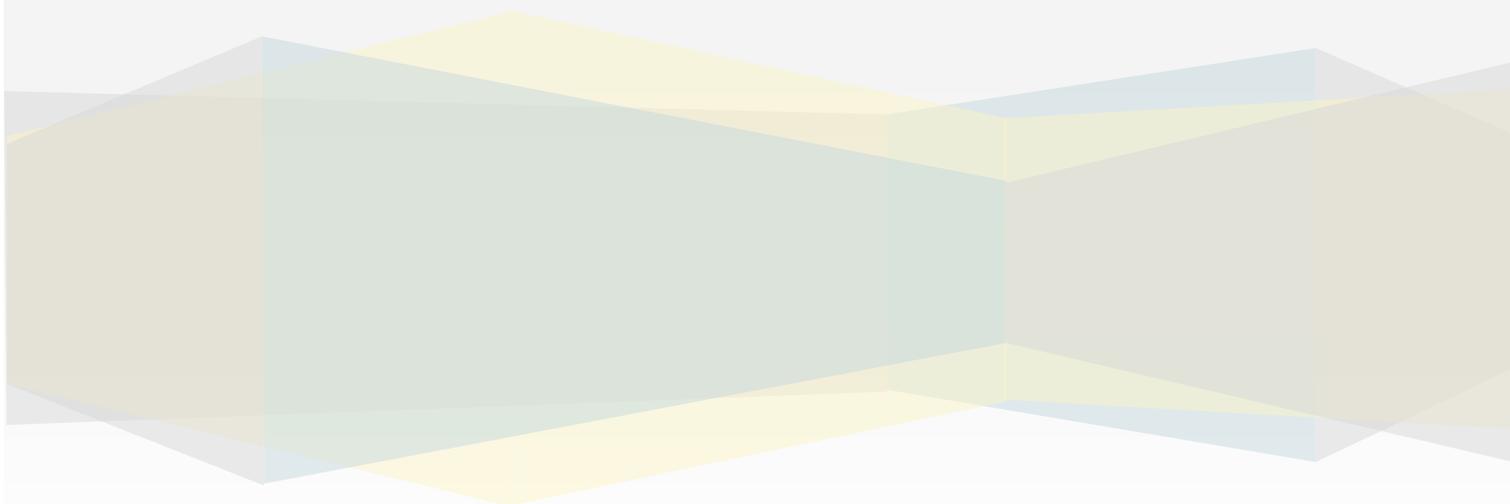


# Towards Sustainable Mining

Prevention of Child and Forced Labour Verification Protocol





## TSM VERIFICATION PROTOCOL

A Tool for preventing the use of child and forced labour as defined by International Labour Organization (ILO) Conventions 29, 128 and 182 addressing Forced Labour, Minimum Age and the Worst Forms of Child Labour, respectively.

### Purpose

The purpose of the verification protocol is to provide guidance to the member companies on verification requirements regarding the prevention of child labour and forced labour. The protocol sets out the general approach taken to confirm that processes are in place to ensure that neither child or forced labour as defined by ILO conventions are occurring at TSM participating facilities.

As with any assessment of a management system, professional judgment is required in assessing the degree of implementation of a system indicator and the quality of management processes and intervention. Application of this protocol will therefore require a level of expertise in auditing and systems assessment and knowledge of and experience in labour practices, including relevant regulatory regimes and requirements. This protocol provides an indicator of the verification approach to ensuring child and forced labour are not used and must be used in conjunction with the TSM Verification Service Provider Terms of Reference. It is not, of itself, a guarantee of the effectiveness of labour practices.

### TSM commitment regarding child and forced labour

As part of the TSM Guiding Principles, MAC members commit to *respecting the rights of our workers and not engaging in practices of forced or child labour, as defined in ILO Conventions 29, 138 and 182.*

### **Key Components of ILO 29 on Forced Labour**

#### [ILO 29, Forced Labour Convention](#)

This convention defines forced labour as *all work or services which is exacted from any person under the menace of any penalty and for which the said person has not offered himself voluntarily.* The convention recognizes a number of exceptions including military service, normal civic obligations, court ordered work due to a conviction and work extracted in cases of emergency. Article 4 of ILO 29 specifically prohibits the use of forced labour for the benefit of private individuals, companies or associations. The remaining articles address the use of forced labour by governments.

### **Key Components of ILO 138 and 182 on Child Labour**

#### [ILO 138, Minimum Age Convention](#)

This convention establishes minimum age requirements for child labour. The convention sets the minimum age of employment at 15 years of age and further establishes 18 years of age as the minimum age for work that, by its nature or the circumstances in which it is carried out, is likely to jeopardise the health, safety or morals of young persons. The types of work that are deemed to jeopardise the health, safety or morals of young persons are specified in national laws or regulations or by competent authorities. There are exceptions contained in ILO 138 that allow for workers under the age of 15 in some circumstances but such exceptions are not





applicable to mining. These ILO conventions also specify mitigation measures to be taken where child labour is already taking place, including:

- Removing children from the worst forms of child labour and providing for their rehabilitation and social integration
- Providing access to free basic education and wherever possible and appropriate, vocational training

#### [ILO 182, Worst forms of child labour](#)

This convention identifies four specific types of child labour that are deemed to be the 'worst forms' and requires that measures be taken to prevent the engagement of children in these forms of labour. Two of the four specified types of the worst forms of child labour are relevant in the mining context:

- all forms of slavery or practices similar to slavery, such as the sale and trafficking of children, debt bondage and serfdom and forced or compulsory labour, including forced or compulsory recruitment of children for use in armed conflict;
- work which, by its nature or the circumstances in which it is carried out, is likely to harm the health, safety or morals of children.

As with Child Labour, ILO 182 relies on national laws and regulations to determine what constitutes work that is likely to harm the health, safety and morals of children.

#### Verification of commitment

As forced labour and child labour are accepted as issues to be avoided and eliminated within member companies and their supply chains rather than managed for continuous improvement as most of the other issues addressed through TSM are, it is not appropriate to address these issues through the creation of a TSM protocol focusing on management systems. In this case, the approach is to focus on ensuring that the commitment to not use child or forced labour, articulated in the TSM Guiding Principles, is being adhered to and that such adherence can be demonstrated publicly.

To accomplish this, TSM Verification Service Providers (VSP) are instructed to incorporate the questions listed in the child and forced labour sections below into any TSM verifications they conduct for members of the Mining Association of Canada.





## 1. PREVENTING FORCED LABOUR

### Requirement

Member companies have in place processes that are commensurate to jurisdictional risk to ensure forced labour is not used.

### Verification Instructions

**Through interview and review of documentation, determine that:**

1. There are processes in place that are commensurate to jurisdictional risks to ensure forced labour, including bonded or indentured or involuntary prison labour, is not used.
2. Where there is a high risk of forced labour, processes have been put into place to monitor supply chains and relationships with recruitment agencies for human trafficking and forced labour.

## 2. PREVENTING CHILD LABOUR

### Requirement

Member companies have processes in place that are commensurate to the jurisdictional risks to ensure that no child under the age of 18 engages in work which, by its nature or circumstances in which it is carried out, is likely to jeopardize the health, safety or morals of young persons as defined in national law or regulation and that no child under the age of 15 is employed.

### Verification Instructions

**Through interview and review of documentation, determine that:**

1. There are processes in place that are commensurate to jurisdictional risks to ensure that no child under the age of 18 engages in work which, by its nature or the circumstances in which it is carried out, is likely to jeopardize the health, safety or morals of young persons as defined in national law or regulation.
2. There are processes in place that are commensurate to jurisdictional risks to ensure that no child under the age of 15 is employed.





## APPENDIX 1: FREQUENTLY ASKED QUESTIONS

### **1. How does TSM define Forced Labour?**

TSM uses the definition contained in ILO Convention 29, *Forced Labour Convention*, which defines forced labour as *all work or services which is exacted from any person under the menace of any penalty and for which the said person has not offered himself voluntarily*. The convention recognizes a number of exceptions including military service, normal civic obligations, court ordered work due to a conviction and work extracted in cases of emergency. Article 4 of ILO 29 specifically prohibits the use of forced labour for the benefit of private individuals, companies or associations. The remaining articles address the use of forced labour by governments.

### **2. What are examples of the types of processes used to prevent the use of forced labour?**

Some of the more common processes for preventing the use of forced labour include are those that:

- Prevent the unreasonable restrictions of freedom of movement of employees in the work place or in on-site housing,
- Avoid retaining of original copies of employees' personal documentation, such as identity papers,
- Prohibit requiring any form of deposit, recruitment fee, or equipment advance from employees either directly or through recruitment agencies, or
- Avoid practices that prevent employees from terminating their employment after reasonable notice or as established by Applicable Law.

When looking for evidence of presence of these types of processes, it is important to look at the level of risk that forced labour will be an issue in the jurisdiction in which the verification is taking place. In some jurisdictions forced labour is a much more common issue than in others and requires more rigorous processes than in jurisdictions in which forced labour is not a risk.

### **3. How does TSM define Child Labour?**

TSM uses the definition contained in ILO Convention 138, *Minimum Age Convention*. This convention establishes minimum age requirements for child labour. The convention sets the minimum age of employment at 15 years of age and further establishes 18 years of age as the minimum age for work that, by its nature or the circumstances in which it is carried out, is likely to jeopardise the health, safety or morals of young persons. The types of work that are deemed to jeopardise the health, safety or morals of young persons are specified in national laws or regulations or by competent authorities. There are exceptions contained in ILO 138 that allow for workers under the age of 15 in some circumstances but such exceptions are not applicable to mining.

TSM also incorporates ILO Convention 182, *Worst Forms of Child Labour*, which identifies four specific types of child labour that are deemed to be the 'worst forms' and requires that measures be taken to prevent the engagement of children in these forms of labour. Two of the four specified types of the worst forms of child labour are relevant in the mining context:

- all forms of slavery or practices similar to slavery, such as the sale and trafficking of children, debt bondage and serfdom and forced or compulsory labour, including forced or compulsory recruitment of children for use in armed conflict;
- work which, by its nature or the circumstances in which it is carried out, is likely to harm the health, safety or morals of children.





As with ILO 138, ILO 182 relies on national laws and regulations to determine what constitutes work that is likely to harm the health, safety and morals of children.

**4. Are any other mining related standards deemed to be equivalent to TSM with respect to child and forced labour?**

Yes, companies that have had their child and forced labour prevention processes audited or verified under either the IFC Performance Standards or the Responsible Jewelry Council are deemed to have demonstrated that they have processes in place for the purposes of this verification protocol. The Initiative for Responsible Mining Assurance (IRMA) standards on child and forced labour are also deemed equivalent to the TSM requirements, however, a formal determination of equivalency cannot be made until the assurance process for IRMA has been finalized.

**5. Are there useful guidance documents related to preventing child and forced labour?**

With respect to implementing processes to prevent child labour, there are two useful guidance documents:

1. UNICEF Child Labour Resource Guide:  
[https://www.unicef.org/csr/css/Child\\_labour\\_resource\\_Guide\\_UK\\_NatCom.pdf](https://www.unicef.org/csr/css/Child_labour_resource_Guide_UK_NatCom.pdf)
2. UNICEF Child Rights and Mining Toolkit:  
[https://www.unicef.org/csr/files/FINAL\\_Child\\_Rights\\_and\\_Mining\\_Toolkit\\_060217.pdf](https://www.unicef.org/csr/files/FINAL_Child_Rights_and_Mining_Toolkit_060217.pdf)
3. ILO Child Labour Guidance Tool for Business - How to do Business with Respect for Children's Right to be Free from Child Labour:  
[http://www.ilo.org/ipec/Informationresources/WCMS\\_IPEC\\_PUB\\_27555/lang--en/index.htm](http://www.ilo.org/ipec/Informationresources/WCMS_IPEC_PUB_27555/lang--en/index.htm)

With respect to implementing processes to prevent forced labour, the ILO has produced a useful guidance document:

1. ILO Combating Forced Labour – A Handbook for Employers & Business:  
[http://www.ilo.org/wcmsp5/groups/public/@ed\\_norm/@declaration/documents/publication/wcms\\_101171.pdf](http://www.ilo.org/wcmsp5/groups/public/@ed_norm/@declaration/documents/publication/wcms_101171.pdf)

**6. How do the ILO Conventions on Child Labour align with Canadian labour laws?**

As outlined in table 1, in most cases regarding underground mines, a company would simply have to confirm that it is in compliance with applicable child labour laws, with the exception of Alberta, New Brunswick and Nova Scotia who would have to demonstrate that if they have any workers under the age of 18, there are processes in place to ensure these workers are not engaged in work that is likely *jeopardize the health, safety or morals of young persons*. With respect to surface facilities from all provinces and territories except for British Columbia, Saskatchewan and Manitoba, a member would also have to ensure that any worker under 18, if there are any, is not engaged in work that is likely to *jeopardize the health, safety or morals of young persons*. Note that the notion of jeopardizing the health, safety and morals of young persons is generally consistent with provincial labour standards for young people in Canada. Details of how each province approaches minimum age requirements can be found in table 2.





Table 1 - Minimum age of mine workers in Canada

Province	Underground Mine	Surface Mine
British Columbia	18	18
Alberta	16*	16*
Saskatchewan	18	18
Manitoba	18	18
Ontario	18	16
Quebec	18	16
New Brunswick	14	14
Nova Scotia	16	16
Prince Edward Island	**	**
Labrador & Newfoundland	18	**
Nunavut	18	16
Northwest Territories	18	16
Yukon	18	16

\* - There is no minimum specified age for mining however the Alberta *Employment Standards Code School Act* specifies that a child under 16 is required to attend school and cannot be employed during normal school hours, unless he/she is enrolled in an off-campus education program provided under the School Act.

\*\* - no minimum age specified for mining but regulatory requirements limit work that is likely to be harmful to health or safety for children under the age of 16

Table 2 – Provincial Child Labour Regulations

Jurisdiction	Legislation/Regulation	Restrictions on Employing Children
Federal	<a href="#">Canada Labour Standards Regulations</a>	Prohibits children under the age of 17 from working in an underground mine.
Alberta	<a href="#">Employment Standards Code and Regulations</a>  <a href="#">School Act</a>	Prohibits persons under the age of 15 from employment that is or is likely to be injurious to the life, health, education or welfare of the adolescent.  Prohibits persons under the age of 16 from being employed during normal school hours, unless he/she is enrolled in an off-campus education program provided under the <i>School Act</i> .  Beyond this limitation, there is no regulated age for working at a mine, surface or underground.
British Columbia	<a href="#">Health, Safety and Reclamation Code for Mines under the Mines Act</a>	Prohibits persons under the age of 18 from being employed at a mine except for the purposes of training
Manitoba	<a href="#">Employment Standards Code</a>	Prohibits persons under the age of 18 from being employed underground or at the face of an open pit or quarry.





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		Persons under the age of 16 cannot be employed in a business if, in the opinion of the Director, the safety, health or well-being of the child is likely to be adversely affected.
New Brunswick	<a href="#">Employment Standards Act</a> <a href="#">Education Act</a>	Prohibits persons under the age of 14 from working in any industrial undertaking which includes mines, quarries, and other works for the extraction of minerals from the earth.  The Education Act prohibits children under 18 from being employed during school hours
Newfoundland & Labrador	<a href="#">Mines Safety of Workers Regulations under the Mines Act</a> <a href="#">Labour Standards Act</a>	Prohibits persons under the age of 18 from being employed underground in a mine.  Persons under the age of 16 cannot be employed in work that is or is likely to be unwholesome or harmful to the child's health or normal development or prejudicial to school attendance or to the capacity to benefit from instruction at school
Northwest Territories & Nunavut	<a href="#">Mine Health and Safety Regulations under the Mine Health and Safety Act</a>	Prohibits persons under the age of 16 from being employed in or about a mine  Prohibits persons under the age of 18 from being employed underground or at the working face of any open cut workings, pit or quarry
Nova Scotia	<a href="#">Labour Standards Code</a>	Prohibits persons under the age of 16 from being employed in an industrial undertaking. An industrial undertaking includes mines, quarries and other works for the extraction of minerals from the earth.
Ontario	<a href="#">Mines and Mining Plants Regulation under the Occupational Health and Safety Act</a>	Prohibits persons under the age of 16 from working in a mining plant or surface mine.  Prohibits persons under the age of 18 from working at an underground mine or at the working face of a surface mine.
Prince Edward Island	<a href="#">Youth Employment Act</a> <a href="#">School Act</a>	Prohibits persons under the age of 16 from work in employment that is or is likely to be harmful to the health or safety, or moral or physical development of young persons.  In regard to industrial undertakings the Director of Occupational Health and Safety or an occupational health and safety officer may prohibit the employment of young persons in a location where a toxic substance or equipment or machinery is potentially dangerous to them.





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Quebec	<a href="#">Regulation respecting occupational health and safety in mines</a>	Prohibits persons under the age of 16 from being employed in an open-pit mine, in a concentrator, or in a plant.  Prohibits persons under the age of 18 from being employed in an underground mine or on the working face in an open-pit mine
Saskatchewan	<a href="#">Occupational Health and Safety Regulations, 1996 under the Occupational Health and Safety Act, 1993</a>	Prohibits persons under the age of 18 from working underground or in an open-pit mine.
Yukon	<a href="#">Surface and Underground Mines and Projects Regulations under the Occupational Health and Safety Act</a>	Prohibits persons under the age of 16 from being employed in or about a mine  Prohibits persons under the age of 18 from working underground or at the working face of a surface mine





**For more information about the TSM initiative, visit:**

The Mining Association of Canada  
[www.mining.ca/tsm](http://www.mining.ca/tsm)

Mining Association of British Columbia  
[www.mining.bc.ca/tsm](http://www.mining.bc.ca/tsm)

Quebec Mining Association  
[www.amq-inc.com](http://www.amq-inc.com)

Finnish Mining Association  
[www.kaivosvastuu.fi/verkosto/jasenet/statement-of-intent](http://www.kaivosvastuu.fi/verkosto/jasenet/statement-of-intent)

Camara Argentina de Empresarios Mineros  
<http://www.caem.com.ar/hms/>

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