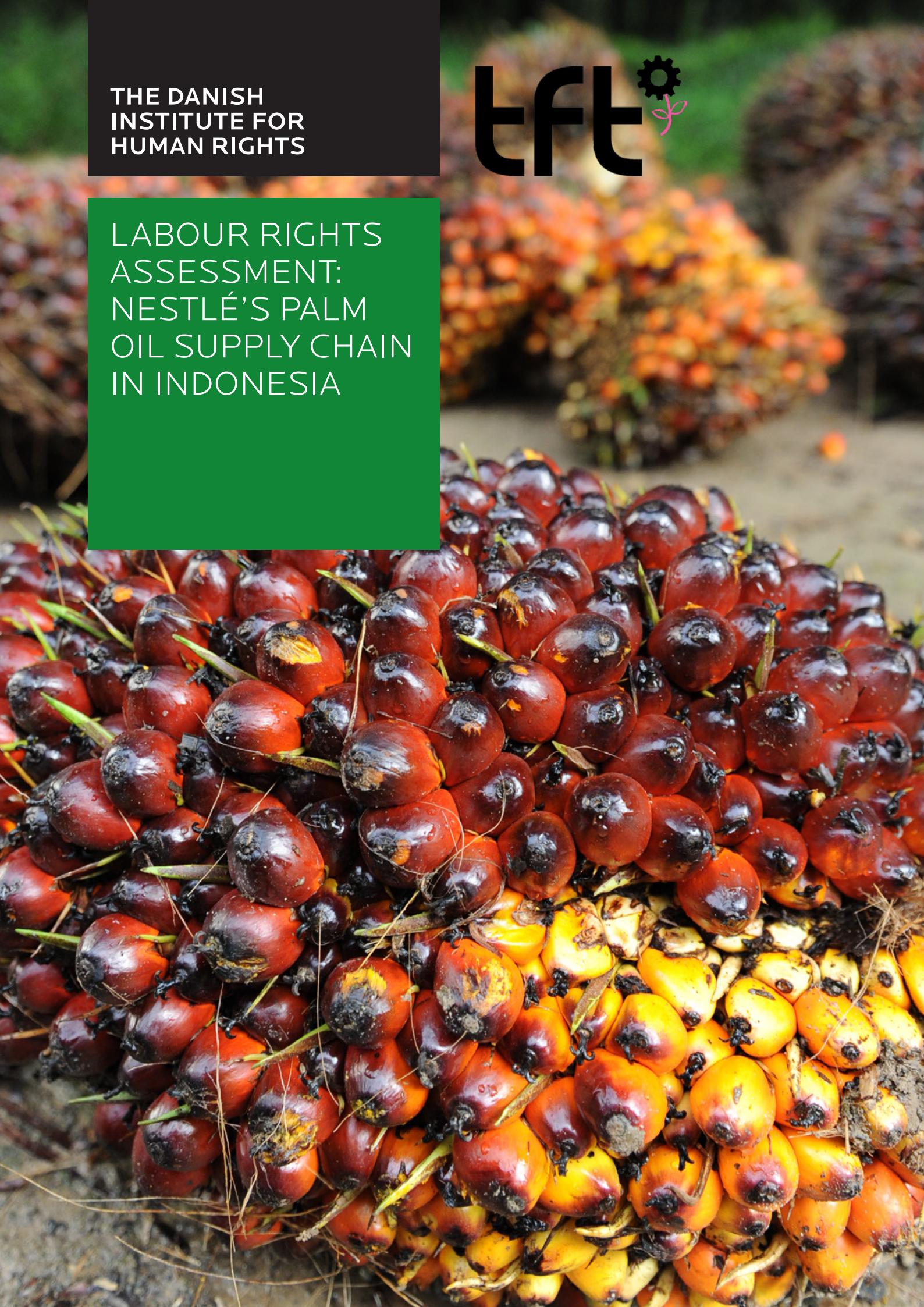


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LABOUR RIGHTS ASSESSMENT: NESTLÉ'S PALM OIL SUPPLY CHAIN IN INDONESIA



NESTLÉ'S PALM OIL SUPPLY CHAIN IN INDONESIA

This report was written by Dirk Hoffmann and Tulika Bansal from The Danish Institute for Human Rights (DIHR) and Janhavi Naidu from The Forest Trust (TFT), with contributions from Harry Puguh, Yogo Pratomo and Nindy Silvie from The Forest Trust.

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Picture: The Forest Trust, Woman spraying on palm oil plantation

Pictures in the report taken by: Tulika Bansal, Danish Institute for Human Rights;

The Forest Trust; Golden Agri-Resources

Layout: Hedda Bank

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Denmark's National Human Rights Institution
Wilders Plads 8K
DK-1403 Copenhagen K
Phone +45 3269 8888
www.humanrights.dk

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The chief objective of the DIHR is to promote and develop knowledge about human rights on a national, regional and international basis predicated on the belief that human rights are universal, mutually interdependent and interrelated. The Institute believes that societies must be based on the rule of law, where the state protects and confers obligations on the individual while safeguarding the most disadvantaged and marginalized groups in society.

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Formed in 1999, we employ over 260 people across 16 countries and work on the ground in many more. A membership-based organisation, we work with companies who are committed to long-term, meaningful change. Our members include Nestlé, Golden Agri-Resources, Wilmar International, Cargill, Ferrero, Mars, ADM, 3M, Asia Pulp and Paper, Kingfisher and Lindt.



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ABBREVIATIONS

BHL	Buruh Harian Lepas
CPO	Crude Palm Oil
CSO	Civil Society Organisation
DIHR	The Danish Institute for Human Rights
EIA	Environmental Impact Assessment
FFB	Fresh (Palm) Fruit Bunches
FFS	Farmer Field School
FoKSBI	Indonesia Palm Oil Platform
GAP	Good Agricultural Practices
GAPKI	Indonesian Palm Oil Association
GAR	Golden Agri-Resources
GSEP	GAR Social and Environmental Policy
IOPRI	Indonesian Palm Oil Research Institute
ISPO	Indonesia Sustainable Palm Oil
KBT	Karyawan Bulanan Tetap
KHT	Karyawan Harian Tetap
KNK	Labour Norms Expert/Cadre
KPI	Key Performance Indicator
NGO	Non-Governmental Organisation
OLGM	Operational-level grievance mechanism
OHS	Occupational Health and Safety
PBT	Pekerja Bulanan Tetap
PHT	Pekerja Harian Tetap
PisAgro	Partnership for Indonesia Sustainable Agriculture
PKWT	Perjanjian Kerja Waktu Tidak Tertentu/Tertentu
PPE	Personal Protective Equipment
PROKEP	Labour Compliance Programme
RSPO	Roundtable for Sustainable Palm Oil
SKU	Surat Kerja Umum
SOMO	Centre for Research on Multinational Corporations
SPKS	Oil Palm Farmers Union
SOP	Standard Operating Procedures
SPSI	Serikat Pekerja Seluruh Indonesia
TFT	The Forest Trust
UDHR	Universal Declaration of Human Rights

TABLES

- Table 1: Summary of assessment findings
- Table 2: Summary of key recommendations
- Table 3: Labour Rights Assessment steps
- Table 4: Breakdown of interviews during the assessment

GLOSSARY

Crude Palm Oil	Edible oil which is extracted from the pulp of fruit of oil palms.
Estate	For the purpose of this report, the term estate is being used in connection with plantations that are larger than 25 hectares, which are required to register as a business according to Indonesian law.
FFB	Fresh Fruit Bunches (FFB) is the term for the palm oil fruits, which grow in bunches on oil palm trees
ISPO	Indonesian Sustainable Palm Oil is a government backed certification scheme that is mandatory for all palm oil producers and includes social and environmental requirements in line with Indonesia law.
OLGM	An operational-level grievance mechanism is a formalised means for affected stakeholders to raise concerns about any impact they believe a company has had on them, in order to seek remedy.
Plantation	The overarching term used for palm oil farms no matter the size (smallholder or registered business).
PT	A limited liability company in Indonesia
Rights-holders	All human beings are human rights-holders. In the context of a human rights impact assessment the focus is on those rights-holders who are actually or potentially adversely affected by the business project or activities. Organisations or entities, such as trade unions or religious institutions, are not human rights-holders, but may act in a representative capacity. Examples of rights-holders whose human rights can be impacted by business projects or activities include: local community members (including women and men, vulnerable individuals and groups, downstream, trans-boundary or neighbouring communities); employees; contractor and supply chain workers; and consumers.

RSPO	The Roundtable on Sustainable Palm Oil (RSPO) was established in 2004 with the objective of promoting the growth and use of sustainable oil palm products globally. Palm oil producers can get certified against a set of environmental and social criteria.
Stakeholder	A person, group or organisation with an interest in, or influence on, a business project or activity, as well as those potentially affected by it. Relevant stakeholders for the assessment of human rights impacts include affected rights-holders, duty-bearers and other relevant parties.

EXECUTIVE SUMMARY

OVERVIEW

As the world's largest food and beverage company, Nestlé buys 460,000 tonnes (2016) of palm oil annually to manufacture its products. A large percentage of this palm oil comes from Indonesia. In order to better understand the actual and potential labour rights impacts in its palm oil supply chain in Indonesia, in 2017 Nestlé commissioned the Danish Institute for Human Rights (DIHR) and The Forest Trust (TFT) to conduct a Labour Rights Assessment, the findings of which are shared in this report.

AIMS AND OBJECTIVES OF THE LABOUR RIGHTS ASSESSMENT

The aims and objectives of this Labour Rights Assessment were to:

- Identify and describe actual and potential human rights risks and impacts in Nestlé's palm oil supply chain, with a particular focus on labour rights;
- Propose actionable recommendations to Nestlé on how to improve its Responsible Sourcing program to further mitigate and avoid negative labour rights impacts; and
- Jointly build an understanding of the challenges in the palm oil supply chain.

In addition to the focus on labour rights, the assessment teams also assessed community impacts through a select number of interviews with company management representatives, workers and community members. Less time was spent on assessing community impacts to maximize time spent in workers' interviews. As such, the assessment presents a targeted, rather than a broad human rights impact analysis. In accordance with the United Nations Guiding Principles on Business and Human Rights, the assessment focused primarily on identifying and addressing adverse impacts, however, where positive impacts were found, these have been noted.

PALM OIL IN CONTEXT

Palm oil accounts for 35 percent of the world's vegetable oil consumption and is used in almost 50 percent of supermarket products. Indonesia is the largest producer of palm oil in the world, and an estimated 3.7 million people are engaged in the palm oil industry and downstream industries, according to a 2011 Roundtable on Sustainable Palm Oil (RSPO) estimate.¹ In 2016, 34 million tonnes of palm oil were produced in Indonesia, which constitute 54 percent of the world's supply.²

Despite the economic benefits, various studies have also highlighted the adverse impacts of palm oil production.³ These include environmental impacts such as

deforestation and pollution, in addition to poor labour conditions on palm oil plantations and processing mills. Numerous public and private sector initiatives have been established to make palm oil production more sustainable, including national certification schemes like the Indonesian Sustainable Palm Oil Standard (ISPO) and global level certification schemes like the RSPO. However, these certification schemes still cover only a fraction of palm oil producers in Indonesia – about 10 percent is RSPO certified and 30 percent ISPO certified. Non-governmental organisation (NGO) reports indicate that, at least on an incidental basis, such certification does not guarantee that palm oil is sustainably produced.⁴ Recent reports by organisations like Amnesty International and The Centre for Research on Multinational Corporations (SOMO) have focused in particular on the prevalence of labour rights violations on palm oil plantations.⁵

NESTLÉ'S PALM OIL SUPPLY CHAIN

As the world's largest food and beverage company, Nestlé buys 460,000 tonnes (2016) of palm oil annually to manufacture its products.⁶ A large percentage of this palm oil comes from Indonesia. As one of Nestlé's largest suppliers of palm oil, Golden Agri-Resources (GAR) was the pilot supplier participating in the assessment. A GAR refinery supplying palm oil to Nestlé was chosen as the entry point for the site selection. This refinery was also part of the Labour Rights Assessment. In addition, four mills supplying crude palm oil to the refinery were visited by the assessment teams, one of which had a large integrated estate.⁷ The teams also assessed smallholders supplying fresh fruit bunches (FFB) to the mills.

SUMMARY OF KEY FINDINGS

The following table provides an overview of the main findings of the assessment across the different supply chain levels.

TABLE 1: OVERVIEW OF ASSESSMENT FINDINGS		
Site	Labour findings	Community findings
Refinery	<ul style="list-style-type: none"> • Minimum wage may not amount to a living wage • Permanent workers were under the impression that it was mandatory to join the Serikat Pekerja Seluruh Indonesia (SPSI) union • Working hours of third party security staff exceeded legal limits • Third party drivers did not receive road safety training 	<ul style="list-style-type: none"> • Management was not consistently aware of the refinery's formal operational-level grievance mechanism for community complaints • Emergency drills did not extend to the local community
Mill	<ul style="list-style-type: none"> • Lack of policies, procedures and responsible persons governing areas like human resources, occupational health and safety, and security • Workers did not have copies of their contracts • Women and local community members felt discriminated against in terms of access to employment • Pervasive overtime exceeding national laws • Lack of a health and safety culture; workers did not always wear personal protective equipment (PPE) • No formal grievance mechanisms for workers • No labour unions at all or unions under company management at some mills • Substandard workers' accommodation at some of the mills 	<ul style="list-style-type: none"> • No formal operational-level grievance mechanism for community complaints was established • Not all mills had conducted legally mandated environmental impact assessments • Mill waste water polluted local rivers • Some mills admitted to paying bribes to local NGOs or journalists to prevent public stories about negative environmental impacts

Estate	<ul style="list-style-type: none"> • Lack of policies and procedures governing areas like human resources, occupational health and safety, and security • Children between 14 and 17 found helping their families, tolerated by management • Casual workers did not have contracts • Systemic discrimination against women working as casual workers, preventing them from becoming permanent workers despite performing permanent jobs. • Estate in the process of establishing a company-led labour union; joining the union mandatory for workers • Minimum wage violations through high quotas that were not adjusted during dry season • Lack of health and safety culture; workers not always provided with PPE • Use of restricted use weed-killer Gramoxone™ • No formal grievance mechanism for workers • Workers were given only five holidays per year, in violation of national laws • Substandard workers' housing 	<ul style="list-style-type: none"> • Not covered by this assessment
Collection Site	<ul style="list-style-type: none"> • Workers had no contracts • Excessive working hours and minimum wage violations • Workers were not provided with PPE 	<ul style="list-style-type: none"> • Not covered by this assessment

Smallholder farmers	<ul style="list-style-type: none"> • Large smallholders were in essence operating estates divided and registered as smallholder plots, avoiding falling under the regulatory framework governing estates. • Casual workers without labour contracts • Workers earned generally less than minimum wage • Some workers between 20-23 years old had started working at age 15 • Lack of PPE and unsafe use and storage of Gramoxone™ and RoundUp™ 	<ul style="list-style-type: none"> • Untrained security guards carried knives when guarding plantation during the night • Pesticides were applied to trees close to local rivers contrary to legal provisions • Reported water scarcity due to palm oil cultivation
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The findings of this assessment are not unique to Nestlé's palm oil supply chain, but rather are representative of industry-wide challenges in the provinces and in Indonesia. Therefore, this report – in addition to recommendations to Nestlé on how to address the assessment findings across the different tiers – includes recommendations to other key stakeholders, like other palm oil buyers, the government of Indonesia, national and international sustainability certification bodies such as ISPO and RSPO, and investors. The following table provides a summary of the recommendations.

TABLE 2: SUMMARY OF KEY RECOMMENDATIONS

Stakeholder	Recommendation
Nestlé	<p>Priority recommendations</p> <ul style="list-style-type: none"> • Focus on eliminating root causes of child and unpaid labour by addressing daily production quota linked to minimum wages • Collaborate with the National Commission for the Elimination of the Worst Forms of Child Labour (KNPBTA) • Work with suppliers to ensure development of Standard Operating Procedures (SOPs) and capacity building on occupational health and safety; scale efforts through supplier engagement platforms and collaboration with the ILO • Ensure that mills carry out legally mandated environmental impact assessments, have in place Water Management Plans, and develop operational-level grievance mechanisms (OLGM) <p>Long term recommendations</p> <ul style="list-style-type: none"> • Improve visibility of labour risks in the supply chain through risk assessments, training of supplier staff, and strengthening of screening and monitoring systems • Support Tier 1 suppliers in designing and/or facilitating training of mill and estate management on policies and procedures around labour rights • Share best practices on reducing working hours and overtime in industrial settings • Work with independent labour unions, civil society organisations and multi-stakeholder platforms on negative impacts in relation to minimum wages, grievance mechanisms, freedom of association as well as general worker awareness of their labour rights • Work with other buyers, strategic suppliers, industry platforms, the government and other key actors working with smallholders to build smallholder capacity on Good Agricultural Practices (GAP) while introducing sustainability requirements into the business relationships with smallholders.

GAR	<p>Refinery</p> <ul style="list-style-type: none"> • Raise awareness of refinery workers on GAR's freedom of association policy • Work with contractors to reduce working hours for 3rd party security staff • Ensure that the refinery's operational-level grievance mechanism is clearly communicated to staff and the nearby community <p>GAR Social and Environmental Policy (GSEP)</p> <ul style="list-style-type: none"> • Update all contracts with suppliers to mandate compliance with GAR's GSEP. • Ensure that protocols to assess GSEP compliance include a focus on labour rights and conduct a human rights risk mapping of the supply chain
Government of Indonesia	<ul style="list-style-type: none"> • Consider drafting new legislation to curb the practice of estates being registered as multiple smallholder plots to circumvent taxation and labour laws applying to workers • The Directorate General of Labour Inspection Development under the Ministry of Manpower should strengthen the enforcement of labour regulations in the palm oil sector • Strengthen labour compliance and workers' welfare across palm oil sustainability policy agendas. Mainstream a focus on workers' welfare into the National Action Plan on Sustainable Palm Oil • Consider establishing ISPO as the national palm oil certification body under the President's Office, instead of under the Ministry of Agriculture. • Provide guidance to companies, especially mills, on all relevant legislation regarding companies' social and environmental responsibility • Consider allocating a percentage of government development budgets specifically to palm oil growing regions to scale up strategic multi-stakeholder sustainability efforts
Certification bodies	<ul style="list-style-type: none"> • Consider strengthening ISPO's social standards to align with Indonesia's international commitments on labour standards • With their company membership base, RSPO and ISPO are well-placed to coordinate capacity-building efforts on sustainable labour and environmental practices

International organisations & Civil Society	<ul style="list-style-type: none"> • Work directly with companies committed to sustainable palm oil producing, including on monitoring, capacity building and research • Engage more directly with the government to advocate for and support evidence-based policy development efforts • International organisations like the ILO and other UN agencies should support national CSOs and include international buyers in public private partnerships to identify and scale up best practice
Buyers of palm oil	<ul style="list-style-type: none"> • Consider collaborating more, for example, through establishing a working group that periodically shares data and findings of labour and human rights studies, assessments and audits, and good practices and lessons learnt, or by pooling (financial) resources, and by developing and carrying out joint initiatives • Partner with key civil society organisations and/or international organisations on addressing systemic impacts
Investors	<ul style="list-style-type: none"> • When financing or investing in palm oil producers and buyers, investors should consider linking these investments to the company's sustainability performance, for example through the development of appropriate Key Performance Indicators (KPI), which should reflect in particular how the company manages labour risks in its own operations and supply chain. Investors can also provide financial incentives for good performance.

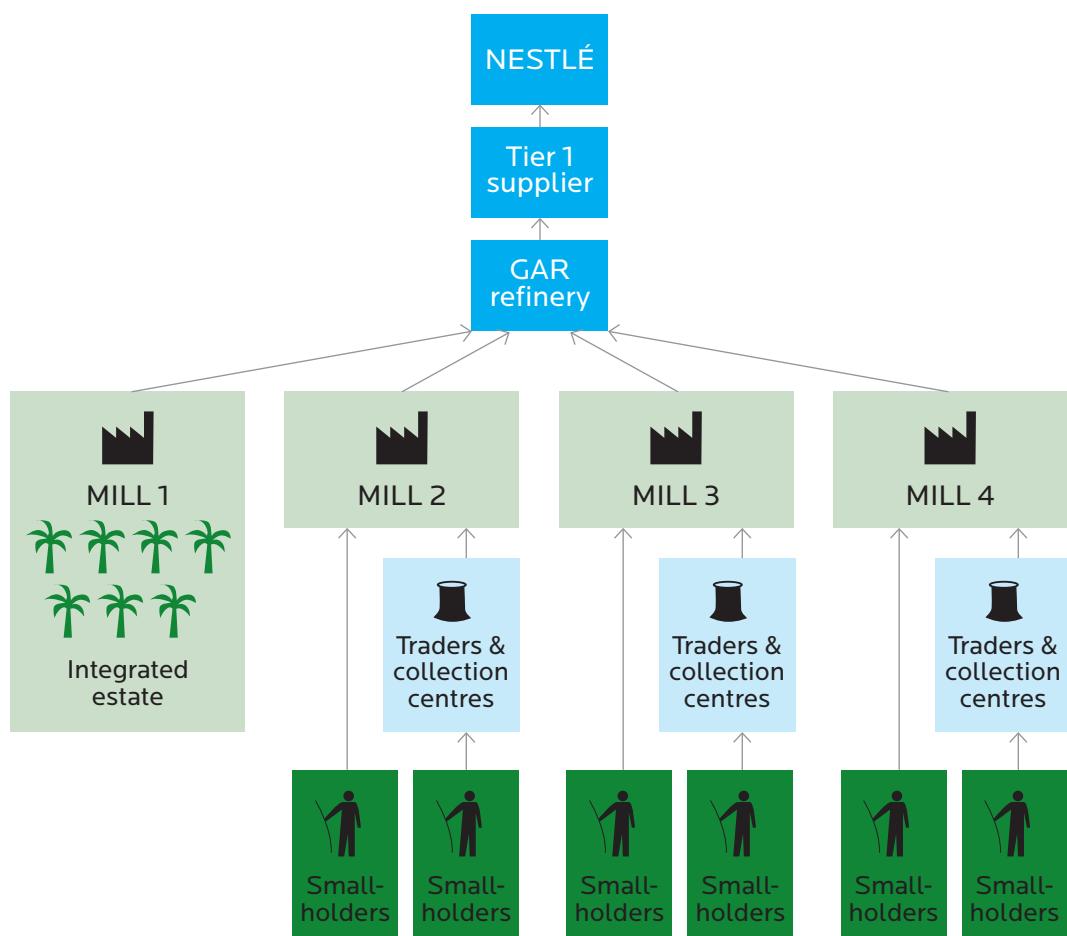
CHAPTER 1

1 INTRODUCTION

1.1 ABOUT THIS LABOUR RIGHTS ASSESSMENT

In order to better understand the actual and potential human rights impacts (with a particular focus on labour rights) in its palm oil supply chain in Indonesia, Nestlé commissioned the Danish Institute for Human Rights (DIHR) and The Forest Trust (TFT) to conduct a Labour Rights Assessment, the findings of which are shared in this report.

As one of Nestlé's largest suppliers of palm oil, Golden Agri-Resources (GAR) was the primary participating supplier in the assessment. A GAR refinery supplying palm oil to Nestlé was chosen as the entry point for the site selection. This refinery was also part of the Labour Rights Assessment.



In addition, four mills supplying Crude Palm Oil to the refinery were visited by the assessment teams; one of which had a large integrated estate.⁸ Furthest upstream in Nestlé’s palm oil supply chain, the assessment teams also looked at smallholders supplying fresh fruit bunches (FFB) to the mills. As illustrated in the graphic above, the assessment therefore covered suppliers in the 2nd to 5th tiers of Nestlé’s supply chain.⁹ The 1st tier supplier is a commodity trader, and was not part of this assessment. Commodity traders are not always part of the supply chain; in some cases, Nestlé buys directly from the refinery.

1.2 PALM OIL IN CONTEXT

Palm oil accounts for 35 percent of the world’s vegetable oil consumption. It is one of the most versatile vegetable oils, and is used in almost 50 percent of supermarket products. Its wide usage can be attributed to its cheap price and versatility.¹⁰

Indonesia is the largest producer of palm oil in the world. In 2016, the country produced 34 million tonnes of palm oil, which constitute 54 percent of the world’s supply, according to the U.S. Department of Agriculture.¹¹ According to GreenPalm, palm oil production accounts for 11 percent of Indonesia’s export earnings.¹² Palm oil dominates Indonesia’s agricultural sector with roughly 11.9 million hectares under cultivation.¹³ An estimated 3.7 million people are engaged in the palm oil industry and downstream industries, according to a 2011 RSPO estimate.¹⁴

Despite these economic benefits, various studies have highlighted the adverse impacts of palm oil production.¹⁵ These include environmental impacts such as deforestation and pollution, violations of customary land rights, and poor labour conditions on palm oil plantations and processing mills. Numerous initiatives have been established to make palm oil production more sustainable, ranging from national efforts like the Indonesian Sustainable Palm Oil Standard (ISPO) to global level initiatives, including the Roundtable on Sustainable Palm Oil (RSPO). However, these certification schemes still cover only a fraction of palm oil producers in Indonesia – about 10 percent is RSPO certified and 30 percent ISPO certified. Moreover, non-governmental organisations (NGO) indicate that, at least on an incidental basis, such certification does not guarantee that palm oil is sustainably produced.¹⁶ Recent reports by organisations like Amnesty International and The Centre for Research on Multinational Corporations (SOMO) have focused on the prevalence of labour issues on palm oil plantations in particular.¹⁷

1.3 METHODOLOGY

1.3.1 AIMS AND OBJECTIVES

The aims and objectives of this Labour Rights Assessment were to:

- **Identify and describe actual and potential human rights risks and impacts in Nestlé’s palm oil supply chain** – with a particular focus on labour rights – based

on desktop review, observations and interviews with representatives of supplier management and workers, potentially impacted communities, and external stakeholders (civil society organisations, intergovernmental organisations, government, labour unions);

- **Propose actionable recommendations to Nestlé** on how to improve its Responsible Sourcing program to further mitigate and avoid negative labour right's impacts;
- **Build an understanding of the challenges in the palm oil supply chain** in order to develop joint actions and scalable solutions that could serve the sector beyond this assessment.

1.3.2 PROCESS

The Labour Rights Assessment followed the generic steps outlined in DIHR's Human Rights Impact Assessment Guidance and Toolbox, adjusted as necessary to the context of this assessment.¹⁸

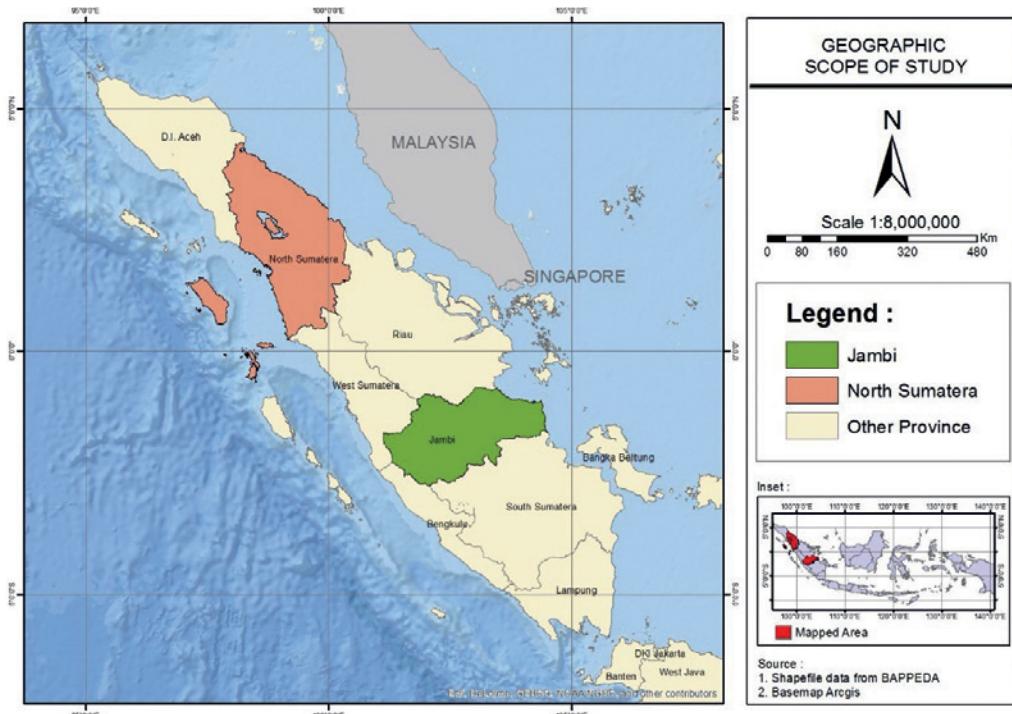
TABLE 3: LABOUR RIGHTS ASSESSMENT STEPS

Assessment Phase	Activities
I. Planning and scoping	<ul style="list-style-type: none"> • Developed terms of reference for the assessment • Decided on the issue and geographic scope and selected suppliers to be assessed • Conducted a stakeholder mapping of internal and external stakeholders • Developed assessment questionnaires for each stakeholder group, tailored to the palm oil sector in Indonesia
II. Data collection and baseline development	<ul style="list-style-type: none"> • Conducted desktop background research on the key human rights impacts in the palm oil sector in Indonesia, with a focus on the selected provinces • Conducted a 2-week field assessment in Indonesia, in selected regions • Shared preliminary high-level findings with in-country Nestlé and GAR teams
III. Analysing impacts	<ul style="list-style-type: none"> • Analysed the data collected during the field assessment against international human rights standards and relevant national laws

IV: Impact mitigation and management	<ul style="list-style-type: none"> Produced site-specific reports on findings for the suppliers visited, as well as a detailed report of all findings to Nestlé and GAR Developed recommendations to Nestlé and GAR, as well as other stakeholders, on how to address the impacts identified Nestlé and GAR developed action plans on the basis of the recommendation to address the assessment findings
V. Reporting and evaluation	<ul style="list-style-type: none"> Publication of Labour Rights assessment report in Q2 2018 TFT to report back to international and local stakeholders about the assessment outcomes in Q2 2018.

1.4 SCOPE

The assessment focused on four sites that supplied to the GAR refinery. The sites were located in North Sumatra and Jambi. In North Sumatra, the team visited three mills, one integrated estate and a number of smallholders. In Jambi, the team visited one mill and its Fresh Fruit Bunches (FFB) suppliers.



A detailed description of the assessment methodology, including information on the team composition, site selection, interview process and number of interviewed stakeholders, can be found in Annex A of this report.

CHAPTER 2

2 ASSESSMENT FINDINGS

The following section outlines the findings of the Labour Rights Assessment at refinery, mill and plantation level. For a summary of the findings, please refer to the table in the executive summary.

2.1 PALM OIL REFINERY

Human rights concerned: Right to Health (UDHR Art. 25); Right to Work and Just and Favourable Conditions of Work (UDHR Art. 23, 24, 25); Right to An Adequate Standard of Living (UDHR Art. 22); Right to Freedom of Association and Collective Bargaining (UDHR Art. 20, 23); Right to Life, Liberty and Security of Person (UDHR Art. 3)

Refineries are usually large, well-managed industrial operations, employing a large number of employees.



Picture of a palm oil refinery

As part of this assessment, one of the GAR refineries supplying Indonesian palm oil to Nestlé was visited. The refinery is RSPO certified and sources palm oil from North Sumatra, Jambi and West Kalimantan. Approximately 135 mills across these regions supply CPO to the refinery with a capacity of 2,400 tonnes per day.

The refinery itself is a large industrial operation and is located 300 metres from the nearest community. At the time of the assessment it employed approximately 600 workers, including 50 outsourced workers, who worked as security, cleaning and maintenance staff.

The following sub-sections detail findings relating to the identified human rights listed above.

2.1.1 LIVING WAGES

In Indonesia, the law guarantees minimum wages. In any district at least two minimum wage guidelines exist: the provincial (UMP) and district (UMK) minimum wage. In addition, the palm oil sector also has a minimum wage guideline for the sector in each district (UMSK). If a sector minimum wage standard exists in a district, companies are obliged to follow that standard, otherwise they should follow the district minimum wage. In those districts that do not have a district minimum wage, the provincial minimum wage applies.

Minimum wages are reassessed every year to reflect living costs by a Wage Council comprising representatives of trade unions, government, employers and academia. Decisions to adjust the minimum wages are then made by government representatives.

The Global Living Wage Coalition defines a living wage as “remuneration received for a standard work week by a worker in a particular place sufficient to afford a decent standard of living for the worker and her or his family. Elements of a decent standard of living include food, water, housing, education, health care, transport, clothing, and other essential needs including provision for unexpected events.¹⁹

While the refinery followed minimum wage regulations in Indonesia, workers who were interviewed expressed that their wages did not constitute a living wage and therefore a number of interviewees had taken up a second informal job to supplement their salaries. According to the company, salaries ranged from 2,782,000 to almost 5 million IDR. The Wage Indicator Foundation estimated a living wage for a worker and his family in Indonesia at 2,869,600 IDR in October 2017.²⁰ This is an average, but region-specific living wage calculations should be conducted for North Sumatra in order to establish whether minimum wages amount to a living wage.

Workers working two jobs could present an occupational health and safety risk to the factory, as a tired worker may be more prone to mistakes and accidents, depending on their tasks in the factory.

2.1.2 FREEDOM OF ASSOCIATION

Permanent workers were all members of a labour union. Workers were organized per unit and chose their own representatives. Workers and management representatives interviewed stated that union membership in the SPSI union at the refinery was mandatory for all permanent workers. GAR's Social and Environmental Policy (GSEP) guarantees freedom of association and non-interference with the efforts of workers, worker representatives or representatives of unions to organise GAR workers. Although the GSEP does not explicitly state that this includes the freedom of workers not to join a union, GAR considers this as implied in its commitment to Freedom of Association. According to GAR, the perception of workers having to join SPSI may have been the result of a lack of knowledge or the exertion of pressure by the dominant SPSI union and acknowledged that the company should educate permanent workers on the company's policies on freedom of association, to ensure that workers are aware of their right to join a union of their choosing, or to not join a union at all.

2.1.3 WORKING HOURS

The refinery employed security guards, who worked in three shifts of 8 hours per shift. The refinery also used contracted security staff, who worked in shifts of 12 hours with a 1-hour break, exceeding legal limits on maximum working hours (7 hours per day and maximum 3 hours overtime per day).²¹

2.1.4 OCCUPATIONAL HEALTH AND SAFETY

The refinery had standard operating procedures (SOPs) in place related to occupational health and safety (OHS), including what to do in case of workers' accidents. No serious worker accidents were reported, only a few slips and trips, leading to no more than one day away from work.

A systematic risk assessment in relation to OHS was carried out in 2014, and has since been updated on an annual basis. In the past, around 50 workers (approximately 10 percent of all workers) experienced hearing problems, including temporary hearing loss, when exposed to very loud noise while working in the kernel crushing plant. The issue was addressed after workers complained, and the refinery invited a government agency to assess the noise levels. Subsequently, workers employed in that area received specific training and were only allowed to work in that plant for a maximum of five consecutive hours if the sound was 90 decibels or higher. After one year, according to the refinery management only 10 persons reported having hearing problems and nobody suffered permanent hearing damage.

According to the 2015 Global Status Report by the World Health Organisation, it was estimated that there were more than 38,000 (reported) road traffic fatalities

in Indonesia, and road traffic accidents are among the leading causes of death by injury.²² While all drivers directly employed by GAR received road safety training, the assessment team was told that third-party drivers that transport CPO to the refinery had not received any road safety training.

2.1.5 COMMUNITY IMPACTS

The refinery was located near a community with more than 6,000 households. No issues were observed around waste management or water resource contamination.

When the refinery was established, an Environmental Impact Assessment (EIA) was carried out in accordance with national legislation.²³ Public consultations were held with the district and village heads, and the results of the EIA were published in the newspaper and posted on the entrance of the refinery for 60 days, allowing input from potentially affected community members. No grievances or concerns were raised during the process.

In 2015, a fire broke out in one of the refinery plants, which completely burnt down. No workers or community members were affected by the fire. According to the company, fire drills are planned in the future, involving the fire brigade and the local hospital. However, community members are not planned to be included in the fire drill. Given the nature of the activities of the refinery and the recent fire, informing community members of refinery activities, changes in activities, persons to contact and engaging them in drills and emergency simulations is of utmost importance.

In addition, while the company overall reported having good relations with the community near the refinery, has a community grievance handling mechanism and unofficially engages with community members through its CSR projects, not all refinery management representatives interviewed were aware of GAR's community grievance handling mechanism.²⁴

2.2 PALM OIL PROCESSING MILLS

Human rights concerned: The Right to Freedom from Discrimination (UDHR Art. 2); Right to Health (UDHR Art. 25); Right to Work and Just and Favourable Conditions of Work (UDHR Art. 23, 24, 25); Right to An Adequate Standard of Living (UDHR Art. 22); Right to Freedom of Association and Collective Bargaining (UDHR Art. 20, 23); Right to Health (UDHR Art. 25), Right to Food and Potable Water (UDHR Art. 25)



Worker in one of the assessed mills

The assessment teams visited four mills supplying palm oil to the refinery: three were located in North Sumatra and one in Jambi province. Three of the four mills were relatively newly established mills, having been established one to three years earlier. Only one of the mills had a large integrated estate; the other mills relied solely on buying FFB from estates, collection sites and smallholders in the area. In all the mills visited, management representatives described that they were facing price competition for FFB with many other mills in their area. Particularly those mills without their own estates stated that they operated on small profit margins, and were not always profitable. This context is important for any efforts to introduce social and environmental requirements into the FFB supply chain of

mills, as (independent) estates and smallholders could essentially sell to other mills in the area, if they perceive these requirements to be burdensome and an unnecessary cost. Mills operating on small profit margins may have little leverage and opportunities to provide incentives to FFB suppliers.

The following sub-sections detail findings relating to the identified human rights listed above.

2.2.1 MANAGEMENT SYSTEMS

Management systems in the form of written policies and procedures governing areas like human resources, occupational health and safety or security were generally lacking or, where present, were not consistently communicated to workers. Three out of the four mills did not have comprehensive policies and procedures governing human resources in place. The only exception was a mill that had an internal handbook for human resources staff, but relevant provisions e.g. on raising grievances, were not clearly communicated to workers. Mill management personnel often held two or three job functions at the same time, for example human resources and occupational health and safety officer. In some cases, technical functions like being in charge of health and safety or security, were occupied by staff with no specialized training or prior formal experience related to the function.

Where policies existed, they were primarily in the area of occupational health and safety and Standard Operating Procedures (SOP), but training on, and implementation of, these policies and procedures was generally lacking. If sites had any labour or human resources-related SOPs and policies in place, these did not extend to contractors, such as transporters, loaders of FFB, security personnel, collection sites and estates, and smallholders supplying FFB to the mills.

GAR's Social and Environmental Policy (GSEP) extends to GAR's upstream supply chain since the company included this commitment in 2014, but reference to the GSEP has not yet been integrated into supplier contracts that existed prior to 2014.²⁵ It was also notable that none of the sites' management personnel was aware of the GSEP, which meant they were unaware of their buyers' sustainability standards related to labour and environment. While GAR organises SMART SEED (Social and Environmental Excellence Development) workshops for its suppliers, which include awareness raising on the GSEP, these workshops target sales personnel and upper management of the supplier, and do not guarantee that these standards are communicated to the operational level of the supplier. None of the mills visited included any social or environmental requirements in the contracts with their suppliers of FFB. If written contracts with estates or smallholder suppliers existed at all, they only included specifications around the quality and quantity of FFB.

Contracts with suppliers of FFB (estates, collection sites, traders and smallholders) – if at all existent – did not include any clauses requiring these suppliers to comply with any social and environmental standards such as labour-related issues or issues related to health, safety or waste management.

2.2.2 LABOUR CONTRACTS

Background: Labour contracts in Indonesia

Under Indonesian Law No. 13/2003 on Manpower, all contract workers must have written contracts. Workers can be hired under two broad contract categories: Work Agreement for a Specified Period of Time or 'Perjanjian Kerja Waktu Tidak Tertentu' (PKWT); and Work Agreement for an Unspecified Period of Time or 'Perjanjian Kerja Waktu Tidak Tertentu' (PKWTT).

PKWT workers are all temporary or fixed term workers including casual workers employed on a seasonal basis. Any fixed-term contract can only be made for jobs which will be completed in a specified period of time. In the palm oil sector these workers are known as 'Pekerja Harian Lepas' or 'Buruh Harian Lepas' (BHL).

PKWTT are permanent workers and have no time limit on their employment with a company. These workers are non-fixed term contract workers. PKWTT workers are further divided into two categories based on their position and salary. PKWTT workers can be paid on a daily basis known as 'Karyawan Harian Tetap' (KHT) or 'Pekerja Harian Tetap' (PHT), or on a monthly basis known as 'Karyawan Bulanan Tetap' (KBT) or 'Pekerja Bulanan Tetap' (PBT). Both worker types are permanent PKWTT workers. As PKWTT, these workers receive a formal Letter of Employment known as 'Syarat Kerja Umum' (SKU) outlining their terms of employment. Therefore, in the palm oil industry these workers have come to be known as SKU workers. Essentially, PKWTT, PBT, PHT and SKU are all describing the same set of workers, i.e. permanent workers.

All mills employed the majority of their workers on daily permanent (PHT) and monthly permanent (PBT) contracts. The majority of mills initially employed workers on temporary contracts during a probation period lasting from 15 days to three months, which would be converted to permanent contracts if the company decided to keep the worker.

Indonesian law states that workers can have written or oral contracts. If workers have written contracts they must be provided copies for themselves.²⁶ In three out of the four mills workers had written contracts in the form of a "letter of appointment", but not all workers interviewed owned copies of their contracts. One mill only had oral contracts with their workers, which – while legal under Indonesian law – increases worker vulnerability to labour rights violations. While contracts generally contained information about the position or type of work and the salary, they often did not stipulate regular working hours. Not all workers interviewed were aware of the content of their labour contracts.

2.2.3 NON-DISCRIMINATION

Few women were working at the mills and they were generally employed in administrative positions. One mill posed an exception, however, with women performing a variety of tasks including, but not limited to, working in the laboratory as clerks ('kerani') and at the weighing stations ('weigh bridge'). All mills made efforts to hire workers from the local village, although some workers felt that it was harder for locals to get a job or to receive a promotion. One of the mills made specific efforts to promote helpers when filling operator positions, which was appreciated by workers.

2.2.4 WORKING HOURS

In accordance with Indonesian law,²⁷ during the low season, mill workers typically worked seven hours a day with a one-hour break, which was unpaid. Sometimes they worked a few hours of overtime, but this did not exceed the 14-hour weekly limit set by Indonesian law. Mills commonly operated six days a week, with a rest day on Sunday.

However, in the high season, when fruit was readily available, mills ran at full capacity, often for 24 hours a day. Despite the increased productivity, these mills only operated two worker shifts. During the high season, this meant employees were working 12-hour shifts, which exceeded the legal limits on daily and weekly overtime. One mill had just enough workers to cover both shifts, so workers did not have the opportunity to refuse overtime, as all stations needed to be manned in order for the mill to operate.

The interviewed workers generally appreciated overtime work, as those hours were compensated at a premium rate. The first hour of overtime was compensated with 1.5 times the usual hourly rate, while everything beyond the second hour was paid double and even higher on national holidays, in accordance with the law.²⁸ Workers rarely understood how overtime was calculated, as no explanation was provided and payslips provided by the assessed mills showed overtime pay ('premi') as an aggregated number, without transparently breaking down how it was calculated.

During the high season, which lasts between 1-3 months, mills often operate the entire season without a break. The assessment team spoke to a handful of workers who mentioned that they worked 12-hours shifts for the entire season without a single rest day.

2.2.5 OCCUPATIONAL HEALTH AND SAFETY

Mills can be considered as dangerous work places, given the presence of heavy machinery, slippery floors, high temperatures and loud noises. Indonesian Labour Law 13/2003 states that each company must implement an occupational safety & health management system, which is integrated into the company's management system.²⁹ Consequently, a strong OHS regime is critical, however, its absence in the majority of the mills visited was one of this assessment's key findings. Mills lacked safety signs throughout the premises and safety paths were unmarked.

Many of the mills had no dedicated health and safety manager in charge, and had not conducted a risk assessment of occupational hazards associated with the different tasks at the mill. Workers received no standardized general or job-specific OHS training and instead relied on informal on-the-job training from other workers or supervisors.

Not all mills consistently provided all their workers with Personal Protective Equipment (PPE), which also meant that these mills did not make efforts to enforce the wearing of PPE. Some mills only provided workers with PPE once they reached permanent employment status, meaning workers on probation were not provided with the necessary equipment to perform their jobs safely.

Most mills considered the use of PPE to be the personal responsibility of the worker and there were rarely any consequences for failing to do so. Contracted workers working on the mill premises, such as third-party loaders of FFB, were not required to wear basic PPE like helmets. Only two of the four mills had a system in place to replace broken PPE free of charge following damage or accidents. Other mills replaced PPE periodically, but not necessarily as needed.

The assessment teams observed that many workers did not wear PPE, including helmets, earplugs and masks. At one mill, some workers, including a shift supervisor, were working with open or untied boots, significantly increasing the risk of trips and falls on slippery floors.

Consequently, it was not surprising that all these mills reported numerous workplace accidents. These included falls from a height, cuts when using knives and burns caused by hot water, steam or oil. There were also reported fatalities at two of the four mills, where two workers died of their injuries when they were crushed in a machine.

Most mills had a medical clinic at the premise or nearby, where workers could receive free treatment. However, these clinics were only manned by pharmacists ('mantri'), as there is a shortage of doctors in rural areas, thereby significantly limiting the treatments available to workers. Workers complained about the standard of healthcare, stating that all ailments are treated in the same way, usually with ointments. The clinics were closed on Sundays, which meant that during high season, when the mills operate around the clock, workers did not have access to medical services at the clinic in case of emergencies. One of the mills that reported a fatality neither had a medically trained person nor a clinic to provide first aid on site.

2.2.6 GRIEVANCE MECHANISMS

Although grievance mechanisms are a legal requirement, many mills lacked formal mechanisms for processing workers' complaints.³⁰ Indonesian law mandates that all organisations of 50 people or larger need to have a formal grievance mechanism

called a **Lembaga Kerjasama-Bipartit** or LKS-Bipartite.³¹ This is a formal employer – employee forum with representatives from both sides, aimed to allow workers to raise grievances and find solutions.

Despite this being a legal requirement, such a mechanism was not in place at any of the sites. As a result, many workers raised complaints with a supervisor, but there was limited accountability as to how the complaints were recorded, processed and addressed. Some workers felt that only workers with close relationships to management could raise grievances, and at one mill workers expressed fear from retaliation as a reason for why they do not raise complaints.

One mill outlined a grievance mechanism in an internal handbook for the human resources manager, but failed to communicate this mechanism consistently to workers. Nevertheless, workers in that mill felt they could always raise a grievance, as the management kept a very good relationship with the workers. This was also the only mill where an independent union was present, who had in the past successfully raised grievances on behalf of workers.

2.2.7 FREEDOM OF ASSOCIATION

Background: Labour unions in Indonesia

Under Suharto's regime, after 1966, all labour unions in Indonesia were restructured into a single federation called the All Indonesia Labour Federation (Federasi Buruh Seluruh Indonesia), known today as Serikat Pekerja Seluruh Indonesia (SPSI). During this time, company unions known as 'Yellow' Unions were commonplace. These unions were controlled by the company and belonged to the national federation controlled by the state.

This was standard practice until 1998, when Indonesia transitioned to a democracy and adopted a whole range of new policies, including ratification of ILO Declaration on Fundamental Rights and Principles at Work. The eight core conventions associated with this declaration include the Freedom of Association and Protection of the Right to Organise Convention.³²

Although this change sparked the formation of many labour unions in Indonesia, the poor legacy of unionism still affects their efficacy and ability to represent all workers. Unions still face several challenges including limited funding, a lack of proper management, no palm oil sector specific presence, and fragmentation which limits unions' bargaining power. Labour rights organisations consulted during the assessment confirmed that company controlled unions are still common at plant or factory level, particularly in the palm oil industry.

Two of the four mills did not have a labour union, although workers expressed during interviews that they would like the opportunity to join a union at their workplace. One of these two mills, which was the mill with the integrated estate, was in the process of registering a union with one management representative of the mill as Vice-Chairman and one management representative of the estate functioning as Chairman. Joining that union would become mandatory for all employees. This, as well as the presence of company management in the union, would violate key international principles of the freedom of association³³, which Indonesia has signed up to. Workers interviewed at those two mills did not know about unions and had not heard that one was being established.

At the third mill, management claimed that a union had recently been established, but most of the workers had not heard of its existence. Only one of the mills had an independent trade union, which regularly and successfully engaged on behalf of workers, and had a good relationship with the mill.

2.2.8 WORKERS' ACCOMMODATION

The standard of workers' accommodation differed between mills. Newer mills had built accommodation more recently, and basic standards were met. The oldest mill had newer accommodation for management and operators, and old wooden/metal houses for workers who joined more recently. The latter accommodation was dark and had to be shared by multiple workers. The mill was trying to build more accommodation, but due to the mill not being very profitable, investing into more houses was a slow process. Two of the four mills provided houses to single women as well, while the third mill did not provide housing to female workers, unless they were married to a worker.

2.2.9 ENVIRONMENTAL IMPACTS

Not all of the visited mills had conducted the legally required Environmental Impact Assessment (EIA) when commencing operations.³⁴ While all mills treated their waste water in wastewater treatment plants and ponds, they also had permission to dispose the water into local rivers during certain seasons. During the rainy season, waste water ponds reached maximum capacity and overflowed into the local river. Around all three mills where community members were interviewed, complaints in relation to waste water polluting local rivers were raised.³⁵ Villagers complained about the water turning brown or black and dead fish in the river. At two mills the problem seemed to be persistent, with very recent complaints being mentioned. At one mill, complaints of water contamination were brought forward by villagers and rubber plantation owners located close to the river.

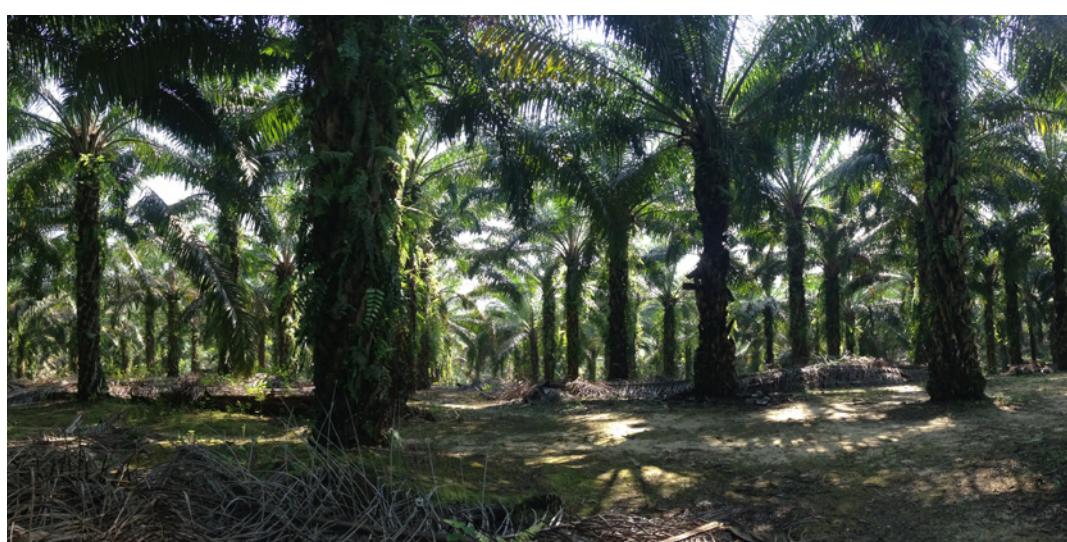
Around all three mills where communities were visited, communities had previously complained to the mills about noise and air pollution. Oily air from the mills reportedly smelled bad and settled in houses and on furniture, although no negative health impacts were reported. One of the mills responded by installing a silencer, which mitigated some of the noise impacts.

At one mill assessed, managers admitted that they had paid money to local NGOs and/or journalists to avoid that allegations of environmental impacts were made public. Another mill stated that requests for bribes or extortion attempts by local authorities or people of influence sometimes had to be met to be able to operate the mill. None of the mills had formal operational-level grievance mechanisms in place for external stakeholders such as communities, NGOs or journalists to lodge a complaint regarding the mill operations.

2.3 PALM OIL ESTATE

Human rights concerned: The Right to Freedom from Discrimination (UDHR Art. 2); Right to Health (UDHR Art. 25); Right to Work and Just and Favourable Conditions of Work (UDHR Art. 23, 24, 25); Right to Education (UDHR Art. 26); the Rights of the Child; Right to An Adequate Standard of Living (UDHR Art. 22); Right to Freedom of Association and Collective Bargaining (UDHR Art. 20, 23);

For the purpose of this report, the term estate is being used in connection with plantations that are larger than 25 hectares. These plantations are legally required to register as a business (PT). As part of this study, a large integrated estate belonging to one of the mills in North Sumatra was assessed. The estate covered almost 3,700 hectares, and employed circa 875 workers (including management), who also lived on the estate. The number of workers fluctuated according to season, and more than half of the workforce (almost 500 workers) were casual workers.



A palm oil estate

The estate had recently gone through the legal compliance stage of certification with ISPO, the Indonesian Sustainable Palm Oil standard, and was hoping to pass the second stage of certification in the coming months. While currently only one third of plantation companies are ISPO certified, the government of Indonesia made the standard mandatory for all palm oil growers in Indonesia, aiming to increase coverage to 70 percent by 2020.

Although the estate claimed to have gone through the legal compliance stage of ISPO certification, the assessment revealed numerous serious negative impacts, including clear legal violations.

2.3.1 MANAGEMENT SYSTEMS

Management systems at the estate were poor, with few written policies and procedures in place. Like at mill level, plantation managers often held more than one key job function, for example human resources and occupational health and safety, and often did not have function-specific training or prior experience related to the function. Management staff in charge of human resources were unaware of key Indonesian labour regulations and workers' legal rights. Key policies, like the "No Child Labour" policy, were not enforced, and while management was aware of this, they did not act on known violations of that policy. Through observations and interviews with management representatives and workers, the assessment team was able to detect clear legal non-compliances, calling into question the quality of the ISPO legal compliance assessment the company went through.

Estate management was not aware of the GAR Social and Environmental Policy.

2.3.2 LABOUR CONTRACTS

Background: Hierarchy at the estate

The estate was headed by a management team consisting of different department heads or Managers. These Managers supervised specific functions such as Security, Quality Control, Community Relations etc.

These Managers in turn had staff under them that made up mid-level management: Assistants to Managers. Assistants' responsibilities were usually implementation related ensuring targets for productivity were being met.

Assistants in turn provided oversight to the next level of staff known as Head Foremen or Head 'Mandorres'. Head Foremen supervised the activities in the plantation directly related to FFB production. Head Foremen in turn, supervised individual assistant foremen in charge of specific functions such as harvesting, fertiliser application, pesticide spraying, weeding the plantation etc. These duty-specific assistant foremen directly supervised the workers.

It must also be noted that these assistant foremen often changed duties. The team spoke to one female assistant foreman who was overseeing weeding in the plantation, but had also supervised workers spraying pesticide or applying fertiliser in the past.

Workers were employed on two different statuses: permanent workers (daily and monthly) and casual workers. Harvesters were all men on permanent daily contracts. Monthly permanent contracts, which came with marginally better social benefits, were only given to foremen. Permanent workers are meant to receive written work agreements, should earn minimum wage and work standard working hours of seven hours per day. They are also entitled to standard rest and leave days, social security and accommodation.

Casual workers, which during high season could make up more than 50 percent of workers at the estate, were almost all women undertaking tasks such as weeding, maintenance, fertiliser application and pesticide spraying. They all were wives of male employees, as workers claimed that the company did not hire single women. Under Indonesian law these workers are meant to receive work contracts, social security coverage and daily minimum wage. They are also meant to be temporary workers to be hired for temporary work and therefore cannot work more than 21 days a month and not for more than three consecutive months on the same contract. If required, after a three-month period, these workers must be hired as permanent workers or fixed term contract workers (annual contracts).³⁶

Permanent workers, mainly harvesters and foremen, were provided with employment contracts; however, casual workers were not, despite it being legally mandated under Indonesian law. This could be seen as a cost saving mechanism for a company. Without contracts, the company did not register the workers with the local manpower department, which would be needed to register workers under the BPJS scheme, and therefore did not need to pay their BPJS insurance. Contrary to what the law provides, female casual workers reported that they were covered under their husbands' insurance schemes.³⁷ This meant that their coverage was limited, most notably for workplace accidents and employment insurance. This was especially problematic for casual workers who became pregnant. These workers reported that their employment was terminated as soon as management found out they were pregnant, and this practice was confirmed by management. No compensation was provided to them during the months they were forced to stop working.

Another common practice was that casual workers, even those doing jobs that were required all year round (e.g. weeding, or working in the plant nursery), were not made permanent workers but kept in casual work arrangements on consecutive 3-month contracts. Some of the casual workers interviewed had been working on

the plantation for as long as nine years. When asked why the predominantly female workers carrying out permanent job tasks were on casual contracts, management stated that women did not want to work that much in a 3-month period. This was not confirmed by any of the casual workers interviewed, who all expressed the desire to become permanent workers.

As a majority of casual workers were women, these practices amounted to systematic gender-based discrimination.

2.3.3 MINIMUM WAGES AND QUOTAS

In general, harvesters earned a salary exactly in line with the provincial minimum wage (1,961,354 IDR = US\$145). In order to receive minimum wage, harvesters had to fulfil a minimum quota per day. The minimum quota is a number of FFB the worker had to collect. The quota and the average weight for each FFB was set by the assistant based on the age of the trees in a section. If a worker did not reach the quota, a deduction was made from the daily wage, which was based on how much weight the worker was missing. Workers stated that they could usually achieve the minimum quota to get minimum wage by 2pm or in seven hours of work. Any FFB harvested beyond the minimum quota earned workers a bonus ('**premi**'). Workers stated that together with the bonus, they earned enough to live on.

However, the minimum quotas for harvesters were not adjusted during low crop season, when the yields are much lower. The assessment teams witnessed this first hand, as it was low crop season at the time of the visit and workers could no longer harvest after noon as there were no FFB left. Quotas ranged from 79 to 85 FFB in the sections visited, but workers were only able to harvest between 20 and 30 FFB, which meant they were missing their daily quotas by over 50 percent. This happens at least 2-3 months out of every year depending on the length of the dry season. The average salary in those months was 1.5 million IDR (US\$111), but could be as low as 1.2 million IDR (US\$89), which is a clear violation of Indonesian provincial minimum wages (1,961,354 IDR = US\$145).³⁸

Making significantly less than minimum wage during 2-3 months of the year increased the necessity of earning the **premi** during high season, which harvesters achieved by working long hours, sometimes from 7am until about 6pm. In addition, harvesters got the help of their wives or other family members and friends who were not officially employed at the estate and therefore unpaid. The use of such informal unpaid workers could even be observed during the assessment, where every group of workers interviewed had such workers present. Management was aware of this practice, directly benefitted from it, and even encouraged it, particularly during high season. These workers are not provided with any safety equipment from the estate, they do not have contracts, and they do not get paid, except occasionally a cut of the harvester's wages which is neither required nor formal.

Workers doing weeding, fertilising, maintenance and spraying were mainly casual workers. Their daily wages, which should equal a daily minimum wage, were also tied to the fulfilment of quotas. If they did not achieve this quota, they did not get paid at all, so many interviewed workers reported often working from 7am to 4 or 5pm in order to achieve their quota. This practice contravenes Article 90 of the Manpower Act, which prohibits employers from paying less than a minimum wage.³⁹

Daily minimum wages for casual workers were set at IDR 88,600 (US\$6.57) per day. In order to earn a monthly minimum wage, casual workers would have to work 22 days per month. Since they are only allowed to work 21 days in order to keep their casual work status, these workers were prevented from achieving a monthly minimum wage. Workers reported earning between IDR 1,500,000 (US\$111) to IDR 1,800,000 (US\$133) a month. This is especially important to note in the context of these workers often being employed for many years on consecutive 3-month contracts.

Women would often help their husbands with the harvest after completing their own work; some gave up on their own quota to spend more time helping their husbands to achieve a higher premi.

2.3.4 CHILD LABOUR

Estate management stated that it applied a “No Child Labour” policy. During the assessment, workers and other management functions mentioned different numbers for the minimum age, including 17, 18 and 20, indicating a lack of a clearly communicated policy.

In practice, children working on the plantation was a common practice, and was also observed by the assessment team in a handful of cases. The assessors spoke to children between the ages of 14 – 17, and while none of them were formally employed by the estate, they were helping their fathers with the harvest as informal helpers, mostly collecting loose fruit from the ground. Like all unpaid workers, they did not receive protective equipment, unless the father gave them his own equipment. Management interviews confirmed that management was aware of children helping on plantations and did not attempt to enforce the “no child labour” policy. It was also confirmed that child labour occurred frequently, and that workers faced no consequences for bringing their children as helpers.

2.3.5 OCCUPATIONAL HEALTH AND SAFETY (OHS)

Health and safety was covered by the person in charge of human resources. Neither estate management nor workers were trained on health and safety issues, only on the application of PPE. The company provided harvesters with helmets, masks, goggles and gloves, but workers had to buy their own boots. The assessment team observed many workers with boots in poor condition. Broken equipment was replaced by the company, but workers had to pay 50 percent of the costs. Harvesters had to replace broken poles/sickles themselves.

Casual workers doing weeding and spraying did not always receive PPE. Sprayers received aprons, gloves, masks, and spraying equipment from the company, but broken equipment was not replaced. The estate used paraquat-based weed-killer Gramoxone™, which is highly toxic and can be fatal when ingested, inhaled or absorbed through the skin. Paraquat is banned in the European Union and several other countries, and regulated under restrictive use by the Indonesian Ministry of Agriculture.⁴⁰ GAR has committed itself to stop using paraquat and phasing out existing stocks, and this commitment extends to GAR's suppliers. One sprayer operated a leaking pesticide tank, causing her skin rashes. She repaired the equipment herself, as the company refused to replace or repair the leaking tank.

Women who did fertilising work and weeding also complained of shoulder and hip pain. While fertilising, women had to usually disperse 17 sacks of fertiliser per hectare. Each sack weighed 50 kilos and had to be carried on their head, hips or shoulders during the process. They were not provided with wheelbarrows or any other equipment to transport the heavy sacks from one place to another.

One of the most pressing issues found was the fact that the company tolerated and condoned unpaid workers on the plantation, but did not provide them with any safety equipment. Harvesters were observed giving their personal safety helmets to their wives or children. If helpers got injured, they would receive treatment at the health clinic on the plantation, but contrary to workers with a contract they would have to pay for the treatment.

PPE discipline was low, with weak monitoring of PPE usage cited as the most common reason workers did not feel the need to wear PPE. Workers interviewed often complained of cuts, bruises and snake bites being the biggest safety hazards of working in plantations.

A basic clinic was located on the premises, staffed with a pharmacist. A common complaint was that all ailments were treated the same, usually with ointments against the pain. The clinic also had a midwife, which according to workers was not always available, and it was unclear whether workers had to pay for her services. Some workers stated that they had to pay as much as IDR 1 million for her services. If workers could not afford this, they preferred to go back to their native villages for childbirth, as the closest hospital was four hours away from the plantation. Workers reported some women dying on the way to hospital while in labour. The plantation provided no assistance to these workers or their wives to reach the hospital in time.

2.3.6 HOLIDAY AND LEAVE

While management representatives stated that workers receive 12 days of holiday per year, workers independently stated that they used to get nine holiday days, and this had been cut to five this year without an explanation. Workers had asked the foremen for an explanation but did not receive one, and were reticent to enquire further. Giving workers only nine, or in some cases only five, days of annual leave would be a violation of national legislation.⁴¹

2.3.7 GRIEVANCE MECHANISMS

While some management representatives stated that a formal grievance mechanism exists, others stated that grievance are handled by individual assistants. Workers were not aware of any formal grievance mechanism. They would raise complaints with their foreman, and would rely on the foreman to escalate a complaint. However, this rarely happened, and workers expressed fear of retaliation, claiming that people who raised grievances were seen as trouble makers. According to workers, there had been instances when workers that raised a grievance were laid off.

2.3.8 FREEDOM OF ASSOCIATION

As mentioned previously, the mill with the integrated estate was in the process of registering a union with one management representative of the mill as Vice-Chairman and one management representative of the estate functioning as Chairman. Joining that union would become mandatory for all employees. This, as well as the presence of company management in the union, would violate key principles of the right to freedom of association.

The majority of workers interviewed did not know what a labour union is, nor did they hear about the union in formation. Those workers interviewed that knew about unions were keen on joining an independent union at the plantation, but were afraid of being laid off when attempting to join a union.

2.3.9 WORKERS' ACCOMMODATION

Estate workers were provided with small two-room houses for themselves and their families. Single male workers shared a house with other single male workers. No housing was provided for single female workers, who were expected to live off-site until they got married. The houses were built with wooden planks or slats, and were very dark and not well ventilated. Electricity was provided from 6pm to 11pm and 4am to 6am. While water was provided, according to workers the quality was poor, rust in colour and metallic in taste.

2.4 COLLECTION AND SORTING SITE

Human rights concerned: Right to Health (UDHR Art. 25); Right to Work and Just and Favourable Conditions of Work (UDHR Art. 23, 24, 25); Right to An Adequate Standard of Living (UDHR Art. 22);

The team also visited a collection and sorting site near one of the mills. It had an exclusive contract to supply FFB solely to the mill, and was not registered as a company. It employed 20 workers, and a staff member from the mill also worked at the site.

2.4.1 GENERAL LABOUR CONDITIONS

None of the workers at the collection site had a written contract with the site owner. They worked excessive hours for a basic pay that falls short of the district minimum wage. During high season, the site operated from 8am – 8pm, and loaders usually worked for the full time with a one-hour break. Loaders got paid per kilogram of FFB loaded or unloaded, but got paid as a team of 6-8 workers, not individually.

Each team could load and unload a maximum of 150 tonnes of FFB per day and got paid IDR 10 per kilogram of FFB loaded or unloaded. If as a group they were able to load and unload more than 80 tonnes FFB per day, they would receive a bonus of approximately IDR 500 (US\$0.04) per tonne extra. At the time of the assessment, on average a team of 8 loaders loaded and unloaded 50 tonnes and earned 500,000 IDR (US\$37) per day. This amounts to a daily wage of 62,500 IDR (US\$4.6) per person (though the team leaders likely received a larger cut, so the daily average may even be lower). If they were to work every day, so 30 days a month, they would earn 1,875,000 IDR (US\$137) per month, which is below the district minimum wage of 2,250,000 IDR (US\$167) and even the provincial minimum wage of 1,961,354 IDR (US\$145).

Loaders were not provided with PPE, and did not receive any health and safety training. Small accidents were reportedly common, and while the site owner claimed that he paid for medical expenses, workers did not confirm this.

2.5. SMALLHOLDERS

Human rights concerned: The Right to Freedom from Discrimination (UDHR Art. 2); Right to Health (UDHR Art. 25); Right to Work and Just and Favourable Conditions of Work (UDHR Art. 23, 24, 25); Right to Education (UDHR Art. 26); the Rights of the Child; Right to An Adequate Standard of Living (UDHR Art. 22); Right to Freedom of Association and Collective Bargaining (UDHR Art. 20, 23); Right to Life, Liberty and Security of Person (UDHR Art. 3); Right to Health (UDHR Art. 25), Right to Food and Potable Water (UDHR Art. 25)

According to Indonesian law, a smallholder is defined as someone owning up to 25 hectares of land. Smallholder farmers produce an estimated 40 percent of Indonesia's palm oil output. It is important to note, that smallholder farmers are not a homogenous group. The smallholders visited during the assessment in North Sumatra and Jambi province fell into two categories: small-scale independent farmers and large-scale independent farmers. Small-scale farmers typically had between 2 and 4 hectares, and sold their FFB to the mill via local agents. The large-scale independent farmers visited owned between 25 and 300 hectares of palm oil plantations. These plantations were actually estates, but had been divided into



Worker on a smallholder farm

plots that are smaller than 25 hectares, and registered under the names of different family members, relatives and friends, in order to qualify as a smallholder.

Indonesian law mandates that holdings larger than 25 hectares register as private companies.⁴² By not registering as an estate, these farmers are not mandated to get ISPO certification, they do not qualify for RSPO certification (as this would require a farmer group), and they do not have to abide by the same labour regulations a registered business would have to follow.⁴³ As a 2015 study by Daemeter pointed out, these farmers are an emerging “landlord” class, who are wealthy and often hold positions of power in regional social and political systems. They are anticipated to play a significant role in future oil palm expansion in Indonesia.⁴⁴

Smallholder farm economics

While the decision to grow oil palm proved to be a good source of income for many smallholders, it was found to be very cost-intensive, requiring lots of material and labour input. Small-scale farmers interviewed had to spend a large part of their profits reinvesting back into the plantation to buy expensive fertilisers, pesticides and hiring labour. This meant that many of these farmers had not become richer over time, and some had actually lost income from palm oil, as they could not maintain their small plantations properly and the productivity of the plantations dropped.

Both types of smallholders expressed that they had generally not received any training or capacity building on Good Agricultural Practices, which presents an opportunity to introduce more sustainable farming practices that benefit the farm economics into the smallholder context, including social and environmental standards.⁴⁵

The difference between small-scale smallholders and these large-scale smallholders were large in terms of the scale of labour rights impacts: while small-scale farmers typically worked on their plantations themselves, only occasionally using a handful of seasonal helpers for harvest, the large-scale farmers employed between 30 and 85 casual workers. As these workers worked on 'smallholder' plantations, they were seen as informal workers and were not employed under formal employment conditions as outlined by Indonesian law, although the scale of operations of the large-scale farmers implies that they should have been employing their workers with all formal provisions.

None of the farmers interviewed had a direct link with the mill to which they supplied their FFB. As such, they had a limited understanding of the fluctuating FFB prices, and depended highly on agents to sell their FFB. Some agents are also large land owners cultivating palm oil, enabling them to give out loans to farmers. Thus, agents can be powerful middlemen in the smallholder supply chain.

The following sub-sections detail findings relating to the identified human rights listed above.

2.5.1 LABOUR CONTRACTS

Workers on smallholder plantations were all casual workers without written contracts but oral agreements. These workers often moved from plantation to plantation, which in case of large-scale smallholders meant that they worked on various adjoining smallholder plots essentially belonging to one estate. Casual workers did not receive any social security or medical coverage.

2.5.2 MINIMUM WAGES

Casual workers generally earned less than a minimum wage, and there were a variety of examples that showcased the lack of legal protections regulating the payment of wages. Harvesters were generally paid by kilogram harvested, and prices ranged from 100-150 IDR (US\$0,01) per kilogram amongst the smallholders the team spoke to. Daily wages for harvesters depended on the availability of FFB, and ranged from 100,000 IDR (US\$7) to 150,000 IDR (US\$11). Since workers rarely worked full time at one plantation, they had to work several jobs in order to earn a minimum wage. Workers carrying out other tasks at the plantation often earned significantly less.

One large-scale smallholder only paid the harvesters, who then shared their wages with their wives, who worked doing weeding and spraying. This meant that they fell significantly short of a minimum wage. Another smallholder paid all women a daily wage of 45,000 IDR (US\$3), no matter what task they performed, while security guards (workers who performed the task of securing the plantation to avoid FFB being stolen at night) and maintenance workers received 55,000 IDR (US\$4).

At another estate, the daily manager of the estate earned 1.8 million IDR (US\$133) per month – below the district minimum wage – and 40 kilograms of rice, even

when carrying out additional work during peak season. If he required help on the plantation during harvesting season or for other activities, the salary for the workers (100,000 IDR = US\$7 per day) he hired had to be paid by him. If his wife helped him, she would not be paid extra for her work.

2.5.3 WORKING HOURS, REST AND LEAVE

According to Indonesian law, working hours are not limited for casual workers, but in most cases workers interviewed worked regular hours. There were exceptions at large-scale smallholders, where some workers worked from morning until midnight during high season. They did not get paid for the extra hours worked, as they were paid by tonne of FFB harvested.

Workers usually took Fridays and national holidays off, but did not get paid for these days or any other absences, like sick leave.

2.5.4 CHILD LABOUR

Most smallholders and workers stated that all workers were above 20 years of age. Smallholders that farmed their small plots themselves without labourers or with seasonal casual labourers sometimes got help from family members that could be underage.

At one plantation, the assessment team spoke to several workers who had started working on plantations at the age of 15. A few smallholder farmers who supplied to one of the mills also confirmed that they employed workers at the age of 15 years and above.

2.5.5 OCCUPATIONAL HEALTH AND SAFETY

On the majority of smallholder plantations, the casual workers had to buy their own safety equipment, as well as tools for harvesting and even spraying. Most workers did not wear any safety equipment, even if some was provided.

Farmers used the highly toxic paraquat-based Gramoxone™, RoundUp™ and other pesticides, yet the majority of workers tasked with spraying got neither training nor adequate safety equipment. In one case, paper masks were provided, but workers did not wear them; in some cases not even paper masks, gloves, boots, aprons or any other protective clothing required to use pesticides such as Gramoxone™ were provided. There were also no washing facilities available for workers to wash themselves after the use of Gramoxone™, Roundup™ or other pesticides.

Some sprayers complained of dizziness and nausea after using the pesticides. They also reported skin rashes and their skin peeling off after the chemicals seeped onto their skin from the cap of the spraying tank. The tank often leaked and the chemicals came in contact with the skin, because the cap was at the bottom of the tank.

According to the workers, chemical spraying tanks with a cap on the top are safer, but since they had to buy the equipment themselves, they could not afford these.

While at one plantation the pesticides were stored in a separate warehouse, at another plantation they were stored inside the one-bedroom house of the daily manager, where his children also live.

At most plantations, workers would have to cover their own medical costs, while at others there was no clear agreement with the owner, so workers did not know what would happen if they required medical treatment.

2.5.6 SECURITY

At some smallholder estates workers were hired as 'security personnel', to prevent FFB from being stolen during the night. Those workers were not trained to perform security related tasks and supervisors told the assessment team that they were not armed and their work was not dangerous. Workers however mentioned that they carried knives to protect themselves against thieves and mentioned they had been threatened and felt exposed to safety risks, after the windows of their accommodation had been broken by thieves who had tried to steal FFB.

2.5.7 ENVIRONMENTAL IMPACTS

At two plantations, a river was flowing through the plantation, near areas where pesticides were being applied to the trees. Indonesian law prohibits the use of pesticides in the proximity of 50-100 metres (depending on the width of the river).⁴⁶ It was mentioned that at least one river was used for bathing by communities, and the assessment team observed people fishing in the river.

Other environmental impacts of this scale of palm oil cultivation were reported, as farmers mentioned that mountain water sources had dried up over the years as palm oil cultivation expanded in the community. As rainfall had also become less predictable over time, smallholders were finding water resources for their plantations even scarcer than before.

CHAPTER 3

3 RECOMMENDATIONS

The findings of this assessment are not unique to Nestlé's palm oil supply chain, they are representative of industry-wide challenges in the provinces and in Indonesia. Most public studies conducted on palm oil to date have focused on labour conditions at the estate or plantation level of large integrated supply chains.⁴⁷ These are vertically integrated supply chains, which are directly owned and operated by an individual company, providing greater control over management systems and practices. This assessment has taken a broader approach and – in addition to assessing a mill with an integrated estate – looked at other actors in the palm oil supply chain, including a refinery, non-integrated palm oil mills, smallholder farmers and farmworkers and traders.

The objective of this broad scope was to understand the challenges the industry faces at different levels and to develop recommendations for Nestlé. Even a buyer as large as Nestlé will not be able to transform the palm oil industry in Indonesia alone, which is why additional recommendations are aimed at strategic actors, such as the government of Indonesia, civil society organisations (CSOs), national and international sustainability certification bodies such as ISPO and RSPO, international organisations, as well as international buyers of palm oil.

3.1 PRIORITY RECOMMENDATIONS FOR NESTLÉ

While Nestlé should address all impacts identified by the assessment, priority should be given to the most severe impacts, which were child and unpaid labour at estate and smallholder level, poor occupational health and safety conditions at mill and farm level, and environmental impacts of mills on communities.

Child labour and unpaid labour on plantations

- Focus on eliminating the root causes of child labour and unpaid labour by mandating and monitoring that all workers on plantations have labour contracts and are paid for the work they do. In addition, Nestlé should address the daily production quota linked to minimum wage, and disconnect wages from harvested volume. Compliance should be monitored through regular audits of suppliers.
- Together with other buyers of palm oil, consider working with the National Commission for the Elimination of the Worst Forms of Child Labour (KNPBTA) at national level and the provincial-level task forces (which exist in all 34 provinces)

and 192 district-level action committees on monitoring efforts to eliminate child labour on palm oil plantations.⁴⁸

Occupational health and safety

- Mandate that all suppliers in Nestlé’s palm oil supply chain have Standard Operating Procedures (SOPs) on OHS in place, and monitor suppliers to ensure that these requirements are met.
- Share best practices on occupational health and safety in industrial and agricultural environments, including on company policies and systems on occupational health and safety, assessment of personal protective equipment (PPE) needed for different worker categories, and removing barriers to workers wearing their PPE.
- Use existing supplier engagement platforms, for example GAR’s SMART SEED (Social and Environmental Excellence Development) workshops, to reach a large number of suppliers at once to build capacity on occupational health and safety.⁴⁹
- Consider collaborating with the International Labour Organisation (ILO) in Indonesia on their programme on occupational health and safety in the palm oil sector.⁵⁰

Environmental impacts of mills

- Work with strategic suppliers to ensure that the palm oil processing mills supplying to Nestlé carry out the legally required Environmental Impact Assessment (EIA) processes (AMDAL or UKL-UPL).⁵¹ EIAs should include community consultations, which are carried out in a rights-compatible manner, taking into consideration the specific needs and requirements of the communities and vulnerable groups within such communities.⁵²
- Ensure that suppliers, in particular palm oil mills, have in place Water Management Plans, as required by **Nestlé’s Responsible Sourcing Guideline**, which apply to Nestlé’s complete upstream supply chain.⁵³ Based on their own practices, Nestlé should work with its strategic suppliers, like GAR, to support mills in the development and monitoring of such plans.
- Ensure that suppliers, in particular palm oil mills, develop effective operational-level grievance mechanisms (OGLM) for individuals and communities who may be adversely impacted by the business operations. These OGLMs should be in line with the ‘effectiveness criteria’ set out in the UN Guiding Principles on Business and Human Rights.⁵⁴

3.2 LONG-TERM RECOMMENDATIONS FOR NESTLÉ

The following recommendations relate to the findings at mill, estate and smallholder level. They are divided into:

- Recommendations applying to palm oil mills **and** estates
- Recommendations applying specifically to palm oil mills
- Recommendations applying specifically to estates
- Recommendations applying to smallholders

A. RECOMMENDATIONS APPLYING TO PALM OIL MILLS AND ESTATES

The assessment highlighted a number of issues common across the palm oil supply chain, at both mill and estate level. Section A therefore presents recommendations focusing on core issue areas that apply to both mills and estates.

Visibility of labour practices and risk assessment

- Building on traceability efforts to map out Nestlé’s supply chain, increase visibility on labour practices in the upstream supply chain to identify potential high-risk sites. This can be done in partnership with strategic suppliers and external partners using various tools to collect information from mills and estates at scale.
- Design and carry out on the ground risk assessments of a representative number and type of oil palm mills and estates of strategic suppliers in order to identify actual non-compliances with regulation, particularly on labour issues
- Provide training to staff of strategic suppliers that are involved in the contracting process with mills and estates, to enable them to identify compliance gaps on labour.
- Work with strategic suppliers like GAR to strengthen their supplier screening and monitoring systems.

Management systems

- Support Tier 1 suppliers in designing and/or facilitating training of mill and estate management on labour rights, including through material and financial support. Such trainings should focus on policies, procedures and workers’ awareness of their labour rights.

Freedom of Association

- Monitor suppliers to verify that all mills and estates allow for the establishment of independent labour unions.
- Ensure that all mills and estates with 50 workers or more establish a Bipartite Cooperation Body (LKS-Bipartite), regardless of whether a union is formed. The establishment of such bodies can be tracked and monitored through risk assessments and risk traceability efforts mentioned above.
- Engage with independent labour unions or local/international organisations working on freedom of association and collective bargaining to provide training to suppliers and workers in order to raise awareness on the freedom to associate.

Consider combining these efforts at industry-level with other buyers sourcing from the same suppliers.

Grievance mechanisms

- Ensure that mills and estates develop formal grievance mechanisms for workers and communities potentially affected by the mill or estate operations.
- Consider collaboration with organisations specialised in establishing operational-level grievance mechanisms in the Indonesian palm oil context, especially focusing on innovative use of technology.

Multi-stakeholder collaboration

- Together with industry partners, consider establishing a 'Lab' on best practices on labour rights in the palm oil sector in partnership with academic institutions and other stakeholders such as civil society organisations and relevant government ministries and UN agencies.
- Using the Indonesian Palm Oil Association (GAPKI) as a platform, engage the Indonesian Manpower Ministry (KEMENAKER) and the Ministry of Agriculture (KEMENPERTAN) to promote the revision of agrarian labour laws for industrial scale agricultural activities such as palm oil, to clearly regulate and limit the use of temporary labour.
- Engage in debates at the industry level to better coordinate sustainability initiatives by palm oil growers and producers. Pooled funds of such companies could be used for scalable efforts in the palm oil sector, such as training for smallholders on good farming practices, safe use of pesticides, or occupational health and safety initiatives, involving other stakeholders like local traders, the district labour department, local civil society organisations, or producers of pesticides.

B. SPECIFIC RECOMMENDATIONS: PALM OIL PROCESSING MILLS

This section presents recommendations focused on issues identified as being specific to oil palm processing mills, based on findings from the assessment. Palm oil processing mills can vary in their size and scale of operation, the efficiency of their management systems and approaches, access to FFB and relationships with their buyers i.e. the refineries (for non-integrated third party mills).

Working hours and overtime

- Share Nestlé's best practices on reducing working hours in factory settings in order to reduce the excessive working hours prevalent at the mill level.
- Work with strategic suppliers to gather data on working hours at the supplying mills, and ensure that recruitment matches the production requirements at maximum mill capacity to ensure workers are not overworked, especially in high season, following legal regulations.

C. SPECIFIC RECOMMENDATIONS: ESTATES

Palm oil estates are registered companies that vary in size but usually employ a significant number of workers. The assessed estate, which belonged to the same company as the palm oil processing mill it was supplying to (integrated estate), employed almost 900 workers who in large part also lived on these plantations with their families. This setup contributes to multiple family members working formally or informally on the plantation.

One of the underlying causes for labour risks in plantations is the lack of specific Indonesian labour regulations for industrial agricultural sectors such as palm oil. The current laws applied in Indonesia are general employment regulations more suited to manufacturing and other industries where employment terms are formal.

While the recommendations apply to integrated and independent estates, focusing initial efforts on integrated estates may be most effective, as engaging the supplier will cover both, mill and estate.

Awareness Raising

- Support awareness raising for management and estate workers, on their labour rights, e.g. through illustrated training materials, mobile phone applications and other means. Engage local workers' rights organisations in providing the content of such awareness raising.

Minimum wages

- Ensure that estates pay workers at least the legal sectoral minimum wage at all times, even during low crop season, e.g. by adjusting the quotas for those months.

D. SMALLHOLDERS

Smallholders produce about 40 percent of palm oil in Indonesia. While the assessment clearly revealed the labour and environmental impacts on smallholder plantations, addressing these impacts will require multi-stakeholder collaboration. Mills are a strategic actor in such collaboration, yet it needs to be recognised that mills cannot merely pass down social requirements to smallholder farmers, as smallholders often have the option to sell to other mills with lower standards. Many mills operate on small profit margins and are in strong competition for FFB, so identifying win-win solutions is key to improving conditions for workers at the smallholder level. Priority should be placed on large-scale smallholders, which are set somewhere between registered estates and small-scale smallholders, and often employ large numbers of casual workers. While ultimately these large-scale smallholders should be guided towards legal registration as estates, this will require government efforts to curb current practices to artificially break down estates into smaller plots to avoid registration and taxation.

Recommendations

- Work with strategic suppliers to build the capacity of smallholders (owners and workers) on Good Agricultural Practices (GAP). A priority entry point should be large-scale smallholders, which employ a large number of workers.
- Explore whether Nestlé's experience with training farmers in other contexts, e.g. in China through their own dairy institute, is transferrable or adaptable to the smallholder context of the palm oil sector in Indonesia.⁵⁵
- Consider setting up Farmer Field Schools (FFS) for smallholder owners and workers. This initiative could be set up on a pilot basis in partnership with multi-stakeholder public private partnership agencies such as The Partnership for Indonesia Sustainable Agriculture (PisAgro).⁵⁶
- Work with strategic suppliers to establish more direct links between mills and smallholders in order to close the information gap on FFB prices and other commercial information.
- Consider linking up with actors already working with smallholders, for example the Indonesian Palm Oil Research Institute (IOPRI), PisAgro, the Indonesia Palm Oil Platform (FoKSBI), or the Oil Palm Farmers Union (SPKS), to pool funding, share research and knowledge, and work together to scale up best practices.

3.3 RECOMMENDATIONS TO GAR

The recommendations to Nestlé listed above require close collaboration with Nestlé's strategic suppliers. Since GAR is one of Nestlé's strategic suppliers of palm oil, these recommendations are also applicable to GAR.

However, the assessment resulted in some specific recommendations to GAR, following a high-level policy review and an interview with GAR's Sustainability team, and the assessment of the GAR refinery.

A. RECOMMENDATIONS APPLYING TO THE REFINERY

Since only one GAR refinery was assessed, the recommendations are specific to that refinery. However, it is likely that the identified impacts in relation to awareness of the company's policy on Freedom of Association, the community grievance mechanism, as well as the working hours of third party staff are relevant for other GAR refineries as well.

Recommendations

- Ensure that workers understand the company policy and national law on freedom of association – which includes the freedom to join or not join a union – e.g. through awareness raising sessions amongst workers.
- Identify and assess possible solutions to reduce working hours for third party security staff, such as hiring extra security personnel.
- Ensure that relevant staff is aware of the refinery's operational-level grievance mechanism.

B. GAR SOCIAL AND ENVIRONMENTAL POLICY (GSEP)

The GAR Social and Environmental Policy (GSEP) is a master policy combining GAR's Forest Conservation, Social and Community Engagement and Yield Improvement policies.⁵⁷ While GAR has been assessing its suppliers' compliance and practices against the GSEP since 2015, these assessments have been more geared towards environmental aspects and do not yet assess labour compliances in a robust manner. Supplier contracts that pre-dated the launch of the GSEP also do not yet make reference to compliance with GSEP as a contractual requirement.

Recommendations

- Update all contracts with suppliers to mandate compliance with GAR's GSEP.
- Ensure that current assessment protocols/methodologies to assess compliance with GSEP include a focus on the labour rights aspects of the GSEP.
- Conduct a human rights risk mapping against the GSEP, to identify high risk suppliers and high risk areas for labour rights compliance. A particular focus should be placed on large estates, particularly in high-risk areas, in order to further assess and address the impacts revealed through this assessment, as only one estate was visited for this labour rights assessment.

3.4 RECOMMENDATIONS TO OTHER KEY STAKEHOLDERS

A. GOVERNMENT OF INDONESIA

The government's role in creating and enforcing the law is crucial to achieving lasting change in the palm oil sector. Indonesia is the largest producer of palm oil globally. Palm oil constitutes Indonesia's biggest agricultural export product, employs an estimated 3.7 million people across the palm oil industry and downstream industries and contributes 1.5 to 2 percent to the Indonesian GDP.⁵⁸ Two main findings from the Labour Rights Assessment have direct links to the role of the government, and deserve to be highlighted here: one is the importance of the government's role in enforcing labour and environmental laws in the palm oil sector to prevent violations of the provisions that are supposed to protect workers and communities. The second observation links to the regulatory loophole in relation to large-scale "smallholders", which are avoiding registration as businesses by breaking up their plantations into smallholder plots to fall below the 25-hectare threshold. While currently not illegal, these practices lead to a large vulnerable workforce of casual labourers, who do not enjoy the same legal protection as workers on registered estates. The government has a key role to play in identifying such practical loopholes, creating legislation that protects workers on these plantations and monitoring the compliance of such legislation by estate owners.

Recommendations

- The Directorate General of Labour Inspection Development under the Ministry of Manpower should continue to strengthen the enforcement capacity of existing labour regulations, e.g. by scaling up initiatives like the Labour Norms Expert/Cadre (KNK) with a particular focus on palm oil processing mills.⁵⁹ Consider collaborating with the large producers of palm oil and independent mills in these efforts. Consider making palm oil processing mills a prime focus of the soon to be finalized Labour Compliance Programme (PROKEP), which will be conducted through KNK, to evaluate factories through labour compliance indexes.⁶⁰
- Consider drafting new legislation to address the practice of estates being divided up and registered as multiple smallholder plots under different owners, to provide protection to the large number of casual workers on these plantations. This could, for example, include provisions treating adjacent plots belonging to family members and/or using the same workforce as estates and requiring registration as a business and hence being covered by labour laws.
- Ensure that labour compliance and workers' welfare is mainstreamed into palm oil sustainability policy agendas or standard setting frameworks like the National Action Plan on Sustainable Palm Oil, currently being developed by FoKSBI.⁶¹ This National Action Plan currently does not address labour issues in the palm oil industry.
- Consider establishing ISPO as the national palm oil certification body separate from the Ministry of Agriculture. As ISPO is currently overseen by the Ministry of Agriculture it is restricted in its capacity to improve or create better standards for sustainability in the Indonesian palm oil industry. Presently ISPO acts more as a "legality standard"⁶² for the industry as its criteria consist of legal regulations prescribed by various other ministries. By separating ISPO out of this present governance structure and establishing it under the President's Office its mandate can be expanded to include management of the palm oil sector in Indonesia.⁶³ Consequently, its ability to set higher sustainability standards can be strengthened. This will also help ISPO to play a more active role in increasing certification within the industry.
- Consider allocating a percentage of government development budgets specifically to palm oil growing regions. Such budgets, spent at the local level, could be allocated to multi-stakeholder convenings, bringing together various mills and estates, local government, CSOs, workers' organisations, village leaders and others, to discuss topics such as labour rights in palm oil, occupational health and safety at the estate level, and to identify common priorities and goals to promote sustainable palm oil production.⁶⁴

B. RECOMMENDATIONS TO CERTIFICATION BODIES

Sector organisations like the Indonesian Sustainable Palm Oil Standard (ISPO) and the global Roundtable on Sustainable Palm Oil (RSPO) were established to make palm oil production more sustainable, and to help buyers of palm oil ensure that they are sourcing sustainably produced palm oil. These two schemes still only cover a fraction of palm oil producers in Indonesia, and various NGOs and reports have criticised RSPO's impact on the palm oil sector, and criticized the ISPO standard – which mainly measures compliance with Indonesian laws – as not rigorous enough to drive sustainability.⁶⁵ The Indonesian government is pushing for ISPO certification, with a target of increasing certification coverage to 70 percent by 2020. This Labour Rights Assessment illustrated possible gaps in the ISPO certification process, with multiple clear legal violations found in the two sites that had already gone through the legal compliance phase of ISPO certification. Representatives of both certification bodies interviewed during the assessment displayed a lack of willingness to coordinate standards or work together towards a more sustainable palm oil sector.

Recommendations

- As a government-backed certification scheme, ISPO should be revised to align to the international commitments on labour standards that Indonesia has signed up to.⁶⁶
- Compliance with ISPO requirements should also be regularly monitored independently after certification, to ensure that ISPO standards are not violated.
- With their company membership base, certification bodies such as RSPO and ISPO are well placed to coordinate capacity-building efforts on sustainable labour and environmental practices, particularly on some of the key issues identified during this assessment (child labour, occupational health and safety, water management etc.).

C. RECOMMENDATIONS TO INTERNATIONAL ORGANISATIONS & CIVIL SOCIETY

Relevant national and international NGOs and CSOs and international organisations such as the ILO and other UN agencies can be a great support to the government in the effort for policy development and the creation of legal regulations. Civil society organisations in Indonesia play an important role in highlighting human rights issues in the Indonesian palm oil sector. Several reports in the last year have played a key role in bringing a renewed focus and attention to the social impacts of the sector. The following recommendations encourage more collaborative efforts.

Recommendations

- National civil society organisations should engage more directly with the government to advocate for and support evidence-based policy development efforts.
- National civil society actors should also work directly with companies who are committed to the sustainability efforts in the Indonesian palm oil sector. Such collaborations could include monitoring of sites in the supply chains and undertaking more joint studies at the mill and plantation level; or even engaging with smallholders.
- International organisations should focus on supporting national civil society actors through funding, capacity development and knowledge creation.
- International organisations such as the ILO and other UN agencies should increase efforts to include international buyers like Nestlé and their strategic first tier suppliers like GAR in public private partnerships to create best practice and scale up solutions to the systemic challenges of the industry. Existing Examples include the Sustainable Palm Oil Initiative supported by the United Nations Development Programme, or UNICEF Indonesia's work on rolling out the Children's Rights and Business Practices in the Indonesian palm oil sector.⁶⁷

D. RECOMMENDATIONS TO BUYERS OF PALM OIL

Buyers of palm oil include all major brands and traders that buy palm oil to manufacture various goods and products. Besides Nestlé, some of the world's largest companies include Unilever, PepsiCo and P&G. While many buyers are members of the same platforms, for example the Roundtable for Sustainable Palm Oil, efforts to address the palm oil industry's challenges are often undertaken alone.

Recommendations

- In addition to independent efforts, buyers of palm oil should consider collaborating more, for example, through establishing a working group that periodically shares data and findings of labour and human rights studies, assessments and audits, and good practices and lessons learnt in relation to sustainability issues, or by pooling (financial) resources, and by developing and carrying out joint initiatives to address systemic impacts in the palm oil sector.
- Develop partnerships with key civil society partners and/ or international organisations to carry out joint studies, to monitor progress at specific sites or segments of the supply chain, where efforts are being made to reduce specific labour risks or to jointly address specific topics or issue areas.⁶⁸

E. RECOMMENDATIONS TO INVESTORS

Investors can play a key role in influencing palm oil buyers as well as producers, using the influence of their shareholders. While investors themselves have a responsibility under the UN Guiding Principles on Business and Human Rights to respect human rights in their investment decisions, they are also in the position to encourage companies to prevent, mitigate and address the negative human rights impacts of their activities.⁶⁹ A recent example was the Dutch financier ING allowing the agribusiness Wilmar International to pay lower interest rates on a loan if it meets sustainability-linked performance targets.⁷⁰

Recommendation

- When financing or investing in palm oil producers and buyers, investors should consider linking these investments to the company's sustainability performance, for example through the development of appropriate Key Performance Indicators (KPI), which should reflect in particular how the company manages labour risks in its own operations and supply chain. Investors can also provide financial incentives for good performance.

ANNEXES

ANNEX A: ASSESSMENT METHODOLOGY

ORGANISATIONS INVOLVED IN THE ASSESSMENT

The assessment was commissioned by Nestlé and jointly conducted by two organisations—DIHR and TFT. Below are more detailed descriptions of the role played by each organisation involved:

- **The Forest Trust (TFT):** Staff from Indonesia, UK and Switzerland worked on preparation, coordination and site selection, and supported GAR in supplier engagement. In addition, 4 TFT staff members from Indonesia joined the field assessment.
- **The Danish Institute for Human Rights (DIHR):** Two Advisers from DIHR's Human Rights and Development team worked on the preparation and coordination of the assessment and led the field assessment.
- **Nestlé S.A.:** The Public Affairs Manager for Social Impact from Nestlé headquarters in Switzerland and the Global Responsible Sourcing Leader for Palm Oil & Seafood based in Malaysia worked on coordination and preparation of the assessment with GAR. They also joined the field assessment teams for supplier management meetings and external stakeholder meetings. A representative of Nestlé Indonesia participated in the kick-off and the closing meeting to the assessment. No Nestlé representatives participated in any worker interviewers.
- **Golden-Agri Resources (GAR):** Staff from GAR's sustainability team based in Singapore and Jakarta worked on coordination, preparation, site selection and supplier engagement. Two social specialists joined the field assessment teams for supplier management meetings and external stakeholder interviews. No GAR representatives participated in any worker interviewers.

STANDARDS AND FRAMEWORKS

The relevant standards and frameworks for the assessment include:

- International human rights standards and principles – including the Universal Declaration of Human Rights (UDHR), ILO Declaration on the Fundamental Principles and Rights at Work, the UN Common Understanding on human rights-based approaches to development, and the UN Guiding Principles on Business and Human Rights⁷¹

- Good practice guidance on Human Rights Impact Assessment – including the DIHR Guidance and Toolbox on HRIA and further guidance and tools noted therein⁷²
- Relevant Indonesian national laws on labour, land and environment⁷³

SCOPE

The assessment, which took place between July and August 2017, primarily focused on investigating labour rights impacts across the supply chain. In addition to this, the assessment teams consisting of DIHR and TFT assessors also looked at community impacts through a select number of interviews with company management representatives, workers and community members. Less time was spent on assessing community impacts to maximize time spent in workers' interviews. Due to its focus on labour, the assessment was labelled a Labour Rights Assessment, yet the organisations involved found it important to include findings in relation to community impacts as well, in particular in relation to the environmental impacts of mills.

The following issues were covered:⁷⁴

LABOUR	COMMUNITY
• Ethical recruitment & non-discrimination	• Environmental impacts
• Labour contracts	• Land acquisition
• Working hours & overtime	• Security situation
• Forced labour	• Community Grievances
• Harassment and abuse	
• Grievance mechanisms	
• Wages & production targets	
• Freedom of association	
• Rest & leave	
• Child labour & family work	
• Occupational health & safety	
• Worker's accommodation	

SITE SELECTION

The refinery was chosen based on a supply chain mapping undertaken by GAR and supported by TFT, which considered the volume of palm oil sourced by Nestlé, in addition to other factors such as the journey undertaken by the palm oil once bought.

While GAR also operates mills and plantations (**integrated mills**) through subsidiaries, the majority of mills supplying the selected refinery belong to other suppliers (**independent mills**). The refinery sources crude palm oil (CPO) from close to 150 independent and GAR's integrated mills. Since GAR, supported by the Finish oil refining company Neste, had recently conducted a similar assessment with the organisation Business for Social Responsibility (BSR) of some of its own palm oil mills and plantations, it was decided to focus this labour rights assessment on GAR's and Nestlé's shared upstream supply chain of independent mills.⁷⁵

The selected refinery sources CPO from mills in different regions of Indonesia. North Sumatra was chosen because the refinery is located in this province, and therefore sources a large part of their CPO from mills in North Sumatra. Jambi was chosen because the palm oil industry there developed more recently, and there was less information about labour conditions in the province.

The provinces of Aceh and West Kalimantan were also considered. Aceh was not selected as many of the mills had been previously visited by TFT and GAR. West Kalimantan was not selected due to the fact that only a very small number of mills located in that area actually supply palm oil to the refinery, and time during the assessment would only allow for visiting mills in two provinces.

TFT and GAR identified 32 potential mills for engagement based on the refinery's Mill Prioritization Process (MPP), including the following criteria:

- A significant CPO supply to the refinery, in order to help GAR leverage the commercial relationship
- Located in North Sumatra or Jambi
- No previous GAR/TFT site visits conducted

The GAR supplier engagement team reached out to 10 shortlisted suppliers and four suppliers agreed to be part of the assessment. It became clear late in the selection process, that only one of these mills had an integrated estate. The three supplying mills without integrated estates therefore engaged their suppliers of FFB to request them to be part of the assessment. While most of these FFB suppliers were originally communicated to the assessment team to be larger plantations with estate status (above 25 hectares and registered as a business), they turned out to be large smallholders, who had broken up their estates into smallholder plots (see **Limitations below**).

INTERVIEW METHODOLOGY

The team spent 3-4 days at each site, starting with an opening meeting with site management to explain the purpose and methodology of the assessment. A Nestlé and a GAR representative were present during these opening meetings, to build the relationship with the supplier and to signal their commitment to the assessment process and the follow-up steps after the assessment. A full day was spent to

conduct interviews with mill management and mill workers. Two to three days were spent to conduct interviews with estates/smallholders, traders and collections sites, as well as community interviews. A closing meeting was held with participation of Nestlé and GAR representatives to share initial findings, clarify any outstanding questions and allow for questions from site management.

One-on-one management interviews were conducted with department heads, or in some cases their assistants. These interviews typically lasted 45-60 minutes. A Nestlé and GAR representative were allowed to be present during these interviews.

Where possible, teams conducted workers' interviews in focus groups ranging from 3 to 7 people and lasting 45-90 minutes per group. No Nestlé, GAR, or supplier management representatives were present during worker interviews, but since company management had to coordinate the availability of workers interviewed, they were aware of who the assessment team spoke with.

The assessment team ensured that no supervisors or managers were present in group interviews with workers; supervisors were interviewed individually to enable workers to speak freely without fear of repercussions. On one occasion, a supervisor remained within earshot, so the interview was kept short and questions were of a general nature and the outcomes of the interview were not included in the overall findings.

Plantation workers on duty were interviewed during their breaks and interviews lasted around 30-45 minutes or, if willing and with their consent, they were interviewed longer. Where possible, the team spoke to workers outside their working hours at a local food shop ('**warung**') nearby or in their homes after work. Consent was obtained from all interviewees. No voice recordings were made of interviews with workers or community members, to avoid potential misuse of such data.

All workers were selected on site by the assessment team. Emphasis was placed on interviewing women and men on different types of contracts (permanent and casual workers), and performing different types of jobs (at mill and plantations). Workers were randomly selected, either from lists of workers present that day or simply approached on site.

A smaller number of women than men were interviewed, as there were fewer women working at the mills and the smallholder estates. Where women were present, the assessment team ensured they were interviewed, to ensure the team understood challenges faced by this category of workers at all levels. This was specifically done on the large integrated estate, where 13 of the 29 workers interviewed were women. Women interviewed had different roles and responsibilities. Women were interviewed by a female assessor with no men present, to enable them to speak freely in relation to gender-sensitive issues.

Community interviews were held with community members in a radius of a few kilometres of the mills. No company representatives were present during these interviews.

All workers and community members interviewed were given a card with contact details (phone and email) of TFT Indonesia. All interviewees were told that they could report any negative consequences faced because of their participation in the assessment interviews, ask questions, and retract or qualify any of their statements. The phone number and email address are administered by TFT Indonesia staff members. At the time of publishing this report, no negative consequences had been reported.

A total of 15 external stakeholder meetings were held with civil society organisations, academic institutions, government agencies, certification organisations, international organisations and labour union initiatives working on human rights and/or palm oil related topics. During these semi-structured interviews, which were joined by a representative of Nestlé and/or GAR, general information about the assessment purpose was shared, and interviewees were asked about their perspectives on the main sustainability, labour rights or environmental challenges facing the palm oil sector in Indonesia. Apart from gathering stakeholder views on the role of companies like Nestlé and GAR in addressing these challenges, this type of engagement also sought to identify opportunities for multi-stakeholder collaboration in relation to sustainability issues in the industry.

An overview of the number of interviews conducted during the assessment can be found at the end of this annex.

LIMITATIONS

As with any assessment, a number of limitations to the approach were identified. These are briefly outlined below.

General

- GAR and Nestlé representatives were involved in the assessment preparations, including in deciding on the scope of the assessment and site selection and supplier selection. Site selection depended on the willingness of suppliers to participate in the assessment.
- The primary focus of the assessment was on labour rights; most time was dedicated to assessing the labour impacts of mills, estates and smallholders. Impacts related to land, environment and communities were also part of the assessment, but less time was dedicated to these issues to maximize time spent in interviews with workers.

- As this was an announced assessment and the suppliers knew when the assessment team was coming, there was a risk that workers were coached. However, interviews with rights-holders did not give this impression.⁷⁶
- Nestlé and GAR representatives were present during management interviews. This decision was made consciously to build the relationship between the companies and the supplier and signal support for the assessment, as well as to make Nestlé and GAR representatives aware of the impact assessment methodology and the differences between an impact assessment and an audit approach.

Site-specific

- In one case, a worker's manager remained within earshot during the interview with the worker, as he was afraid of what the worker might say to the assessment team. In order to protect the worker, that interview was kept general and brief, and was not considered in the overall assessment findings.
- At the mill with an integrated estate, the assessment team did not have sufficient time to conduct community interviews.
- When assessing suppliers of FFB, the assessment team had intended to focus on large estates supplying to the mills. However, during the assessment it became evident that at three of the four mills, FFB suppliers were large smallholders or small estates broken into smallholder plots by the landowners. Therefore, only one large estate was included in the scope of the assessment.

TABLE 4: BREAKDOWN OF INTERVIEWS DURING THE ASSESSMENT

Site		No. of males	No. of females	TOTAL No.
Refinery	Management	3		3
	Workers	6	4	10
Mills	Management	22		22
	Workers	65	5	70
Integrated Estate	Management	4		4
	Workers	16	13	29
Smallholders	Owner	28	1	29
	Workers	15	1	18
Traders/Collection Sites	Traders/ Management	3		3
	Workers	4		4
Communities	Village heads / villagers	19	11	30
TOTAL No. of interviewees		185	35	220
External stakeholder interviews				15

NOTES

- 1 Roundtable for Sustainable Palm Oil, Indonesia: Benchmark for Sustainable Oil Palm in Emerging Markets, 2911: <https://www.rspo.org/files/images/2011%20NR%20Report%20FINAL.pdf>
- 2 More information available at: <http://greenpalm.org/about-palm-oil/what-is-palm-oil/what-is-palm-oil-used-for>
- 3 See for example: Amnesty International, Key facts about palm oil, 2016: <https://www.amnesty.org/en/latest/news/2016/11/key-facts-about-palm-oil/>.
- 4 Environmental Investigation Agency, Who watches the watchmen?, November 2015: <https://eia-international.org/report/who-watches-the-watchmen>; SOMO/CNV International, Palming off responsibility, 2017: https://www.cnvinternational.nl/_Resources/Persistent/494a6d41ea4525468b46072a02e31f21e85a59c6/CNVI-0118%20Palmolie%20Indonesie-rapport-Low%20Res.pdf.
- 5 Amnesty International, Indonesia: The great palm oil scandal, 2016: <https://www.amnesty.org/en/documents/asa21/5243/2016/en/>; SOMO/CNV International, Palming off responsibility, 2017: https://www.cnvinternational.nl/_Resources/Persistent/494a6d41ea4525468b46072a02e31f21e85a59c6/CNVI-0118%20Palmolie%20Indonesie-rapport-Low%20Res.pdf.
- 6 Nestlé, Palm oil: <https://www.nestle.com/csv/communities/responsible-sourcing/palm-oil>.
- 7 For the purpose of this report, the term estate is being used in connection with plantations that are larger than 25 hectares, and are therefore required to register as a business according to Indonesian law.
- 8 For the purpose of this report, the term estate is being used in connection with plantations that are larger than 25 hectares, which are required to register as a business according to Indonesian law.
- 9 First tier suppliers are commodity traders, which were not covered by the assessment. In other cases, Nestlé buys directly from refineries, so commodity traders are not always involved.
- 10 More information available at: <http://greenpalm.org/about-palm-oil/what-is-palm-oil/what-is-palm-oil-used-for>
- 11 Oxford Business Group, Palm Oil production to rise in Indonesia, 22 May 2017: <https://www.oxfordbusinessgroup.com/news/palm-oil-production-rise-indonesia>.
- 12 <http://greenpalm.org/about-palm-oil/why-is-palm-oil-important>
- 13 Indonesia Investments, June 2017: <https://www.indonesia-investments.com/business/commodities/palm-oil/item166>?

- 14 Roundtable for Sustainable Palm Oil, Indonesia: Benchmark for Sustainable Oil Palm in Emerging Markets, 2911: <https://www.rspo.org/files/images/2011%20NR%20Report%20FINAL.pdf>
- 15 See for example: Amnesty International, Key facts about palm oil, 2016: <https://www.amnesty.org/en/latest/news/2016/11/key-facts-about-palm-oil/>.
- 16 Environmental Investigation Agency, Who watches the watchmen?, November 2015: <https://eia-international.org/report/who-watches-the-watchmen>; SOMO/CNV International, Palming off responsibility, 2017: https://www.cnvinternationaal.nl/_Resources/Persistent/494a6d41ea4525468b46072a02e31f21e85a59c6/CNVI-0118%20Palmolie%20Indonesie-rapport-Low%20Res.pdf.
- 17 Amnesty International, Indonesia: The great palm oil scandal, 2016: <https://www.amnesty.org/en/documents/asa21/5243/2016/en/>; SOMO/CNV International, Palming off responsibility, 2017: https://www.cnvinternationaal.nl/_Resources/Persistent/494a6d41ea4525468b46072a02e31f21e85a59c6/CNVI-0118%20Palmolie%20Indonesie-rapport-Low%20Res.pdf.
- 18 Danish Institute for Human Rights, 2016: <https://www.humanrights.dk/business/tools/human-rights-impact-assessment-guidance-and-toolbox>.
- 19 Global Living Wage Coalition, 2016
- 20 WageIndicator Foundation, Living wages in Indonesia by October 2017: <https://wageindicator.org/main/salary/living-wage/indonesia-living-wage-series-october-2017-country-overview>.
- 21 Manpower Law 13/2003, Article 78.
- 22 WHO, Global status report on road safety, 2015: http://www.who.int/violence_injury_prevention/road_safety_status/2015/en/; The Jakarta Post, Traffic accidents remain major contributor to fatalities, health problems, Janaury 2017: <http://www.thejakartapost.com/news/2017/01/23/traffic-accidents-remain-major-contributor-to-fatalities-health-problems.html>.
- 23 Under Indonesian law, environmental impact assessments (called AMDAL) are mandatory, as set out in the Environmental Protection Law (No. 32 / 2009). Companies must submit Environmental Monitoring and Management Plans as part of the AMDAL. While Government Regulation Number 27/2012 on Environmental Permits does not explicitly state that AMDALs are public documents, there are several cases where the Public Information Commission has ruled in favour of civil society organisations filing complaints to obtain copies of AMDAL for the public.
- A UKL-UPL process must be prepared in the planning stage of business activities in accordance with the spatial plans of the area. The UKL-UPL must contain details of the environmental impacts on the surrounding area and include environmental management and monitoring plans. Indonesian law does not mandate public consultation in UKL-UPL.
- 24 The assessment team was not able to speak to community members in the vicinity of the refinery, so the findings are based on interviews with refinery management
- 25 GAR Social and Environmental Policy (GSEP), <http://goldenagri.com.sg/wp-content/uploads/2016/01/GSEP-English.pdf>.

- 26 Under national regulation UU No. 13/2003 and Kepmenaker No. 100/2004, the employer must provide a contract to all workers which can be a written or oral contract with the company.
- 27 Under national regulation UU No. 13/2003 terms of employment must either be seven hours of work a day and 40 hours a week spread over six working days or eight hours of work a day and 40 hours a week spread over five working days. Article 79, paragraph 2 (a), of the law 13/2003 mentions that the period of rest or a break between working hours that is no shorter than half an hour after working for four 4 hours consecutively shall not be inclusive of working hours.
- 28 Kepmenakertrans No. 102 / MEN / VI / 2004 concerning Overtime and Overtime Wages states that overtime during workdays is to be calculated as follows: first hour of overtime is calculated at 1.5 times the prevailing hourly wage. Subsequent overtime is calculated at 2 times the prevailing hourly wage. During weekly rest days/ statutory public holidays: - For 7-hour work days: First seven hours of overtime are calculated at 2 times the prevailing hourly wage. Eighth hour of overtime is calculated at 3 times the prevailing hourly wage. Ninth and tenth hour of overtime is calculated at 4 times the prevailing hourly wage. During statutory public holidays which fall on the shortest working day of the week: - For 7-hour work days: First five hours of overtime are calculated at 2 times the prevailing hourly wage. Sixth hour of overtime is calculated at 3 times the prevailing hourly wage. Seventh and Eighth hour of overtime is calculated at 4 times the prevailing hourly wage.
- 29 Manpower law, Article 87.
- 30 Permentan 11/2015 on ISPO states that the company should have mechanisms for the submission of worker complaints and grievances. The company should have documentation of complaints and grievances received from workers.
- 31 Under Indonesian Ministerial Regulation (Ministry of Manpower) 32/2008 and Manpower law 13/2003 Article 106, all companies of 50 employees or larger must set up a formal employer-employee grievance body called a Lembaga Kerjasama- Bipartite (LKS-Bipartite).
- 32 ILO Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87).
- 33 ILO Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87).
- 34 Under Indonesian law, environmental impact assessments (called AMDAL) are mandatory, as set out in the Environmental Protection Law (No. 32 / 2009). A key feature of the Indonesian system is that environmental monitoring and management plans must be submitted as part of the AMDAL. The UKL-UPL process must be prepared at the planning stage of a business activity in accordance with the spatial plans of the area. The UKL-UPL must contain details of the environmental impact of the business as well as environmental management and monitoring plans
- 35 There was insufficient time for community interviews at one of the four sites, so no conclusions on community impacts at that mill were drawn.

- 36 Under Regulation of Ministry of Manpower No. 100/2004 on Fixed Term Workers (PKWT), any fixed-term contract can only be made for jobs which will be completed in a specified period of time. This includes work which is temporary by nature, seasonal work, and work related to new activities. If a company requires the assistance of workers on an on-going basis, they must hire them on a permanent basis or PKWTT.
- The Manpower Act stipulates that casual daily workers must work a maximum of 21 days in a month. There is no time limit set out under the law, as long as the work does not exceed 21 days a month for three consecutive months. If workers work for 21 days or more for three consecutive months or more, they will be deemed to be permanent employees.
- 37 Under Regulation of Ministry of Manpower No. 100/2004 on Fixed Term Workers (PKWT), all temporary workers are entitled to contracts, minimum wages and BPJS insurance
- 38 Conversion: 13,494 IDR = 1 USD (November 2017).
- 39 Article 90 of the Manpower Act
- 40 European Union bans Paraquat, 2007: <http://beyondpesticides.org/dailynewsblog/2007/07/european-union-bans-paraquat/>.
- 41 Under Indonesian Manpower Law 13/2003 permanent and yearly fixed term contract workers are entitled to 12 days paid holiday leave each year.
- 42 Article 1 (10) and Article 8 Ministry of Agriculture Regulation 98/Permentan/OT.140/9/2013 Concerning Guidelines for Plantation Permit states that all holdings above 25 hectares must register as commercial estates
- 43 Daemeter, Overview of Indonesian Oil Palm Smallholder Farmers, November 2015: http://daemeter.org/new/uploads/20160105233051.Smallholders_Book_050116_web.pdf.
- 44 Ibid.
- 45 For more on Good Agricultural Practices see: Food and Agriculture Organization of the United Nations: <http://www.fao.org/agriculture/crops/thematic-sitemap/theme/spi/good-farming-practices/en/>.
- 46 Under Ministerial Regulation No. 38/2011 on Rivers/Water Body, if the river is 50-100 metres wide no pesticide is to be used at a distance of 100 m from either bank of the river. If the river is 20-50 metres wide then no pesticide can be used within 50 m from either bank. If the river has a name and is legalised by the government no pesticides can be used within 50 m from either bank.
- 47 For example: Amnesty International, The Great Palm Oil Scandal, November 2016: <https://www.amnesty.org/en/documents/asa21/5184/2016/en/>; CNV International and SOMO, Palming off responsibility, June 2017: <https://www.somo.nl/palming-off-responsibility/>.
- 48 The National Commission for the Elimination of the Worst Forms of Child Labour, also known as KNPBTA, was established following the ratification of the ILO Convention on the Elimination of the Worst Forms of Child Labour. The commission is led by the Ministry of Manpower and its mandate is specific and limited.
- More information on KNPBTA can be found here: https://www.unicef.org/protection/files/Indonesia_CP_system_case_study.pdf.

- 49 PT SMART, a subsidiary of GAR, regularly organises SMART SEED and other programmes as part of its engagement efforts with suppliers to help them adopt better social and environmental practices. The workshops have an increasing focus on helping suppliers achieve ISPO certification by sharing experiences from PT SMART's own mills and estates. More information here: <http://www.goldenagri.com.sg/pdfs/News%20Releases/2016/Press%20Release%20Eng%20-%20SMART%20SEED%20Gathering%20Latest%20-%20Edited.pdf>.
- 50 During external stakeholder interviews with the ILO, the impending establishment of a programme on OHS in the palm oil sector was mentioned. At the time of publication, no public information on this programme was accessible yet.
- 51 Under Indonesian law, environmental impact assessments (called AMDAL) are mandatory, as set out in the Environmental Protection Law (No. 32 / 2009). Companies must submit Environmental Monitoring and Management Plans as part of the AMDAL. While Government Regulation Number 27/2012 on Environmental Permits does not explicitly state that AMDALs are public documents, there are several cases where the Public Information Commission has ruled in favour of civil society organisations filing complaints to obtain copies of AMDAL for the public.
- 52 Community consultations should be carried out in a language and wording understandable for the community and should be culturally appropriate. Consultations should include vulnerable groups including youth, women, elderly, disabled, minorities etc. Consultation of women should be conducted by women only and in a culturally appropriate manner. If community members cannot represent themselves, a legitimate representative of the community can speak on their behalf.
- 53 Nestlé Responsible Sourcing Guideline: http://www.nestle.com/asset-library/documents/library/documents/corporate_social_responsibility/nestle-responsible-sourcing-guidelines.pdf.
- 54 According to the effectiveness criteria for non-judicial grievance mechanisms set out by Guiding Principle 31, UNGPs, an effective operational-level grievance mechanism should be legitimate, accessible, predictable, equitable, transparent, rights-compatible, a source of continuous learning, and based on engagement and dialogue.
- 55 <http://www.nestle.com.au/media/newsandfeatures/nestle-inaugurates-major-dairy-farming-institute-in-china>
- 56 The Farmer Field Schools (FFS) approach was developed by the Food and Agriculture Organisation (FAO) and partners in the 1980s in South-East Asia. A Farmer Field School offers space for hands-on group learning, enhancing skills for critical analysis and improved decision making by local people. FFS activities are field based, include experimentation to solve problems, reflecting a specific local context. Participants learn how to improve skills through observing, analysing and trying out new ideas on their own fields, contributing to improved production and livelihoods. The FFS process enhances individual, household

- and community empowerment and cohesion. For more information: <http://www.fao.org/agriculture/ippm/programme/ffs-approach/en/>
- 57 GSEP, http://goldenagri.com.sg/wp-content/uploads/2016/09/GAR_Social_and_Environmental_Policy-2.pdf.
- 58 <https://www.indonesia-investments.com/business/commodities/palm-oil/item166>?
- 59 The KNK was established through the Manpower Ministerial Decree No. 257/2014. The Decree was enacted as a response to shortage of labour inspectors on the ground. The Decree regulates that it is mandatory for each factory with more than 100 workers to have a certified labour norms expert. KNK is personnel/member of staff within a factory who is trained about labour norms to assist employers in conducting factory self-assessment as an effort to control employment risks and to improve the factory's labour law compliance.
- 60 More information here: ILO Factsheet on Labour Inspections in Indonesia, http://www.ilo.org/wcmsp5/groups/public/---asia/---ro-bangkok/---ilo-jakarta/documents/publication/wcms_549704.pdf
- 61 For more information on the National Action Plan for Sustainable Palm Oil, see: <http://www.foksbi.id/en/activities>.
- 62 ISPO is defined as the “legality standard” as per this comparative analysis published by Forest People’s Programme on the various competing certification standards that exist for sustainable palm oil certification http://www.forestpeoples.org/sites/default/files/documents/Palm%20Oil%20Certification%20Standards_lowres_spreads.pdf
- 63 As per this paper published in 2017 on ISPO’s governance, page 235 <https://link.springer.com/content/pdf/10.1007/s10460-017-9816-6.pdf>
- 64 This recommendation could link to the recommendation above to strategically pool Environmental and Social Responsibility budgets (in line with Article 74 of Law No. 40 on Limited Liability Companies) to achieve greater impact. Initial research indicated that the National Development and Planning Agency (BAPPENAS) allocates development funds to provincial line ministries (BAPPEDA) who then directly implement projects or disburse funding to other departments. Work under palm oil would presumably fall under the Departments of Agriculture (DINAS), who would disburse these funds.
- 65 See for example SOMO/CNV International, Palming off responsibility, 2017: https://www.cnvinternationaal.nl/_Resources/Persistent/494a6d41ea4525468b46072a02e31f21e85a59c6/CNVI-0118%20Palmolie%20Indonesie-rapport-Low%20Res.pdf; Amnesty International, Indonesia: The great palm oil scandal, 2016: <https://www.amnesty.org/en/documents/asa21/5243/2016/en/>; The Jakarta Post, Post-IPOP: How Indonesia can lead in palm oil sustainability, July 2016: <http://www.thejakartapost.com/academia/2016/07/26/post-ipop-how-indonesia-can-lead-in-palm-oil-sustainability.html>.
- 66 The RSPO is also currently in the process of revising its own labour sustainability requirements to more closely align with international standards.
- 67 UNDP, Sustainable Palm Oil Initiative: <http://www.undp.org/content/dam/undp/library/Environment%20and%20Energy/Green%20Commodities%20>

Programme/Indonesia%20Factsheet%20pdf.pdf; UNICEF Indonesia, Palm Oil and Children in Indonesia – The Children’s Rights and Business Principles in Action, 20 November 2016: <http://unicefindonesia.blogspot.dk/2016/11/palm-oil-and-children-in-indonesia.html>.

- 68 Partners will depend on the issue(s) that are being addressed, for example OPPUK for issues around Freedom of Association and other labour related issues.
Another example is UNICEF, who is committed to working with “champion companies” to apply the Children’s Rights and Business Principles to the palm oil sector in Indonesia: <http://unicefindonesia.blogspot.dk/2016/11/palm-oil-and-children-in-indonesia.html>
- 69 Institute for Human Rights and Business, Investing the Rights Way, 2013: <https://www.ihrb.org/pdf/Investing-the-Rights-Way/Investing-the-Rights-Way.pdf>.
- 70 Eco-Business, Wilmar launches landmark sustainable finance deal, child protection policy, 1 December 2017: <http://www.eco-business.com/news/wilmar-launches-landmark-sustainable-finance-deal-child-protection-policy/>.
- 71 UN General Assembly (1948), Office of the High Commissioner for Human Rights (2006), UN Human Rights Council (2011a).
- 72 Danish Institute for Human Rights, 2016: <https://www.humanrights.dk/business/tools/human-rights-impact-assessment-guidance-and-toolbox>.
- 73 For example Manpower Law 13/2003; Government Regulation Number 78/2015 on wages; Trade Union Act; Law Number 14/2008 on Public Information Openness; Government Regulation Number 27/2012 on Environmental Permits; Environmental Protection Law (No. 32 / 2009).
- 74 See how these issues link to Nestlé’s Salient Human Rights Issues: <http://www.nestle.com/csv/communities/respecting-human-rights>.
- 75 GAR, Enforcing fair labour practices in the palm oil industry, June 2017: <https://goldenagri.com.sg/fair-labour-practices-palm-oil-industry/>
- 76 All human beings are human rights-holders. In the context of a human rights impact assessment the focus is on those rights-holders who are actually or potentially adversely affected by the business project or activities. Organisations or entities, such as trade unions or religious institutions, are not human rights-holders, but may act in a representative capacity. Examples of rights-holders whose human rights can be impacted by business projects or activities include: local community members (including women and men, vulnerable individuals and groups, downstream, trans-boundary or neighbouring communities); employees; contractor and supply chain workers; and consumers.

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