

# RAINFOREST ALLIANCE

## POLICY:

### **Workers' Organizations in Banana and Pineapple Farms in Costa Rica**

*Document code: SA-P-LA-37*

*Version 1.1*

*EN*

*Binding from 15 October 2024*

*Published on 15 October 2024*



**RAINFOREST  
ALLIANCE**



The Rainforest Alliance is creating a more sustainable world by using social and market forces to protect nature and improve the lives of farmers, workers and forest communities.

<b>Document Name:</b> <b>Document code:</b>		<b>Date of first publication:</b>	<b>Expires by:</b>
Policy: Workers' Organizations in Banana and Pineapple Farms in Costa Rica		July 10, 2024	Until further notice
<b>Linked to:</b>			
SA-S-SD-1 Rainforest Alliance 2020 Sustainable Agriculture Standard, Farm Requirements SA-R-GA-1 Rainforest Alliance Certification and Auditing Rules SA-G-GA-24 Rainforest Alliance Auditor Verification Protocol SA-GL-SD-1 Annex S01: Glossary			
<b>Applicable to:</b>			
Prospective and certified banana and pineapple farm entities in the Rainforest Alliance 2020 Certification Program audited against the 2020 Sustainable Agriculture Standard Farm Requirements Approved Certification Bodies			
<b>Country/Region:</b>			
Costa Rica			
<b>Crop:</b>		<b>Type of Certification:</b>	
Fruits: Banana/Pineapple		Farm Certificate Holders	

Policies are binding. Policies complement and/or supersede related rules or requirements for the parties they are applicable to.

*More information*

For more information about the Rainforest Alliance, visit [www.rainforest-alliance.org](http://www.rainforest-alliance.org), contact [info@ra.org](mailto:info@ra.org), or contact the Rainforest Alliance Amsterdam Office, De Ruijterkade 6, 1013AA Amsterdam, The Netherlands.

This policy is derived from the Rainforest Alliance Standard and reflects the same content. For interpretation of the content, please refer to the Standard itself.

*Translation Disclaimer*

For any question related to the precise meaning of the information contained in the translation, please refer to the official English version for clarification. Any discrepancies or differences in meaning due to translation are not binding and have no effect for auditing or certification purposes.

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# 1. Introduction

New market trends make it increasingly essential that the Rainforest Alliance Certification Program be constantly updated. Human Rights topics in the supply chain, including Freedom of Association (FoA), have acquired special relevance in different markets, driven by new laws/regulations that promote effective compliance with this human right.

Within the framework of this reality, the hereinafter 'Policy on WOs' has been developed to align the requirements of the Rainforest Alliance 2020 Sustainable Agriculture Standard, Farm Requirements to the context of banana and pineapple farming operations in Costa Rica. It aims to recognize, in equal conditions, access to negotiate benefits established in the Rainforest Alliance 2020 Sustainable Agriculture Standard, Farm Requirements, based on genuine dialogue.

This applies to all recognized workers' organizations (WO) with representation in banana and pineapple farms in Costa Rica. The Policy on WOs offers an interpretation of the FoA requirements set in the Rainforest Alliance 2020 Sustainable Agriculture Standard: 5.2.1, 5.2.2, and 5.2.3. The requirements mentioned have been framed in such a way to further assist banana and pineapple producers in Costa Rica to implement the Rainforest Alliance Certification Program.

For Certification Bodies these additions must be read in conjunction with the Certification and Auditing Rules and Auditor Verification Protocol as the list of topics provided under the column 'CB verification during audit' is not necessarily exhaustive. The Policy on WOs does not cover all requirements of the Rainforest Alliance 2020 Sustainable Agriculture Standard, Farm Requirements. The requirements mentioned in this Policy on WO do not replace the full intention of the requirement in the Standard but rather mention specific aspects for further clarification for both Certificate Holders and Certification Bodies. If a requirement of the Standard is therefore not covered by this document, both Certificate Holders and Certification Bodies must comply with the requirements and the rules as set out in the Rainforest Alliance 2020 Sustainable Agricultural Standard, Farm Requirements, and the Rainforest Alliance Certification and Auditing Rules.

The Rainforest Alliance also recognizes the importance of considering the country's situation/particularities, when necessary, and its intrinsic relationship with the compliance of the Rainforest Alliance 2020 Sustainable Agriculture Standard, Farm Requirements. Respecting the autonomy of each government structure where fruit with the Rainforest Alliance seal is produced, the Certification Program recognizes that it is not its purpose to define whether a workers' structure is legal or not, since this decision lies on each State's liability. However, the Rainforest Alliance Standard promotes not only compliance with national legislation but also a permanent commitment to work on continuous improvement.

The Policy on WOs would be applicable as long as there is no local legal pronouncement/regulation that updates the position. In the event that the Ministry of Labor and Social Security (MTSS) of Costa Rica issues an official interpretation that is different from what is indicated in this Policy, Rainforest Alliance must align itself with the official position issued by this government entity.

For now, the Policy on WOs only applies to banana and pineapple farming in Costa Rica, as long as this Policy remains in force and binding.



## 2. Applicable Requirements for Farm Certificate Holders

Further down, will be presented an Interpretative Table of the main approved clarifications for Costa Rica about Freedom of Association-linked requirements set in the Rainforest Alliance 2020 Sustainable Agriculture Standard, Farm Requirements.

For reading, analysis, and subsequent training purposes, the following clarifications must be considered:









- (i) From left to right, the Interpretative Table will contain the requirement referred to, the original requirement text; the interpretation approved for Costa Rica, and the minimum verification each Certification Body (CB) must observe during audit, according to the Auditor Verification Protocol (AVP) of Rainforest Alliance. Finally, the table contains the scope of the requirement initially indicated.
- (ii) Regarding the interpretations approved for Costa Rica, they are supported by a local technical and legal consultation process. However, it does not mean a replacement for local legislation. On the contrary, it is an official interpretation approved for the country, aiming at moving together towards continuous improvement related to Freedom of Association (FoA) requirements.

### Important changes

1. For CHs: (i) Evaluate WOs in the workplace and conduct proper analysis to recognize, in equal conditions, access to negotiate benefits established in the Rainforest Alliance 2020 Sustainable Agriculture Standard, Farm Requirements; (ii) Consider as part of the scope as a Certificate Holder to provide information on FoA and types of workers' organizations to workers' representatives, following the Rainforest Alliance 2020 Sustainable Agriculture Standard, Farm Requirements and the Policy on WOs.
2. For CBs: (i) Consider, in the total sample of workers' organizations to be interviewed, the necessary stratification to effectively include all workers' organizations in the consultation processes before the audit itself; (ii) Keep differentiated records of trade union workers' organizations and elected workers' organizations, according to each CH case.
3. For WOs: (i) Equal conditions should be recognized to negotiate benefits established in the Rainforest Alliance 2020 Sustainable Agriculture Standard, Farm Requirements; (ii) Only WOs that comply with minimum characteristics recognized by Rainforest Alliance would be covered in the Certification Program. This does not affect their daily work, protected by applicable local legislation.

## 5.2 Freedom of Association and Collective Bargaining

No.	Core Requirements	Costa Rica interpretation	CB verification during audit	Group Certification			Individual certification
				S farm	L farm	Group management	S/L
5.2.1	<p>Workers have the right to form and join a union or workers' organization of their own choice and to take part in collective bargaining, without prior authorization from the employer, and in accordance with applicable law. Workers' representatives are elected democratically among workers in regular, free elections.</p> <p>Management informs workers on these rights through a written policy in a language they understand, before the start of employment. The written policy on freedom of association and collective bargaining is visibly displayed at all times in the workplace.</p> <p>Where the right to freedom of association and collective bargaining is restricted under law, management does not hinder the development of parallel means for independent and free association, bargaining and dialogue with management.</p> <p><b>ILO Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87)</b></p> <p><b>ILO Workers' Representatives Recommendation, 1971 (No. 143)</b></p>	<p><b>Topic 1 – Workers' representatives regular and free elections</b></p> <ul style="list-style-type: none"> <li>As for TU-WOs, election regularity is established in Statutes.</li> <li>For elected WOs, local legislation does not allow re-election periods for their members. To change elected representatives, Decree 37184 of the Ministry of Labor and Social Security applies.</li> <li>If there is a WO with no defined election regularity, it does not mean a no conformity of the CH.</li> <li>WOs with no defined election regularity won't be covered, as an independent organization, in the RA Certification Program. This does not affect their daily work, protected by applicable local legislation.</li> </ul> <p>Continuous progress/improvement in this topic will be audited based on the following parameters:</p> <ul style="list-style-type: none"> <li>Design, review or inclusion in current training programs the FoA requirements interpretation set up by Rainforest Alliance, including those related to recognized WOs.</li> <li>Record of thematic FoA training addressed directly with workers and WOs (both TU and elected).</li> </ul>	<p><b>3 dimensions of FoA</b></p> <p>(i) Positive and negative rights (to form, join, or not to in a workers' organization of their choice):</p> <ul style="list-style-type: none"> <li>Workers have the right to form and join a union or workers' organization of their own choice.</li> <li>There is a written policy on Freedom of Association and Collective Bargaining in the workplace.</li> </ul> <p>(ii) Dual representation (according to ILO C.135):</p> <ul style="list-style-type: none"> <li>Workers have the right to be represented by any of the following: trade union representatives (trade unions) or elected representatives (non-trade union organizations) in the same workplace.</li> <li>For non-trade union workers' organizations, if representatives are permanently elected, it would be not in compliance with the standard due to regular elections lacking.</li> </ul> <p>(iii) Free exercise of representation tasks (according to ILO C.98 and ILO C.135):</p> <ul style="list-style-type: none"> <li>All kinds of workers' organizations should receive the same benefits.</li> <li>Workers' organizations shall enjoy adequate protection against any acts of interference (ILO C.98).</li> </ul> <p>Refer to the AVP for further details.</p>	✓	✓	✓	✓

<p><b>5.2.2</b></p>	<p>Workers are not subject to discrimination or retaliation for reasons of past or present workers' organization or union membership activities. Management does not punish, bribe or otherwise influence union members or workers' representatives. Records are kept of terminations of employment, including the reason for termination and workers' affiliation with a union or workers' organization. Management does not interfere in the internal affairs of workers' organizations and/or unions, nor in elections or duties related to membership of such organizations.</p> <p><b>ILO Right to Organize and Collective Bargaining Convention, 1949 (No. 98)</b>  <b>ILO Workers Representatives Recommendation, 1971 (No. 143). (No. 143)</b></p>	<p><b>Topic 1 – Internal affairs of WO</b></p> <ul style="list-style-type: none"> <li>• It is the exclusive power of the WO to establish their elections, representatives, affiliation/disaffiliation processes, among others.</li> <li>• Training/providing information on FoA and Rainforest Alliance's interpretation of its requirements is considered part of the scope of a CH.</li> <li>• Providing information about the Rainforest Alliance Certification Program and its scope will not be considered an act of interference, as long as it is the WOs who decide, independently, if internal changes are needed to be covered by the Certification Program.</li> </ul> <p>Continuous progress/improvement in this topic will be audited based on the following parameters:</p> <ul style="list-style-type: none"> <li>• Design, review or inclusion in current training programs the FoA requirements interpretation set up by Rainforest Alliance, including those related to recognized WOs.</li> <li>• Record of thematic FoA training addressed directly with workers and WOs (both TU and elected).</li> </ul>	<p><b>Among others:</b></p> <ul style="list-style-type: none"> <li>• Management does not interfere in the internal affairs of workers' organizations and/or trade unions.</li> <li>• Management does not interfere in elections or duties related to membership of workers' organizations or trade unions.</li> </ul> <p>Refer to the AVP for further details.</p>				
<p><b>5.2.3</b></p>	<p>Management provides workers' representatives reasonable paid time off from work to carry out their representation functions and attend meetings.</p> <p>Where needed, management provides the worker representatives with reasonable facilities including meeting space, means of communication and childcare.</p> <p>Management gives worker organization and/or trade union access to a notice board to communicate information about their activities.</p> <p>Management establishes genuine dialogue with freely chosen workers' representatives to collectively raise and address working conditions and terms of employment.</p> <p>Management keeps records of the minutes from meetings with worker organizations</p>	<p><b>Topic 1 – Paid time off</b></p> <ul style="list-style-type: none"> <li>• Applicable, in equal conditions to both TU and elected WOs, regardless of their numerical affiliation.</li> <li>• As it is a benefit that has direct repercussions on productivity, the limitations of this benefit will be set according to negotiation between the parties.</li> </ul> <p>Continuous progress/improvement in this topic will be audited based on the following parameters:</p> <ul style="list-style-type: none"> <li>• Record of minutes, agreements, negotiations, agendas, or similar where the benefit and its scope are established (approximate days granted as benefits, periodicity of paid time off, among others), according to each WO.</li> <li>• Record of documentary evidence of the corresponding payments.</li> </ul> <p><b>Topic 2 – Minimum conditions for the exercise of representation tasks</b></p> <ul style="list-style-type: none"> <li>• Paid time off, reasonable facilities, meeting space, means of</li> </ul>	<p><b>Among others:</b></p> <ul style="list-style-type: none"> <li>• Worker representatives are provided with necessary paid time off from work for their representation functions and to attend meetings.</li> <li>• Worker representatives are provided with facilities to carry out their functions.</li> <li>• Management establishes a genuine dialogue with workers' representatives to collectively raise and address working conditions and terms of employment.</li> </ul> <p>Refer to the AVP for further details.</p>				

	<p>and/or trade unions.</p> <p><b>ILO Workers' Representatives Convention, 1971 (No. 135)</b></p> <p><b>ILO Workers' Representatives Recommendation, 1971 (No. 143)</b></p>	<p>communication, and a notice board are considered as minimum conditions, but not exclusive, for the exercise of representation tasks.</p> <ul style="list-style-type: none"> <li>• Applicable, in equal conditions to both TU and elected WOs, regardless of their numerical affiliation.</li> <li>• Childcare mentioned in the requirement is not considered a minimum condition for the exercise of representation duties. The scope of this benefit will be conditional on the negotiation between parties, based on genuine dialogue.</li> </ul> <p>Continuous progress/improvement in this topic will be audited based on the following parameters:</p> <ul style="list-style-type: none"> <li>• Record of minutes, agreements, negotiations, agendas, or similar where the benefit and its scope are established, according to each WO.</li> </ul> <p><b>Topic 3 – Genuine dialogue</b></p> <ul style="list-style-type: none"> <li>• Genuine dialogue means that inputs from all actors are considered equally. It can take place about topic suggestions, inputs, preventive measures, or any other idea or topic that either CH management or WOs (both TU and elected) propose.</li> <li>• Considering genuine dialogue is a process that requires the commitment of both negotiating parties, this topic will be evaluated progressively, but not leniently.</li> <li>• A dialogue is genuine when at least the following conditions are met: <ul style="list-style-type: none"> <li>• Parties dialogue voluntarily for the sake of learning or solving with transparency and willingness.</li> <li>• For negotiations linked to labor relationships, no assumption of sameness among parties is key.</li> <li>• Freedom to openly disagree.</li> </ul> </li> </ul> <p>Continuous progress/improvement in this topic will be audited based on the following parameters:</p> <ul style="list-style-type: none"> <li>• Record of minutes, agreements, negotiations, agendas, or similar where the genuine dialogue and review of the topics indicated in the 5.2.3 requirement are established, according to each WO.</li> <li>• Progressive and timely attention/response from management to the minutes/inputs/proposals received by WOs (both TU and elected).</li> </ul>					
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		<p><b>Topic 4 - Minutes of meetings with WOs</b></p> <ul style="list-style-type: none"> <li>Minutes of meetings with WOs are registration documents, they are not themselves evidence of genuine dialogue.</li> </ul> <p>Continuous progress/improvement in this topic will be audited based on the following parameters:</p> <ul style="list-style-type: none"> <li>Record of minutes, agreements, negotiations, agendas, or similar where the genuine dialogue and review of the topics indicated in the 5.2.3 requirement are established, according to each WO.</li> <li>Progressive follow-up to agreements, in consultation with WOs (both TU and elected).</li> <li>Progressive and timely attention/response from management to the minutes/inputs/proposals received by WOs (both TU and elected).</li> </ul>					
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## Annex: Recognized WOs in Costa Rica

After legal and technical analysis, as well as consultation with interested parties, the Rainforest Alliance recognizes two (2) types of workers’ organizations in Costa Rica:

- (i) Trade Union Workers’ Organizations.
- (ii) Elected workers’ organizations (any non-trade union workers’ organization permitted by Costa Rican legislation, with powers to negotiate job-related topics).

In respect of the human right Freedom of Association (FoA), all workers’ organizations with representation in farms with the Rainforest Alliance seal in Costa Rica must have equal conditions both in the negotiation processes with their employers, as well as in the recognition of minimum benefits necessary to perform their responsibilities (defined in requirements 5.2.3).

The equity of conditions extends, but is not limited to:

- Applicable to both TU and elected WOs, regardless of their numerical affiliation.
- Stakeholder consultation at least 2 weeks before a planned audit process, as well as on-site and off site interviews, will be implemented according to Rainforest Alliance’s Risk Map and Certification and Auditing Rules (CARs) 4.2.2, 4.2.7, 4.2.8, and 4.2.13.
- Rainforest Alliance-led training.

Hereby, the Rainforest Alliance recognizes that a Workers’ Organization must have, as a minimum, the following characteristics:

1. Voluntary and independent.
2. With representatives chosen in regular and free elections.

Here you can see the approved definition of each recognized WO in Costa Rica.

### Trade Union Workers’ Organizations

S	
Trade unions	<ul style="list-style-type: none"> <li>• Members of Federations, Confederations, Coordinators, or Global Union Federations.</li> <li>• Recognized as set in <b>art. 339 and 342 of the Labor Code of Costa Rica</b>.</li> <li>• They negotiate Collective Bargaining Agreement (CBA) with employers. The CBA is a type of collective bargaining in Costa Rica (<b>art. 62 of the Political Constitution of CR; Art. 56 and 696 of the Labor Code of Costa Rica</b>).</li> <li>• The negotiation or existence of a CBA does not limit or make impossible the negotiation of new agreements with an elected workers’ organization regarding topics not contained in a CBA (<b>OFICIO-MTSS-DAJ-AER-013-2024 of the Ministry of Labor</b>).</li> </ul>



## Elected Workers' Organizations

C	
Committees of Workers Representatives, or other thematic committees	<ul style="list-style-type: none"><li>• All those permitted by local legislation, including other temporary workers' coalitions, or thematic committees of workers (<b>Labor Code of Costa Rica</b>).</li></ul>
Permanent committees	<ul style="list-style-type: none"><li>• Recognized as set in <b>art. 614 and 615 of the Labor Code of Costa Rica; Decree No. 37184 of the Ministry of Labor</b>.</li><li>• Structures composed of a group of workers (no more than three) to represent workers before their employer to resolve a conflict affecting them. Formed solely to present the list of demands through which a solution to an economic and social conflict will be proposed. Established for a specific time (<b>OFP-MTSS-DAJ-AER-639-2024 of the Ministry of Labor</b>).</li><li>• Its members are temporary delegates. They represent workers for the purposes of resolving economic and social conflicts in the workplace. Local legislation does not grant them permanent full workers' representation prerogatives, permanent functions, or the task of monitor compliance with the resulting agreements with their employer. They represent workers only when an economic or social conflict arises that requires finding a solution through a direct agreement as an alternative dispute resolution mechanism (<b>OFP-MTSS-DAJ-AER-639-2024 of the Ministry of Labor</b>).</li><li>• They negotiate direct solutions with management through a direct agreement process. The result of the negotiation is an internal instrument that contains the solution negotiated between parties. Agreements between parties can be focused on the creation or not of working conditions not contained in a previous legal instrument or CBA (<b>OFICIO-MTSS-DAJ-AER-013-013-2024 of the Ministry of Labor</b>).</li><li>• The direct agreement process is a type of collective bargaining in <b>Costa Rica (Decree No. 37184 of the Ministry of Labor)</b>.</li><li>• The existence of an instrument negotiated between a Permanent committee and the management does not limit or make it impossible to negotiate a CBA with a trade union workers' organization (<b>Resolution No. 2011-012457 of the Constitutional Chamber of Costa Rica</b>).</li></ul>