

TERMS OF REFERENCE FOR EXPERTS

Action code and partner country: *SOCIEUX+ 2018-31 BRAZIL*

Action title: *Promotion of decent work in supply and added value chains through Labour inspection process*

Activity number and title: *Activity 1 – Critical review of the assessment of the labour inspection services provided by the Secretariat of Labour Inspection (SIT) to enforce decent work standards.*

Partner institution: *Secretariat of Labour Inspection [Secretaria de Inspeção do Trabalho] (SIT)*

Expert position: *Principal expert – Labour inspection, Decent work standards and duty of vigilance in value chains*

Date of implementation of activity:

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WHAT IS SOCIEUX+

Facilitating expertise from peers to peers

The European Union Expert Facility on Employment, Labour and Social Protection (SOCIEUX+) is a technical cooperation facility (facilitation mechanism) set up to respond to the needs for capacity building of international cooperation and development partner countries of the European Union (EU). SOCIEUX+ enables peer-to-peer exchanges and institutional cooperation between EU Member States and partner countries.

SOCIEUX+ is results-oriented and demand-driven only. It responds to the direct requests of public institutions and social partners organisations in EU partner countries. It contributes to designing, expanding and managing inclusive, effective and sustainable labour and employment policies and social protection systems.

SOCIEUX+ connects practitioners and institutions by mobilising high-level EU expertise for short-term technical cooperation activities with their peers outside the EU. It primarily draws on expertise within EU Member States' publicly mandated bodies and social partners, but also relies on joint actions with specialised international agencies and the academia. When necessary, it capitalises on Triangular Technical Cooperation by mobilising teams of public experts from EU and partner countries. Private consultants may also complement expert mission teams in SOCIEUX+ actions.

SOCIEUX+ actions are micro-projects implemented through short-term activities. They are designed in collaboration with the partner institution to best address their needs.

SOCIEUX+ is implemented by a partnership of international cooperation agencies of the EU Member States, France, Belgium and Spain, and co-funded through EU international cooperation and development instruments.

For further information on SOCIEUX+, please visit our website at: www.socieux.eu

1 BACKGROUND INFORMATION

1.1 Country overview

Brazil, the world's fifth-largest country, has a mostly coastal population of more than 200 million and is dominated by the Amazon River and the world's largest rain forest. Good governance remains a major challenge for federal and local authorities.

Brazil's HDI value for 2017 is 0.759 — which put the country in the high human development category — positioning it at 79 out of 189 countries and territories (UNDP 2018). Brazil experienced a period of economic and social progress between 2003 and 2014, when more than 29 million people left poverty and inequality declined significantly. The Gini coefficient dropped 6.6% (from 58.1 to 51.5) during that time. The income level of the food 40% of the population increased by an average of 7.1% (in real terms) between 2003 and 2014, compared to a 4.4% increase in income for the population. Since 2015, however, the pace of poverty and inequality reduction seems to have stagnated (World Bank 2019).

1.2 Sector situation

Brazil has just carried out a comprehensive reform of labour legislation, with implications and reflections for the still little-known labour market. Similarly, there is a consolidation of commercial structures of several companies around the value chains, which offers opportunities for the development and improvement of the living conditions of millions of people, as well as, creates challenges for the promotion of decent work among all layers of added value chains.

Brazilian legislation is still unclear as regards the duty of vigilance/due diligence responsibilities of companies, regarding the prevention of violations of the fundamental rights of workers in their supply chains. However, several judicial decisions of higher courts have attributed legal responsibility to productive structures of large companies, even if direct employment relationships between suppliers and companies existed.

Despite the lack of legal framework or reference to due diligence, several strategies and initiatives touch on the thematic and its links to decent work, e.g. the National Plan and Agenda for the Promotion of Decent Work. At regional level, Mercosur's Socio-occupational Declaration, which asserts Member States' role in promoting decent work and workers' rights.

The action's legitimacy is based on the current Brazilian legislation, such as the provisions of Law No. 13,502, of November 1, 2017, and in Law No. 13,249, of January 13, 2016. These assert public policies for the promotion of decent work. They also allocate responsibilities, with the Ministry of Labour and, more specifically, the Secrétariat de l'Inspection du travail [Secretaria de Inspeção do Trabalho] (SIT). are set with the institutional mission(s) to enforce decent work norms.

The direct beneficiaries of the proposed actions are the labour inspectors, members of the federal labour inspection, in the large sense defined as in article 6 of the International Labour Organization Convention No 81, of which Brazil is a signatory.

1.3 Role of partner institution in sector

The Constitution of the Republic of 1988, in its art. 21, paragraph XXIV, assigns to the Brazilian Union (federal government) exclusive competence to organise, maintain and enforce the labour inspection in Brazil. These functions are exercised by the SIT, an administrative unit linked to the Ministry of Labour. The SIT coordinates all interventions, sub-agencies and staff of the labour inspectorate.

Labour inspectors are state career officials, who have statutory employment security. They are distributed and present in all 27 States of the Federation. In this same sense, there is an explicit prediction of Convention No. 81 of the International Labour Organization.

The national regulation on labour inspection was approved by decree (n ° 4.552/2002) in 2002. Its purpose is to ensure the protection of workers in the exercise of their activities, guaranteeing, throughout the national territory. It also includes provisions on the ratification of international conventions, the acts and decisions of the competent authorities and collective labour contracts".

The SIT formulates and propose guidelines for the overall Brazilian labour inspection and system. It also promotes, coordinates and implemented joint measures with other governmental agencies and stakeholders on decent work. Such measures address occupational safety and health standards, in accordance with the provisions of art. 18, of Decree No. 8.894, of November 3, 2016.

The SIT supervises technical and operational research cooperation activities focused on the development with national and international bodies. Areas of cooperation include fundamental rights and principles at work and promotion of decent work. In addition, it is up to the Secretariat to monitor the national compliance of the Agreements and conventions ratified by Brazil related to labour inspection.

Through the National School of Labour Inspectorate (ENIT), SIT ensures and promotes the training, production and dissemination of knowledge directed to labour inspectors and offices nationwide.

2 ACTION DESCRIPTION

2.1 Action purpose

The purpose of the action is to establish a consolidated strategy and methodology for labour inspection of the SIT that guarantees the promotion of decent work, as well as the general improvement of working conditions, in both regional and global value chains of companies with operations in Brazil.

At term, a manual of procedures for labour inspectors. This manual will contribute to establish a substantially robust approach on labour inspection in the value chains, with a view to promoting better conditions of work and protect the fundamental rights of workers.

2.2 Overall objective

Ensure decent work conditions and human rights in value chains of national and international companies operating in Brazil.

2.3 Specific objectives

1. To strengthen the capacities and competences of the Labour Inspection in the field of decent work promotion, and its fundamental principles in value chains.
2. To provide the Labour Inspection and its labour inspectors with relevant tools to assess the respect of fundamental rights at work and decent work standards in value chains.
3. To contribute in ensuring the durability of the acquisition of skills (training) related to the promotion of decent work standards in the Labour.

2.4 Expected results

1. A critical review of existing federal and local mechanisms of labour inspection and their adequacy for the enforcement of the decent work standards in value chains and a road map made available to SIT;
2. The SIT gained access to, learned about, and absorbed good practices from EU and international Member States in promoting decent work standards in value chains through its supervision by the Labour Inspectorate;
3. A methodology on the principles of promotion of decent work in the value chains for SIT and its auditors is elaborated;
4. Recommendations and key elements for the drafting of a bill on decent work promotion in value chains.

The above results cover only some of the activities required to achieve the objectives of the set in the original request of the SIT. Additional results have been formulated for a follow-up action:

- Guidance tools on the due diligence principles in labour inspection were elaborated with, and for, the SIT.
- The competences and skills of labour inspectors are reinforced for the application and supervision of the principles of due diligence in supply chains of companies in Brazil.

2.5 Final outputs

The following product is the main expected deliverable of the activities to implement. It is however not the sole deliverable expected from experts. For a detailed description of the contractual-binding deliverables see Section 4.2.

“A compendium of EU Member States experiences relevant to the review of legislation on application of decent work standards in Brazil. The compendium shall also clearly outline the role and duties of the Brazilian Labour Inspection (at federal and local level) to enforce decent work conditions in supply chains of international and national companies operating in Brazil.”

3 IMPLEMENTATION METHODOLOGY

3.1 Summary

Overall action

A peer review of the existing mechanisms of the SIT related to the enforcement and promotion of decent work in supply chains in Brazil will lay the ground for the activities of the action. Mobilised experts will for this review work with their colleagues at the SIT and at the technical working group (TWG) established for the development of a strategy for the promotion of decent work in chains of supply through labour inspection. The Strategy shall incorporate the principle of on due diligence.

The TWG has already produced a first report on the existing mechanisms. This report shall have a first external review by the mobilised experts from EU Member States. Good practices from EU Member States will be identified during this exercise to setup learning objectives for a possible study visit by key staff of the SIT and members of the TWG.

The SIT has expressed a particular interest in the experiences of France or the Netherlands, where legislations have been put in place on due diligence. The review of this experiences may be done through a study visit to one of these countries. Based on this

new knowledge, recommendations should be developed for legislative, regulatory and organisational reforms needed to enable an active role of the SIT in the enforcement of decent work practices.

Workshops with the TWG will be facilitated with inputs of EU Member States' experts to assess the feasibility of the recommendations and layout the groundwork for strategy development.

It is expected that the development and acceptance of such a Strategy will be a complex participative process due to the political and economic interests. A roadmap for the development of the Strategy may be developed. This roadmap, and eventually its dissemination, will be the final deliverables of this action. A follow-up action and activities will be dependent on the approval of such a roadmap or equivalent plan.

The final technical assistance methodology, schedule and workplan of the action and its activities will be established by the experts mobilised by SOCIEUX+, in close collaboration with the partner institution.

The contribution of mobilised experts and SOCIEUX+ are mainly intended to enhance the current Government of Brazil efforts in assessing and addressing the main challenges in the field of decent work promotion, and its fundamental principles, in value chains.

Planned activities (work plan)

The following activities are currently planned for the action.

- Activity 1 - A critical review of the assessment done by the SIT on services provided by labour inspectors to enforce fundamental labour standards. The review shall address key points of the assessment such as recurrent shortcomings, challenges and priorities for the application of the principles of due diligence for decent work.
- Activity 2 - A roundtable/workshop on fundamental rights at work and decent work standards. The roundtable will be based on peer-to-peer exchanges between EU Member States' mobilised experts, the staff of SIT, the members of the TWG and key Brazilian labour inspectors. It will be the occasion to share relevant information, good practices and safety rules, and discuss challenges of preventing social and environmental risks in supply chains. Learning objectives for the following activity (study visit) shall be outlined during the workshop.
- Activity 3 – Conduct of a study visit to Europe on formulation and implementation of policies and programs on promotion of fundamental labour standards in supply chains, as well as on a duty of vigilance approaches in key EU Member States such as France, the Netherlands, Sweden, Germany and Belgium.

4 DESCRIPTION OF ACTIVITIES

The present terms of reference cover the services expected from the principal expert for Activity #1 of the work plan outlined above.

4.1 Tasks

The principal expert will lead the on-site mission. He/she will be responsible for the delivery of all deliverables of the activity (see below Section 4.2). He/she will be responsible for the preparation, coordination, implementation and reporting of the overall activity towards SOCIEUX+.

The main tasks of the mission team include:

- Conducting a critical review of the assessment done by the services provided by the SIT labour inspectors, conducted through the organization of focus groups, individual interviews and questionnaire application.
- The conceiving, facilitating and moderating of a working session with the TWG and the SIT to share and discuss the preliminary results of the review. The logistics and organisation of the event shall be of the responsibility of the SIT.
- Present a summary overview of most relevant EU Member States experiences on enforcement of decent work and due diligence on fundamental rights and principles
- Providing a compendium of recommendation on the assessment done by the SIT. The compendium shall include a summary list of most relevant examples on legislation and experiences in EU Member States on due diligence in supply chains.
- Facilitate the collection of online feedback questionnaires

4.2 Deliverables

Pre-mission deliverables

- P1: A methodological note, detailing the working approach, tools and methods to employed, a risks analysis
- P2: A detailed activity/mission agenda, detailing the meetings and working sessions to be held, persons to meet

Final deliverables

- D1: An individual Expert Mission Report (ExMR) in SOCIEUX+ format (template provided). This report is a confidential product intended solely for and use by SOCIEUX+. The expert team may also submit a single-joint ExMR report if they prefer to do so (see instructions on template).
- D2: A completed Expert Feedback Form (ExF) completed online (see instructions and link on the ExMR template)
- D3: A collective Activity Report (AcR) in SOCIEUX+ format (template provided). This AcR is to be produced jointly by the mission team. It is intended for the Partner Institution, and will be shared with the partner institution and, most probably, key stakeholders of the action. The report will reflect the tasks conducted in during the activity. It shall provide a meaningful contribution towards the final deliverables of the action as described in Section 2.5. See also instructions on template.

NB: On exception of the individual ExMRs, the Principal Expert is responsible for the overall preparation and transmission of the activity's deliverables, in cooperation with rest of the expert team.

For timelines and review processes of deliverables, see Section 6 - Reporting

5 ESTIMATED WORKLOAD

	Preparati on	On-site	Travel	Reporting & deliverables	Total
Principal expert (#1)	4	10	2	3	19
Technical expert (#2)	3	10	2	3	18
Grand Total	7	20	4	6	37

6 REPORTING AND DELIVERING

6.1 Formats

Important

All deliverables and products of the activity (notes, reports, presentations, etc) shall comply with the formats and templates SOCIEUX+ as provided by the SOCIEUX+ [Facility Management] Team (hereafter SOCIEUX+ Team), unless otherwise instructed in written [by email] to the experts by the SOCIEUX+ Team.

All deliverables are to be submitted in electronic in electronic editable versions [Microsoft Word 97-2003 [doc], PowerPoint 97-2003 [ppt] and Excel 97-2003 [xls]; or in equivalent OpenDocument format), unless otherwise instructed in written [by email] to the experts by the SOCIEUX+ Team.

Non-editable electronic document such as in Portable Document Format (PDF) shall not be accepted as deliverables by SOCIEUX+, unless otherwise instructed in written [by email] to the experts by the SOCIEUX+ Team.

Templates for electronic presentations during the activity/mission are provided by the SOCIEUX+ Team. These templates are in Microsoft PowerPoint format and comply with the SOCIEUX+ Corporate Image standards. These templates are to be used as sole format by all members of the expert mission team. They are to be used for all presentations by the experts during and for the activity/mission. The use by the experts of their own, or their organisation(s), templates or formats is not allowed unless otherwise instructed in written [by email] to the experts by the SOCIEUX+ Team.

In case of contradiction on in the format and submission process described in these terms of reference and the templates provided by SOCIEUX+, the instructions in the terms of reference shall take precedence.

All versions of deliverables or other products used or produced during activity/mission by the experts shall include the following disclaimer:

“The responsibility of this publication sole lies with its authors. The European Union, the European Commission, the implementation partners of SOCIEUX+ and the SOCIEUX+ Staff are not responsible for any use that may be made of the information contained therein.

Pre-mission deliverables

- P1: The Methodological Note shall not exceed 3 pages (excluding cover page and annexes).
- P2: The Activity/mission Agenda shall not exceed 2 pages.

No template is available for these documents. Documents shall be formatted in: A4 page size; normal body text single spaced, black font size 10, and single spaced. A standard page is assumed to have in average 500 words. All pre-mission deliverables are to be provided in English or Portuguese Language.

Final deliverables

- D1: see SOCIEUX+ Expert Mission Report (ExMR) template and its detailed instructions. The ExMR may be provided in English or Portuguese Language.

- D2: online form with no format provided
- D3:
 - see SOCIEUX+ Activity Report (AcR) template for guidelines on formatting;
 - The report shall not exceed 30,000 [thirty thousand] words excluding cover page, annexes, figures and tables;
 - It shall be structured around and cover at least:
 - The objectives of the activity;
 - A brief description of approach, methodology applied, and tasks
 - A meaningful contribution towards the final deliverables of the action as described in Section 2.5.
 - The summary of presentation, tools and products delivered during the mission.
 - Shall be provided in Portuguese Language

6.2 Submission and approval

Important

All deliverables versions (drafts, final or other) shall be submitted directly and only to SOCIEUX+ Team, unless otherwise instructed in written [by email] to the experts by the SOCIEUX+ Team.

Pre-mission deliverables

1. Pre-mission deliverables shall be submitted no later than 5 working days before start of activity or departure for mission of the experts, whichever is the earliest.
2. Pre-mission deliverables will be shared and reviewed by the SOCIEUX+ and the Partner Institution. Feedback on the deliverables should be provided to the Principal Expert at latest 2 days before start of activity or departure for mission of the experts, whichever is the earliest. Comments and recommendation of this feedback shall be taken in account for the implementation of the activity/mission by the experts. Only the mission agenda shall be resubmitted with revision if requested by the SOCIEUX+ Team or the Partner Institution.

Final deliverables

3. The first draft version of this mission report is to be submitted no later than 10 working days upon completion of the activity or return of the experts, whichever is the earliest.
4. Feedback to the first draft version of the report should be provided 10 working days after its submission.
5. Integration of the feedback drafts or final versions intermediary versions are expected 5 working days upon reception of the comments by the principal expert. In general, no more than one round of feedback and revision is required, unless the quality of the deliverables is considered unsatisfactory by the SOCIEUX+ Team or/and the Partner Institution.
6. Final versions of the deliverables should be approved or rejected no later than 10 working days upon their submission to the SOCIEUX+ Team.
7. Final payments and reimbursement of travel costs to experts can only be authorised upon approval of the final version of the deliverables by SOCIEUX+.

7 CODE OF CONDUCT

The experts mobilised by SOCIEUX+ will provide technical assistance from the preparatory stages of each activity to post-delivery follow-up. The SOCIEUX+ Facility Management Team will assist experts to fulfil their assignments by supporting and advising on the preparation of background materials prior to meetings. The SOCIEUX+ team will collect feedback from partner countries and ensure that mission reports and recommendations are delivered to national authorities, the EU Delegations in the partner countries and EuropeAid.

The experts mobilised are not representing SOCIEUX+ or the EU. Technical opinions and recommendations expressed are their own. They shall not express negative opinions on the implementation or actions supported by SOCIEUX+ to third parties. Nevertheless, they shall be aware of SOCIEUX's objectives and functioning, and promote the facility at the best of their knowledge, whenever possible and feasible.

SOCIEUX+ retains the right to redact any deliverables as necessary to ensure appropriate wording and correctness if needed. Redaction are clearly identified in final versions of the report.

Finally, the experts shall perform their duties in the Partner Country in a way that is fully compliant with and respectful of the local institutions, policies and cultural behaviours; they shall particularly adopt an institutionally sensitive behaviour in their way to deal with the local counterparts.

TABLE OF CONTENTS

About SOCIEUX+	Erreur ! Signet non défini.
1 Background information	1
1.1 Country overview	1
1.2 Sector situation.....	1
1.3 Role of partner institution in sector.....	1
2 Action description.....	2
2.1 Overall objective	2
2.2 Specific objective (s) (purpose).....	2
2.3 Expected results.....	3
2.4 Final deliverables.....	3
3 Implementation methodology	3
3.1 Summary	3
4 Description of activities	4
4.1 Tasks.....	4
4.2 Deliverables.....	5
5 Expertise profile	5
6 Reporting	6
7 Code of conduct	8

ABOUT SOCIEUX+

The European Union (EU) promotes and maintains dialogue on social protection and inclusive employment policies with an increasing number of partner countries. This effort has been confirmed by the European Commission (EC) Communication COM (2016) 740 final - "Proposal for a new European Consensus on Development, entitled *Our world, our dignity, our future*. A significant number of cooperation initiatives in these fields are funded by geographic or thematic instruments of the EU in different countries. Those initiatives are highly structured and address the medium- to long-term needs of partner countries. However, short-term measures and peer-to-peer cooperation to promote the development of social protection systems are needed to complement the EU's cooperation with third countries. SOCIEUX+ - EU Expert Facility on Employment, Labour and Social Protection responds to this need.

The SOCIEUX+ facility was setup by the EU through co-funding from France, Spain and Belgium and the resources managed by the European Commission's Directorate for Development and Cooperation (EuropeAid). The facility is implemented by a partnership composed of development cooperation agencies from Member States: Expertise France (the partnership lead), Fundación Internacional y para Iberoamérica de Administración y Políticas Públicas (FIIAPP) from Spain, Belgian International Cooperation on Social Protection (BELINCOSOC), and the Belgian Development Agency (Enabel).

The general objective of the Facility is to expand and improve access to better employment opportunities and inclusive social protection systems in partner countries. Its specific objective is to enhance the capacities of partner countries to better design, manage and monitor inclusive, effective, and sustainable employment strategies and social protection systems through short-term, peer-to-peer technical assistance and knowledge development.

SOCIEUX+ recognises the impact of social protection and employment in reducing poverty and vulnerability. It supports the efforts of partner governments in promoting inclusive and sustainable social protection and employment systems. SOCIEUX+ also complements the efforts made through other European Union initiatives.

The Facility is an expansion of SOCIEUX Social Protection EU Expertise in Development Cooperation, established in 2013.

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