happens in two steps: A technical evaluation and a financial evaluation. For THB/LE risks, we focus on the technical evaluation. However, you may also want to check whether the financial offer is sufficient to pay workers the local minimum wage, or, if protective equipment for workers is needed, that the realistic costs for such equipment are covered. If this cannot be seen from the cost proposal, clarification can be sought from the bidder. For future tender exercises, changing in the template for requested financial information can make such costs visible.

The technical evaluation consists of mandatory requirements that are evaluated as either pass or fail, and optional requirements, which can be evaluated with a point system. If contract awarding is based on lowest cost, only the mandatory requirements need to be checked.

Often CTHB/LE considerations are placed in the optional requirements. This incentivizes suppliers to perform well on these requirements, and gives them various ways to provide evidence of good practice. On the other hand, mandatory CTHB/LE requirements are more useful if minimum expectations must be achieved, expectations that can be assessed with clear yes–no responses (for example, Fair Trade certification).

Whereas mandatory requirements are less involved, they are also easy to evaluate. Optional requirements are more complex to evaluate, such as through a point system, with more points given for excellent responses, and no points for very poor responses.

Box 17: Workforce questions for a cleaning services contract⁴²

The following are examples of tender questions for a multiple-year cleaning services contract:

Please provide the total number of workers employed. Include a breakdown of the number of workers hired directly, as well as indirectly through labour agencies, subcontractors or recruitment agents. Please include information about permanent/temporary/causal workers and company awareness of potential vulnerabilities affecting workers (language, ethnicity, remote residence or other).

A strong response to the above questions would be a higher proportion of directly employed permanent staff, and the supplier expressing an awareness of vulnerabilities. Other positive indicators are low labour turnover and engagement with worker representatives. Poor responses include the extensive use of labour agencies, subcontractors and recruitment agents, as well as high labour turnover.

42 International Finance Corporation (IFC), CDC Group Plc, the European Bank for Reconstruction and Development (EBRD) and the UK Department for International Development (DFID), Managing Risks Associated with Modern Slavery: A Good Practice Note for the Private Sector (2018). Available at: https://www.ifc.org/wps/wcm/connect/topics_ext_content/ifc_external_corporate_site/sustainability-at-ifc/publications/publications_gpn_modernslavery (accessed 24 June 2021).

43 Available at: <https://procurement.osce.org/key-procurement-documents> (accessed 14 February 2020).

44 See CIPS (2017) Protecting Human Rights in the Supply Chain. A Guide for Public Procurement Practitioners.

Drafting contracts

Contracts are the key tool for exercising leverage over suppliers because they establish the obligations suppliers must fulfil in the business relationship. During the contract drafting phase, certain requirements can be proposed for later implementation and future monitoring. Contracts that include specific human rights due diligence obligations enable procurement staff to establish a contractual relationship with suppliers in which suppliers are obliged to identify, prevent, mitigate and eventually remediate THB/LE risks and harms. Drafting such clauses must be done with care. They must be compliant with the OSCE General Conditions of Contracts for Goods and Services⁴³

Box 18: Potential OSCE CTHB contract clauses⁴⁴

It is suggested to include one or more of the following clauses in contracts between the OSCE and suppliers. Which clause or clauses are selected will depend on contract size, supplier, the specifics of the THB/LE risks and other contextual considerations.

- The Supplier will identify and mitigate the risk of THB/LE and human rights violations in its supply chain.
- The Supplier will, within 90 days of the commencement date, produce a THB/LE Supply Chain Due Diligence Report that identifies the main risks of THB/LE or human rights violations in its supply chain, highlighting the main products and countries involved, as well as steps to be taken to mitigate the risks in the short, medium and long term.
- The Supplier will annually update the THB/LE in the Supply Chain Due Diligence Report for the duration of the contract. More updates will be provided if risks of THB/LE or human rights violations in the Supplier's supply chain have been assessed as imminent by either the Supplier or the OSCE.
- The Supplier agrees that the OSCE will assess the THB/LE in the Supply Chain Due Diligence Report and the annual progress of the Supplier to prevent and mitigate risks of THB/LE and human rights violations in its supply chain.
- The Supplier agrees to provide information to demonstrate its approach to CTHB/LE. This might include, for example, examinations of the conditions of its workforce, details about ongoing supply chain monitoring, updates on action plans put in place within its supply chain, information about working/employment practices, evidence of risk management and monitoring processes, or information about its recruitment practices.

Box 17 contains suggestions for clauses that can be used in or adapted for contracts. The number of clauses included in the contract, as well as the detail of their requirements should be proportionate to the risk, costs and supply market. These examples are based on proposals for contract clauses in the publication *Protecting Human Rights in the Supply Chain. A Guide for Public Procurement Practitioners* (CIPS, 2017). They were developed for UK procurement staff to comply with their obligations and expectations under the UK Modern Slavery Act (2015) to exercise and report on human rights due diligence in their supply chains to prevent, mitigate and remedy modern slavery and human trafficking.

The following types of clauses can be used in contracts for goods and services that are not purchased regularly. All clauses should be adapted to the needs of the specific situation.

- A clause giving OSCE the right to require the supplier to submit, agree and deliver an action plan to remedy any identified issues. Failure to agree or implement the action plan could be supported by liquidated damages or service credits, depending on the contract.
- A clause giving OSCE the right to gather information about issues regarding the supplier from third parties, including other customers, trade unions, researchers or experts, and to use that information to exercise other rights under the contract.
- A termination or suspension clause that is triggered when charges related to human rights abuses or instances of THB/LE are brought against the supplier. Proactive reporting of the discovery and occurrence of THB/LE by the supplier would not result in termination.
- A clause to ensure that the supplier's subcontractors are contractually bound by the same terms as the OSCE supplier in relation to THB/LE issues, and that these terms are cascaded throughout the supply chain.
- A clause allowing the OSCE to require the supplier to terminate a subcontract if the subcontractor is in breach of any of the terms in the subcontract relating to THB/LE;
- A clause to allow the OSCE to approve all subcontractors who carry out services within the supply chain of an OSCE contract, or any changes to such subcontractors.
- A clause requiring suppliers to collaborate with buyers on assessing risks and designing due diligence processes, and to report regularly on their own due diligence.

SECTION 5

CONTRACT MANAGEMENT SUPPLIER ENGAGEMENT AND MONITORING



The next step, which is a key step, is managing the contract to exercise effective human rights due diligence. This allows OSCE staff to work collaboratively with suppliers to identify, prevent, mitigate and eventually remediate THB/LE risks and harms.

Working with suppliers

THB/LE is an issue that requires continuous effort and improvement. It is reliant on effective management of the supplier relationship. The contract management phase involves a contract administrator and a contract owner. The contract administrator role remains with the procurement staff, whilst the contract ownership is handed to the requestor/programme staff. Managing contracts is therefore a collaborative effort.

While recognizing and acknowledging that suppliers and the OSCE have different business objectives, engagement with suppliers that is positive, proactive and collaborative will encourage transparency. Engagement is not only critical for incentivizing suppliers to flag issues as they arise, it is needed to enable contract management teams to work effectively with suppliers to address such issues. Encouraging suppliers to be proactive and open, to report risks as they come to light, and to engage in their resolution is essential. This requires a good relationship between contract management team and the supplier. Such relationships can be established through contracts that call for regular communication and review. If THB/LE abuses are identified, engagement with suppliers will incentivize them to respond with steps to prevent, mitigate or remediate these abuses.

Co-operation and open communication are crucial for effective changes. However, the primary driver for taking action should not be to manage reputational risks to the OSCE, but to address THB/LE risks. While risks to OSCE's reputation are important, more important is responding to the serious and persistent issue of victims of THB/LE in global supply chains. The most effective way to tackle this issue is to acknowledge that THB/LE practices exist, to create a culture of co-operation and open communication, and to work together. The main aim of working with suppliers during the contract management phase is not overburden or penalize them, but to work collaboratively with them to eradicate THB/LE, whether it already exists or arises later.

Remember that all contracted suppliers to the OSCE sign the OSCE Supplier Code of Conduct.

Identifying which suppliers require attention: Data collection and THB/LE supplier risk assessments

When assessing risks in the supply chains of certain sectors, the first step is mapping them, as described in Section 3 above. Moreover, if THB/LE is specifically considered in the planning and tendering phases of a contract, as described in Section 4, this makes it easier to undertake activities to identify specific THB/LE risks and respond to them. For a new contract with a supplier, a risk assessment of that supplier must be completed based on the mapping exercise. Suppliers in certain sectors may be initially treated as high risk. Case-by-case assessments of specific suppliers can then reveal which suppliers require more attention.

When managing existing contracts, if there are risks to address but CTHB/LE measures were not put in place at the time the contract was concluded, it is important to work with the supplier to establish a fair and proportionate approach to these risks. In some cases, contract changes may be needed. If the contract allows for such modifications, this might involve adding some of the contract clauses suggested in Section 4.5.

In future phases of implementing CTHB/LE measures, procurement practitioners will be able to use data collected from the OSCE Contracts Inventory or Oracle IRMA to establish the THB/LE risks for certain suppliers based on their industry sector and country of production. However, until it is possible to include such data automatically in OSCE procurement systems, to prioritize resources a manual THB/LE Supplier Risk Assessment of existing suppliers should be undertaken.

It is important to keep records of the outcomes of THB/LE Supplier Risk Assessments in a contract management database. This database should be kept up to date and have a format that can easily capture such data and enable searches. It should contain records of how and when the arrangements with specific suppliers have been reviewed, amendments were agreed upon, and the Supplier Code of Conduct was signed.

Working with high-risk suppliers

If a supplier has been categorized as high risk, a risk mitigation plan should be put in place so that OSCE staff can address areas of concern and build these into contract management activities. Procurement staff, in collaboration with programme staff and CTHB focal points, should develop an action plan setting out the behaviour, standards and actions required of both parties to address THB/LE issues. This plan should clearly state what actions will be taken, as well as when and by whom, including deadline dates, milestones and targets. It should also include what preventative measures the supplier must put in place to stop recurrence.

Box 19: Creating an action plan for high-risk suppliers

Here are suggestions for steps to create a THB/LE high-risk supplier action plan if a supplier has been identified as high risk:

- Ask the supplier to fill out and return a supplier risk assessment questionnaire (a sample questionnaire can be found in Annex II below).
- Schedule a meeting with the supplier to discuss their answers to the risk assessment questionnaire.
- At the meeting, discuss the type of actions that could be taken, and ask suppliers to prepare an action plan for you to review with them at your next meeting.
- The action plan can be integrated with the best practice of establishing a contract management committee for high-value contracts (including high-risk categories like construction, hospitality or reception services, maintenance and catering).

The type of information a supplier should have in its action plan are connected to the questions in the supplier risk assessment questionnaire. They should include:

- How does the supplier collect data to help them understand their supply chains?
- What target areas have been identified?
- How do they plan to manage these areas?
- What THB/LE risks are common in their industry?
- Are there any policy changes that should be addressed?
- What type of commitment do they have (such as contractual or code of conduct agreements) from their supply chain?
- Who is the individual in their organization responsible for THB/LE issues?
- If a potential risk has been identified, how are they mitigating it?

In existing contracts is important to note that the existing supplier arrangements may or may not be able to adequately deal with risks related to THB/LE. In such cases it is recommended to suggest that the supplier agree to a contractual amendment covering risks or instances of THB/LE.

Although any supply chain map will naturally start with tier 1 suppliers, to understand specific risks it may be necessary to expand a map to further tiers. Our tier 1 suppliers may have demonstrated that they are aware of the THB/LE risks their workers are exposed to and that they are taking action to mitigate them. If this is not the case, procurement staff may want to further investigate a supplier's supply chain to understand the THB/LE risks in upstream tiers and if so, whether that suppliers' suppliers are taking any action against them. If practical, action plans should also consider how to work systematically and progressively over time with tier 1 suppliers to build more complete pictures of their supply chains. This should be done until procurement staff are satisfied that all risks further upstream have been identified and addressed.

It is essential for procurement staff to maintain regular contact with suppliers, not only to assess the progress of any action plans, but also to ensure that suppliers are accepting their responsibilities as laid out in such plans. This can be done formally at review meetings (addressed in section 5.4. below), or informally through conversations and interaction during the period the contract is valid. Any actions that are taken should be victim centred: focused on providing the best outcome for victims, particularly if children are involved. This is discussed further in Section 7 below.

Vendor performance review meetings

Annual vendor performance evaluations are undertaken annually at the OSCE by the contract owner of all window contracts. These evaluations are a unique opportunity to engage with suppliers on human rights due diligence and to monitor how suppliers are acting on their action plans to identify, prevent and mitigate THB/LE. Programme staff should be involved in evaluating CTHB/LE progress. For contracts where the risk of THB/LE is high, vendor performance evaluations must consider CTHB/LE and demand that suppliers provide relevant information so that procurement staff can assess and monitor compliance. OSCE expectations regarding THB/LE due diligence will have been apparent to suppliers at an early stage, and thus they should be aware that this will be a regular element of performance reviews as well.

Terminating contracts

Suppliers should be asked to provide evidence of the processes in place to identify and address THB/LE risks in their supply chains. This should be managed through regular contract review meetings, which are already built into the OSCE contract template. A useful tool is to have a standard template for such review meetings, and to use this template to organize the meeting agenda. The template should include an opportunity for the supplier to provide detailed updates on how they are meeting legislative and contractual requirements. These meetings should also be used to discuss action plans and whether a new action plan should be put in place, particularly if suspected or confirmed instances of THB/LE have been found. Such plans should provide details about how specific instances will be addressed.

Contract review meetings should be carried out in an environment of openness, with suppliers sharing areas where they have identified possible THB/LE in their supply chain. Under contracts that include THB/LE clauses, addressing instances of THB/LE cases is the supplier's responsibility. This level of engagement should continue throughout the period of a contract's validity; the frequency of such meetings will depend on the risk level and length of the contract, and whether any high risks have been identified that need closer monitoring.

Box 20: Example topics for a contract review meeting

- Progress compared to the action plan and next steps;
- Training in CTHB/LE for supplier employees, and actions to be taken in the event of suspected cases;
- Recruitment agency polices and performance update;
- What has been undertaken to identify supply chain risks;
- What mitigation steps have taken place to improve working conditions in the supply chain if it has been identified as needed;
- Details of any audits or reports that have taken place, and their outcomes.

Supplier policies and practices should be examined and progress assessed year by year to ensure that the supplier is motivated to continue identifying and managing supply chain risks throughout the period of the contract's validity. In addition to their contract performance, suppliers should set targets for improving their own supply chain by reducing the risk of THB/LE. Targets will differ depending on the type of supply, the length of supply chain, and the level of risk/reputational damage to both the OSCE and the supplier. A remediation or corrective action plan may be required if significant deficiencies are identified at these meetings. All information about THB/LE risks should be annexed to the contract file.

In cases in which THB/LE is discovered, our first reaction is often to want to terminate the relationship with the supplier, to look for alternative retailers to source from, or even to avoid procuring certain goods altogether. However, immediately terminating a contract can leave THB/LE victims even more vulnerable and at risk.

Even if unacceptable risks or violations of human rights are found, terminating a contract with a supplier may be counterproductive. Taking immediate action to terminate a contract can have a drastic effect on the victims involved, indeed it can put victims at even greater risk of harm. Thus, even if a supplier is suspected of being complicit in the crime of THB/LE, or having not acted on violations despite previous knowledge, terminating a contract is still not recommended. The priority should be to work closely with the supplier to help the victims who have suffered and ensure that others do not become victims. This is also a good moment for the OSCE as well as the supplier to learn how these victims became vulnerable, as well as about the source of the THB/LE risk in this particular supply chain. Maintaining transparency of the issues and risks is important. Working with suppliers is the best means for helping victims and preventing recurrence.

Terminating a contract should only be done as a last resort, following efforts by OSCE staff to work with the supplier to remedy the issue. Termination should only occur if a supplier does not respond, or maintains the abusive or risky practices in their business model. The decision of terminating a contract should be done only after seeking advice from the OSCE Procurement and Contracting Unit, together with the OSCE Office of Legal Affairs if necessary. Until a decision on termination or continuation is made, a suspension of the contract might be advisable.

The danger of terminating a contract lies in the fact that with the termination all leverage for change disappears. This means that the potential victims become invisible to the OSCE. They will remain in THB/LE without their situation improving and without remediation. Advice on what to do when victims are detected can be found below in Section 7.

SECTION 6

TRANSPARENCY, COLLABORATION AND CONTINUOUS IMPROVEMENT



If the OSCE demands transparent and effective CTHB/LE measures from its suppliers, we should also live up to the same demands. Each procurement professional who manages suppliers should keep a record of progress and interaction on CTHB/LE processes and effectiveness. Procurement teams should establish whether the tools and procedures they and their suppliers have put in place to highlight risks are working, whether corrective action is being undertaken, and what its impact has been on the ground.

Recording and measuring actions should happen at the field operation level until organization-wide frameworks and reporting processes are agreed upon. Indicators to be measured should be the number of suppliers engaged with on THB/LE, specific spending categories and suppliers identified as high risk, the number of tenders with CTHB/LE evaluation criteria (and documentation of these criteria), progress with suppliers on THB/LE prevention and best practices observed, target activities for the year ahead, and progress in the monitoring of suppliers through action plans. These recording and measurement points will develop further as CTHB/LE is embedded in the procurement activities of the OSCE, and organization-wide reporting is developed.

Collaboration is essential in any process that involves human rights due diligence. This involves internal collaboration between procurement staff and programme staff at the OSCE executive structures and field operations, but also external collaboration with law enforcement agencies, civil society organizations, workers' representatives and trade unions.

It will take time for CTHB/LE provisions to be implemented across the entire OSCE. It will take capacity-building within the OSCE and establishing processes and work routines. It is important to recognize that this is a learning process for the entire organization. It is not something that can be simply turned on. Implementing CTHB/LE provisions will require each field operation tailoring their procurement processes to local circumstances. Box 21 presents the OSCE's implementation road map for CTHB/LE in procurement.

Performing human rights due diligence in supply chains is a continuous learning process, which must be shared, reflected upon, and subjected to feedback and scrutiny. The focus must be on solving the problem, not ignoring or hiding the problem. This requires learning, adapting and improving. As with any process, it will involve a review of successes and failures. It is important to recognize due diligence as a flexible, organic process that will enable our organization to live up to a basic expectation held in it by our participating States and the general public – to conduct its business without harming others.

Box 21: OSCE implementation road map

The OSCE will develop a road map for implementing CTHB/LE provisions in its procurement in all field operations. The road map of each individual operation will be developed jointly by the field operation procurement, the CTHB focal point, and the OSCE's OSR/CTHB.

The implementation road map will take several months until all field operations are covered. It will result in a continuous cycle of learning and sharing of experiences amongst all involved. All field missions will receive training based on these procurement guidelines. Collaboration between the CTHB focal points and field operation procurement staff will be formally established.

With support from the Secretariat's OSR/CTHB and the Procurement and Contracting Unit of the Department of Management and Finance (PCU/DMF), each field operation collaboration will work on:

- Mapping THB/LE risks in their supply chains;
- Creating an action plan identifying priority categories and contracts;
- Planning support for identified victims;
- Implementation and communication;
- Framework and processes for monitoring, tracking and reporting.

Sharing experiences and learning with others, both internally and externally, will support the identification of best practices and spread them across the organization and beyond. This will strengthen the OSCE's response to THB/LE in supply chains.

SECTION 7

TAKING ACTION WHEN VICTIMS ARE FOUND WORKING TOGETHER TO ESTABLISH A RESPONSE



Some THB/LE risks and incidents are further upstream in our supply chains, often a consequence of how specific industries are organized. Such risks and incidents will require a longer-term approach to address the root causes of the abusive practices. To identify, prevent and mitigate THB/LE in OSCE supply chains, during procurement processes the procurement and programme staff of each executive structure and field operation, especially local CTHB focal points, need to work collaboratively.

The OSCE recently joined Electronics Watch, an NGO that brings together mainly public buyers to fight THB/LE in electronics supply chains to work towards longer-term change in the electronics industry through worker-driven monitoring of the industry for its collective members. THB/LE incidents are regularly reported in the electronics industry. No individual buyer would have enough market power to push for change on their own. As a result of our work with Electronics Watch, we have altered our tender evaluation criteria for relevant corporate window contracts (see Box 14).

Nonetheless, it is possible for THB/LE incidents to be identified on OSCE premises, at a tier 1 supplier, or in a supplier further upstream in the OSCE's supply chain.

When an incident of THB/LE is identified on OSCE premises or at a tier 1 supplier, the steps to be taken must be determined by procurement and programme staff, with guidance and support from executive structures and in particular the Office for Internal Oversight (OIO). These steps should always involve a victim-centred approach. Particularly on OSCE premises a priority should be immediate safeguarding needs. Once immediate safeguarding is ensured, engagement with the supplier should be sought to undertake action towards remediation and prevention of recurrence.

If OSCE staff observe or suspect incidents of THB/LE or “milder” labour rights violations, or see workers being treated poorly, this can also be reported to the OIO, or directly to the relevant Chief of Fund Administration (CFA) or Chief of Procurement and Contracting Unit (PCU).

When it is an indirect risk, for example media or NGO reports about THB/LE in an OSCE supplier's supply chain, actions need to be well planned and well executed. Such cases should be brought to the Secretariat level to determine and co-ordinate an organization-wide response.

As explained before, terminating a contract should be a last resort. Severing the contractual relationship will make victims invisible and abandon them to further abuse. Even if a supplier is suspected of being complicit in the crime, the priority should be to work closely with the supplier to help the victims and prevent recurrence. Reactive contract termination can lead to fear and concealment by suppliers, which in turn puts victims at greater risk. Maintaining transparency is important. Working with suppliers offers the best chance of helping victims and preventing recurrence.

As part of developing a CTHB/LE roadmap (see Box 20), procurement staff together with the CTHB focal point in each executive structure or field operation should establish procedures on how to deal with instances of THB/LE in suppliers, including who should co-ordinate the response and who should be directly involved. The roadmap should include working with the supplier to put an action plan in place that is specific to the incident and to steps prevent recurrence once examinations have concluded. Issues that should be considered when developing such action plans include how to remediate the workers involved (this may include involving police and the judicial system), and a review of the suppliers' policies and systems to ensure that these are adequate for preventing future incidents. The CFA (in the field mis-

sions)/Chief PCU (in the Secretariat) should co-ordinate the engagement with the supplier, since commercial contracting at the OSCE is under the ultimate authority of the Chief PCU.

All efforts should be focused on preventing and mitigating human suffering through THB/LE. The OSCE is committed to this goal. Procurement is just one of the tools to achieve it, albeit a key one. The OSCE took a lead in developing policies and practices that ensure that the goods and services it procures not only do not contribute to further exploitation, but can actually transform the market by creating a demand for goods and services free of human rights abuses. The OSCE staff to whom this guidance is addressed are instrumental to make this happen.

Box 22: **Reporting THB/LE cases and suspicions**

If you have a suspicion that workers on OSCE premises or at OSCE suppliers are being subject to THB/LE or other wrongdoing, the OSCE's Office for Internal Oversight (OIO) should be informed through any of the following channels:

Telephone: +43 1 51436 6199

Email: oversight-hotline@osce.org

Via SMS, WhatsApp, Viber, Signal or Telegram: +43 6763012924

These channels are also open to the public to report wrongdoing. More information can be found on the OSCE's external website: <https://www.osce.org/contacts/report-wrongdoing>.

If a worker on OSCE premises discloses that they are victims of THB/LE to an OSCE staff member, there is of course an immediate safeguarding need. All further steps should be victim-centred and only undertaken with consent from the victim. These steps could include: contacting the Mission's security officer and contacting the relevant victim support organization. A relevant victim support organization should be identified as part of the action plan (see Box 20). Under the new Prevention of Sexual Exploitation and Abuse Policy (PSEA Policy) a safeguarding focal point will be established. Where the safeguarding focal point is already established, they should be involved as a safeguarding expert, and relevant law enforcement or government support services should be contacted.

Any engagement with the related supplier should be co-ordinated by the CFA (at field operations) or the Chief PCU (at the Secretariat). In less severe cases of labour rights violations, OSCE staff may want to report the instance directly to the CFA/Chief PCU without going through the OIO. Cases of media or NGO reports of THB/LE in OSCE suppliers or in their supply chains should also be reported to the CFA/Chief PCU, either directly or via the OIO.

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OSCE Code of Conduct for Staff/Mission Members. Appendix 1 to the OSCE Staff Regulations and Staff Rules, Permanent Council Decision 550/Corr.1, 27 June 2003

Available at: <https://www.osce.org/secretariat/31781?download=true> (accessed 14 Feb. 2020).

OSCE Supplier Code of Conduct

Available at: <https://procurement.osce.org/resources/document/supplier-code-conduct> (accessed 7 Feb. 2020).

The Guardian (2018) Reports of slavery in British car washes fail to trigger arrests, 13 July 2018

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The Guardian (2016) Malaysia: forced labour casts dark shadow over electronics industry, 21 November 2016

Available at: <https://www.theguardian.com/global-development/2016/nov/21/malaysia-forced-labour-casts-dark-shadow-over-electronics-industry> (accessed 13 Feb. 2020).

UN, Sustainable Development Goals

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Internet sources

Anti-Slavery International

www.antislavery.org

Ethical Trading Initiative Base Code

www.ethicaltrade.org

Global Slavery Index

www.globalslaveryindex.org

ANNEX I

Additional resources and information sources for risk assessment

There are many additional useful sources and tools providing information on how to assess risks in our supply chains. Most of these tools have been developed with the private sector in mind. Nonetheless, we share the same supply chains, and thus the same risks are linked to the same products and sectors, independently of who the buyer is.

This Annex contains a list of tools and further useful sources of information that procurement staff can use to gather general knowledge regarding different sectors.

Resource type	Resource name	What it is and what it is useful for
Tools and guidance for supply chain mapping, risk assessment and due diligence frameworks	Anti-Slavery International Products of Slavery interactive map: www.productsofslavery.org	This is the oldest international NGO advocating for the end of abusive practices. This tool helps trace working conditions in supply chains of certain types of products.
	ITUC, Global Rights Index: https://www.ituc-csi.org/rights-index-2019	The International Trade Union Confederation (ITUC) promotes and defends workers' rights and interests through international co-operation. This page contains useful resources as well as data on trade union rights across the globe.
	Danish Institute for Human Rights, Human rights impact assessment guidance and toolbox: https://www.humanrights.dk/business/tools/human-rights-impact-assessment-guidance-and-toolbox	Step-by-step guidance and practical tools for conducting, commissioning, reviewing or monitoring human rights impact assessments of business projects and activities.
	Ethical Trading Initiative Due Diligence Framework: https://www.ethicaltrade.org/resources/human-rights-due-diligence-framework	A guide on human rights due diligence, with recommendations to help companies prevent and manage labour rights risks in their operations, supply chains and the services they use.
	Human Trafficking Risk Template (HTRT): www.socialresponsibilityalliance.org	The HTRT is a free open-source industry standard template used to assist companies in their efforts to comply with major human trafficking and modern slavery regulations, and to improve their supply chain-related public disclosures.
	International Financial Corporation, Good Practice Note: Managing Risks Associated with Modern Slavery: https://www.ifc.org/wps/wcm/connect/topics_ext_content/ifc_external_corporate_site/sustainability-at-ifc/publications/publications_gpn_modernslavery	Information to support the private sector in the fight against labour exploitation providing practical tools to better identify, mitigate and remediate its risks, and to support environmental and social due diligence.
	Know the Chain: www.knowthechain.org	Know the Chain is a resource for companies and investors to combat forced labour in their global supply chains. It uses benchmarking as a tool to identify and share best practices, and to encourage companies to adopt standards and practices that protect the well-being of workers. It publishes ranking scores according to companies and sectors.

Resource type	Resource name	What it is and what it is useful for
	Responsible Sourcing Tool: www.responsiblesourcingtool.org	Created by Verité, Made in a Free World, and the Aspen Institute, with support from the U.S. State Department's Office to Monitor and Combat Trafficking in Persons, this web platform helps to visualize and understand the risks of human trafficking in supply chains.
	Slavery Footprint: www.slaveryfootprint.org	The Slavery Footprint Platform combines product data with consumer purchase data to provide footprints for close to 30 million people worldwide. It has also created an online supply chain transparency tool called FRDM.
	UK Gangmasters & Labour Abuse Authority (GLAA), "Spot the Signs": www.gla.gov.uk	GLAA is a public body investigating all aspects of labour exploitation in England and Wales. Their "Spot-the-Signs" booklet gives a list of indicators to detect if a person is a victim of trafficking or being subjected to forced labour.
	U.S. Department of Labour, List of Goods Produced by Child Labor or Forced Labor: https://www.dol.gov/agencies/ilab/reports/child-labor/list-of-goods	The U.S. Department of Labour's Bureau of International Labour Affairs (ILAB) publishes a list of goods from countries that it has reason to believe are produced by forced or child labour in violation of international standards. For the 2018 edition, ILAB reviewed new information on goods from 153 countries and territories, and compiled a list of 148 goods from 76 countries produced by child or forced labour.
	Walkfree Foundation's Tackling Modern Slavery in Supply Chains guide: https://cdn.walkfreefoundation.org/content/uploads/2016/03/14095601/Tackling-ModernSlaveryInSupplyChains20141-1.pdf	The Walkfree Foundation is an organization committed to ending all forms of "modern slavery". This tool is a practical guide on how to reduce or eliminate this risk in the supply chains of businesses, organizations and governments. It includes examples of best business practices.

Resource type	Resource name	What it is and what it is useful for
Public procurement guidance and resources	Chartered Institute of Procurement & Supply (CIPS) Source Responsibly website: https://www.cips.org/cips-for-business/responsible-procurement/	This page contains useful resources to support taking steps to address slavery and corruption and embed ethical and sustainable practices in procurement.
	Danish Institute for Human Rights, Driving change through public procurement: https://www.humanrights.dk/publications/driving-change-through-public-procurement	A useful toolkit on human rights for both policymakers and public buyers.
	LUPC Guidance on Protecting Human Rights in the Supply Chain and E-Learning Tool for public buyers: https://www.lupc.ac.uk/Responsible_Procurement	This page contains the guide Protecting Human Rights in the Supply Chain. A Guide for Public Procurement Practitioners (CIPS, 2017) and its free e-learning suite.

Academic and research resources	Business, Human Rights and the Environment Research Group: www.bhre.org	This is the website of a research group specialized in public procurement and human rights. It contains academic, policy and practitioner resources.
	Business and Human Rights Resource Centre: https://www.business-humanrights.org/en	A useful human rights knowledge hub that tracks the human rights policies and performance of over 10,000 companies in over 180 countries, and makes the information accessible to the public.
	International Learning Lab on Public Procurement and Human Rights: www.hrprocurementlab.org	The Learning Lab brings together academics, policymakers and practitioners. This page contains a useful blog where experts discuss latest developments and issues related to procurement and human rights.
	Verité Forced Labor Commodity Atlas: https://www.verite.org/commodity-atlas/	Verité has developed the so-called Commodity Atlas, which provides up-to-date research and information on forced labour related to various commodities (including gold, cotton, sugar, palm oil, etc.).

ANNEX II

Supplier risk assessment questionnaire

The following sample supplier questionnaire can be used either for existing suppliers or as part of a procurement process. It can help procurement staff to better understand the HTB/LE risks posed by suppliers. It should be issued to suppliers only after the relevance of each question to them has been reviewed. As mentioned above, some questions are more related to direct risks, others to indirect risks. This tool has been adapted from the internal procedures of the London Universities Purchasing Consortium (LUPC).

This simple risk assessment questionnaire can be used as a template. After suppliers have responded to it, it is sent back to procurement staff for review. It is not an exhaustive list of questions. Moreover, some of the questions listed are not relevant for all markets.

Questions regarding internal company policies	Answers	Explanations
Do you currently have a programme to assure that the risks of human trafficking and labour exploitation are addressed in your operations and supply chain?	<input type="checkbox"/> Yes <input type="checkbox"/> No	If yes, please describe your programme.
Do you currently work with a third party to identify the overall human trafficking and labour exploitation risks in your supply chain? This may include mapping your supply chain and looking into what countries you source from, what products or services you buy, and the risks related with sourcing from those countries or sourcing a specific product.	<input type="checkbox"/> Yes <input type="checkbox"/> No	Please explain.
Do you have internal accountability standards and procedures in place to hold your employees and contractors accountable for non-compliance with your standards on human trafficking and labour exploitation?	<input type="checkbox"/> Yes <input type="checkbox"/> No	Please explain.
Have you established consequences for non-compliance of employees and contractors with said standards?	<input type="checkbox"/> Yes <input type="checkbox"/> No	Please explain.
In the event that non-compliance by your employees/contractors is discovered, do you have a programme to remediate such infractions?	<input type="checkbox"/> Yes <input type="checkbox"/> No	Please explain.
Have your management employees, particularly those in charge of supply chain management, been trained to understand what human trafficking and labour exploitation are and how to mitigate the risk of them in their respective supply chains?	<input type="checkbox"/> Yes <input type="checkbox"/> No	Please explain.

Questions referring to suppliers	Answers	Explanations
Do you currently conduct independent, unannounced audits of your own operations or those of your suppliers?	<input type="checkbox"/> Yes <input type="checkbox"/> No	Please explain. (Include, for example, descriptions of audit frequency and selection processes, and whether audits are random or risk based. If risk based, how is high risk identified?)
Does your audit programme include auditing personnel recruitment sources, including overseas labour brokers or overseas employment agencies providing imported labour?	<input type="checkbox"/> Yes <input type="checkbox"/> No	Please explain.
Are your audits based on supplier standards for suppliers that include clauses on human trafficking and labour exploitation?	<input type="checkbox"/> Yes <input type="checkbox"/> No	Please explain.
Have you set out consequences for supplier non-compliance with said standards?	<input type="checkbox"/> Yes <input type="checkbox"/> No	Please explain.
In the event that non-compliance by your suppliers is discovered, do you have a programme to remediate such infractions?	<input type="checkbox"/> Yes <input type="checkbox"/> No	Please explain.
Do you require your direct suppliers to certify that all materials incorporated into your final product were sourced, processed and manufactured in compliance with the human trafficking and labour exploitation laws of the country or countries in which they operate?	<input type="checkbox"/> Yes <input type="checkbox"/> No	Please explain.
Do you have a supplier code of conduct that covers the risks of human trafficking and labour exploitation for your own procurement from subcontractors?	<input type="checkbox"/> Yes <input type="checkbox"/> No	Please provide information on your standards and relevant sections.

ANNEX III

Procurement planning checklist

This is a sample procurement planning list that can be adapted to individual procurement processes. It can be used by OSCE procurement staff to guide them when considering how to insert CTHB/LE into each procurement phase. This checklist, like the one above in Annex II, has been adapted from LUPC internal procedures.

Procurement planning stage

Has the risk of THB/LE been established?	<input type="checkbox"/> Yes <input type="checkbox"/> No	If yes, at what level – low, medium or high?
Can THB/LE risks be managed/mitigated within the service or activity?	<input type="checkbox"/> Yes <input type="checkbox"/> No	If yes, how?
Are the THB/LE risks clear to the market/potential bidders?	<input type="checkbox"/> Yes <input type="checkbox"/> No	
Can the award criteria take account of the risk of THB/LE?	<input type="checkbox"/> Yes <input type="checkbox"/> No	If yes, how?
What evidence will suppliers be asked to provide?	<input type="checkbox"/> Yes <input type="checkbox"/> No	Please explain.
Is the evidence required proportionate to the risk?	<input type="checkbox"/> Yes <input type="checkbox"/> No	Please elaborate. How will the credibility of this evidence be assessed?
Have the terms and conditions of the contract been set out?	<input type="checkbox"/> Yes <input type="checkbox"/> No	Please elaborate. Do they meet our needs to address risks of THB/LE?
Do the terms and conditions pass on unnecessary risks to suppliers?	<input type="checkbox"/> Yes <input type="checkbox"/> No	Please explain.

Award stage

What evidence will bidders provide to demonstrate they have addressed any specification requirements in relation to managing THB/LE risks?	<input type="checkbox"/> Yes <input type="checkbox"/> No	Please explain.
Is the evidence proportionate to the risk?	<input type="checkbox"/> Yes <input type="checkbox"/> No	
What evidence will bidders provide to demonstrate, if subcontractors are used, that the supply chain will be managed and monitored to mitigate any THB/LE supply chain risks?	<input type="checkbox"/> Yes <input type="checkbox"/> No	Please explain.
Is the evidence proportionate to the risk?	<input type="checkbox"/> Yes <input type="checkbox"/> No	
Are workforce and working conditions, employment practices, and the bidder's recruitment practices relevant to the subject matter of the contract?	<input type="checkbox"/> Yes <input type="checkbox"/> No	
Have any minimum requirements or award criteria been clearly set out to bidders, using Annex II sample risk assessment questions along with criteria corresponding to the requirements, such as paying a living wage, details about overtime, recruitment policies that promote equal treatment and no discrimination?	<input type="checkbox"/> Yes <input type="checkbox"/> No	

Contract management

Have we set out how communication and reporting lines will be established with the supplier?	<input type="checkbox"/> Yes <input type="checkbox"/> No	
Has a requirement to regularly report on THB/LE risks been established?	<input type="checkbox"/> Yes <input type="checkbox"/> No	If yes, how will supplier performance be managed in this regard? Is this proportionate to the risk?
Have we established a clear and unambiguous process for reporting and responding to suspected incidents of THB/LE?	<input type="checkbox"/> Yes <input type="checkbox"/> No	
Do we have a contingency plan in place to ensure continued safe service delivery if THB/LE risks are identified or cases of THB/LE are reported?	<input type="checkbox"/> Yes <input type="checkbox"/> No	

ANNEX IV

OSCE materials and relevant documents

OSCE commitments and declarations

OSCE Code of Conduct for Staff/Mission Members. Appendix 1 to the OSCE Staff Regulations and Staff Rules, Permanent Council Decision 550/Corr.1, 27 June 2003. Available at: <https://www.osce.org/secretariat/31781?download=true>

OSCE Model Guidelines on Government Measures to Prevent Trafficking for Labour Exploitation in Supply Chains, and Compendium. Available at: <https://www.osce.org/secretariat/371771?download=true>

OSCE Compendium of relevant reference materials and resources on ethical sourcing and prevention of trafficking in human beings for labour exploitation in supply chains: Second updated edition. Available at: <https://www.osce.org/secretariat/450769>

Procurement Documents

FAI6:

The Financial and Administrative Instruction provides policy guidance on OSCE procurement – current version effective 1 Dec. 2020.

Procurement and Contracting Manual:

a practical step-by-step guide for OSCE procurement officers – under revision, planned completion, second quarter 2021.

General Conditions of Contract (GCC):

A legal OSCE document outlining the obligations of suppliers/vendors – in force since 25 Nov. 2011, this is the basis document regulating all contractual relationships between vendors and the OSCE.

Available at: <https://procurement.osce.org/key-procurement-documents>

OSCE Suppliers' Code of Conduct:

in force since 2014. All recommendations of the OSR/CTHB are taken into account in this document; it has received clearance from the OSCE's Office of Legal Affairs (OLA).

Available at: <https://procurement.osce.org/resources/document/supplier-code-conduct>

United Nations Procurement Manual:

Department of Operational Support Office of Supply Chain Management Procurement Division, Ref. No.: DOS/2020.9, 30 June 2020.

Available at: https://www.un.org/Depts/ptd/sites/www.un.org.Depts.ptd/files/files/attachment/page/pdf/PM_2019.pdf

ANNEX V

How ILO indicators for forced labour can be considered in risk assessments of OSCE supply chains

Abuse of vulnerability

It is likely that workers who do manual or low-skilled work are more vulnerable and therefore less able to defend themselves from exploitation or to ask for help. Workers who lack knowledge of the local language or laws often have few options to earn a livelihood. Other persons who may have few options for remunerated employment are members of minority religious or ethnic groups, or persons with disabilities or other characteristics setting them apart from the majority population. Such people are especially vulnerable to human trafficking and being abused at work. Such abuses are more likely if a worker depends on his or her employer to be in a particular country, for the job itself, for housing, food or access to other services, or for work for relatives.

Deception

Victims of THB/LE are often deceived. They may be promised one kind of job but then given another, or promised conditions that never materialize. This can also happen to persons providing services to the OSCE, or on premises where OSCE activities are undertaken. Many such persons would not have not given free or informed consent to do the job if they had known the conditions under which they would have to work. They may find themselves trapped in abusive conditions with no way to escape. Deceptive recruitment practices often involve false promises regarding working conditions and wages, but also regarding the type of work, housing and living conditions, possibilities of acquiring regular migration status, the location of the job, or the identity of the employer.

Restriction of movement

In low paying jobs, workers sometimes have their movement restricted. In extreme cases, they may even be locked up and guarded to prevent them from escaping while at work or when being transported from job to job. Their movements may be controlled inside the workplace by surveillance cameras or guards, or outside the workplace by agents of their employer accompanying them when they leave the site. Organizations contracting services may not have any suspicion that workers are not free to exit work premises, or are subject to other movement restrictions.

Isolation

One tactic used by traffickers is to isolate victims of THB/LE in remote locations and deny them contact with the outside world. Such victims may not know where they are, the worksite may be far from populated areas, and they may not travel independently to the work site, or work in the remote location itself. But it is possible even in populated areas to isolate workers. They can be kept behind closed and locked doors, or have their mobile phones or other means of communication confiscated to prevent them from contacting their families or seeking help. Isolation can also be imposed by a business's premises being informal and not registered. This makes it difficult for outsiders to notice or locate the business and monitor what is happening to its workers. This includes procurement staff who have contracted services, as well as law enforcement and other agencies.

Physical or sexual violence

THB/LE victims, as well as family members or close associates, can be subjected to physical or sexual violence. Physical violence can also include workers being forced to take drugs or drink alcohol so the trafficker has greater control over them. Violence is used to make victims work without complaining, or undertake tasks that were not part of an initial agreement. Evidence of physical violence is easier to spot than other kinds of violence, but physical abuse can also be disguised. Signs of physical abuse can be subtle and easy to overlook.

Intimidation and threat

In THB/LE situations, intimidation and threats are common. Victims may suffer intimidation and threats if they complain about their working conditions or want to quit their jobs. In addition to threats of physical violence, other common threats used against workers include denunciation to immigration authorities, loss of wages or access to housing or land, firing of family members, further worsening of working conditions, or withdrawal of "privileges" such as the right to leave the workplace. Regular insulting or degrading of workers also constitutes a form of psychological intimidation designed to increase their sense of vulnerability. Workers suffering such abuse may seem withdrawn or frightened, or do not make eye contact or engage in conversation with strangers, including procurement staff visiting a worksite.

Retention of identity documents

If an employer retains a worker's identity documents or other valuable possessions and that worker is unable to access these items on demand, workers feel they effectively cannot leave the job or risk the loss of their possessions. It is difficult for procurement staff to recognize such a situation if not engaging directly with workers. Nonetheless, if it becomes apparent that this is happening, it is a red flag for a situation of THB/LE. In many cases, without identity documents, a worker will be unable to obtain another job, unable to access essential services, or feel able to request help.

Withholding of wages

In some cases, withholding wages can also be form of THB/LE. Whilst irregular or delayed payment of wages does not automatically imply a labour exploitation situation and may happen in sectors that have uneven orders or contracts, if wages are systematically and deliberately withheld as a means to compel a worker to remain, denying him or her the opportunity to change employer, this points to exploitation. As in the case of documents being retained, it is difficult for procurement staff to know whether workers are being paid, but attempts to get this information should be made. A worker who is visibly malnourished or very poorly clothed may not have enough income to take care of themselves.

Debt bondage

Workers who have been trafficked or are being exploited are often working in a situation in which they are attempting to pay off an incurred or even inherited debt. Such debts can arise from wage advances or loans to cover recruitment or transport costs, from daily living expenses, or emergency expenses, such as medical costs. Debts can also be compounded as a result of account manipulation, especially if workers do not speak the local language or are illiterate. Persons in debt bondage or bonded labour often find it difficult to escape from the debt. It is common in such situations for employers or recruiters to devalue a debt holder's work, or inflate interest rates or charges for food and housing.

Abusive working and living conditions

THB/LE victims often endure living and working conditions that they would never accept freely if they were able to refuse. Victims may work under conditions that are degrading or dirty, that are hazardous, including not being provided adequate protective gear, or are in severe breach of labour laws. Victims may also be forced to live in substandard accommodation, such as spaces that are overcrowded, unhealthy, or lacking any privacy. Whilst extremely bad working or living conditions alone do not prove the existence of exploitation, they do raise red flags. Like the indicators of physical violence or intimidation and threat, workers who appear unclean and unkept, who are hungry, wear dirty clothes or have hardly any possessions may be living in conditions that are not fit for human habitation in dignity.

Excessive overtime

Persons who suffer exploitation may be obliged to work excessive numbers of hours or days, beyond the limits set by national law or collective agreements. They may be denied breaks or days off, have to take over shifts or working hours of colleagues who are absent, or be on call 24 hours a day, 7 days a week. If the OSCE needs urgent services at random hours or without advance notice, service providers will either require a very flexible workforce or rely on workers who cannot say no. It is not easy to determine whether an urgent demand for extra services should be considered overtime. This will be difficult for procurement staff to judge. The ILO Indicators offer a rule of thumb: if employees must work more overtime than is allowed under national law due to some form of threat (such as dismissal) or to earn at least the minimum wage, this amounts to forced labour.

ANNEX VI

Evaluation questions for Apple iOS tender

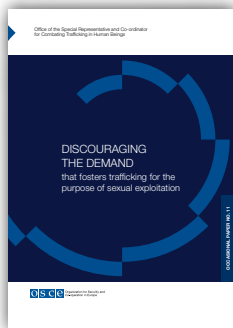
No.	Area of Evaluation	Evaluation Question
1	Bidder's code of conduct	<p>Please present your own Code of Conduct or Policy that addresses: child labour; forced labour; working hours; wages; discrimination; health and safety; freedom of association; collective bargaining; and disciplinary practices/humane treatment of workers. Please elaborate if you require your Tier 1 suppliers to accept and adhere to this Code of Conduct or Policy document.</p> <p>Please provide an example of a contract, part of your general terms and conditions, or another legally binding agreement that requires your suppliers to adhere to your Code of Conduct or Policy.</p>
2	Implementation of codes and policies	<p>Please demonstrate how you evaluate your suppliers' performance against your Code of Conduct or Policy on labour and human rights impacts. Reference is made here to your complete supplier base and not necessarily only to the one related to supplying of Apple devices. Evaluation can include but is not limited to:</p> <ul style="list-style-type: none"> • A defined programme or schedule for auditing higher risk suppliers. For example, higher risk suppliers are assessed at least every two years. • Assessing those suppliers who perform poorly on audits more frequently. • Focused audits on areas where the supplier has a higher risk for specific human or labour rights issues. <p>Supporting evidence can be provided in a form of completed audit reports and/or implemented corrective action plans.</p>
3	Responsible sourcing practices	<p>Please present your own sourcing policy that takes into account your suppliers' performance on labour and human rights impacts with respect to the core labour principles of the International Labour Organization (ILO).</p> <p>Please describe how you use labour and human rights performance data in making sourcing decisions. The description should include at least one form of corrective mechanism that you have in place if human rights violations are encountered in your supply chain.</p>
4	Supplier risk screening	<p>Please present a developed process that you have to identify labour or human rights risks in your supply chain, including but not limited to:</p> <ul style="list-style-type: none"> • Periodic risk screening of suppliers based on information about labour and human rights risks. Risk screening may be based on reports published by external parties, if these are published on an annual or semi-annual basis. • A requirement for Tier 1 suppliers to complete a self-assessment questionnaire, which is then used to evaluate the THB/LE risk of individual suppliers. • Risk screening that goes beyond directly contracted Tier 1 suppliers and includes Tier 2 suppliers. • Ongoing risk screening that takes into account dynamic data such as supplier audit findings; reports from credible NGOs that highlight labour and human rights impact; and reports of evolving trends in different geographic areas. <p>As evidence, you can provide old audit reports, completed questionnaires, or a copy of a policy showing who is internally responsible for the risk screening process, how many people are involved, and whether the process is supported through a co operation with external partners.</p>

No.	Area of Evaluation	Evaluation Question
5	Supply chain transparency	<p>Please provide details of your approach to achieving supply chain transparency, such as knowledge of where products are manufactured, working conditions at production sites, where products are stored, and how they are transported.</p> <p>Please provide to the extent possible a detailed map (with names and locations) of your supply chain related to the supply of Apple devices, as per the provided “Example of supply chain mapping”. Each bidder will receive 30 points for identifying/mapping its Tier 1 supplier(s); an additional 20 points will be awarded if the mapping is extended to any Tier 2 or higher level supplier(s). All disclosed data will be treated with the highest degree of confidentiality.</p>
6	Plan for supply chain transparency as well as the scope of the labour and social standards to be observed	<p>Please elaborate on your plans for the next three years on how you will establish or enhance transparency in your supply chain, not just for the specific products that form the subject matter of this contract, but also in general, by ensuring that the labour and social standards set out in similar calls for tender are respected. This should include but not be limited to:</p> <ul style="list-style-type: none"> • A plan that specifies the steps you intend to take to establish or enhance supply chain transparency, also describing planned milestones and when they will be reached. • An overview of the management system, including policies, processes and procedures, that you have or will set up to establish transparency in your supply chain. • A description of the resources you will allocate to implement the above plan and management system.
7	Sustainable provision of products and services	<p>Please detail your approach to the sustainable provision of products and services. Your response should provide a detailed account of how your organization addresses the following key areas:</p> <ul style="list-style-type: none"> • Managing corruption and ethical risk in the supply chain; • Equipment or packaging reduction targets or schemes; • Plans for reuse, refurbishment, recondition or re-allocation of end-of-life equipment to local communities; • Waste reduction and carbon reduction measures; • Accreditations gains, such as ISO14001 (or equivalent).

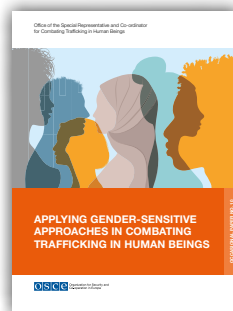
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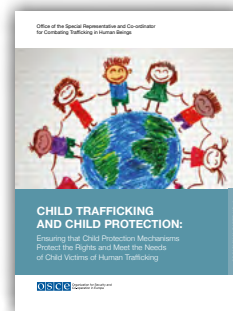
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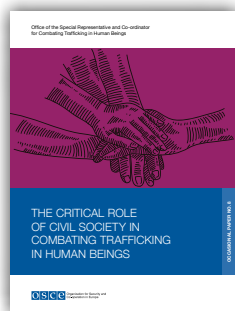
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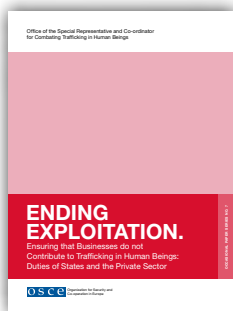
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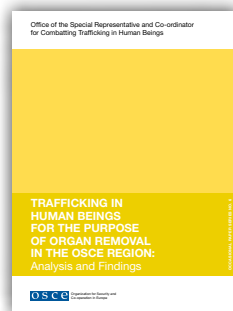
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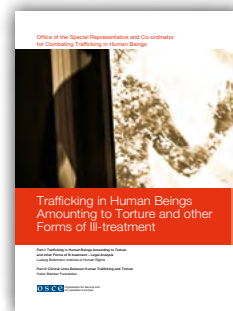
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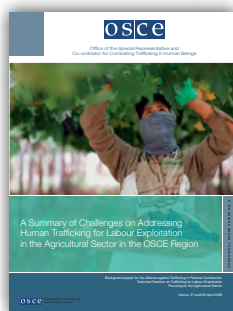
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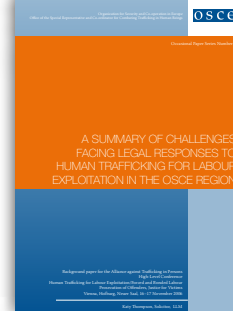
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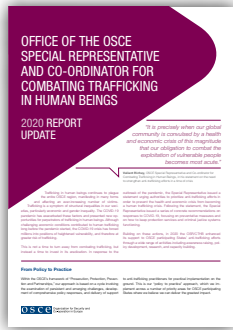


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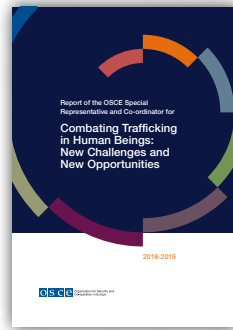


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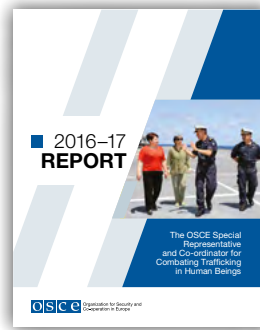
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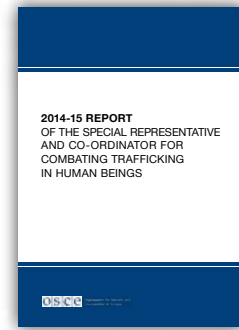
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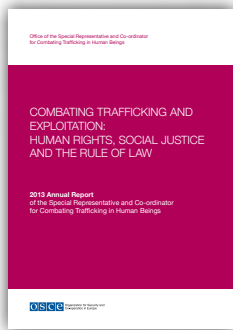
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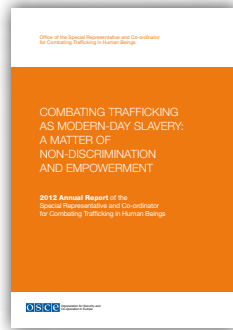
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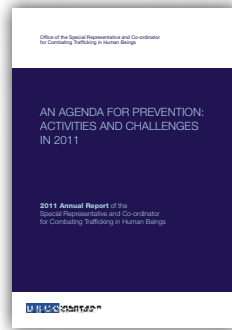
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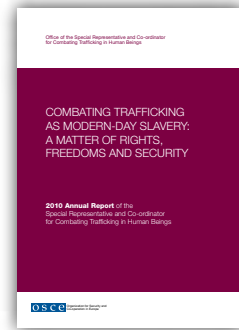
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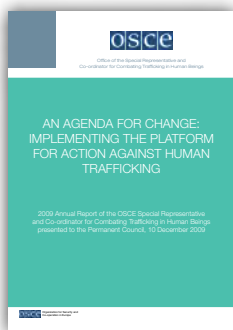
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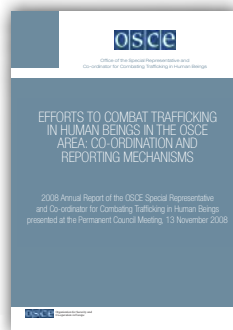
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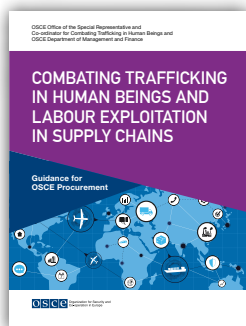


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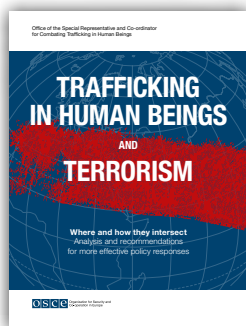


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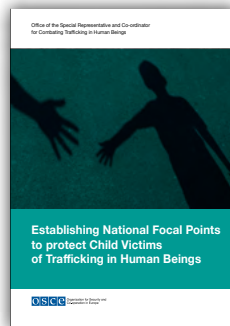
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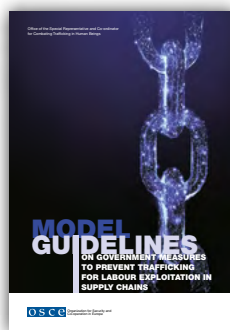
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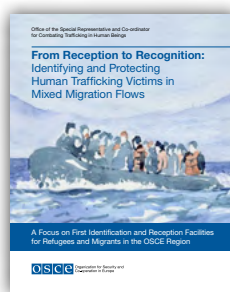
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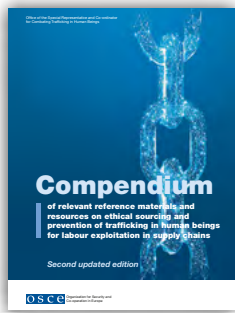
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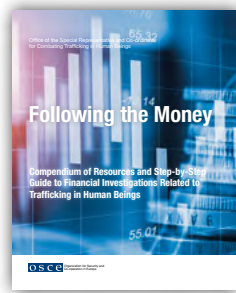
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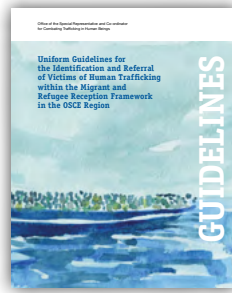
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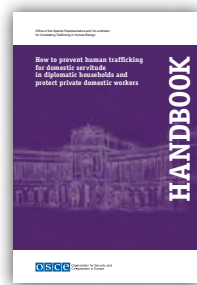
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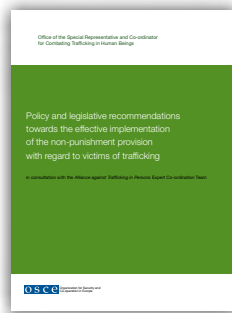
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<https://www.osce.org/handbook/domesticservitude>



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