

Ethical Charter

Public Consultation Summary

In late 2015, the Boards of Directors of the Produce Marketing Association (PMA) and United Fresh Produce Association (UFPA) formed a Joint Committee on Responsible Labor Practices (Committee), with a dual mandate: (1) create an industry-wide framework to promote and reinforce worker respect and dignity, and (2) proactively support opportunities for harmonization and convergence of positive efforts throughout the global fresh produce and floral supply chains.

The Committee developed an Ethical Charter (Charter), which contains values and guiding principles intended to set a framework for responsible labor practices. The Charter is based on a foundation of employment law, good management systems and sound occupational safety and health practices.

Throughout the course of 2016, the Committee conducted four consultations and three Committee meetings with members of the industry to gather input in the development of the Charter's values or principles. The resulting proposal was then subject to 60 days public consultation that ran online from January to February 2017.

The Committee received over 160 suggestions specific to the Ethical Charter. Leaving aside those suggestions received that were out of scope,¹ the feedback received fell into one of the following three categories:

1. Delete or remove a value or principle;
2. Clarify terms and/or provide more specificity on the principles contained in the Charter;
3. Adopt a new protection for workers to either reinforce a respect for human rights or to reflect latest best practice.

This document lists the feedback received and how it was handled in a revised Charter. Moreover, the Committee launched a task force to develop Measurement Criteria, providing a description of conformance with the Charter, to provide a method of evaluation and comparison against actual workplace practices.

The revised Charter and Measurement Criteria was endorsed by the Committee in October 2017 and recommended for adoption by the association Boards. The Boards approved the documents in January 2018.

¹ Out of scope feedback fell into two categories: (1) *process or governance* (i.e., criticism to the process for developing and revising the Ethical Charter, suggesting the need for a more inclusive process that includes non-industry stakeholders in decision-making) and (2) *implementation* (i.e., questions about the meaning behind committing to, and implementing the Charter; criticisms over lack of reported accountability mechanisms; and suggestions for industry efforts around implementing the Ethical Charter).

Summary of feedback and response by topical area:

	Feedback	Response / Approach Taken in the Ethical Charter
General	<p>Clarify the scope of, and the law to be applied to, the Charter. Use the conventions of the International Labor Organization as the basis.</p>	<p>The Charter seeks to establish a framework for responsible labor practices that is applicable to the whole supply chain, including growers, labor agencies, packers, distributors, foodservice operators, marketers and retailers of fresh produce and flowers. The Charter reflects the standards that an industrywide body of companies has determined to be appropriate for demonstrating responsible labor standards in the produce and floral sectors. The primary focus for implementation is at the field level (i.e., production processes for fresh produce and flowers, leading up to non-processed product, such as cropping, growing, rearing, producing, packing).</p> <p>The Charter requires strict adherence to law and regulations as established by the applicable authority. As clarification, the preamble of the Charter was edited, and a new principle “Legal Compliance” was added.</p> <p>The Charter considers a few specific cases where it would set a standard for demonstrating responsible labor standards in the absence of a legal requirement: sound management systems; a safe, hygienic, and sanitary environment; direct and timely payment for all work-related activities; transparency of terms of employment, wage payments and hours; periods of rest; communication channels; removal of children and age of employment; harassment prevention and non-retaliation; responsible purchasing practices; ethical recruitment and modern-day slavery.</p>
Communication & Worker Protections	<p>Strengthen worker non-retaliation protections. Include grievance mechanism. Consider a channel for workers to provide input to management.</p>	<p>The principle was edited to incorporate these concepts, stating that direct communication between management and their employees is the most effective way of resolving workplace issues and concerns. It also includes the concept that all workers should have both the right and responsibility to voice questions, report any improper or wrongful activity, or discuss opportunities and/or grievances with a supervisor or management. To do so, there should be a fair, transparent, and accessible channel of communication to provide input to management and to resolve workplace issues.</p> <p>The Charter is explicit that employers should encourage timely disclosure of concerns and shall prohibit retaliation against anyone who, in good faith, reports concerns.</p>

<p>Employment is Freely Chosen</p>	<p>Prohibit prison labor. Define terms.</p>	<p>The Charter allows labor by prisoners that is voluntary in nature and part of a government-sponsored rehabilitation program whereby inmates receive wages and acquire skills or education that would help them find a job after release.</p> <p>The Charter defines “employment is freely chosen” and the Measurement Criteria guide provides definitions of terms within it.</p>
<p>Ethical Recruitment</p>	<p>Include no recruitment fees. Include concepts of abuse, deception, and fraud. Drop oversight of third parties. Be explicit about labor agent role and requirements. Include defined terms of contract.</p>	<p>The Charter was revised to incorporate the “employer pays principle” as well as to state that abusive, deceptive, fraudulent, or corrupt practices are unacceptable at any stage of the recruitment and selection process.</p> <p>In the case third-party labor contractors are utilized, the Charter calls for appropriate due diligence to ensure their commitment to uphold the Ethical Charter.</p> <p>Further guidance on the “employer pays principle,” the use of responsible labor contractors, as well as requirements on both ethical conduct and transparency in employment and terms of employment is included in the Measurement Criteria.</p>
<p>Freedom of Association</p>	<p>Empower workers' voices be it for or against a union. Democratic process of representation should be honored. Include collective bargaining. Align with ILO norms.</p>	<p>The Charter calls for employers to strictly follow applicable law regarding freedom of association and collective bargaining and workers’ equal right to refrain from such activity.</p>
<p>Occupational Safety & Health</p>	<p>Include housing. Clarify OSH management systems. Get more specific on key areas (e.g., PPE, worker training).</p>	<p>The Charter states that workers shall be provided a safe, hygienic, and sanitary work environment at work-related sites and at any housing mandated or provided by the employer. The Charter states that employers shall adopt reasonable measures to identify hazards and control occupational risk of injury and illness, and provides examples of such measures.</p> <p>The Measurement Criteria provides benchmarks for employer-provided housing as well policy and procedures to identify and guard against hazards and prevent injury and illness. Under risk mitigation and industrial hygiene practices, worker training and the provision and maintenance of job-related personal protective equipment are also included.</p>

Preamble	Make suggested copy edits. Add transparency.	<p>Suggested edits were accepted and incorporated in the introduction and values statements.</p> <p>Transparency is highlighted in the following values statements: “We operate in a spirit of cooperation, learning and transparency with our workers, trading partners and other stakeholders. We support transparency in our supply chains about labor conditions, policies, and practices, as permitted by law, with the aim of improving the work environment and giving workers opportunities for success.”</p>
Protection of Children and Young Workers	<p>Remove any need for minimum age of employment. Use ILO to set minimum age (without the less developed country caveat).</p> <p>Include specific protections for young workers, such as no night shifts.</p>	<p>The Charter calls for respecting and supporting children’s well-being and requires employers to actively safeguard children’s interests, preventing harm at the workplace. The Charter allows young people to legally work and have economic opportunities, but states that they need age-appropriate work and appropriate supervision. Under the Charter, employers commit to prevent children and/or young workers from performing work that is mentally, psychologically, physically, or socially dangerous or harmful, or that hinders their education. Moreover, employers are required to not hire anyone below the legal age of employment, or younger than 15 where no minimum employment age exists.</p> <p>The Measurement Criteria provides benchmarks designed to protect educational opportunities of young workers and prohibit their employment in jobs that are detrimental to their health and safety.</p>
Responsible Purchasing Practices	Strengthen by requiring purchase only from compliant farms. Clarify its application. Limit commitment for antitrust reasons.	The Ethical Charter is focused on companies purchasing commercial quantities of produce and floral products, asking them to “understand and seek to mitigate the impact of their planning and purchasing practices on the commitments in this Ethical Charter.”
Wages & Benefits	<p>Endorse living wage. Include that meetings are paid work time. Add legal eligibility to work. Include minimum wage for piece rate workers. Include transparency on wages.</p>	<p>The Charter does not require a living wage, but rather focuses on compliance with applicable law regarding wages, leave and benefits.</p> <p>The Charter was revised to incorporate the other suggestions. The Charter and the Measurement Criteria state that workers shall be paid for all work performed (including meetings), and that employers must comply with all applicable legal requirements regarding legal eligibility to work, benefits and wages (including wages for overtime premiums and/or minimum compensation for any payment arrangement based on productivity). Moreover, the Charter states payments will be made in accordance with contract terms and pay calculation shall be transparent to workers.</p>
Working Hours	Add limits on working hours. Add flexibility for	The Charter expects employers to manage working hours in accordance with applicable laws, but does not set limits on hours in the absence of

	<p>vulnerable workers (e.g, young workers, nursing mothers). Drop advanced agreement for overtime.</p>	<p>law, recognizing that agricultural labor needs vary by season, crop and task, and workers are sometimes needed for shorter or longer time periods than a standard workweek. The Charter specifies rest periods if needed to support a safe and healthy workplace. The Measurement Criteria guide includes benchmarks on risk assessment and mitigation of impact from fatigue related to work schedules.</p> <p>The Charter respects the need for employers to decide the hours of work, including overtime, subject to law in all cases. It requires employers to inform workers about expectations regarding hours of work and gain workers' agreement at the time of hiring.</p>
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