

RSPO

Roundtable on Sustainable Palm Oil

THIS REPORT
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STUDY OF LABOUR COMPLIANCE IN RSPO CERTIFIED OIL PALM PLANTATIONS IN INDONESIA



About this report

This report presents the findings of a study on the level of labour compliance in RSPO certified management units in Indonesia. It was commissioned by the RSPO and prepared by Profundo.

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Acronyms

ASA	Audit Surveillance Assessment
ASI	Accreditation Services International
CB	Certification Body
CBA	Collective Bargaining Agreement
CEDAW	Convention on the Elimination of All Forms of Discrimination Against Women
CH	Certificate Holder
FFB	Fresh Fruit Bunch
FGD	Focus Group Discussion
FPIC	Free Prior Informed Consent
ILO	International Labour Organization
MNE	Multinational Enterprises
MOMT	Ministry of Manpower and Transmigration
NC	Non-conformities
NDA	Non-Disclosure Agreement
NGO	Non-Governmental Organisations
OECD	Organisation for Economic Co-operation and Development
OSH	Occupational Safety and Health
P&C	Principles and Criteria
PPE	Personal Protective Equipment
RSPO	Roundtable on Sustainable Palm Oil
SPOTT	Sustainability Policy Transparency Toolkit
SOP	Standard Operating Procedure
UDHR	Universal Declaration of Human Rights
UNGP	United Nations Guiding Principles on Business and Human Rights
YOP	Year of Planting

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Introduction

Over the years, environmental issues in the palm oil sector such as destruction of vast tropical rainforests and burning of peatlands, have been the focus of many investigative research and media coverage around the world. However, recently many NGOs and trade unions are uncovering violations of core labour and human right principles by major palm oil companies. This has increasingly put labour and living conditions of workers on the agenda of key institutions like the Roundtable for Responsible Palm Oil (RSPO).

In 2004, the RSPO was established to make sustainable palm oil the norm, by developing and implementing a global standard for sustainable palm oil. The RSPO has a mission to amongst others, “*monitor the social impacts of the uptake of sustainable palm oil in the market.*” It now has more than 4,000 members in 92 countries, who together represent all links along the palm oil supply chain. More than 13 million tonnes of palm oil, (representing around 19% of global palm oil) are already RSPO certified with 51.9% coming from Indonesia (covering 1.8 million ha).¹

Several RSPO members and their subsidiaries in Indonesia are alleged by campaigning NGOs, unions and the media, of not complying with fundamental labour and human rights standards, Indonesia labour laws, and the RSPO’s Principles and Criteria (P&C). They have also broadly questioned the effectiveness and the credibility of the RSPO certification system and have called on the RSPO to strengthen its auditing, enforcement and complaints systems so that it delivers remedy for workers and communities impacted by these labour violations.

Responsively, the RSPO Secretariat has tasked Profundo to conduct a study to assess the effectiveness of the RSPO certification system in capturing labour violations particularly in certified management units in Indonesia. This is part of the RSPO’s broader intention to further foster its members’ implementation of better labour and social practices and compliance to labour standards and regulations. Indonesia was selected as the country to pilot this study due to the fact that there have been numerous external reports by NGOs and other external monitoring mechanisms which highlight labour exploitation in the country’s palm oil industry. It was also chosen because it is the largest palm oil producing country. The intention of the RSPO is to replicate this study in other palm oil producing countries.

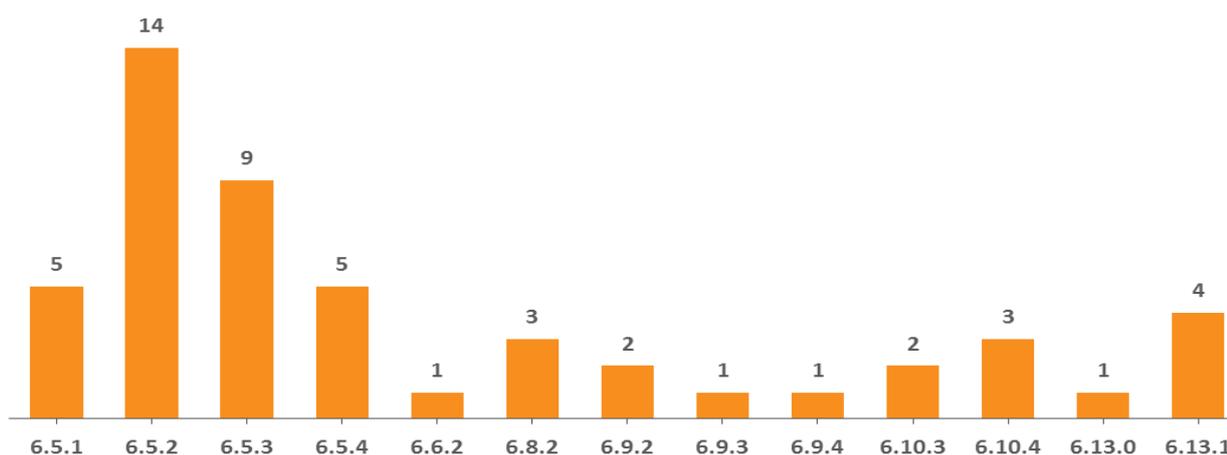
This report presents findings from Profundo’s desk and field research. A summary of the findings are presented in the first pages of this report. Chapter 1 presents the research objective and methodology. Chapter 2 looks at the palm oil industry in Indonesia, highlighting the prevalence of labour issues as well as some external reports on labour abuses in Indonesia’s palm oil industry. Chapter 3 maps the applicable international labour standards and Indonesian labour laws. Chapter 4 reviews RSPO’s handling of labour issues, its coverage of labour issues in the P&C and audits. Chapter 5 highlights the results of field verification of labour compliance in four certified units in Indonesia. Chapter 6 presents concluding remarks and some recommendations.

Summary of key findings

During the last 5 years, there have been several major external publications that alleged labour rights abuses and violations by RSPO certified companies (some of which are listed in Section 2.2.1), and there have been numerous external concerns regarding the RSPO's handling of labour violations by its member growers (see outline in Section 4.1). Based on input from these external publications, as well as palm oil and forestry-related indexes and guides, such as *Free and Fair Labour practices in the palm oil sector*, *SPOTT* and *Fair Finance Guide*, the study team identified nine prevalent labour issues in Indonesia's palm oil sector, namely: child labour, forced labour, discrimination, unethical hiring and contracting practices, insufficient income and income insecurity, lack of freedom association and collective bargaining rights, unfair targets and insufferable working hours, unhealthy and unsafe working conditions, and lack of gender equality and social protection for women (see description in Section 2.2.2). These issues are referenced throughout the study.

For the RSPO, its P&C is a key instrument for stimulating its members' compliance to international standards and national laws on labour issues. There have been a number of external criticisms relating to the 2013 version of the P&C. The study team reviewed the P&C's coverage of labour issues (see review in Section 4.2). The team found that the P&C sufficiently covers only a few labour issues, and is not responsive to the labour violations in the palm oil sector. The major pitfall of the P&C is that, many of the requirements and indicators are not specific or nuanced enough, and as such, the P&C leaves too much room for interpretation by RSPO members. This may be the principal reason why many RSPO member growers are often found in violation of these principles.

The quality of RSPO certification and surveillance audits being carried out by accredited certifying bodies (CBs) have also come under intense scrutiny and criticism over the past years. 53 RSPO audit surveillance reports of 21 palm oil companies in Indonesia were assessed by the study team, to ascertain the extent to which labour non-conformities were raised by auditors. The audit reports were produced during 2012 to 2017. About 270 non-conformities were raised in these reports. 41 were observations, while 122 were major non-conformities and 107 were minor non-conformities, covering Principles 1, 2, 4, 5, 6, and 8. More than 80% of the issues raised were under three of these Principles, namely: Principle 2 (Compliance with applicable laws and regulations), Principle 4 (Use of appropriate best practices by growers and millers) and Principle 6 (Responsible consideration of employees, and of individuals and communities affected by growers and millers). Under Principle 2, the most raised indicator is 2.1.1 (Evidence of compliance with relevant legal requirements shall be available). Under Principle 4, the most raised indicator is 4.7.3 (All workers must be adequately trained in safe working practices and adequate and appropriate protective equipment shall be available to cover all potential hazardous operations). As shown in the figure below, under Principle 6, the most raised indicator is 6.5.2 (Labour laws, union agreements or direct contracts of employment detailing payments and conditions of employment shall be available in languages understood by the workers...).



In general, more than 60% of the audit surveillance reports reviewed were of low quality, particularly in terms of improved English language, overall readability and structure of case reporting. The study team concluded that some of the auditors' findings on labour-related criteria and indicators, exhibited a "checklist mentality", where auditors appear to have focused more on checking off the availability of documents and less on assessing the implementation of labour practices.

Furthermore, six compliance audit assessment reports produced by the Accreditation Services International (ASI), were studied to gain further insight into auditing conducted by accredited Certification Bodies (CB). The study found several noteworthy cases (identified by the ASI) where CBs did not properly conduct the audits; where CBs reported the wrong non-conformities and where CBs have closed non-conformities without adequate verification of the evidence provided by the Certificate Holders (CH). None of these 6 CBs were suspended.

Field verification was conducted in 4 RSPO certified management units located in Riau, South Sumatra, Central Kalimantan and West Kalimantan. It was conducted during October – December 2017. During the visit, information was gathered through document review, focus group discussions (FGD) with temporary and permanent workers and face-to-face interviews with management staff, workers and other stakeholders. In addition, site visits were conducted to the companies' plantations and mills as well as the housing complexes, company clinics and schools (elementary and kindergarten). Overall, 169 people were interviewed (including workers) and 192 workers participated in FGDs, across the 4 companies. The sample size of workers that participated in both the interviews and FGDs was between 5% - 7% of the total number of workers in each company.

Based on the findings, none of the companies showed a "high" level of compliance to labour standards and the RSPO P&C on either of the 9 identified labour issues. Only one company showed "medium" level of labour compliance and only on one issue (i.e. child labour). The four companies showed either "low" or "very low" level of compliance on all the other issues. The table below shows a summary of the findings.

Labour issue	Company A Riau	Company B South Sumatra	Company C South Kalimantan	Company D Central Kalimantan
Child labour	●	●	●	●
Forced Labour	●	●	●	●
Lack of Freedom of association and rights to collective bargaining	●	●	●	●
Discrimination	●	●	●	●
Wages and Income security	●	●	●	●
Hiring and Contracting	●	●	●	●
Targets and Working hours	●	●	●	●
Gender Equality	●	●	●	●
Occupational Health and Safety	●	●	●	●

Based on the desk and field research findings, the study team concludes that non-compliance to the RSPO P&C, ILO standards, Indonesia labour laws is pervasive in Indonesia's palm oil industry. The fact that significant labour non-compliances still occur in RSPO certified units, calls to question the credibility of the RSPO certification system, its auditing, enforcement and complaints handling system. The RSPO is therefore

encouraged to consider some far-reaching recommendations to ensure its effectiveness in providing support and remedies to workers and communities impacted by labour rights abuses.

The study team has directly provided each of the companies with a field report and an elaborate list of specific recommendations to address the labour issues identified. The RSPO is recommended to conduct follow-up discussions with the companies. In Chapter 6, the study team presents 21 recommendations to the RSPO covering, auditing and compliance, RSPO principles and criteria, complaints system and other general issues. Some of the recommendations are summarised below:

- RSPO P&C review task force should give more attention to labour and labour-related issues in its current review process. The task force should expand upon Principle 6, formulate concrete criteria, indicators and guidelines on all the labour and labour-related issues in the P&C, e.g. living wage.
- The RSPO should seriously consider the election of at least one independent trade union into its board of governors. In the current climate where several labour rights violations are being uncovered, it is imperative to have the voice of workers' unions well-represented with seats at the RSPO board level.
- The capacity of independent unions in palm oil plantations should be strengthened. They still require a thorough understanding of the various labour laws in Indonesia and the provisions that offer protection and rights to workers. Some of the unions are still unable to understand and successfully use the RSPO's grievance and complaint mechanism.
- The RSPO should address the fundamental concerns of lack of transparency, inefficiency and procedural inconsistency of its complaint system. Amongst others, two studies conducted by different parties - Jonas (2014) and Macdonald and Balaton-Chrimes (2016) already provide detailed analysis and recommendations for the RSPO to implement.
- To greatly improve the credibility of its certification system, the RSPO should consider establishing unannounced audits or "spot-audits", especially to capture labour issues which are usually transient and occurs in a 'typical' day.
- The RSPO and ASI should consider measures to ensure that the audit reports and ASA reports produced by each certification body is of high quality, particularly in terms of improved English language, structure of reporting and overall readability
- The RSPO should become much more proactive and strict in issuing more suspensions and sanctions against underperforming certification bodies. In addition, the RSPO should consider as a standard practice, to involve NGOs or independent expert organisations in the ASI verification process. Presently, this is sparsely done.
- The RSPO should consider expanding the scope of this study to cover a regional perspective. This means covering a few countries within other regions where the conditions for workers might be even worse off.
- Compliance to labour and social issues by smallholders needs further research and investigation. During this labour study, several concerns were raised concerning labour-related issues between palm oil companies and their supplying smallholders.
- In addition to the recent inclusion of requirement that auditors must have experience on gender (see Principle & Criteria Certification Systems - June 2017 section "3.8 Assessment team composition requirements"), the RSPO should consider including as a requirement that, audit teams should be gender-balanced or consist of at least one qualified woman auditor.
- The RSPO should facilitate engagement with the PPE industry to design and supply appropriate, quality, safe and comfortable personal protective equipment for workers (i.e. helmet, gloves, overalls, goggles, nose masks, earplugs, etc.).
- The RSPO should liaise with Indonesia's labour inspectors to ensure coordination, learning and exchange of information regarding correct interpretation of the labour laws, inspection reports, cases of violations, convictions and penalties.

Chapter 1 Research Objective and Methodology

The research objective is to assess the level of compliance in RSPO certified management units in Indonesia. To realise this, the study applied desk and field research, focused on the following:

- Identifying the main allegations of labour violations in RSPO certified units, in the last 5 years.
- Identifying the main criticisms of the RSPO’s handling of labour issues, in the last 5 years.
- Summarising the common labour issues occurring in Indonesia’s palm oil sector.
- Mapping international labour standards and Indonesia labour laws applicable to labour issues.
- Identifying gaps in the RSPO P&C and audits, concerning labour issues:
 - Assessing the extent to which the RSPO P&C covers the identified labour issues; and
 - Reviewing a sample of audit surveillance reports of RSPO certified growers, spanning the last 5 years.
- Field verification of compliance to labour standards in 4 RSPO certified management units in Indonesia.

1.1 Study Timeline

The desk and field research parts of the study took 5 months (i.e. August – December 2017), which is relatively normal. However, overall, the study took longer than expected (i.e. 16 months), mainly because there were unavoidable delays in providing comments to the study team. Table 1 shows the timeline of the study.

Table 1 Timeline of the Study

Activity	Timeline
Research Commenced	August 2017
Desk Research	September 2017
Field Research (Phase 1)	October 2017
Field Research (Phase 2)	November – December 2017
Field Report submitted to RSPO and Companies	December 2017 – March 2018
Comments received from companies on field report	December 2017 – April 2018
Draft Report submitted to RSPO	May 2018
Comments received from RSPO	August 2018
RSPO Format Received	October 2018
Final Report Submitted to RSPO	November 2018

1.2 Desk Research

The topic of labour violations in the palm oil sector, globally and in Indonesia, is well documented by several secondary sources. Therefore, to map the common and recurring labour and labour-related issues in Indonesia’s oil palm industry, the researchers first conducted a quick scan of recent critical investigative reports, articles and news highlighting labour violations in Indonesia’s palm oil industry.

The scan was performed using Nexis and Google search. To obtain search results, the researchers combined the acronym “RSPO” (or fully “Roundtable on Responsible Palm Oil), and one or more of other keywords, i.e., human rights, violations, complaint, conflict, advocacy, campaign, labour, land conflict, health safety, and discrimination. Similar words in Bahasa Indonesia or Malay were also used as keywords for the search to get more publication from local news and organisation. The search was limited to publications during the last 5 years (from 2012/2013 to 2017/2018). The researchers chose only publications where the author(s) had reported direct cases of labour violation or handling of labour and social issues by RSPO members and the RSPO. The documentation found, formed part of the literature study as well as many of the references used in this report.

To summarise the most prevalent issues in Indonesia’s Palm oil sector, this study reviewed the labour topics found in the investigative reports and other palm oil or forestry-related guides and indexes such as Free and Fair Labour in Palm Oil Production (Principles and implementation guidance), SPOTT, and Fair Finance Guide.

It is important to note that as the focus is on labour (and social) issues, none of the critical environmental topics was explored by this study (This does not downplay the fact that environmental violations are still prevalent in Indonesia’s palm oil sector).

Concerning desk research on labour standards and laws, the study paid critical attention to documentation from the International labour organisation (ILO), sourced via ILO databases – NORMLEX and NATLEX (Indonesia). Also, the researchers consulted the following standards: RSPO principles and criteria, UN Global Compact principles, OECD Guidelines for MNEs, Universal Declaration of Human Rights (UDHR), UN Guiding Principles on Business and Human Rights (UNGPR), Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW) and the UN Convention on the Rights of the Child.

Furthermore, desk research was conducted regarding the extent to which the RSPO P&C covered the identified labour issues. External views on the governance challenges of the RSPO and its handling of labour issues were also researched using Nexis and Google search.

53 audit surveillance reports of 21 palm oil companies in Indonesia were assessed to ascertain the extent to which auditors raised labour non-conformities. The audit reports were produced from 2012 to 2017. The selection of the 21 companies to review was made at random, and the number represents 50% of the total number of companies submitted by the RSPO to Profundo. The audit reports reviewed represents about 42% of the total number of audit reports submitted by the RSPO to Profundo.

Six compliance assessment reports of certifying bodies (CBs), produced by the ASI were also studied during the desk research. These reports were obtained directly from the ASI’s website.

1.3 Field Research

As part of the field research, between October and December 2017, the study team visited 4 RSPO certified plantations located in Riau, South Sumatra, South Kalimantan and Central Kalimantan. These plantations are subsidiary companies or suppliers of some of the big palm oil companies. The study team spent two days in each plantation (and mill).² Information was gathered through document review and face-to-face interviews with management staff, workers and other stakeholders. Two FGDs were conducted for temporary and permanent workers. Participants at each FGD were split into smaller groups of 5 or 6, to ease communication and discussion. Also, transect walks/site visits were conducted to one plantation and mill as well as the housing complex, chemical storage facility, company clinic and company school (elementary and kindergarten). Table 2 and Table 3 show the group list and number of persons interviewed and FGD participants per company.

Table 2 Number and category of persons interviewed

Interviewees	Company ³				
	A	B	C	D	
Management Staff (General manager, Estate manager, HR manager, Clinic staff)	7	8	8	9	
Welfare committee members	3	3	3	9	
Supervisors at plantation level	5	9	5	6	
Plantation & mill workers (harvester, sprayer maintenance)	15	15	15	11	
Union leaders	4	6	2	0	
Village heads and neighbourhood representatives	1	4	6	3	
Religious leaders	2	0	1	2	
School teachers and ministry of education staff	0	0	7	0	
Total	37	45	47	40	169

Table 3 Number of participants at the FGDs

Company	Number of Participants
A	67
B	41
C	46
D	38
Total	192

The study team also conducted Interviews with NGOs and union stakeholders in Indonesia, namely: ILO Indonesia, Oxfam Indonesia, Verite, ELSAM, RAN, OPPIK/SERBUNDO, TUK, TURC, KSBSI, GSBI, Indonesian Auditor Network and RSPO Indonesia.

The labour and social practice in each company was assessed based on four core labour issues (child labour, forced labour, lack of freedom of association and right to collective bargaining and discrimination) and five labour and social issues (living wage, ethical hiring, responsible targets and working hours, gender equality, health and safety). These issues were identified in the RSPO Principles and Criteria P&C (2013), ILO labour standards and other international norms as well as Indonesia labour laws. A simple categorisation (as shown in Table 4) was used in the assessment to define the company's level of compliance. A summary of the assessment is presented in Chapter 5.

Table 4 Categorisation of level of labour compliance

Colour Code	Level of compliance ⁴	Assessment Category	Definition
●	Very low	Passive	The company does not comply on several key issues under the topic and does not appear to be taking any concrete action towards compliance.
●	Low	Aware	The company does not comply on some key issues under the topic. The company is conscious of the issues but is still lax on concrete actions towards compliance.
●	Medium	Active	The company complies on several key issues under the topic with concrete actions. However, it still needs to take some actions towards continuous improvement.
●	High	Improving	The company complies on most key issues under the topic with concrete actions and has established good continuous improvement measures.

1.4 Limitations of the study

This study is the first of its kind commissioned by the RSPO and as such a few aspects created limitations for this study:

Selection of companies to participate in the study: In general, it was a challenging process to obtain timely permission from palm oil companies to conduct the field study. Four companies participated in this labour study. However, as at the time of commencement, the RSPO (in collaboration with Profundo) had not decided on which companies to participate in the study. Initially, Profundo provided the RSPO with a selection of plantations/mills to visit based on a review of past and present RSPO audit surveillance reports. Almost all companies proposed by Profundo could not participate. Companies that could not participate were either unsure of the extent of exposure this study would cause them or claimed that they had management and budget meetings, or that they were preparing for the RT Conference in Bali and as such would not have time for the study. The four companies that participated in the study were not necessarily

selected based on a set of criteria or analysis; they were the companies that reacted positively to the emails and calls made by the RSPO staff. Profundo provided the companies with at least 2 weeks in advance for the study visit, but only two could make the proposed dates. Others rescheduled requesting more time to consult with management and to prepare for the study visits adequately. Therefore the field study was conducted in two phases.

Sample size and field assessment framework: Overall 169 people were interviewed (including workers), and 192 workers participated in the FGDs. The sample size of workers participating in both the interviews and FGDs was between 5% - 7% of the total number of workers. This number may not be high enough as a representative sample, however, for a study like this, and given the initial reluctance by the participating company, it was already a challenge to reach so many people, and therefore the consultants conclude that this sample size is satisfactory. During the FGDs, Profundo consultants noticed that workers were unable to express themselves because management staff were asked to be present at the location of the FGDs. Profundo consultants asked all management staff to leave and ensured that no management staff inserted themselves among the permanent and temporary workers that participated in the FGDs. Also, during the interviews at the estates and clinics. Profundo ensured that accompanying management staff took significant distance from the interview locations; this was done to reduce the discomfort that workers generally feel when being questioned about their work conditions and welfare. Regarding the field assessment framework, Profundo combined topics from the Free and Fair Labour in Palm Oil: Principles and Guidelines as well as the Better Work Compliance Assessment Tool. The assessment framework topics were not shared with the companies before the visit.

Evidence gathering and anonymity: All palm oil companies that participated in this study insisted on anonymity, that their names would not be disclosed in the final reports. Some of the companies that granted access to Profundo for this study, also maintained as a matter of condition that, Profundo consultants must sign a non-disclosure agreement (NDA) with them. In most sites, Profundo consultants were not allowed to take pictures of evidence or make copies, citing the NDA signed. Nevertheless, to gather evidence, in some companies, several photos were taken by Profundo, while in other companies, other informants provided additional evidence to Profundo.

Chapter 2 Indonesia's Palm Oil Industry and Labour Issues

This chapter briefly looks at the palm oil industry in Indonesia and highlights the prevalence of labour issues raised by some external NGO and media reports. Section 2.1 introduces the palm oil industry in Indonesia, the main palm oil traders and consumer companies.⁵ Section 2 highlights several external reports on labour abuses in Indonesia's palm oil industry and concludes on some prevalent labour and labour-related issues occurring in the production of palm oil.

2.1 The Palm oil industry in Indonesia

Indonesia is the biggest producer, exporter and consumer of palm oil in the world. In 2017/18, Indonesia's palm oil production was about 38.5 million tonnes and estimates by the US Department of Agriculture (USDA) indicate a 5% rise in Indonesia's palm oil production in 2018/19 compared to previous season (i.e. to 40.5 million tonnes).

Indonesia (and Malaysia) dominated the global export market for oil palm since the mid-1960s. Combined exports of palm oil and palm kernel from both countries accounted for about 90% of world exports over the last five years. Since 2011, Indonesian palm oil exports have surpassed Malaysia's and since 2005, Indonesia has been the largest producer of palm oil in the world. In the last five years, the country has contributed over 50% of worldwide palm oil production, accounting for 30.3 million metric tonnes annually on average (USDA 2017). Indonesia is not only the largest producer and exporter of palm oil, but it is also the biggest consumer. Since 2010, the country has been the highest global consumer of both palm and palm kernel oil. In 2016, Indonesian domestic consumption of palm oil and palm kernel was 11.7 million metric tonnes.

Palm oil is an important contributor to gross domestic product (GDP) in Indonesia. In 2015, this sector accounted for 2.2% of the country's GDP (Perera 2015) and generated foreign income of approximately 231.4 trillion Indonesian Rupiah (IDR) (\$ 17.8 billion) (Tempo 2017). As a result, the governments of Indonesia recognise the importance of the palm oil sector to stimulating the growth of domestic industries and exports and contributing to overall development.

There are about 11 million hectares of oil palm plantations in Indonesia and expected to cover more than 13 million hectares of land by 2020. Most Indonesian plantations are located on the island of Sumatra, which is estimated to account for almost 70% of the total plantation area in Indonesia. The remaining plantations are largely found on the island of Borneo in Indonesian Kalimantan. Currently, plantation expansion is mainly occurring in Kalimantan and West Papua (Indonesia Investment).

In Indonesia, 60% of oil palm plantations are managed by larger companies. The global palm oil market is dominated by Wilmar, Musim Mas Group, Golden Agri-Resources Ltd., IOI Group and Cargill, Inc. In 2015, these five major traders accounted for roughly 90% of the global palm oil trade. Wilmar is currently the biggest trader of palm oil with a market share of about 43%. Table 5 presents an overview of major traders in the global palm oil market.

Table 5 Major traders of palm oil, 2015

Company	Palm oil revenue (\$ billion)	Market share palm oil trade	Estimated palm oil volume (million metric tonnes)
Wilmar International	15.6	43%	20.5
Musim Mas	6.0	18%	8.6
Golden Agri Resources	5.4	14%	6.7
IOI	2.9	11%	5.2
Cargill	n/a	4%	1.9
Others		10%	4.8

Source: Table adapted from Kuepper, B., Brink, H., Marcelis, A., Mishra, K. and W. Warmerdam (2017, February), *Where to Grow from Here? The Evolving Role of Traders in the Global Food Chain*, Amsterdam, the Netherlands: Profundo, p. 24

Fresh fruit bunches (FFB) are to a large extent processed by the company’s own mills to produce crude palm oil (CPO). Most of these mills also receive FFB from smallholder plantations in their vicinity.

Palm oil companies often use vertically integrated business models to lower the cost of trading palm oil internationally. For example, Wilmar International Limited, as one of the biggest stakeholders in the sector, operates a broad range of businesses, including oil palm cultivation, oilseed crushing, specialty fats, oleochemicals, biodiesel, fertilizer manufacturing, edible oils refining, processing and packaging for the end-consumer, merchandising, transport and trading. Wilmar even operates its own ships to transport the commodity. Although they are often split up into subsidiaries, the company group basically control almost the entire supply chain for this commodity across the region (Wilmar 2017).

The principal buyers of palm oil can be categorized as manufacturers, food service companies and retailers. In the largest two consumer countries for palm oil, Indonesia and India, retailers are the largest buyers of palm oil. Palm oil in both countries is mostly used as edible oil for domestic and commercial consumption. Only a small share is used as raw material for consumer goods such as soap bars, cosmetics, detergents and shampoos. Oils and fats in India are mostly sold by independent small grocers (WWF 2017). In Europe, palm oil is mainly used as edible oil, in personal care products and in the biofuel industry. The consumption of edible palm oil in this region has been decreasing over the past few years although total European consumption of palm oil keeps increasing due mainly to the growth of biodiesel production in European countries.⁶ Consumer goods manufacturers are also important buyers of palm oil. They produce a wide variety of products, from soap to cookies. About half of all packaged products sold in supermarkets contain palm oil. Such multinational companies as Unilever PLC, Proctor & Gamble (P&G) Co., PepsiCo Inc., Nestlé S.A., etc., purchase palm oil in large quantities for use in production processes. Table 6 provides an overview of consumer goods companies that use large quantities of palm oil (the list also includes one food service company, McDonald’s Corp., as its consumption is on par with some of the major consumer goods companies).

Table 6 Important consumer companies of palm oil

Company	Base country	Palm oil used (annual, metric tonnes)
Unilever	Netherlands	1,513,265
P&G	US	493,677
PepsiCo	US	452,743
Nestlé	Switzerland	417,834
Unigrà	Italy	315,000
Mondelēz	US	289,255
Ferrero	Italy	181,000
Colgate-Palmolive	US	174,328
Godrej	India	150,000
Reckitt Benckiser	UK	125,843
McDonald’s	US	122,669
FrieslandCampina	Netherlands	107,500
ConAgra Brands	US	102,728
Kao	Japan	100,000

Source: WWF (2016, September), Palm Oil Buyers Scorecard Measuring the Progress of Palm Oil Buyers, WWF International, Gland, Switzerland

2.2 Labour issues in Indonesia’s Palm Oil Industry

The palm oil industry has the potential to generate substantial economic and social development for Indonesia, as it already employs around 3.7 million people. However, at the same time, it has had devastating impacts on them and their communities. During the past five years, there have been several documented cases linking Indonesia’s palm oil industry to labour rights abuses and violations, especially child labour and forced labour, particularly in remote parts of the country. These cases allege that labour conditions in the

country's palm oil industry are not being addressed in accordance with ILO conventions or the RSPO principles and criteria on labour.⁷ This section highlights some of the recent investigative reports on labour violations in Indonesia's palm oil industry.

2.2.1 External reports of labour rights abuses in Indonesia's Palm Oil Industry

In 2017, SOMO and CNV International published an investigative research report, *"Palming off responsibility: Labour rights violations in the Indonesian palm oil sector"*. According to the report, PT Murini Sam Sam and PT Aneka Inti Persada (both of which are RSPO certified), structurally violate labour rights, breach not only the RSPO principles but also international standards, Indonesian law. Both companies operate in the province Riau, on the island Sumatra. PT. Murini Sam Sam (MSS) is owned by Wilmar, the largest palm oil company in the world, while PT. Aneka Inti Persada (AIP) belongs to the Sime Darby group. The research found that harvesters work in a situation of insecure employment, with many working structurally without contracts. They work long hours and are being paid at times below the Indonesian minimum wage or with no salary increase over several years. The report highlights that "a worker with 20 years' experience earns the same as one who just started".⁸ Harvesters that bring their children to work are given warnings but without any follow-up actions or sanctions by the employer. Sprayers take off their PPEs half-way during their shifts due to heat, thereby risking exposure to the toxic chemicals. "Women who work as day labourers, and may have done so for years, do not get paid when they stop working due to pregnancy".⁹ Workers are afraid to join unions for fear of being laid off.

In 2016, RAN, ILRF and OPPOUK, RAN published a report, *"The human cost of conflict palm oil: Pepsico's Hidden link to worker exploitation in Indonesia"*, and video,¹⁰ highlighting poor living and working conditions of labourers in two palm oil plantations that are owned and operated by PepsiCo's joint venture partner Indofood, under its subsidiary plantation company PT. London Sumatra Tbk's (Lonsum). Both plantations are RSPO certified. Cases found are the existence of child labour, undermining freedom of association, lack of health and safety protections for workers, unethically low wages paid to workers, and precarious employment conditions.¹¹

In 2016, Amnesty International published a report, *"The great palm oil scandal: Labour abuses behind big brand names"*, and a video, *"Fruits of their labour"*¹². Amnesty International revealed labour rights violations in five palm oil plantations that are either subsidiaries or suppliers of Wilmar. Three of the plantations namely, PT. Perkebunan Milano (PT. Milano), PT. Daya Labuhan Indah (PT. DLI) and PT. Sarana Multi Niaga are RSPO certified. The plantations are said to be engaging workers in forced and bonded labour and also using child labourers - "children as young as eight doing hazardous, hard physical work, sometimes dropping out of school to help their parents on the plantation". Amnesty International revealed violations of gender discrimination citing that "women forced to work long hours under the threat of having their pay cut, paid below minimum wage - earning as little as US\$2.50 a day in extreme cases - and kept in insecure employment without pensions or health insurance". The companies do not adequately protect their workers from hazardous chemicals, as many workers do not have PPEs and some suffered severe injuries from the use of paraquat in spraying. Workers are at risk of respiratory infections caused by pollutants caused by forest fires. Many workers are paid below the minimum wage, despite working long hours to meet high targets set by the companies. Workers' wages also get deducted for not picking up palm fruits on the ground or for picking unripe fruit.¹³ The report also stressed that the implementation and monitoring of the RSPO certification system are weak and not credible enough.¹⁴

In its report, *"The Price of Indonesia's Palm Oil: Vulnerable and Exploited Women Workers"*, PAN Asia Pacific revealed that they investigated two RSPO-certified plantations in North Sumatra and found that women workers are vulnerable to serious labour and human rights violations. Most women are exposed to hazardous pesticides. They work without adequate work tools and PPEs and as a result, suffer from several health concerns. Also, women workers are kept in temporary employment and paid below minimum wages. Most are without health insurance and social security, having almost no access to proper facilities.¹⁵ In 2016, Greenpeace's report, *"A deadly tradeoff: IOI's Palm Oil Supply and its Human and Environmental Costs"*, alleged that some suppliers of IOI Lodders Croklaan engaged in exploitation of workers, citing child labour,

high targets, unfair dismissal, and repressive treatment of workers, for example in the use of excessive force on workers by state security. The report further stressed that RSPO standards do not provide adequate protection, monitoring, enforcement and sanctions regarding labour violations.¹⁶

In 2014, Finnwatch report *“The law of the jungle: Corporate responsibility of Finnish Palm oil purchases”* alleged that IOI Group pays wages lower than the statutory minimum wage, confiscates worker’ passports and restricts freedom of association. In 2014, an article, *“Kala Anak-Anak Jadi Buruh Harian Pemanggul Sawit”*,¹⁷ written by Ayat S. Karokaro and published by Mongabay, detailed how more than 10 children work as day labourers on a plantation near Urungpane Village in North Sumatra, owned by PT. Perkebunan Nusantara III (PTPN III),¹⁸ an RSPO member. In 2013, investigative research was conducted by E. Benjamin Skinner for the Schuster Institute, and published by Bloomberg Businessweek – *“Indonesia’s Palm Oil Industry Rife With Human-Rights Abuses: The hidden human toll of the palm oil boom”*. The research uncovered the existence of child and forced labour in the supply chains of major international brands such as Pepsi and Kraft. In 2013, Sawit Watch and ILRF published the report, *“Empty Assurances: the human cost of palm oil”*,¹⁹ which revealed severe labour rights abuses in three RSPO certified plantations, PT. Kerry Sawit Indonesia, PT. Socfindo Bangun Bandar and PT. Lonsum Rambung Sialang. They include labour trafficking, child labour, unsafe work with hazardous chemicals, and long-term abuse of temporary contracts. The report alleges violations that breach fundamental international labour conventions and RSPO principles.

Table 7 Summary of external reports of labour abuses in Indonesia’s palm oil sector

Year	Organisation	Publication	Labour Issue(s)	Companies involved
2017	SOMO, CNV International	Palming off responsibility: Labour rights violations in the Indonesian palm oil sector ²⁰	<ul style="list-style-type: none"> • Long working hours • Poor wages • Child labour • Inadequate PPEs • Undermining freedom of association 	<ul style="list-style-type: none"> • PT. Aneka Inti Persada • PT. Murini Sam
2017	PAN Asia Pacific	The Price of Indonesia’s Palm Oil: Vulnerable and Exploited Women Workers ²¹	<ul style="list-style-type: none"> • Exposure to pesticides • Inadequate PPEs • Poor wages • Discrimination 	Two RSPO-certified plantations in North Sumatra
2016	ILRF, OPPOUK, RAN	The human cost of conflict palm oil: PepsiCo’s Hidden link to worker exploitation in Indonesia ²²	<ul style="list-style-type: none"> • Child labour • Undermining freedom of association, • Poor OSH protections • Poor wages • Precarious employment 	Indofood/ PT. London Sumatra
2016	Amnesty International	The great palm oil scandal: Labour abuses behind big brand names ²³ Video: Fruits of their labour ²⁴	<ul style="list-style-type: none"> • Poor wages, deductions • Child labour • Forced labour • Poor OSH protections • Use of Paraquat • Long working hours 	<ul style="list-style-type: none"> • Wilmar Int’l • PT. Milano • PT. DLI • COMPANY D • PT. ABM • PT. Hamparan
2016	Greenpeace	A deadly trade off: IOI’s Palm Oil Supply and its Human and Environmental Costs ²⁵	<ul style="list-style-type: none"> • Child labour • Exploitation of workers • Use of excessive force 	IOI
2015	RAN	Conflict Palm Oil in Practice: Exposing KLK’s role in Rainforest destruction, land grabbing and child labour ²⁶	<ul style="list-style-type: none"> • Child labour • Forced labour 	<ul style="list-style-type: none"> • KLK • Cargill

Year	Organisation(s)	Publication	Labour Issue(s)	Companies involved
2014	Finnwatch	The law of the jungle: Corporate responsibility of Finnish Palm oil purchases ²⁷	<ul style="list-style-type: none"> • Unclear contracts • Poor wages • No overtime compensation • Undermining freedom of association • Systemic gender- based discrimination • Debt bondage • Forced labour 	IOI
2014	Mongabay / Ayat S. Karokaro	Kala Anak-Anak Jadi Buruh Harian Pemangkul Sawit ²⁸ (Translation: <i>When children become daily labourers of Palm oil</i>)	<ul style="list-style-type: none"> • Child labour 	PT. Perkebunan Nusantara III
2013	Bloomberg Businessweek / E. Benjamin Skinner	Indonesia's Palm Oil Industry Rife with Human-Rights Abuses: The hidden human toll of the palm oil boom ²⁹	<ul style="list-style-type: none"> • Forced labour • Child labour 	KLK
2013	ILRF, Sawit Watch	Empty Assurances: The human cost of palm oil ³⁰	<ul style="list-style-type: none"> • Forced labour • Child labour • Poor OSH protections • Abusive contracting 	<ul style="list-style-type: none"> • PT. Kerry Sawit Indonesia, • PT. Socfindo Bangun Bandar and • PT. Lonsum Rambung Sialang
2012	Sawit Watch	Perbudakan di Perkebunan Kelapa Sawit di Kaltim ³¹ (Translation: <i>Slavery in Palm oil plantation in Kalimantan Timur</i>)	<ul style="list-style-type: none"> • Poor facilities • Physical and Psychological mistreatment • Death of workers • Poor wages • Debt bondage 	<ul style="list-style-type: none"> • PT Hutan Hijau Mas • PT Satu Sembilan Delapan • KLK

2.2.2 Prevalent labour issues in Indonesia's Palm Oil Industry

Although the underlying incidents vary, there are widespread labour issues in the palm oil industry in Indonesia, as evidenced in the investigative reports outlined in section 2.2.1.

Using input from the external investigative reports and the labour rights topics in palm oil or forestry-related indexes and guides such as Free and Fair Labour practices in the palm oil sector,³² SPOTT,³³ and Fair Finance Guide,³⁴ a broad (but non-exhaustive) overview of the prevalent labour issues in Indonesia's palm oil sector is summarised below:

- **Child labour:** In the palm oil industry in Indonesia, child labour is used by families to meet daily targets of between one and two tons.³⁵ Children primarily collect loose palm fruit, help carry and load bunches of oil palm fruit, and weed the oil palm fields. Sometimes young boys cut fruit bunch down from trees using a long, heavy pole with a knife on the end (punting pole) or by climbing them to harvest the fruit directly. Young girls are often responsible for gathering and moving the fruit bunches. The location of plantations and fields often puts children too far from accessible schooling, except when plantation

companies provide such facilities in their estates. However, child labour is a violation of fundamental human rights and has been shown to hinder children's development, potentially leading to permanent physical or psychological damage.³⁶ For example, the use of the punting pole puts much strain on the musculoskeletal system of children.³⁷ According to a MOMT pilot study that interviewed 75 palm oil child labourers in Indonesia, *“the average load carried by each child was 10 kilograms over a distance of 250 metres; 75% did not have gloves, and most had suffered cuts, scratches and abrasions; while 68% experienced heat exhaustion at a heavy heat stress level”*.³⁸ Generally, international standards, Indonesia national laws, the RSPO and other initiatives expect palm oil companies and their suppliers to not engage in child labour and the worst forms of child labour.

- **Forced labour:** Indonesia is a major source country and to a much lesser extent a destination and transit country for women, children, and men subject to sex trafficking and forced labour. The estimated 3.7 million workers in Indonesia's palm oil industry include thousands of migrant workers who face dangerous and abusive working conditions. Debt bondage is common, effectively trapping workers in a situation of false debt, also known as *“coercive fraudulent debt bondage slavery”*. The core issues on the topic of forced labour include poor treatment of migrant workers, hiring high levels of illegal migrant labour with incidents such as withholding of their documents, and wages, lack of contracts, or contracts in languages that workers don't understand. Indonesia national laws, the RSPO and other initiatives expect palm oil companies and their suppliers to not engage in forced or compulsory labour and to ensure equal treatment and working conditions for migrant workers. Local people are often forced to become plantation workers as companies systematically take over their land with the promise of a job.
- **Discrimination:** In Indonesia's palm oil sector, the most evident form of discrimination is against women and migrant workers. Women are often marginalised and under-represented especially at senior positions and decision-making platforms within palm oil estates and mill. They are mostly offered temporary tasks with short-term tasks like weeding, manuring, spraying, loose fruit picking and other maintenance and errands at the plantations. Women's jobs are highly insecure especially in cases where her husband works for the same plantation, and she is forced to quit when her husband is fired. The discriminatory plight of migrant workers is well documented. Many migrant workers who do not understand Bahasa Indonesia are often taken advantage of, discriminated and marginalised. Some migrant workers who are yet to obtain a resident card are often hired as casual workers, treated poorly and paid lower rates than normal workers. Another basis for discrimination (e.g. based on sexual orientation and HIV/AIDS) in the palm oil sector are less visible but exist.
- **Freedom of association, right to organise and collective bargaining:** Although Indonesia has ratified the two core ILO conventions that aim to protect and promote workers' rights to freedom of association and collective bargaining (i.e. ILO C087 and C098), there are several reported cases of anti-union discrimination in Indonesia, both by government using security forces to curb striking workers³⁹ and employers dismissing workers and union leaders for demanding these fundamental rights.⁴⁰ Independent unions are still few in the palm oil sector in Indonesia, as there are many “yellow unions” either set-up or being controlled by the palm oil companies. In Indonesia, palm oil companies are known to engage in “union busting”, at times with subtle actions like relocating an active union representative to another estate and sometimes, dismissing several workers for engaging in “unauthorised” union activities. Some palm oil companies refuse to negotiate a CBA with workers' unions or delay the signing of a duly negotiated CBA. Anti-union actions taken by palm oil companies often create an environment where workers refuse to join unions for fear of being victimised or dismissed by the company's management. Also, there is still a lack of adequate worker representation that includes the voices of migrant workers, temporary workers, smallholders, sharecroppers and tenants.
- **Unethical hiring and contracting practices:** One of the main challenges, is the lack of social protection for recruited migrant workers.⁴¹ During recruitment, companies lure undocumented immigrants to remote plantations, promising them safe working conditions and living wages, which only turns out to be “a kind of indentured servitude”. When they attempt to flee, these workers are “beaten with sticks and machete handles”.⁴² Many palm oil companies still do not provide contracts and payslips to both

permanent and temporary workers. Some companies still use recruiting agencies to hire mostly casual workers. These third party (recruitment agencies) often do not commit to respecting the labour rights of workers and the palm oil companies that hire them do not include protective clauses for workers in their contracts with the agencies.

- **Insufficient income and income insecurity:** In the palm oil sector, most workers are not paid decent living wages. In fact, many workers still do not receive minimum wages. Some palm oil companies in Indonesia have been alleged to pay their workers low wages, use complicated pay systems especially piece-rate, and use casual labour or short-term contracts extensively. Some companies establish unclear (debt and) advance payment systems and create multiple financial dependencies on them (i.e. more than one family member working for the same employer). The informality of casual labour in the sector – most of whom do not have contracts and do not earn up to the minimum wage or receive secondary benefits, creates income insecurity for thousands of palm oil workers. Also, wage scales are non-existent in some companies.
- **Unfair targets and insufferable working hours:** Many palm oil companies use a target-based system for remuneration. For example, harvesters are often paid a certain rate per ton of harvest, while loose fruit pickers are paid a certain rate per kilogram or by the number of baskets. There have been several reports indicating that the targets set by these companies are unachievable within a 7-hour work day. Workers are often compelled to work several hours beyond what the law permits or bring their family members (sometimes children) to assist in reaching their targets. Mill workers often find themselves working extended hours and non-stop shifts to meet up with the palm oil processing target for the day. Also, some palm oil companies apply steep fines and deductions to workers' wages for any number of harvesting-related mistakes.
- **Unhealthy and unsafe working conditions:** Historically, Indonesia has had high work-place accidents, which led to thousands of disabilities and deaths. Most of them occurred as a result of unaddressed issues such as lack of awareness and adequate protection for workers exposed to toxic and hazardous chemicals, weak enforcement of existing regulations, and the insufficient inspection by government officials. In 2008, the ILO reported that Indonesia had the second highest occurrence of work-related accidents of the 53 countries assessed. According to an OSH Network Indonesia report, up to nine people die every day from workplace accidents, and most are still un-reported, meaning that the number could be much higher. According to the report, as of 2011, Jamsostek (a social security company in Indonesia) estimates that on average, there have been nearly 100,000 cases of occupational injury each year.⁴³ For the palm oil industry specifically, the main challenges on occupation safety and health include lack of adequate and appropriate personal protective equipment (PPE) against health and safety hazards, lack of training on proper handling and use of hazardous chemicals or good storage for chemicals, poor accommodation, sanitation and hygiene facilities.
- **Lack of gender equality and social protection for women:** Globally and in almost all sectors, women continue to suffer from imposed gender inequality that denies them access to certain economic and social resources. Women make up 70% of the world's poor, two-thirds of the world's illiterate and are continually denied access to basic healthcare, housing, education, work and social security. In the past decade, the development and systematic implementation of gender-related policies to address issues such as discrimination, sexual harassment, violence against women and the protection of reproductive rights seldom applied to palm oil plantations. This is an area that needs to be addressed by the palm oil industry. Treatment of women workers in plantations deserves attention. In Indonesia's palm oil plantations, Women are largely employed to plant, weed and apply pesticides. Paraquat, a hazardous chemical reportedly causes severe health problems among women workers, and the risks are heightened during early stages of pregnancy. Chemicals which have organophosphate as active ingredients present significant risks, because they are endocrine disrupters which can be absorbed through fats tissues and subsequently affect foetal growth.⁴⁴ Pregnant and lactating women should therefore be excluded from doing work that exposes them to such chemicals

Chapter 3 International labour standards and Indonesia Labour laws

This chapter highlights the main international labour conventions and Indonesian labour laws and their key protections, applicable to labour and labour-related issues occurring in the production of palm oil. They are divided into three: standards on core labour issues, standards on social dialogue and social protection and standards on human rights and business ethics.

3.1 International standards and Indonesian laws on labour issues

A. Child labour

The international labour organisation (ILO) defines child labour as work that harms a child’s well-being and hinders his or her education, development and future livelihood. This includes all forms of slavery — including the trafficking of children, debt bondage, forced and compulsory labour, and the use of children in armed conflict; the use, procuring or offering of a child for prostitution, for the production of pornography or for pornographic purposes; the use, procuring or offering of a child for illicit activities, in particular the production and trafficking of drugs; and work which is likely to harm the health, safety or morals of the child as a consequence of its nature or the circumstances under which it is carried out.⁴⁵ It further defines hazardous work as one which is likely to harm the health, safety or morals of the child because of its nature. Hazardous child labour is one of the “worst forms of child labour”. As shown in Table 8, two ILO Conventions provide the framework for national laws to define a clear line between what is acceptable and what is not, including a minimum age for admission to employment or work.⁴⁶

Table 8 International standards and provisions on child labour

International Standards	Provisions that companies should comply with
C138 - Minimum Age Convention, 1973 ⁴⁷ (See also R146 Minimum Age Recommendation, 1973) ⁴⁸	<ul style="list-style-type: none"> Employers should ensure effective abolition of child labour and raise progressively the minimum age for admission to employment or work to a level consistent with the fullest physical and mental development of young persons. Minimum age should not be less 15 years; Option to set the minimum age at 14 and 12 for “light work” as a transitional measure and The minimum age for hazardous work (including cultivation and harvesting of palm oil) is 18 years for all countries.⁴⁹
C182 - Worst Forms of Child Labour Convention, 1999 ⁵⁰ (See also R190 Worst Forms of Child Labour Recommendation, 1999) ⁵¹	<ul style="list-style-type: none"> Employers should take immediate and effective measures to secure the prohibition and elimination of the worst forms of child labour as a matter of urgency. Employers should prevent the engagement of children in the worst forms of child labour; Employers should provide the necessary and appropriate direct assistance for the removal of children from the worst forms of child labour and for their rehabilitation and social integration; Employers should ensure access to free basic education, and, wherever possible and appropriate, vocational training, for all children removed from the worst forms of child labour; Employers must identify and reach out to children in special risk; and take account of the special situation of girls.

<p>Convention on the Rights of the Child⁵²</p> <p>OECD Guidelines for MNEs, IV. Employment and Industrial Relations (1c)⁵³</p> <p>UN Global Compact Principle 5: Labour⁵⁴</p>	<ul style="list-style-type: none"> • Employers should ensure the protection and care of children below 18 years of age, as is necessary for his or her well-being • Employers should abide by the minimum age for children in employment as stipulated by law and ensure the appropriate regulation of working conditions and hours of work • Employers should protect children in employment from all forms of sexual exploitation and sexual abuse, particularly: <ul style="list-style-type: none"> • Luring children to engage in any unlawful sexual activity; • Use of children in prostitution or other unlawful sexual practices; • Use of children in pornographic performances and materials. • Employers should not subject children in employment to torture or other cruel, inhumane or degrading treatment or punishment • Employers should respect the rights of children to education and invest in ensuring that education is accessible to children of its workers. • Employers should recognise and uphold the right of children to enjoy the highest attainable standard of health and to facilities for the treatment of illness and rehabilitation of health. • Employers should recognise the right of the disabled child to special care and shall equally provide access to education, health services and other opportunities. • Employers should recognise the rights of children to freedom of association and to freedom of peaceful assembly. • Enterprises should contribute to the effective abolition of child labour and take immediate and effective measures to secure the prohibition and elimination of the worst forms of child labour as a matter of urgency. <p>Businesses should uphold the effective abolition of child labour.</p>
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Generally, child labour is prohibited in Indonesia. The two ILO conventions (i.e. C138 and C182) regarding child labour, have been ratified by Indonesia.⁵⁵ Although Indonesia’s Manpower Act No. 13 of 2013, defines a child (or Anak) as “every person who is under 18 (eighteen) years old”, the minimum age for regular employment in Indonesia is 15 years of age. Employing and involving children under 18 in the worst forms of child labour or economic exploitation are prohibited under Indonesia’s labour law. Failure to comply can result in criminal sanctions of 2 to 5 years of imprisonment.⁵⁶ An exemption is made for the employment of children for light work if the job does not stunt or disrupt their physical, mental and social developments. Indonesia law assumes that a child is working if they are found in a workplace unless a company provides evidence to dispute this. However, Indonesia’s laws on child labour have been criticised as confusing and contradicting at times. For example, on the one hand, the provision in Article 68 of the Manpower Act No 13 of 2003, prohibits companies from employing children, but on the other hand, article 71(1)), says that children can work or have a job to develop their talents and interests. Table 9 summarises the key Indonesia laws and provisions on child labour. Other laws refer to the national action plan to eliminate worst forms of child labour.

Table 9 Indonesia laws and provisions on child labour

Indonesia Laws and Decrees	Provisions that companies should comply with
<p>MANPOWER ACT No. 13 of 2003, Arts. 68, 69, 74</p>	<ul style="list-style-type: none"> • Employers are not allowed to employ children. Exemption is made for light work in which case, children between the ages of 13 and 15 can work; • Employers who hire children for light work must: <ul style="list-style-type: none"> • Sign a work agreement with the parents or guardians, • Not require them to work longer than 3 (three) hours [a day]

Indonesia Laws and Decrees	Provisions that companies should comply with
	<ul style="list-style-type: none"> • Ensure that the children only work during the daytime, without disruption to their schooling; • Ensure that occupational safety and health requirements are complied with; and • Ensure that the children receive wages in accordance with the laws. • Children from 14 years can work as part of their school’s educational curriculum or training; • Worst forms of child labour prohibited include (explicitly mentioned): pornography, pornographic performances, or gambling; all jobs that make use of, procure, or involve children for the production and trade of alcoholic beverages, narcotics, psychotropic substances, and other addictive substances; and/or all jobs that are harmful to the health, safety and moral of the child.
<p>Decree of the Minister of Home Affairs and Regional Autonomy on Control of Child Workers (No. 5 of 2001)⁵⁷</p>	<ul style="list-style-type: none"> • Employers should protect children aged 15 and below against all types of work hazardous to their health and detrimental to their learning activities as well as their physical, mental, moral and intellectual growth and development. • Employers should cooperate with the government to implement general programmes aimed at: <ul style="list-style-type: none"> • Providing proper protection for child workers doing light jobs; • Banning all kinds of worst jobs for children; • Improving family incomes to prevent children from working; • Creating a climate favourable to child growth and development • Employers should cooperate with the government to implement specific programmes aimed at: <ul style="list-style-type: none"> • Providing scholarships to child workers to return to school; • Providing non-formal education; • Providing expertise for children
<p>Decree No. KEP.115/ MEN / VII / 2004 on Protection of Children undertaking jobs to develop talent and interest.⁵⁸</p>	<ul style="list-style-type: none"> • Obligations for employers who employ children of less than 15 years old to take on to develop talent and interest.
<p>Minister of Manpower and Transmigration Decree No. Kep.235/MEN/2003 concerning Jobs that Jeopardize the Health, Safety and Morals of Children.⁵⁹</p>	<ul style="list-style-type: none"> • Children, defined as any child under the age of 18 years, are prohibited from being employed in a job that jeopardizes their health, safety or morals; • The types of jobs referred to are: work with machines, engines, heavy duty equipment, jobs where there are physical hazards, chemical hazards, biological hazards or that by nature are hazardous. Jobs that harm the moral of children include jobs in bars, discotheques, places that may be used for prostitution, promotion of alcohol, drugs to arouse sexual desire or cigarettes; and • Employers are prohibited from employing children to work overtime.
<p>Presidential Decree on the National Action Plan for the Elimination of the Worst Forms of Child Labour (No. 59/2002).⁶⁰</p>	<ul style="list-style-type: none"> • Establishes a national action plan on elimination of worst forms of child labour; specifying roles and responsibilities. Under this decree, enterprises are expected to collaborate in: <ul style="list-style-type: none"> • Disseminating information regarding worst forms of child labour; • Providing training, rehabilitation and reintegration programmes, • Making efforts to remove children engaged in worst forms of child labour; and Conducting checks in work places prone to worst forms of child labour to ensure that children are not involved.

B. Forced labour

The ILO defines forced labour as work or services obtained from anyone under the threat of any penalty, for which the person(s) did not voluntarily consent to.⁶¹ This includes restrictions on workers' movement or ability to find work elsewhere, threats of violence or deportation, unreturned deposits paid by workers, unfair wage deductions, involuntary and unpaid overtime and delayed wages. Confiscation or holding of workers' personal documents (e.g. passports, birth certificates, school certificates and national identity cards).⁶² Table 10 shows how the two ILO Conventions provide the framework for national laws to clearly define and act on forced labour. It also highlights guidance from the UN Declaration of Human Rights, OECD Guidelines for MNEs and UN Global Compact.

Table 10 International standards and provisions on Forced labour

International Standards	Provisions that companies should comply with
<p>C29 – Forced Labour Convention, 1930⁶³</p> <p>(See also R035 - Forced Labour (Indirect Compulsion) Recommendation, 1930)⁶⁴</p>	<ul style="list-style-type: none"> • Employers should avoid and not use not to make use of any form of forced or compulsory labour in all its establishments • Employers should not engage workers under the following circumstances:⁶⁵ <ul style="list-style-type: none"> • Threat of penalty: e.g. suppression of rights or privileges, refusal to pay wages or forbidding a worker from travelling freely. Threats of retaliation and the use of violence, physical, psychological obligations or even death threats, and threat to denounce an illegal worker to the authorities. • Involuntary work or service: e.g. withholding of part of a worker's salary as part repayment of a loan, absence of wages or remuneration, seizure of the workers' identity documents, restrictive or no contracts, service imposed by exploiting the worker's vulnerability, compulsory overtime under the menace of a penalty, dismissal or payment of wages below the minimum level, • Employers using prison labour must ensure that the rights and privileges are equal to a regular employee.
<p>C105 – Abolition of Forced Labour Convention, 1957⁶⁶</p>	<ul style="list-style-type: none"> • Employers should avoid and not use not to make use of any form of forced or compulsory labour in all its establishments • Employers should take effective measures to secure the immediate and complete abolition of forced or compulsory labour in all its establishments • Employers should not make use of any form of forced or compulsory labour: <ul style="list-style-type: none"> • to punish workers for their political views, • to mobilize workers for business or economic gain, • to discipline workers, • to punish workers for participating in strikes, and • to discriminate (racial, social, national or religious)
<p>Universal Declaration of Human Rights, 1949, Arts. 4 and 5⁶⁷</p>	<ul style="list-style-type: none"> • Employers shall not hold anyone in slavery or servitude; • Employers shall prohibit all forms of slavery and slave trade; • Employers shall not subject anyone to torture or to cruel, inhuman or degrading treatment or punishment.
<p>OECD Guidelines for MNEs, IV. Employment and Industrial Relations (1d)⁶⁸</p> <p>UN Global Compact Principle 4: Labour⁶⁹</p>	<ul style="list-style-type: none"> • Enterprises should contribute to the elimination of all forms of forced or compulsory labour and take adequate steps to ensure that forced or compulsory labour does not exist in their operations. • Businesses should uphold the elimination of all forms of forced and compulsory labour.

Indonesia has ratified the two ILO core conventions on forced labour. The C029 Forced Labour Convention was ratified in June 1950, while the C105 Abolition of Forced Labour Convention was ratified in June 1999.⁷⁰ In 2009, Indonesia ratified the *Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children*. Under Indonesian laws and constitution, workers are free to choose their occupation and are entitled to an income, good working conditions and labour relations. Companies are not allowed to force workers to engage in any work, against their will. Companies cannot retain the original document of workers' personal documents, without their consent. Workers must be given the freedom to give consent to engage or not engage in overtime.⁷¹ Table 11 summarises the key Indonesian laws and their provisions on forced labour.

Table 11 Indonesia laws and provisions on forced labour

Indonesia laws	Provisions that companies should comply with
<p>MANPOWER ACT No. 13 of 2003, Arts. 31 and 32</p> <p>Law No. 21 of 2007 on the Eradication of the Criminal act of Trafficking in Persons.⁷²</p>	<ul style="list-style-type: none"> • Employers should not force workers to accept work, or restrict their movement to another job • Employers should not recruit, transport, harbour, send, transfer, or receive a person through the threat of force, use of force, abduction, incarceration, fraud, deception, abuse of authority or position of vulnerability, debt bondage or the giving of payment or benefit despite the giving of consent by another individual having charge over the person, for exploiting the person; • Employers should not bring a worker into Indonesia or take a worker outside of Indonesia, for exploitation. • Employers should not bring a child into Indonesia or take a child outside Indonesia, for exploitation. • Employers should not assist or attempt to commit the criminal act of trafficking in persons • Anyone acting for and/or on behalf of the employer or for the interest of the employer, either under an employment contract or other forms of relationship, within the scope of the enterprise's operations, alone or in alliance with another person, should not engage in trafficking of persons. • Employers forfeit their right of claim to a debt or other agreements with the worker, if such debt or agreement has been used to exploit the worker • Employers must pay restitution to workers which it has engaged in trafficking, and who are victims, in form of compensation for: <ul style="list-style-type: none"> • loss of assets or income; • suffering; • cost of medical and/or psychological treatment; and /or • other losses suffered by the victim arising from the criminal act of trafficking in persons.
<p>Indonesia Constitution, 1945, Art. 27(2), 28D (2), 28I (2).⁷³</p> <p>Indonesia Legislation No. 39 of 1999, Concerning Human Rights, Art. 4, 27 and 33⁷⁴</p>	<ul style="list-style-type: none"> • Employers should uphold the right of workers to earn a humane livelihood as well as fair and proper treatment in employment • Employers should not show discriminative treatment to workers, based upon any grounds whatsoever and should protect their workers from any discriminative treatment. • Employers should uphold the right of all workers to be free from torture, or cruel, inhumane and degrading punishment or treatment, abduction and assassination • Employers should not restrict the movement of workers for job within or outside the borders of Indonesia

Indonesia laws	Provisions that companies should comply with
Presidential Decree No. 88 of 2001 on the National Plan of Action for the Elimination of Trafficking in Women and Children ⁷⁵	<ul style="list-style-type: none"> Establishes a national action plan on elimination of worst forms of child labour; specifying roles and responsibilities. Under this decree, employers are expected to collaborate in: <ul style="list-style-type: none"> Disseminating information regarding worst forms of child labour; Providing training, rehabilitation and reintegration programmes, Making efforts to remove children engaged in worst forms of child labour; and Conducting checks in work places prone to worst forms of child labour to ensure that children are not involved.

Other supporting Indonesian legislation related to forced labour and the trafficking of persons are:

- Government regulation No.9/2008: This regulation outlines the procedure and mechanism of integrated services for witnesses and/or victims of human trafficking; and
- Presidential Regulation No. 69/2008: This supporting regulation is meant to enhance the implementation of Article 58 (7) of both Law No. 21 of 2007 and Presidential Decree No. 88 of 2001. It mandates the establishment of a task force for Trafficking in Persons' Prevention and control at the national, provincial, and district/city levels.

C. Freedom of association and collective bargaining

According to the ILO, freedom of association refers to the rights of workers and employers to create and join organisations that represent them, such as trade unions. Workers must be free to choose how they are represented, without interference from the employers. Collective bargaining is the process of negotiation between employers and workers' unions, regarding working conditions, terms of employment and other related issues. The ILO has established two core standards that address the issue of freedom of association, right to organise and right to collective bargaining. In addition, the ILO established three conventions that specifically addresses the rights of association and combination of all agricultural workers, the protection of the rights of trade union representatives, and the protection of freedom of association for tenants, share croppers and smallholders. These five ILO standards are summarised in Table 12.

Table 12 International standards on Freedom of Association and Collective Bargaining

International standards	Provisions that companies should comply with
C087 - Freedom of Association and Protection of the Right to Organise Convention, 1948, Art. 2,3,5 and 11	<ul style="list-style-type: none"> Employers should recognise the rights of workers to establish and join associations, unions, federations and confederations of their choice without authorization. Employers should respect the right of workers' unions to draw up their constitutions and rules, to elect their representatives, to organise their administration and activities and to formulate their programmes, in full freedom, without company interference Employers should take all necessary and appropriate measures to ensure that workers and employers can exercise freely their right to organise. Company management shall not dissolve or suspended workers' unions
C098 - Right to Organise and Collective Bargaining Convention, 1949, Art. 1,2,3 and 4	<ul style="list-style-type: none"> Employers should ensure that workers are fully protected against acts of anti-union discrimination in respect of their employment, especially: <ul style="list-style-type: none"> Employers should not make the employment of a worker subject to the condition that he shall not join a union or shall relinquish trade union membership;

International standards	Provisions that companies should comply with
<p>C135 - Workers' Representatives Convention, 1971, Arts. 1, 2, and 3.</p> <p>C141 - Rural Workers' Organisations Convention, 1975, Art. 3</p> <p>C011 - Right of Association (Agriculture) Convention, 1921, Art. 1 Universal Declaration of Human Rights, 1949, Arts. 3, 20 (1)⁷⁶</p>	<ul style="list-style-type: none"> • Employers should not dismiss or cause the dismissal of a worker due to union membership or because of participation in union activities outside working hours or, with the consent of the employer, within working hours. • Employers should establish appropriate measures to ensure that the workers' rights to organise is respected. • Employers should not use financial or other means of support to control, interfere or dominate workers associations or unions. • Employers should act appropriately to encourage and promote the use voluntary negotiation with workers' organisations, with a view to the regulation of terms and conditions of employment by means of collective agreements. • Employers should ensure that workers' representatives are effectively protected against any act prejudicial to them, including dismissal, based on their status or activities as a workers' representative or on union membership or participation in union activities • Employers should provide appropriate facilities for workers' unions to enable them to execute their functions promptly and efficiently. Companies should not use the granting of the facilities to weaken the functioning of workers' unions. • Employers should ensure that tenants, sharecroppers, smallholders, and all rural workers, have the right to establish and join organisations of their own choosing without previous authorisation. • Employers should fully respect the freedom of association of tenants, sharecroppers, smallholders, and all rural workers, irrespective of their legal personality. • Employers should fully respect the independent and voluntary nature of the associations or unions of tenants, sharecroppers, smallholders, and all rural workers, and should not interfere, coerce, or repress them. • Employers should ensure that all those engaged in agriculture have the same rights of association and combination as to industrial workers. • Employers should repeal any existing restrictions to such rights. • Employers should recognise and uphold workers' right to form and to join trade unions for the protection of their interests. • Employers should recognise and uphold worker' right to freedom of peaceful assembly and association. • Employers should not compel workers to belong to an association.
<p>OECD Guidelines for MNEs, V. Employment and Industrial Relations (1a, 2a, 2b, 2c, 6,7, 8)⁷⁷</p>	<ul style="list-style-type: none"> • Employers should respect the right of their employees to be represented by trade unions and other <i>bona fide</i> representatives of employees, and engage in constructive negotiations, either individually or through employers' associations, with such representatives with a view to reaching agreements on employment conditions. • Employers should provide facilities to workers associations and unions to assist in the development of effective collective labour agreements. • Employers should provide representatives of workers associations and unions with information which is needed to effectively negotiate for better working conditions. • Employers should foster consultation and co-operation between its management, workers and workers' representatives on matters of mutual concern.

International standards	Provisions that companies should comply with
UN Global Compact Principle 3: Labour ⁷⁸	<ul style="list-style-type: none"> Employers should ensure that it provides reasonable notice to representatives of workers regarding any operational changes that will have major effects upon the livelihood of workers, in particular in the case of the closure of the company involving collective lay-offs or dismissals. Employers should not unfairly influence the process of CBA negotiations or hinder the rights of workers to organise using any form of threat including threat of relocation or transfer. Employers should enable representatives of their employees to negotiate on collective bargaining or labour-management relations issues and allow the parties to consult on matters of mutual concern with representatives of management who are authorized to take decisions on these matters Employers should recognise and uphold workers' freedom of association and the right to collective bargaining.

Indonesia has ratified the two core ILO conventions that aim to protect and promote workers' rights to freedom of association and collective bargaining. In Indonesia, at least ten workers are required to form a union. Prior to its establishment, the union must provide a written notice to the Government of Indonesia (via MOMT). Together with other regulations and decrees, the Indonesia Trade Union Act stipulates provisions for trade union formation and operations, access and dues, collective bargaining, trade union discrimination and interference. Table 13 provides a summary of these provisions. According to ITUC, there are still several provisions in Indonesian laws that restrict workers' freedom of association and right to organise and collective bargaining, for example, according to the Trade union act of 2000, "a worker can only be a member of one union at one workplace; similarly, a union can only affiliate to one federation, and a federation to one confederation (Arts.14 and 16, Act Concerning Trade Unions of 2000)".⁷⁹ A 2016 individual case discussion (CAS) on Indonesia's implementation of ILO C087 indicated that according to Article 44 of the Indonesia Trade Union Act, civil servants are granted freedom of association and the right to organise but are not allowed to form unions and no separate legislation is introduced to address this.⁸⁰

Table 13 Indonesian laws on Freedom of Association and Collective Bargaining

Indonesian laws and decrees	Provisions that companies should comply with
Indonesia Constitution of 1945, Art. 28E (3). ⁸¹ Indonesia Legislation No. 39 of 1999, Concerning Human Rights, Arts.24 (1), 25, 39 ⁸²	<ul style="list-style-type: none"> Employers should uphold the right of every worker to be free to associate, to assemble and to express their opinions Employers should uphold the right of every worker to express their opinion in public, right to strike, and right to peaceful assembly and association. Employers must uphold the right of every worker to form and join trade unions for the protection and promotion of their interests
Trade Union Act No. 21 of 2000, Arts. 5(1), 6-7 9, 15, 25, 28, 29, 43.	<ul style="list-style-type: none"> Employers should respect and uphold their workers' rights to form and become a member of a trade union. Employers should respect and uphold the rights of trade unions to form and have membership in a federation, and for federations to form and have membership in a confederation. Employers should ensure that trade unions are formed of the free will of workers without pressure or intervention from the company management. Employers should ensure that any worker whose position in the company creates conflict of interests between the management

Indonesian laws and decrees	Provisions that companies should comply with
<p>MANPOWER ACT NO. 13 OF 2003, ARTS. 153(G), 137-138, 143-145, 146(2), 148, 104(2,3 126(3), 127 (1), 129(1), and 136.</p>	<p>and the company's workers is not allowed to become trade union official.</p> <ul style="list-style-type: none"> • Employers should recognise (and respect) that by law, trade unions have the right to: Negotiate a collective labour agreement with the management, represent workers in industrial dispute settlements, represent workers in manpower institutions, establish an institution or carry out activities related to efforts to improve workers' welfare, carry out other manpower or employment-related activities and affiliate to or cooperate with international trade unions or other international organisations. • Employers are prohibited from forcing or preventing workers to exercise their right to form unions, become a union official or conduct union activities. To this end, employers must not engage in the following: <ul style="list-style-type: none"> • Terminate, temporarily suspend, demote, or transfer to another post, division or site in order to discourage or prevent workers from exercising this right; • Not pay or reduce workers' wages as punitive measure to discourage or prevent workers from exercising this right; • Intimidate or subjecting workers to any other forms of intimidation; • Campaign against the establishment of trade unions <p>A violation of this provision may result in a criminal conviction of up to 5 years in prison and/or a fine of up to 500 million Rupiahs.</p> • Employers must provide opportunities to union officials and members to carry out union activities during working hours as agreed by both parties or arranged in the collective bargaining agreement. • Employers should grant union officials free access to workers at the workplace during breaks, before and after work. • Employers should recognise the right of every worker to form and become member of a trade union. • Employers should recognise and respect the right of trade unions to negotiate a collective bargaining agreement on behalf of all workers, with company management. <ul style="list-style-type: none"> • The CBA should come into force for no longer than 2 (two) years [since it was made]. • The CBA may be extended for no longer than 1 (one) year based on a written agreement between the entrepreneur and the trade/ labour union(s). • Negotiations for the next CBA may be started as early as 3 (three) months prior to the expiration of the existing CBA. • In case the negotiations fail to result in CBA, the ongoing CBA shall remain effective for a period of 1 (one) year at the longest. • Employers must print and distribute the contents of the CBA to all workers. • Employment contracts issued by employers should not contradict the CBAs • Employers are prohibited from replacing the CBAs with their rules and regulations, as long as there is an existing labour union

Indonesian laws and decrees	Provisions that companies should comply with
	<ul style="list-style-type: none"> • Employers should settle industrial dispute aimed at reaching a “win-win” solution • Employers should respect and uphold the right of workers to strike, as a result of failed negotiation • Employers should allow workers to invite other workers to join their strike provided no violation of the law occurs. • Employers are prohibited from preventing workers from exercising their right to strike legally, orderly and peacefully. • Employers are prohibited from replacing workers or Imposing sanctions on or taking retaliatory actions in whatever form, against workers exercising their right to strike legally, orderly and peacefully. • Employers must pay the workers fully despite the period of time not working during a strike, when their normative rights have been violated. • Employers shall not “lock-out” its workers as retaliation for exercising their right to legally, orderly and peacefully demand their normative rights. • Employers who wish to engage in legal “lock-out” action, should notify workers, trade unions and the responsible government agency in charge of labour affairs, 7 workdays prior to the action. The “lock-out” notice should contain the day, date, hour, start and end as well as the reason for the action. • Employers are prohibited from arresting or detaining workers while exercising their right to strike legally, orderly and peacefully • Employers are prohibited from terminating the employment of a worker because of forming a trade union, becoming a union member or official, or carries out union activities outside working hours, or during working hours with permission, or as stipulated in the contract, rules and regulations or the CBA.

D. Discrimination

The ILO defines discrimination in terms of direct and indirect, whereby direct discrimination refers to when laws, rules or practices explicitly denies people equal opportunities on particular grounds, such as gender, sexual orientation, race, religion, political affiliation and HIV and AIDs. Whereas indirect discrimination refers to when rules or practices appear on the surface to be neutral but in practice lead to exclusions. The ILO also considers equality at work to mean when individuals are accorded equal opportunities to fully develop their knowledge, skills and competencies, relevant to the economic activities they wish to pursue. Two ILO conventions provide the framework for national laws to clearly define discrimination and how it can be eliminated. Table 14 shows the various international standards applicable to discrimination and equal opportunity and some of the provisions that companies should comply with.

Table 14 International standards on Discrimination and Equal opportunity

International standards	Provisions that companies should comply with
C111 - Discrimination (Employment and Occupation) Convention, 1958 ⁸³	<ul style="list-style-type: none"> • Employers should not show preference, exclude or discriminate against workers on the basis of their race, colour, sex, religion, political opinion, national extraction or social origin. • Employers should not engage in any discriminatory practice which has the effect of nullifying or impairing equality of opportunity or treatment in employment or occupation or vocational training.

International standards	Provisions that companies should comply with
C100 - Equal Remuneration Convention, 1951, Arts. 1-4 ⁸⁴	<ul style="list-style-type: none"> Employers should take appropriate measures to provide equality of opportunity and better treatment of workers in respect of employment and occupation, with a view to eliminating any form of discrimination. Employers should ensure that workers are paid equal wage for equal work, without any discrimination. Where appropriate in ensuring the effective implementation of equal pay for equal work, employers should use objective job appraisals. Employers should establish rates of remuneration without discrimination based on sex. Employers should consider the determination of the rates for wages of all workers through collective agreements with workers' unions.
C156 - Workers with Family Responsibilities Convention, 1981 ⁸⁵	<ul style="list-style-type: none"> Employers should establish a policy that enables workers with family responsibilities who are engaged or wish to engage in employment to exercise their right to do so without being subject to discrimination and, to the extent possible, without conflict between their employment and family responsibilities. Employers should ensure that workers are not restricted from accessing jobs and other opportunities, based on their family responsibilities in the form of dependent children, and immediate family members needing attention, care and support. Employers should take into account the needs of workers with dependent children and/or immediate family members needing attention, care and support, in developing their terms and conditions of employment and in social security. Employers should take measures to implement this convention by establishing child-care and family services and facilities, for workers and their families.
C097 - Migration for Employment Convention (Revised), 1949 ⁸⁶	<ul style="list-style-type: none"> Employers should ensure that immigrants employed for work are not discriminated against in any form. Employers should ensure that treatment of migrant workers is no less favourable to those received by indigene workers, regarding the following: <ul style="list-style-type: none"> remuneration, including family allowances where these form part of remuneration, hours of work, overtime arrangements, holidays with pay, restrictions on home-based work, minimum age for employment, apprenticeship and training, women's work and the work of young persons, membership of trade unions and enjoyment of the benefits of collective bargaining; and accommodation; social security, and employment taxes, dues or contributions payable in respect of the person employed.
C183 - Maternity Protection Convention, 2000 ⁸⁷	<ul style="list-style-type: none"> Employers should ensure that (pregnancy or) maternity does not constitute a source of discrimination in employment or access to employment.
C019 - Equality of Treatment (Accident Compensation) Convention, 1925 ⁸⁸	<ul style="list-style-type: none"> Employers should ensure that it provides equal treatment for both migrant workers and nationals, who suffer personal injury due to industrial accidents happening in their companies, or to their dependants, the same treatment in respect to compensation.

International standards	Provisions that companies should comply with
Universal Declaration of Human Rights, 1949, Arts. 1, 7, 23 (2), 26 (1) ⁸⁹	<ul style="list-style-type: none"> • Employers should recognise that everyone is equal in dignity, in rights and before the law. • Employers should ensure equal protection for all workers against any form of discrimination. • Employers should not incite discrimination against workers. • Employers should ensure that all workers receive equal pay for equal work, without any discrimination. • Employers should ensure that professional education or technical trainings are made equally accessible to all without discrimination.
OECD Guidelines for MNEs, II. General policies 9. (See also commentary 5).	<ul style="list-style-type: none"> • Employers should refrain from discriminatory or disciplinary action against employees who make bona fide reports to management or, as appropriate, to the competent public authorities, on practices that contravene the law, the OECD Guidelines or the company's policies.
OECD Guidelines for MNEs, V. Employment and Industrial Relations (1d) ⁹⁰ (See also commentary 21, and 24)	<ul style="list-style-type: none"> • Employers should not discriminate against their employees with respect to employment or occupation on such grounds as race, colour, sex, religion, political opinion, national extraction or social origin. • Employers are expected to promote equal opportunities for women and men with special emphasis on equal criteria for selection, remuneration, and promotion, and equal application of those criteria, and prevent discrimination or dismissals on the grounds of marriage, pregnancy or parenthood. • Employers should incorporate the notion of non-discrimination in their hiring practices as well as promotion practices, life-long learning and other on-the-job training.
UN Global Compact Principle 6: Labour ⁹¹	<ul style="list-style-type: none"> • Employers should uphold the elimination of discrimination in respect of employment and occupation.

Indonesia has ratified the three ILO conventions regarding discrimination and equal opportunity, i.e. ILO C019, C100, and C111, (see Table 15). The Indonesian Constitution of 1945 recognises that every person has the right to be free from discriminative treatment based upon any grounds whatsoever and shall have the right to protection from such discriminative treatment. In addition, Indonesia labour laws provide protections for workers irrespective of race, religion, gender, disability, sexual orientation, political affiliation, and HIV /AIDs. For example, Article 1 of the Indonesia law 39 of 1999 concerning Human Rights, defines discrimination as “all limitations, affronts or ostracism, both direct and indirect, on grounds of differences in religion, ethnicity, race, group, faction, social status, economic status, sex, language, or political belief, that results in the degradation, aberration, or eradication of recognition, execution, or application of human rights and basic freedoms in political, economic, legal, social, cultural, or any other aspects of life”. Table 13 shows the various Indonesia laws and decrees applicable to the topic of discrimination and equal opportunity and some of the provisions that companies should comply with.

Table 15 Indonesia labour laws on Discrimination and equal opportunity

Indonesia laws and decrees	Provisions that companies should comply with
Indonesia Constitution of 1945, Art. 28I. ⁹²	<ul style="list-style-type: none"> Employers must ensure that their workers are free from any discriminative treatment, based on any grounds and put in place measures to protect their workers from any discriminative treatment.
Indonesia Legislation No. 39 of 1999, Concerning Human Rights, Arts.3, 17, ⁹³	<ul style="list-style-type: none"> Employers should recognise and uphold the right of its workers to the protection of their fundamental human rights without any discrimination, Employers should uphold the right of its workers to be recognised, guaranteed, and treated fairly without any discrimination, Employers should recognise and uphold the rights of its workers to obtain justice by submitting grievances, complaints, etc. and receive a fair hearing.
Manpower Act of 2003, Arts. 5, 6, 32, and 153	<ul style="list-style-type: none"> Companies must ensure equal opportunity for everyone looking for a job at their enterprises without discriminating against them. Companies must ensure equal treatment to all its workers without any discrimination based on sex, ethnicity, race, religion, skin colour, political orientation and disability. Companies should ensure that job placement is carried out based on transparency, respect for workers' freedom, objectivity, fairness and equal opportunity, without discrimination Companies must hire at least one disabled person for every 100 employees. Disabled people who apply for work should not be subject to discrimination based on their disability; they should be evaluated based on their ability to perform the job. Companies must accommodate disabled employees in accordance with the type and extent of their disabilities, including adjusting workplace access, tools and/or personal protective equipment if necessary. Companies must not factor a person's disability into decisions relating to working conditions, pay, opportunities for promotion, access to training, or termination. Disabled employees who undertake workplace training are entitled to receive a certificate of competence.
MOMT Decree NO. KEP.68/MEN/IV/2004, HIV/AIDS Prevention and Control in the Workplace ⁹⁴	<ul style="list-style-type: none"> Employers must take steps to protect workers with HIV/AIDS from discriminatory actions and treatment. Employers should develop a policy to prohibit of any form of stigmatization and discrimination against workers/labourers with HIV/AIDS. Employers should take appropriate disciplinary actions against workers who discriminate and stigmatize workers with HIV/AIDS or those suspected of living with HIV/AIDS

E. Wages

The ILO defines wages as “remuneration or earnings, however designated or calculated, capable of being expressed in terms of money and fixed by mutual agreement or by national laws or regulations, which are payable in virtue of a written or unwritten contract of employment by an employer to an employed person for work done or to be done or for services rendered or to be rendered.” ILO Constitution of 1919 sought to

improve the conditions of labour by requiring the “the provision of an adequate living wage”,⁹⁵ nowadays considered by the ILO as minimum wage. The ILO considers the following elements to be taken into consideration in determining the level of minimum wages: “the needs of workers and their families taking into account the general level of wages in the country, the cost of living, social security benefits, the relative living standards of other social groups, economic factors, including the requirements of economic development, levels of productivity and desirability of attaining and maintaining a high level of employment”.⁹⁶ The ILO does not prescribe a single national minimum wage, thereby allowing the “existence of different national circumstances and different levels of economic and social development”.⁹⁷ The payment of decent living wage is not yet consistent across countries and as such it is not a fundamental practice by palm oil companies. Currently, companies are expected to pay at least the minimum wages and other infringements as required by the governments of the countries where they operate or set wages higher than the national minimum wages through collective bargaining agreements between trade unions and the companies. Table 16 shows the ILO conventions on wages and some of the provisions that companies should comply with.

Table 16 International standards on Wages

International standards	Provisions that companies should comply with
<p>C131 - Minimum Wage Fixing Convention, 1970, Arts.1(1), 2(2), 3, and 4(3a)⁹⁸</p> <p>(See also R135 - Minimum Wage Fixing Recommendation, 1970)⁹⁹</p>	<ul style="list-style-type: none"> • Employers should pay at least the minimum wages to all groups of wage earners. • Employers should pay wages that at least considers the following: the needs of workers and their families taking into account the general level of wages in the country, the cost of living, social security benefits, the relative living standards of other social groups, economic factors, including the requirements of economic development, levels of productivity and desirability of attaining and maintaining a high level of employment”. • Wage rates should be adjusted from time to time to take account of changes in the cost of living and other economic conditions. • In line with ILO C098, employers should respect the freedom of workers to collectively bargain. • In determining or fixing the wages, Employers should include representatives of workers’ unions, on a basis of equality.
<p>C099 - Minimum Wage Fixing Machinery (Agriculture) Convention, 1951, Arts. 1-4.¹⁰⁰</p> <p>(See also R089 - Minimum Wage-Fixing Machinery (Agriculture) Recommendation, 1951)¹⁰¹</p>	<ul style="list-style-type: none"> • Employers should pay at least the minimum wages to all workers employed in agriculture • Employers may pay part of the minimum wages in kind, where payment in such form is customary, desirable and accepted by workers unions. Such in-kind partial payment of wages should be appropriate for the personal use and benefit of the worker and his family and the value attributed to such allowances should be fair and reasonable. • In determining or fixing the wages for its workers, employers should engage in full preliminary consultation with the most representative organisations or union of workers. • Employers should reimburse any worker who has been paid a rate that is less than the minimum set and agreed wages.
<p>C100 - Equal Remuneration Convention, 1951, Arts. 1-4 ¹⁰²</p>	<ul style="list-style-type: none"> • Employers should ensure that workers are paid equal wage for equal work, without any discrimination. • Where appropriate in ensuring the effective implementation of equal pay for equal work, employers should use objective job appraisals. • Employers should establish rates of remuneration without discrimination based on sex.

International standards	Provisions that companies should comply with
<p>Universal Declaration of Human Rights, 1949, Art. 23(3).¹⁰⁴</p> <p>C173 - Protection of Workers' Claims (Employer's Insolvency) Convention, 1992, Arts. 5,6 and 9.¹⁰⁵</p>	<ul style="list-style-type: none"> • A decent living for themselves and their families in accordance with the provisions of the present Covenant; • Employers should ensure that all workers have the right to favourable remuneration, ensuring for himself and his family an existence worthy of human dignity, and supplemented, if necessary, by other means of social protection. • In the event of an employer's insolvency, workers' claims arising out of their employment shall be protected by a privilege so that they are paid out of the assets of the insolvent employer before non-privileged creditors can be paid their share. • Employers should ensure that provisions are made to cover privileged claims of workers regarding: <ul style="list-style-type: none"> • wages relating to a prescribed period, • holiday pay due as a result of work performed during the year • amounts due in respect of other types of paid absence, and • severance pay due to workers upon termination of their employment. • Employers should ensure that workers privileged claim of their wages and benefits are secure, and can be made through a guarantee institution, when payment cannot be made by the employer because of insolvency.

The Government of Indonesia aims to ensure that minimum wages are set based on the need for decent living (*kebutuhan hidup layak*), taking into account productivity and economic growth.¹⁰⁶ According to Better Work, in Indonesia, minimum wage rates differ across groups of workers, sectors of economic activity and by geographical location. Provincial and District Wage Councils provide suggestions to Provincial Governors to formulate regulations specifying the minimum wage. Organisations of employers and workers are represented on the councils. In 2015, Indonesia developed a formula to ensure “gradual and predictable minimum wage increases” across the various provinces.¹⁰⁷ In 2018, it is said that the Government of Indonesia has set about 8.7% increase in minimum wages.¹⁰⁸ According to the ILO, except for the C100 convention on Equal Remuneration, Indonesia has not ratified any other international conventions regarding wages and minimum wages (specifically C095 and C131).¹⁰⁹ Table 17 shows an overview of Indonesia laws covering wages and wage protection, and some of the provisions that companies should comply with.

Table 17 Indonesia labour laws regarding Wages

Indonesia laws and decrees	Provisions that companies should comply with
<p>Manpower Act of 2003, Arts. 22, 54 (1), 56, 60, 78, 85, 88, 88(3) 89, 90, 90(1), 90(2-3), 93(2)(f), 94,</p>	<ul style="list-style-type: none"> • Employers are required to pay at least the Provincial minimum wage to workers of all types (i.e. permanent workers, casual workers, contract workers, piece-rate workers) • Employers are required to pay overtime to workers. Overtime should be no longer than 3 (three) hours in a day or 14 (fourteen) hours in a week. • Employers should pay piece rate workers at least minimum wage for ordinary hours work, even if their actual piece-rate wages are below the stipulated minimum wages. If their actual piece-rate earnings are higher than the stipulated minimum wage, then they should be paid the higher amount.

Indonesia laws and decrees	Provisions that companies should comply with
MOMT DECREE NO KEP.102/MEN/ VI/2004, ARTS. 7-11	<ul style="list-style-type: none"> Employers should pay overtime to workers on the following rates: <ul style="list-style-type: none"> Workers who work overtime on ordinary work days should be paid 1.5 times the hourly pay for the first hour of overtime worked, and 2 times the hourly pay for each additional hour worked. Hourly wages are calculated by multiplying 1/173 times the monthly wage. Workers paid by piece-rate should also be paid overtime rates. Employers must provide meals and drinks of at least 1,400 calories to workers who work overtime for three hours or more. Employers must also pay the correct rate for all overtime hours worked on weekly rest days and national holidays (see Art. 11)

F. Working Hours

ILO standards provide a limit to regular hours of work per week. The ILO C030 convention considers regular working time to be 8 hours per day and 48 hours per week. However, with its recommendation R116, the ILO urges governments to “progressively reduce the normal hours of work from 48 hours to 40 hours, taking into account national conditions and practice to avoid any reduction in wages”.¹¹⁰ Table 18 summarises the international standards regarding working hours and some of the provisions that companies should comply with.

Table 18 International standards on Working hours

International standards	Provisions that companies should comply with
C030 - Hours of Work (Commerce and Offices) Convention, 1930 ¹¹¹ (<i>interim status</i>)	<ul style="list-style-type: none"> Employers should ensure that the normal hours of work in a week does not exceed 48 hours. They should also ensure that normal hours of work in a day is 8 hours (and does not exceed 10 hours). Employers should ensure that overtime rate is not less than one-and-a-quarter times the normal work rate.
R116 - Reduction of Hours of Work Recommendation, 1962 ¹¹²	<ul style="list-style-type: none"> Employers who apply 48 hours as normal hours in a week, should take concrete steps to reduce them, without affecting the standard of living of the workers. Employers should pay workers overtime (considered as all hours worked in excess of the normal hours). Employers should ensure that overtime work is remunerated at a higher rate than normal hours of work. The rate shall be in accordance with the national laws or higher, provided that the overtime rate used is higher than the rate of normal hours of work. Employers should consult with representatives of workers’ unions in determining reduction of hours of work, rates of overtime, etc. When requesting and arranging overtime, employers should give due consideration to persons under 18 years of age, pregnant women, nursing mothers and people with disabilities.
C047 - Forty-Hour Week Convention, 1935 ¹¹³ (<i>interim status</i>)	<ul style="list-style-type: none"> Employers should ensure that it engages workers in maximum 40 hours per week (excluding overtime). Employers should also ensure that the application of the principle of 40-hour week does not reduce the standard of living of its workers.
C175 - Part-Time Work Convention, 1994 ¹¹⁴	<ul style="list-style-type: none"> Employers should ensure that basic wages for all workers (part-time or full-time) are calculated according to the same method, but proportional to hours worked. Employers should ensure that part-time workers also receive statutory social security benefits. This may be calculated proportional to the number of hours worked.

International standards	Provisions that companies should comply with
<p>C106 - Weekly Rest (Commerce and Offices) Convention, 1957¹¹⁵</p> <p>C132 - Holidays with Pay Convention (Revised), 1970¹¹⁶</p> <p>International Covenant on Economic, Social and Cultural Rights, Art. 7d¹¹⁷</p> <p>Universal Declaration of Human Rights, 1949, Art. 24.¹¹⁸</p>	<ul style="list-style-type: none"> • Employers should ensure that part-time workers receive conditions equivalent to full-time workers in respect of maternity protection, termination of employment, paid annual leave and paid public holidays and sick leave. This may be calculated proportional to the number of hours worked. • Employers should take concrete steps to ensure that part-time workers receive the same protection as that accorded to full-time workers in respect of the right to organise, the right to bargain collectively and the right to act as workers' representatives, occupational safety and health, discrimination in employment and occupation. • Employers should ensure that all workers are provided no less than 24 consecutive hours, as rest from work, in the course of each period of seven days. • Employers should ensure that all workers are granted annual holiday with pay. • Employers should ensure that the annual holiday shall in no case be less than three working weeks for one year of service. • Employers should grant the holiday to be taken by the worker no later than within one year, and the remainder of the annual holiday with pay, no later than within eighteen months, from the end of the year in respect of which the holiday entitlement has arisen. • Employers should ensure that upon termination of employment, a worker is allowed a holiday with pay proportionate to the length of service for which the worker has not received the holiday, or compensation in lieu thereof, or the equivalent holiday credit. • Employers should ensure that all workers have sufficient rest, leisure and reasonable limitation of working hours and periodic holidays with pay, as well as remuneration for public holidays. • Employers should ensure that all workers have the right to rest and leisure, including reasonable limitation of working hours and periodic holidays with pay.

Indonesia ratified the ILO C106 convention on weekly rest in 1972. Its labour laws clearly state that 40 hours is the normal working hours, and any work outside this time is overtime. Typically, this translates into 8 hours per day for 5 work days. In many palm oil mills and estates, due to religious reasons, workers are allowed to work fewer hours on Fridays and compensate with working on Saturdays. The labour laws also require employers to allow workers a 30-minute rest for every four hours of continuous work, which is not considered work time. Overtime must not exceed 3 hours per day or 14 hours per week. Table 19 shows an overview of Indonesia laws regarding working hours, and some of the provisions that companies should comply with.

Table 19 Indonesia labour laws regarding Working hours

Indonesia laws and decrees	Provisions that companies should comply with
<p>Manpower Act of 2003, Arts. 77, 78, 79, 81, 82, 84, 85, 93, 93(2)</p>	<ul style="list-style-type: none"> • Employers should comply with the stipulated normal working time of 40 hours per week. Any work beyond this is overtime. • Employers should not force workers to work on formal public holidays. Employers who require their workers to work on formal public holidays (either due to agreement made in CBA or because the work has a nature that it must be performed continuously), are under an obligation to pay overtime pay.

Indonesia laws and decrees	Provisions that companies should comply with
<p>MOMT DECREE NO KEP.102/MEN/ VI/2004, ARTS. 3-4, 6(3), 3, 7</p>	<ul style="list-style-type: none"> • Employers must provide continuous leave to workers who are ill. The wage to be received by the workers during this period, should be as directed in the Manpower Act of 2003. • Employers should ensure that female workers are allowed paid leave on the 1st and 2nd days of their menstruation, especially if they are sick. • Employers should ensure that women receive their full wages during maternity leave. Women are entitled to at least 3 months of maternity leave (to be taken 1.5 months before the birth and 1.5 months after the birth). In the case of miscarriage, workers are entitled to 1.5 months of paid leave. • Employers must provide opportunities and special facilities for mothers to breastfeed their infant during working hours. • Employers must provide paid time off for personal leave regarding the following: Marriage (of workers and workers' children, circumcision of workers son, children baptism, miscarriage, family death (spouse, child, parents, parent-in-law, or member of workers' household). The specification of days is as indicated in Manpower Act No. 13 of 2003, Art. 93. • Employers should pay workers full wages in case of leave to fulfil obligations of State, perform religious obligations, participate in trainings sponsored by the employer and in case of participation in union duties. • Working time records should not be manipulated in any manner. • Employers should establish a credible workers' attendance registration system with working time records which cannot not be manipulated. • Employers should not provide any work instructions to workers until after their attendance have been noted in the system/register. • Employers are required to provide workers at least a half hour of rest for every four hours of continuous work and this rest time is not to be counted as work time. • Employers should adhere to the maximum overtime of 3 hours in a day and 14 hours in a week, as stipulated by law. • Employers should ensure that workers are given at least 12 days of paid time off for annual leave after 12 months of continuous service. • Employers should ensure that workers are given a long period of rest of no less than two months to workers who have been working for 6 (six) years consecutively at the same enterprise. Such a long leave should be awarded in the seventh and eighth year of service, each for a period of 1 (one) month, on the condition that the said workers will no longer be entitled to their annual period of rest in 2 (two) current years. • Employers should adhere to the maximum overtime of 3 hours in a day and 14 hours in a week, as stipulated by law. • Employers should pay overtime to workers on the following rates: <ul style="list-style-type: none"> • Workers who work overtime on ordinary work days should be paid 1.5 times the hourly pay for the first hour of overtime worked, and 2 times the hourly pay for each additional hour worked. • Hourly wages are calculated by multiplying 1/173 times the monthly wage.

Indonesia laws and decrees	Provisions that companies should comply with
	<ul style="list-style-type: none"> • Workers paid by piece-rate should also be paid overtime rates. • Employers must provide meals and drinks of at least 1,400 calories to workers who work overtime for three hours or more. • Employers must also pay the correct rate for all overtime hours worked on weekly rest days and national holidays (see Art. 11) • Employers must provide a written instruction to work overtime and must obtain the written consent of the worker.

G. Contracts and hiring practices

A few ILO standards that directly deal with contracts are “shelved” or abrogated (meaning that they are outdated and no longer in use), i.e. C064 and CO86 concerning “Contracts of Employment - Indigenous Workers Convention”. Nevertheless, as summarised in Table 20, some ILO standards promote freedom of choice in employment and hiring processes, as well as equal opportunity for workers (see C122, C142 and C159).

Table 20 International standards on Contracts and hiring practices

International standards	Provisions that companies should comply with
C122 - Employment Policy Convention, 1964 ¹¹⁹	<ul style="list-style-type: none"> • Employers should develop a policy that promotes freedom of choice of employment and the fullest possible opportunity for each worker to qualify for, and to use his skills and endowments in, a job for which he is well suited, irrespective of race, colour, sex, religion, political opinion, national extraction or social origin.
C159 - Vocational Rehabilitation and Employment (Disabled Persons) Convention, 1983. ¹²⁰	<ul style="list-style-type: none"> • Employers should develop policies aimed at ensuring that appropriate vocational rehabilitation measures are made available to all categories of disabled persons, and at promoting employment opportunities for disabled persons. • Employers should respect and ensure equality of opportunity and treatment for disabled men and women workers.
C181 - Private Employment Agencies Convention, 1997. ¹²¹	<ul style="list-style-type: none"> • Employers that use private recruitment agents should ensure the following: <ul style="list-style-type: none"> • Workers recruited by such agencies are not denied the right to freedom of association and the right to bargain collectively. • Agencies treat workers without discrimination on the basis of race, colour, sex, religion, political opinion, national extraction, social origin, or any other form of discrimination covered by national law and practice, such as age or disability. • The processing of personal data of workers by private employment agencies shall be done in a manner that protects the data and ensure respect for workers privacy and limited to matters relating to the qualifications and professional experience of the workers concerned and any other directly relevant information. • Private employment agencies do not charge directly or indirectly, in whole or in part, any fees or costs to workers. • Take the necessary measures to ensure adequate protection for the workers employed by private employment in relation to: freedom of association; collective bargaining; minimum wages; working time and other working conditions; statutory social security benefits; access to training; occupational safety and health; compensation in case of occupational accidents or diseases; compensation in case of insolvency and protection of workers claims; maternity protection and benefits, and parental protection and benefits.

International standards	Provisions that companies should comply with
C142 - Human Resources Development Convention, 1975. ¹²²	<ul style="list-style-type: none"> Employers should develop and implement policies and programmes of vocational guidance and vocational training in co-operation with workers' associations or trade unions. The policies and programmes shall encourage and enable all workers, on an equal basis and without any discrimination whatsoever, to develop and use their capabilities for work.
OECD Guidelines for MNEs, II General policies, 4 and 10. ¹²³	<ul style="list-style-type: none"> Employers should encourage human capital formation, in particular by creating employment opportunities and facilitating training opportunities for employees. Employers should encourage where practicable, business partners, including suppliers and sub-contractors, to apply principles of corporate conduct compatible with the OECD Guidelines.

Indonesia's Manpower Act No. 13 of 2013 details several requirements regarding the issue of contracts and hiring practices. Based on this regulation, Table 21 provides a summary of some of the provisions that companies should comply with.

Table 21 Indonesia labour laws regarding contracts and hiring practices.

Indonesia laws and decrees	Provisions that companies should comply with
Manpower Act of 2003, Arts. 22, 35(3), 42- 48, 54, 56-58, 60, 63-66, 108-115,	<ul style="list-style-type: none"> Employers should provide work contracts written in Bahasa Indonesia and signed together with the worker. The work contract should contain: terms and conditions of employment, rights and obligations of both worker and employer, company name and address, type of business, worker's name, sex, age, address, occupation, nature of work, work location, start date and duration of contract, amount of wages, form of payment of wage, place and date of contract and signature of employer and worker. Employers who make oral agreements with permanent workers should still provide the worker with a letter of same which includes worker's name and address, start date of work, nature and type of work, and amount of wages. Employers with ten or more workers are required by law to establish a well consulted (with representatives of workers' unions) company rules and regulations; where a CBA has not been negotiated. Employers should not subject casual or temporary workers to probation. When permanent workers are given probation, it should be for 3months. Employers must pay workers under probation, at least a minimum wage. Employers who wish to hire migrant or foreign workers should establish a 5-year plan recruitment plan. Employers who use recruitment agencies to recruit workers should ensure that the agencies certify that they will provide workers with protections such as: welfare, safety and health, both mental and physical. Employers who use private recruitment agencies should ensure that regular workers are not charged placement fees. Only workers of higher ranks and occupation may be charged placement fees. Employers may terminate a worker's employment after issuing three warnings. Employer should make effort to not terminate the employment of a worker. Employers should together with the worker and trade

Indonesia laws and decrees	Provisions that companies should comply with
	<p>union negotiate the termination and perhaps options to avoid termination.</p> <ul style="list-style-type: none"> • Employers must either reinstate or compensate workers who are found to have been unjustly terminated. • Employers that need to undertake massive firing should ensure that this matter and ensuing process are adequately discussed with representatives of workers unions.

H. Gender equality and social protection for women

ILO standards promote gender equality in employment. Four of its conventions provide countries with some framework to develop national regulations and initiatives regarding gender equality and social protection for women, namely: C100 on Equal Remuneration Convention, C111 on Discrimination (Employment and Occupation), C183 on Maternity Protection and C156 on Workers with Family Responsibilities Convention. Table 22 provides a summary of some of the international standards that call for gender equality and social protection for women workers and some provisions that companies should comply with.

Table 22 International standards on gender equality and social protection for women

International standards	Provisions that companies should comply with
C183 - Maternity Protection Convention, 2000, Art. 3, 4, 8, 9, 10 ¹²⁴	<ul style="list-style-type: none"> • Employers should ensure that (pregnancy or) maternity does not constitute a source of discrimination in employment or access to employment. • Employers should ensure that pregnant or breastfeeding women are not obliged to perform work which is deemed a health hazard or risk to the mother or the child. • Employers should ensure that maternity leave is no less than 14 weeks, of which a period of six weeks' is compulsory leave after childbirth. • Employers should not terminate the employment of a woman during her pregnancy or absence on leave, or during a period following her return to work after pregnancy. • Employers are prohibited from requiring a test for pregnancy or a certificate of such a test when a woman is applying for employment • Employers should provide workers who are nursing mothers the right to one or more daily breaks or a daily reduction of hours of work to breastfeed her child. These breaks or the reduction of daily hours of work shall be counted as working time and remunerated accordingly.
C156 - Workers with Family Responsibilities Convention, 1981 ¹²⁵	<ul style="list-style-type: none"> • Employers should establish a policy that enables workers with family responsibilities who are engaged or wish to engage in employment to exercise their right to do so without being subject to discrimination and, to the extent possible, without conflict between their employment and family responsibilities. • Employers should ensure that workers are not restricted from accessing jobs and other opportunities, based on their family responsibilities in the form of dependent children, and immediate family members needing attention, care and support. • Employers should take into account the needs of workers with dependent children and/or immediate family members needing attention, care and support, in developing their terms and conditions of employment and in social security.

International standards	Provisions that companies should comply with
<p>C100 - Equal Remuneration Convention, 1951, Arts. 1-4 ¹²⁶</p> <p>The Convention on the Elimination of All Forms of Discrimination against Women (CEDAW).¹²⁷</p>	<ul style="list-style-type: none"> • Employers should take measures to implement this convention by establishing child-care and family services and facilities, for workers and their families. • Employers should ensure that workers are paid equal wage for equal work, without any discrimination. • Where appropriate in ensuring the effective implementation of equal pay for equal work, employers should use objective job appraisals. • Employers should establish rates of remuneration without discrimination based on sex. • Employers should consider the determination of the rates for wages of all workers through collective agreements with workers' unions. • Employers should take appropriate measures to eliminate all forms of gender discrimination at the work place. • Employers should promote equality of men and women, at least through policy measures. To this end, employers should respect and uphold the following rights for women: <ul style="list-style-type: none"> • The right to be considered for the same employment opportunities, • The right to free choice of profession and employment, • The right to promotion, job security and all benefits and conditions of service, • The right to receive vocational training and retraining, including apprenticeships, advanced vocational training and recurrent training; • The right to equal remuneration, including benefits, and to equal treatment in respect of work of equal value, as well as equality of treatment in the evaluation of the quality of work; • The right to social security, particularly in cases of retirement, unemployment, sickness, invalidity and old age and other incapacity to work, as well as the right to paid leave; • The right to protection of health and to safety in working conditions, including the safeguarding of the function of reproduction. • Employers should provide adequate legal protection for the rights of women workers and sanctions against any discriminatory practices against women. • Employers should provide special protection to women during pregnancy in types of work proven to be harmful to them. • Employers should not dismiss women workers on the grounds of pregnancy or of maternity leave or on the basis of marital status. • Employers should ensure that women workers are provided maternity leave with pay. • Employers should take appropriate measures to suppress all forms of traffic in women and exploitation of prostitution of women • Employers should take all appropriate measures to eliminate discrimination against women in the field of employment. Employers should grant equal access to work-related trainings in order to increase their technical proficiency • Employers should provide women with adequate living conditions, particularly in relation to housing, sanitation, electricity and water supply, transport and communications. • Employers should ensure that women have access to adequate health care facilities, including information, counselling and services in family planning; and benefit directly from social security programmes.

International standards	Provisions that companies should comply with
International Covenant on Economic, Social and Cultural Rights, Arts. 7, 10, 11, 12	<ul style="list-style-type: none"> • Employers should ensure fair wages and equal remuneration for work of equal value without distinction of any kind, in particular women being guaranteed conditions of work not inferior to those enjoyed by men, with equal pay for equal work. • Employers should not forcibly evict indigenous women from their home or land. • Employers should ensure that women are not subject to unfair dismissals on grounds of pregnancy. • Employers should ensure that all indigenous women have equal access to adequate housing. • Employers should take steps to ensure that all women workers are progressively connected to a safe drinking water supply. Employers should not disconnect services of safe water for women worker and rural women. • Employers should not deny health care facilities for women suffering from uterine prolapsed or obstetric fistula. • Employers should ensure that no pregnant women worker is denied health services at the workplace • Employers should ensure that trained medical professionals and sexual and reproductive health services are accessible to women.

Several established presidential and regional regulations mainly focus on protecting women from violence and less on equality, e.g. *Presidential Regulation on the National Commission for combating violence against women (Presidential regulation No.65/2005)*; *Regional Regulation concerning the Protection of Women and Children against Violent acts (Regional regulation of the Special Capital Province of Jakarta 8/2011)*; *Sukoharjo Regency Regulations No.6/2011 concerning protection of women and children against violence acts* and *Presidential Decree on the National Commission on Anti-violence against women (Presidential Decree No. 181/1998)*. Nevertheless, the Indonesian constitution of 1945 states that “every person shall have the right to receive the same opportunity and benefit to achieve equality and fairness”.¹²⁸ Indonesia labour law recognises equality in employment between men and women. For example, the labour law stipulates that a worker’s sex must not be factored into decisions relating to hiring, working conditions, pay, opportunities for promotion, access to training, or termination. Table 23 presents some of the provisions in two Indonesian legislations that companies should comply with.

Table 23 Indonesia labour laws on gender equality and social protection for women

Indonesia laws and decrees	Provisions that companies should comply with
Indonesia Legislation No. 39 of 1999, Concerning Human Rights, Art.38 (3 and 4), 41, 48, 49 (1,2), <small>129</small>	<ul style="list-style-type: none"> • Employers should ensure that women and men receive equal pay for equal work, as well as equal work conditions. • Employers should ensure that pregnant women have access to special facilities and treatment. • Employers should ensure that women and men have equal and adequate access to and conditions of schooling and education • Employers should ensure that special protection is provided to women workers when they are assigned to jobs that could be risky to their reproductive health.
Manpower Act of 2003, Arts. 5, 6, 32, 76 and 153(d and e)	<ul style="list-style-type: none"> • Employers are prohibited from dismissing a woman worker because she is getting married, is absent from work because she is pregnant, giving birth to a baby, having a miscarriage, or breast-feeding her baby

- Employers should not employ female workers aged less than 18 (eighteen) years of age between 11 p.m. until 7 a.m.
- Employers are prohibited from employing pregnant female workers are at risk of damaging their health or harming their own safety and the safety of the babies that are in their wombs if they work between 11 p.m. until 7 a.m.
- Employers who employ female workers/ labourers to work between 11 p.m. until 7 a.m. are required by law to:
 - To provide them with nutritious food and drinks; and
 - To maintain decency/ morality and security in the workplace.
- Employers are required to provide return/ roundtrip transport for female workers who work between 11 p.m. until 5 a.m.

I. Occupational safety and health (OSH)

The ILO considers OSH to be a matter of global concern. It estimates an average of 270 million occupational accidents, annually. Accidental injuries at work are the third leading cause of work-related fatalities. About 160 million workers suffer from work-related diseases with two-thirds of the workers causing a loss of four days of work or more.¹³⁰ The ILO’s framework for OSH aims at the “promotion and maintenance of the highest degree of physical, mental and social well-being of workers in all occupations”. Several ILO conventions have been established and are in force. Table 24 highlights some of the conventions and some of the provisions that companies should comply with.

Table 24 International standards on OSH

International standards	Provisions that companies should comply with
<p>C155 - Occupational Safety and Health Convention, 1981, Arts, 2, 11,13,16-21.¹³¹</p> <p>See also: P155 - Protocol of 2002 to the Occupational Safety and Health Convention, 1981¹³²</p>	<ul style="list-style-type: none"> • Employers should develop an OSH policy aimed at accident and injury prevention, well-being of employees and minimising impact to the environment. • Employers should ensure that the workplaces, machinery, equipment and processes under their control are safe and without risk to health. • Employers should ensure that the chemical, physical and biological substances and agents under their control are without risk to health. • Employers should provide adequate protective clothing and protective equipment to prevent accidents and other adverse effects on health. • Employers should establish appropriate measures to deal with emergencies and accidents, including adequate first-aid arrangements. • Employers should ensure that representatives of workers’ unions are given adequate information on measures taken by the employer to secure OSH. • Employers should ensure that workers are given appropriate training in occupational safety and health. • When workers identify imminent and serious danger to life or health, the employer should take immediate remedial action. The employer cannot require workers to return to a work situation where there is continuing imminent and serious danger to life or health. • Employers should ensure that workers can remove themselves from a work situation which poses serious danger to life and health. Workers should not be victimized or punished for removing themselves from such danger. • Employers should not require or impose any expenditure relating to OSH measures from workers.

International standards	Provisions that companies should comply with
<p>C161 - Occupational Health Services Convention, 1985, Arts. 6, 8, 10, 13, 14 and 15.¹³³</p>	<ul style="list-style-type: none"> • Employers should ensure that provision is made for the establishment of occupational health services to workers at the work place. • The personnel providing occupational health services shall enjoy full professional independence from employers. • Employers should inform all workers of the health hazards involved in their work. • Employers should inform occupational health services personnel of any known factors and any suspected factors in the working environment which may affect the workers' health. • Employers should inform occupational health services personnel of occurrences of ill health amongst workers and absence from work for health reasons, in order to be able to identify whether there are any health hazards which may be present at the workplace. • Employers should not require occupational health services personnel to verify the reasons for an employee's absence from work.
<p>C184 - Safety and Health in Agriculture Convention, 2001, Arts. 4, 6, 7, 8, 9, 11, 12, 17, and 19.¹³⁴</p>	<ul style="list-style-type: none"> • Employers should ensure the safety and health of workers in every aspect related to the work • Employers should carry out appropriate risk assessments in relation to the safety and health of workers and, on the basis of these results, adopt preventive and protective measures to ensure the continued safety of workers and compliance with prescribed safety and health standards.
<p>See also: R192 - Safety and Health in Agriculture Recommendation, 2001</p>	<ul style="list-style-type: none"> • Employers should ensure that adequate and appropriate guidance, supervision, training and comprehensible instructions on safety and health are provided to workers. • Employers should provide workers with information on the hazards and risks associated with their work and the action to be taken for their protection, taking into account their level of education and differences in language. • Employers should take immediate steps to stop any operation when there is an imminent and serious danger to safety and health and to evacuate workers appropriately. • Employers should uphold workers' rights to remove themselves from danger resulting from their work activity when they have reasonable justification to believe there is an imminent and serious risk to their safety and health. Employers should not place workers at any disadvantage as a result of such action. • Employers should ensure that workers receive and understand the safety and health information provided by manufacturers of PPEs. • Employers should not compel workers to manually handle or transport load which by reason of its weight or nature is likely to jeopardize their safety or health. • Employers should provide adequate and appropriate information to workers handling, mixing and using chemicals, including hazard warning signs in the appropriate language. • Employers should ensure that there are preventive and protective measures for the use of chemicals and handling of chemical wastes. • Employers should have a suitable system for the safe collection, recycling and disposal of chemical waste, obsolete chemicals and empty containers of chemicals. • Employers should ensure that temporary and seasonal workers receive the same safety and health protection as permanent workers.

International standards	Provisions that companies should comply with
<p>C170 - Chemicals Convention, 1990 (No. 170)¹³⁵</p> <p>See also: R177 - Chemicals Recommendation, 1990 (No. 177)</p>	<ul style="list-style-type: none"> • Employers should ensure that women workers are taken into account in relation to pregnancy, breastfeeding and reproductive health. • Employers should ensure the provision of adequate welfare facilities at no cost to workers. • Employers should provide at least the minimum accommodation standards for workers who are required by the nature of the work to live temporarily or permanently at the workplace. • Employers should ensure that workers are covered by an insurance or social security scheme against fatal and non-fatal occupational injuries and diseases, as well as against invalidity and other work-related health risks. • Employers should ensure that all chemicals are marked so as to indicate their identity. • Employers should ensure that hazardous chemicals are labelled in an easily understandable manner to the workers, so as to provide essential information regarding their classification, the hazards they present and the safety precautions to be observed. • Employers should provide workers with chemical safety data sheets containing detailed essential information regarding the identity of hazardous chemicals, supplier, classification, hazards, safety precautions and emergency procedures. • Employers should maintain a record of hazardous chemicals used at the workplace, cross-referenced to the appropriate chemical safety data sheets. This record shall be accessible to all workers concerned and their representatives. • Employers should ensure that when chemicals are transferred into other containers or equipment, the contents, identity, hazards and precautions are clearly indicated to workers. • Employers should assess, monitor and record the exposure of workers to hazardous chemicals and ensure that workers are not exposed to chemicals to an extent which exceeds exposure limits. • Employers should ensure that the records of the monitoring of the exposure of workers using hazardous chemicals are accessible to the workers and their representatives. • Employers should instruct the workers how to obtain and use the information provided on labels and chemical safety data sheets.
<p>C148 - Working Environment (Air Pollution, Noise and Vibration) Convention, 1977¹³⁶</p>	<ul style="list-style-type: none"> • Employers should ensure that the working environment is kept free from any hazard due to air pollution, noise or vibration. • Employers should prescribe measures to be taken for the prevention and control of, and protection against, occupational hazards in the working environment due to air pollution, noise and vibration. • Employers should provide appropriate personal protective equipment to workers.
<p>C139 - Occupational Cancer Convention, 1974, Arts. 3,4,5. ¹³⁷</p>	<ul style="list-style-type: none"> • Employers should take measures to protect workers against the risks of exposure to carcinogenic substances or agents and shall ensure the establishment of an appropriate system of records. • Employers should ensure that workers are provided with medical examinations or biological or other tests or investigations during the period of employment and thereafter as are necessary to evaluate their

International standards	Provisions that companies should comply with
<p>C120 - Hygiene (Commerce and Offices) Convention, 1964 (No. 120), Arts. 7 – 19.¹³⁸</p> <p>R120 - Hygiene (Commerce and Offices) Recommendation, 1964 (No. 120)</p>	<p>exposure and supervise their state of health in relation to the occupational hazards.</p> <ul style="list-style-type: none"> • Employers should ensure that all premises used by workers, and the equipment of such premises, shall be properly maintained and kept clean. • Employers should ensure that all premises used by workers shall have sufficient and suitable ventilation, natural or artificial or both, supplying fresh or purified air. • Employers should ensure that all premises used by workers shall have sufficient and suitable lighting; workplaces shall, as far as possible, have natural lighting. • Employers should provide sufficient supply clean drinking water to workers. • Employers should provide sufficient, suitable and properly maintained washing facilities and sanitary conveniences to workers. • Employers should provide sufficient, suitable and properly maintained facilities for changing, leaving and drying clothing which is not worn at work. • Employers should reduce as far as possible, noise and vibrations likely to have harmful effects on workers. • Employers should ensure that their establishments have dispensaries or first-aid posts, with up to date first aid kits, which can be used by workers.
<p>R102 - Welfare Facilities Recommendation, 1956 (No. 102)¹³⁹</p>	<ul style="list-style-type: none"> • Employers should consider providing the following welfare facilities for workers (however, workers should not be forced or compelled to use these facilities): Canteens, seats, rest rooms, recreational facilities, transport facilities, etc.
<p>Universal Declaration of Human Rights, 1949, Art. 25.¹⁴⁰</p>	<ul style="list-style-type: none"> • Employers should ensure that workers have the right to a standard of living adequate for the health and well-being of themselves and their families, including food, clothing, housing and medical care and necessary social services, and the right to security in the event of unemployment, sickness, disability, widowhood, old age, etc.
<p>OECD Guidelines for MNEs, V. Employment and Industrial Relations (4c) and VI. Environment (5, 7)¹⁴¹</p>	<ul style="list-style-type: none"> • Employers should take adequate steps to ensure occupational health and safety in their operations. • Employers should maintain contingency plans for preventing, mitigating, and controlling serious environmental and health damage from their operations, including accidents and emergencies; and mechanisms for immediate reporting to the competent authorities. • Employers should provide adequate education and training to employees in environmental health and safety matters, including the handling of hazardous materials and the prevention of environmental accidents. • Employers should ensure the collection and evaluation of adequate and timely information regarding the environmental, health, and safety impacts of their activities on workers and the communities where they operate. • Employers should provide the public and workers with adequate and timely information on the potential environment, health and safety impacts of the activities of the company.

International standards	Provisions that companies should comply with
	<ul style="list-style-type: none"> Employers should engage in adequate and timely communication and consultation with the communities directly affected by the environmental, health and safety policies of the enterprise and by their implementation.

Some laws and decrees, as well as government programmes promoting safety and health, have been established on this issue. Also, in 2015, Indonesia ratified the *ILO C187 - Promotional Framework for Occupational Safety and Health Convention, 2006*). Table 25 provides an overview of some of the Indonesian laws and decrees covering some aspects of OSH, and some of the provisions that companies should comply with.

Table 25 Indonesia labour laws on occupational safety and health

Indonesia laws and decrees	Provisions that companies should comply with
WORK SAFETY ACT NO.1 OF 1970, ART. 3, 9, 10, 12-14	<ul style="list-style-type: none"> Employers should establish an OSH policy and management system. Employers with more than 100 workers should establish an OSH Committee Employers should ensure that the OSH Committee consists of both workers and management representatives, who are jointly responsible to monitor and implement the OSH policy. Employers should provide personal protective equipment (PPE) at no cost to workers to protect them from workplace hazards such as chemicals, noise, air pollution, sharp objects, eye injuries or burns. Employers should train workers on how to use the PPE and put up notices reminding workers of their obligations to use it at the workplace. Employers should provide workers who are required to stand at their jobs with seating to rest when needed. Employers should take measures to avoid heavy lifting by workers, for example, by providing trolleys or carts. Employers must ensure that workplaces are comfortable and acceptable for workers, by monitoring and controlling appropriate levels of temperature, humidity, ventilation, noise and lighting. Working conditions should be assessed by a certified Industrial Hygiene, Ergonomics, Occupational Safety and Health (HIPERKES) Inspector from the Ministry of Manpower and Transmigration.
MOM REGULATION NO. PER-05/MEN/1996, APPENDIX II, SECTION 3.1.4	<ul style="list-style-type: none"> Employers should commit to workplace safety and health and involve workers in the implementation, development and maintenance of the HSE management system, so that all co-own the results.
MOMT DECREE NO.KEP.68/MEN/IV/2004, ARTS. 2, 3, 5	<ul style="list-style-type: none"> Employers should conduct risk assessments, develop policies, and educate workers on HIV/AIDS prevention and control. Employers should provide healthcare for people with HIV/AIDS. Employers must not factor a person's real or perceived HIV/AIDS status into decisions relating to hiring, working conditions, pay, opportunities for promotion, access to training, or termination. Employers should ensure that employees with HIV and AIDS are allowed to work, as long as they are physically fit and are not endangering themselves or others in the workplace. Employers should take steps to prevent and control HIV/AIDS in the workplace, such as, developing a policy on HIV/AIDS prevention; communicating efforts to prevent and control HIV/AIDS, and

Indonesia laws and decrees	Provisions that companies should comply with
<p>MOM DECREE ON CONTROL OF HAZARDOUS CHEMICALS IN THE WORKPLACE NO.KEP.187/MEN/1999, ARTS. 2-9, 14-20</p>	<p>educating workers on HIV/AIDS; protecting workers with HIV/AIDS from discrimination; and Implementing occupational health and safety procedures to prevent and control HIV/AIDS.</p> <ul style="list-style-type: none"> • Employers should not require workers to undergo HIV/AIDS tests as part of the hiring process or at any time during employment. If voluntary tests are conducted, employers should provide counselling before and after the test. • Employers should ensure that chemicals and hazardous substances are properly labelled and stored. • Employers should keep an inventory of chemicals and hazardous substances and submit it to the Ministry. • Employers should keep Material Safety Data Sheets (MSDS) for all chemicals and hazardous substances in a location that is known and accessible to both workers and supervisors. • Employers should train workers how to safely use, store and dispose of chemicals. • Employers should provide adequate washing facilities and cleansing materials, including showers in case of exposure to chemicals or hazardous substances.
<p>MOM REGULATION ON FIRST AID AT THE WORKPLACE NO.PER.15/VIII/2008, ART. 9</p>	<ul style="list-style-type: none"> • At the workplace, employers should provide first aid room, provide first aid facilities, and appoint workers as First Aid officers, • Employers should ensure that First Aid box content should be according to the type specified by law • Additional facilities in the form of personal protective equipment and/or special equipment at the workplace specific potential hazards. • Employers should ensure that the first aid room is broad enough to accommodate at least one examination bed, adequate space for a first aid officer and the placement of first aid facilities.
<p>Indonesia Legislation No. 39 of 1999, Concerning Human Rights, Art.38 (3 and 4), 41, 48, 49 (1,2), <small>142</small></p>	<ul style="list-style-type: none"> • Employers should ensure that pregnant women have access to special facilities and treatment. • Employers should ensure that special protection is provided to women workers when they are assigned to jobs that could be risky to their reproductive health.
<p>Manpower Act of 2003, Arts. 76, 83, 86 and 87</p>	<ul style="list-style-type: none"> • Employers should ensure that every worker receives occupational safety and health protections. • Employers should establish and implement an integrated occupational safety and health management system • If work poses a significant risk to the health of a pregnant or nursing woman, employers should take measures to eliminate the risk, at no reduction in pay for the woman. • Employers are prohibited from employing pregnant women between 11pm and 7am if according to doctor's certificate there is risk to their health and the safety of the baby.
<p>MOMT Regulation on workers' examination in the implementation of work safety No. PER.02/ MEN / 1980, Arts. 3(1, 2); 5(1- 4) and 6(1).</p>	<ul style="list-style-type: none"> • Employers should arrange for pre-employment, periodic and special medical checks at no cost to workers by a certified Industrial Hygiene, Ergonomics, Occupational Safety and Health (HIPERKES) doctor. • Employers should ensure that periodic medical examinations are performed at least once a year.

3.2 Gaps in Indonesia labour initiatives and laws

This section assesses the extent to which initiatives by the Indonesian government and its labour laws have been instrumental in addressing the labour violations in the country's palm oil sector. The focus is limited to gaps in Indonesia's ratification of ILO labour conventions, the ISPO and Indonesia National Action Plan on UNGP.

3.2.1 Ratification of ILO labour conventions

Although Indonesia has ratified several international labour and human rights treaties, lack of clarity exists regarding their applicability within the Indonesian legal context. Reportedly, the ratification of these treaties is often for the sole purpose of acquiring legitimacy with less thought and resources allocated to implementation, and this may be a contributing factor to the lack of implementation of labour and human rights issues in Indonesia. For example, due to financial difficulties experienced by many families in Indonesia, child labour is common. To combat child labour, the Indonesian Government passed the Manpower Act with key provisions on child labour and its worst forms. It claims that by 2020 child labour for those aged 7-15 would be eradicated. However, enforcement of child labour laws can be challenging to implement in Indonesia, due to a lack of important data on child labour and trafficking investigations, violations, and convictions, as well as lack of labour inspectors and sufficient resources to carry out effective inspections. In total, Indonesia has ratified 20 labour conventions, and all are in force. Table 26 provides an overview of some of the labour conventions that have been ratified by Indonesia. Also indicated in the table are relevant conventions which are not ratified by Indonesia. Note that: Red = not ratified; Green = ratified.

Table 26 Labour and Labour-related Conventions Ratified by Indonesia

Labour issues	Conventions	Ratification Status	Date
Child labour	C138 - Minimum Age Convention, 1973	●	07-Jun-99
	C182 - Worst Forms of Child Labour Convention, 1999	●	28-Mar-00
	International Covenant on Economic Social Cultural Rights	●	Accession on 23 Feb 2006
	C078 - Medical Examination of Young Persons (Non-Industrial Occupations) Convention, 1946	●	
Forced labour	C029 - Forced Labour Convention, 1930	●	12-Jun-50
	P029 - Protocol of 2014 to the Forced Labour Convention, 1930	●	
	C105 - Abolition of Forced Labour Convention, 1957	●	07-Jun-99
Lack of Freedom of association and rights to collective bargaining	C087 - Freedom of Association and Protection of the Right to Organise Convention, 1948	●	09-Jun-98
	C135 - Workers' Representatives Convention, 1971	●	
	C098 - Right to Organise and Collective Bargaining Convention, 1949	●	15-Jul-57
	C154 - Collective Bargaining Convention, 1981	●	
	C141 - Rural Workers' Organisations Convention, 1975	●	
Discrimination	C144 - Tripartite Consultation (International Labour Standards) Convention, 1976	●	17-Oct-90
	C111 - Discrimination (Employment and Occupation) Convention, 1958	●	07-Jun-99
	C159 - Vocational Rehabilitation and Employment (Disabled Persons) Convention, 1983	●	
Insufficient income and	C131 - Minimum Wage Fixing Convention, 1970	●	
	C095 - Protection of Wages Convention, 1949	●	

Labour issues	Conventions	Ratification Status	Date
income insecurity	C100 - Equal Remuneration Convention, 1951	●	11-Aug-58
	C173 - Protection of Workers' Claims (Employer's Insolvency) Convention, 1992	●	
	C156 - Workers with Family Responsibilities Convention, 1981	●	
	C140 - Paid Educational Leave Convention, 1974	●	
	C102 - Social Security (Minimum Standards) Convention, 1952	●	
	C118 - Equality of Treatment (Social Security) Convention, 1962	●	
	C157 - Maintenance of Social Security Rights Convention, 1982	●	
Unethical hiring and contracting practices	C097 - Migration for Employment Convention (Revised), 1949	●	31-05-12
	International Convention on the Protection of the Rights of All Migrant Workers and Members of their Families	●	
	C143 - Migrant Workers (Supplementary Provisions) Convention, 1975	●	
Unfair targets & insufferable working hours	C175 - Part-Time Work Convention, 1994	●	
Lack of gender equality & protection for women	C183 - Maternity Protection Convention, 2000	●	
Unhealthy and unsafe working conditions	C155 - Occupational Safety and Health Convention, 1981	●	31-Aug-15
	C161 - Occupational Health Services Convention, 1985	●	
	C187 - Promotional Framework for Occupational Safety and Health Convention, 2006	●	
	C139 - Occupational Cancer Convention, 1974	●	
	C170 - Chemicals Convention, 1990	●	
	C148 - Working Environment (Air Pollution, Noise and Vibration) Convention, 1977	●	
	C184 - Safety and Health in Agriculture Convention, 2001	●	
	R192 - Safety and Health in Agriculture Recommendation, 2001	●	
	C130 - Medical Care and Sickness Benefits Convention, 1969	●	
	C128 - Invalidity, Old-Age and Survivors' Benefits Convention, 1967	●	
	C121 - Employment Injury Benefits Convention, 1964 [Schedule I amended in 1980]	●	
	R115 - Workers' Housing Recommendation, 1961	●	
	C110 - Plantations Convention, 1958	●	
	P110 - Protocol of 1982 to the Plantations Convention, 1958	●	
	C081 - Labour Inspection Convention, 1947	●	
	C129 - Labour Inspection (Agriculture) Convention, 1969	●	
R133 - Labour Inspection (Agriculture) Recommendation, 1969	●	29-Jan-04	

Source: Table adapted from NORMLEX, online: http://www.ilo.org/dyn/normlex/en/f?p=1000:11200:0::NO:11200:P11200_COUNTRY_ID:102938, Viewed on 17 August 2017

3.2.2 Labour Inspection

Indonesia's Ministry of Manpower has tasked the Directorate General of Labour Inspection Development to provide labour protection for workers and employers in Indonesia. Besides the ratification of ILO Convention No. 81 on Labour Inspection in Industry and Trade, various national legal instruments provide the basis for establishing labour inspection in Indonesia (e.g. Law No. 3 of 1951 concerning Bringing the Labour Inspection Law No. 23 of 1948 of the Republic Indonesia into operation for the whole territory of

Indonesia, Presidential Decree No. 21 of 2010 concerning Labour Inspection, Manpower Ministerial Decree No. 33/2016 concerning Labour Inspection Procedures, and Manpower Ministerial Decree No. 257/2014 concerning Labour Norms Expert/Cadre, KNK).¹⁴³ Despite the numerous regulations, significant gaps remain, regarding the implementation of labour inspection. Indonesia's labour inspectors do not have enough training or knowledge for their job. It is also suggested that corruption has had impacts on the role of labour inspectors. There are too few labour inspectors in Indonesia. As at the end of 2016, Indonesia had about 1,923 labour inspectors. However, in the same year, the number of companies in Indonesia was 21,591,508, meaning that the ratio of labour inspectors to companies in Indonesia is incredibly low, at 1 to 11, 228. Also, the number of inspected companies in 2016 is 61,134.¹⁴⁴

On a positive note, according to ILO Indonesia, the Government of Indonesia is now in the process of developing a Labour Compliance Programme (PROKEP) which will be conducted through the Labour Norms Expert/Cadre KNK at each company. This is in response to the shortage of on-the-ground labour inspectors. It is expected that each factory would be evaluated through PROKEP. The programme is also expected to improve the implementation of labour norms at workplaces, improve operational control of the labour inspection, and improve behaviours of relevant stakeholders.¹⁴⁵ Some labour inspectors are now re-centralised under the authority of the Provinces whereas, formally they were under the authority of districts and this created the problem of coordination between the local and national level.

3.2.3 Indonesian Sustainable Palm Oil (ISPO)

Global NGOs campaigning against environmental and labour violations caused by oil palm companies have urged the Indonesian government to take severe measures towards improved management of the palm oil sector. Responsively, in 2009, the government established the Indonesian Sustainable Palm Oil (ISPO) certification system to boost the global competitiveness of Indonesian palm oil, while at the same time supporting the Indonesian commitment to reduce greenhouse gas emissions. ISPO certification is mandatory and applies to all oil palm plantations in Indonesia, both for companies and smallholder farmers, although requirements differ. Independent bodies conduct the certification process based on assessment criteria provided by ISPO. However, despite heightened criticisms towards the RSPO, for many, it is still seen as the most prominent body issuing certificates for responsibly sourced palm oil. The ISPO is arguably more comfortable to comply with for companies.¹⁴⁶ According to research comparing the ISPO and other palm oil certification standards, the ISPO has the weakest standards to protect labour rights in the palm oil sector. There are several gaps in the ISPO's coverage of labour and social issues, as the criteria are too general and do not provide the necessary detailed guidance to guarantee the protection of labourers, women, children and smallholders in the palm oil sector.^{147 148 149}

3.2.4 National Action Plan (NAP) on UNGP

Following the acceptance of the UNGPs, the UN Working Group on Business and Human Rights have urged states to develop so-called National Action Plans (NAP) to guide governments' policy strategies in working towards protecting their people from human rights violations by businesses, hopefully resulting in compliance with the UNGPs.¹⁵⁰ Such a NAP should be an outline of the country's path to effectively upholding the UNGPs, detailing that country's specific issues in the field of business and human rights, and should be developed in an inclusive process with input from various stakeholders.¹⁵¹ After several years of being in development under the guidance of the Indonesian National Commission for Human Rights (Komnas HAM) and Institute for Policy Research and Advocacy (ELSAM) since mid-2015,¹⁵² Indonesia launched its NAP on 16 June 2017. However, some gaps remain, as no national baseline assessment was conducted and according to the Danish Institute for Human Rights (DIHR), the document "has not yet adopted by the government, it does not contain implementation mechanisms or monitoring, and review responsibilities assigned to concrete government actors. There is only a recommendation to periodically review the NAP, to adjust to the development of the business dynamics. It is currently unclear how this NAP draft is going to be taken further by the Ministry of Foreign Affairs".¹⁵³

Chapter 4 RSPO and Labour issues

This chapter presents some gaps identified in the RSPO P&C and audits concerning labour issues. To achieve this, the study scoped external views on the RSPO's handling of labour issues and reviewed the RSPO P&C's coverage of labour issues and the surveillance audit reports of 21 RSPO certified palm oil units.

4.1 External view of the RSPO's handling of labour and social issues

There have been several external concerns and criticisms expressed about the RSPO's complaint system, its processing of complaints and grievances, as well as its audits and enforcement of its P&C. Although not all concerns and criticisms are specific to its handling of labour and social issues, cases highlighted in this section provide some indication of the extent to which stakeholders do not feel confident about RSPO's handling of some unsustainable practices by its members.

In January 2018, an Indonesian community rights group, Transformation for Justice (TuK Indonesia), filed a complaint against the Roundtable on Sustainable Palm Oil (RSPO) with the Swiss NCP for breaches to the OECD Guidelines. According to OECD Watch, Tuk Indonesia alleges that the RSPO has failed to address complaints by residents of Kerunang and Entapang villages in West Kalimantan, whose land had been taken by Sime Darby.¹⁵⁴

In 2017, the Environmental Investigation Agency (EIA) "*EIA still watching the RSPO's palm oil audit watchmen*". In this report, the EIA stresses that the capacity and performance of RSPO auditors and assessors, have been partly to blame for the most high-profile complaints against RSPO members' practices. It had reviewed 34 HCV assessments that have been prepared for the RSPO and found "fundamental deficiencies, sampling and factor-assessment bias, and contained untrue information".¹⁵⁵ In an earlier report, the EIA reported that RSPO certification system is critically flawed, primarily because the RSPO's auditors are fundamentally failing to identify and mitigate unsustainable practices by oil palm firms.¹⁵⁶

In a recent report by Profundo *Lessons learned from palm oil and finance campaigns*, Brink and Riemersma (2017) summarised the views and criticisms on RSPO, raised by stakeholders in the palm oil sector, thus: "Although the RSPO is generally considered as a step forward, most stakeholders think it needs further development to achieve improvements in the sector. Most criticisms focused on the following issues: weak implementation; non-compliance by companies; a weak accreditation process; audits are not strong enough; weak enforcement of RSPO standards by the RSPO complaints panel; weak oversight of the New Planting Procedure by the Secretariat; and slow response of the RSPO Secretariat to resolutions."

In a 2017 press statement, "*NGOs Call for Systemic Reforms to RSPO Certification Scheme Beyond Standards Review*", a group of NGOs advocating for labour rights in the palm oil sector (i.e. ILRF, RAN, ELSAM, OPPIUK, PUSAKA, and TUK Indonesia), stressed the need to improve RSPO's complaint mechanism. They called on the RSPO to be more active in monitoring its certified members and stricter in implementing sanctions to members that commit violation of RSPO's P&C. RSPO member companies (and their labour violations) cited by the NGOs in this statement include: Felda (palm oil producer); Indofood Agri Resources (palm oil producer); Golden Agri Resources (palm oil producer); Sime Darby (palm oil producer); Sinar Mas (palm oil producer); IOI Group (palm oil producer); Goodhope (palm oil producer); and Pepsi Co (buyer).¹⁵⁷

Palm Oil Investigations (POI) in 2016 released a statement withdrawing its support for the RSPO, stating that it has lost confidence in the ability of RSPO's leadership to manage a credible certification system.¹⁵⁸ RAN, OPPIUK and ILRF filed a formal complaint to RSPO Complaints Panel in 2016 against palm oil giant Indofood. In an online article "*Will the RSPO enforce its own rules and protect workers' rights?*" Written by Gemma Tillack, RAN's Agribusiness Campaign Director, RAN expressed concern over the capability of the RSPO to hold its members accountable to its standards, given that it already had a poor track record of doing so.¹⁵⁹

In 2016, researchers Kate Macdonald and Samantha Balaton-Chrimes, co-wrote a report, "*The Complaints System of the Roundtable on Sustainable Palm Oil (RSPO)*". The report provides a detailed analysis of the successes and the failures of the RSPO complaint system and suggested recommendations for the

improvement. The report stresses the need for reforms to strengthen the transparency, consistency, integrity and independence of the complaint handling processes.¹⁶⁰

In 2015, the Rainforest Action Network released a press statement - “*Credibility of the RSPO Brand Remains in Question, Says Rainforest Action Network*”. The press release pointed out that the RSPO continues to certify palm oil companies that are violating human and workers’ rights across the globe. It berates the RSPO for its failure to implement a truly independent audit of the systemic human and labour rights abuses being reported by several NGOs and investigative researchers.¹⁶¹ In 2015, the EIA published “who watches the watchmen? In this report, the EIA raises doubt over the credibility of the RSPO’s certification, especially its assurances of the palm oil being referred to as sustainable. The EIA reported several cases showing the failings of accredited RSPO auditors. It argued that systemic weaknesses and loopholes in the RSPO’s infrastructure ensure these failings are rarely identified, and that RSPO’s certification system is failing to close the loopholes and address weaknesses in the monitoring of auditors.¹⁶²

In 2015, following the RSPO’s controversial response on the Wall Street Journal’s investigation into Felda estates, the article, “*Sustainable palm-oil body slammed over slave labour auditing*”, highlighted doubts raised by a coalition of international labour rights and environmental groups,¹⁶³ regarding the credibility and capability of the RSPO’s audit system in identifying its members that violate labour laws.¹⁶⁴ In 2014, Bread for the World and the United Evangelical Mission published a report citing the numerous limitations of the RSPO especially gaps in certification, auditing and complaints system.¹⁶⁵ In 2014, Natural Justice and BC Initiative published *A Review of the Complaints System of the Roundtable on Sustainable Palm Oil*. The authors noted several areas of improvement and particularly regarding the governance of RSPO’s complaints system. They also noted the following gaps: conflict of interest; lack of formalisation of the complaints system in institutional instruments and procedures; loopholes between related components of RSPO; and lack of a functioning monitoring system.¹⁶⁶

Although the RSPO certification is still regarded as the go-to option for companies intending to buy sustainable palm oil, the above external concerns show that there are significant doubts in the RSPO’s ability to fully enforce labour and labour-related practices in the palm oil sector. The RSPO itself acknowledges that its certification system is short of perfection and is not fail-proof.¹⁶⁷

4.2 Coverage of RSPO P&C of labour and labour-related issues

For the RSPO, the most critical ‘entry-point’ for stimulating its members’ compliance with international standards and national laws on labour issues, is its P&C. Presently, the RSPO P&C task force is currently working on a review of the P&C. The review is timely as there have been several recent criticisms relating to the current P&C, especially regarding labour issues. For this study, the current RSPO P&C 2013 version is used to identify some gaps in the coverage of the RSPO P&C regarding labour issues. Table 27 shows an overview based on a quick scan assessment. Note that: Red = no coverage; Yellow = insufficient coverage; Green = sufficient coverage. (G)= Guidance.

Table 27 Overview of quick assessment of labour issues coverage of RSPO P&C draft

Labour issues	RSPO P&C		Remark
	Coverage	Main Reference	
Child labour	●	6.7, 6.9 (G), 6.13, 4.6.7	The RSPO P&C indicator for child labour only requires growers to provide documentary evidence of minimum age. It does not specify which evidence (for example National ID cards, birth certificates). The National Interpretation (NI) for Indonesia states that it is “ <i>advisable</i> ” to do socialisation regarding the prohibition on employing children. Considering the prevalence of child labour in Indonesia’s palm oil industry, socialisation on child labour should be a mandatory control point. Similarly, companies should be required to have a

Labour issues	RSPO P&C		Remark
	Coverage	Main Reference	
Forced labour	●	6.12	<p>child labour and child protection policy, with evidence of regular socialisation. Furthermore, there is also no explicit reference to ILO convention 182 on worst forms of child labour. No reference, requirement or guidance on the elimination of worst forms of child labour.</p> <p>The P&C requests evidence from growers that no forms of forced or trafficked labour are used. However, it does not explicitly define what specific evidence companies must show regarding eliminating forced labour. The NI guidelines for Indonesia says the evidence should be that workers should enter <i>“employment voluntarily and freely, without the threat of a penalty...”</i>. The indicator does not explicitly indicate other forms of subtle menace that constitutes forced labour, for example, where workers are compelled to participate in overtime either because of the fear of dismissal or feel obliged to work beyond the legal maximum because that is the only way they can earn a higher wage. Debt bondage is also not directly specified. Also, considering the prevalence of forced labour in the palm oil industry, companies should be required to have a policy indicating no forced labour and a clear plan and schedule for socialisation.</p>
Lack of Freedom of association and rights to collective bargaining	●	6.6	<p>The two indicators focus solely on the provision of documentation (i.e. 6.6.1 policy and 6.6.2 records of minutes of meetings with unions), but nothing on actual practice. Despite this documentation, companies have been known to engage in severe cases of union-busting, sometimes relocating union leaders to other plantations or dismissing them for participating in peaceful demonstrations. The RSPO should add an indicator that requires companies to provide concrete evidence of practice-oriented commitments regarding this issue. For example: Companies can be asked to (provide evidence that they) consult with unions when major decisions need to be made that will affect labour; companies can be asked to provide evidence of allowing unions to use their facilities for meetings and other union-related activities, they can be asked to provide evidence that they allow unions enough time to go about their activities. They can be asked to maintain a certain level of worker retention rate for union leaders.</p>
Discrimination	●	6.8	<p>Two groups that are often blatantly discriminated against in Indonesia’s palm oil industry are women and people with disability (especially women with disability). Companies often find excuses of physical qualifications to marginalise or not hire them. So, the RSPO should go beyond requiring evidence that they are not discriminated against, to requiring evidence of inclusion. Other groups that have a similar challenge in the sector, are people living with HIV/AIDS and LGBT. In one of the companies visited as part of this study, the HR manager, clearly stated that they do not hire people living with HIV/AIDS and LGBT, despite their equal opportunity policy.</p>
Insufficient income and income insecurity	●	6.5	<p>Presently this is partially covered as there is no clarity on what a decent living wage entails for the palm oil industry in Indonesia. However, the RSPO has now commissioned a study to provide a definition and methodology for a decent living wage in the sector. The RSPO defers to national minimum wages where there is no provision for a decent living wage. Despite this, experience in the field indicates that companies still do not guarantee the minimum wages for some groups (e.g. temporary, daily workers). In addition, discussion on this topic often relates to whether companies are fulfilling the aspect of the <i>“insufficiency”</i> of workers’ wages and not necessarily the aspect of <i>“income insecurity”</i> - the neglected aspect of poverty and inequality - (e.g.</p>

Labour issues	RSPO P&C		Remark
	Coverage	Main Reference	
Unethical hiring and contracting practices	●	6.8 (6.8.2 and 6.8.3) 6.12 (6.12.3), 1.3 (G)	wage is consistent irrespective of seasonal or other fluctuations, no delays in paying wages, establishing a consistent wage-scale, timely application of the Provincial minimum wage decision). There are provisions for these in Indonesia labour laws; therefore, these topics should be highlighted, and compliance should be assessed as well, during audits. Insufficiently covered because there are no explicit indicators (or guidance) that require companies to ensure that ethical hiring practices are implemented by contractors or recruitment agencies used. Criteria 1.3 (G) comes close. A good way would be to explicitly require companies to include in third-party contracts, as a minimum: a policy indicating the contractor's commitment to upholding ethical hiring standards.
Unfair targets and insufferable working hours	●	6.5 (6.5.2, 6.5.3)	The indicators do not explicitly provide protections for workers against unfair targets set by companies. This is a crucial issue for workers. Where companies use a target-based system, there must be evidence that the set targets are feasible within official working periods. Next to this, companies should ensure that workers are provided consistent decent wages, irrespective of seasonal and other fluctuations. For some workers, a system whereby they are paid decent living wages for working legally allowed hours and not based on target system is often preferable.
Lack of gender equality and social protection for women	●	6.8, 6.9 (and G), 4.6.12, 6.13	Although there are indicators that cover this issue sufficiently, in the NI for Indonesia, the indicator 6.9.3 <i>"A specific grievance mechanism which respects anonymity of complainants where requested, and as long as they are supported with adequate information, shall be documented, implemented, and communicated to all workforce"</i> , should be "major". Such a mechanism is fundamental in ensuring that harassment or abuse in the workplace and reproductive rights are protected and addressed. The establishment of a gender committee should be considered an indicator. Based on field experience, companies that have active gender committees are well equipped to address this issue. Furthermore, there should be evidence that these gender committees are functional, and that the management proactively support their activities and plans.
Unhealthy and unsafe working conditions	●	4.6 and 4.7	Although there are indicators that cover this issue sufficiently, in the NI for Indonesia, the indicator 6.5.3 <i>"Growers and millers shall provide adequate housing, water supplies, medical, educational and welfare amenities to national standards or above, where such public facilities are unavailable or inaccessible"</i> , should be considered "major". Given that most plantations are in remote areas, the provision of these should be standard. Cases abound where workers do not have suitable housing or clean drinking water. This is critical to their health and safety. There is a tendency for companies to build their chemical mixing facilities near the housing area (and as such in proximity to playgrounds and water systems) so that workers can easily access it early enough to start the day's work. Notwithstanding national regulations, such practice should be discouraged because, exposure to some of the chemicals used could pose serious health risks, especially to children who use the playgrounds regularly.

As shown in table 27, the P&C sufficiently covers only a few labour issues, namely Discrimination, lack of gender equality and social protection for women, as well as unhealthy and unsafe working conditions.

In general, two major pitfalls exist:

1. The P&C indicators on labour focus more on documentation requirements and less on actual practice.
2. Many of the requirements and indicators are not specific enough and as such give too much room for interpretation by RSPO members.

These pitfalls, amongst others, may be the principal reason why many RSPO members are often found in violation of the P&C. In this sense, the RSPO P&C is not exactly responsive to the labour practice in the palm oil sector.

Furthermore, while the P&C appears to incorporate several crucial labour topics, an effective enforcement strategy and practice is required. As most external reports have shown, improvements to RSPO P&C will not be enough to ensure sustainable palm oil production without serious reforms to RSPO auditing, enforcement, complaints and review systems.¹⁶⁸

4.3 Review of RSPO audit of Labour issues

The quality of RSPO certification and surveillance audits being carried out by accredited certifying bodies (CBs) have come under intense scrutiny and criticism over the past years. Stakeholders in the palm oil sector have argued that the “effectiveness of the RSPO’s mission to drive sustainable practices in the oil palm sector depends heavily on the work of its auditors”. One NGO actively engaged with the RSPO and interviewed by Profundo, stresses that the accreditation process for CBs is weak, audits are often perfunctory, showing inferior auditing processes as the CBs themselves are weak.¹⁶⁹ Some NGO reports have also cited evidence of RSPO-approved auditors repeatedly conducting “sub-standard assessments” and even “colluding with oil palm companies to cover up serious violations of the organisation’s standards”.¹⁷⁰ In its report “*Who Watches the Watchmen*”, the EIA indicates that there are significant systemic flaws in assessments conducted by “about a quarter” of the RSPO accredited CBs.¹⁷¹ As highlighted earlier, the EIA concludes in a follow-up report that RSPO’s auditors are fundamentally failing to identify and mitigate unsustainable practices by oil palm firms.¹⁷²

In a recent study conducted by the ASI, which compared data on non-conformities raised by CBs during 2015-2016, the findings indicate that CBs are raising more non-conformities. According to the ASI, there was an increase in the “non-conformities related to Principles 2,4,6 and 7”. The ASI suggests that “as a scheme, the RSPO has become better in detecting and potentially correcting the critical shortcomings”. However, regarding the findings of its compliance assessments during 2015 and 2016, the ASI concludes that “all the CBs (assessed by ASI) have systematically failed in auditing the compliance of their certificate holders against the selected indicators”.¹⁷³

During the literature review, 53 audit surveillance reports of 21 randomly selected RSPO certified palm oil units in Indonesia, were studied to get a sense of how labour issues are audited. [Broader reviews of RSPO audit surveillance reports by ASI and others have assessed whether the RSPO’s detection of non-conformities have increased or decreased over the years, or if the P&C proved difficult for growers to implement].¹⁷⁴ The most striking findings noted by the study team were on the quality of audit reports, how the auditors assessed and reported findings on labour issues, and the prevalence of labour issues across the selected companies.

In general, more than 60% of the audit surveillance reports reviewed were of low quality, particularly regarding grammar, overall readability and structure of case reporting. This is also corroborated by some external reviewers’ comments attached to the audit reports. The study team observed that the findings from auditing the labour-related criteria and indicators, indicated patterns of “checklist mentality”, where auditors appear to have focused more on checking off the availability of documentary evidence of labour aspects, and less on obtaining relevant information regarding the CH’s implementation of labour practices.

In the audit surveillance reports, 270 non-conformities were raised, of which 41 were observations, while 122 were major non-conformities and 107 were minor non-conformities, covering Principles 1, 2, 4, 5, 6, and 8. Figure 1 shows the number of non-conformities raised per Principle. Figure 2 shows the kinds of non-conformities per Principle.

Figure 1 Number of non-conformities raised per Principle in selected audit reports

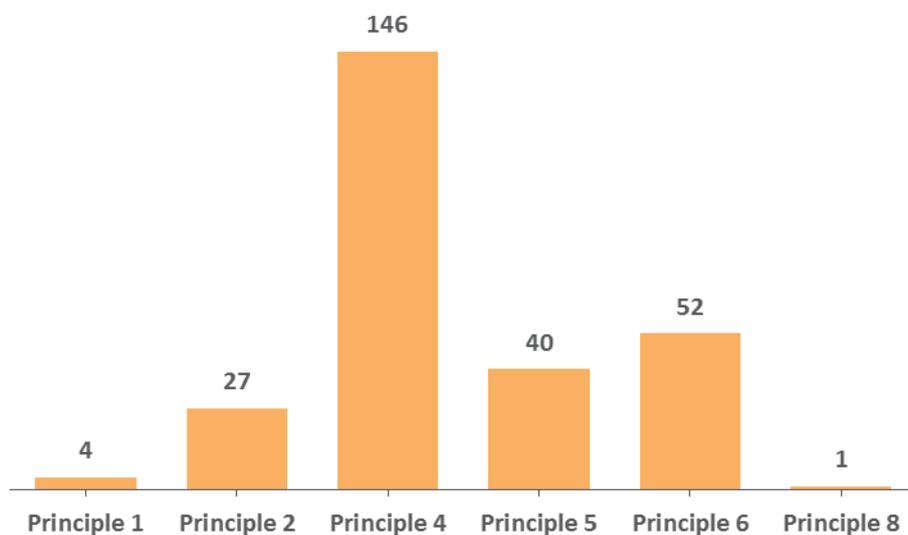
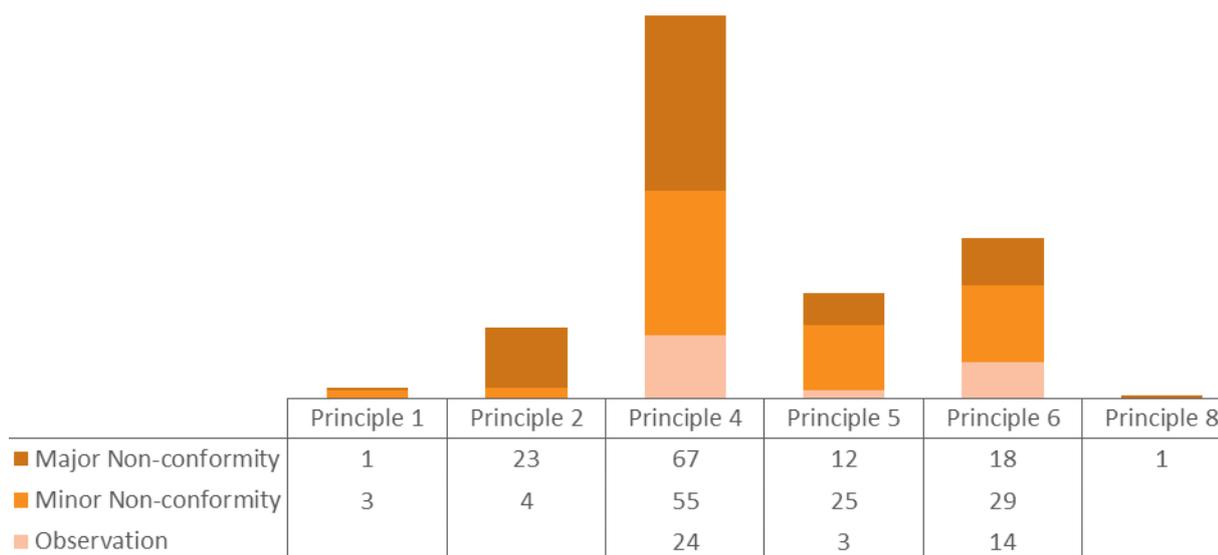


Figure 2 Kinds of non-conformities raised per Principle in selected RSPO audit reports



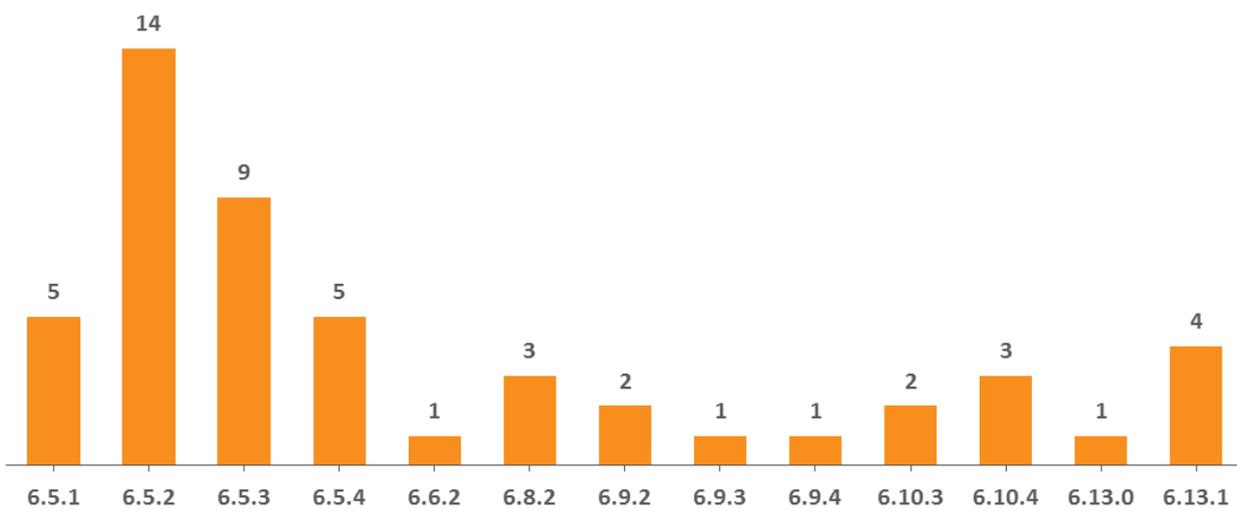
More than 80% of the issues raised were under three Principles, namely: Principles 2 (Compliance with applicable laws and regulations), 4 (Use of appropriate best practices by growers and millers) and 6 (Responsible consideration of employees, and individuals and communities affected by growers and millers).

Principle 4 had the most raised non-conformities, and at first sight, it might seem that there is better compliance with other Principles; however, this is not necessarily the case. Compared to P&C indicators relating to health and safety, the indicators for child labour, forced labour and discrimination are not robust

or concrete enough to fully assess companies' compliance (see assessment on section 4.2). Moreover, based on experience from the field study part of this research (see chapter 5), issues like child labour and forced labour and are often transient in practice and therefore could be difficult for auditors to witness.

Under Principle 2, the most raised indicator is 2.1.1 (Evidence of compliance with relevant legal requirements shall be available). Under Principle 4, the most raised indicator is 4.7.3 (All workers must be adequately trained in safe working practices, and adequate and appropriate protective equipment shall be available to cover all potential hazardous operations). Under Principle 6, the most raised indicator is 6.5.2 (Labour laws, union agreements or direct contracts of employment detailing payments and conditions of employment shall be available in languages understood by the workers). Together, these three appear to be the areas where companies have the least compliance with the P&C, international labour standards and the Indonesian labour laws. Figure 3 shows the prevalence of Principle 6 in selected RSPO audit reports.

Figure 3 Prevalence of RSPO Principle 6 in selected RSPO audit reports



Furthermore, 6 CB compliance assessment reports produced by the Accreditation Services International (ASI), were studied.¹⁷⁵ There were a few noteworthy cases where CBs did not properly conduct the audits or have closed the non-conformities found without adequate verification of the evidence provided by the companies. For example, in 2016, the ASI evaluated a certificate holder (CH) that had already been audited 3 times by one of the CBs during the past years. During the assessment, the ASI team found that the CB did not adequately verify the effectiveness of corrections and corrective actions taken by the CH, before closing the non-conformities raised. The CB had raised 4 Major non-conformities and proceeded to close them all, based on a desk review of information provided by the CB, whereas field verification is required for closing major non-conformities. During their compliance assessment to the CH, the ASI assessors still found a re-occurrence of some of those closed major non-conformities. Despite this, the CB was not suspended.

The ASI has stated that in some of the compliance assessments it conducted during 2015-2016, there were indications of “preparations (probably supported by the CB), intimidation of workers and documents being altered”. The CB’s were also “uncooperative and supported the CH rather than taking an impartial role”.

Chapter 5 Field study on labour compliance in RSPO certified plantations

This chapter presents the findings of the field study on labour compliance in four RSPO certified plantations in Indonesia. The field study was conducted during October – December 2017. The methodology is described in detail in Chapter 1. During the study, information was gathered through document review and face-to-face interviews with management staff, workers and other stakeholders. Table 2 and Table 3 show the groups and number of persons interviewed per company. Also, site visits were conducted to the companies' plantations and mills as well as the housing complexes, company clinics and schools (elementary and kindergarten). Table 28 shows some background information of the companies regarding the number of mills, estates, size of plantations and number of employees.

Table 28 Relevant background information of companies visited

Company ¹⁷⁶	A	B	C	D
Location	Riau	South Sumatra	South Kalimantan	Central Kalimantan
Head Office	Malaysia	Singapore	Singapore	Malaysia
No. of palm oil mill	1	1	1	1
No. of estates	3	3	4	2
Mill capacity MT/hour	45	100	60	45
Size of plantations (Ha)	11,555.31	6,093.75	12,922.63	7,114
No. of employees	1,905	1,114	1,500+	1,608

An assessment of the findings is made using a simple categorisation that defines the level of compliance with labour issues, as shown in Table 4.

The most recent RSPO surveillance audit reports show that Company A had major non-conformities concerning core labour issues, while Company B, C and D had no major non-conformities on labour issues. The study team observed that most of the surveillance audits emphasised the availability of labour-related documentation and procedures and less on the actual labour practices. Two of the companies visited have had recent NGO publications highlighting labour rights abuses in their plantations and mills. Many of the findings outlined in the NGO publications correspond with the findings made by this labour compliance study, especially in the areas of wages, extended working hours, child labour, poor living conditions, the use of hazardous chemicals and other general OSH risks.

A report of these findings (including short-medium term and long-term recommendations) was shared with each of the companies. As at the time of finalising this report, Companies C and D provided some responses which are highlighted below. All findings are presented in the following sections under 9 headings corresponding to the identified labour issues highlighted in section 2.2

5.1 Child labour

Company A

Company A has a commitment not to employ workers below the age of 18. To support this, the company cites its investments in building an elementary school, kindergarten and day-care centre for the workers and the neighbouring community. Although the study team did not find children in the plantations during the study visit, the awareness of the dangers of child labour is still low amongst workers, especially amongst casual workers. The workers do not support the fact that their children are not allowed to assist them with work, they think this is strange, so they still bring their children along. It appears that there is no strict enforcement of the company's child labour policy. During the FGDs, it was reported that children can still be seen in the plantations when there is a holiday or after school hours. Because the wages paid to the workers are considered meagre (and often below the minimum wage), children assist their parents either to realise more *premie* or to meet the high targets set by the company.

Sometimes some parents bring their children to the plantations under the guise of educating or familiarising them about palm oil harvesting. They claim that since their wages are not enough to afford school fees to

send their children to higher education, working in palm oil estates remains the most plausible future for their children. The FGDs highlighted that most workers at Company A could not afford to send their children to higher education and as a result, about 7 in 10 children do not finish high school. Consequently, these children have no choice but to join the oil palm plantation. Also, the company claims that it conducts -job training for children under the age of 18 years (especially 16 and 17 years of age and those that are about to turn 18). Because, these children are exposed to hazardous work within the plantation, such practice is not in compliance with the ILO minimum age convention C138, the Indonesian Manpower Act No. 13 of 2003, Arts. 1(26), 68; MOMT Decree. KEP.235/MEN/2003, ARTS. 1-4 and the RSPO P&C 6.7.

Reacting to the findings of this field verification, the company disputed the claims made by workers during the FGDs, saying that:

“Company A does not employ workers under the age of 18 and does not allow workers to bring their children into the fields under any circumstances. This matter has been communicated to employees and their families through internal memorandums, signboards and periodic reminders during morning musters.

- *A directive from the Ministry of Education was given for companies to provide on-the-job training or vocational training for 3 months to students from the Vocational School as part of their skills enhancement and curriculum.*
- *We have been awarding scholarships to employee children and children from nearby communities since 2009.”*

Company B

Company B has a child protection policy which states that it does not tolerate child labour, any form of child exploitation, and child abuse. It says that it is committed “to ensuring the rights and protection of children under age 18 (as set in the UN Convention on the rights of the child)”, and adopts the definition of child labour as contained within the ILO Worst Forms of Child Labour Convention No. 182, and the ILO Minimum Age Convention, 1973 (No. 138). The company has built a kindergarten, primary school and a day-care centre, which are in reasonable proximity to the housing units. Based on discussions during the FGDs and answers during the interviews, the study team observed that workers seem to be aware of the dangers of bringing children to the plantation. The study team did not find any children at the plantation during the visit, however, during the FGDs, it was reported that on a few occasions children could still be seen in the estates, especially when there is a holiday or after school hours. According to the Indonesian Manpower Act No. 13 of 2003, Art. 76, “children shall be assumed to be at work if they are found in a workplace unless there is evidence to prove otherwise”. Therefore, the fact that children could still be found at the plantation is not in compliance with the ILO minimum age convention C138, the Indonesian Manpower Act No. 13 of 2003, Arts. 1(26), 68; MOMT Decree. KEP.235/MEN/2003, ARTS. 1-4 and the RSPO P&C 6.7. Like other plantations, workers expressed that because the wages paid to them are meagre and the targets are very high (especially during low season), sometimes, the children often assist their parents in meeting the high targets set by the company.

Reacting to the findings of this field verification, the company disputed the claims made by workers during the FGDs, saying that:

“It is not true that there are workers bringing in their children to work to reach their target. This can be proven by:

- *The policy which forbids bringing under-aged children to work or workplace.*
- *The socialisation of this policy to the workers.*
- *The signboard with It is forbidden to bring under-age children to the work sphere.”*

“It is not true that the established basic target were too high, because the basis underwent the process of calibration and was approved by workers’ representatives through their labour unions. Even during low season the company still pays the official minimum wage, which is a form of subsidy. The basis serves more as a benchmark to calculate the premie when a worker surpasses the basis. It is not to limit a worker in going

beyond the official minimum wage. During off-school hours the children are involved in learning activities like Quran reading lessons. The company also provides a day-care centre where the children are kept until the parents finish their work.”

Company C

Company C maintains that it adheres to the ILO child labour convention on minimum age and has established a ‘no child labour’ policy at its estates and mill. Children below the age of 18 are not allowed to work at Company C. It was reported, that in the past, children often came along with their parents to the plantations or could be seen working in the plantations when they have a holiday or have finished a school day. Because the wages paid to the workers are considered meagre (and often below the minimum wage), parents often brought their children to assist them either to realise more *premie* or to meet the high targets given to them by the company. This is the primary reason why most children could be seen at the plantations. Other parents brought their children to the plantations under the guise of educating or familiarising them about palm oil. According to several workers, nowadays, this situation rarely happens.

Awareness of the company’s child labour policy is quite high amongst workers. No children were found at the plantations during the two-day visit and employee records show that Company C workers are above the age of 18. Workers interviewed attribute this progress to a strong awareness of the dangers of child labour amongst workers, and the company’s focus on child education as well as strict policy enforcement and monitoring by the company. During their morning assembly and later in the afternoon, the unit supervisor *mandor* conducts checks to see if the workers brought their children to work. Any child found in the premises would be sent home immediately. The plantation has established informative sign posts stressing the prohibition of child labour at the estates and have done few socialisation activities of their ‘no child labour’ policy. To further stress their commitment to keeping children out of the plantations, Company C has also invested in building an elementary school, kindergarten and day-care centre for the workers and the neighbouring community, with paid teachers assigned.¹⁷⁷ The company’s elementary school complies with the current syllabus from the Ministry of Education. This was confirmed by the regional representatives of the department of education who were also on a visit to the school at the time of the visit.

However, there is increasingly a situation in the community where several children under the age of 18 are married and have families; and due to the age restriction at Company C, these individuals are unable to work at the plantation, which is a primary job provider in the community. As a result, they are faced with the challenge of not being able to provide for their families economically. This is an unintended consequence of the minimum age policy being applied. This is an issue for which the (local and regional) government needs to take responsibility. However, as part of its corporate social responsibility (CSR) programme, Company C should consider engaging with the local and regional government to identify and support solutions to assist these group of young children. The elementary school at Company C has a few computers but lacks access to the internet. The school teachers and headmaster also stressed the need for internet as a powerful component for improving learning at the school. The regional representative of the ministry of education stressed the lack of a proper sick bay at the school premises as a challenge that should be addressed.

Reacting to the findings of this field verification, Company C said that:

“Surprising are the recommendations regarding child labour and local entrepreneurship. While I fully understand that the “no-child labour” policy is causing issues for the local underage school dropouts, I’m surprised that it is seen a task of the company to provide support. Regarding the community development, your recommendation is in line with our strategy for new CSR project which is much more focused on reducing dependence on palm oil as the sole source of income. However, given the sheer size of our operations this takes time to touch on all communities.”

Company D

Company D commits not to employ workers under 18 years of age. To enforce this policy, the company claims that supervisors carry out daily checks during their morning assembly. Also, the company has invested in

building an elementary school, a kindergarten and a day-care centre for the workers and the neighbouring community. It cites signposts at the estates which are being used for warning workers of the risks of child labour. The company claims that it has also conducted socialisation of its no child labour policy amongst workers. Although the study team did not find children in the plantations during the study visit, contrary to the claim made by the company, it appears that there is no strict enforcement of the company's child labour policy, as during the FGDs, it was reported that on a few occasions children could still be seen in the estates, especially when there is a holiday or after school hours.

Also, a sample batch of the employee records showed that six workers were 17 years old as at the time of the study visit. This practice is in breach of the company's policy commitment and not in compliance with the ILO minimum age convention C138, the Indonesian Manpower Act No. 13 of 2003, Arts. 1(26), 68; MOMT Decree. KEP.235/MEN/2003, ARTS. 1- 4 and the RSPO P&C 6.7. The employee records at Company D is inconsistent, making it difficult to ascertain the extent of this practice, as the study team also observed errors in the records of the date of birth for several employees. For example, on the same sample batch of employee records, the dates of birth for 19 employees with different job positions were listed as 31/03/2012 – which would imply that as at the time of the study visit, these employees were around 5 years of age. A staff at Company D explained that the dates must have been registered wrongly. Several workers stressed the lack of access to scholarships for their children to enable them to pursue higher education. Also, some of the interviewed welfare committee members pointed out that children at the estates and mill need more exposure to the outside world and that the lack of access to the internet, computers and more books. They stressed that this isolates their children and limits their exposure to useful and educative information.

Table 29 Summary regarding Child labour

Company	A	B	C	D
Child labour ¹⁷⁸	●	●	●	●
	<ul style="list-style-type: none"> ▪ Children under the age of 18 years are still exposed to work under the form of job training organised by the company. This is not in compliance with the ILO minimum age convention C138, the Indonesian Manpower Act No. 13 of 2003, Arts. 1(26), 68; MOMT Decree. KEP.235/MEN/2003, ARTS. 1-4 and the RSPO P&C 6.7. 	<ul style="list-style-type: none"> ▪ Workers report that children could still be seen in the plantations, especially when there is a holiday or after school hours. This is not in compliance with the ILO minimum age convention C138, the Indonesian Manpower Act No. 13 of 2003, Arts. 1(26), 68; MOMT Decree KEP.235/MEN/2003, ARTS. 1-4 and the RSPO P&C 6.7. 	<ul style="list-style-type: none"> ▪ No provision of scholarships for gifted children of workers that are of higher education age. ▪ No access to internet for the company's elementary school ▪ No sick bay at the school premises 	<ul style="list-style-type: none"> ▪ At least six employees were employed before the age of 18 years. Such practices are not in compliance with the ILO minimum age convention C138, the Indonesian Manpower Act No. 13 of 2003, Arts. 1(26), 68; MOMT Decree. KEP.235/MEN/2003, ARTS. 1-4 and the RSPO P&C 6.7. ▪ There were several errors in the records of date of birth for several employees.

5.2 Forced Labour

Company A

Company A's social policy cites its commitment to the elimination of forced labour. At the estates and mill, the study team could not find any evidence of forced or bonded labour, either through accounts of physical abuse at work or in the retention of workers' documents. However, it noted that an environment encouraging non-voluntary labour had been created within Company A. This is because, in the estates and mill, the workers cannot earn enough to meet their basic needs without pursuing *premie* or participating in overtime, compelling workers to engage in longer working hours that is often unacceptable by law. Some workers stress that their targets are too high to cover within a 7-hour workday and as a result, they often work longer hours of unpaid overtime to meet the targets. This is not in compliance with MANPOWER ACT No. 13 of 2003, ART. 78.

Similarly, at the mill, there is a non-voluntary overtime practice which compels workers to engage in longer working periods and shift extensions. Although overtime is paid to mill workers, some engage in overtime of more than 3 hours daily or engage in multiple or non-stop shifts with little or no personal break, until all FFBS are processed.

The practice of overtime is institutionalised at the mill, such that, it exacerbates a low understanding among the workers regarding their right to refuse overtime. As a result, mill workers do not give written consent before engaging in overtime as required by Indonesian law MOMT DECREE No. KEP. 102/MEN/VI/2004, Art. 6. The situation is one of subtle menace, where workers are compelled to participate in overtime either because of the fear of dismissal or feel obliged to work beyond the legal maximum because that is the only way they can earn a higher wage. According to the ILO committee of experts on forced labour, this constitutes forced labour and therefore is in breach of the RSPO P&C 6.12 (on forced labour) and not in compliance with the ILO forced labour convention (C029).¹⁷⁹

Reacting to the findings of this field verification, the company disputed the claims made by workers, saying that:

"Company A has been given the permission to deviate the overtime of 3 hours per shift or 14 hours per week by the Labour office. In the event where employees overtime exceeds the permitted overtime, mutual agreement for such overtime have been obtained. We acknowledge that written consent can be an area for improved implementation. We also note the need to ensure better management, recording and monitoring of such overtime."

Company B

Company B has a human rights policy which states that it is committed to ensuring no forced or bonded labour. At the estates and mill, no physical evidence of bonded labour, either through accounts of physical abuse or the retention of documents, was found. However, the study team observed that an environment encouraging non-voluntary labour had been created within Company B. This is because workers at Company B cannot meet their basic needs without pursuing *premie* or participating in overtime. Plantation workers state that they often work long hours to meet their targets, but without overtime compensation. They claim that if they leave without meeting their target, a deduction would be made from their basic wage. This lack of overtime compensation is not in compliance with MOMT Decree on overtime hours and overtime wages No. KEP.102/MEN/VI/2004, Arts. 3 and 7-11 and MANPOWER ACT No. 13 of 2003, Art. 78. At the mill, there is an overtime practice which compels workers to engage in longer working hours, sometimes above what the law allows (i.e. MOMT Decree on overtime hours and overtime wages No. KEP.102/MEN/VI /2004, Art.

3). As this practice is well institutionalised, it exacerbates a low understanding among the workers regarding their right to refuse overtime.

Reacting to the findings of this field verification, the company disputed the claims made by workers, saying that [Translated from Bahasa Indonesia]:

*“The calibration has resulted in a harvest work that is appropriate with the capacity of workers within 7 hours of work; which means that he should be able to earn the minimum wage with 7 hours’ work [40 hours per week]. To earn *premie* is voluntary. Based on our data and the general experience by the workers, they can reach the basis within 7 hours, so that they already get *premie* in 7 hours. It is not true that workers’ wages are deducted when they do not reach the basis. Fact is that even in low season workers are still paid the minimum wage (incl. a subsidy) to conform to the Indonesian labour regulations. Mill workers are not forced to perform overtime work, and there is an agreement between workers and company, which is reflected in the Overtime Order Sheet (*surat perintah kerja lembur*). Overtime work is not continuous, but depending on the (high) season and the amount of FFBs coming in.”*

Company C

In its Social and Environmental Policy, Company C prohibits the use of forced or bonded labour and assures that measures shall be taken to prevent such a practice. The policy also commits to a process of remedial actions regarding support and assistance services, if such labour is uncovered. At the estates and mill no physical evidence of forced or bonded labour, either through accounts of physical abuse or the retention of document, was found. However, like other companies, it is noted that an environment encouraging non-voluntary labour have been created within Company B; as in the plantations and mill, the workers cannot meet their basic needs without pursuing *premie* or participating in overtime. The established *premie* system in the estates creates an incentive for workers to engage in longer working hours that is often unacceptable by law. At the mill, there is a non-voluntary overtime practice which compels workers to engage in longer working hours and non-stop shifts. As this practice is well institutionalised, it exacerbates a low understanding among the workers regarding their right to refuse overtime. It is also unclear (as no evidence was seen) if all workers that participate in overtime work have provided written consent, as required by Indonesian law MOMT DECREE No. KEP. 102/MEN/VI/2004, Art. 6.

Company D

Company D does not have a specific policy on forced labour. At the estates and mill, no physical evidence of bonded labour, either through accounts of physical abuse at work, or the retention of workers’ document, was found. However, it was noted that an environment encouraging non-voluntary labour has been created within Company D; as in the plantations and mill, the workers cannot meet their basic needs without participating in overtime, compelling workers to engage in longer working hours that is often unacceptable by law. Some of the sprayers interviewed said that they are not conscious of how much overtime they work because the *mandors* keep no records. During the FGDs, most workers stressed that their targets are too high to be covered within a 7-hour workday and as a result, they often worked long hours of unpaid overtime to meet their targets. At the mill, workers engage in longer working periods and shift extensions. Although overtime is paid to mill workers, some engage in overtime of more than 3 hours daily or engage in non-stop shifts with little or no personal break, until all FFBs are processed. The practice of overtime is institutionalised at the mill, such that, it exacerbates a low understanding among the workers regarding their right to refuse overtime. As a result, mill workers do not give written consent before engaging in overtime as required by Indonesian law MOMT DECREE No. KEP. 102/MEN/VI/2004, Art. 6. The human resources manager maintains that he is aware of the requirements of the regulation, but that the company is not in the practice of asking for written consent from mill workers for overtime, because they cannot estimate the number of overtime hours needed.

The company’s clinic staff work extreme overtime hours, sometimes with a shift of up to 24 hours. However, they are also not paid overtime. This practice is in breach of the RSPO P&C 6.5 (6.5.1) and not in compliance with MANPOWER ACT No. 13 of 2003, ART. 78 and the MOMT DECREE No. KEP.102/MEN/VI/2004, Arts. 3, 7

on overtime hours and overtime wages. The interviewed religious leaders stressed that due to workers' workload and long working hours, they have observed that sometimes the workers are too tired or unavailable to attend the basic religious functions, thereby hindering the spiritual needs of the workers.

The environment created at Company D regarding overtime is one of subtle menace, where workers are compelled to participate in overtime either because of the fear of dismissal or feel obliged to work beyond the legal maximum because that is the only way they can earn a higher wage. According to the ILO committee of experts on forced labour, this constitutes forced labour and therefore is in breach of the RSPO P&C 6.12 (on forced labour) and not in compliance with the ILO forced labour convention (C029).¹⁸⁰

Table 30 Summary regarding Forced labour

Company	A	B	C	D
Forced Labour ¹⁸¹	●	●	●	●
	<ul style="list-style-type: none"> ▪ Workers' targets are too high to cover within a 7-hour workday and as a result, they often work longer hours of unpaid overtime to meet the targets. This is not in compliance with MANPOWER ACT No. 13 of 2003, ART. 78. ▪ Some mill workers engage in overtime of more than 3 hours daily or engage in multiple or non-stop shifts with little or no personal break, until all FFBs are processed. This practice is not in accordance with MOMT Decree on overtime hours and overtime wages No. KEP.102/MEN/VI/2004, Arts. 3,7 ▪ Mill workers do not provide written consent prior to overtime work. This is not in accordance with MOMT Decree No. KEP. 102 /MEN/VI/2004, Art. 6. ▪ Overall, the situation is considered subtle 	<ul style="list-style-type: none"> ▪ Plantation workers often work long hours to meet their targets without overtime compensation. This is not compliant with MOMT Decree on overtime hours and overtime wages No. KEP.102/MEN/VI/2004, Arts. 3,7-11 and MANPOWER ACT No. 13 of 2003, Art. 78. ▪ The environment created at Company B regarding overtime, is one of subtle menace and constitutes forced labour. This is in breach of the RSPO P&C 6.12 (on forced labour) and not in compliance with the ILO forced labour convention (C029) 	<ul style="list-style-type: none"> ▪ Mill workers made to work several nonstop shifts up to 12hours is not in accordance with MOMT Decree on overtime hours and overtime wages No. KEP.102/MEN/VI/2004, Arts. 3,7 ▪ Mill workers not giving written consent prior to overtime work. This is not in accordance with MOMT Decree No. KEP. 102 /MEN/VI/2004, Art. 6. ▪ The environment created at Company C regarding overtime, is one of subtle menace and constitutes forced labour. This is in breach of the RSPO P&C 6.12 (on forced labour) and not in compliance with the ILO forced labour convention (C029) 	<ul style="list-style-type: none"> ▪ Lack of overtime compensation for harvesters, sprayers, and clinic staff, is not in compliance with the RSPO P&C 6.5 (6.5.1), the MANPOWER ACT No. 13 of 2003, Art. 78 and the MOMT DECREE No. KEP.102/MEN/VI/2004, Arts. 3, 7 on overtime hours and overtime wages. ▪ Mill workers made to work in overtime of more than 3 hours daily or engage in non-stop shifts with little or no personal break, until all FFBs are processed. This is not in accordance with MOMT Decree on overtime hours and overtime wages No. KEP.102/MEN/VI/2004, Arts. 3,7 ▪ Mill workers are not asked to give their written consent prior to overtime work. This is not in accordance with MOMT Decree No. KEP. 102

	<p>menace, where workers are compelled to participate in overtime either because of fear of dismissal or because it is the only way they can earn a decent wage. This constitutes forced labour and therefore is in breach of the RSPO P&C 6.12 (on forced labour) and not in compliance with the ILO forced labour convention (C029)</p>			<p>/MEN/VI/2004, Art. 6.</p> <ul style="list-style-type: none"> ▪ The environment created at Company D regarding overtime, is one of subtle menace and constitutes forced labour. This is in breach of the RSPO P&C 6.12 (on forced labour) and not in compliance with the ILO forced labour convention (C029)
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5.3 Lack of Freedom of association and Collective Bargaining

Company A

In principle, Company A is committed to workers freely forming and joining unions. The company is unionised with 4 recognised unions namely, SBSI (FKUI and Hukatan), SPSI, Kahutindo, SP2KS. It supports union activities through the provision of free transport and per-diems for union representatives attending union-related conferences and meetings. There were neither clear indications nor external informant accounts of the company engaging in union busting. Although, only 5% of the workers are not members of any union, awareness of union rights is still low at Company A, especially among temporary workers. Feedback from the FGDs indicate that there is insufficient socialisation by the unions towards the workers about their rights. Some of the workers interviewed were not aware of their union membership. Others knew which unions they belonged to but were not aware if they had any membership benefits and rights. Furthermore, union membership dues are automatically deducted from workers' salaries. Workers do not know how much their union membership dues cost and they stress that, union leaders should be transparent with the union finances. Workers have the right to join or refuse to join a union and as such, automatic enrolment of workers in unions without their consent is not appropriate. Workers should also periodically provide a written consent for having union dues consistently deducted from their wages.

There is a CBA negotiated for all three estates and one mill (2015 – 2017) but it expires in 2017 and the company has not initiated a new negotiation process (as at the time of visit in October 2017). This has created some scepticism amongst union leaders. Usually, only the union with the majority representation (51%) in the company can be involved in the CBA negotiation with the company. As Company A has four unions with no majority representation, the company claims that it does not know which union to negotiate the CBA with. This should not be a reason to delay the new negotiation process, as the MANPOWER ACT No. 13 of 2003, ART. 120 (3) states that in an establishment with multiple unions, a maximum of three unions or a group of unions each representing at least 10% of all workers, can form the negotiation team with members determined in proportion to the number of members in each union.

Reacting to the findings of this field verification, the company said that:

“The Collective Agreement (PKB 2015-2017) for Company A is negotiated at the Cooperation of Plantation Companies Sumatera (BKS-PPS) level under Company A plantation with Federation of Agriculture Plantation Workers Union for Indonesia (PP.FSP.PP-SPSI). The capacity and capabilities of unions to effectively perform their functions continue to be challenging. Companies do not interfere and are not involved with the operations of unions. Company A has previously initiated a negotiation platform with all unions to encourage

dialogue and engagement. We note the challenges and will continue to find amicable solutions to providing support to unions.”

Company B

In its human rights policy, Company B recognises freedom of association as one of the key aspects of its human rights definition. However, there is no specific policy commitment by to protect the rights of workers to organise and bargain collectively. There is also no reference to ILO conventions C087 and C098 in their human rights policy. There are two unions at Company B. According to the union leaders interviewed, the company has had recent problems with one of them. This led to the dismissal of several workers who were the union representatives, for participating in union demonstrations. Company B stated that the workers had been on strike for three days and this affected the company’s business, and that this act creates a negative precedent amongst workers. The case was lodged at the RSPO complaints panel but was later being settled in court. Three members of the new leadership of the same union, attended the court hearing and were reprimanded; two of them protested this reprimand and were dismissed. Several interviewees reported that the union leaders and their families were evacuated from their premises within two days, by military personnel.

Also, three workers of the fired workers had wives - one of them is a permanent worker, and she was also dismissed and paid separation fees. The other two were casual workers and as such the company claimed no further obligation to them. An interviewee who was one of the victims stressed that that Company B uses group contracts which often connect families, such that when the man is dismissed if his wife is also working she will be dismissed as well. The union leaders stressed that this incident has negatively affected their morale and the willingness of workers to freely exercise their right to organise. For example, in 2016, a new union was established in one of the estates because several workers did not want to join the other union anymore, as they were afraid that the company’s management was targeting them. This ultimately affects the workers’ freedom to express their fundamental rights “to join organisations of their own choosing” as enshrined in ILO convention C087 Freedom of Association and Protection of the Right to Organise Convention (1948), Art.2.

In general, awareness about union rights at Company B is relatively low, and this also affects the willingness of workers to join unions. However, the company facilitates the unions by providing office space and giving a monthly stipend of around IDR 500,000, which can be used for general expenses including travel to join union-related forums and conferences. The company’s management claims that it often allows union members to attend union-related meetings and provide travel stipends to attendees when requested by the union leaders. A CBA (2016 – 2018) has been negotiated by the union before the dismissal of their leaders, after this, the company continued with the new leaders. It was stressed that the company dominated the discussions and negotiations for the CBA. The union’s chair that signed the CBA is now dismissed because he was one of those who attended the hearing of the dismissed union members and protested his reprimand. According to the union, the CBA is vague due to the company’s dominance, but they were glad that they could get some benefits like asking the company to provide the PPE and tools for workers (formerly, workers had to purchase their PPE and tools).

Reacting to the findings of this field verification, the company disputed the claims made by workers, saying that [Translated from Bahasa Indonesia]:

“The company does not arbitrarily dismiss workers; there are legal reasons for it. There have been dismissals of workers who happened to be union leaders; that was because they violated rules that were stipulated in the Labour Law and collective bargaining agreement. The three of the workers were dismissed because they had given a false statement to get permit for a leave from the company. Dismissals of workers follow the existing laws in Indonesia. What Profundo says – that the wife of the dismissed worker was also dismissed – is not true. But the social norms are such that when a worker, who is the head of a family and has his wife working in the same company, cease to work in the company, the wife will then follow her husband. So, in this case, his wife resigned voluntarily. If his wife had preferred to stay in her work, the company would not have objected. Company B did not apply group contract but only individual contract. Every worker who does

cease to work will automatically lose all the facilities provided by the company; the facilities will then be offered to new workers. The company never used military personnel to evict workers from the company housing. Instead, the company facilitated with transportation to move their belongings. The company also gave sufficient time to move out (it does not give a time limit but it applies a certain tolerance in time). The company never prohibits workers to form a union or to join a union. In fact, the company supports the unions with operational funds and providing a room for the unions to work. In the CBA, the right and obligations of the union and the company are the same. The company never dominates the negotiations. The CBA was the result of discussion and consensus between the union and the company.”

Company C

Company C is unionised, as there are two main labour unions established and recognised, namely: Serikat pekerja Mandiri (SPM) and Serikat Pekerja Se-Indonesia (SPSI). In principle, Company C is committed to workers freely joining unions. It supports union activities through the provision of free transport and per diems for union representatives attending union-related conferences and meetings. There were neither clear indications nor external informant accounts of the company engaging in union busting; however, it is worth noting that when this question was posed directly to the union leaders, they refused to comment on it for fear of being victimised by the company based on their response.

In general, union rights awareness is low at Company C, especially among temporary workers. All workers are automatically made to join either SPM or SPSI. Union membership dues are automatically deducted from their salaries. Some of the workers interviewed were not aware of their union membership. Others knew which unions they belonged to, but were not aware if they had any membership benefits and rights. This shows that workers do not necessarily have the freedom to exercise their right to freedom of association, specifically to choose (or refuse) to join a union. This is not in compliance with the ILO convention on Freedom of Association and Protection of the Right to Organise, C87, 1948. According to the union leaders, their relationship with the management is cordial. However, they still have some unresolved issues with the management. For example, Company C is still not in compliance with the labour law UU13/2003 Art. 59:1(a) & 4 concerning the status of temporary and daily workers. There are still several long-serving temporary workers that are not made permanent. The company also does not comply with the Labour law UU13/2003 Art. 79:2(d) concerning leave entitlements for longer-serving employees.

Currently, all workers have the same leave entitlements, irrespective of their years of work at Company C. For the 2017-2019 CBA; the union leaders have had protracted and haphazard negotiation process with the management. The negotiations have been slow to the extent that the union representatives have lost track of how many times they had meetings. As at the time of the study visit, the CBA 2017-2019 is still not signed by the management; although it was said that there was already an agreement of 90% of the content. The current CBA expired on 26 October 2016. By law a CBA is valid for two years, but can be extended for up to one additional year based on a written agreement between the employer and the union(s).¹⁸² There is no written agreement to extend the current CBA for one year and in any case, even if there was, the 1-year extension would have expired by 26 October 2017. The unions do not have access to legal advice or technical support to prepare for such a crucial CBA negotiation process. Instead, they have relied on their network of friends or their regional office for advice during this process.

Furthermore, the union leaders reported that the company often takes unilateral measures on issues concerning workers, without consulting the union leaders. Sometimes, these measures go against the CBA. For example, the company recently made a Decree about how the *premie* should be calculated, without due consultation with the union leaders. This indicates that the company does not necessarily see the unions as important stakeholders that should be regularly involved in decision-making concerning workers' issues. Altogether this indicates that in practice Company C does not sufficiently respect the rights of all personnel to form and join trade unions of their choice and to bargain collectively which is in breach with RSPO principle and criteria 6.6.

Company D

There are two unions at Company D namely, Serikat Buruh Patria Pancasila (SBPP) and Serikat Pekerja Sawit Indonesia. According to the workers interviewed, the unions are quite weak, and their relationship with management is poor. The perception of the workers is that Company D management takes advantage of the unions' weakness. Workers are aware of the unions' existence but have limited trust in their functioning and influence towards management. During the FGDs, some workers stressed that complaints shared with the unions were unaddressed. They stated that a few years ago workers went on strike to protest the implementation of Company D's *piece-rate* system as well as the poor housing and degrading facilities. They feel that this did not result in any positive changes due to the weakness of their unions. Also, based on interviews with management staff, the study team noted that the unions and management do not have bilateral meetings; instead the unions are part of a larger "welfare committee" which is chaired by the estates' General Manager.

Furthermore, the unions and management have not negotiated any CBA on behalf of the workers; instead, the company applies its own rules and regulations. The management of Company D says that it generally takes a hands-off approach with the unions to avoid any perception of interference. The management claims that it does not assist the unions beyond allowing computer use and the provision of a bus to attend union-related meetings. The unions have their secretariat at their home, as the company does not provide office space. However, the company claims that there has not been any request from the unions and that if there were a request, they would have provided one. It is important to mention that none of the unions was willing to meet the study team during the period of the visit. According to the company, the union said that they needed an official written management authorisation before they can meet with the study team. This request is common in environments where interviewees feel that they need to take precautions out of fear of going on the record. Such an environment at Company D appears to impede trust, workers' freedom of association, and the expression of workers' right to organise or bargain collectively, as expressed in the ILO C098 - Right to Organise and Collective Bargaining Convention, 1949 and C087 - Freedom of Association and Protection of the Right to Organise Convention, 1948.

Table 31 Summary regarding Lack of Freedom of Association and Collective Bargaining

Company	A	B	C	D
Lack of Freedom of Association and Collective Bargaining ¹⁸³	●	●	●	●
	<ul style="list-style-type: none"> ▪ There is insufficient socialisation by the unions towards the workers about their rights. Some workers are not aware of their union memberships, their rights and benefits. ▪ There is automatic enrolment of workers in unions without their consent. ▪ Workers do not periodically provide a written consent for having union dues consistently deducted from their wages. This is not in accordance with ILO C87, 1948. ▪ The existing CBA was for 2015 – 2017; as at the time of visit in October 2017, the company has not initiated a new negotiation process for the next CBA. This has created some scepticism amongst union leaders. 	<ul style="list-style-type: none"> ▪ No specific policy commitment by Company B to protect the rights of workers to organise and bargain collectively. No reference to ILO conventions C087 and C098 in Company B’s human rights policy. ▪ The dismissal of union members and leaders affected the morale of the union and the willingness of workers to freely exercise their right to organise and join unions. ▪ Awareness of union rights is low, especially among temporary workers. 	<ul style="list-style-type: none"> ▪ 2017-2019 CBA has not been signed by company, more than one year after the expiry of the old CBA. This is not in accordance with the Trade Union ACT No. 21 of 2000, Arts. 4, 25; Manpower ACT No. 13 of 2003, Arts. 116, 118, 123-124, 126; MOMT Regulation No. PER.16/MEN/XI/2011, Arts. 12-29. ▪ Workers do not have the freedom to exercise their right to choose (or refuse) union membership. This is not in accordance with ILO C87, 1948 and RSPO P&C 6.6. ▪ Company C often takes unilateral measures on critical issues concerning workers, without due consultation with union leaders. 	<ul style="list-style-type: none"> ▪ No negotiated CBA at Company D; instead, the company applies its own rules and regulations ▪ Workers do not trust the unions’ functioning and ability to influence management. The relationship between management and union leaders at Company D appears to impede trust, workers’ freedom of association, and the expression of workers’ right to organise or bargain collectively, as expressed in the ILO C098 - Right to Organise and Collective Bargaining Convention, 1949 and C087 - Freedom of Association and Protection of the Right to Organise Convention, 1948.

5.4 Discrimination

Company A

Company A’s social policy does not explicitly stress the prohibition of discrimination. As at the time of the study visit, no concrete evidence indicated victimisation, marginalisation or discrimination towards migrant workers. Although, most of them are also kept under temporary employment. Similarly, there was no concrete evidence of marginalisation, victimisation and discrimination against workers with different political affiliation, union membership or sexual orientation. Company A is in breach of the RSPO P&C 6.8 as well as

the ILO C111, 1958 specifically regarding discrimination and marginalisation of women. There is a gender-based division of labour at Company A, as women are often given temporary contracts with short-term tasks like spraying, loose fruit picking and maintenance at the plantations. It was also evident that women are almost not included in the company's decision-making processes; consequently, they are not accustomed to being asked about their opinions on strategic matters. Women are also largely marginalised and under-represented at management and supervisory level. For example, there is no women *mandor* in the plantations. The only woman *mandor* hired at Company A existed in the late 90s and only worked for a couple of years in that position. This is not in compliance with ILO C111 on Discrimination (Employment and Occupation) Convention, 1958 and not in line with the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW) 1979, Art. 11(1c). Furthermore, under Indonesian law - MOMT Regulation No. KEP-205/MEN/1999 Art. 4(1) concerning the employment of persons with disabilities - employers are obliged to hire at least one disabled person for every 100 employees. There were neither records of disabled workers at COMPANY A nor facility adaptations for disabled people.

Reacting to the findings of this field verification, the company said that:

"The Gender Policy aims to promote inclusivity within the workforce. There has been no deliberate attempt to prohibit the inclusion of female supervisors or mandors. In fact, there are female Assistant Managers hired in Company A estate. We note the nature of supervisory positions may be of hindrance and deter female involvement. We notice female workers prefer casual work as it offers flexibility in hours. However, we will endeavour to review the current workforce demographics. Company A similarly does not have restrictions on hiring disabled persons for suitable work. Both estates of company A have hired workers that are disabled as gardeners and genset operators..."

Company B

In its equal opportunity policy, Company B states that it "aims to not discriminate on gender, race or ethnic origin, disability, sexual orientation, age, or faith." Its policy does not explicitly prohibit discrimination, but states that it will endeavour to "comply with all legislation dealing with discrimination and the promotion of equality, and other applicable requirements". Based on interviews conducted with Company B's estate managers and HR, it was stated that the company specifically does not hire LGBTQ people, as well as people living with HIV and AIDS. This is not in compliance with the ILO convention C111 - Discrimination (Employment and Occupation) Convention, 1958 and the RSPO P&C 6.8. Women workers are being marginalised at Company B. Most women are kept under temporary employment and women are largely under-represented at the senior managerial and supervisory positions within the company. It was evident that women are not often included in the company's decision-making processes; consequently, they are not accustomed to providing their opinion on strategic matters. This indicates that the company is in breach of RSPO P&C 6.8 and ILO C111 Discrimination (employment and occupation) 1958 and the Convention on the Elimination of Discrimination Against Women (CEDAW) 1979. Furthermore, Company B does not hire disabled workers, and there are no facility adaptations for disabled people. Therefore, the company is not in compliance with the Indonesian law - MOMT Regulation No. KEP -205/ MEN/ 1999 Art. 4(1) concerning the employment of persons with disabilities. Employers are obliged to hire at least one disabled person for every 100 employees.

Regarding religion, most of Company B's staff and workers are Muslims. The company provides mosque and other support for them. For other religious groups, it was unclear what support or provisions the company gives. However, it was mentioned that there is a plan to build a church or chapel for Christian worshippers.

Reacting to the findings of this field verification, the company disputed the claims made by workers, saying that [Translated from Bahasa Indonesia]:

"The company never discriminates based on gender, race or ethnicity, disability, sexual orientation age or religion. The company always conducts education on HIV and AIDS. The company assigns workers in jobs based on their ability and performance, not based on gender or sex. The company decides and assigns workers to jobs because of their ability and performance, not on their physical conditions."

Company C

In Company C's Social and Environmental policy there is a clear commitment to providing equal opportunities and protection for all workers from any form of discrimination on the grounds of ethnicity, religion, disability, gender, political affiliation, sexual orientation or union membership. This policy is practised throughout the recruitment process. This is also reflected through a diversity of ethnicity, religious affiliation and gender as shown in their employee records. Support to religious groups is given by the company to encourage various religious worshipping. For example, support has been given to the Christian community by the conversion of a house to a church in the housing complex. Similarly, support is given to the Islamic community (as most of the villagers and about 74% of Company C's workers are Muslims) for the building of a mosque. Also, during every Ramadan, the company provides support to the community in the form of subsidised cooking oil. It is unclear to which extent the company has provided support to other religious communities. However, there is no evidence of discrimination towards such groups. Like other companies, women workers are marginalised and discriminated against at Company C. Most women are kept under temporary employment and women are largely under-represented at the managerial and supervisory positions within the company. It is evident that women are almost not included in the company's decision-making processes; consequently, they are not accustomed to being asked about their opinions on strategic matters. This indicates that the company is in breach with RSPO principle and criteria 6.8. For example, about 30 management staff were present at the opening meeting of the study visit at Company C, notably, no woman was in attendance. Furthermore, under Indonesian law - MOMT Regulation No. KEP-205/MEN/1999 Art. 4(1) concerning the employment of persons with disabilities - employers are obliged to hire at least one disabled person for every 100 employees. There are no disabled workers at Company C, and there are no facility adaptations for disability. Majority of workers at Company C's estates are migrant workers coming from different islands. Only people from Flores are known to have been recruited from their home island through agencies, though this practice was discontinued after 2011. The overall majority of migrants have come on their own to South Kalimantan before being recruited by Company C. During the study visit, there was no concrete evidence found that indicated victimisation, marginalisation or discrimination towards these migrants. Although most of them are also kept under temporary employment. Similarly, there was no concrete evidence of marginalisation, victimisation and discrimination against workers with different political affiliation, union membership or sexual orientation.

Company D

Company D has a policy of non-discrimination. During the study visit, no concrete evidence indicated victimisation, marginalisation or discrimination towards migrant workers. Data on migrant workers obtained from the company was poorly structured, making it difficult to disaggregate. However, many of the workers are migrants from other islands; mostly coming from the islands of Timor, Lombok, Java and Sulawesi. An estimated 16 - 18% are indigenous Dayak and Banjar. There was no concrete evidence of physical discrimination towards these internal migrants. The study team could not verify if some of the Dayak or Banjar people could understand and speak Bahasa Indonesia. Similarly, there was no concrete evidence of marginalisation, victimisation and discrimination against workers with different political affiliation, race, union membership or sexual orientation. There was no concrete evidence that people living with HIV & AIDs are discriminated against. The recruitment medical reports show that the company does not compel workers to take an HIV test. Jobs at Company D, are gender-based, as women are often given temporary work agreements with short-term tasks like spraying, loose fruit picking and maintenance at the plantations. There are a few women *mandors* (mostly in spraying) but overall, women are largely marginalised and under-represented at supervisory (*mandors*) and senior management level. This is not in compliance with ILO C111 on Discrimination (Employment and Occupation) Convention, 1958 and not in line with the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW) 1979, Art. 11(1c). The workers belong to different religions. While most of the workers are Muslims (Sasak/Lombok, Javanese, Bugis/Sulawesi), there is a sizeable minority who are Catholics (Dayaks) and Protestants (Timorese). During the FGDs, workers attested that at Company D their right to practice their faith or belief is respected and supported. The company has built places of worship for both Muslims and Christians. There were no records of disabled

workers at Company D, and there are no facility adaptations for disabled persons. By law, employers are obliged to hire at least one disabled person for every 100 employees. The company is therefore not in compliance with the Indonesian law - MOMT Regulation No. KEP-205/MEN/1999 Art. 4(1) concerning the employment of persons with disabilities.

Table 32 Summary regarding Discrimination

Company	A	B	C	D
Discrimination ¹⁸⁴	●	●	●	●
	<ul style="list-style-type: none"> ▪ Women are largely marginalised and under-represented at management and supervisory level. For example, no woman <i>mandor</i> exists at Company C. This is not in compliance with ILO C111 on Discrimination (Employment and Occupation) Convention, 1958 and not in line with the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW) 1979, Art. 11(1c). ▪ Non-compliance with Indonesia law MOMT Regulation No. KEP-205/MEN/1999 Art. 4(1) regarding recruitment of 1 disabled person per 100 workers. Also, there are no facility adaptations for disability. 	<ul style="list-style-type: none"> ▪ Company B does not hire LGBTQ people as well as people living with HIV and AIDS. This is not in compliance with the ILO convention C111 – Discrimination (Employment and Occupation) Convention, 1958 and the RSPO P&C 6.8. ▪ Women are largely marginalised and under-represented at management level. This is in breach with RSPO P&C 6.8 and ILO C111 Discrimination (employment and occupation) 1958 and CEDAW 1979. ▪ Company B does not hire disabled workers. There are no facility adaptations for disabled people. Therefore, the company is not in compliance with the Indonesian law - MOMT Regulation No. KEP -205/ MEN/ 1999 Art. 4(1) concerning employment of persons with disabilities. 	<ul style="list-style-type: none"> ▪ Women are largely marginalised and under-represented at management level. This is not in compliance with ILO C11, 1958 and RSPO P&C 6.8. ▪ Company C is not in compliance with Indonesia law MOMT Regulation No. KEP-205/MEN /1999 Art. 4(1) regarding recruitment of 1 disabled person per 100 workers. Also, there are no facility adaptations for disability. 	<ul style="list-style-type: none"> ▪ Women are largely marginalised and under-represented at supervisory and senior management level. This does not reflect equal opportunity for women and as such is not in compliance with ILO C111, 1958. The company is not in compliance with Indonesia law MOMT Regulation No. KEP-205/MEN/1999 Art. 4(1) regarding recruitment of 1 disabled person per 100 workers. Also, there are no facility adaptations for disability.

5.5 Insufficient Income and income insecurity

Company A

Workers at Company A are not paid living wages. However, the company claims that workers are paid minimum wages in line with the provincial minimum wage for the region. Based on a review of samples of workers' payslips, the study team notes that Company A does not guarantee minimum wages for loose fruit pickers, as they are paid using a piece or kilo-rate system which is low (around IDR 140 -150 / kg). Loose fruit pickers often find it challenging to achieve enough to earn a minimum wage (especially in low seasons). As such, they often work significant overtime or combine loose fruit picking with other tasks at the estate, to earn a wage that covers their basic needs. This system lacks predictability and wage security. By Indonesian law, piece-rate workers should be paid minimum wages. The company's practice towards loose fruit pickers is not in compliance with the labour law MOM Regulation No. PER-01/MEN/1999, ART. 15 regarding minimum wage for volume or work-based system.

Workers at the estates complain that their living cost is increasing, so sometimes the minimum wage is not enough. During the FGDs, several workers maintained that the wages are not sufficient to send the children to school (especially higher education). They stressed that the minimum wage covers only about 80% of their living costs and that they work more to earn premiums to cover the remaining 20% living costs and sometimes this is unachievable. There were reports during the FGDs that the implementation of the new provincial minimum wage is often delayed by Company A management. For example, in 2017, the announcement was made in January by the provincial government, but implementation by the company didn't start until May. This also creates a lack of predictability and wage security for most workers. In line with the MANPOWER ACT No. 13 of 2003, ART. 95 (2), employers who delay payment to workers either by design or due to neglect are not compliant with the law and will be fined.

At Company A, workers' salaries comprise a basic wage and a fixed wage. As part of the CBA (2015-2017), there was an agreement to pay the fixed wage in the form of rice provided to the worker and his family – a spouse and up to 3 children. According to the CBA, payslips and other documents provided, the study team noted that the value of the rice is 15kg = IDR 135,750 for the worker; for the spouse: 9kg = IDR 81,450 and child 7.5kg = IDR 67,875. This means that, for a worker with a family of three children, the total fixed wages to be paid in kind is around: IDR 420,825. For some workers, depending on the number of days worked, this represents more than 25% of their wage. This does not comply with Manpower ACT No. 13 of 2003, Art. 94.

From the payslips, the study team noted that Company A applies work-related deductions. It is unclear what kinds of deductions (for example, for infractions made by workers, such as cutting off an unripe bunch, or for replacing tools), because the payslips do not specify this, except for employment and health insurance. By Indonesian labour law, each worker should be provided with clear individual wage statements including wage deductions. This practice of unclear or no specification of deductions in workers' payslip is not in compliance with RSPO P&C 6.5.2. The practice is also not in compliance with the ILO convention C095 - Protection of Wages Convention, 1949 Art. 8 (2), and not in line with the ILO R085 - Protection of Wages Recommendation, 1949, Sections I, III (6e.) and IV (7b.). The study team could not find any evidence of a wage scale for workers at Company A. This is not in compliance with the Indonesian government regulation PP78/2015 Art. 3(2) and 14. According to the regulation, companies are required to establish and apply a wage structure and scale.

Reacting to the findings of this field verification, the company said that:

“Company A pays workers the legal provincial minimum wage. There is no definitive amount on a living wage in Indonesia or Siak province. It is, therefore difficult to determine if current wages meet the threshold of a living wage. We hope the Living Wage study by RSPO will result in an acceptable methodology for us to review our remuneration system. Wages have been paid in accordance with the decree by the Governor of Riau. Where workers monthly wage did not meet the minimum wage, this may be due to the minimum requirements not being met. Workers should fulfil minimum work requirements i.e. 7 hours per day, 21 days per month. This is reflective of the Collective Agreement and regulatory requirements. Minimum wage review is reviewed yearly and paid accordingly. The new minimum wage order for 2017 was issued by the

Governor of Riau and enforced in April 2017. Arrears were paid from January to April 2017. Payslips are provided to each worker upon payment of wages, including an explanation of in-kind benefits (rice). Rice benefits are in accordance with the Collective Agreement. We acknowledge the recommendation to improve these descriptions in the payslips...”

Company B

Company B does not pay workers living wages. However, most workers are paid in line with the provincial minimum wages which is IDR 2,388,000 for South Sumatra in 2017. For example, the basic wage for harvesters at Company B is IDR 2,497,500 per month based on 25 working days and if they meet their daily target of 1,350 kg. This amount is significantly lower than the living wage estimates from existing research. It indicates that. Based on feedback from some of the interviewees and participants of the FGDs, harvesters say that their wages do not reflect the hazardous nature of their work. Company B does not guarantee a minimum wage for loose fruit pickers because they are paid using a piece-rate system.

At Company B, the basic wage for loose fruit pickers is IDR 250 per kg. A loose fruit picker must gather as much as 382 kg of fruits per day (based on 25 working days) to earn a minimum wage. This target is quite challenging for loose fruit pickers to achieve. The system for fruit pickers at Company B lacks predictability and wage security. By law, piece-rate workers should be paid minimum wages. The practice towards loose fruit pickers at Company B is therefore not in compliance with the labour law MOM Regulation No. PER-01/MEN/1999, ART. 15 regarding minimum wage for volume or work-based system. According to the workers, Company B often delays the implementation of the announced provincial minimum wage. For example, in 2017, the announcement was made in January by the provincial government, but execution by the company didn't start until later in the year.

The company formally has a deduction system that affects the wages of harvesters. Deductions are made on workers' wages for various work infractions.¹⁸⁵ The *mandor* and *krani* are required to enforce this deduction system, thereby giving them immense power to influence the overall workers' wages. Furthermore, deductions are not explicitly specified in the payslip of workers (except insurance and healthcare). By Indonesian labour law, each worker should be provided with clear individual wage statements including wage deductions. This practice of unclear or no specification of deductions in payslip is not in compliance with RSPO P&C 6.5.

Reacting to the findings of this field verification, the company disputed the claims made by workers, saying that [Translated from Bahasa Indonesia]:

“The company pays out the minimum wage in accordance to government regulations. The Indonesian government decides the minimum wage based on the basic needs of the work of workers. The company also always considers OSH by identifying risks and dangers for each type of work; for each type appropriate PPE are provided to avoid workplace accidents. That said, the company registers its workers in the BPJS Healthcare system. During peak season the company hires outside workers with a piece rate system. The company always pays out the new minimum wage. In case of a late announcement by the local government, the company pays the new minimum wage retroactively from January onwards. As per January 2018, the company deleted the deduction system (it has issued an internal memo on this matter)”

Company C

Workers at Company C are barely able to cover their living expenses with their wages. Most workers appear to receive a minimum wage that is in line with the provincial minimum wage. According to most of the workers interviewed, their basic monthly wage averages at IDR 2,337,500.¹⁸⁶ This amount is significantly lower than the living wage estimates from existing research.¹⁸⁷ This indicates that Company C does not provide decent living wages to workers. The wage structure at Company C's mill and estate is set up differently for the different worker categories with sometimes a mix between a set minimum wage, a premium (*premie*) system or overtime. There is also a rice component as part of the wage. However, this is only given to permanent workers, not to temporary and daily workers. To permanent workers, an amount of

IDR 75,000 is deducted from the wage and replaced [in-kind] with 15 kg of rice (for the worker). In case of marriage, the wife¹⁸⁸ gets an additional 9 kg, and children 7 kg each (max 3 children).

Workers interviewed and those that participated in the FGDs maintain that without the premiums or overtime, their wages would not be sufficient to meet their basic needs. The largest impact is felt by families with children of the age for higher education (i.e. beyond elementary school). For permanent and temporary harvesters, the wage system is built on the structure of a minimum wage and additional *premie* for performance that exceeds the daily target. Mill workers receive minimum wages with the potential compensation of overtime that can be up to a maximum of 5 hours. Permanent and temporary sprayers receive minimum wage, an additional bonus for reaching a group target and an addition of IDR 100,000 for each year worked within the estate. Loose fruit pickers work under a temporary contract and do not necessarily receive a minimum wage, as their wages are based on performance, i.e. the number of fruit baskets filled with fruits.

This system for fruit pickers lacks predictability and wage security. By law, piece-rate workers should be paid minimum wages. The practice towards loose fruit pickers at Company C is therefore not in compliance with the labour law. There appears to be no wage scale for mill workers, temporary and daily harvesters; every year they receive the same wage with only an increase based on the provincial minimum wage (UMP). This is in violation to the government regulation PP78/2015, which clearly states that all workers should enjoy the benefit of a wage scale. Company C formally has a deduction system that affects the wages of harvesters. Deductions are made on workers' wages for various infractions such as: cutting of unripe bunches, not cutting all ripe bunches from a tree, misplacement of bunches at the collection stations, leaving a long part of the FFB stem and lastly, cutting too many leaves from the trees. The *mandor* and *krani* are required to enforce this deduction system, thereby giving them great power to influence the workers' wages.

Based on feedback from some of the interviewees and participants of the FGDs, there have been payment delays of up to 5 days after normal pay day. This is not in compliance with the labour law Government Regulation on wage protection No. 8 of 1981, Arts. 10, 17 and 19, which also stipulates specific penalties on the company for delayed payment of wages from 4-8 days after normal pay day. Following recommendation from the RSPO, Company C has recently introduced a payment system that compels workers to own a bank account for receiving their salaries and to make use of an ATM machine for salary withdrawals. Most of the workers (especially temporary workers) are not well trained on the use of the ATM and as such, many have often lost their cards to the ATM machines. This causes further financial stress for workers. In addition, the distance to the ATM (which is located at the Mill) creates a logistical issue for most workers. The farthest distance travelled by a worker to the ATM machine is 25km.

Company D

Company D does not pay workers living wages. The company claims that workers are paid in line with the provincial minimum wages. According to the company records ("*summary of harvesting rate*"), in 2017, the minimum provincial wage (UMP) for harvesters was IDR 2,368,739 per month (or IDR 94,750 per day), based on 25 working days. During the FGDs, workers mentioned that their living costs are rising, such that even the minimum wage is not enough to cover their basic needs. Most workers mentioned that the wages are not enough to support sending their children to school beyond primary education. Based on a sample of payslips reviewed, the study team noted that many harvesters and loose fruit pickers do not earn up to the minimum wages, as they are unable to meet the targets necessary to earn the minimum wage.

Harvesters' basic wages are calculated using a tonnage (MT) rate that is based on the maturity of the oil palm tree.¹⁸⁹ For example, the 2017 rate for harvesting 1 MT from an oil palm tree with 2004 as its year of planting (YOP) is IDR 50,000. To earn the UMP minimum wage per month (based on 25 working days), a harvester needs to harvest up to 1.88 MT of FFBs per day. This is a very high target. To realise a target like this, workers may have to work significant overtime. Also, Company D does not guarantee minimum wages for loose fruit pickers, as they are paid using a piece or kilo-rate system. This system lacks predictability and wage security. By law, piece-rate workers should be paid minimum wages. At Company D, the 2017 approved basic rate for loose fruit pickers is IDR 160 per kg. To earn a basic monthly wage of IDR 2,368,739 (based on 25 working

days), a loose fruit picker must gather around 592 kg of loose fruits per day. This target is quite challenging for loose fruit pickers to achieve, and as such they often work significant overtime or combine loose fruit picking with other jobs at the estate, to earn a wage that covers their basic needs. The company's practice towards loose fruit pickers is not in compliance with the labour law MOM Regulation No. PER-01/MEN/1999, ART. 15 regarding minimum wage for volume or work-based system.

In addition, based on employment work agreements and salary records of management staff, it was observed that the company midwife who has worked at the clinic for 6 years, earns IDR 1,800,000 per month. This amount is significantly below the monthly minimum wage. It was also reported that Company D has had a turnover of resident medical doctors over the years, including that the last medical doctor resigned in March 2017. According to interviewees, among the reasons for his resignation was that he was not well paid. The non-payment of the minimum wage or decent living wage is not in compliance with the labour law MOM Regulation No. PER-01/MEN/1999, ART. 15 and is in breach of the RSPO principle and criteria 6.5.

To compensate workers that do not earn a minimum wage, Company D introduced a *top-up system*. However, the study team observed some inconsistencies in how the system is applied to workers' wages and a lack of awareness among the administrative staff regarding how the *top-up system* works.¹⁹⁰ Not all workers that do not earn up to the minimum wages are given the *top-up* compensation. Beneficiaries must be approved by Company D's management and the criteria is unclear to workers. Also, the *top-up* compensation is paid with a significant delay of about 3 - 6 months. The *top-up system* is highly criticised by workers at Company D. Amongst other reasons, they say that the implementation of the system is not transparent and creates uncertainty and unpredictability concerning their monthly wages.

There is no wage scale for workers at Company D, except for *mandors* and *kranis*. This is not in compliance with the Indonesian government regulation PP78/2015 Art. 3(2) and 14. According to the regulation, companies are required to establish and apply a wage structure and scale.

From the payroll records, the study team noted that Company D applies deductions for infractions made by workers, such as cutting off an unripe bunch (referred to by Company D as "*FFB Quality Deductions*"), and for replacing harvesting tools and other equipment from the company's store (referred to by Company D as "*Store Deduction from MM*"). One example of the "*Store deduction MM*" found in a sample of payroll records, amounting to 182,800 IDR, was said to be a deduction on a harvester's wages for the purchase of a new wheelbarrow. Based on a payroll analysis for one month alone (i.e. August 2017) at one of Company D's estates, about IDR 2,441,766 was deducted from workers' wages for replacing harvesting tools and other equipment, while about IDR 671,000 was deducted from their wages for infractions relating to FFB quality. The implementation of such deductions from workers' wages at Company D is not in line with the ILO Recommendation R085 on Deductions from wages I (1, 2 and 3).¹⁹¹

Furthermore, the company states that If fees or dues are deducted from the wages of employees, there should be a letter of approval signed by the employees as well as archived, stating that employees are willing and have allowed the company to make the deductions from their wages.¹⁹² The study team could not find any signed letter of approval by employees in agreement with deductions from their wages. Therefore, the company is in breach of its own procedure.

Table 33 Summary regarding Insufficient income and Income insecurity

Company	A	B	C	D
Insufficient income and Income Insecurity ¹⁹³	●	●	●	●
	<ul style="list-style-type: none"> ▪ Workers at Company A are not paid living wages ▪ No wage scale for workers at Company A. This is not in compliance with the Indonesian govt. regulation PP78/2015 Art. 3(2) and 14. ▪ Company A does not guarantee minimum wages for loose fruit pickers. This is not in compliance with the labour law MOM Regulation No. PER-01/MEN/1999, ART. 15 regarding minimum wage for volume or work-based system. ▪ Specification of deductions in workers' payslip is unclear. This is in breach of the RSPO P&C 6.5.2, and not in compliance with the ILO convention C095 - Protection of Wages Convention, 1949 Art. 8 (2). It is also not in line with the ILO R085 - Protection of Wages Recommendation, 1949, Sections I, III (6e.) and IV (7b.). ▪ For some workers, the value of fixed wage may represent more than 25% of their wage. This is not compliant with the 	<ul style="list-style-type: none"> ▪ Company B does not provide decent living wages to workers. ▪ Loose fruit pickers mostly work under a temporary contract and do not necessarily receive a minimum wage. This is not in compliance with the labour law MOM Regulation No. PER-01/MEN/1999, ART. 15 regarding minimum wage for volume or work-based system. ▪ Deductions, especially for work-related infractions, are not explicitly specified in the payslip of workers. This practice is not in compliance with Indonesian Government Regulation on Wage Protection No. 8 of 1981, Arts. 24 and the RSPO P&C 6.5. 	<ul style="list-style-type: none"> ▪ Workers at Company C are not paid decent living wage. ▪ No wage scale scheme for [SKU-H, PKWT, BHL/BHB] harvesters and mill workers. This is not in compliance with regulation PP78/2015 Art. 3(2) and 14. ▪ Loose fruit pickers do not necessarily receive a minimum wage. This is not in compliance with the labour law MOM Regulation No. PER-01/MEN/1999, ART. 15 regarding minimum wage for volume or work-based system ▪ Non-transparent deductions are made to workers' wages for various infractions. This is not in compliance with RSPO P&C 6.5. ▪ Wage payment delay up to 5 days occurs. This is not in compliance with Government Regulation on wage protection No. 8 of 1981, Arts. 10, 17, and 19. ▪ Workers do not automatically receive their pay-slips in connection to the salary payment. ▪ Most of the workers (especially temporary 	<ul style="list-style-type: none"> ▪ Workers at Company D are not paid living wages ▪ Loose fruit pickers are not guaranteed a minimum wage. This is not in compliance with the labour law MOM Regulation No. PER-01/MEN/1999, ART. 15 regarding minimum wage for volume or work-based system and is in breach of the RSPO principle and criteria 6.5. ▪ Clinic staff is not paid a minimum wage. This is not in compliance with the labour law and is in breach of the RSPO principle and criteria 6.5. ▪ Deductions are made to workers' wages for various infractions and for replacing harvesting tools and other equipment from the company's store. The implementation of such deductions is not in line with the ILO Recommendation R085 on Deductions from wages I (1, 2 and 3). ▪ There is no wage scale for workers at Company D, except for <i>mandors</i> and <i>kranis</i>. This is not

	<p>MANPOWER ACT No. 13 of 2003, ART. 94.</p> <ul style="list-style-type: none"> Payment of the new provincial minimum wage is often delayed. This is not in line with the MANPOWER ACT No. 13 of 2003, ART. 95 (2). 		<p>workers) are not (properly) trained to use of the ATM for salary withdrawals.</p> <ul style="list-style-type: none"> Distance to the ATM (located at the Mill) creates a logistical issue for some workers who travel. 	<p>in compliance with the Indonesian government regulation PP78/2015 Art. 3(2) and 14.</p>
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5.6 Unethical hiring and contracting practices

Company A

Permanent and temporary (daily) workers are not provided individual work contracts or agreements. This is not compliant with the MANPOWER ACT No. 13 of 2003, ART. 50. There are letters of employment for permanent workers, but according to the workers, they did not receive a copy. This is not compliant with the MANPOWER ACT No. 13 of 2003, ART. 54 (3). The letters of employment for permanent workers do not state the obligations, rights or salary calculation for the job, etc. This is not compliant with the MANPOWER ACT No. 13 of 2003, ART. 54 (1). Furthermore, the company still uses recruitment agencies and individuals to hire casual workers. Most of the casual workers are placed in the seed nursery and maintenance (weeding, spraying, fertilizing). These workers are not necessarily guaranteed fair working conditions because it is unclear if Company A dictates ethical hiring parameters for the recruitment agencies it uses. Similarly, Company A uses a special contracting agency for the replanting area. The contract with this agency does not specify how workers should be treated and paid. This is not in compliance with the MANPOWER ACT No. 13 of 2003, Art. 65 (4). At the mill, some of the workers reported that they had been kept under temporary contracts for more than 5 years. This is not compliant with the MANPOWER ACT No. 13 of 2003, ART. 59 (4).

Reacting to the findings of this field verification, the company said that:

“Workers are given offer letters at the start of their employment and are subject to a - month probation period. If satisfactory, after 3 months, workers are automatically given permanent status (SKU) governed under the Collective Labour Agreement (PKB). The Collective Agreement covers all permanent workers and union workers. The Collective Agreement details employment terms (e.g. Wages, workhours, annual leave, healthcare, working conditions etc.). Third-parties contracted to carry out work for Company A are governed under a third-party contract (Surat Perjanjian Kerja). We note that this contract may not detail workforce management by the third party and will look at improving third party oversight. There are currently no contract workers at the mill who have worked more than 5 years. We are working to review the policy and procedures surrounding temporary / casual workers (PKWT).”

Company B

Company B has an equal opportunity policy that outlines its position on equal opportunity in all aspects of employment including recruitment, training and promotion.⁷ The fact that the company does not hire LGBTQ persons and people living with HIV and AIDS, contradicts their equal opportunity policy and is not compliant with the ILO convention C111 - Discrimination (Employment and Occupation) Convention, 1958 and the RSPO P&C 6.8. According to the company’s human resources, to avoid hiring undocumented and illegal workers, COMPANY B applies a strict system where every employee must submit their family card, national card and a letter from their region of origin.

However, concerning contracts, the study team observed that employees are not given individual contracts. Workers interviewed also confirmed that they do not have copies of their contracts, as they have not

received any from the company. Four harvesters with years of service ranging from 7 to 15 years all say they have never received any employment contract. This constitutes a breach of RSPO P&C 6.5 and the Manpower ACT No. 13 of 2003, Art. 54(3) regarding employment contracts. Instead of individual employment contracts, the company's human resources unit creates one contract and attaches a list of employees for which that contract applies to (referred here as "group contracts").

The study team observed several of these group contracts and found that some clauses were adjusted or removed from group contracts for casual workers having the same function. One group contract which had about 50 casual workers contained a strict limit of 20 work days per month, but in another group contract of about 35 casual workers, this threshold or limit was removed, implying that this group can work for an unlimited amount of days in a month. Such a practice compels workers to engage in a longer working period that is unacceptable by law and therefore may be in breach of the MANPOWER ACT No. 13 of 2003, ART. 77-78.

Permanent workers do not receive a contract but only a letter of employment that does not specify their benefits, salary, working hours, or obligations. This letter does not contain the requirements of a work agreement as stipulated in the labour law MANPOWER ACT No. 13 of 2003, Arts. 54(1) regarding employment contract. It was reported that the company often assigns workers with tasks which they have not been trained to do, thereby breaching the RSPO P&C 4.8 and 4.7.3. As an example, the worker narrated an occupational accident that occurred, where an employee lost three fingers when he was carrying out a task given to him, for which he was not trained. There was evidence of socialisation of the contracts from 2016 when 91 workers were socialised. However, during the FGDs, it was raised that there are some migrant workers from neighbouring islands that face language difficulties. All documents are written in Bahasa Indonesia and as such cannot be and understood by these migrant workers. This is in breach of the RSPO P&C 6.5 (6.5.2). To comply with the RSPO P&C, Company B claims that for those migrant workers that cannot understand Bahasa Indonesia, *mandors* and community leaders are often asked to explain the details of the contracts to migrant workers. This doesn't appear sustainable. Moreover, the RSPO P&C requirement says that a *management official* must provide a careful explanation in such a case.

Reacting to the findings of this field verification, the company disputed the claims made by workers, saying that [Translated from Bahasa Indonesia]:

"The company does not discriminate in its job opportunities. The company always gives a work contract to all workers. Indeed, for daily workers the contract is made collectively, but each one receives a copy of the contract. The company always complies with the government regulation concerning daily workers; in this case the Ministerial decree No.10/2004, chapter V, article 10. For permanent workers the company issues a letter of employment whereas for the code of conduct concerning the job all permanent workers have to refer to the CBA. The company always train the workers before they start their job and there also refresh training. Based internal data there has never been an work accident where the person lost three fingers in the company. The company always follows the Labour Law No13/2003, article 57, in the negotiation about the CBA. And the company always gives full explanation before handing the work contract."

Company C

Company C has an ethical recruitment policy that specifically prohibits charging of recruitment fees to workers and the retention of workers' original identity documents. There was no evidence showing practices that contradicts this policy. The company also has a recruitment policy that essentially keeps its human resources unit in control of the hiring process, from local public announcement of vacancies, to interviews, medical checks and preparation of employee records. Three categories of workers are recruited at Company C estates, namely: permanent, temporary and daily. *Mandors*, assistant *mandors*, *krani*, and harvesters are all permanent workers, however harvesters belong to a category SKU Harian, meaning they are subjected to daily performance control through the target system. Maintenance workers are either temporary or permanent workers.

Some (female) maintenance workers have been employed as temporary workers for as long as 17 years. Harvesters usually start as temporary workers. Loose fruit pickers are usually daily workers. With respect to contracts, it was observed that permanent mill workers do not have work contracts/ agreements, only letter of employment. And this letter of employment does not contain the necessary requirements of a work agreement as stipulated in the labour law MANPOWER ACT No. 13 of 2003, Arts. 54, regarding terms and conditions of employment. Moreover, many workers interviewed at the estate do not have copies of their contracts, as they have not received any from the company. This constitutes a breach of RSPO P&C 6.5.

Many temporary and daily workers have worked for many years but are not made permanent workers, this is not in compliance with the labour law UU13/2003 Art. 59:1(a) & 4, which stipulates a maximum of 3 years' temporary status. This non-compliance has been brought up by the unions towards management and the HR manager promised that from 2018 onwards those temporary and casual workers will be made permanent workers. Company C's responsible employment policy claims that it "ensures [that] wage administration including distribution, schedules and language used are direct, timely and clear". However, there is significant lack of clarity regarding what constitutes the deductions indicated in workers' pay-slips.

The introduction of the bank account and ATM system has created further lack of transparency, as the workers do not automatically receive their pay-slips in connection to the salary payment. By Indonesian labour law, each worker should be provided with clear individual wage statements including wage deductions.¹⁹⁴ This is clearly also non-compliant to Company C's responsible employment policy.

On several pay-slips, the study team found significant amounts in deductions specified non-transparently as "lain" meaning 'others'. When administrative management officers were asked, they could not tell what the deductions were for. Some of these deductions exceeded 25% of the workers' wages. This is clearly non-compliant with the Government Regulation on Wage Protection No. 8 of 1981, Arts. 12; which stipulates that total in-kind deductions /payments may not exceed 25% of the workers' wage to ensure that workers have enough to meet their subsistence needs, and those of their family.

Company D

Company D has a recruitment policy that prohibits the charging of recruitment fees to workers and the retention of workers' original identity documents. There was no evidence showing practices that contradicts this policy. The company's recruitment policy essentially keeps its human resources unit in control of the hiring process, from local public announcement of vacancies, to interviews and the preparation of employee records. Company D employs two categories of workers, PKWT (temporary) and PKWTT (permanent). Temporary workers are usually employed for three or six months, after which, they are supposed to become permanently employed. The work agreement for PKWT does not explicitly state the working hours (see agreement for PKWT Art. 8), the amount of wages and how it would be paid, as well as deductions that can be made on the wage (see agreement for PKWT Art. 3, 1- 4). This is not in compliance with the labour law MANPOWER ACT No. 13 of 2003, Art. 54 (e). The PKWTT workers do not receive a work agreement. They only receive a letter that specifies their new permanent employment status, signed only by the company. There is no signature of consent/acceptance by the workers as stipulated in the labour law MANPOWER ACT No. 13 of 2003, Art. 54 (i). The work agreements issued by the company is in Bahasa Indonesia, it was unclear if the internal migrants (such as the Dayaks and Banjars) could understand and speak the language.

The study team noted that some of the work agreements were not available, as the administrative staff could not find them. For example, the clinic midwife's work agreement could not be found when the study team requested it. She was asked to go home and bring her own copy of the work agreement. As it turns out, the work agreement showed that she is being paid far below the minimum wage.

Table 34 Summary regarding unethical hiring and contracting practices

Company	A	B	C	D
Unethical hiring and contracting practices ¹⁹⁵	<p style="text-align: center;">●</p> <ul style="list-style-type: none"> ▪ Permanent and temporary workers are not provided individual work contracts or agreements. This is not compliant with the MANPOWER ACT No. 13 of 2003, ART. 50. ▪ Permanent workers did not receive a copy of their employment letters. This is not compliant with the MANPOWER ACT No. 13 of 2003, ART. 54 (3). ▪ The letters of employment for permanent workers do not state the obligations, rights or salary calculation for the job, etc. This is not compliant with the MANPOWER ACT No. 13 of 2003, ART. 54 (1). ▪ COMPANY A uses a special contracting agency. The contract with this agency does not specify how workers should be treated and paid. This is not in compliance with the MANPOWER ACT No. 13 of 2003, Art. 65 (4). ▪ At the mill, some workers said they were kept under temporary contract for more than 5 years. This is not in 	<p style="text-align: center;">●</p> <ul style="list-style-type: none"> ▪ Company B does not hire LGBTQ people as well as people living with HIV and AIDS. This is not in compliance with the ILO convention C111 – Discrimination Convention, 1958 and the RSPO P&C 6.8. ▪ Workers interviewed do not have copies of their contracts, as they have not received any from the company. This constitutes a breach of RSPO P&C 6.5 and the Manpower ACT No. 13 of 2003, Art. 54(3) regarding employment contracts. ▪ Permanent workers do not receive a contract but only a letter of employment. This letter does not contain the requirements of a work agreement as stipulated in the Manpower ACT No. 13 of 2003, Art. 54(1), regarding employment contracts. ▪ Company often assigns workers with tasks which they have not been trained to do, thereby breaching 	<p style="text-align: center;">●</p> <ul style="list-style-type: none"> ▪ Mill workers do not have work contracts/ agreements. This is not in compliance with MANPOWER ACT No. 13 OF 2003, Art. 54 and RSPO P&C 6.5. ▪ Plantation workers interviewed said they were not given copies of their contracts. ▪ Many workers with temporary and daily status have worked for many years but are not made permanent. Not in compliance with labour law UU13/2003 Art. 59:1(a); 4. ▪ Deductions are not specified in payslips. It is unclear what constitutes deductions in workers’ pay-slips. This is not in compliance with RSPO P&C 6.5. 	<p style="text-align: center;">●</p> <ul style="list-style-type: none"> ▪ The work agreement for temporary workers does not explicitly state the working hours, amount of wages and how it would be paid, as well as deductions that can be made on the wage. This is not in compliance with the labour law MANPOWER ACT No. 13 of 2003, Art. 54 (e). ▪ The permanent workers do not receive a work agreement, only a letter signed only by the company. The letter has no signature of acceptance by the workers, as stipulated in the labour law MANPOWER ACT No. 13 of 2003, Art. 54 (i)

	<p>compliance with labour law MANPOWER ACT No. 13 of 2003 Art. 59:1(a) and 4.</p>	<p>the RSPO P&C 4.8 and 4.7.3.</p> <ul style="list-style-type: none"> ▪ Documents at Company B are written in Bahasa Indonesia and as such cannot be and understood by these migrant workers. This is in breach of the RSPO P&C 6.5 (6.5.2). 		
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5.7 Unfair targets and working hours

Company A

At Company A, working hours for estate workers from Monday to Thursday is usually from 7 am until 3 pm (i.e. 7-hour work and 1-hour break). On Friday, the working hours is from 7 am until 12 noon (i.e. a 5-hour work day). According to the workers, everyone must be present at the plantation at 5.30 am for an assembly, 1.5 hours before work officially starts. However, these extra 1.5 hours are not counted in their working hours. During low seasons, workers claim that they can work up to 3 hours of unpaid overtime, to meet their target. This means that some workers end up working as much as 11.5 hours a day (i.e. 1.5 hours for assembly time, 7 hours of official working hours and 3 hours of unpaid overtime). This is not in compliance with the ILO convention C030 - Hours of Work (Commerce and Offices) 1930, Arts. 4, 5 & 6, concerning regulation of working hours in commerce.

Also, the fact that their overtime is unpaid, is not compliant with the MOMT DECREE No. KEP.102/MEN/VI/2004, Arts. 3, 7 on overtime hours and overtime wages. Workers only get paid for what they produce during the official working period. If they do not meet their target during this period, they get a deduction from their basic wage. Those who finish their targets before 3 pm or have no ripe FFBs to harvest are assigned a different task until 3 pm. Mill workers often work more than 3 hours of paid overtime, and during peak seasons this can be even longer, until all the FFBs are processed. This practice is in breach of the MANPOWER ACT No. 13 of 2003, ART. 78 and the MOMT DECREE No. KEP.102/MEN/VI/2004, Arts. 3, 7 on overtime hours and overtime wages.

The study team could not ascertain the true daily target for harvesters as some, including management mentioned 1.3 tons, while others mentioned 2 tons. In any case, during the FGDs, most workers stressed that this target was too much for them to realise within a 7-hour work day. This is especially difficult to achieve during the low season. Additionally, some of the workers mentioned that the topography (steep slopes) in some harvesting areas makes it difficult for them to bring the bunches to the collection points. They also reported that some of the paths towards the harvesting areas pose health and safety risks, as they often have to cross stagnant creeks and swamps. The labour law UU13/2003 Art. 79:2(d) grants two 30-day official paid leave for workers each to be taken during their 7th and 8th year of consecutive work at the same enterprise. The company does not comply with this law concerning leave entitlements for longer-serving employees. Currently, all permanent workers have the same leave entitlements of 12 days per year, irrespective of their years of work at COMPANY A. Temporary workers are not entitled to any leave.

Reacting to the findings of this field verification, the company said that:

“Official work hours are Mon to Thurs, Sat; 6-2pm: (7hrs x 5 =35 hrs), Fri, 6-12pm: (5hrs) total 40 hours per week. Break of 30 minutes is awarded for every 4-hour work. All overtime is paid accordingly as per official pay outs. Harvesters base production quota is 1,000kg per day OR until completion of work hours (i.e. 12pm on Friday and 2pm Mon-Thurs and Saturday). All work terms, work during rain, leave entitlements etc. have been negotiated and agreed according to the Collective Agreement. New harvesting targets was revised in

April 2017 to 1,000kg. Harvesting quotas are determined through a process of motion study taking into consideration the geographical landscape, season and other variables. Individual workers' performance is periodically reviewed and if necessary, workers are reassigned to functions where they can perform. We acknowledge the need to improve communication of harvesting targets to increase understanding amongst workers."

Company B

Working hours for plantation workers is set officially at 7 am – 3 pm (weekdays is 8 hours, and Saturday is 5 hours, including 1- hour break). But according to the workers, everyone must be present at the plantation at 5 am, and if they are late, they are not considered as working for that day. And these extra 2 hours are not counted in their working hours. During peak seasons, the working hours can end as late as 6 pm; this means a total of 12 working hours in a day (i.e. 2 hours for assembly time, 7 hours of official working hours and 3 hours of unpaid overtime). This is not in compliance with the ILO convention C030 - Hours of Work (Commerce and Offices) 1930, Arts. 4, 5 & 6, concerning regulation of working hours in commerce. It was also reported that for official records, Company B uses a portable thumb-print scanner to compulsorily register the workers at 7 am and at 3 pm, despite the fact that they arrive at 5 am and sometimes work beyond 3 pm to fulfil their targets. Mill workers often work more than 3 hours of overtime, and during peak seasons this can be even longer until all the FFBs are processed. This practice is in breach of the RSPO P&C 6.5 (6.5.1) and not in compliance with MANPOWER ACT No. 13 of 2003, ART. 78 and the MOMT DECREE No. KEP.102/MEN/VI/2004, Arts. 3, 7 on overtime hours and overtime wages.

The target for harvesters is unilaterally decided by management. The average daily target is 1.35 tons, and during the FGDs, workers stressed that this is too much to realise within a 7-hour workday. This is especially difficult during the low season. The company pays a *premie* when workers go over their target during the working hours. If harvesters work overtime, they are not paid, thereby breaching the MOMT DECREE No. KEP.102/MEN/ VI/ 2004, Arts. 3, 7 on overtime hours and overtime wages. They only get paid for what they produce during the daily working period of 7 am to 3 pm. If they do not meet their target during this period, they get a deduction from their basic wage. Those who finish their targets before 3 pm or have no ripe FFBs to harvest are assigned a different task until 3 pm. The labour law UU13/2003 Art. 79:2(d) grants two 30-day official paid leave for workers, each to be taken during their 7th and 8th year of consecutive work at the same enterprise. The company does not comply with this law concerning leave entitlements for longer-serving employees. Currently, all workers have the same leave entitlements regardless of their years of work at Company B.

Reacting to the findings of this field verification, the company disputed the claims made by workers, saying that [Translated from Bahasa Indonesia]:

"The company always comply with the working hours as stipulated by the government, i.e. 7 hours a day, 6 days or 40 hours a week. Considering the location of the work areas inside the plantation shifts each day, the workers have to be guided before they start working. Therefore, the workers have to assemble at 6.30 am. Regarding overtime work the company issues an Overtime Order Sheet, which has to be accepted and signed by the worker before the overtime starts. The basic harvest work has undergone a process of calibration which was agreed by the workers through their union. During low season the company keeps paying the minimum wage according to the law. As per January 2018 the company abolished the wage deduction system by issuing an internal memo. During low season the workers are directed to do other tasks such as pruning, to fulfil the 7 working hours. The company does comply with the labour law No.13/2003, article 79. According to the Ministerial Decree No.51/2004, article 2, the implementation of a long leave is for those companies which have introduced it before the ministerial decree came out. Despite of that, the company does offer extra leave days to workers with more than 5 years of service."

Company C

At the estates, workers officially work for a maximum of 40 hours per week (i.e. 7 hours every Monday - Thursday and Saturday; only 5 hours on Friday). Workers gather at 6:30am but the company counts 7:00am

as the start of the workday. Workers can take a 30-minute break around 9:30am. Although the standard closing time for Monday to Thursday and Saturday is at 2pm, it was noted that the closing time is often very flexible depending on whether workers still need to complete their daily target or intend to earn a *premie*. The basic target for harvesters is computed based on height of the tree and topography of the area and ranges between 65 – 80 FFBs per day (It can be much more during high season). The mandors, *krani* and workers interviewed, do not understand how the targets are computed and set by management. The mandors and *krani* just enforce the set targets and workers implement. For every extra FFB harvested, the workers receive a *premie* of IDR 980. If the worker harvests as much as 110 FFBs, he receives a one-time *premie* of IDR 2,200 and for 135 FFBs, he gets a one-time *premie* of IDR 3,200. The *premie* system appears to be a substitute for providing decent living wages to workers based on a fair working hour schedule. And although the workers have accepted this for purely economic reasons, the system has the tendency to negatively incentivise workers to engage in longer working hours that is unacceptable by law.

At the mill, there are 2 shifts for workers of 7 hours each (i.e. 9am-4pm and 4pm-11pm). During these shifts, there are reportedly no break time; depending on the workload, mill workers find some time to sneak out for a quick break, but they must do it in turns. It was noted that their shifts can be extended to a maximum of 5 hours overtime when not all the picked fruits are processed by the end of the nightshift. Workers interviewed claimed to have worked several non-stop shifts. This is potentially damaging to their health and well-being. This practice is not in compliance with MOMT Decree on overtime hours and overtime wages No. KEP.102/MEN/VI/2004, Arts. 3, 7. Overtime occurs within the mill and is compensated at the rate of IDR 13,940 per hour. For the first hour of overtime, workers are paid 1.5 times the amount except on Sunday which is 2 times. For the subsequent hours, the workers are paid 2 times the basic rate. So, a worker that has completed a 5-hour overtime (not on a Sunday) will likely be paid IDR 132,430 after the day's job on top of his daily minimum wage of IDR 97,580.

For permanent and temporary sprayers, a group target system is set based on the number of workers in a group, and each worker must cover between 2 and 5 hectares per day. Workers can receive a bonus that is divided among the group if they meet the group target. This system seems to have a negative reception especially from workers who prefer individual targets, but overall, the system positively encourages team work. The interviewed sprayers also expressed that their basic wages were always paid in full even when they could not meet their group target.

The labour law UU13/2003 Art. 79:2(d) grants two 30-day official paid leave for workers each to be taken during their 7th and 8th year of consecutive work at the same enterprise. This has been raised by the unions to the management under the CBA negotiations, however, the company is yet to grant such rights to workers. Only the company's senior management staff are known to be benefitting from this regulation. Presently, workers at Company C have only 12 days of paid annual leave irrespective of the length of their service.

Company D

The company regulations state that workers are expected to gather for morning assembly at 5:15 am – 5:30 am, and field work is expected to be from 6 am until 1 pm. However, in practice, field workers work from 7 am until 2 pm (with a break of 1 hour). They work 7 hours a day for Monday to Thursday and Saturday, but on Friday, they work 5 hours. During the FGDs, workers reported that they are compelled to gather for morning assembly every day from 5am and that the time between this assembly and the start of the workday is not counted for them as paid hours. According to sprayers, there is no system of record keeping of the working hours in the estate. Attendance is taken in the morning, but there is no record of when the sprayers end their working day. This creates an environment that encourages non-voluntary labour, because workers in the plantations feel compelled to engage in longer working hours that is often unacceptable by law. This is not in compliance with MANPOWER ACT NO. 13 of 2003, Arts. 77-78; MOMT DECREE regarding overtime hours and overtime wages NO. KEP.102/MEN/ VI/2004, Arts. 3-4, 6(3). During an interview, the HR manager addressed this by saying that it was intended to give the harvesters freedom so that can work for as long as they wanted.

Except for mill workers, FFB checkers and loaders, overtime is unpaid at Company D. Although, overtime is paid to mill workers, some engage in overtime of up to 8 hours daily or engage in non-stop shifts with little or no personal break, until all FFBs are processed. For example, in October 2017, one mill worker worked for a total of 31 days. He earned a basic wage of IDR 2,463,500 and an overtime wage of IDR 5,340,770. This practice of non-voluntary overtime practice which compels mill workers to engage in longer working periods and shift extensions is potentially damaging to their health and well-being and is not in compliance with MOMT Decree on overtime hours and overtime wages, No. KEP.102/ MEN /VI /2004, Art. 3.

As earlier noted, some harvesters and sprayers maintain that their targets are too high to be covered within a 7-hour workday (especially in low crop season), and as a result, they are often compelled to work longer hours of unpaid overtime to meet the targets. The company’s clinic staff (nurse and midwife) work extended overtime hours, sometimes with a shift of up to 24 hours. But they are also not paid overtime. These practices of compelling workers to work longer than the law allows and the lack of overtime compensation, are in breach of the RSPO P&C 6.5 (6.5.1) and not in compliance with MANPOWER ACT No. 13 of 2003, ART. 78 and the MOMT DECREE No. KEP.102/MEN/VI/2004, Arts. 3, 7 on overtime hours and overtime wages.

At the mill, there are two shifts; and the working hours are different as the workers need to continue working until all the FFBs are processed. So, there is significant amount of overtime by mill workers; overtime can be up to 8 hours and night shifts are nonstop and often without breaks. This practice is in breach of the RSPO P&C 6.5 (6.5.1) and not in compliance with MANPOWER ACT No. 13 of 2003, ART. 78 and the MOMT DECREE No. KEP.102/MEN/VI/2004, Arts. 3, 7 on overtime hours and overtime wages.

Due to the different variables involved in how the management calculates and approves the harvesting rates, the workers do not sufficiently understand how the piece-rate and target system works and as such they believe it is not transparent. According to the *mandors* interviewed, the amount of FFBs harvested by workers per day (vis-à-vis the amount they are eventually paid) is influenced by the maturity (or YOP) of the oil palm tree, the area (usually around 1.8 ha) and topography of land assigned to the harvester and the amount of working time spent by the harvester. To earn up to the minimum wages, many harvesters and loose fruit pickers must meet high targets. Based on an estimation, to earn the monthly minimum wage, harvesters must realise around 1.88 MT of FFBs per day (for an oil palm tree with 2004 YOP), while loose fruit pickers must gather around 592 kg of loose fruits per day.

The labour law UU13/2003 Art. 79:2(d) grants two 30-day official paid leave for workers each to be taken during their 7th and 8th year of consecutive work at the same enterprise. The company does not comply with this law concerning leave entitlements for longer serving employees. Currently, all workers have the same leave entitlements of 12 days per year, irrespective of their years of work at Company D.

Table 35 Unfair targets and working hours

Company	A	B	C	D
Unfair targets and working hours ¹⁹⁶	●	●	●	●
	<ul style="list-style-type: none"> Some workers end up working as much as 11.5 hours a day (i.e. 1.5 hours for assembly time, 7 hours of official working hours and 3 hours of unpaid overtime). This is not in compliance with the ILO convention C030 - 	<ul style="list-style-type: none"> During peak season, harvesters can work as much as 12 hours in a day (i.e. 2 hours for assembly time, 7 hours of official working hours and 3 hours of unpaid overtime). This is not in compliance with the ILO 	<ul style="list-style-type: none"> The company is not transparent with its workers on how the targets are set. <i>Mandors, krani</i> and workers interviewed, do not understand how the targets are computed and set by management 	<ul style="list-style-type: none"> Workers in the plantations engage in longer working hours that is often unacceptable by law. This is not in compliance with MANPOWER ACT NO. 13 of 2003, Arts. 77-78; MOMT DECREE regarding overtime hours and overtime wages No. KEP.102/

<p>Hours of Work (Commerce and Offices) 1930, Arts. 4, 5 & 6, concerning regulation of working hours in commerce.</p> <ul style="list-style-type: none"> ▪ The fact that their overtime is unpaid (except for mill workers) is not compliant with the MOMT DECREE No. KEP.102/MEN/VI/2004, Arts. 3, 7 on overtime hours and overtime wages. ▪ Daily target apparently ranges between 1.3 – 2 tons. Most workers stressed that this target is too much for them to realise within a 7-hour work day. ▪ Company does not comply with the Labour law UU13/2003 Art. 79:2(d) concerning leave entitlements for longer serving employees. 	<p>convention C030 - Hours of Work (Commerce and Offices) 1930, Arts. 4, 5 & 6, concerning regulation of working hours in commerce.</p> <ul style="list-style-type: none"> ▪ Mill workers often work more than 3 hours of overtime, and during peak seasons this can be even longer until all the FFBS are processed. This is not in compliance with MANPOWER ACT No. 13 of 2003, ART. 78 and the MOMT DECREE No. KEP.102/MEN/VI/2004, Arts. 3, 7 on overtime hours and overtime wages. ▪ Harvesters are not paid for working overtime, thereby breaching the MOMT DECREE No. KEP.102/MEN/VI/2004, Arts. 3, 7 on overtime hours and overtime wages ▪ The company does not comply with the Labour law UU13/ 2003 Art. 79:2(d) concerning leave entitlements for longer-serving employees. 	<ul style="list-style-type: none"> ▪ The <i>premie</i> target system is negatively incentivizing workers to engage in longer working hours, sometimes than the law permits. ▪ Shifts at the mill are often non-stop, with no breaks, potentially damaging to their health and well-being. Overtime is allowed up to 5hours. ▪ Company does not comply with the Labour law UU13/2003 Art. 79:2(d) concerning leave entitlements for longer serving employees. 	<p>MEN/ VI/2004, Arts. 3-4, 6(3).</p> <ul style="list-style-type: none"> ▪ Overtime can be up to 8 hours at the mill and night shifts are often nonstop without breaks. Clinic staff work extreme overtime hours sometimes with a shift spanning 24 hours. This practice is not in compliance with MANPOWER ACT No. 13 of 2003, ART. 78 and the MOMT DECREE No. KEP.102/MEN/VI/2004, Arts. 3, 7 on overtime hours and overtime wages. ▪ Some workers are not compensated for overtime despite working longer than the law permits. This is not in compliance with MANPOWER ACT No. 13 of 2003, ART. 78 and the MOMT DECREE No. KEP.102/MEN/VI/2004, Arts. 3, 7 on overtime hours and overtime wages. ▪ Company does not comply with the Labour law UU13/2003 Art. 79:2(d) concerning leave entitlements for longer serving employees.
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5.8 Lack of gender equality and social protection for women

Company A

Company A's gender and social policies cite the company's commitment on the following topics: prevention of sexual harassment and violence against women, protection of women's reproductive health, setting up a complaints and grievance procedure and mechanism to address gender-based issues, trainings and opportunities for women in leadership, women participation in decision-making, and the establishment of a gender committee.

The company has a gender committee, whose activities focus on promoting health education, and organising and involving women in social and religious activities. According to the gender committee, there are 16 members (4 women are field workers, 2 are nurses, 3 are teachers and 5 are housewives of senior management staff). During an interview with the gender committee, the study team observed that the company's gender policy is not properly socialised, as the interviewees were unaware of its existence and contents. However, the committee is active, and among the female sprayers there was knowledge about the activities of the gender committee.

Regarding menstruation, the company allows a two-day leave. However, it was reported that women are often compelled to provide concrete evidence that they are indeed menstruating. They must first go to their *mandor* to obtain permission before reporting to the clinic. Officially, breastfeeding mothers can go home for a few hours to breastfeed their children, however workers reported that they prefer not to do so because of the lost time and the fear that their wages will be deducted or that they might be dismissed. In both cases, the situation is one of subtle menace.

Work at Company A is gender-based and women are mostly in temporary employment. They are involved in loose fruit picking, fertilising and spraying, nursery and weeding, as well as other temporary maintenance tasks. Women are also largely marginalised and under-represented at (senior) management level. For example, the study team discovered that there are no women *mandors* in the plantations. The only woman *mandor* existed in the late 90s and only worked in that capacity for a couple of years before resigning. This is not in compliance with ILO C111, Discrimination (Employment and Occupation) Convention, 1958 and the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW) 1979, Art. 11(1c).

Reacting to the findings of this field verification, the company said that:

"We note the need to improve socialisation of the Gender Policy amongst our workers. Recommendation to ensure all levels of employees are aware of the policy shall be undertaken. Manpower No 13 Year 2003: Collective Agreement clause 8 -Female workers are allowed to take menstrual leave on the first 2 days of menstrual cycle, must first be examined by medical personnel at the clinic and obtain a letter confirming the matter. However, we shall undertake the recommendation to provide menstrual leave without the need to provide evidence. Company A endeavours to provide an inclusive workforce and practices a non-discrimination policy. There is no existing prohibition for the hire of suitable female supervisors as exemplified by the Female Assistant Manager in Company A estate."

Company B

Company B has a *Sexual Harassment, Violence and Abuse, and Reproductive Rights policy*, and has established a gender committee of 20 active members. However, interviews with women workers revealed that there is low awareness about the role and activities of the gender committee, as well as the benefits of utilising the gender committee. The gender committee leaders interviewed indicated that their activities focus on health, religious activities, as well as grievance and complaint process for sexual harassment. They have received several cases of domestic violence and have tried to investigate and handle them, however,

they are not experienced and have not been provided with any specialised training on how to deal with survivors of abuse, and to adequately address complaints on sexual harassment or domestic violence.

Like in other companies, women workers are marginalised and discriminated against at Company B. Work at the company is gender-based as most women are involved in tasks such as loose-fruit picking, spraying and weeding. Most of these women workers are kept under temporary employment. Furthermore, women are largely under-represented in the senior management and supervisory positions within the company. Only a few women *mandors* exist. It was also evident that women are almost not included in the company's decision-making processes; consequently, they are not accustomed to being asked about their opinions on strategic matters and do not offer their views for fear of being victimised. This is in breach of the RSPO P&C 6.8 and ILO C111 Discrimination (employment and occupation) 1958 and the Convention on the Elimination of Discrimination against Women (CEDAW) 1979.

The CBA states that women should be given breaks when lactating and menstruating, but according to workers and union leaders interviewed, this is not being practised. This is a breach of the MANPOWER ACT No. 13 of 2003, Art. 81 on obligations of employers to menstruating female worker/labourer, and the RSPO 6.9.1 and 6.9.2 (specific guidance on break times for breastfeeding mothers).

Reacting to the findings of this field verification, the company disputed the claims made by workers, saying that [Translated from Bahasa Indonesia]:

“The company assigns workers to a certain job not based on gender but on capability and skills. Women have taken positions within the company such as in the Bipartite Cooperation Forum (LKS), Gender Commission, and Workplace Health & Safety Committee (Panitia Pembina Keselamatan dan Kesehatan Kerja/P2K3). The company always protects the rights of the workers, including the right to breastfeed and menstruation leave.”

Company C

Company C does not have a specific gender policy but has established a Gender committee. The only mention of 'gender' in their Social and Environmental policy is with respect to equal “opportunities for all workers”. The Gender committee is quite active with at least 3 leaders per estate and mill. The committee meets twice a year and has an updated activity plan. Their regular activities involve educating women and organising social events. They focus on two primary areas – education and handling complaints (e.g. sexual harassment and domestic violence), with more than 100 active participants. They have regular meetings with women workers, where they gather to cook together, provide training to women on child nutrition and health, backyard gardening and recycling. However, there is a general lack of gender equality awareness in Company C, and domestic chores are solely left for women to perform. There is a noticeable gender gap at management staff level.

Throughout the study visit, there were neither women present at the opening meeting nor seen at the management staff office. The company does not enforce its non-discrimination and equal opportunities policy, with regards to the inclusion of women in decision-making. Like in other companies, it was observed that most women at Company C are not accustomed to being asked about their opinions on strategic matters. Also, the gender committee does not engage in raising awareness regarding sexual reproductive rights and gender equality. There have been several sexual harassment and domestic violence complaints lodged to the gender committee, this is a breach of RSPO P&C 6.9.

Reacting to the findings of this field verification, Company C said that:

“Regarding gender discrimination. I feel it is challenging to find qualified candidates for management staff positions in the plantations simply due to the lacking numbers. I however agree, that we should consider to provide more opportunities for local women for jobs in which no higher education is required as you pointed out for mandor and krani positions.”

Company D

Although Company D does not have a detailed gender policy, it has a sexual harassment policy and a reproductive rights policy that commits to gender equality and the protection of the rights of women in its establishment. The company has established welfare committees at the estates and the mill, chaired by the general manager and the mill manager respectively. The welfare committees deal with, amongst others, day-to-day complaints from workers and other general welfare issues. In each welfare committee, there is a worker that represents women and gender issues. According to the gender representatives interviewed, there is a separate gender committee, but the chairperson recently resigned, and a new chairperson will be appointed soon.

Based on feedback from the women sprayers interviewed, there is low awareness amongst women workers and women in the neighbouring communities regarding the activities of the gender representatives in the welfare committees, and the function and value of the gender committee. The gender representatives indicated that several women have been victims of reported cases of domestic violence at Company D. They also acknowledged that the procedures for handling complaints regarding violence against women are not formalised, not effective and are not well known among women.

Company D has created official forms used by workers to report complaints and to document the agreement made by the parties involved, however, there is no formal process for handling cases, addressing or prosecuting the case and counselling the women (and their dependants) that are affected by such violence. There is also no documentation of reported cases of sexual harassment or violence against women.

According to the gender representatives, there is no formal grievance mechanism in place for such issues. They claim that women who are sexually harassed or are victims of domestic violence are not likely to use such a system and that women who are sexually harassed often approach one of them face-to-face. As such, it was a challenge for the study team to ascertain the extent of sexual harassment or domestic violence occurring at Company D. Nevertheless, the representatives acknowledge that there is a need for a more structured way of dealing with sexual harassment and domestic violence at Company D and in general, women issues. Gender equality should be given serious attention by management. Work at Company D is gender-based as most women are involved in fertilising, weeding, spraying, loose-fruit picking, and general office duties. Women are also under-represented at supervisory and senior management level. This is not in compliance with ILO C111, Discrimination (Employment and Occupation) Convention, 1958 and the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW) 1979, Art. 11(1c). For example, at Company D only a few women are promoted to the supervisory (*mandor*) position. At both estates only three female *mandors* exist.

Table 36 Summary regarding Lack of gender equality and social protection for women

Company	A	B	C	D
Lack of gender equality and social protection for women ¹⁹⁷	●	●	●	●
	<ul style="list-style-type: none"> ▪ Gender policy is not properly socialised. ▪ Regarding menstruation, women are often compelled to provide concrete evidence that they are indeed menstruating, otherwise they are not granted breaks. This is a 	<ul style="list-style-type: none"> ▪ Women are largely marginalised and under-represented at management level. This is in breach of RSPO P&C 6.8 and ILO C111 Discrimination (employment and occupation) 1958 and the Convention on the Elimination of 	<ul style="list-style-type: none"> ▪ The company does not have a specific gender policy. ▪ Lack of gender awareness and noticeable gender gap at management staff level. This is not in compliance with ILO C111 on Discrimination (Employment and Occupation) 	<ul style="list-style-type: none"> ▪ No specific gender policy that indicates the company's commitment to gender equality. ▪ There is no documentation of reported cases of sexual harassment or violence against women. ▪ Women are marginalised and

Company	A	B	C	D
	<p>breach of the MANPOWER ACT No. 13 of 2003, Art. 81 on obligations of employers to menstruating female worker/labourer, and the RSPO 6.9.1 and 6.9.2 (specific guidance on break times for breast-feeding mothers).</p> <ul style="list-style-type: none"> Women are largely marginalised and under-represented at management and supervisory level. For example, no woman <i>mandor</i> exists at COMPANY A. This is not in compliance with ILO C111 on Discrimination (Employment and Occupation) Convention, 1958 and not in line with (CEDAW) 1979, Art. 11(1c). 	<p>Discrimination Against Women (CEDAW) 1979.</p> <ul style="list-style-type: none"> Lactating and menstruating women are not often granted breaks. This is a breach of the MANPOWER ACT No. 13 of 2003, Art. 81 on obligations of employers to menstruating female worker/labourer, and the RSPO 6.9.1 and 6.9.2 (specific guidance on break times for breast-feeding mothers). 	<p>Convention, 1958 and not in line with the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW) 1979, Art. 11(1c).</p> <ul style="list-style-type: none"> No enforcement of non-discrimination and equal opportunities policy, with regards to the women. This is not in compliance with RSPO P&C 6.8. Gender committee does not engage in raising awareness regarding sexual reproductive rights and gender equality. There have been several recent sexual harassment and domestic violence complaints. This is not in compliance with RSPO P&C 6.9. 	<p>under-represented at supervisory and senior management level. This does not reflect equal opportunity for women and as such, it is in breach of RSPO P&C 6.8 and ILO C111 Discrimination (employment and occupation) 1958 and the Convention on the Elimination of Discrimination Against Women (CEDAW) 1979.</p>

5.9 Unhealthy and unsafe working condition

Company A

Company A has an occupational safety and health policy. The policy highlights the company's commitment to comply with existing national laws regarding OSH, establish an OSH management system, maintain safe systems at the workplace, provide adequate training and ensure continuous improvement in its management and performance of OSH. However, during the FGDs, workers stressed that awareness and communication regarding OSH is not effective. They stressed that awareness of the company's OSH policy and practices is still low amongst workers. Some of the workers (especially temporary workers) are not aware of what the company's OSH responsibilities are, as well as their own rights and obligations. Many are also not aware of the chemicals used by the company or the associated health and safety risks. The company is therefore in breach of the RSPO P&C 4.7 and the ILO convention C170 - Chemicals Convention, 1990, Art. 18 (3-4). Company A provides PPEs to its workers. During the FGDs, several workers admitted that many of their colleagues are less disciplined in using their PPEs, but it has been mainly because the PPEs provided by the company are of poor quality (i.e. they easily damage), uncomfortable to use for work and do not provide adequate safety against some of the risks associated with their jobs. They reported that the PPEs are often not uniformly used and that they are easily damaged and when replacement PPEs are requested, it takes a very long time (several months) for the company to provide them. While visiting the plantation, the study

team observed that some harvesters were without appropriate PPE boots or using their own pair of shoes. It was also observed that the PPE helmets used by harvesters are loose and often falls off when they bend their heads backwards during harvesting. Also, PPE gloves and goggles are not often used by harvesters.

The study team interviewed one female loose fruit picker who did not have any PPEs on. She claimed that she had not been given one. The study team also noted that sprayers use their PPEs, but they stress that the PPEs are not necessarily suitable and safe for their type of work and weather conditions.

During the visit, sprayers were visibly uncomfortable with their PPEs, all sprayers were sweating profusely under the PPE aprons and gloves that they wore. The weather was hot, and the PPE material only exacerbated the heat stress for the sprayers. They also pointed out that the goggles become easily foggy when used and do not adequately protect their eyes during spraying. They stressed that a more appropriate PPE is needed. At the mill, similar complaint was made regarding the quality of PPEs provided. One of the mill workers showed the study team the nose mask provided to them. The mask was basically a piece of cloth and would not be enough to provide adequate protection. The mill worker could not recall the last time it was replaced. Based on the incidents mentioned above, the study team concludes that Company A does not guarantee that adequate and appropriate protective equipment is available to all workers, to cover all potential hazardous operations. This is in breach of the RSPO P&C 4.7.3 and not in compliance with the ILO C155 - Occupational Safety and Health Convention, 1981 Art. 16(3).

Figure 4 Photos of workers with unsafe and inappropriate PPE



There are accidents, emergency procedures and warnings presented in signposts at the visited estate and mill, many are written in Bahasa Indonesia, however, some are still written only in English language and as such many workers are unable to read them. For example, the safety warnings in Figure 5 has recognizable icons but the instructions are not written in the appropriate language of the workforce, as required by the RSPO P&C 4.7.5.

Figure 5 Photo of safety warnings in English language



Although the company is building and relocating several of its workers to a new housing area, there are still old 'barrack-style' workers' houses made from wood, that are over 20 years old. These houses are generally of poor quality. There have been reports of leaking roofs, broken floors and falling parts, as well as poor and untreated sewage, creating health hazards for the workers and their families. According to several reports, these issues are still not completely addressed by Company A management. This is not in compliance with the MOH DECREE on health requirements for workplace environment in offices and industry No. 1405/MENKES/SK/XI/2002, Art. X (6). According to mill workers, the company does not make sufficient drinking water available at the mill, and as such mill workers must bring their own drinking water. This is not in compliance with the ILO convention C184 on Safety and Health in Agriculture Convention, 2001, Art. 19 (and the ILO R192 Safety and Health in Agriculture Recommendation, 2001, Art III (10a.) and ILO convention C155 - Occupational Safety and Health Convention, 1981, Art.21.

The first aid box around the mill is not well maintained and stocked (see photo below) with the complete first aid medication and equipment according to the MOMT Regulation on first aid at the workplace No. 15 of 2008. Company A has a health centre, but some of the facilities such as beds, are run-down and need refurbishment or replacement (see example in Figure 6).

Figure 6 Photos of a first aid box and patient bed at Company A



According to the company's health centre, the most common sickness experienced by workers are upper respiratory tract infection, diarrhoea and back pain. The study team observed that the sprayers are aware of how to handle chemicals and which chemicals they use. It was confirmed that the company does not use Paraquat or any pesticide categorized as WHO type 1A or 1B.

However, the study team noted that some of the company's herbicides contain the following chemicals, *Glyphosate* and *Methyl Mesosulfuron*. Although, some of these chemicals are approved for use (by the EU), or classified as moderately hazardous (by the WHO) or considered slightly toxic (by the U.S, EPA), they still pose serious human health risks, especially when workers are not well protected by PPEs. For example, *Glyphosate* can cause serious eye damage.^{198 199} And *Methyl Mesosulfuron* is known to cause respiratory tract irritation as well as eye and skin irritation.²⁰⁰

Reacting to the findings of this field verification, Company A said that:

"Safety town halls are conducted every 6 months with both workers and their families. All workers are registered in the BPJS health insurance together with their spouse and up to 3 children. Female sprayers are subject to medical examination every 6 months. Monthly pregnancy checks are also conducted to ensure pregnant sprayers/ workers in contact with chemicals are reassigned. In addition, the community health service (Posyandu) conducts reproductive health checks with female workers (e.g. Papsmear) The use of

chemicals are in line with our policy and risks of exposures are controlled based on the recommendations of the manufacturers defined in the chemical safety data sheet. As highlighted, these chemicals are classified as moderately hazardous (WHO) or slightly toxic (US EPA) and safe operating procedures are established to minimize risks of exposures. Company A standard practice is to conduct Hazard Identification, Risk Assessment and Risk Control (HIRARC) for all functions.

PPE is the last line of defence against work hazards. Other preventive and administrative controls also forms the other actions taken to control the risks. Only PPE approved by the national or international product certification standards are approved for use within our operations. We acknowledge that the climate suitability of standard equipment in the industry remains a challenge for workers. (i.e. uncomfortable) All workers are provided (without charge) by the company, with PPE and working tools that are required by their job function. PPE's are checked every morning muster by supervisor or assistant manager. This will be the opportunity for workers to replace equipment as and when required. Workers are free to request replacement for damaged PPE. However, no formal replacement procedure is in place.

Workers housing improvements and facility repair work are conducted on a periodic basis as and when required. The Central Housing Complex (in two Company A estates) has access to piped water and electricity from the grid. However, the other Company A estate relies heavily on water from the reservoir. Piped water and water from the reservoir is only used for washing and bathing as per national standard. Clean drinking water is available as bottled water and is typically purchased at approximately RM9 for 1 gallon.

We note on the recommendation to improve equipment facilities in the clinic, including but not limited to safety signage and first aid box. Company A has worked on initiatives to develop better PPE for use within the oil palm plantations. Recently Company A unveiled a new generation of head protection gear prototype."

Company B

The working environment at the Company B's estates and mill is well maintained. An OSH policy is in place, and management staff and workers are aware of health aspects, accidents and emergency procedures, which have also been socialised. There is a culture of conducting safety briefings before entering the plantation and mills. The national healthcare insurance (BPJS) is provided to all workers, but temporary workers must register themselves as independent members, meaning that there is no contribution from the company to their health insurance, this is not in compliance with the RSPO P&C 4.7 (4.7.6). Company B has two clinics and one ambulance per estate. The clinic visited by the study team had a small observation room. There are no beds for short stay, and in severe cases requiring overnight monitoring and stay, the doctor refers the patient to the nearest hospital that is several hours away. The visited clinic had a well-maintained pharmacy, but the doctor reported that the supply of medicines is often delayed. Company B provides free medicines and medical care for each worker up to a max of IDR 50,000 per person, and in exceptional cases, this amount can be increased. The clinic has a well-qualified resident medical doctor. There is good documentation of the health records of employees, and the company implements regular check-ups for workers, particularly for those who are being exposed to chemicals. Some socialisation and training are given on topics such as avoiding HIV/AIDS and dengue fever, as well as conducting CPR. When there are increased cases of dengue fever, the company conducts fogging with a pesticide to combat mosquitoes.

Compared to other companies visited, the storage facility for the PPEs and harvesting equipment is well organised and maintained. The company provides PPEs to the workers since the introduction of a new PPE policy about two years ago. However, the PPEs are reported to be of low quality and often not uniformly used. Harvesters are given helmet and boots, but during the FGDs it was mentioned that these seldom last longer than six months and that replacement of broken PPEs is often delayed. It is not standard for the workers to use the goggles, as the goggles become foggy when used; especially during periods of hot weather. According to the workers, PPEs for sprayers is neither safe nor suitable for their type of work and the weather conditions. As a result, during periods of hot weather, the sprayers normally do not wear their complete set of PPEs (i.e. helmet, gloves, nose mask, gloves and goggles). The study team observed that the workers were very uncomfortable and sweated profusely under the PPE aprons and gloves that they wore.

When PPEs are not used, it creates a safety risk amongst the workers. This is not in compliance with RSPO P&C 4.7 (4.7.3).

According to the health records and interview with the medical staff, there is a high occurrence of respiratory tract infection, wounds from thorns and rolling bunches, and low back pain among the workers in the plantations. Workers reported that many sprayers that are casual workers are laid off the moment they become sick. Based on the chemical list and interviews with sprayers, the study team noted that the company's herbicides contain the following chemicals, amongst others: *Glyphosate*, *Glufosinate Ammonium* and *Methyl Mesosulfuron*. Some of these chemicals although approved for use (by the EU), or classified as moderately hazardous (by the WHO) or considered slightly toxic (by the U.S, EPA), pose serious human health risks, especially when workers are not well protected by PPEs. For example, *Glufosinate Ammonium* poses toxic risks to the kidney, bladder, blood and lungs. It can be harmful if inhaled or absorbed through the skin. *Glyphosate* can cause serious eye damage. And *Methyl Mesosulfuron* is known to cause respiratory tract irritation as well as eye and skin irritation. Women working as sprayers undergo regular pregnancy tests and are reassigned to other jobs if they test positive to the pregnancy test. At the mill, the most common health issues are cuts and burns, as well as hearing problems. To prevent the latter, an audiometric test is conducted once a year.

Housing is provided to all permanent workers. Temporary workers are not provided housing. This is not in compliance with RSPO P&C 6.5 (6.5.3). Within the housing complex, electricity and domestic water are provided for free, while drinking water must be bought by the workers. This is also not in compliance with RSPO P&C 6.5 (6.5.3). The day-care, sports facilities and community centre are located conveniently near the housing complex.

Reacting to the findings of this field verification, the company disputed the claims made by workers, saying that [Translated from Bahasa Indonesia]:

"For daily workers, the company provides its own accident and death insurance; in line with the BPJS rules, the registration of daily workers with BPJS is not compulsory. The company provides PPE according to the type and nature of work. There is also the result of the assessment of the standard PPE. The company always considers OSH seriously, identify dangers and risks for each type of work; the PPE is adequate for each type of work. The company reserved a budget for 2017 for a water treatment installation; it is now under construction."

Company C

The working environment at Company C's estate and mill appear generally clean, safe and well maintained. The company's OSH policy and plan is in place, and management staff and workers are aware of especially the safety at work aspects, which is being regularly socialised. Overall, there is good documentation of the health records of employees. Company C has provided good medical facilities for workers. The company has a clinic with an emergency room, labour (delivery) room, and two wards with a total of 8 beds, a well-stocked pharmacy and an ambulance. The clinic has medical equipment and qualified personnel for the delivery of babies. Compared to other companies visited, the clinic was well maintained and staffed (with a professional doctor and midwife). Medical wastes are regularly and appropriately collected, stored and disposed accordingly.

According to the company, the National healthcare insurance (BPJS) is provided to all workers, however, temporary and daily workers must register by themselves as independent members, meaning that there is no contribution from the company to their health insurance. This is not in compliance with RSPO P&C 4.7. Besides, daily workers are not registered for BPJS Employment insurance (pension, old age, disability etc.). The company has its own pension fund, but that has apparently not been extended since the introduction of the BPJS Employment scheme by the government. Those that signed up earlier are still entitled to benefits from that fund. Workers and their children receive free basic healthcare treatment and medication at the company clinic and are only referred in severe cases or cases involving complicated procedures, to any nearby BPJS certified clinics or hospital. The nearest BPJS approved clinic is 15 minutes away from the

company location and the nearest hospital (in Batu Licin) is 40 minutes away. Prior to the BPJS, the clinic refers patients with severe and complicated cases to Banjarmasin (8-hour drive). On average, the company clinic treats 30-40 patients per day. Upper respiratory tract infections is the most prevalent sickness suffered by workers, with 2,069 cases throughout 2016. The high occurrence of the respiratory tract infection among workers is quite alarming. The company doctor maintains that this is caused by frequent inhalation of dust at work. However, a few chemicals used by the company are considered moderately toxic (e.g. Glyphosate) and others are connected to respiratory tract irritation such as Metil Metsulfuron (Brand name: *Elckafuron 20 WG*).²⁰¹ The study team feels that direct exposure to some of the chemicals might be connected to the high occurrence of respiratory tract infections at Company C. Generally, workers at the estate and mill could be seen wearing PPE helmets and boots during the study visit. The quality of PPEs provided to workers is generally poor. Recently, new sets of PPE boots were being issued to workers at the mill. Several workers complained that the new boots were even more uncomfortable than the old ones. The study team tried both sets of PPE boots (i.e. old and new issues) and found that indeed, the previous version felt more comfortable than the new ones. The new set of boots also did not appear to be safer than the old ones, in terms of protection from the risk of foot injuries. The study team noticed that a loose fruit picker (who had worked for 7 years at Company C) did not wear a PPE helmet and the shoes being used were not protective and inappropriate for the job. When asked, the worker claimed that no PPE helmet or boots were given to her, only a pair of “safety shoes”. During the FGDs, several groups stressed that the PPE masks given to sprayers are difficult to breathe through and uncomfortable, and as a result, they do not normally use them. It is evident that the PPEs provided are not appropriate for the tasks being performed by various workers, which in turn is in breach of RSPO P&C 4.7.3.

Figure 7 Photo showing unsafe and inappropriate “safety shoes” at Company C



The company demonstrated (via documentation) that it had discontinued the use of Paraquat and chemicals classified as 1A or 1B by WHO; but other harmful chemicals are still being used (e.g. Glyphosate). Sprayers were specifically asked which chemicals they used and there was good awareness regarding the dangers of not using banned chemicals such as Paraquat. Women working as sprayers undergo pregnancy tests every 3 months and are immediately reassigned if they become pregnant. Medical checks for sprayers and chemical handlers are normally done twice a year, although a documentation shows that for several workers only one check was done. Nursing mothers are given time out to breastfeed their babies.

Safety briefings are always conducted prior to entering the plantation and mill. The company has SOPs for emergency preparedness covering amongst others: fire, evacuation and reporting of incidents. There are fire extinguishers at appropriately marked locations. The first aid box around the mill was not well maintained or

stocked with the right first aid medication and equipment according to the MOMT Regulation on first aid at the workplace No. 15 of 2008. There is a plan for emergency evacuation at the housing complex. The company has ensured that dormitories have adequate emergency exit signs that are well-marked, leading towards unobstructed escape routes. Housing is provided to all permanent workers. Temporary workers and daily workers are not provided housing. The day-care and community centre are located conveniently in the housing complex. The houses inside the plantation area have limited access to electricity, (provided through the company generator and not the public electricity grid): from 4am until 6 am, and again from 6pm until 11 pm. On Sundays, access to electricity is extended by two hours. The mill already has access to electricity through the public electricity grid. Electricity is provided for free to the workers at the estates, however workers and staff at the mill pay a subsidised rate for electricity.

The drainage system in the housing area is very poor and can constitute a potential health hazard. Chemicals used for spraying are stored, handled and mixed in a building near the housing units. This building is unfenced and very near the complex's playgrounds as well. The building is easily accessible to children playing and any chemical incident could easily contaminate the living spaces and water system, thereby creating a health hazard for everyone, especially the children living in the housing area. Altogether, this indicates that the company does not provide adequate housing, water supplies, medical, educational and welfare amenities, as indicated in RSPO P&C 6.5.

Figure 8 Photo showing poor drainage at the housing complex in Company C



Only domestic water is provided to the housing units, which is often used for washing. Even though Company C's Group owns a bottled drinking water company, clean drinking water is still not provided to the housing units. Residents purchase drinking water at a subsidised rate of IDR 5,000 per gallon.²⁰² The company has stated its intention to develop a borehole soon.

Company D

Company D has an OSH policy in place and there is documentation for several OSH socialisations. A safety and health representative is always part of the company's welfare committee; however, the study team could not confirm that Company D has specifically established an OSH committee that consists of both workers and management representatives, as stipulated in the Work Safety Act No.1 of 1970, Art. 10. The national healthcare insurance (BPJS) is provided to both temporary and permanent workers, and article 6 of the temporary workers' contract indicates that the company will register them to the BPJS health program. However, the HR manager confirmed to the study team that the company is having problems with registering

several temporary workers because they do not have identity cards. Without the BPJS registration, these temporary workers cannot access (affordable) healthcare services via the BPJS coverage.

Company D established a small clinic for providing medical services to workers and their families. The state of medical equipment and facilities at Company D is poor. Only few of the essential medical devices for a health clinic, could be seen. The clinic has an improvised corner for maternity care and one run-down examination bed. There are no facilities for short stay for patients. Notably, about 9 babies were delivered in 2017 (as at the time of visit in November 2017). According to the midwife, these babies were delivered successfully without complications. However, based on observation of the clinic's medical available equipment and facilities for delivery and maternal care, the study team concludes that the conditions of delivery and care for both mother and new-born requires improvement.

Figure 9 Photos of main medical equipment (L) and maternity "ward" (R) at Company D



Figure 10 Photos of the only examination bed (L) and leaking clinic roof (R) at Company D



At the time of the study visit, the company clinic had no resident medical doctor, because the last one resigned in March 2017. The clinic has one midwife and one nurse. Due to the lack of a resident medical doctor, the nurse and midwife are often compelled to prescribe medicines (without significant experience and full professional competency), to help workers who are ill. The clinic staff also pointed out that the clinic lacks relevant medicines and is often without sufficient stock. They reported that on several occasions, there

had been significant delays in receiving the stock requested. As at the time of visit, the study team observed that some of the medicines were finished and although an order had been placed by the clinic staff a few months before, no response was received from the company administration. The lack of sufficient medicine may pose serious risks to workers' health and could inhibit the clinic staff from serving workers who are critically ill.

According to Indonesian law regarding work safety, companies are required to arrange pre-employment, periodic and special medical checks at no cost to workers by a certified Industrial Hygiene, Ergonomics, Occupational Safety and Health (HIPERKES) doctor. Based on information from the FGDs and interviews with clinic staff and sprayers, it was noted that the medical checks have not been regular and are conducted by the resident nurse (and sometimes, a roving medical doctor).

The study team interviewed a group of 6 sprayers (three men and three women), to know if they recently had any medical check-up. None of them indicated that they had undergone any medical check-up during the year.²⁰³ Also, none of the three women sprayers interviewed had undergone any routine pregnancy tests, and according to them, this is not normally done at Company D. Women are expected to inform the company when they become pregnant. Without a routine pregnancy test, the company may be unable to timely stop pregnant women sprayers from working with toxic chemicals, as required by the RSPO P&C 4.6.12. The fact that sprayers who are exposed to toxic pesticides or herbicides are not provided these specific medical surveillances annually, is in breach of the RSPO P&C 4.6.11 and not in compliance with MOMT Regulation on workers' examination in the implementation of work safety No. PER.02/ MEN / 1980Arts. 3(1, 2); 5(1- 4) and 6(1).

The study team reviewed a sample of the latest medical tests conducted (i.e. dated 1 - 2 November 2017). Apart from high levels of Triglycerides in many of the workers (which can be an indicator to a risk of heart disease), there were also several workers with high levels of *serum glutamic oxaloacetic transaminase* (SGOT) and *serum glutamic pyruvic transaminase* (SGPT) which may indicate risks to liver damage. A doctor's recommendation for follow-up actions was handwritten in each of the test results, however there is no evidence indicating that the workers were given the test results and made to understand the implications. There is also no evidence that the company's clinic has special medical checks and plans for each of the workers whose test results show abnormalities. This is not in compliance with MOMT Regulation on workers' examination in the implementation of work safety No. PER.02/ MEN / 1980, article 3(6). The medical tests conducted are also not comprehensive enough. They do not include special routine checks for eye and skin irritation as well as upper respiratory tract infections, even though the company still uses toxic herbicides, such as Paraquat, which is known to cause these health challenges. This is in breach of the RSPO P&C 4.6.11 and not in compliance with MOMT Regulation on workers' examination in the implementation of work safety No. PER.02/ MEN / 1980, Arts. 5(1).

Concerning chemical handling and use, the study team observed that Company D applied several herbicides and pesticides whose active chemical materials are classified as moderately hazardous by the WHO and toxic by other international classification guidelines. For example, based on the chemical list provided by the company, some of the herbicides have active chemical materials such as *Fipronil*, a thyroid, kidney and liver toxicant;²⁰⁴ *Chlorpyrifos* which is said to be highly toxic by ingestion, may cause learning difficulties in children and is a suspected cardiovascular and blood toxicant; *Glyphosate* which can cause serious eye damage,²⁰⁵ and *Methyl Mesosulfuron* which is known to cause respiratory tract irritation as well as eye and skin irritation.²⁰⁶ This makes it imperative for the sprayers to have sufficient and appropriate PPE to mitigate exposure to risks.

The clinic staff are not aware of the chemicals used at Company D and do not have a copy of the list of chemicals. The sprayers interviewed also do not know the chemicals they handle and use. Workers have the right to information on the identity of chemicals used at work, the hazardous properties of such chemicals, and the information contained in labels and markings of containers. The company is therefore not in compliance with the ILO convention C170 - Chemicals Convention, 1990, Art. 18 (3-4).

Notably, the company uses Primaxone which contains *Paraquat dichloride* as the active material. This is in breach of the RSPO P&C 4.6.4. Paraquat is widely known to cause damage to the lungs if inhaled and is toxic to the liver, kidney, stomach, intestine and the respiratory system.²⁰⁷ The management of Company D issued a memo (dated 31 July 2017), that it would stop the use of this toxic chemical by 31 December 2017. While studying the chemical use report, the study team discovered that Company D applied significantly higher quantities of *Paraquat* in November 2017 than in other months (see Table 3). This means that rather than scaling back the use of *Paraquat* in the last months, the company decided to increase its use in November by 8 times the average use per month. This action by Company D, increases the potential of workers' exposure to the earlier mentioned diseases. It is in breach of the RSPO P&C 4.6, which requires growers to use pesticides in ways that do not endanger health of workers. The action is also not in compliance with the ILO C155 - Occupational Safety and Health Convention, 1981 Art. 16(1 and 2) and the ILO C170 - Chemicals Convention, 1990 (No. 170) Art. 13 (2a).

Table 37 Quantity of *Paraquat* use by Company D during 2017

Primaxone used –containing <i>Paraquat dichloride</i> (Litres per month)										
Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sept	Oct	Nov
838.5	551	824.5	733	616	511	138	250.5	311.5	601	4,725

Company D claims that it provides PPEs to all workers. During the FGDs, several workers stressed that the PPEs provided by the company are of poor quality and do not provide adequate safety against some of the risks associated with their jobs. Workers reported that the PPEs are easily damaged and that they are asked to pay for replacements if the company feels that they were damaged by the workers. PPE replacement is significantly delayed by the company. During the interviews at the plantation, one of the sprayers showed the study team the nose mask that was provided to them (See photo below). It is merely a piece of cloth and does not fully protect the sprayers against inhaling toxic chemicals.

Figure 11 Photo showing “protective” nose mask provided to sprayers at Company D



Similarly, the goggles are easily foggy when used and does not adequately protect the eyes during spraying. A harvester interviewed at the plantation was wearing safety helmet and a pair of safety boots but with no gloves. He uses his bare hands both in wielding the harvesting tools and in lifting and moving the wheelbarrow (with harvested FFBs) to the collection points, because he prefers not to inform management that he has no gloves, for fear that he would have to pay for them. As can be seen in the photo below, the condition of his palms is deteriorating due to the lack of adequate protection.

Figure 12 Photos of “safety” goggles for sprayers (L) and harvesters hands (R) at Company D



At the mill, workers were seen to be wearing safety helmets and boots. However, the study team observed that the mill did not have adequate PPEs and the protective earpiece provided to the study team was also of poor quality. The study team was not provided any safety boots during their visit at the mill. When boots were requested, the mill manager confirmed that they did not have any in stock and as such, the study team carried on with the assessment at the mill without adequate PPE protection. Therefore, based on the incidents mentioned above, the study team concludes that Company D does not guarantee that adequate and appropriate protective equipment is available to all workers to cover all potential hazardous operations. This is in breach of the RSPO P&C 4.7.3 and not in compliance with the ILO C155 - Occupational Safety and Health Convention, 1981 Art. 16(3). The clinic staff also gave account of some of the treated cases of serious eye injuries resulting from the fact that safety goggles are not always being used or provided. A review of the company's daily PPE use roster confirms that in several cases, workers did not always use their PPEs. During the visit to the plantation, the study team found several open jerry cans used in mixing and transporting chemicals, littered by the roadside. As shown in the photos below, none of the containers were seen to have appropriate labelling, marking or tagging for the persons handling or using them, as required by the chemicals convention C170 - Chemicals Convention, 1990, Art. 7 (see also R177 - Chemicals Recommendation, 1990, Art. 8-9).

Figure 13 Photos of roadside litter of containers used in mixing chemicals at Company D



Company D provides some welfare facilities for estates and mill workers such as clinic, crèche, housing, domestic water and electricity²⁰⁸, religious facilities, sports facilities, canteen, toilets, recreational playground, but according to the workers, the facilities are either insufficient or in poor condition. In

Indonesia, employers are required by law to provide workers with adequate clean drinking water. At the mill, two gallons of drinking water per station is provided every week, this is insufficient and usually finishes before the end of the week without any replenishing. As a result, workers are required to bring their own drinking water. According to workers at the FGDs, the company provides the housing units with water for domestic use only, but the supply is limited²⁰⁹ and unreliable, as at times there is no access to domestic water. The housing units also do not have access to clean drinking water. Workers and their families spend around IDR 5,000 per gallon to procure drinking water. This is not in compliance with the ILO convention C184 on Safety and Health in Agriculture Convention, 2001, Art. 19 (and the ILO R192 Safety and Health in Agriculture Recommendation, 2001, Art III (10a.) and ILO convention C155 - Occupational Safety and Health Convention, 1981, Art.21.

The houses visited by the study team were in poor condition, with leaking roofs and several broken and falling parts, creating health hazards for the workers and their families (see photo in Figure 14 below). This is not in compliance with the MOH DECREE on health requirements for workplace environment in offices and industry No. 1405/MENKES/SK/XI/2002, Art. X (6). Company D claims that there is a renovation plan in place, however, as at the time of visit, there was no physical evidence to support this claim.

Figure 14 Photos showing an example of the poor condition of housing at Company D



The chemical mixing and storage station at the estate is situated near some of the housing units, a playground, and a water (tank) supply used for the offices. This is a potential health risk. The building is also unfenced and therefore may also pose risks to bystanders. Some children were seen playing as close as 20 metres from the facility. Any chemical incident could easily contaminate the living spaces and water system, thereby creating a serious health hazard for everyone, especially the children living in the housing area. While inside the chemical mixing station, the study team noted that the practice of storing chemicals, empty jerry cans used PPEs and other materials was not organised. For example, none of the containers were seen to have appropriate labelling, marking or tagging for the persons handling or using them, as required by the chemicals convention C170 - Chemicals Convention, 1990, Art. 7 (see also R177 - Chemicals Recommendation, 1990, Art. 8-9). There is also no safe and clean room for changing and washing off chemicals after mixing. This workplace environment poses risk to health for workers and bystanders and as such is not in alignment with the ILO convention C155 - Occupational Safety and Health Convention, 1981, Art.16 (1) and the guidance of RSPO P&C 4.7 which stipulates that *growers and millers should ensure that the workplace, machinery, equipment, transport and processes under their control are safe and without undue risk to health.*

Figure 15 Photos showing the situation at the chemical mixing station at Company D



Overall, the poor state of facilities and aspects concerning health and safety at Company D does not give the impression that the company is committed to safeguarding the fundamental right of the workers to receive adequate protection for their safety, health and well-being. The company is therefore not compliant with the ILO convention C155 - Occupational Safety and Health Convention, 1981, Art.16(1, 2 & 3), ILO C184 on Safety and Health in Agriculture Convention, 2001, Art. 6(1), and the Manpower Act No. 13 of 2003, Arts. 86 (1a).

Table 38 Summary regarding Unhealthy and unsafe working conditions

Company	A	B	C	D
Unhealthy & unsafe working condition 210	●	●	●	●
	<ul style="list-style-type: none"> ▪ Awareness of the company's OSH policy and practices is still low amongst workers and some of the workers (especially temporary workers). ▪ Many workers are not aware of the chemicals used by the company or the associated health and safety risks. The company is therefore in breach of the RSPO P&C 4.7 and the ILO convention C170 - Chemicals Convention, 1990, Art. 18 (3-4). ▪ COMPANY A does not guarantee that adequate and appropriate protective equipment is available to all workers, to cover all potential hazardous operations. This is in breach of the RSPO P&C 4.7.3 and not in compliance with the ILO C155 - Occupational Safety and Health Convention, 1981 Art. 16(3). 	<ul style="list-style-type: none"> ▪ The company does not contribute to the insurance of temporary workers. This is in breach of the RSPO P&C 4.7 (4.7.6). ▪ The quality of PPEs is poor. Type of PPE is not appropriate for the type of work being performed. Not all workers use the PPEs, thereby increasing their exposure to harmful chemicals. This is not in compliance with RSPO P&C 4.7 (4.7.3). ▪ Temporary workers are not provided housing. This is not in compliance with RSPO P&C 6.5 (6.5.3). ▪ No clean drinking water provided at the housing complex. This is not in compliance with RSPO P&C 6.5 (6.5.3). 	<ul style="list-style-type: none"> ▪ Company does not contribute to the insurance of daily workers. This is not in compliance with RSPO P&C 4.7. ▪ High prevalence of Upper Respiratory Tract Infection (ISPA) amongst workers. ▪ Quality of PPE is poor. Type of PPE is not appropriate for type of work being performed. Not all workers are provided PPEs and not all workers use the PPEs. This is not in compliance with RSPO P&C 4.7. ▪ First aid box around the mill is not well maintained or stocked according to MOMT Regulation on first aid at the workplace No. 15 of 2008. 	<ul style="list-style-type: none"> ▪ Some temporary workers are not registered in BPJS health insurance and as such do not have health coverage. ▪ No routine pregnancy test for women sprayers. Without this, the company is unable to timely stop pregnant women sprayers from working with toxic chemicals, as required by the RSPO P&C 4.6.12. ▪ Sprayers exposed to toxic pesticides or herbicides are not provided specific medical surveillances annually. This is in breach of the RSPO P&C 4.6.11 and not in compliance with MOMT Regulation on workers' examination in the implementation of work safety No. PER.02/ MEN / 1980Arts. 3(1, 2); 5(1- 4) and 6(1). ▪ Medical checks do not include special routine checks for eye and skin irritation as well as upper respiratory tract infections (ISPA). This is in breach of the RSPO P&C 4.6.11 and not in compliance with MOMT Regulation on workers' examination in the implementation of work safety No. PER.02/ MEN / 1980, Arts. 5(1). ▪ The company's clinic does not have special medical checks and plans for each of the workers whose test results show abnormality.

<ul style="list-style-type: none"> ▪ Some accident, emergency procedures and warnings are still written only in English language and as such many workers are unable to read them. This is not in line with the RSPO P&C 4.7.5. ▪ Some workers' houses are generally of poor quality, with leaking roofs, broken floors and falling parts, as well as poor and untreated sewage, creating health hazards for the workers and their families. Company A is yet to address this. This is not in compliance with the MOH DECREE on health requirements for workplace environment in offices and industry No. 1405/MENKES/SK/XI/2002, Art. X (6). ▪ The company does not make sufficient drinking water available at the mill, and as such mill workers must bring their own drinking water. This is not in compliance with the ILO convention C184 on Safety and Health in Agriculture Convention, 2001, Art. 19 (and the ILO R192 Safety and Health in Agriculture Recommendation, 		<ul style="list-style-type: none"> ▪ Temporary and daily workers are not entitled to housing. This is not in compliance with RSPO P&C 6.5.3 ▪ Access to electricity at the housing complex in the estates is limited. This is not in compliance with RSPO P&C 6.5.3 ▪ Drainage system in the housing area is very poor and a potential health hazard. This is not in compliance with RSPO P&C 6.5.3 ▪ Chemicals used for spraying are stored, handled and mixed in a building at the housing unit, very near the playground, without adequate fencing. This is not in compliance with RSPO P&C 4.6. ▪ No clean drinking water at the housing complex. This is not in compliance with RSPO P&C 6.5.3 	<p>This is not in compliance with MOMT Regulation on workers' examination in the implementation of work safety No. PER.02/ MEN / 1980, article 3(6).</p> <ul style="list-style-type: none"> ▪ The company uses Primaxone which contains <i>Paraquat dichloride</i> as the active material. This is in breach of the RSPO P&C 4.6.4. ▪ The clinic staff and the sprayers do not know which chemicals they handle and use. The workers have a right to this information as required by the ILO convention C170 - Chemicals Convention, 1990, Art. 18 (3-4). ▪ Company D applied a significantly higher quantity of <i>Paraquat</i> in November 2017 than in other months by 8 times. This action increases the potential of workers' exposure to diseases. It is in breach of the RSPO P&C 4.6, the ILO C155 - Occupational Safety and Health Convention, 1981 Art. 16(1 and 2) and the C170 - Chemicals Convention, 1990 (No. 170) Art. 13 (2a). ▪ None of the jerry cans used by sprayers in handling and mixing of chemicals had appropriate labelling, marking or tagging for the persons handling or using them, as required by the chemicals convention C170 - Chemicals Convention, 1990, Art. 7 (see also R R177 - Chemicals Recommendation, 1990, Art. 8-9). ▪ Company D does not guarantee that adequate and appropriate protective equipment is available to all workers to cover all potential hazardous operations. This is in breach of the RSPO P&C 4.7.3 and
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	<p>2001, Art III (10a.) and ILO convention C155 - Occupational Safety and Health Convention, 1981, Art.21.</p> <ul style="list-style-type: none"> ▪ First aid box around the mill is not well maintained or stocked according to the MOMT Regulation on first aid at the workplace No. 15 of 2008. ▪ There is a functional health centre at Company A, but some of the facilities such as beds, are run-down and need refurbishment or replacement. ▪ According to interviewees, the company uses herbicides which contain <i>Glyphosate</i> and <i>Methyl Mesosulfuron</i>. These chemicals pose serious human health risks and as such appropriate PPEs especially for sprayers is needed. 			<p>not in compliance with the ILO C155 - Occupational Safety and Health Convention, 1981 Art. 16(3).</p> <ul style="list-style-type: none"> ▪ Workers do not have access to adequate drinking water and at the housing units, they not have access to clean drinking water. This is not in compliance with the ILO convention C184 on Safety and Health in Agriculture Convention, 2001, Art. 19 (and the ILO R192 Safety and Health in Agriculture Recommendation, 2001, Art III (10a.) and ILO convention C155 - Occupational Safety and Health Convention, 1981, Art.21. ▪ The houses visited by the study team were in poor condition, with leaking roofs and several broken and falling parts. This is not in compliance with the MOH DECREE on health requirements for workplace environment in offices and industry No. 1405/MENKES/SK/XI/2002, Art. X (6). ▪ The chemical mixing and storage area poses risk to health for workers and bystanders and as such is not in alignment with the ILO convention C155 - Occupational Safety and Health Convention, 1981, Art.16(1) and the guidance of RSPO P&C 4.7. ▪ Overall, COMPANY D is not compliant with the ILO convention C155 - Occupational Safety and Health Convention, 1981, Art.16(1, 2 & 3), ILO C184 on Safety and Health in Agriculture Convention, 2001, Art. 6(1), and the Manpower Act No. 13 of 2003, Arts. 86 (1a).
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5.10 General observations from field study

The field study revealed several breaches of the RSPO P&C and non-compliances to international labour standards and Indonesian labour laws, by the four companies. The study team made a few general observations based on the field study visits.

1. The conclusions made by from the field study is based on the relatively small sample size of workers at each of the companies. The study team recognises that the opinions expressed, and information provided may not entirely be a full reflection of the policies, procedures and feelings of the entire working population at each of the companies. Also, according to Company A, workers' experiences are influenced by cultural views and social perceptions that may be challenging to assess, which could easily lead to potential misrepresentation in assessments. Nevertheless, most of the issues raised by the sample of workers are valid and need to be heard and addressed.
2. Auditors conducting the surveillance or re-certification audits are not thorough enough in identifying labour rights abuses. The study team spent 2 full days in each company (compared to sometimes a week to two weeks spent by auditors), with an informal approach and found quite several labour issues. The study team had the same (or even less) "arranged" conditions as any auditor would have, yet, some of the obvious labour issues were unidentified in some of the audit reports. The study team stresses that when auditing the labour aspects, the "checklist mentality" should be abandoned by auditors. While it is important to check that the company maintains the proper documentation, Auditors must be as strict and thorough in assessing the actual implementation.
3. The RSPO P&C is not encompassing enough on labour rights issues. Some of the core labour issues are outlined in the P&C, but the indicators and guidance are at times limited or weak. Also, the intention of some of the Principles is unclear or misleading. For example, Principle 2: "*There is compliance with all applicable local, national and ratified international laws and regulations*", requires growers to show evidence of compliance to applicable laws. The control points are a document information system and a document tracking system for changes in the laws. This Principle does not take into consideration that in fact, the best evidence is for the company to fulfil the contents of the entire P&C as intended. Perhaps, the RSPO should consider revising the language of this Principle. The study team found that the document *Free and Fair Labour in Palm Oil Production: Principles and Implementation Guidance*,²¹¹ was convenient and should be adopted by the RSPO.
4. All companies were informed of the study visit, and almost all of them had some time to prepare for it. Some of the companies used the opportunity to "arrange" their workers, as the study team felt that some of the workers might have been coached on what to answer. Some workers were visibly afraid of fully expressing themselves, perhaps for fear of being victimised later by the company's management. The study team also noticed that workers were seen wearing brand new PPE helmets and apparels (some still with the labels on them), indicating that they were wearing it for the study visit. In one company, before the arrival of the study team, nine sprayers out of a unit of 14, were relocated to another plantation, under the guise of low capacity at the other plantation. The RSPO should consider establishing spot-audits. Such audits can be flexible (concerning what can be audited) and geared towards the provision of technical support based on the findings.
5. The RSPO's Principles on labour issues are not properly socialised at plantation levels. Beyond the erecting of signposts (on for example, "no child labour") at the estates, other issues are barely touched on. For example, in one of the plantations, there is still significant lack of understanding among some of the workers regarding why children should not be brought to the plantations and what the short-term and long-term benefits are. Furthermore, several workers' unions claim that the complaint and grievance system of the RSPO is so complex for them understand and utilise. They stress that up until now, only SERBUNDO/OPPUK and other NGOs have been able to provide some assistance in this area to them. The RSPO Secretariat should establish ways to consistently connect and engage more with workers' unions at the plantation level. This will give an opportunity to socialise the RSPO complaints and grievance mechanisms and determine the most effective ways to socialise labour issues. Some

workers already suggest developing how-to-do posters about the complaint and grievance mechanisms in popular format and languages and ensuring that they are properly disseminated and placed where workers can see them. Some suggest that workers should have Identity cards where the RSPO labour principles are summarised and placed on the backside, to ensure easy uptake.

6. Workers unions at plantation level need critical capacity building support on several areas including:
 - Understanding the provisions of various international labour standards and Indonesia labour laws,
 - paralegal training for leaders of workers' unions,
 - training on negotiation tactics and
 - support regarding financial literacy and transparency.

Chapter 6 Conclusion

There is significant evidence showing cases of labour rights abuses occurring in the palm oil sector. It is also evident that many of these abuses occur at RSPO certified management units in Indonesia. While some NGO investigative reports have uncovered many of these cases, the reality is that many more labour violations in the palm oil sector have gone unreported.²¹²

Some of these cases indicate that the issue is pervasive and structural, have been occurring for several years in palm oil companies.

This study uncovered several cases where RSPO certified companies might have breached international labour standards, Indonesia labour laws and the RSPO principles and criteria, causing harmful impacts to workers and their families. Across the four companies visited, cases were found under nine labour topics namely: child labour, forced labour, discrimination, unethical hiring and contracting practices, insufficient income and income insecurity, lack of freedom of association and collective bargaining rights, unfair targets and insufferable working hours, unhealthy and unsafe working conditions, and lack of gender equality and social protection for women.

The fact that these cases occur in RSPO certified units calls to question the credibility of the RSPO certification system, its auditing, enforcement and complaints handling system.

Currently, the RSPO's P&C is not sufficiently responsive to addressing labour violations that occur in the palm oil sector. The P&C is not explicit on labour rights indicators, thereby leaving much room for interpretation by its member companies. To this end, it (perhaps) unintentionally acts as a catalyst to breaches and non-compliance of its criteria and other core labour standards and labour laws.

The enforcement of the RSPO complaints and dispute settlement mechanism is generally seen as weak, as several stakeholders and investigative reports indicate that the complaints panel appear too slow in responding to complaints and determining resolutions. Some NGOs express frustration that the RSPO settlement never results to contentment amongst the parties.

Perhaps the most disturbing aspect of the RSPO certification process is the weakness presented by its current audit and accreditation process. Many audits and audit reports prepared by accredited RSPO certification bodies are of poor quality, yet they still retain their accreditation. Auditing of labour issues for RSPO certification is not optimal, especially as surveillance audits emphasise the availability of labour-related documentation and procedures and less on checking actual labour compliance in practice.

Although, the RSPO is still overwhelmingly viewed by stakeholders in the palm oil sector, as the go-to option for companies intending to produce or buy certified sustainable palm oil, it needs to seriously consider taking some far-reaching decisions and solutions, to ensure that it is much more effective in providing support and remedies to workers and communities impacted by labour violations. Without this, its claim of offering certified sustainable palm oil will continue to be in doubt.

A positive move however, is that the RSPO, ASI and some industry players are taking some necessary steps towards addressing some of the gaps found. In 2017, the RSPO established a labour task force,²¹³ expanded its team with newly hired grievance and social managers, and commissioned this labour study. It is currently reviewing its P&C and has improved some aspects of its P&C Certification Systems in the June 2017 version.²¹⁴ Further, the RSPO is working to strengthen its audit of labour issues with the development of social audit guidelines.²¹⁵ The ASI collaborated with the RSPO to set up the RSPO Integrity Project. It has set up a Social Competence Center (SCC) to enhance assessors' capacities to identify social risks when performing accreditation audits.²¹⁶

Another positive development is that several key players in the palm oil industry in Indonesia (i.e. Cargill, Sime Darby, Golden Agri, Musim Mas and Wilmar), who are RSPO members, have joined forces to find solutions to some of the prevailing labour issues, based on a systems approach, and under the Decent Rural Living Initiative.²¹⁷ Together with Forum for the Future as the facilitator, these companies aim to work together in improving the protection of human and labour rights in agriculture.²¹⁸ Already, all the five companies have

well-established NDPE policies and individual processes to implement them. However, they also recognise that the exploitation aspect is the hardest to tackle unilaterally as some of the components may benefit from concerted industry effort.²¹⁹

6.1 Recommendations

Based on all documentation and input provided at all stages of this study, the following recommendations are provided mostly to the RSPO. The recommendations touch on strengthening the labour aspects of the RSPO P&C, addressing gaps in its complaints system, improving the credibility of its auditing (especially on labour), the inclusion of workers' union in RSPO, and other aspects requiring attention on the short to medium term.²²⁰

- Several recommendations on each of the labour issues have been made directly to the four companies that participated in this labour study. Although some have provided some reactions and made commitments to address some of the issues noted during the field verification, the study team recommends the RSPO to follow-up with these companies on whether and how they have implemented the recommendations.
- The RSPO should ensure that the P&C review task force pays more attention to labour and labour-related issues in its current review process. The task force should expand upon Principle 6, formulate concrete criteria, indicators and guidelines on all the labour and labour-related issues in the P&C, e.g. living wage.
- The P&C review task force should endeavour to align the RSPO P&C with the *Free and Fair Labour in Palm Oil Production: Principles and Implementation Guidance*.²²¹ This document adequately covers the areas of significant exposure to the risks of exploitation of workers on palm oil plantations and mills. Several organisations and workers' unions have developed it utilising their significant experience working on labour rights issues.
- International labour conventions are not clearly referenced per indicator or criteria in the RSPO's P&C. To stimulate palm oil companies to become more aware of and implement responsible palm oil practices following international standards, the RSPO should ensure that for each of its principles and criteria, a direct reference is made to the associated international standards and conventions. In the P&C's national interpretation guidelines for Indonesia, the indicators should be better aligned with the provisions or requirements contained in the national labour laws, in order to foster compliance.
- The RSPO should seriously consider the election of at least one independent trade union into its board of governors. In the current climate where several labour rights violations are being uncovered, it is imperative to have the voice of workers' unions well-represented with seats at the RSPO board level. NGOs and social organisations are important players that currently have two seats on the RSPO board of governance, however, their presence should not be used as a substitute for the direct representation of the voice of workers' unions.
- The capacity of independent trade unions in palm oil plantations should be strengthened. For example, most of the independent unions in the sector still require a thorough understanding of the various labour laws in Indonesia and the provisions that offer protection and rights to workers. Some of the unions are still unable to understand and successfully use the RSPO's grievance and complaint mechanism. The RSPO should, therefore, endeavour to implement more socialisations, for instance of its complaints system and processes, especially to workers' unions in Indonesia. Independent trade unions when strengthened, are, without doubt, the best-placed stakeholder to catalyse sustained changes in labour practices in plantations and mills.
- Trade unions at plantation level should be encouraged and supported to include the labour and labour-related provisions of the RSPO P&C in their collective bargaining agreements (CBA). The provisions should be used by these unions as a checklist when negotiating the CBA for workers. Next to this, the labour aspects of the RSPO's P&C needs to be properly socialised with workers at the plantation level. This is especially recommended by workers who participated in the FGDs.

- The RSPO should address the fundamental concerns of lack of transparency, inefficiency and procedural inconsistency of its complaint system. Amongst others, two studies conducted by different parties - Jonas (2014)²²² and Macdonald and Balaton-Chrimes (2016)²²³ – already provide detailed analysis and recommendations for the RSPO to implement. Therefore, it is strongly recommended that the RSPO makes a critical review of the performance of its complaints system against the recommendations outlined in both reports. The central question being: to what extent are the recommendations expressed in these reports already addressed by the complaints system? What gaps still exist and what additional measures will be taken by the RSPO to address the gaps?
- The RSPO should endeavour to handle more complaints promptly, especially in swiftly determining the terms of reference for verification and arranging independent investigators and experts. Perhaps to handle case backlogs, the RSPO could consider utilising (external) independent recourse mechanisms or compliance advisors. The RSPO should explore the possibility of using blockchain technology for transparent processing and recording of all complaints. Several blockchain experts can provide advice on this (see for example, Qlikchain).
- To greatly improve the credibility of its certification system, the RSPO should consider establishing unannounced audits or “spot-audits”, especially to capture labour issues which are usually transient and occurs in a typical day. Such audits should be conducted during the period of 20th – 30th of each month, as according to labour experts in Indonesia, this is the peak days when there is a high use of casual labour and the occurrence of child labour. The RSPO Secretariat should consider utilising its certification or compliance executives to implement the checks. The spot-audits can be semi-formal and geared towards the provision of technical support based on the findings.
- The RSPO and ASI should consider measures to ensure that the audit reports and ASA reports produced by each certification body are of high quality, particularly regarding the use of English language, structure of reporting and overall readability. Most of the audit reports reviewed during this study, were found lacking on these points. Some of the independent reviewers of the ASA reports prepared by the CBs, also noted this as a central issue. The RSPO should, therefore, consider including this as a requirement in its Principle & Criteria Certification Systems - June 2017 under section “4.10 Reporting and Communications”.
- The RSPO should become much more proactive and strict in issuing more suspensions and sanctions against underperforming certification bodies and certificate holders. The compliance assessments carried out by the ASI appears to be effective in evaluating the performance of certification bodies, however, where the ASI findings (i.e. non-conformities) significantly deviate from those raised by the certification bodies, the ASI must ensure consequences (i.e. sanctions and suspensions), to maintain the credibility and professionalism of the accreditation process. Also, the RSPO should consider as a standard practice, to involve NGOs or independent expert organisations in the ASI verification process. Presently, this is sparsely done.
- The cases of non-compliance noted in this study applies to Indonesia, but it opens a question of whether similar levels of non-compliance can be found in RSPO certified plantations within other regional contexts. The RSPO should, therefore, consider expanding the scope of this study to cover a regional perspective. This means covering a few countries within other regions where the conditions for workers might be even worse off. This will ensure that there is cross-learning and show that the RSPO is serious about understanding and taking measures to strengthen labour compliance in all its certified units around the world.
- Compliance to labour and social issues by smallholders needs further research and investigation. During this labour study, several concerns were raised concerning labour-related issues between palm oil companies and their supplying smallholders. Under the RSPO certification scheme, the palm oil companies are obliged to ensure that all smallholders and out-growers which form part of its supply chain are of ‘certifiable standard within 3 years’ (RSPO, 2007). Amongst other RSPO initiatives on

Smallholders, the RSPO has established the RSPO Smallholders Support Fund (RSSF),²²⁴ Smallholder working group²²⁵ and has certified more than 4 million MT of FFBs from smallholders.

- In addition to the recent decision to ensure that all auditors must undergo the RSPO lead auditor course, the RSPO should endeavour to develop labour and social audit guidelines and training for auditors of accredited CBs.²²⁶
- As questions of transparency, independence and credibility still looms around the RSPO audit and accreditation system, the study team recommends that the RSPO should consider on the long-term,²²⁷ taking full control of at least the audit system of the RSPO certification. Since 2014, the RSPO makes use of “accredited” CBs. If in the coming year, the credibility of the CB auditing is not improved, this recommendation should be seriously considered. In any case, there is a successful precedent from other initiatives like the Fairtrade/ FloCert model.
- In addition to the recent inclusion of requirement that auditors must have experience on gender (see Principle & Criteria Certification Systems - June 2017 section “3.8 Assessment team composition requirements”), the RSPO should consider including as a requirement that, audit teams should be gender-balanced or consist of at least one qualified woman auditor.
- The RSPO should facilitate engagement with the PPE industry to design and supply appropriate, quality, safe and comfortable personal protective equipment for workers (i.e. helmet, gloves, overalls, goggles, nose masks, earplugs, etc.).
- The RSPO should liaise with Indonesia’s labour inspectors to ensure coordination, learning and exchange of information regarding correct interpretation of the labour laws, inspection reports, cases of violations, convictions and penalties.
- To ensure greater transparency to the public, the RSPO should endeavour to update its website with all certified member list, all surveillance audits, all ASI compliance assessments and all cases of complaints. Search and filter functions for all online repositories on the RSPO website should be fixed. For example, the RSPO should ensure that the online searchable database for RSPO P&C assessment progress is updated with all past and present files for each RSPO certified companies/units, at least to the last 5 years. Currently, the search functionality of the database is not-user-friendly and the database itself appears to be non-transparent as not all companies have updated audit surveillance records. As such, not much historical analysis especially on labour violations can be made since not all audit surveillance files can be obtained on each of the certified palm oil companies/units.
- The RSPO should endeavour to strengthen the work of the labour and social team by recruiting additional qualified staff. Of recent, the RSPO Secretariat has recruited a qualified Social Manager, however, given the magnitude of the challenges on labour, this is insufficient. As an alternative, the RSPO could consider setting up a confidential network of labour and social experts to assist the social manager with independent advice, tasks and assignments on a regular basis.

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- 2 Given that three consultants conducted the visit, this means a total of 24 man-days and 192 and man-hours.
- 3 RSPO decided to anonymize the names of the companies in order to avoid distractions and keep the focus of the report on identifying the breaches and way forward.
- 4 ILO labour standards, RSPO Principles and Criteria P&C (2013) and Indonesia labour laws
- 5 Text and data (see also Table 5 and 6) contained in section 2.1 was contributed by Retno Kusumaningtyas. The information in this section are partially edited excerpts from her report for CIFOR. Kusumaningtyas R and van Gelder JW. 2017. *Towards responsible and inclusive financing of the palm oil sector*. Occasional Paper 175. Bogor, Indonesia: CIFOR, p.6-8.
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- 176 The RSPO decided to anonymize the names of the companies in order to avoid distractions and keep the focus of the report on identifying the breaches and way forward.
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workers may be able to refuse to work, their vulnerability may mean that they have no choice and are therefore obliged to do so in order to earn the minimum wage or keep their jobs, or both. This then becomes a situation of imposing work under the menace of a penalty and can be considered forced labour. See: Compulsory overtime: http://www.ilo.org/empent/areas/business-helpdesk/faqs/WCMS_DOC_ENT_HLP_FL_FAQ_EN/lang--en/index.htm#Q9, viewed in February 2018.

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