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Shortcomings in the EU regulations are partly to blame for human rights violations in the production of palm oil

Thank you for the invitation to come here to the European Parliament to discuss ecological and social impacts of palm oil. I represent Finnish corporate social responsibility NGO Finnwatch, which investigates human rights impacts of business operations and tax responsibility.

I will focus in my presentation on the rights of migrant workers in the production of palm oil in Malaysia. The observations and viewpoints that I will present are based on two previous Finnwatch reports, which were published in 2014 and 2015, and which investigated the palm oil supply chains of Finnish companies. As a case study I will talk specifically about four palm oil estates that are part of the IOI group which is one of the largest palm oil companies in Malaysia.

The reports published by Finnwatch were based on interviews with workers of these four estates and the review of documents such as IOI Group's internal guidelines, workers' salary slips and employment contracts, and interviews with representatives of the IOI Group's management. I have a few copies of the reports here with me and you are more than welcome to take copies – the findings of our field investigation are represented in Chapter 9.

The vast majority, over 90 per cent, of the workers at the palm oil estates in Malaysia are migrant workers. Migrant workers from Indonesia, India, Nepal, Bangladesh and Myanmar come to Malaysia in search of a better life. In Malaysia, they face human rights challenges that I will discuss next in greater detail using case examples from our field research.

1. Migrant workers are recruited in their home countries through false promises

Recruiting migrant workers is big business in the sending countries. At the four IOI Group's estates, working contracts were in Bahasa Malaysia and in English for workers of other nationalities. For many migrant workers, the contracts were completely incomprehensible and almost no one could read or understand the contents of their contract. Most workers were functionally illiterate even in their own mother tongue.

According to many of the workers, they would have never travelled to Malaysia, if they had known what they now knew, but they had no possibility to go back, as they did not have the finances to pay for their return flight. IOI Group had also confiscated the passports of migrant workers in order to prevent them from escaping.

2. Problems are rooted in the recruitment business model in Southeast Asian which means that the cost of recruitment is charged to the workers

The plantations that receive migrant workers in Malaysia do not necessarily pay anything for recruitment. Instead recruitment services providers make their profit from fees that they charge to

the workers. Almost all workers that we interviewed for our report stated that they had paid a lot of money in order to come to work for the IOI Group. The recruitment fee represents a very big investment, which is almost always beyond the means of the prospective workers; therefore they become indebted to friends, relatives or the recruitment agent when they are recruited. The debts are repaid from the wages that they earn in Malaysia. This can lead to situations akin to debt bondage, in which the workers have difficulties to pay off their debts, with interests, and also send money back home to support their families. Recruitment agencies are poorly regulated throughout Southeast Asia. Like so many other countries, Malaysia also has not ratified the ILO convention on Private Employment Agencies.

3. Legislation on minimum wages is being circumvented by paying the workers at piecemeal rates

The majority of workers on IOI estates are paid a piece rate, whereby the worker is paid according to the amount of work done or their performance. At the time of Finnwatch research in 2014 working hours were not properly recorded. In practice, all workers did not receive legal minimum wage. Interviewed workers alleged that many of them earned less than the minimum wage of RM 900 per month. An examination of a large number of wage slips from the estates strongly supported these allegations.

4. Fourth and possibly the most crucial problem relates to freedom of association

The vast majority of migrant workers in Malaysia are not members of a trade union and the right of migrant workers to form trade unions is restricted by law in Malaysia. No one looks after the rights of these workers, and they do not have the opportunity to collectively bargain. IOI Group also limited its workers' right to freedom of association by preventing the representatives of trade unions from accessing the estates. IOI Group's Employment Contract stated that the employer has the right to terminate the work permit of any foreign worker, who is involved in a strike or any industrial action or instigates other workers to do so. The right to strike is one of the principal means by which workers and their associations may legitimately promote and defend their economic and social interests.

Before the end of the year, Finnwatch will publish a follow-up report regarding the working conditions at the IOI Group. Some of the problems that I described above have been addressed since the publication of our earlier reports and Finnwatch has had quite good dialogue with both the IOI Group itself and also Neste, which is a state owned company in Finland and which at the time when we started to work on this issue, was buying palm oil from the IOI Group.

But in order to solve the problems in the palm oil sector, a bigger muscle than what a small NGO can offer, is needed.

The OECD has predicted that production of palm oil will increase by as much as 45 per cent by 2020. The growth in the production is partly due to biofuels and partly due to changing eating habits here in Europe and elsewhere. In the European Union, the problems in the primary production of the growing biofuel industry has been addressed by adopting a directive that regulates the quality of biofuels and renewable energy. As part of these measures, the EU has recognised a number of different certification schemes which are based on audits. By using raw materials, such as palm oil, which are certified by these schemes, companies that market biofuels can demonstrate their sustainability.

This approach has several big problems from the human rights point of view:

1. The current directives related to palm oil do not address social responsibility but are solely focussed on environmental sustainability and questions of quality.
2. This has led to a situation where the monitoring of human rights issues by certification schemes that are currently approved by the EU, such as RSPO, is weak. The palm oil estates that I described above, and where the Finnwatch investigation identified several serious human rights violations, had all passed both RSPO and ISCC audits. Both these certification schemes which have been approved by the EU.
3. Such industry sectors as food industries and cosmetics which use huge amounts of palm oil, are left outside the scope of the existing regulations. Even though the use of palm oil in biofuels is rapidly on the rise, a lion's share of all of the world's palm oil is used in groceries and cosmetics. As there is no regulation in place, these industry sectors take the easy way out. In the palm oil market, there are huge amounts of completely uncertified palm oil which comes from totally unknown sources. Such corporate giants, as Nestlé or Unilever have set themselves unambitious targets for ensuring the responsibility of their raw material and still use book and claim chain of custody models. Book and claim does not advance the traceability of palm oil and relieves the buying company from taking responsibility over human rights violations in primary production.

I hope that this event here today can be a step towards fixing the EU regulations which are aimed at ensuring the sustainability of palm oil but which in their current shape and form, have a human rights size loophole in their heart.