

5/2014

The law of the jungle

Corporate responsibility of Finnish palm oil purchases



The report was produced as part of Finnwatch's Decent Work programme supported by:



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KEHITYSYHTEISTYÖVAROIN

THIS IS AN UNOFFICIAL TRANSLATION. THE ORIGINAL REPORT HAS BEEN PUBLISHED IN FINNISH AND IS AVAILABLE AT: www.finnwatch.org.

Finnwatch is a Finnish non-profit organisation that studies the responsibility of global business.

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Publication date: September 2014

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1. Introduction

It is difficult to avoid the use of palm oil in everyday life. This vegetable oil produced all the way in Southeast Asia is commonly used in packaged foods sold in food shops. If one does not consume it in their food, it comes into homes in the form of cosmetics, shampoos, or soaps. You may fill up your car with palm oil, if you use biodiesel.

Palm oil has become a topic of international discussion. In order to curb climate change, the EU has created incentives to promote the use of renewable energy and biofuels. This has seen the demand for palm oil continue to grow.

In recent years, problems related especially to the production of palm oil have come to light. The production of palm oil-based biodiesel has been criticized, because tropical rain forests that bind carbon dioxide have been cleared to make way for plantations. This means that instead of reversing climate change, biodiesel has actually caused climate change to accelerate, and at the same time biodiversity has suffered. On the other hand, transformation of land already in agricultural use to palm oil plantations is not unproblematic either. Palm oil production has also been issued blame for land conflicts, the rise of food prices and food insecurity.

The EU has prescribed regulation criteria for the production of biofuels, which aim to ensure the sustainability of production. However, the social aspects of production have been overlooked, even though EU-approved certification systems, such as the Roundtable for Sustainable Palm Oil (RSPO) have strived to also monitor the realisation of land rights and acceptable working conditions.

Neste Oil, owned by Finland's government, is the world's single largest buyer of palm oil. Food industry companies also import significant quantities of palm oil to Finland. For this

reason, we too should pay close attention to palm oil production and its responsibility.

This report looks at the responsibility of palm oil production in Malaysia and Indonesia, the countries that produce palm oil imported to Finland. The background section, which is based on literature, looks into the ecological, social and economic impacts of palm oil production. The report specifically focuses on working conditions at palm oil plantations, which have received very little attention in international discussion.

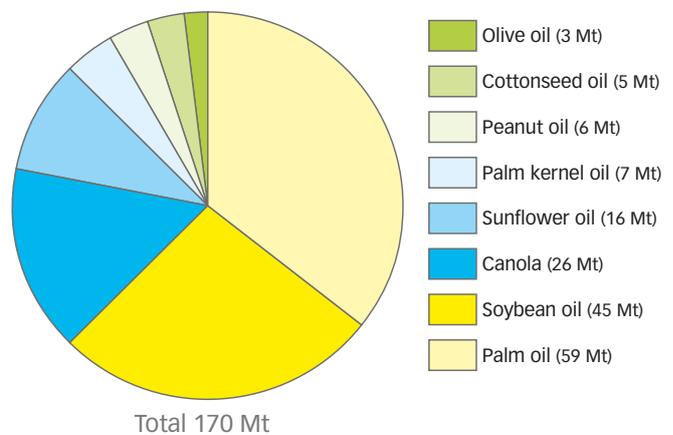
Finnwatch's own investigation comprises a survey sent to companies and field research. We explore the responsibility exhibited by Finnish companies in palm oil purchases and palm oil production conditions on the Malay Peninsula. The investigation is based on a survey sent to Finnish companies and field inspections at the IOI Group's plantations, which produce palm oil for Neste Oil.

This report was produced as part of Finnwatch's Decent Work Research Programme, which monitors the realisation of labour rights in the activities of Finnish companies. The programme is funded by Tehy – the Union of Health and Social Care Professionals, Trade Union Pro, Industrial Union TEAM, JHL – the Trade Union for the Public and Welfare Sectors, Service Union United PAM for employees of the private services sector, and International Solidarity Foundation. The report has also received financing from the Ministry for Foreign Affairs of Finland's development aid funds.

2. Production of palm oil growing steadily

As food habits have changed, the standard of living improved and the use of biofuels become more commonplace, the demand for vegetable oils on the global market has skyrocketed. The use of vegetable oils has seen a near six-fold increase from the 1970s to the 2010s. The market has responded to the growing demand by increasing access to affordable vegetable oils. One of the strategies has been to transition to the use of varieties that are the most production effective; the African oil palm is the uncontested winner harvest-wise. The African oil palm produces 4.5 times more vegetable oil per hectare than the second most productive oil plant, rapeseed.¹

Native to West Africa, the African oil palm (*Elaeis guineensis*) produces a harvest throughout the year, but requires a tropical environment and an abundance of water to grow. Production of palm oil has centred greatly in Southeast Asia. The most significant production countries in Africa are Nigeria, the Ivory Coast, and the Democratic Republic



Production of most important vegetable oils in 2013 (Megatons)²

of the Congo. In addition to Africa and Asia, the oil palm is also grown in South America, where Brazil is the most significant production country.

¹ FAOSTAT, calculations listed in the Exploitative Labor Practices in the Global Palm Oil Industry report, by Accenture for Humanity United 2012, can be read at: http://humanityunited.org/pdfs/Modern_Slavery_in_the_Palm_Oil_Industry.pdf

² United State Department of Agriculture, can be read at: <http://apps.fas.usda.gov/psdonline/>



Palm oil production comprises gathering of bunches from the African oil palm, after which palm oil is extracted from the palm's fruit by pressing. The extracted raw palm oil can then be further refined for the food and chemical industries' needs.

The climate in Southeast Asia is favourable for production of the African oil palm and harvests are large as it rains year-round in the area.³ Together, Indonesia and Malaysia produce over 85% of the palm oil that goes on the global market⁴. In 2013, Indonesia produced 26 megatons of palm oil, while Malaysia produced 21.5 megatons.⁵ The OECD estimates that by 2020 palm oil production in these countries will increase by up to 40%.⁶

Asia exports palm all over the world. It is used most in India, China, and Indonesia, and in European countries.⁷

3 FAO, <http://www.fao.org/DOCrEP/005/Y4355E/y4355e03.htm> (viewed on 3 March 2014)

4 RSPO, <http://www.betterpalmoil.org/about> (viewed on 3 March 2014)

5 Gapki, Bloomberg, <http://www.bloomberg.com/news/2014-03-21/palm-output-in-indonesiarising-for-first-time-in-six-months-3-.html> (viewed on 23 March 2014); Malaysian Palm Oil Board, <http://bepi.mpob.gov.my/index.php/statistics/production/118-production-2013/604-production-of-oil-palmproducts-2013.html> (viewed on 3 March 2014)

6 OECD – FAO, Agricultural Outlook 2011–2020, pg. 111, can be read at <http://www.oecd.org/site/oecd-faoagriculturaloutlook/48178887.pdf>

7 RSPO, <http://www.betterpalmoil.org/about> (viewed on 3 March 2014)

3. Palm oil industry problems

Palm oil production requires a great deal of farmland and labour force. Production is centred in so-called risk countries, where the principles of the constitutional state are not necessarily realised, freedom of speech is limited, corruption is common and regulation of the private sector is limited. For this reason, there are very specific problems related to ecological, social, and economic sustainability in production.

The following sections explore these problems, which include clearing of rainforests, violating the land rights of indigenous peoples and aggressive tax planning. The sections will specifically focus on the situation in Indonesia and Malaysia, as these are the countries from which the greatest volume of palm oil is exported for the use of Finnish companies.

The fourth chapter of the report takes an in-depth look at questions related to working conditions at palm oil plantations.

3.1. CLEARING OF RAINFORESTS

The African oil palm is grown on 15 million hectares of land worldwide, and due to growing demand the land area used for farming of the palm is continuously expanding. However, the land area suitable for production is a very limited resource. The African oil palm requires a tropical climate and steady rainfall, which means it competes for land with e.g. rainforests.⁸

Between 1990 and 2008, the land area for cultivation of the palm grew by 8.7 million hectares. 5.5 million hectares of this new land was related to destruction of forests primarily in Indonesia and Malaysia.⁹ 4.4 per cent of Indonesia's land area is taken up by

palm oil plantations. In Malaysia, the corresponding figure is 15 per cent.¹⁰

In recent years, deforestation has expanded even more. The situation is worst in Indonesia, where according to official estimates 45,000 hectares of forest is cleared each year. However, according to studies based on satellite photos, up to 2 million hectares of forest was destroyed each year in 2011 and 2012.¹¹ Tropical rainforests are effective carbon sinks. This means that due to deforestation, Indonesia is the world's third greatest contributor of greenhouse emissions after China and the United States.¹²

In Malaysia, it has been estimated that 0.4 per cent of natural forests are destroyed each year. However, farming of the oil palm has been expanded for the most part on existing farmlands, by transforming rubber tree plantations into palm oil plantations. According to estimates, the land area used for palm oil plantations will soon reach its peak.¹³ In Malaysia, forests that can be felled are now only found in Sarawak State on the island of Borneo.¹⁴

Two-thirds of all the world's plant and animal species live in Southeast Asia's rainforests, and rainforests function as effective carbon sinks binding carbon dioxide, which causes climate warming. Forests on the Indonesia-governed islands of Borneo, Sumatra and Java, as well as in Malaysia are the world's richest habitats biodiversity-wise. The area has

8 UNEP, https://na.unep.net/geas/getUNEPPageWithArticleIDScript.php?article_id=73

9 EU, <http://ec.europa.eu/environment/forests/pdf/1.%20Report%20analysis%20of%20impact.pdf>

10 Accenture for Humanity United, 2012, *Exploitative Labor Practises in the Global Palm Oil Industry*, can be read at: http://humanityunited.org/pdfs/Modern_Slavery_in_the_Palm_Oil_Industry.pdf

11 Redd Monitor, <http://www.redd-monitor.org/2013/12/11/indonesias-rate-of-deforestation-has-doubled-under-the-moratorium>

12 Greenpeace, <http://www.greenpeace.org/fi/land/fi/kampanjat/palmuoljy/ongelmat/> (viewed on 3 March 2014)

13 Accenture for Humanity United, 2012, *Exploitative Labor Practises in the Global Palm Oil Industry*, can be read at: http://humanityunited.org/pdfs/Modern_Slavery_in_the_Palm_Oil_Industry.pdf

14 Forest People, Sarawak: IOI-Pelita and the community of Long Teran Kanan, 2012, can be read at: <http://www.forestpeoples.org/sites/fpp/files/publication/2012/10/sarawak-ioi-pelitaand-long-teran-kanan-september-2012-2.pdf>

Use of palm oil in biofuels sees an increase in deforestation?

Import of palm oil to the EU has increased dramatically in recent years. In 2012, the volume of palm oil imported into the EU had risen by 40 per cent of what it was in 2006. Nearly 30 per cent of the palm oil imported to the EU is used in biofuels. Additionally, palm oil is also used to produce heat and electricity.¹⁵

The increase in production of palm oil for biofuels has been largely criticized, and it has been estimated to be the cause a great amount of so-called indirect land use changes (ILUC). Indirect land use changes refer to situations in which farmland is transferred from food production to biofuel production. As food farming cannot be terminated, new farm lands are needed, and this is produced by drying peatlands or clearing and burning forests to make way for fields.

Although, the use of palm oil in biofuels is regulated by the EU in a larger extent than its production for the food industry, this new method of use will inevitably bring about pressure in land use as a whole. Due to indirect land use changes, Greenpeace, among others, sees that plants that can be used as food should not be used as a raw material for biofuels¹⁶.

The palm oil industry has engaged in strong lobbying to prevent emissions from indirect land use changes being included in the total carbon dioxide emissions attributed to palm oil. Malaysia has accused Europe of protecting its own turpentine market, and ILUC-calculations have been dismissed as unscientific.¹⁷

Neste Oil has also actively opposed observation of ILUC-calculations in the EU directive concerning biofuels.¹⁸ The company uses approximately 1–2 per cent of all palm oil produced worldwide.¹⁹ Palm oil purchases by Neste Oil, which is owned by Finland's government, are explored in-depth in chapter 8.1.

As well as in the EU, use of palm oil as biodiesel is also increasing in other parts of the world. For example, Indonesia and Malaysia are increasing their production of palm oil also for their domestic fuel market²⁰.

15 GSI & IISD, 2013, The EU Biofuel Policy and Palm Oil, can be read at: http://www.iisd.org/gsi/sites/default/files/bf_eupalmoil.pdf

16 Greenpeace, Biopolttoaineet EU:ssa, <http://www.greenpeace.org/fi/nland/fi/kampanjat/palmuoljy/perusasiaa-biopolttoaineista/> (viewed on 16 June 2014)

17 E.g. CEO Palm, Why EU Ministers should reject ILUC, <http://www.ceopalmoil.com/2013/11/why-eu-ministers-should-reject-iluc/>. However, there is a great deal of research on indirect land use changes e.g. Greenpeace: <http://www.greenpeace.org/fi/nland/fi/kampanjat/palmuoljy/Tutkimukset/>

18 An opinion piece by Neste Oil published by Greenpeace in 2010 can be read at: http://www.greenpeace.org/fi/nland/Global/fi/nland/Dokumentit/Julkaisut/2012/neste_oil_ILUC%202010.pdf

19 Neste Oil, <http://www.nesteoil.fi/default.asp?path=35,52,11990,22214,22228,22556> (viewed on 19 July 2014)

20 E.g. Bloomberg, <http://www.bloomberg.com/news/2014-03-02/palm-oil-export-growth-stalling-in-indonesia-on-biodiesel-surge.html> (viewed on 20 July 2014)

thousands of plant species and an animal population that includes orangutans, tigers, rhinos, as well as over 1,500 bird species. Destruction of the rainforests is one of the greatest environmental problems of the 2000s due to depletion of biodiversity and acceleration of climate change.²¹

3.2 LAND RIGHTS OF INDIGENOUS PEOPLES IN DANGER

Rainforests are not palm oils only competitor for farmland. Locals also want their share. Especially the livelihood of indigenous peoples is dependent on small-scale farming and utilisation of natural resources. Forests are an important part of the culture of many indigenous peoples.

In Indonesia, 15 per cent of all utilised farmland is used for farming the African oil palm. In Malaysia, the corresponding figure is over 63 per cent.²² The contradicting interests of local government, large corporations and the local population with regard to land use have led to numerous land conflicts.

Clearing of forests has increased in Indonesia in recent years, and land conflicts are very common. In 2012 alone, a total of 119 land conflicts related to plantations were reported to Indonesian civil society HuMa, which is an advocate of land rights.²³ Problems have also arisen from the transfer of farmland from small farms to the use of palm oil companies in the form of crops under contract and land leasing. Small farms in Indonesia produce almost 40 per cent of the entire country's raw palm oil and corporations have grown more and more interested in the land owned by small farms. There have been points of

ambiguity in agreements with small farms, farmers have been unable to pay off loans they have received from corporations for seeds and fertilizer, or they have been pressured when they have wanted to terminate cooperation with a company.²⁴

The complexity of Indonesian land rights legislation has made it more difficult to resolve land conflicts. The legislation is a mix of colonial land law, common law, which has developed over the course of hundreds of years, and new laws. In practice, the national and local governments hold administrative power for the majority of land area, and can grant different types of land use rights to companies that so require.²⁵

The complexity of processes, weak government, and corruption have also hindered implementation of laws. In 2013, Indonesia ranked 114th in Transparency International's corruption index.²⁶ The Master plan for Acceleration and Expansion of Indonesia's Economic Development 2011–2015 has also caused great alarm. In the context of the programme Indonesia has enacted new laws, which make it possible for the government to seize land owned by citizens, if it is in the national interest, and provide authorities more power to suppress protests related to land conflicts in the name of national security.²⁷

21 WWF, Sademetsät, <http://wwf.fi/maapallomme/metsat/sademetsat/> (viewed on 3 March 2014); Greenpeace, <http://www.greenpeace.org/finland/fi/kampanjat/metsa/sademetsat/Indonesia/> (viewed on 3 March 2014)

22 Accenture for Humanity United, *Exploitative Labor Practises in the Global Palm Oil Industry*, can be read at: http://humanityunited.org/pdfs/Modern_Slavery_in_the_Palm_Oil_Industry.pdf

23 FIDH, 2013, *Submission to the United Nations Committee on Economic, Social and Cultural Rights*, can be read at: http://tbinternet.ohchr.org/Treaties/CESCR/Shared%20Documents/IDN/INT_CESCR_NGO_IDN_15962_E.pdf

24 World Watch Institute, *Oil Palm Industry Takes Land, Promises Livelihood*, <http://www.world-watch.org/node/6075> (viewed on 10 August 2014); International Finance Corporation IFC, 2013, *Diagnostic Study on Indonesian Oil Palm Smallholders*, can be read at: http://www.rspo.org/fi/le/Diagnostic_Study_on_Indonesian_Palm_Oil_Smallholders.pdf

25 E.g. *Transformation of Land Rights in Indonesia: A Mixed Private Public Law Model*, can be read at: [http://digital.law.washington.edu/dspace-law/bitstream/handle/1773.1/510/19PacRimL%26PollyJ417\(2010\).pdf?sequence=3](http://digital.law.washington.edu/dspace-law/bitstream/handle/1773.1/510/19PacRimL%26PollyJ417(2010).pdf?sequence=3) ja ABNR, *Land acquisition under Indonesian Law*, can be read at: <http://www.yulchon.com/mail/seminar/4-1.%20Handout.pdf>

26 Transparency International, *Indonesia*, <http://www.transparency.org/country#IDN> (viewed on 12 June 2014) Finland ranked 3rd in this same index.

27 *New laws include Law on Providing Land for Development ja Law on Managing Social Conflict*. FIDH, 2013, *Submission to the United Nations Committee on Economic, Social and Cultural Rights*, can be read at: http://tbinternet.ohchr.org/Treaties/CESCR/Shared%20Documents/IDN/INT_CESCR_NGO_IDN_15962_E.pdf

Investigations have shown that as palm oil farming has become more common, this has had a negative effect on food security in Indonesia.

Locals, who previously farmed their fields and gathered food from the forests, now have to buy their food, because the fields and forests have been privatized for palm oil producers.²⁸ EJOLT's environmental conflict database includes numerous cases in which Indonesia's local communities have protested against the establishment of new palm oil plantations. They have said that, among other things, these plantations destroy the economy of villages that are based on rice farming.²⁹

Land grabs related to palm oil have been reported especially in the Malaysian states of Sarawak, on the island of Borneo, and in Sabah, where palm oil plantations now threaten the traditional livelihoods of the Dayak people.³⁰ The rights of indigenous peoples have been acknowledged in the states' land laws, but implementation of these laws is lacking, and decision makers have been accused of corruption.³¹ A 2013 report on land conflicts by Malaysia's human rights commission reveals that the local populations has not been heard at all before plantations owned by corporations and the government have been established.³²

Malaysia's government aims to favour large palm oil plantations and transfer ownership

of land from small farms to multinational Malaysian corporations. Land grabs in Malaysia, which has an advanced government structure, are often a very different phenomenon from e.g. land grabs in sub-Saharan Africa and many of Southeast Asia's poorer countries, in which multinational corporations have taken advantage of weak administration and corruption to execute land grabs.³³

Numerous certifications used for palm oil production address questions related to land rights. Certain certification systems require that the local population is consulted and that they give their consent to establish new plantations or expand existing plantations. However, local legislation, the fragmented nature of land rights administration and pressure to use land have severely hampered consultations. For example, in Indonesia corporations must utilise the land use rights granted to them in full within a four year period or they lose the right to use the land. Planting trees on thousands of hectares of land within a short period may mean that there is no time to carry out genuinely relevant consultations and environmental impact assessments.³⁴

However, it can be difficult to intervene in discrepancies related to lacking consultations and matters of land use. It is common for human rights advocates, who act to defend land rights in Indonesia, to experience harassment. A report submitted by human rights organization FIDH to the UN's Human Rights Council cited numerous cases of harassment. Harassment can involve law suits for defamation, temporary arrests, threats, violence and even murder. The activities of human rights organizations are restricted by citing the

28 Hariati, Sinaga, *Employment and Income of Workers on Indonesian Oil Palm Plantations: Food Crisis at the Micro Level*, *Future of Food – Journal on Food, Agriculture and Society*, Vol. 1, Nr. 2, Winter 2013

29 Ejolt, <http://ejatlas.org/conflict/pt-ica-land-conflict-on-sumatra-indonesia>

30 Land Deal Politics Initiative, 2013, *A Malaysian Land Grab?*, can be read at: <http://www.plaas.org.za/sites/default/files/publications-pdf/LDPI50C-ramb.pdf>; Cook F. M, 2011, *Making an informed choice – A review of oil palm partnerships in Sabah and Sarawak, East Malaysia* http://www.fao.org/fiadmin/templates/tci/pdf/InternationalInvestment/IIED/MALAYSIA_OIL_PALM_STUDY_IIED_FINAL_MAY_2011_v2_-_LC_-_Clean.pdf

31 E.g. AlJazeera, 19.3.2013, *Undercover Sting Exposes Malaysian land-grab*, <http://www.aljazeera.com/indepth/features/2013/03/2013318131755948174.html> (viewed on 15 May 2014)

32 English version of report can be read at: <http://www.forestpeoples.org/sites/fpp/files/publication/2013/07/suhakam-enquiry-full-text2013.pdf>

33 Cramb, Rob, 2013, *A Malaysian Land Grab – The Political Economy of Large-scale Oil Palm Development in Sarawak*, Land Deal Politics Initiative

34 Daemeter, 2013, *A Comparison of Leading Palm Oil Certification Standards Applied in Indonesia*, can be read at: http://daemeter.org/new/uploads/20140213222544.Daemeter_Certification_Standards_Comparison_Exec_Summ.pdf

What is land grabbing?

There is no one definitive definition for a land grabbing, and corresponding terms include seizure and pilfering. Word “land grabbing” aims to emphasize the negative impacts of national seizure of land, and it refers to long-term acquisition or leasing of land or the right of use of that land that involves serious problems or even human rights violations.

Incidents of land grabbing are often marked by a lack of voluntary and informed advance consent by the local population who will be impacted, and social, economic and environmental impacts have not been taken into account or assessed. Agreements on the acquisition or leasing of such land are not generally made public, and the people, who will be impacted by land use, have not been given the opportunity to participate in drawing up the agreements.³⁵

Indonesian state and enacted into law. An organization can be disbanded, if it is found that it has violated the ideology.³⁶

The operating environment for human rights advocates has become more challenging in Malaysia as well. For example, Malaysia’s largest human rights organization SUARAM, which has criticized the weak standing of indigenous peoples, has experienced legal harassment.³⁷ The government has used the Sedition Act, enacted during British colonialism and prohibits demagoguery and limits freedom of speech, to bring journalists and activists, who criticize the government’s policies to court.³⁸

35 Kapa, 2012, Kaapattu maa, can be read at: <http://www.kepa.fi/tiedostot/julkaisut/kaapattu-maa.pdf>

36 FIDH, http://www.fidh.org/IMG/pdf/parallel_report_fidh-kontras.pdf; http://tbinternet.ohchr.org/Treaties/CESCR/Shared%20Documents/IDN/INT_CESCR_NGO_IDN_15962_E.pdf. Pancasila comprises five principles related to religious beliefs God, unity of Indonesia, just and civilized humanity, social justice and democracy.

37 FIDH, Malaysia, <http://www.fidh.org/en/asia/malaysia/>

38 E.g. 38 E.g. Human Rights Watch, <http://www.hrw.org/news/2014/06/08/malaysia-drop-sedition-caseagainst-opposition-leader> (viewed on 21 July 2014)

3.3 AGGRESSIVE TAX PLANNING

Palm oil is the biggest export product for both Indonesia and Malaysia, and the revenue from palm oil plays a key role in both their economies. In 2010, the value of Malaysia’s palm oil exports was 18.6 billion dollars, which accounted for 4.3 per cent of the country’s total gross national product. The corresponding figure for Indonesia was 1.4 percent (value of exports 15.2 billion dollars).³⁹

The palm oil sector is an important source of tax income for the state in Indonesia and Malaysia. The primary taxes comprise export duties. Indonesia charges an export duty of 10 per cent for raw palm oil, but there has been discussion in the country on waiving the export duties for refined palm oil products. At the beginning of 2014, Malaysia cut its raw palm oil export duties to 5.5%, and the country does not charge any duties for refined palm oil. The tax competition between Indonesia and Malaysia has grown intense as the countries strive to attract the palm oil industry. Public opinion is that the two countries should cooperate instead of competing.⁴⁰

As is the case with all international business, tax planning also takes place in palm oil trade. Companies aim to minimise the different taxes they must pay.

One of the most significant tax evasion cases that has come to light in Indonesia concerns palm oil giant Asian Agri’s activities. The company had organised its ownership structure and sales activities into a complex network of subsidiaries located in tax havens. The company has aimed to minimise the taxes it has to pay for its profit in Indonesia by manipulating the company’s internal transfer pricing. Asian Agri sold palm oil at a low price to its subsidiaries in Macau, Mauritius and the British Virgin Islands, which then sold

39 Accenture for Humanity United, *Exploitative Labor Practises in the Global Palm Oil Industry*, can be read at: http://humanityunited.org/pdfs/Modern_Slavery_in_the_Palm_Oil_Industry.pdf

40 E.g. The Star, <http://www.thestar.com.my/Business/Business-News/2014/05/05/Cause-for-concern-Palm-oil-refiners-brace-for-impact-of-move-by-Indonesia-on-export-duty/> and Reuters, <http://in.reuters.com/article/2014/04/30/indonesia-palmoil-tax-idINL3N0NM3UM20140430> (viewed on 16 June 2014)

in onward to customers at a higher market price.

As a consequence of these procedures, the taxes left for the company to pay in Indonesia were very small and the true profits were demonstrated by the company's subsidiaries, which are located tax havens with small tax rates and therefore pay very low or no taxes.⁴¹

In 2012, Indonesia's Supreme Court sentenced Asian Agri to pay over 200 million dollars in back taxes and fines on account of its tax evasion practices.⁴² Asian Agri is one of Neste Oil's palm oil suppliers.

Many of the palm oil corporations that own plantations in Malaysia and Indonesia are based in Singapore. Singapore is a known tax haven which is specialised in raw materials trade. The country offers companies a low tax rate, tax incentives and a broad tax treaty network.⁴³ Singapore ranks fifth on the Financial Secrecy Index compiled by the Tax Justice Network, which researches tax havens.⁴⁴

Singapore competes for raw materials trade with Switzerland and has lowered its corporate tax rate to 17 per cent in recent years. However, one of the most important incentives for corporations is a negotiable tax rate: negotiations with authorities may result in a corporate tax rate of only 5 per cent.⁴⁵

Companies that operate in Indonesia can also plan their taxes through holdings companies situated in Hong Kong and the Netherlands. For example, the Netherlands has a tax treaty with Indonesia that allows the Netherlands the monopoly on taxing profits. Additionally, Indonesia can tax dividends, as well as interest and royalty income by only 10 per cent. Without a tax treaty, Indonesia's withholding tax rate would be 20 per cent.⁴⁶

Indonesia has a low median income, and imports more capital from abroad than it exports. For this reason, lowered capital withholding tax rates are disadvantageous to Indonesia in relation to richer industrial countries that export capital. Dutch non-profit organization, the Centre for Research on Multinational Corporations (SOMO), which researches corporate responsibility, has estimated that Indonesia loses out on 55.52 million euros in withholding taxes for dividends and interest each year due to the treaty it has entered into with the Netherlands.⁴⁷

41 Sukanto Tanoto, 2013, *Tax Avoidance through Tax Havens and Transfer Pricing – A Case Study in Indonesia*, can be read at: <http://www.openscienceonline.com/journal/archive2?journalId=709&paperId=90>; Guardian, *Vast Hidden Profits* <http://www.theguardian.com/world/2014/may/10/asian-logging-giant-tax-labyrinth-british-virginislands> (viewed on 20 July 2014)

42 JakartaGlobe, *Business Unaffected by Tax Payments, Asian Agri Says*, <http://www.thejakartaglobe.com/business/business-unaffected-by-taxpayments-asian-agri-says/> (viewed on 8 August 2014)

43 KPMG, 2012, *Commodity Trading Companies*, can be read at: <http://www.kpmg.com/Global/en/IssuesAndInsights/ArticlesPublications/commodity-trading-companies/Documents/centralizing-trade-v2.pdf>

44 Tax Justice Network, *Financial Secrecy – index*, <http://www.financialsecrecyindex.com/introduction/fsi-2013-results> (viewed on 8 August 2014)

45 Reuters, *Singapore beating Switzerland at its own game – taxes*, <http://www.abs-cbnnews.com/business/06/23/12/singapore-beating-switzerlandits-own-game-taxes> (viewed on 16 June 2014)

46 VDB-Loi, *Effective Tax Structures for Acquisitions in Indonesia, Indochina and Myanmar*, can be read at: http://www.vdb-loi.com/vdb/wp-content/uploads/2012/09/SVCA_Effective_Tax_Structures_270812_Final.pdf

47 SOMO, 2013, *Should the Netherlands sign tax treaties with developing countries?*, can be read at: http://somo.nl/publications-en/Publication_3958

4. Working conditions on plantations and small farms

Palm oil farming comprises three stages on the plantations: planting, harvesting and renewal of tress, all of which require a large labour force.

First the land is cultivated so it is suitable for farming, African oil palm saplings are grown in nurseries and then planted on the farmland. The tree begins to produce fruit about three years from this time.

Trees produce an economically profitable harvest for a period of about 30 years. At harvest time, a sharp-ended pole is used to drop the ripe 5 to 25 kg palm fruit bunches from the trees to the ground. A mechanical press is used to extract oil from the fruits picked off the bunches.

African oil palms are felled when they are past their commercially viable production stage, and new saplings are planted in their place. On large plantations, all three stages of the production cycle are maintained simultaneously.

Palm oil plantations are a significant employer in Indonesia and Malaysia. In Malaysia, plantations employ around half a million people. In Indonesia, over three million people work on plantations⁴⁸. When surveying the responsibility of palm oil, in addition to the environment, responsibility in payment of taxes and aspects related to land use it is important to also take into account other social issues.

Both Indonesia and Malaysia are so-called risk countries. The Business Social Compliance Initiative (BSCI), the corporate responsibility network favoured by Finnish companies, defines all countries with a Worldwide Governance Indicator rating, determined by the World Bank, of less than 60 as risk countries. Also countries that receive less than 60 points for at least two of the index's

indicators are considered risk countries. The six indicators that measure the functionality of the World Bank's governance index are: voice and accountability, political stability, government effectiveness, regulatory quality, rule and law and control of corruption. Indonesia averages 36 points in the index. While Malaysia's average of 60.9 is over the risk country limit, the country scored far below the 60 point minimum in three indicators.⁴⁹

The next sections will explore the key problems related to basic work rights cited at palm oil plantations and small farms.

4.1 SALARIES INSUFFICIENT FOR COVERING BASIC COSTS OF LIVING

A living wage is one that is sufficient to cover the worker's and his/her family's food, rent, clothes, healthcare, and school fees, and still allows the worker to put a small amount aside as savings each month. Workers should be able to earn a living wage without having to work overtime continuously. In theory, a statutory minimum wage determined by the government should cover all costs of living. In practice however, minimum wages have not kept up with growing living expenses or they have been kept very low intentionally to cut back on production costs. This has led to a situation, in which a minimum wage is not sufficient to cover the cost of living.

Both Indonesia and Malaysia have enacted national minimum wages, which apply to all workers. In Indonesia minimum wages are determined by the municipality. In 2014, these minimum wages varied from approximately 1 million rupiah to 2.5 million rupiah (INR 988,500 (Yogyakarta Special Region) – INR 2,441,301 (Jakarta Special Capital Region))

48 USDA, Commodity Intelligence Report 2012, <http://www.pecad.fas.usda.gov/highlights/2012/12/Malaysia/>; CIFOR, <http://blog.cifor.org/17798/fact-file/indonesia-world-leader-in-palm-oil-production#.UxSDQRa5AUs>

49 BSCI, BSCI List of Risk Countries, can be read at: <http://www.bsci-intl.org/bsci-list-riskcountries-0>. The three indicators in which Malaysia scores less than 60 points were voice and accountability, political stability and control of corruption.

i.e. minimum monthly salaries are approximately 63 – 155 euros.⁵⁰

There are two minimum wages in Malaysia: The minimum wage in the state of Sabah and Sarawak is MYR 800 (186 euros) and on the Malay Peninsula the minimum wage is MYR 900 (209 euros)⁵¹. However, registry fees that an employer must pay to the State may be deducted from the salaries of migrant workers, which means that the final sum of their salary might be under the minimum wage.⁵²

Although the purpose of minimum wage legislation is to determine the bare minimum that should be paid to workers, the minimum wage in Indonesia's and Malaysia's palm oil industry has become the industry's average pay. In practice, plantation workers can try to increase their income by working longer days or working fast in order to achieve performance-based extra compensation.

Trade unions in Indonesia have demanded a 30 per cent increase to minimum wages by 2015⁵³. However, minimum wages are regulated by municipalities and annual increases have been modest. Companies can also apply for exemptions in order to delay payment of increased minimum wages.⁵⁴

Minimum wage legislation was enacted in Malaysia in 2012 after long campaigning, and it was only applied into practice at the beginning of 2013. It has been estimated that the new minimum wage legislation will increase the salary of one in four workers. The key purpose of the reform is to eliminate the

negative wage competition between migrant workers and local workers.⁵⁵

In addition to a salary, palm oil plantations generally offer their workers housing, and often also fuel, food and even schools for their children. During colonialism, the estates were held responsible for ensuring the basic needs of their workers, which is why current plantations have a strong role as producers of healthcare and social services in both Indonesia and Malaysia. During colonial times and even today plantations have been located a long ways from other habitation, which means providing healthcare, basic food necessities and schooling has been essential. In Malaysia, there are nearly 20 laws that regulate the activities of palm oil plantations; one of these laws applies to the minimum requirements for housing offered to workers. The employer is expected to offer their workers housing, which includes clean running water.⁵⁶ In addition to their salary, fringe benefits offered to workers are also common on other plantations such as rubber and tea plantations. Indonesia also has similar legislation.

The adequacy of minimum wages paid at plantations has been reviewed to some extent in Indonesia. As of yet, there is very little data on the impact of Malaysia's new minimum wage.

In 2012, Oxfam published a report on living wages on a tea plantations located in West Java, Indonesia.⁵⁷ A wage model was developed for the research, which compared the total salary paid to workers and the monetary value of their fringe benefits to the World

50 WageIndicator.org, Minimum wages in Indonesia, <http://www.wageindicator.org/main/salary/minimum-wage/indonesia> (viewed on 20 July 2014)

51 Ministry of Human Resources Malaysia, Minimum wage portal, <http://minimumwages.mohr.gov.my/employers/about-minimum-wages-policy/> (viewed on 19 July 2014)

52 IndustriAll, Malaysia – minimum wage for all, <http://www.industriall-union.org/malaysia-minimum-wages-for-all>

53 IndustriAll, <http://www.industriall-union.org/indonesia-minimum-wage-must-equal-living-wagenow> (viewed on 19 July 2014)

54 Better Work Indonesia, Legal Updates: Minimum Wages 2013, can be read at: http://betterwork.org/indonesia/wp-content/uploads/2nd_Legal_Update_Minimum_Wage_2013.1.pdf

55 Malesian hallitus, Potential Impact of the Minimum Wage Policy on the Malaysian Economy, can be read at: <http://minimumwages.mohr.gov.my/wp-content/uploads/2013/07/Box-from-BNMAnnual-Report.pdf>

56 Laws of Malaysia.. Act 446, can read at: <http://www.agc.gov.my/Akta/Vol.%209/Act%20446.pdf>; Barral, S,2014, Paternalistic Supervision of Labour in Indonesian Plantations: Between Dependence and Autonomy, *Journal of Agrarian Change*, 14:240–259, can be read at: <http://onlinelibrary.wiley.com/doi/10.1111/joac.12063/abstract>

57 Oxfam, Understanding Wage Issues in the Tea Industry, http://www.oxfam.org/sites/www.oxfam.org/files/oxfam_etp_understanding_wage_issues_in_the_tea_industry.pdf

Bank's poverty lines. At the time the study was conducted, the World Bank's poverty line was 2 dollars PPP/day and the line for extreme poverty was 1.25 dollars PPP/day.⁵⁸

According to the findings of Oxfam's report, plantation workers' wages (including the monetary value of fringe benefits) exceeded international poverty lines, and researchers estimated that they were near a living wage. However, the study found that although wages were sufficient in an absolute sense, they were far from the national median wage. Indonesia's economy has developed quickly, and the gap between urban and rural wages is significant. The wages received by plantation workers were equal to only a quarter of the country's median wage.

Low wages were also highlighted in a report published by the International Labour Organization (ILO), which comprised interviews with forest, rubber and palm oil workers in Indonesia. Over 80 per cent of the workers interviewed lived on less than 2 dollars a day.⁵⁹

Indonesian civil society and trade unions have criticized the leading palm oil certification, the Roundtable on Sustainable Palm Oil (RSPO) (see Chapter 6), because it has been unable to effectively impact on insufficient wages. In 2013, a broad-scoped demonstration, which demanded a raise in wages among other things, was organised in Indonesia at the time of the RSPO's international conference⁶⁰. The RSPO's criteria demands a living wage, but the certification system does not have a model in place to determine what this would be (see page 42).

Instead of a fixed month salary, workers at palm oil plantations receive a salary on the

basis of various performance-based remunerations. Workers receive a salary for example according to the number and average weight of the palm fruit bunches they gather. Also the height from which workers gather these bunches influences a worker's wage. Performance-based salaries allow employers to pay a basic salary that is below the statutory minimum wage, for example, when the harvest is poor.

The majority of workers at palm oil plantations in Malaysia are migrants from other countries, and high recruitment fees often cut into the salaries they receive in hand. Many workers take out loans in their home countries to cover fees paid to recruitment brokers and travel expenses, which they believe they will be able to soon repay from their salaries. In reality, it takes them years to repay these debts. According to a report by human rights organization Amnesty International, extraordinary work permit levies and other unspecific fees are often deducted from migrants' wages. Workers who come to Malaysia from abroad are often not aware of what their salary is, as they are provided no employment contracts or contracts are not written in their mother tongue.⁶¹ An abundance of problems related to the employment of migrant workers were also observed in the field investigation conducted for this study. See Chapter 9.

4.2 OCCUPATIONAL SAFETY

The occupational safety challenges at palm oil plantations are related to e.g. the use of herbicides and pesticides, transport, as well as work ergonomics related to heavy lifting and difficult working positions⁶². Heat and long work days and weeks increased the risk of occupational accidents.

58 PPP i.e. purchasing power parity. Purchasing power parity estimates the amount of adjustment needed on the exchange rate between countries in order for the exchange to be equivalent to each currency's purchasing power. Purchasing power parity is used to compare the standard of living between different countries.

59 ILO, Labour Condition in Forestry in Indonesia, http://www.ilo.org/wcmsp5/groups/public/---asia/---ro-bangkok/---ilo-jakarta/documents/publication/wcms_126142.pdf

60 Mongabay.com, Palm oil workers stage massive protest at sustainability meeting in Indonesia; <http://news.mongabay.com/2013/1119-dparker-palm-oil-worker-protest.html> (viewed on 17 March 2014)

61 Amnesty International, 2010, Trapped – The Exploitation of Migrant Workers in Malaysia, The report can be read at: <http://www.amnesty.org/en/library/asset/ASA28/002/2010/en/114eba25-6af5-4975-9ea3-02c22f6bdc5a/asa280022010en.pdf>

62 ILO, Good Occupational Health and Safety Practises 2008/2009, http://www.ilo.org/wcmsp5/groups/public/---asia/---ro-bangkok/---sro-bangkok/documents/publication/wcms_120410.pdf; Journal of Occupational Health 2013; 55: 405–414, can be read at: http://joh.sanei.or.jp/pdf/E55/E55_5_12.pdf

At the same time as a growing number of countries is prohibiting the use of dangerous chemicals, the use of these chemicals is growing in Asia. The Pesticide Action Network (PAN) estimated that approximately 30 per cent of the world's herbicides and pesticides are used in farm work in Asia.⁶³

A herbicide that has evoked much debate, paraquat, is commonly used on Asian plantations. Paraquat is a non-selective herbicide, which is very hazardous to people and animals. The use of paraquat is prohibited in numerous western countries, and in 2007 the Court of First Instance of the European Communities issued a decision stating that it could not be added to the list of chemicals permitted in the European Union⁶⁴.

Paraquat is predominantly used in developing countries, where its use is especially dangerous: due to the hot and humid air, insufficient safety gear and lack of worker training in these locations, it is common for people to suffer from poisonings, and the cases cannot be treated due to lack of healthcare.⁶⁵ Paraquat is also one of the most commonly used herbicides in Indonesia and Malaysia due to its low price and effectiveness.

Malaysia added paraquat to its list of prohibited chemicals in 2005, but the decision was overturned the following year as a result of demands by industry. The number of reported paraquat poisonings has tripled since the decision to forbid it was overturned. In 2005, a total of 36 poisonings were reported, whereas in 2009 the number had already risen to 101.⁶⁶ In addition to acute, even fatal, poisonings, long-term exposure to paraquat has been found to increase the risk of Parkinson's disease⁶⁷.

The RSPO has determined occupational safety regulations in its criteria, according to which workers who use herbicides and pesticides must be trained and must understand the precautions and risks involved in the use of the chemicals. The certification system forbids the use of substances WHO has classified as Class 1A or 1B chemicals, chemicals listed in the Stockholm and Rotterdam Conventions⁶⁸ and paraquat. However, these can be used in special circumstances, which are listed in the RSPO's national Best Practise guidelines. The RSPO has received much criticism for allowing the use of paraquat⁶⁹. However, some of the companies that produce palm oil have discontinued use of paraquat. For example, IOI Group, which has been investigated for this report ceased use of paraquat at the end of 2011⁷⁰.

Only little research exists on ergonomics at palm oil estates, although it has been found that the gathering of the African oil palm's bunches increases the risk of musculoskeletal disorders. At the beginning phases of farming, trees are short, so workers must bend over in difficult positions to find ripe fruits from them. As time passes, the African oil palm can grow to a height of up to 20 metres, and using a long pole with a sickle attached to its end to drop bunches from trees is difficult and strenuous for a worker's back. Workers work in pairs: one drops the bunches and the other carries the bunches to a trailer or other mode of transportation and gathers single fruits that have fallen to the ground. The gatherer must also work in difficult working positions and continuously lift loads that weigh tens of kilos. Problems related to work ergonomics are added to by the intense work pace maintained at plantations. Workers do not tell management of

63 Pesticide Action Network, <http://www.panap.net/en/fs/page/food-sovereignty-rspo/104#rspo2> (viewed on 19 July 2014)

64 Court of First Instance of the European Communities press release 11 July 2007, Judgment of the Court of First Instance in Case T-229/04

65 Pesticide Action Network, Paraquat, 2011

66 Sazarani, M.R., Rahmat, A., Sa'ed, Z., Haslina, H., Adilah, M.A. ja Asdariah, M. 2012. Review on Paraquat Poisoning in Malaysia After Lifting of Ban. *Journal of Medical Toxicology* 8/2, p. 209

67 Tanner, C.M., Kamel, F., Ross, G.W., Hoppin, J.A., Goldman, S.M., Korell, M., et al. 2011. Rotenone, Paraquat, and Parkinson's Disease. *Environmental Health Perspectives* 119/6, s. 866-872. The report can be read at: <http://dx.doi.org/10.1289/ehp.1002839>

68 Further information on prohibited chemicals: WHO Class 1A and 2B: http://ew.eea.europa.eu/ManagementConcepts/Greenp/F1056727684/F1074009377/F1074176905/F1074177047/HTML_Page1074178064; Stockholm Convention: <http://www.pops.int/>; Rotterdam-Convention: www.pic.int/

69 PAN, <http://www.panna.org/blog/stop-paraquat-palm-plantations> (viewed on 5 March 2014)

70 Dynamic Management Sdn. Bhd, Momerandum, Phasing out the use of paraquat by 31st December 2011

these problems, as they fear they will lose their jobs or their pay will be cut.⁷¹

In addition to ergonomics, other occupational safety hazards related to palm oil production have yet to be researched. According to Malaysian human rights organization Tenaganita, abrupt deaths while asleep caused by excessive tiredness are common especially among Nepalese migrant workers. The organization has expressed their concern to Nepalese authorities, and a Nepalese university is currently researching the phenomenon.⁷²

4.3 EXPLOITATION OF CHILD LABOUR

Children are used at palm oil plantations and small farms to gather single oil palm fruits that have fallen to the ground and spray herbicides and pesticides on African oil palm saplings. Older children also take part in heavy labour, such as gathering of palm bunches or dropping bunches from trees. Exploitation of child labour is a problem in Indonesia, where, the International Labour Organization (ILO) estimates that there are 1.5 million children working in the agriculture sector. Child labour is used especially in North Sumatra and East and West Java. The largest fields of agriculture that children work in are tobacco, palm oil and rubber.⁷³

Indonesia has significantly developed supervision of its labour legislation in recent years, and the number of workplace inspections carried out in order to weed out the use of child labour has increased. In 2013, the Indonesian government's objective was to double the number of workplace inspections from what it was in 2009. New inspections would cover nearly 19 million workers. However, according to the ILO, national objectives have not been achieved, as the resourcing of local

government has been poor and coordination lacking.⁷⁴

Child labour is also used on palm oil plantations in the Malaysian states of Sabah and Sarawak. The workforce is predominantly made up of Indonesian migrant workers, who have brought their families with them to Malaysia. Undocumented children, who were born in Malaysia, but have not been given citizenship, are in the greatest danger of being forced to work on plantations. The Malaysian states do not offer schooling to the children of migrants and some children end up working on the plantations with their parents.⁷⁵

4.4 RIGHTS OF MIGRANT WORKERS

Over ten per cent of Indonesia's population works outside of their home municipality. The key reasons for internal migration include natural catastrophes and environmental problems, as well as the need for cheap labour in different parts of Indonesia.⁷⁶ The standing of Indonesia's internal migrants is very poor. A study based on worker interviews published by Sawit Watch and the International Labor Rights Forum in 2013, observed problems in the treatment of internal migrants at Indonesian RSPO certified estates.⁷⁷

71 Ng, Yee Guan et al, *Journal of Occupational Health* 2013;55:p. 405–414, Ergonomics Observation: Harvesting Tasks at Oil Palm Plantation, can be read at: https://www.jstage.jst.go.jp/article/joh/55/5/55_13-0017-FS/_pdf

72 Email from Tenaganita, 29 July 2014

73 ILO, http://www.ilo.org/jakarta/areasofwork/WCMS_126206/lang--en/index.htm

74 ILO, *Labour and Social Trends in Indonesia 2013*, the report can be read at: http://www.ilo.org/wcmsp5/groups/public/---asia/---ro-bangkok/---ilo-jakarta/documents/publication/wcms_233249.pdf

75 Open Society Foundation, *Children's Right to a Nationality*. The report can be read at: <http://www2.ohchr.org/english/issues/women/docs/OtherEntities/OSJChildrenNationalityFactsheet.pdf>; The Atlantic, <http://www.theatlantic.com/international/archive/2013/04/palm-oil-for-the-west-exploitation-for-young-workers-in-malaysia/274769/>; Unicef, *Status Report on Children Right's in Malaysia*. The report can be read at: http://www.unicef.org/malaysia/Child_Rights_Coalition_Report_on_Childrens_Rights_FINAL.pdf

76 IMO, *Indonesia – Overview*, <https://www.iom.int/cms/en/sites/iom/home/where-work/asia-and-the-pacific/indonesia.default.html?displayTab=additional-resources> (viewed on 6 August 2014)

77 Sawit Watch & International Labour Rights Forum, 2013, *Empty Assurances*. The report can be read at: <http://www.laborrights.org/sites/default/files/publications-and-resources/Empty%20Assurances.pdf>

In the summer of 2013, news agency Bloomberg published a broad reportage on the working conditions at Indonesia's largest palm oil company Kuala Lumpur Kepong Berhad. According to Bloomberg, the news agency observed forced labour, illegally low wages and exploitation of child labour at the company's plantations. The country's internal migrants were specifically the group exploited.⁷⁸

One in four migrant workers, who have moved from Indonesia to Malaysia, work at plantations, and the majority of Malaysian plantations are dependent on the migrant labour force. In addition to Indonesians, Malaysian plantations receive migrant workers from India, Bangladesh, the Philippines, Pakistan, Burma and Nepal⁷⁹. All in all, almost 80 per cent of workers at Malaysian plantations are migrant workers⁸⁰.

Malaysia has not ratified the UN convention that applies to the protection of migrant workers and their families, and the country's own legislation does very little to protect migrants. For example, Malaysia permits deductions of recruitment fees from workers' salaries. Migrant workers often work long days without any sort of rest. Their salaries may be left unpaid and employers limit the mobility of their workers, by e.g. confiscating their passports. Human trafficking and forced labour have also been encountered at plantations.⁸¹

The ill treatment of migrant workers in Malaysia is one of the key reasons Malaysia was dropped by the US to the third, i.e. lowest category in its annual human trafficking TIP

report in 2014.⁸² Other countries in the same category as Malaysia include North Korea, the Democratic Republic of the Congo, Libya, Kuwait and Thailand.⁸³

Human rights organization Amnesty International has criticized Malaysia for inhumane treatment of its migrants. In 2005–2010, Malaysia carried out nearly 30,000 canings, as punishment for migrants who had violated immigration regulations. Of the workers, who were punished in this way, 60 per cent were Indonesian citizens. According to Amnesty's new country report on Malaysia, corporal punishment of undocumented migrants is ongoing⁸⁴.

The position of migrant workers in Malaysia is even more difficult, because they are often completely dependent on their employers. Harsh punishments for lack of documentation further increase this dependence and make it more difficult to bring violations by employers to light. Many legal violations by employers are overlooked, as law enforcement focuses on dealing out severe punishments for undocumented migration. The passports and work permits of migrant workers are also often confiscated, so workers' means for improving the realisation of his/her own rights are non-existent.

78 Bloomberg, Indonesia's Palm Oil Industry Rife with Human Rights Abuses, <http://www.businessweek.com/articles/2013-07-18/indonesias-palm-oilindustry-rife-with-human-rights-abuses#p1> (viewed on 5 April 2014)

79 ILO, the report can be read at: <http://www.adbi.org/files/2013.01.23.cpp.sess1.2.baruah.labour.migration.asia.pdf>

80 Borneo Post, Nearly 80 per cent of workers in oil palm sector foreigners, <http://www.theborneopost.com/2014/04/01/nearly-80-per-cent-of-workers-in-oil-palm-sector-foreigners/> (viewed on 11 June 2014)

81 Human Rights Watch, <http://www.hrw.org/news/2013/09/03/malaysia-2013-universal-periodic-review-submission>

82 Trafficking in Persons – report, Malaysia, can be read at: <http://www.state.gov/documents/organization/226847.pdf>

83 US State Department, Tier placements, <http://www.state.gov/j/tip/rls/tiprpt/2013/210548.htm> (viewed on 19 July 2014)

84 Amnesty International, 2013, Malaysia Universal Periodic Review: Civil and political Rights Lagging Behind, <http://www.amnesty.org/en/library/asset/ASA28/010/2013/en/486a9928-97dc-4a3b-93c3-53ae8fa41ed1/asa280102013en.html>

5. EU legislation on responsibility of palm oil does not take social sustainability into account

The EU directives that most apply to the use of palm oil are the Fuel Quality Directive (2009/30/EC) and the Renewable Energy Directive (2009/28/EC) (RED)⁸⁵. The Fuel Quality Directive requires that EU member states decrease emissions from fuels a total of six per cent for every energy unit produced for the European market by 2020. The Renewable Energy Directive, in turn, requires that member states produce a total of 10 per cent of all fuels used in transport from renewable energy sources by 2020. Finland has enacted both of these fuel related Directives of the European Commission into national legislation.

The Renewable Energy Directive defines the criteria by which the sustainability of biofuels will be assessed. These so-called RED criteria include a cut in greenhouse emissions in accordance with the Fuel Quality Directive, conservation of biodiversity and restrictions on land use changes caused by production of biofuels. For example, the raw materials for biofuels used by member states may

not originate from peatland, which has been dried after 2008 or an area which was permanently covered by forest up until 2008. These sustainability criteria also apply to biofuels produced outside of the European Union.⁸⁶

Member states must be able to demonstrate realisation of sustainability criteria using the country's national schemes or a voluntary certification scheme approved by the EU. Alternatively, this can be done through bilateral or multilateral agreements with third parties that are EU member states. As of 2014, the EU had approved 17 different certification schemes and found that they met with the directive's sustainability requirements⁸⁷.

The certification schemes include the certifications most often used by Finnish companies, RSPO and ISCC, as well as HVO, a

85 Finns often use the abbreviation RES (Renewable Energy Source) for the Renewable Directive (2009/28/EC), whereas English-speakers use the abbreviation RED (Renewable Energy Directive).

86 European Commission, Directive 2009/28/EC, 2009, can be read at: <http://eur-lex.europa.eu/legal-content/EN/TXT/?qid=1395732071004&uri=CELEX:32009L0028> (24 March 2014)

87 European Commission, Biofuels – Sustainability schemes, http://ec.europa.eu/energy/renewables/biofuels/sustainability_schemes_en.htm (viewed on 13 August 2014)



certification scheme Neste Oil developed for its own use.⁸⁸

Greenpeace and other environmental conservation organizations have criticized the current legislation for promoting the use of unsustainable biofuels, such as palm oil. The Fuel Quality Directive and the Renewable Energy Directive have been criticized for not observing greenhouse emissions emitted during the production process of vegetable-based biofuels with regard to indirect land use changes. According to Greenpeace, on account of this the actual climate impacts of palm oil production will be overlooked.⁸⁹

Another significant shortcoming in the EU legislation is that it focuses on only the origin of palm oil used in biofuel. The consumer products that use the most palm oil, such as foods and cosmetics, are completely

excluded from legislation, and legislators have not defined any responsibility requirements for these products.

The RED criteria focus on environmental and quality aspects. Although the European Commission must submit biannual reports to the European Parliament on how well countries that export the greatest quantities of biofuel abide by environmental and social sustainability criteria, the criteria completely overlook questions on social sustainability.⁹⁰ The Stockholm Environment Institute has demanded that the EU directive be rewritten in a way that ensures that the social aspects of palm oil production are also taken into account. The EU has reasoned that social aspects have been excluded in accordance with the World Trade Organization's (WTO) rules, according to which requirements for suitable working conditions could be interpreted as protectionism.⁹¹

88 HVO Renewable Diesel Scheme for Verification of Compliance with the RED sustainability criteria for biofuels, criteria can be read at: http://ec.europa.eu/energy/renewables/biofuels/sustainability_schemes_en.htm

89 Greenpeace, Biopoltoaineet EU:ssa, <http://www.greenpeace.org/fi/naand/fi/kampanjat/palmuoljy/perusasiaa-biopoltoaineista/>

90 European Commission, Directive 2009/28/EC, 2009, can be read at: <http://eur-lex.europa.eu/legal-content/EN/TXT/?qid=1395732071004&uri=CELEX:32009L0028> (24 March 2014)

91 Stockholm Environment Institute, <http://www.sei-international.org/-news-archive/2491-studies-reveal-palm-oil-impacts-in-southeast-asia-propose-policy-changes> (viewed on 28 July 2014)

6. RSPO certification of palm oil production, and its monitoring mechanisms

The Roundtable on Sustainable Palm Oil (RSPO) is the world's leading palm oil certification scheme. It was established in 2004 on the basis of cooperation between the WWF, corporations and production companies.⁹²

A palm oil producer's RSPO certification is based on 8 standards and 39 criteria these have been divided into. The eight standards are: 1) a commitment to transparency, 2) acting in accordance with laws and provisions, 3) commitment to long-term economic sustainability, 4) commitment to the best production practices, 5) respect for and conservation of the environment, 6) respect for workers and communities, 7) responsibility in establishing new estates, and 8) commitment to continuous improvement.

RSPO certified palm oil can be delivered to corporations that use it via four different mechanisms. The mechanisms differ from one another substantially. Palm oil acquired via the most comprehensive monitoring mechanism can be traced to the original producer, whereas the origin of the palm oil acquired via the most lax mechanism cannot be traced at all. Buyers, who purchase palm oil via the most lax mechanism, support RSPO certified producers via a certification scheme

that is completely independent of a trade relationship.

RSPO has developed monitoring mechanisms in cooperation with the UTZ scheme, which also certifies responsibly produced cocoa and coffee in Finland⁹³. The operating principles for these mechanisms are described in detail in the following sections.

6.1 IDENTITY PRESERVED, IP

The IP system ensures the physical traceability of palm oil. Certified palm oil produced at each estate is kept separate from others throughout the entire production process, and palm oil brought to the mill is not mixed with others at any stage in the production chain. This way, all oil purchased via the IP system can be traced all the way back to a specific RSPO certified producer. The IP system is the most expensive of the RSPO's mechanisms, as well as the most difficult to realise logistically.⁹⁴

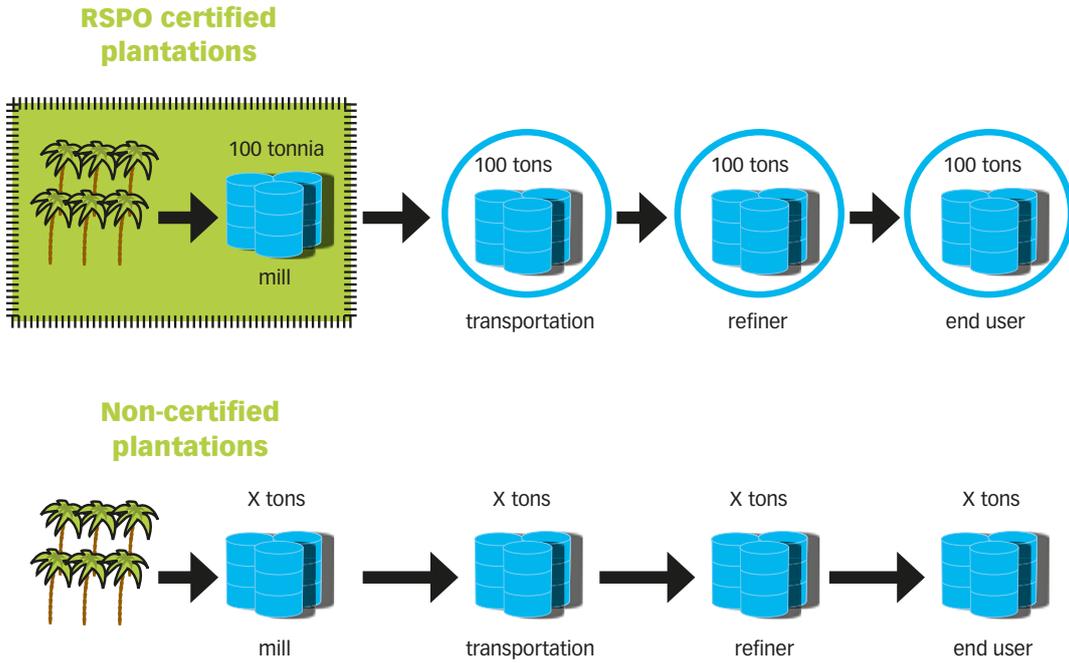
92 RSPO, http://www.rspo.org/en/who_is_rspo (viewed on 21 May 2014) and <http://www.rspo.org/en/history> (viewed on 21 May 2014)

93 UTZ Certified, <http://www.rspo.org/en/member/233/utz-certified> (viewed on 18 March 2014)

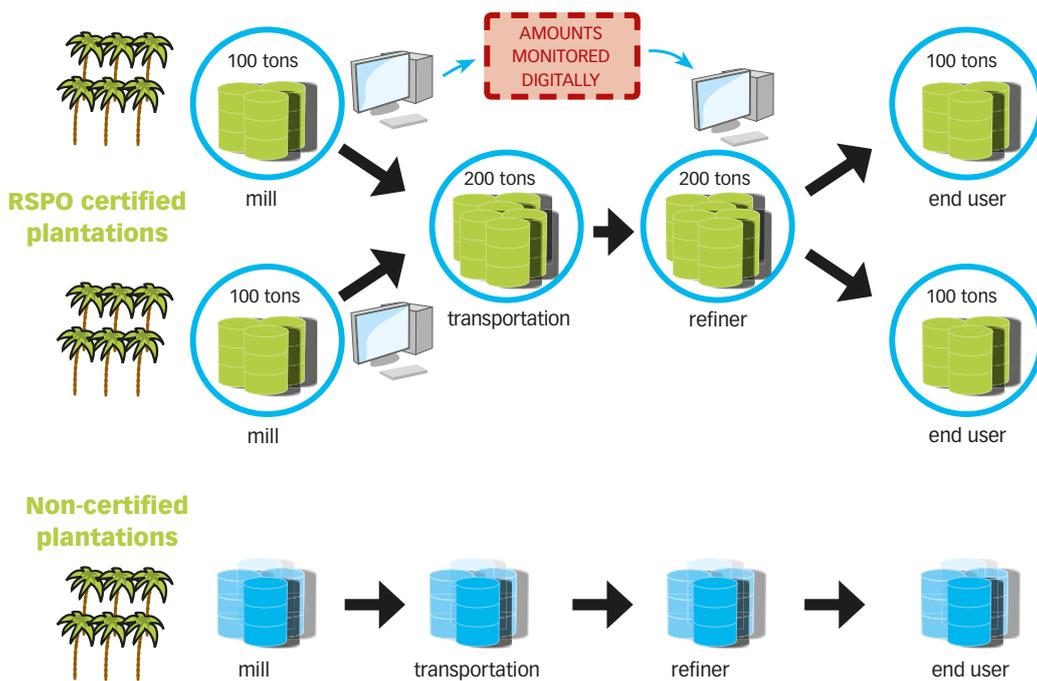
94 RSPO, Identity Preserved, can be read at: [http://www.rspo.org/fi/le/fact_sheet_-_identity_preserved_240908\[1\].pdf](http://www.rspo.org/fi/le/fact_sheet_-_identity_preserved_240908[1].pdf)

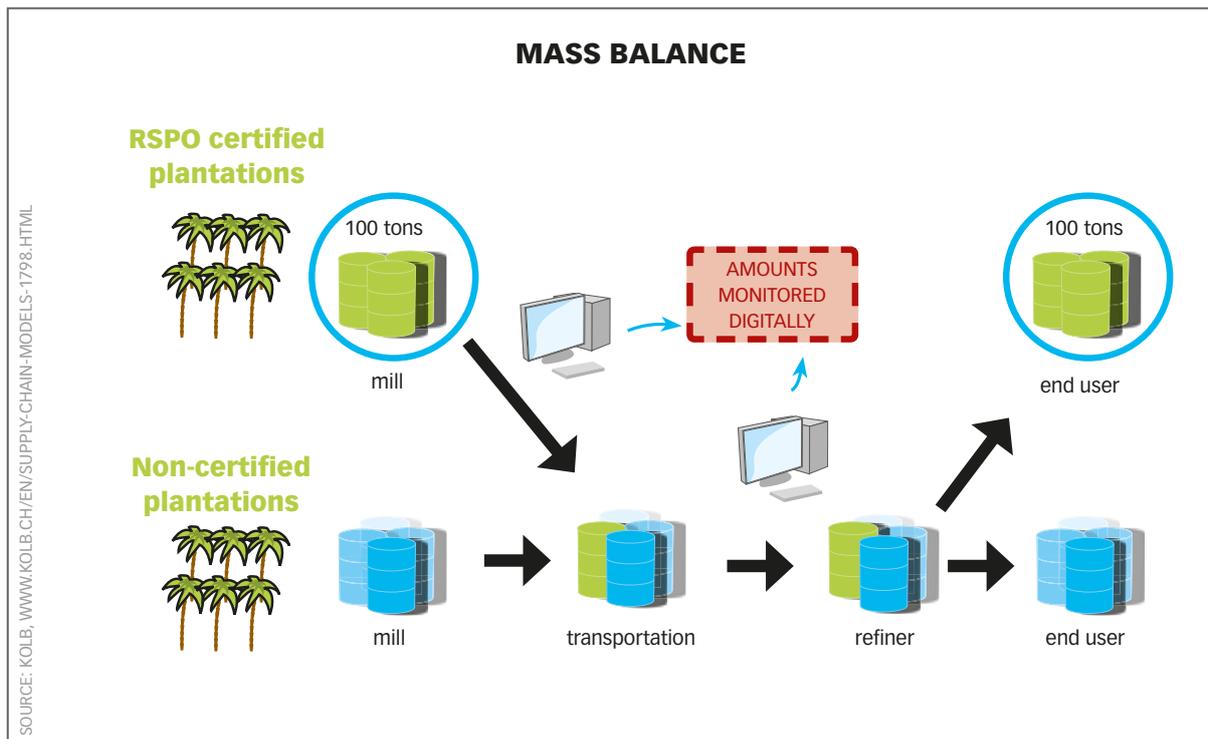


IDENTITY PRESERVED (IP)



SEGREGATED





6.2 SEGREGATED, SG

The monitoring system based on segregation allows mixing of palm oils from different plantations during the production process, but every plantation involved in production must be RSPO certified. Therefore, the palm oil cannot be traced back to a specific plantation, but all processed palm oil is RSPO certified.

6.3 MASS BALANCE

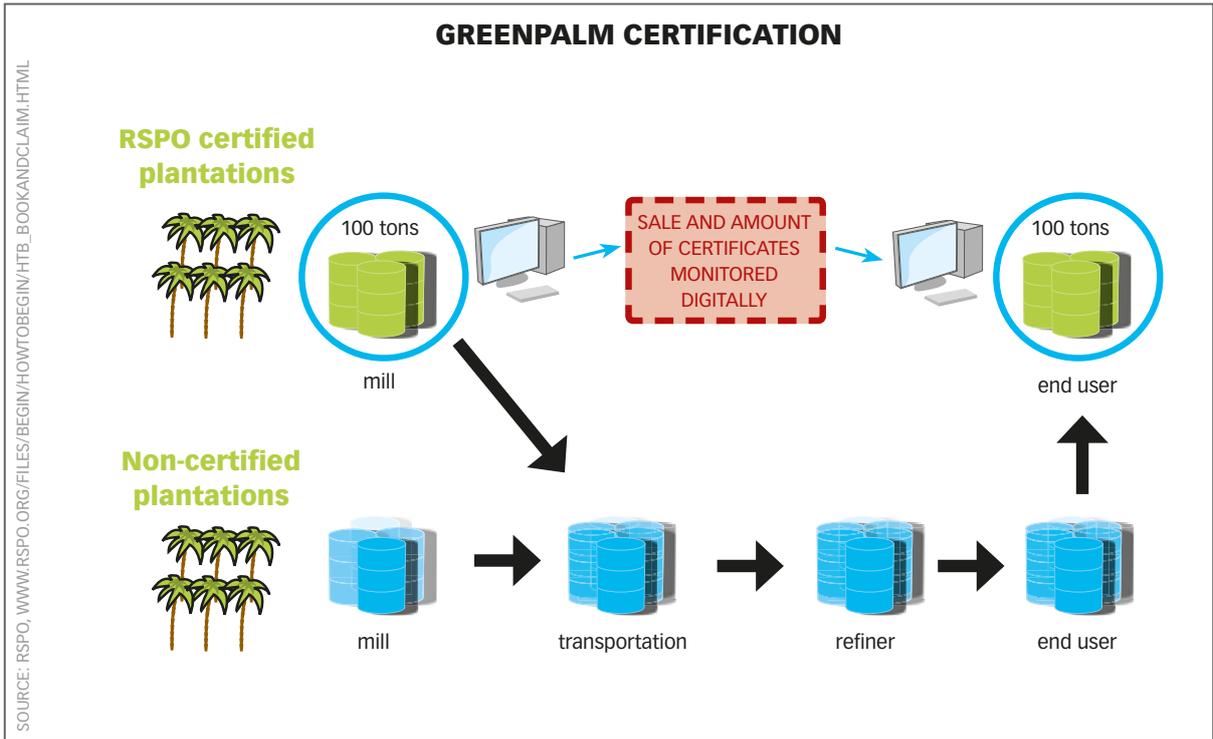
In the system based on mass balance, producers can sell RSPO certified palm oil also when they do not have the opportunity to process it separately from non-certified palm oils. Palm oil is allowed to mix at all stages of the production with non-certified oils, and it cannot be traced back to a specific plantation. Oil purchased through the mass balance system can be a mix of certified and non-certified palm oils. The system aims to encourage palm oil producers to transition in stages to the use of solely traceable palm oil that is physically segregated at every stage of the production line.

6.4 GREENPALM CERTIFICATES

The GreenPalm certification system is based on the separate purchase of certificates i.e. the so-called “book and claim” mechanism and was created to support primary producers, as well as to serve end users, who cannot use traceable palm oils for reasons such as very low purchase volumes. In this certification scheme, the end user purchases certificates from RSPO certified producers and, in this way, supports RSPO producers financially.

GreenPalm certified palm oil cannot be traced and the buyer and producer have no trade relationship other than the certificates. The only requirement is that the producer selling GreenPalm certificates is RSPO certified. There are no certification requirements that apply to the product itself (purchased palm oil) and no production monitoring. If the end user purchases a large amount of GreenPalm certificates and compiles consumer communications related to this, the end user must take part in an annual audit by filling in a survey.⁹⁵

⁹⁵ GreenPalm, <http://www.greenpalm.org/en/faqs/general#how-do-you-check-that-a-producer-is-not-selling-more-oil-and-certificates-than-it-is-producing> (viewed on 21 May 2014)



ISCC

In addition to the RSPO, there is another commonly used palm oil certification scheme for biofuels, the ISCC (International Sustainability & Carbon Certification). ISCC was established by the biofuels industry and is approved by German authorities and the European Commission. In 2013, all plantations owned by Neste Oil's suppliers were ISCC certified.

The ISCC social criteria are similar to the RSPO's, but there are slight differences in their content. For example, the ISCC does not require that the employer actively promotes freedom of association. In addition to palm oil, the ISCC also certifies other raw materials used in biofuels.

An independent certification authority acts between the ISCC and producer. This authority grants the producer an ISCC certificate, when the producer has been found to fulfil all certification requirements.

The ISCC uses the mass balance system and physical segregation of biomass as its monitoring mechanisms in the same way as the RSPO. Physical segregation can be carried out by producing sustainably produced palm oils in certain production units without mixing them with biomass from other production facilities, even when these are produced in accordance with the same criteria (so-called hard IP). In this way, palm oil can be traced all the way to a specific production estate. Another way to carry out physical segregation is to mix sustainably produced batches, but keep them separate from non-certified batches. In this case the specific production estate cannot be traced, but the mix is sustainably produced (so-called soft IP). Separate ISCC certificates cannot be purchased without a trade relationship (compare to GreenPalm certification, Chapter 6.4).⁹⁶

⁹⁶ ISCC, <http://www.iscc-system.org/> (viewed on 7 August 2014), ISCC Requirements for Traceability 2013, can be read at: http://www.iscc-system.org/uploads/media/ISCC_EU_203_Requirements_for_Traceability_2.3.pdf

7. Use of palm oil in Finland

Palm oil is in common use in the food industry, and it is found in a vast variety of different consumer products found on the market. It has been estimated that palm oil is used in up to half of all packaged foods. Palm oil is also a common raw material in various personal hygiene and cosmetics products.

In addition to its affordable price, palm oil's popularity is based on its chemical properties. Palm oil can withstand high temperature and is therefore exceptionally well suited for different types of frying. Palm oil is a rich oil, which does not leave any type of smell in ready products. This characteristic is important in such products as cookies and other baked goods. Palm oil also naturally increases a product's keeping quality.⁹⁷

The food industry uses palm oil in vegetable fats and vegetable fat spreads. Many ready foods, such as baked goods, frozen foods that must be fried, cookies and the frying oil for chips (French fries) also all contain palm oil. In addition to this, palm oil is also often used in the production of e.g. ice cream and baby formula.⁹⁸

Palm oil is not always mentioned in a product's ingredient list, as Finland's Food Act does not require this. For this reason, it is difficult for a consumer to assess how commonplace the use of palm oil is. According to the Food Act, fats can be named by a group name on packaging, in which case palm oil is listed as "vegetable fat"⁹⁹. However, the law is changing, and in accordance with a EU directive, palm oil must be separately named in the product's ingredient listing at the end of 2014.¹⁰⁰

In addition to food, palm oil is also found in many cosmetics, and it is a raw material for such products as shampoos and soaps. The use of palm oil in fuels has also increased. Neste Oil, which is owned by Finland's government, is the world's largest single buyer of palm oil (more information on Neste Oil in Chapter 8.1.)

According to customs records from 2013, only 3,900 tons of different types of palm oil fractions were imported to Finland. Of this sum, approximately 3 tons of chemically unmodified palm oil and its extracts were imported for the use of the food industry, and 428 tons for the technology industry.¹⁰¹ However, customs records do not include information on the actual total amount of palm oil imported, as the palm oil in ready products is not recorded by customs in any way. Another reason why the records do not give a comprehensive picture of palm oil use by Finnish companies is because the import records for crude palm oil have been classified.

According to the answers provided by Finnish companies to the Finnwatch survey, they use a total of approximately 1.11 million tons of palm oil. Answers given by companies are explored further in the next chapter.

97 RSPO, <http://www.betterpalmoil.org/about> (viewed on 3 March 2014)

98 WWF Suomi, *Syökö suomalainen elintarviketeollisuus viimeisiä sademetsiä*, 2007

99 Evira, *Pakkausmerkintäopas, elintarvikevalvojille ja elintarvikealan toimijoille*, 2010.

100 European Commission, *New EU law on food information to consumers*, http://ec.europa.eu/food/food/labellingnutrition/foodlabelling/proposed_legislation_en.htm (viewed on 18 March 2014)

101 Finnish Customs import trade records, 2014

8. How do Finnish companies ensure the responsibility of the palm oil they buy?

Finnwatch selected Finnish food and chemical industry companies and brands, as well as two of Finland's largest retail shop groups, whose ranges include a large selection of private label products, as participants in this social responsibility survey. Participant companies for the survey were selected from the RSPO's member registry and environmental organisation WWF's previous report on palm oil purchases by Finnish companies¹⁰². Large multinational corporations that operate in the Finnish market were excluded from the research, as international organizations have already compiled numerous reports and organised numerous campaigns on their palm oil purchases.¹⁰³

The participating companies were asked about things such as the amount of palm oil they used and how they ensured the responsibility of the palm oil they used. Companies were also asked to fully disclose their palm oil supplier chain all the way to its plantation of origin.

8.1 NESTE OIL

Neste Oil, in which the Finnish government holds majority ownership, is an oil refining and marketing company specialised in traffic fuels. In July 2014, the Finnish government owned 50.1 per cent of the company's stock.¹⁰⁴ In 2013, Neste Oil's turnover was 17.5 billion euros.¹⁰⁵

¹⁰² RSPO member registry, can be read at http://www.rspo.org/en/rspo_members; WWF palmöljyypisteytysraportti, can be read at: <http://www.fi/wwf-suomi/viestinta/uutiset-ja-tiedotteet/Suomalaiset-elintarvikeyhtiot-ostavat-yha-enemman-vastuullista-palmuoljya-1934.a>

¹⁰³ See. Greenpeace: Cargill-campaign: <http://www.greenpeace.org/international/en/news/Blogs/makingwaves/cargills-palm-oil-commitment/blog/50125/>; Nestlé campaign: <http://www.greenpeace.org/international/en/campaigns/climate-change/kitkat/>; P&G-kampanja: <http://www.greenpeace.org/international/en/news/Blogs/makingwaves/procter-gamble-commits-ono-deforestation/blog/48849/> (viewed on 19 August 2014)

¹⁰⁴ Neste Oil, Shareholder structure, <http://www.nesteoil.com/default.asp?path=1,41,538,2462,2560> (viewed on 8 August 2014)

¹⁰⁵ Neste Oil, Lyhyesti, <http://nesteoil.fi/default.asp?path=35,52,107,2999> (viewed on 12 June 2014)

Neste Oil listed the amount of crude palm oil it had used in 2011, 2012 and 2013 when asked to do so by Finnwatch (see Table 1).

In addition to crude palm oil, Neste Oil has also used other palm oil-based products in its fuels. These include PFAD residues from production of palm olein for the food industry, oil waste separated from the waste waters at presses and oil wastes separated from filtering clay. In 2011, a total of 22 per cent of the raw materials used by Neste Oil were palm oil-based PFAD and stearin.

After 2011, Neste Oil's annual report has not separately itemised palm oil-based waste. For reasons related to competition, the company no longer wishes to publically share the exact amount of waste and residues, Neste Oil reports that they have aimed to increase use of Palm Fatty Acid Distillate (PFAD). The largest waste and residue batches used for fuels comprise animal fats and PFAD¹⁰⁶.

Table 1: Crude palm oil used by Neste Oil, and its certification percentage. The figures do not include other palm oil-based raw materials.

Year	Quantity of crude palm oil	Crude palm oil certification percentage
2013	1,1 Mt	100 %
2012	1,36 Mt	91 %
2011	0,44 Mt	49 %

Neste oil purchases palm oil directly from producers and stated that they had ensured traceability in accordance with EU directives (see Chapter 5) and the requirements of the United States' Environmental Protection Agency¹⁰⁷.

¹⁰⁶ Neste Oil, Adrian Suharto, email dated 27 May 2014

¹⁰⁷ For more information on the United States Environmental Protection Agency, visit the EPA: website: <http://www.epa.gov/otaq/fuels/renewablefuels/regulations.htm>

Supplementing information on Neste Oil communications

Neste Oil has put a lot of work into ensuring the responsibility of its palm oil purchases. Of the companies to answer the Finnwatch survey, Neste Oil was the only one that stated that they knew the specific plantations they had purchased from. Neste Oil supplied the names and locations of some of the company's supplier plantations. As a large purchaser, Neste Oil also has human rights related duty of care processes and responsibility certifications in place, as well as staff situated in Asia responsible for overseeing the responsibility of raw materials procurements. However, there is reason to supplement the information presented in Neste Oil's communications on responsibility¹⁰⁸.

Neste Oil has stated on its website that it is able, without exception, to trace all of the renewable raw materials it has purchased all the way back to their producer.¹⁰⁹ Neste Oil uses mass balance and segregation as its monitoring mechanisms for palm oil. Neither of these makes it possible to trace palm oil back to specific production estates. However, Neste Oil states that with regard to segregated palm oil it has been given the names of all palm oil plantations involved. In the mass balance system, certified palm oil is also mixed with non-certified palm oil. Therefore, Neste Oil knows the companies it purchases from, but cannot trace the palm oil it purchases back to the producer. In order for Neste Oil to be able to live up to its claim, the company must use the identity preserved monitoring mechanism. However, according to information the company provided, it does not use this mechanism.

Neste Oil also uses abundant amounts of palm oil-based waste in its production process. This waste is born during the processing of palm oil. Neste Oil is not aware of the origin of these processed palm oils, plantation-wise. It is likely that residue materials originate from non-

certified palm oils. Neste Oil requires that the companies that supply palm oil-based residues are RSPO members. However, this does not ensure that the palm oils used in the processes that produce residues are certified.

Residues from non-certified palm oils are not an insignificant detail. In 2011, over one fifth of the raw materials used by Neste Oil were palm oil-based residues. After 2011, Neste Oil has no longer publically shared the quantities of these raw materials, but reports that it uses a growing amount of palm oil-based wastes.

Neste Oil defends its communications, by stating that the EU's Renewable Energy Directive (see Chapter 5) defines use of the mass balance mechanism as sufficient for proving traceability. According to the EU directive, the place of origin for raw material residues is the production facility at which the waste is created. Therefore, the directive does not require that the origin is traced all the way to the palm oil plantation. However, Finnwatch believes that the information communicated by the company is misleading with regard to traceability and responsibility.

Neste Oil's website also states that it purchases palm oil directly from producers without middle-men. *Over the last few years the company has purchased a growing amount of palm oil from small farms. In 2013, the number of small farms that supplied palm oil to Neste Oil grew from 9,000 to 54,000.* In reality, small farms act under palm oil corporations and the middle-man between small farms and Neste Oil is a multinational palm oil group. According to Neste Oil the sentence is technically correct, as it purchases products directly from the producers (meaning the corporations that produce palm oil) without middle-men (meaning traders). Finnwatch believes that Neste Oil can only then claim to purchase directly from producers, if it can in the future purchase palm oil from independent small farm communities.

108 Neste Oil's claims with regard to its responsibility have previously also been criticized by Greenpeace, e.g.. <http://www.greenpeace.org/fi/land/fi/kampanjat/palmuoljy/Neste-Oil/Neste-Oilin-vaittammat/#a3> (viewed on 14 August 2014)

109 Neste Oil, Sustainability report 2013, "All the renewable inputs we use are traced back to where they are produced or grown, without exception."

During 2013, Neste Oil purchased palm oil from a total of eight suppliers. Of these, Neste published the names Wilmar, Golden Agri, Asian Agri, and IOI Group. In 2012, Neste Oil said it had also purchased palm oil from Felda. In 2013, Neste Oil also purchased palm oil from small producers that operate under the aforementioned corporations.

According to Neste Oil, its own supply agreements include terms and conditions related to responsibility. These require that suppliers commit to responsible activities, conservation of biodiversity and respecting human rights. Raw material suppliers must also commit to Neste Oil's No Deforestation and Responsible Sourcing guidelines.

Neste Oil reports that in 2013, it purchased palm oil from 212 plantations. According to the company, it knows the exact location and history of each estate. According to Neste Oil, this information is used to ensure that plantations have not expanded nor are they planning to expand to prohibited areas, the estates are not embroiled in conflicts with the local population and that the estates respect workers' and human rights. Neste Oil supplied information on some of its plantations to Finnwatch to use in the field investigation related to this report (see Chapter 9).

Neste Oil reports that before initiating purchases, it carries out a supplier risk assessment, which includes questions on working conditions. The risk assessment comprises a self-assessment by the supplier, Neste Oil investigations and a possible third party assessment and audit. Neste Oil requires that its palm oil suppliers are certified, and a supplier's certification situation is established during the risk assessment. According to the company, at the time this report was being compiled, ten palm oil suppliers had passed its responsibility review. Finnwatch was not permitted to obtain the questionnaire used in supplier self-assessment, but was permitted to see said form on a visit to Neste Oil headquarters.¹¹⁰

In 2013, all crude palm oil used by Neste Oil was certified. The company uses mass

110 This figure does not include palm oil used in non-food products.

balance and segregation as its monitoring mechanisms (see Chapter 6). Of the 65 palm oil presses that supplied Neste Oil in 2013, 45 were ISCC certified and 20 were both ISCC and RSPO certified.

In 2013, Neste also initiated cooperation with The Forest Trust (TFT). The objective of this cooperation is to develop responsibility also outside of Neste Oil's supplier chain. Neste Oil states that the TFT has carried out desk research covering all the crude palm oil suppliers and presses used by Neste Oil and assessed how well these companies abide by Neste Oil's No Deforestation and Responsible Sourcing guidelines¹¹¹. Neste Oil reports that TFT has drawn up a report on each palm oil supplier and given development proposals for the companies' policies and operating methods. The development proposals provided by TFT are run through with each actor in a working group. The objective of this work is to develop the suppliers' public principles and approaches so they are in accordance with Neste Oil's requirements.

8.2 KESKO

Kesko is a listed food, consumer goods, hardware, auto, and machinery supply company. Kesko's chain includes approximately 2,000 stores in Finland, Sweden, Norway, Estonia, Latvia, Lithuania, Russia and Belarus. Kesko and independent K-food stores form the K-ryhmä Group, which includes 1,000 food stores. Kesko Food chains include K-citymarket, K-supermarket, K-market and K-extra. In 2013, Kesko's turnover was 9.3 billion euros. Kesko's answers to the Finnwatch survey applied to its private label products (Pirkka, Menu and K-Menu).

At the time this report was being written, 97 Pirkka products contained palm oil. Only 16 Pirkka products contained certified palm oils¹¹².

111 A summary of the TFT's first research report can be read at: http://clients.squareeye.net/uploads/tft/TFT_Public_Summary_-_Neste_partnership_Phase_1_results_April_29_2014.pdf

112 Of these products, three come in two different package sizes.

Kesko reports that during the RSPO's previous reporting period (1 July 2013 – 30 June 2014) a total of 660 tons of palm oil was used in Pirkka products. Of this quantity, 140 tons was certified palm oil, i.e. 21 per cent of the total.

Palm oil was used in 63 of Kesko's Menu products, which are intended for industrial kitchens; 43 of these products contained certified palm oil. The quantities of palm oil used in Menu products will be calculated during September 2014 for RSPO's annual report. Kesko's initial estimate for the total quantity of palm oil used in Menu products is approximately 314 tons, of which 196 tons is certified palm oil .

At the moment, three products in the K-Menu series, which Kesko launched in 2014 contain palm oil. Kesko reports that a decision has yet to be made on the use of certified palm oil in this product range, and the company is not yet able to estimate the annual amount of palm oil used for the product range¹¹³.

During the past year, Kesko has used approximately 1,000 tons of palm oil in its private label products.

Kesko's objective is to ensure that by 2020 all the palm oil in both Pirkka and Menu products is responsibly produced. The company intends to use at least the RSPO segregation mechanism in monitoring the palm oil it purchases, Kesko believes that mass balance or GreenPalm certification are not sufficient to ensure that the origin of the palm oil in a product can be traced.

Kesko states that the company is aware of the countries of origin for ingredients used in Pirkka and Menu products, but it has not attempted maintain a register of the material producers' names. Kesko reports that the producers of single ingredients change often according to availability and the market situation, and Kesko is not aware of specific palm oil producers at the plantation level.

Kesko has been an RSPO member from 2011.¹¹⁴

8.3 S-GROUP

S Group is a network of companies in the retail and service sectors, and has over 1,600 places of business in Finland. S Group is made up of consumer cooperatives and Suomen Osuuskauppojen Keskuskunta (SOK) along with its subsidiaries. Services produced by S Group include grocery and consumer goods stores, service stations and gasoline sales, tourism and nutritional trade, auto and auto supply trade and agricultural supply trade. S Group's retail sales for 2013 amounted to 11.3 billion euros.

In 2012, S Group used approximately 1,145 tons of palm oil in its private label products and deep fry oils used in the company's restaurants¹¹⁵. Of the group's private label products, 87 contained palm oil, i.e. approximately 6 percent of products. According to S Group, certified palm oil accounted for 78 per cent of all used fats.

S Group states that its objective is to ensure that by 2015, all the palm oil used in its private label products is 100 per cent certified. In the future the company plans to include a symbol on its packaging indicating the use of traceable certified palm oil. S Group reports that in the future, the RSPO's different certification models (see Chapter 6) will be used according to availability. Currently, SOK's private label products do not contain palm oil the origin of which that can be physically identified

According to SOK, it requires that its suppliers have traceable and transparent supply chains. Suppliers ensure that certified palm oil is used in the production of the products, or that the used quantity of palm oil is covered with GreenPalm certificates. The supplier is obligated to open up its entire palm oil supplier chain, if SOK so requires.

S Group has been an RSPO member from 2011¹¹⁶.

113 The K-Menu products that contain palm oil were only launched in July 2014.

114 Kesko, Matti Kalervo, emails dated 19 August and 20 August 2014

115 This figure does not include palm oil used in non-food products.

116 SOK, Sanni Pekkala, email dated 2 September 2014

8.4 NEOT – NORTH EUROPEAN OIL TRADE

NEOT, which is owned by SOK and St1 Nordic Oy, is an oil product and bioproduct wholesales company. NEOT fuels are used in Finland by ABC, St1 and Shell petrol stations. The company's fuel oil is also used to heat 150,000 Finnish homes. In 2013, NEOT's turnover was 4.7 billion euros.

NEOT does not process palm oil itself, but rather purchases palm oil-based fuels directly from Neste Oil or the international market. In 2013, all palm oil-based fuels procured by NEOT, via various routes, were produced by Neste Oil.

In 2013, the share of renewable diesel refined from palm oil in all biofuels purchased by NEOT was 0.3 per cent, i.e. 350 cubic metres. In addition to this, Neste Oil Oyj has delivered a total of 6,113 cubic metres of renewable diesel refined from palm oil to NEOT with its fossil fuel deliveries.¹¹⁷ In total, NEOT has delivered 6,460 cubic metres of palm oil-based diesel in 2013. Of all the fuel supplied by the company, palm oil-based fuels account for 0.25 percent.

NEOT's waste and residue-based biofuels (share 34.4 per cent in 2013) did not contain palm oil-based waste.

NEOT reports that it requires that all its biofuel producers act in accordance with the EU's sustainability criteria in the primary production of raw materials, but does not require that producers list a raw material's origin at the plantation level. Realization of these criteria is demonstrated with EU-approved certifications.¹¹⁸

¹¹⁷ The figures will be supplied separately because the party who supplies biofuels for consumption is responsible for seeing that bio-obligations and sustainability criteria are realised. NEOT's answers apply to biofuels obligations in the amount of 350 cubic metres and Neste Oil for 6,113 cubic metres. For more information: <http://www.fi.nlex.fi/fi/esitykset/he/2010/20100197>

¹¹⁸ NEOT, Timo Huhtisaari, email dated 19 August 2014 and SOK, Sanni Pekkala, emails dated 11 April and 21 March 2014

8.5 VALIO

Finland's largest milk processor Valio Oy is owned by 17 milk production cooperatives, and also produces milk products for export for example to Russia, Sweden and Estonia. In 2013, Valio's turnover was approximately 2 billion euros.¹¹⁹

Valio told Finnwatch that it no longer uses palm oil in consumer products. Currently, the only Valio product that contains palm oil is a milk substitute intended for calves, which is a vegetable oil mix with 80 per cent palm oil. Valio states that it uses domestic raw materials when at all possible with regard to product characteristics, availability and competition.

Valio would not tell Finnwatch the amount of palm oil the company uses, claiming it was a trade secret. However, the company did state that it purchases palm oil from Cargill GmbH and it originates from Malaysia or Indonesia.

Cargill has published the names of its palm oil plantations in Indonesia. They are PT Hindoli and PT Harapan and its subsidiaries¹²⁰. Valio did not know for sure whether the palm oil it uses is from these plantations. The company states that it uses such small amounts of palm oil annually that it does not have the possibility to determine which plantations the oil originates from.

According to Valio, every one of the company's suppliers must answer the company's sustainability survey for suppliers. A risk assessment based on the survey is used to audit the supplier. Valio has not carried out audits at Cargill's plantations, but rather states it trusts the information supplied by Cargill.

Valio applied for RSPO membership in May 2014, while this report was being compiled. Valio told Finnwatch that in the future the company would purchase GreenPalm certification for the palm oil it uses.¹²¹

¹¹⁹ Valio, <http://www.valio.fi/yritys/> (viewed on 11 June 2014); Valio, Pia Kontunen, email dated 12 June 2014

¹²⁰ Cargill, <http://www.cargill.co.id/en/products/palm-oil/>

¹²¹ Valio, Pia Kontunen, emails dated 16 June 2014, 21 February 2014 and 20 February 2014

8.6 FAZER

Fazer Group's two areas of business are Fazer Brands and Fazer Food Services. Fazer Brands includes bakery and chocolate products, cookies, sweets and chewing gum products. The business area also includes Fazer branded restaurants and cafes, bakery shops and Fazer Leipomot, situated in food markets. Fazer Food Services has approximately 1,100 restaurants in Finland, Sweden, Norway and Denmark. In 2013, Fazer Group's turnover was 1.7 million euros.¹²²

The majority of palm oil used by Fazer is in the form of vegetable oil mixes, which are used in buns and pastries, cookies and filling for sweets. The Fazer Food Services product group that most often contains palm oil is margarines. In 2013, Fazer Group used approximately 5,636 tons of palm oil.

Fazer purchases fat mixes from numerous European producers.

According to Fazer, the palm oil it uses is predominantly from Malaysia and Indonesia. The company reports that it does not have the specific tracing data to the plantations for the palm oil used in its fat mixes, but it ensures responsibility with GreenPalm certificates (see Chapter 6.4). In 2012 and 2013, Fazer covered all the palm oil it used with GreenPalm certificates.

Fazer bases its decision to use the GreenPalm certification scheme on the fact that instead of clean palm oil the company purchases different fat mixes from its suppliers. According to Fazer, this sets challenges for example for the purchase of segregated (see Chapter 6.2) RSPO certified palm oil.

However, Fazer reported that its objective is to continue to work on developing the responsibility and traceability of palm oil. At the time this Finnwatch report was being compiled, Fazer was working on a future plan to ensure the responsibility of palm oil. The company reports that in the future it

would like to purchase more palm oil that has received RSPO certification through the mass balance and segregation monitoring mechanisms.¹²³

Fazer has been an RSPO member from 2004.

8.7 PAULIG GROUP

Paulig Group is an international food industry corporation. Its key areas of business include coffee, international food and seasonings, snack food and industrial seasonings. In 2013, Paulig Group's turnover was 850 million euros.¹²⁴

According to Paulig Group, palm oil is used in some Santa Maria and Poco Loco products. Palm oil is not used in the group's coffee and industrial seasonings products.

According to Paulig Group, use of palm oil in Santa Maria products has been cut, and the company now uses a growing amount of a sunflower oil and canola mix. According to the company, palm oil is now only used in some tortillas, which are produced in Great Britain. Palm oil has been replaced with other vegetable oils in tortillas produced in Sweden. The company plans to terminate use of palm oil in all Santa Maria products by the end of 2014.

In 2013, approximately 1,500 tons of RSPO certified palm oil was used in Santa Maria products, of which 700 tons were GreenPalm certified and 800 tons segregated. Santa Maria has been an RSPO member from 2004, and has only purchased certified palm oil from 2009.

In the Poco Loco product range produced in Belgium, palm oil is used in tortilla chips and tortillas. It is the company's objective to use only certified palm oil also in these products by the end of 2014. According to Paulig Group, the use of palm oil will be cut significantly in the Poco Loco product range. The

¹²² Fazer, Products & services, <http://www.fazer-group.com/fi/tietoa-meista/tuotteet--palvelut/> (viewed on 11 June 2014) and 2013 briefly, <http://www.fazergroup.com/fi/tietoa-meista/vuosikertomus/2013-pahkinankuoressa/> (viewed on 11 June 2014)

¹²³ Fazer, Leena Majamäki, emails dated 19 June 2014 and 3 May 2014

¹²⁴ Paulig, About Paulig Group, <http://www.paulig-group.com/fi/index.php/about-us/> (viewed on 12 June 2014)

objective is to transition from the use of palm oil to sunflower oil.

The palm oil used by Paulig Group is produced by AAK, Cargill and IOI Group. The palm oil used in Santa Maria product come from peninsular Malaysia and Papua New Guinea. The palm oil used in Poco Loco products is predominantly from Malaysia and Indonesia.

Paulig is not aware of the specific plantations its palm oil is from.

Paulig Group's raw materials suppliers have signed the company's Code of Conduct for Suppliers, which requires that they commit to social responsibility. According to Paulig Group, responsible procurement is one of the primary development areas on its work to ensure corporate responsibility.

Paulig Group became an RSPO member in autumn 2013. The membership covers all its areas of business.¹²⁵

8.8 RAISIO

Raisio Group is an international corporation that primarily produces vegetable based foods and animal feed. Raisio's most recognized food brands include Benecol, Elovena and Sunnuntai. In 2013, the group's turnover was 557.6 million euros.¹²⁶

Raisio purchases palm oil and palm oil derivatives¹²⁷ predominantly in the form of different fat mixtures.

According to the company, palm oil or fat mixtures that contain palm oil are used for example in cookies, snack bars and sweets as well as in margarines and pet foods that Raisio produces as a subcontractor. Raisio reports that during 2015, it will transition from using palm oil to canola in all of the cookies it produces in Finland. All of Raisio's newest cookies that are produced in Finland

are already baked with canola. Raisio uses approximately 800 – 900 tons of palm oil in its food products annually.

Raisio did not give Finnwatch an account of its palm oil suppliers, or the origin of its palm oil. The company reasoned that has never been in the habit of "disclosing information on its supply partners to third parties for any other raw material, and it is not a general trade practice."

Raisio reports that it will transition entirely to palm oil and palm oil derivatives that are certified according to the principles of sustainable development before the beginning of 2015. In 2013, over half of the palm oil and palm oil derivatives used by Raisio were RSPO certified. Raisio purchases palm oil and its derivatives predominantly in the form of different fat mixtures from European companies located in Great Britain, Denmark, Spain, Germany and France.¹²⁸

8.9 VAASAN GROUP

Vaasan Group is an international bakery operator, with places of business in Finland, Sweden, Estonia, Latvia, Lithuania, Norway, and Denmark. In 2013, the group's turnover was approximately 414.5 million euros.¹²⁹

Vaasan Group uses palm oil when deep frying donuts and meat pastries. Margarine, which contains palm oil, is also used in the production of the company's Danishes and other pastries.

According to Vaasan Group, the vegetable oils purchased by the company contain approximately 1,200 tons of pure palm oil.

According to Vaasan Group, the palm oil and its derivatives the company uses are from a number of different suppliers. The company reports that when selecting a supplier, it takes matters related to responsibility into consideration. Vaasan requires that the producers of the palm oil-based products the

125 Paulig, Anita Laxen, emails dated 4 July 2014, 16 June 2014, 3 June 2014, 17 April 2014 ja 19 March 2014

126 Raisio, Group, <http://www.raisio.com/www/page/konserni> (viewed on 11 June 2014)

127 Palm oil derivatives refer to fatty acid mixtures refined from palm oil.

128 Raisio, Marika Kelokari, emails dated 23 June 2014 and 24 February 2014

129 Vaasan Oy, Tietoa meistä, http://www.vaasan.com/portal/fi/vaasan-konserni/tietoa_meista/ (viewed on 9 June 2014)

company uses are RSPO members or buys its raw materials from RSPO members.

Vaasan Group has been an RSPO member from 2012.

Vaasan Group reports that in order to support responsibility in palm oil production, it purchases GreenPalm certificates for all the palm oil it uses through the Book&Claim system. (see Chapter 6.4). The company reports that it has bought GreenPalm certificates for all palm oil it has used since 2012, and plans to do so also in the future.¹³⁰

8.10 ORKLA CONFECTIONERY & SNACKS FINLAND

Orkla Confectionery & Snacks Finland, a part of the Orkla Group, was established in a merger between potato crisp producer Chips Ab and sweets company Oy Panda Ab. The company also produces and markets Oolannin frozen foods and Kantolan cookies. In 2013, Orkla Confectionery & Snacks Finland's turnover was approximately 100 million euros.

No palm oil is used in Oolannin products.¹³¹

At the beginning of 2014, Taffel crisps, shaped snacks and cheese products still contained a canola-palm oil mixture, but in September-October of 2014, the company will transition completely to the use of a sunflower oil-canola mixture in Taffel products. In 2013, Taffel used 700–800 tons of RSPO certified palm oil. After a cut in the use of palm oil, approximately 70 tons of palm oil will be used in Taffel products each year. Palm oil is used in Taffel's microwave popcorn, nuts and a few of the product range's baked goods.

The palm oil used by Taffel is refined by Aarhus Karlsham and its country of origin is Malaysia.

Orkla Group reports that it cut down on the amount of palm oil it uses starting in 2008,

and its objective is to continue to cut down on its use.¹³²

Orkla Group did not answer the Finnwatch survey with regard to Panda and Kantolan products.

8.11 LUMENE

Cosmetics company Lumene markets 700 products in Finland, the other Nordic countries, Russia and the United States. In 2013, the group's turnover was approximately 90 million euros.

A few thousand kilos of palm oil derivatives refined from palm oil are used in Lumene products each year. According to the company, around 70 per cent of cosmetics industry products contain palm oil, but it did not give a number for how many of its own products contain palm oil.

Lumene reports that its suppliers have committed to the RSPO's principles and that Lumene regularly assesses supplier operations. However, Finland did not receive any further information on these assessments. According to Lumene, the company has a policy according to which details related to suppliers, as well as quality and environmental systems are trade secrets.

According to Lumene, its suppliers have "clear targets in place for 2014–2016; the objective is for the entire supply chain to be completely certified and transparent according to RSPO objectives. However, the company did not give any further information on these objectives, or the present certification percentage of the palm oil derivatives it currently uses. According to the company, it "does not have the opportunity to answer these questions at this time".¹³³

130 Vaasan Oy, Mira Perander, email dated 11 March 2014

131 Oolannin, Cecilia Johansson, email dated 17 June 2014

132 Orkla Confectionery & Snacks Finland Ab, Gunilla Hernelahti, email dated 12 August 2014

133 Lumene, Riikka Söderlund, emails dated 13 August, 18 August, 19 August and 21 August 2014

Table 2: Palm oil purchases by company and their certification percentage in 2013

Company	Amount of palm oil used ¹³⁴ in 2013	Certification percentage
S Group (private label products and frying oils)	1,145 tons (2012) ¹³⁵	70 %
NEOT	is included in the sum for Neste Oil ¹³⁶	100 %
Kesko (private label products)	1,000 tons ¹³⁷	0–21–62 % depending on the product range in question
Neste Oil	1.1 million tons	100 %
Vaasan	1,200 tons	100 %
Raisio	800–900 tons	50 %
Fazer	5,636 tons	100 %
Paulig	3,000 tons	50 %
Valio	trade secret	0 %
Orkla (Taffel)	800 tons ¹³⁸	100 %
Orkla (Oolannin)	0	-
Orkla (Panda and Kantola)	did not respond	did not respond
Lumene	10 tons	did not respond

8.12 SUMMARY OF RESPONSES BY FINNISH COMPANIES

The Finnish companies included in this report purchase at total of approximately 1.11 million tons of palm oil each year¹³⁹. Neste Oil's palm oil purchases account for 99 per cent of this quantity. Neste Oil uses over 80 times more palm oil than all the other Finnish companies included in this report together. However, in this comparison it is important to

note that food and cosmetics industry companies use palm oil derivatives refined from crude palm oil, so the figures presented in the companies' answers are not directly proportional. Neste Oil for its part also uses significant quantities of palm oil-based residues, so the exact amount used is covered by trade secrecy and is not included in the aforementioned overall sum¹⁴⁰.

The Finnwatch survey demonstrates that a large part of Finnish companies do not trace the palm oil they purchase to the specific plantation it is from. Only Neste Oil traces

¹³⁴ Companies use either crude palm oil or further refined palm oil fractions depending on the product in question. The figures presented in the table were given by the companies themselves and are therefore indicative not directly proportional.

¹³⁵ There are no figures available for 2013. The figure does not include palm oil used in non-food products.

¹³⁶ NEOT does not process the palm oil it uses, and it purchased the biofuels it used in 2013 from Neste Oil. Therefore, the figure for Neste Oil's palm oil use also includes the palm oil NEOT has indirectly used.

¹³⁷ An estimate for 2013. Does not include palm oil used in non-food products.

¹³⁸ Orkla's palm oil use will decrease after autumn 2014. The figure does not include products marketed by the company's Panda and Kantolan brands.

¹³⁹ In addition to crude palm oil, the figure includes further refined palm oil fractions. The figure does not include palm oil-based residue raw materials used by Neste Oil.

¹⁴⁰ It is probable that palm oil-based residues also end up in the use of other companies included in this research, e.g. the stearin in candles can from the palm oil production process. However, even the volume of residue in the indirect purchases made by other companies is small in comparison to Nest Oil's purchase volumes.

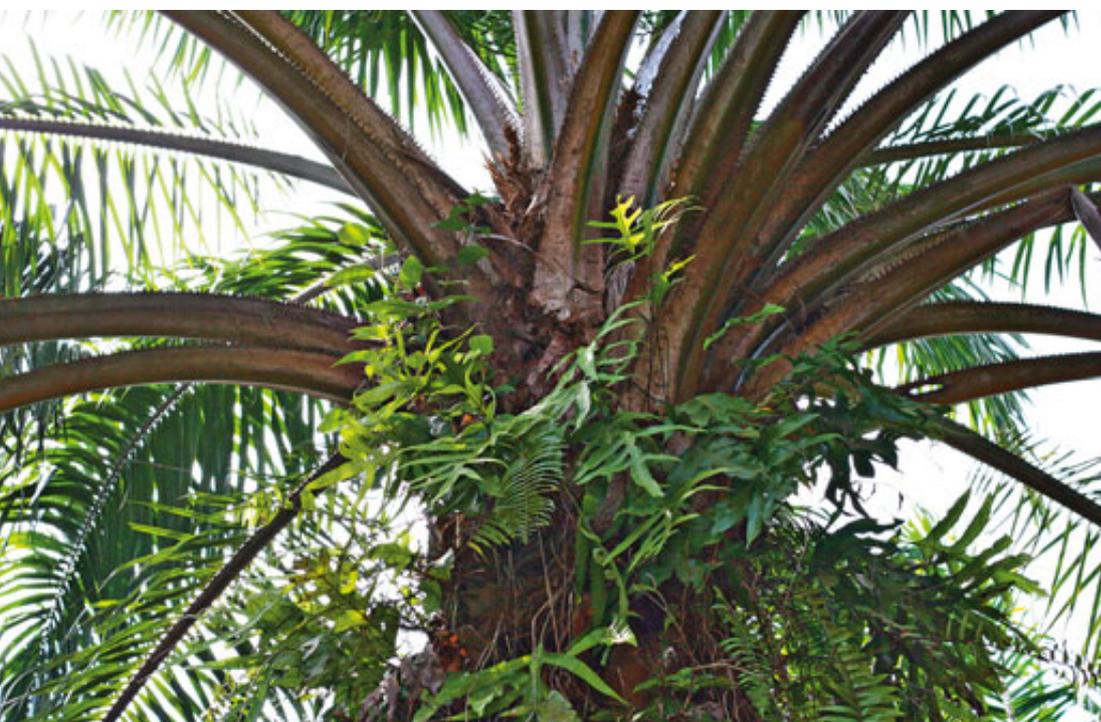
all the crude palm oil it uses, via the mass balance and segregated monitoring mechanisms (see Chapter 6).

Most of the companies included in this research purchased GreenPalm certificates for the palm oil they used. There were differences observed even between store chains. S Group is clearly further than Kesko with regard to the use of certified palm oil, and its timetable for certification of all palm oil (by the beginning of 2015) is five years ahead of Kesko. However, Kesko's objective with regard to traceability is more ambitious than that of the S Group, as the company's target is to use segregated palm oil in all its products by 2020. GreenPalm certification and tracing done via the mass balance mechanism were considered sufficient by S Group.

All the companies that responded to the survey relied on the Roundtable on Sustainable Palm Oil (RSPO) certification with regard to ensuring the responsibility of palm oil. In addition to RSPO certification, Neste Oil uses ISCC certification, which is designed for bio-fuels, and its own assessments. However, an alarmingly large number of companies still also used non-certified palm oil.

During Finnwatch's survey, Valio reported that it was becoming a member of the RSPO and would in future buy GreenPalm certificates. S Group, Kesko, Raisio, Paulig and Lumene had also set targets to increase the amount of certified palm oil used in their products.

Many companies also reported that they will be transitioning or had transitioned to the use of oils other than palm oil. Valio no longer uses any palm oil in consumer products. Raisio is transitioning to the use of canola in all the cookies it produces in Finland, and Paulig Group has also set the use of sunflower oil as a target. Many companies mentioned that the reason for the change was that they wanted to use domestic raw materials. It is likely that the critical attitude toward palm oil has also influenced the companies' resolve to transition from the use of palm oil-based fats to other less controversial vegetable oils.



9. CASE: Labour conditions on IOI Group Estates in Malaysia

For this report Finnwatch conducted research on IOI's estates in the southern region of peninsular (West) Malaysia, namely in the states of Negeri Sembilan and Johor. Field research was carried out in May-June 2014.

Finnwatch contacted IOI Group in Malaysia to request their cooperation. Finnwatch asked that a local researcher conduct a study of the labour conditions on IOI oil palm estates in West Malaysia. This request was supported by Neste Oil a company owned by the Finnish state. IOI acceded to this request, and the sustainability unit at its head office in Putrajaya liaised with the management of the estates to coordinate and facilitate the work of the researcher.

IOI Corporation provided a list of its estates in the southern region, and the researcher selected three estates at random on which to conduct the research. The estates selected were Pamol Barat, Bukit Serampang and Bahau. In addition to the aforementioned three estates, the researchers also had discussions with other stakeholders such as NGOs, labour unions and individuals, who had experience in the labour movement. During the course of these discussions, the researcher was alerted to what was described as deplorable working and living conditions in another estate, Regent Estate situated in Negeri Sembilan.

Malaysian-owned IOI Group is one of the world's biggest palm oil companies. It owns 240,000 hectares of land in Indonesia and Malaysia. In addition to Neste Oil, IOI also supplies palm oil to Finnish company Paulig. However, Paulig Group is not aware of the specific estates its palm oil comes from (see Chapter 8.7). Among the Finnish companies that were included in this research, Neste Oil was the only one that gave Finnwatch detailed information on their supply chain.

In each of the three aforementioned IOI Group estates (Pamol, Bukit Serampang and Bahau), research was conducted through

interviews with the management, examination of records, on-site observation of workers at work, living conditions, and amenities', as well as interviews with workers in small groups of more than 10 persons. For these interviews, the researcher selected the workers from a list of estate workforce in order to ensure a fair representation of workers of different nationalities; the management provided a venue away from the office (a club house or local school's classroom), where the interview could be conducted without the presence of any management level personnel. Despite the fact that the interviews were conducted on-site, the workers seemed to be relaxed and talked openly about their working conditions.

In addition, a meeting was organized with a group of workers from Regent estate on a Sunday evening, outside the estate. In order to obtain a balanced view of the situation at Regent Estate, Finnwatch requested on a number of occasions that the IOI Head Office help arrange a meeting with management at Regent Estate, but the meeting did not materialize.

Estate visits and worker interviews were conducted by an experienced social auditor and human rights specialist Joseph Paul Malia-mauv. Also Finnwatch's own researcher visited one of the estates (Bahau) and conducted off-site interviews with Regent Estate workers. Research was based on Finnwatch's own research questionnaire.

In total, around 50 workers were interviewed for the research. Interviewed workers were migrant workers from Indonesia, Nepal, Bangladesh, India and Myanmar. In addition to labourers and estate management, also IOI Group's HR managers were interviewed for the report.

The labour force at the three estates (Pamol, Bukit Serampang and Bahau) numbered 197, 210 and 298 respectively giving a total of 705 workers. Out of a total of 705 workers

SOURCE: WWW.SGS.MY/~MEDIA/LOCAL/MALAYSIA/DOCUMENTS/TECHNICAL%20DOCUMENTS/REPORTS/S/GS%20SSC%20MY02203%20I0I%20GOMALI%20ASA%20RSP0%20A4%20EN%2013%20V1.ASHX AND COMMONS.WIKIMEDIA.ORG



IOI Estates in Malacca and Negeri Sembilan. Estates included in this research are marked in red.



IOI Estates in Johor. Estate included in this research is marked in red.

at the three estates (which were visited by the researcher), only 97 (14%) were Malaysian, while 608 (86%) were foreign. Within the individual estates, the percentage of local workers ranged between 10 to 17 per cent. Of the foreign workers, the majority were Indonesian (45%), followed by Nepalese (31%), Bangladeshi (15%), Indian (7%) and Myanmar (2%). Similar statistics for Regent Estate were not obtained. However, the workers on the estate confirmed that most of the estate workers were foreign like at the other estates.

At all four estates foreign workers are responsible for field operations such as collecting fruit bunches, pruning and spraying.

Malaysian workers mostly act as supervisors or conduct administrative work.

In accordance with the Finnwatch Code of Conduct, IOI Group was given the opportunity to comment on these findings before publication of this report. IOI Group's comments are presented in Chapter 13. Also Neste Oil has had the opportunity to comment on the report's findings, and the company's response is available in Chapter 14.

9.1 RECRUITMENT OF FOREIGN WORKERS

The IOI head-office in Malaysia is responsible for recruiting foreign workers, who are

then deployed to different estates based on the estates' requirements. For this purpose, IOI uses the services of a local (Malaysian) recruitment agency, which collaborates with its counterparts in the labour supplying countries to bring in the required number of workers. IOI pays the Malaysian recruitment agency for its services. Recruitment of foreign workers has been approved by the Malaysian Ministry of Home Affairs. The recruitment process varies somewhat from country to country. For example, in Indonesia and Nepal IOI Group can select workers more freely, but in Bangladesh a ready list of workers is provided by Bangladesh authorities. According to IOI, it prefers to recruit workers, who have previous experience in farming. All foreign workers recruited by IOI are male.

During the recruitment process, workers are usually briefed by the agent on the nature of work before they sign a contract, and sometimes they are shown videos of the kind of work to be anticipated. Employment contracts are available in Bahasa Malaysian or English (see chapter 9.2).

The length of a contract for non-Indonesian workers is three years and two years for Indonesian workers. Foreign workers are not permitted to marry or bring their families to Malaysia. In fact, the contract of employment for foreign workers (excluding Indonesians) expressly forbids them from having romantic relationships in Malaysia. Indonesian workers are forbidden from marrying without permission from the government.

Before they are recruited, a worker must be certified as medically fit for work by an approved medical practitioner in their home country. However, within a month of arrival in Malaysia they must undergo another medical examination, and if they are found to suffer from any illness (even some that are easily treatable), their employment contract is terminated and they are immediately repatriated at their own expense. For example, one worker was repatriated soon after arrival, because he tested positive for a sexually transmitted disease.

On completion of one year of service, workers must pass another medical examination before their work permit is renewed. If the worker does not pass the medical exam, his work permit will not be renewed.

According to IOI, health problems are treated before the workers are sent home. However, there is no clear policy for this practice.

9.2 WORKERS SELL THEIR LAND OR TAKE LOANS HOPING TO GET RICH IN MALAYSIA

During the interviews, almost all the workers stated that they had incurred large expenses to come to work for IOI Group. The majority of these expenses comprised of fees paid to agents (or their sub-agents), who promised to get them a job at IOI. The fee usually included the cost of a flight and in some cases, the mandatory health examination.

Other costs such as obtaining a passport (which is very often a daunting and expensive exercise in the source countries) and travel from their villages to the capital city were also borne by the workers.

The amount paid to the agent varies from country to country and also between agents. Nevertheless, on the basis of discussions with the workers one can deduce that there is a certain "market rate" in each country. On average, the sum equalled around two months' wages. 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 agent when they are recruited; the debts are repaid from the wages that they earn in Malaysia. Some of the workers also said that they had sold their cattle and land and used other savings. Many workers said that the agents had assured them that they would earn enough to be able to send RM 900 home every month. Based on this assurance, the prospective workers felt it was in their interest to incur a huge debt to come to work in IOI.

The human resource department of IOI denied any knowledge of how much the

workers had to pay as recruitment fees to agents in their own countries. Documents were cited at the estates which clearly showed that in a number of cases, IOI facilitates the repayment of debts to the agent through monthly deductions from the wages of the workers.

Furthermore, although there were documents showing that the workers had consented to the wage deductions, it should be noted that the Employment Act (24.4) stipulates that the written permission of the Director General of the Ministry of Human Resources is required for such deductions. Interviewed plantation managers did not know whether the authorities had given permission for these deductions.

During the recruitment process, the workers were usually briefed by the agent on the nature of work before they signed an employment contract, and sometimes they were shown videos of the kind of work to be anticipated. In the case of Indonesian workers, many were recruited through friends and relatives, who were already working on the estates in Malaysia. Thus, they were also quite familiar with the nature of work involved, because oil palm plantations are prevalent in Indonesia. However, most of the foreigners were unable to visualize the kind of work they were signing up for, because they had never seen an oil palm estate. During the interviews, some workers stated that what they saw in the video presentations did not correctly depict the reality of their actual work conditions; for example, the video showed harvesting of palm oil bunches with the aid of mechanical harvesters whereas in reality this was done manually; the oil palm trees in the video were short, but in reality they sometimes had to harvest fruit bunches from trees that were over 20 metres tall. In a few cases, the workers claimed that they were told that they would be working in factories instead of oil palm plantations.

During the interviews, a number of workers stated that the agents had promised them that they would be able to earn at least RM 900 a month during their 6-month probationary period. Some Regent Estate workers

had also been promised full-time jobs with a fixed monthly salary and were disappointed to have received a performance-based salary.

IOI Group states that it has produced and distributed a realistic video of the kind of work and work conditions to be expected in Malaysia. However, IOI says that it is not possible to ensure that these videos are used by all recruiters and their subagents; IOI is unable to vouch for the veracity of all the information that is provided to potential workers by agents.

Nevertheless, the majority of workers interviewed seemed to have resigned themselves to the reality of working conditions at the estate and wanted to continue working instead of asking to be sent back home. One reason for this was debts that they have incurred and the lack of any employment opportunities, if they chose to return home. All the comments above were also echoed by the workers from Regent Estate. According to many of the workers, they would have never travelled to Malaysia, if they had known what they know now, but they have no possibility to go back, as they do not have the finances to pay for their return flight.

All the estates maintain copies of employment contracts for foreign workers. The contract document is in Bahasa Malaysian for Indonesians and in English for workers of other nationalities. It was noted that Indonesians, who were literate, were able to somewhat understand the contract written in Bahasa Malaysian (due to its similarity to their mother tongue, Bahasa Indonesian); however for the others, the contract written in English was completely incomprehensible. Though a few Nepalese and Myanmarese may speak a bit of English, almost no one could read or understand the contents of the contract. In any case, most workers were functionally illiterate even in their own mother tongue. This is evident from the fact that it is not unusual to find documents with thumb prints instead signatures of the workers. Therefore, the workers generally relied on the "oral traditions" of the estate to know their entitlements as per their contract. For example, many workers did not understand the wage system at the estates.

It was noted that local workers do not have a documented employment contract.

9.3 WAGES ARE PERFORMANCE-BASED AND DON'T ALWAYS MEET LEGAL MINIMUM WAGES

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. The calculation of wages is rather complicated and varies with the nature of work. For example, the basic wage of oil palm fruit harvesters is based on the tonnage harvested (i.e. total weight of the fruit bunches harvested). However, as bunches are not weighed individually, a foreman (bunch counter) makes a record of the number of bunches each worker harvests. All bunches collected from the various fields are transported to the mill and weighed. The average weight per bunch is calculated based on the total weight of bunches harvested during the day at the estate and sent to the mill. The wage for each harvester is then calculated as follows: number of bunches harvested multiplied by the average weight per bunch. Differences in the degree of difficulty (e.g. tall trees) and bunch weight (bunches in some fields weigh less than in others) are also factored in. An analysis of a sample of wages paid in August 2013 for different workers showed that rate per bunch varied by as much as 64%.

Similarly, sprayers (of pesticides/herbicides etc.) are paid according to the total hectares that they spray in a day. Workers applying fertilizers are paid by the area covered each day. Allowances may be made for variations in the level of difficulty for different fields (e.g. some fields may be hilly or have young plants).

The minimum monthly wage in West Malaysia is RM 900 for an eight hour working day. In the case of piece-rated workers, the piece rate is, according to IOI, set in a way that allows an ordinary worker, working at a normal pace to earn at least RM 34.62 per

day¹⁴¹. In practice, all workers do not receive legal minimum wage. Workers from Regent Estate, who were interviewed, 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 estate strongly supported these allegations. For example, 23 salary slips from one worker were examined and in 10 of the pay slips the worker had received less than the legal minimum wage. It was also suggested that the number of days and overtime hours worked and performance are not properly reflected in some of the wage slips.

New employees are placed on a 6 month probationary period. During the probationary period, the daily wage is RM 25.00.

According to the IOI, employment contract wages are topped up to legal minimum wages. However, according to the contract this is not done, if a worker, for example, fails to meet the targets, wastes time or works too slowly. In practice, this meant that guaranteeing a minimum wage to workers was up to the arbitrariness of the management.

The wage slips do not include information on working hours. The wage slips given to the employees look complicated, are not easy to decipher, and in some cases do not provide sufficient details about how the total sum of wages is calculated. For example, a number of wage slips stated the total wage earned for harvesting in the month, but did not show the number of bunches harvested, although in most other cases the number of bunches harvested is clearly indicated. This is important, as wages are determined by the number of bunches harvested. On some of the estates, the wage slip shows an allowance payment for "Skill" for harvesters, but on other estates this heading is not found. The inconsistencies in the format of the wage slips (headings and columns) are surprising considering that the format is set by the Head Office.

¹⁴¹ This figure is derived as follows: RM 900 divided by 26 working days per month.

RSPO does not take the position of migrant workers into account sufficiently

During the field research, Finnwatch also observed RSPO's criteria for social responsibility and the national interpretations of these. Finnwatch specifically focused on how the certification system dealt with the key challenges in palm oil production in Malaysia: the weak standing of migrant workers, an insufficient living wage and freedom of association. All the plantations investigated by Finnwatch were RSPO and ISCC certified.

Position of migrant workers

The RSPO criteria are weak with regard to protecting migrant workers. For example, RSPO permits employers to hold their workers' passports, if workers have given their consent for this. Finnwatch believes that an employer should never be allowed to hold onto their workers' passports or identity documents. Drawing up or straight out fabricating documents, which prove that workers have given their "consent", is extremely easy for the employer, and the existence of this type of written agreement or consent does not mean that the workers have voluntarily given their consent. For example, workers at the IOI estates that Finnwatch visited for this report did not understand the employment contract, which was written in a foreign language, and in which they unknowingly gave consent for holding their passport, and workers were not given their passports even when they requested their return.

A living wage

The RSPO social criteria include that workers be paid a wage that is sufficient to cover the cost of living. According to RSPO Criterion 6.5 pay and conditions for employees and for employees of contractors always meet at least legal or industry minimum standards and are sufficient to provide decent living wages.¹⁴²

Where there is no National Interpretation, the local minimum wage will be used.¹⁴³ However, the RSPO criteria National Interpretation documents for Malaysia and Indonesia do not include a model for calculating a decent living wage.

RSPO told Finnwatch that it is in the process of compiling a report on decent living wages. The report is expected to be published in 2015.¹⁴⁴ In practice, this means that, at present, RSPO assessed estates are only required to comply with local minimum wage legislation or the general practices of industry.

With regard to wage legislation, Finnwatch also inquired as to how RSPO ensures that workers paid at piece rate receive the statutory minimum wage. RSPO claimed that auditors check working hour records at estates. According to the information Finnwatch has compiled, no such records are maintained for workers whose wages are performance-based.

This understanding was confirmed in Finnwatch's findings: many RSPO assessed estates did not pay their workers the statutory minimum wage, in spite of the fact that the

142 RSPO, can be read at: http://www.rspo.org/file/RSPO%20P&C2013_with%20Major%20Indicators_Endorsed%20by%20BOG_FINAL_A5_25thApril2014.pdf, Criterion 6.5: "Pay and conditions for employees and for contract workers always meet at least legal or industry minimum standards and are sufficient to provide decent living wages."

143 RSPO, Principles and Criteria, 2013, s. 37: "National Interpretation will define a Decent Living Wage. Where there is no National Interpretation, the legal minimum wage will be used.", can be read at: http://www.rspo.org/file/RSPO%20P&C2013_with%20Major%20Indicators_Endorsed%20by%20BOG_FINAL_A5_25thApril2014.pdf

144 RSPO, Stefano Savi, email dated 14 July 2014

workers' employment contract encouraged them to work 10 – 12 hour workdays (see Chapter 9.3). Finnwatch did not find information on salary inspections in the RSPO assessments for the estates Finnwatch visited. These assessments are available to the public. According to RSPO, this and other confidential data, such as the names of worker, are removed from reports.¹⁴⁵

We find it odd that data on the inspection of statutory salary levels should be considered confidential, and even more so, because workers are named in the certification assessment for IOI plantations contrary to the RSPO's aforementioned policy.

Just like the RSPO criteria, the ISCC criteria also require that the employer pay its workers a decent living wage.¹⁴⁶ When Finnwatch inquired about a calculation model for determining a decent living wage, ISCC stated that despite the requirement it does not have such a calculation model in place – according to the certification scheme each auditor assesses the sufficiency of wages case-specifically¹⁴⁷. Finnwatch requested that ISCC provide examples of cases in which auditors have required wages that were above the statutory minimum wage. ISCC did not send an answer to this request.

All the plantations investigated by Finnwatch were also ISCC certified. In contrast to the RSPO system, ISCC did not require publication of certification assessment, but rather this was voluntary. No certification assessments for plantations could be found in the ISCC database.

145 RSPO, Stefano Savi, email dated 27 August 2014

146 ISCC, criterion 4.4.6: "The farm does pay a living wage which meets at least legal or industry minimum standards. The company's pay slips demonstrate that living wages meet at least legal or industry minimum standards and are sufficient to meet basic needs of personnel and to provide some discretionary income."

147 ISCC, Sascha Wüstenh.fer, email dated 30 June 2014

Finnwatch believes that both the RSPO and ISCC criteria for a decent living wage are misleading. Based on the findings of this report, there is also reason to critically question whether the certification systems' assessments are sufficient for proving that salaries comply with legislation.

Freedom of association

RSPO requires that an employer draws up a policy in which they recognize the right to freedom of association. The Malaysian National Interpretation for the RSPO criteria requires that the employer also writes a publically available policy that recognizes freedom of association in the local languages. However, the criteria's National Interpretation does not take into account that a large number of migrant workers at Malaysian plantations do not understand the local language.

In IOI's case, it is clear that actual freedom of association is not supported and the employment contract in itself restricts participation in industrial action. The RSPO certification assessment for IOI's plantations (Bahau, Bukit Serampang, Pamol and Regent) states that the migrant workers at plantations are not members of a trade union. However, the certification assessments do not mention that there are any problems with regard to freedom of association.¹⁴⁸

148 SGS, RSPO certification assessment, can be read at: <http://www.sgs.my/~media/Local/Malaysia/Documents/Technical%20Documents/Reports/SGS%20SSC%20MY02203%20IOI%20Gomali%20ASA%2003%20RSPO%20A4%20EN%2013%20V1.Ashx>

A small percentage of the workers (12%) were not direct employees of the estates; they were "contract" workers i.e. workers supplied to the estate by a labour contractor. All the "contract" workers were foreigners. The wages of the "contract" workers are paid by the labour contractor. The "contract" workers receive the same benefits and wages as those hired directly by the estates, including housing and healthcare. At Regent and Bahau, the estate contractor also assigns work on Sundays for the estate workers. Sunday wages are paid in cash by the contractor, and these are not always included in the pay slips.

The workers usually begin their workday at about 7.00 am and usually complete their assigned task by 3 pm or 4 pm. After the regular working hours, it is not uncommon for the workers to do odd jobs provided by the estate in order to supplement their income. According to the contract, as "*piece-rated work is based on performance, the Employee is encouraged to work 10 to 12 hours a day*". The Employment Act 1957 (60D) stipulates that piece rated workers shall be paid 1.5 times the normal piece rate, if they work in excess of 8 hours and two times the normal piece rate, if they work on public holiday or their rest day. However it was found that piece-rate workers on IOI estates were paid at the same rate irrespective of whether they worked overtime, or on rest days or on public holidays.

An analysis of the wages earned shows that most of the workers earn more than RM 1,000 per month including overtime, when they work 26 days a month. For example, in August 2013 (August is a high crop period), out of 330 workers on one estate, 8 workers (3 %) earned less than RM 900 while 319 (96 %) workers earned more than RM 1000. In another case, during a low crop period (January 2014) out of 180 workers surveyed, 27 (15%) earned less than RM 900 while 138 workers (74%) earned more than 1000. Out of these 138 workers, 49 persons (26%) earned more than RM 1400.

The incidence of a small but significant number of workers earning less than the

minimum wage is cause for concern. It was also not possible to ascertain the contribution of overtime and rest day wages that made up the wages of those who earned well above the minimum wage. However the fact that the employment contract states that "*.. the Employee is encouraged to work 10 to 12 hours a day.*" strongly suggests that the quantum of wages shown above is the result of working well beyond the 48 hour working week stipulated in the Employment Act. For example a daily paid worker, Mr. X who works at a plant nursery, stated in an interview that he works from 6 am to 7 pm daily. He earns about RM 1,700 per month. Another worker, Mr. Y, stated that he had earned about RM 2,000 the previous month by working 12 hours daily, 7 days a week.

According to Finnwatch, piece rate payment leads to a situation where workers do not receive overtime payments and their working hours and adequate rest is not monitored. By paying the workers a piece meal rate, the employer is passing the risk of low production to workers in the months when oil palm production is low.

9.4 PROBLEMS IN ANNUAL AND SICK LEAVE?

The estates follow the minimum provisions for leave as provided for in the Employment Act. Workers are entitled to paid annual leave as follows: 8 days for every 12 months of continuous service, if employed by the same employer for less than two years. 12 days for every 12 months of continuous service, if employed by same employer for two or more, but less than five years. 16 days for every 12 months of continuous service, if employed by same employer for five years or more.

However, it was clear from the interviews that most of the workers were very uncertain about their right to annual leave. They expressed incredulity that they could actually take a few days off and still be entitled to wages. The common practice is for the estate to pay the wages in lieu of the number of days leave entitled, at the end of the year, if the worker is not absent from work for more

NUPW is a weak trade union

The National Union for Plantation Workers is a trade union for plantation workers based in peninsular Malaysia. The plantation industry is one of Malaysia's largest fields of industry, and it employs over half a million persons. However, NUPW only has around 30,000 members. The swift increase in foreign workers at plantations, who do not hold trade union membership, has weakened the NUPW's membership base and negotiating power.

The collective agreement the trade union has achieved is weak and a demonstration of the trade union's modest negotiating power. For example, the collective agreement does not include requirements that apply to wages or housing, but rather complies with existing legislation with regard to these matters. A worker, who is within the scope of the collective agreement, can however take part in the trade union's group insurance scheme, if he so wishes.

In addition to IOI and other employers, the trade union's activities are also restricted by Malaysian legislation. For example, organizing a strike is very bureaucratic exercise and requires a number of permits. If the union does manage to organize a strike, it must be terminated, if an employer demands that the matter be taken to the Industrial Court. Industrial action procedures at plantations are extremely rare.¹⁴⁹

However, these challenging conditions are not necessarily the only reason for the trade union's weak position. The union and its management has received criticism for quite some time for their passiveness and for their cooperation with employers at the workers' expense.¹⁵⁰

149 NUPW, Achuthan Navamukundan, interview on 28 June 2014 and email dated 13 August 2014

150 E.g. Malaysiakini, 2001, Plantation workers union slammed for failures, <http://www.malaysiakini.com/news/4506> (viewed on 24 August 2014). This viewpoint was also confirmed during an interview with a past active member of the trade union carried out during Finnwatch's research.

than 10% of working days that year. The workers generally regard this as a bonus, and there were comments that they did not quite understand how the quantum of "bonus" was arrived at. Workers from Regent Estate alleged that the annual bonus payment is not always paid.

In practice the workers took no annual leave.

Problems were also reported with regard to sick leave. According to the Malaysian law, workers are entitled to between 14 to 22 days of paid sick leave a year, depending on the number of years of service. If a worker has been employed for less than two years, he is entitled to 14 days medical leave, 18 days if employed for between 2 to 5 years, and 22 days if employed for more than 5 years. During the interviews, many workers stated that in practice the estate clinic is very reluctant to issue medical leave even when workers are genuinely ill. There seems to be an unwritten rule against issuing more than one day's medical leave to a worker in any given month.

According to workers from Regent Estate, when referred to the government hospital in town, they had to find their own transport and were only partially reimbursed for the transport expenses. They claimed that the ambulance at the estate has been in a state of disrepair for several years

The issues of health and safety were given prominence on all the estates. A Health and Safety Committee has been set up with representation by the workers. Regular training programmes on health and safety are conducted, especially for those, who handled agrochemicals. A training schedule for the whole year was displayed. Personal protective equipment (PPE) is issued to the relevant workers. For example, sprayers are required to be fully covered with appropriate protective equipment such as masks, aprons, gloves and boots. Workers who handle fertilizers use masks and gloves for protection.

The estates have a policy to reduce or eliminate the use of extremely hazardous chemicals. For example, the Head Office had issued



Collecting fruit bunches is hard work.

a directive in September 2010 to phase out the use of paraquat by 31 December.

A First Aid kit is made available in the fields when workers are working. Each estate operates a small clinic with a trained estate hospital assistant (often referred to as dresser), who attends to basic health issues and injuries. In more serious cases, workers are sent to the government clinic or hospital in town. The dresser is authorized to issue medical leave certificates, though according to workers they are often denied medical leave even when they are medically unfit to work.

As required by law, a Visiting Medical Officer (VMO) comes to the clinic once every two weeks and is available for consultation with workers, who may have more serious health issues. Workers with chronic illnesses, such as diabetes, hypertension etc., are examined regularly by the VMO.

The estate clinic maintains medical records of all the local workers, who have been treated by the estate clinic. This record provides a medical history of the workers. However, such a record was not maintained for foreign workers at Pamol Barat; thus it is not easy for the dresser or doctor to access information on the foreign worker's medical history. The reason given for this situation was that foreign workers were only employed by the estate for two or three years. However, many workers renew their employment contracts a number of times and may continue working at the estate for up to 10 years.

Workers are provided personal protective equipment and sent for medical examinations twice a year. Safety and health training seems to be taken seriously by the company.

As required by law, all workers are covered by some form of insurance. Foreign workers are covered by the Workmen's Compensation Insurance, which the employer is required to pay for. However, it was noted that the compensation that is provided falls well below what would be considered fair. For example, in one case a worker, who was injured at work, lost one eye and was unable to work for five months, was paid a total of RM 7,419 (for loss of wages during the five months, loss of future earnings and loss of one eye). In fairness, it should be stated that this amount was computed by the Human Resources Department at the Ministry of Human Resources and not by IOI. However, compliance with local labour legislation and local practices should not be an obstacle for a large international company like IOI Group, to provide for better workers welfare in line with internationally acceptable labour standards¹⁵¹.

¹⁵¹ The International Labour Organization has noted that the Malaysian Workmen's Compensation Insurance discriminates against foreign workers.

9.5 IOI RESTRICTS FREEDOM OF ASSOCIATION

According to the IOI Head Office, the company does not restrict freedom of association in any way. However, none of the foreign workers from IOI were members of a trade union.

There is only one trade union in West Malaysia that represents workers in the plantation (estate) sector, the National Union of Plantation Workers (NUPW). Relations between IOI and NUPW could not be described as cordial. In June 2000, NUPW invited IOI to commence collective bargaining for a new collective agreement between NUPW and IOI. This invitation was rejected by IOI on the grounds that IOI did not recognize NUPW and had never directly recognized the union while IOI was in MAPA. After a lengthy and acrimonious litigation process, the highest court in Malaysia (Federal Court) ruled in 2010 that IOI was obligated to recognize NUPW.

As a result, the union finds it difficult to organize the workers at IOI estates. Currently, only the local workers are members of NUPW; the local workers represent less than 20 per cent of the total workforce. The union members pay a monthly membership fee of RM 8 and RM 3 for a group insurance scheme. The payments by the union members are deducted directly from their wages by estate management on behalf of NUPW. This is the standard practice at most estates. However, IOI refuses to deduct trade union membership fees from migrant workers' salaries.

The estate management claimed foreign workers were not interested in paying monthly dues to become members of the union, because the wages and benefits provided by the company were at least as good as or better than what NUPW had achieved through the collective agreement.

Finnwatch interviewed NUPW's General Secretary Achuthan Navamukundan for this research. According to him, NUPW officers do not have access to the foreign workers on IOI estates in order to provide training, to raise their awareness of their rights and organize

them as union members. The union feels that there is a deliberate attempt by IOI to isolate the workers and keep them ignorant of their rights. According to the trade union, IOI Group behaves differently from other Malaysian palm oil companies. For example Sime Darby allows the trade union to freely enter their plantations and around half of the foreign workers are members of the union.

IOI has established several different subsidiary companies that are responsible for hiring foreign workers. According to NUPW, this makes negotiations with the trade union difficult, as the union needs to negotiate with several different companies, instead of just negotiating with IOI Group.

IOI Group also restricts industrial action. The IOI Group's Employment Contract states 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.

9.6 IOI KEEPS WORKERS PASSPORTS AND WORK PERMITS

Interviewed workers stated that the passports of foreigners are kept by the estate management, who claim that they are doing so "for safe-keeping". Many of the workers stated that they were not able to get their passports even when they requested them. During the interviews, workers were asked what they thought the real reason was for why management held on to their passports; they responded that it was to prevent them "from running away".

All estates had carefully documented the "consent" given by the workers for the management to hold their passports. The degree of "freedom" the workers had to give or withhold their consent was questionable given that the consent is already stipulated in the worker's employment contract, which many were unable to understand. According to IOI's

employment contract *"The employer agrees to return the Employee's passport upon the request of the Employee due to important or emergency reason."* This means that the IOI estates have the power to decide whether to give the workers their passports. IOI Group's internal guidelines also state that *"The passports of the workers are to be kept by the Operating Centre's representative at all times"* or *"The passports of the workers are to be kept by you [i.e. the management] at all times"*.

The foreign workers are given a photocopy of their passport. Movement in and out of the estate is strictly controlled by security guards. Foreign workers rarely venture outside of the estate, except on pay days and some public holidays. On those occasions, they carry the photocopy of their passport, which, though having no legal value, is often "recognized" by the local police in the nearby towns. The estate management usually maintains good relations with the local police. Sometimes, if a foreign worker is detained by the police, he may contact the estate management, who then secures their release. According to some of Regent Estate workers, the estate threatens workers with the police, if they complain about work related issues.

Confiscation of passports is a serious issue and the International Labour Organization ILO sees retention of identity documents as an indicator for forced labour and human trafficking¹⁵². Keeping passports against workers will is also against RSPO criteria.

152 ILO, Indicators of Forced Labour, available at: http://www.ilo.org/wcmsp5/groups/public/---ed_norm/---declaration/documents/publication/wcms_203832.pdf ja Indicators of trafficking of adults for labour exploitation, available at: http://www.ilo.org/wcmsp5/groups/public/---ed_norm/---declaration/documents/publication/wcms_105884.pdf

10. Summary

Neste Oil, in which the Finnish state holds majority ownership, is one of the largest buyers of palm oil in the world.

The company uses 1 to 2 per cent of all the world's palm oil in the production of biofuel. Neste Oil's palm oil purchases are 80 times greater than those of all the other Finnish companies included in this research put together. Ensuring the responsibility of Neste Oil's palm oil purchases is important in both in Finland and globally. Despite the low volume of their palm oil purchases, all other companies that operate in Finland hold an obligation to ensure the realization of human rights in their supplier chain in accordance with the UN's Guiding Principles on Business and Human Rights

Current EU legislation for biofuels has clearly increased the responsibility exhibited by biofuel production companies throughout their supplier chain.

It is very probable that, if there were no regulation, companies that produce biofuel would have no sort of tracing to palm oil plantations, and they would therefore not be able to influence the ecological impacts of palm oil production. At the same time, it is inconsistent that the same responsibility requirements do not apply to food and cosmetics industry companies, although they purchase palm oil through the same channels as biofuel companies. The complete lack of social responsibility requirements is another significant shortcoming in current legislation. This shortcoming also reflects directly on the palm oil certification systems that act in accordance with requirements set by EU criteria.

Based on Finnwatch's report, it can be said that RSPO and ISCC certification assessments are at present an inadequate procedure for ensuring the social responsibility of palm oil production. It would have been easy to detect the serious labour rights violations observed during Finnwatch's field research, in assessments, if auditors had merely gone

through written contracts and wage slips and interviewed interest groups such as the labour movement. This was not done however, and the plantations investigated by Finnwatch had passed their certification assessments. As serious problems stem from IOI Group's internal policies and practices, it is clear that the same methods of operation would be found at all IOI Group plantations. Nearly all IOI Group plantations are RSPO and ISCC assessed.

It also became apparent during Finnwatch's research that some of the RSPO criteria make it possible to treat employees in a manner that is contrary to the purpose of the criteria. Employers have, for example, been given the opportunity to hold onto their workers' passports, if they have received written consent from the workers to do so. Other shortcomings were also observed in the criteria: both the RSPO and ISCC criteria require that workers receive a decent living wage. However, neither certification system has any kind of tools for determining what a decent living wage is. In light of the findings of this report, it can be said that the certification systems had problems in monitoring that workers with performance-based pay, received a wage that was within the statutory wage level. Performance-based pay is a common practice at palm oil plantations throughout Malaysia, and it is in use at all IOI Group plantations.

Serious labour right violations were observed at the IOI Group plantations investigated during Finnwatch's field research.

Workers had signed contracts they did not understand, some workers received wages that were below the statutory minimum wage, overtime work done by workers was not compensated appropriately and the company restricted the workers' freedom of association in a number of ways. Gender-based discrimination was systematic in the recruitment process, and potential workers were forced to incur large debts to receive

work. The personal documents of workers were held by the company and the workers were not given the option of using their passports as they wished. Many of the observed problems are considered indicators for forced labour by the International Labour Organization (ILO).

Despite serious shortcoming, IOI Group deserves praise for its openness and allowing researchers to visit plantations. This lets us believe that the company is willing to develop its operations.

Although Neste Oil has done a lot on the basis of EU regulations to ensure the responsibility of its palm oil purchases, many points that could be improved upon were observed in the company's human rights due diligence. Neste Oil's human rights risk assessment does not take the special position of migrant workers into account. The survey that is the foundation of the company's human rights risk assessment is despite its length, superficial with regard to taking social responsibility into account. The information that was acquired via the survey should be supplemented with audits and for example desk research on supplier policies and employment contracts. Assessment of human rights risks should also take country and region-specific differences into account. For example, in Malaysia and Indonesia, the risks related to the realization of labour rights are often very different from one another.

Human rights and corporate responsibility cannot be promoted without openness. The problems highlighted in this Finnwatch report could have been brought forth much earlier had Neste Oil given an open account of the companies in its supplier chain and the specific plantations they own. Other Finnish companies have even more work ahead of them, as the majority did not know where the palm oil used in their products was from.

The following chapter present more recommendations for companies, decision makers, palm oil certification system and citizens.

11. Recommendations

This chapter presents the recommendations we have compiled on the basis of the findings in this Finnwatch report for Finnish companies that purchase palm oil and palm oil certification system. The chapter also includes recommendations for decision makers and citizens.

As Finnwatch's own research work focused predominantly on the working conditions at palm oil plantations, the recommendations do not apply to the use of palm oil.

However, based on the literature referred to in Chapters 2 and 3 of this report, it is clear that problems related to palm oil span much further than problems related to labour rights. In addition to the working conditions at plantations companies and decision maker should consider the impact of palm oil production on biodiversity, land use rights and responsible payment of taxes.

NESTE OIL

- Neste Oil must go through findings of this report in detail with their supplier IOI Group. Neste Oil must ensure that IOI treats its migrant workers in accordance with the International Labour Organization's conventions and recommendations as well as international standards for responsibility. This means that workers' passports and other personal documents must be returned to workers immediately, plantations must institute month salaries that are at least at the level of the statutory minimum wage, and IOI must cover recruitment fees and travel expenses for their workers. Malaysia's national legislation alone is not sufficient to ensure that migrant workers are treated in a humane manner.
 - Neste Oil must publish a list of its entire supplier chain. The company reports that it will discuss the concerns raised by civil society with its suppliers. It is impossible for the organizations to intervene in problems at plantations if the company's supplier chain is not made public. Disclosure of the company's supplier chain is also in line with Finnish Government Ownership Steering. "The government sees that it is important that companies adopt an attitude of respect for the position and rights of employees, as
- well as adopt environmentally responsible modes of operation, and the government expects companies to see to it that their supplier chain is transparent and that personnel and environmental policies are realized by their supplier chain.¹⁵³"
- Neste Oil must clarify its corporate responsibility communications. The corporation already does a lot to ensure responsibility, and inaccurate and erroneous responsibility claims unnecessarily damage the company's credibility.
 - RSPO and ISCC certifications are not at present adequate in ensuring social responsibility at palm oil plantations. Neste Oil must utilise and continue to build its responsibility team located in Southeast Asia and carry out supplementing assessments, which focus especially on the position of migrant workers.
 - As a large purchaser, Neste Oil must try to influence the development of the RSPO and ISCC certification systems. The most urgent issues related to social responsibility include a decent living wage, improvement of the position of migrant workers

¹⁵³ Decision in principle concerning government ownership policy 3 November 2011, can be read at: http://valtioniomistus.fi/suomi/fi/les/2011/10/VNn_periaatepaaetoetes_03112011.pdf

and freedom of association. Neste Oil must take these challenges into account in the HVO certification system, it has developed independently.

- Neste Oil must ensure that the palm oil-based residues it uses are from a sustainable source. Purchase of palm oil-based residue materials from non-certified sources increases the profitability of non-responsible palm oil production, and contradicts with Neste Oil's own claims of responsibility.
- Neste Oil must also draw up a responsibility policy that applies to payment of taxes and it must report the company's own economic data country-specifically.

FOR OTHER COMPANIES THAT USE PALM OIL

- According to the Finnwatch report, it seems that the responsibility requirements set by RSPO certification are inadequate in ensuring realization of labour rights at certified plantations. RSPO member companies must demand swift procedures from RSPO to improve the quality of its assessments and update the RSPO criteria to meet with current international standards that apply to labour rights.
- In spite of shortcomings in the RSPO certification system, companies must immediately ensure that all the palm oil they use is certified. Companies can influence the willingness of palm oil producers to certify all their plantations by favouring the segregation mechanism in monitoring of certification.
- In addition to Neste Oil, also Paulig must discuss the problems observed in this report with IOI Group. Companies should not cease purchases from IOI, but rather seek solutions to problems together with IOI.

FOR RSPO, ISCC AND OTHER PALM OIL CERTIFICATION SYSTEMS

- Certification system must immediately ensure that their criteria take the specific characteristics and conditions of each palm oil production country into consideration. The position of migrant workers in Malaysia requires particular attention. The seriousness of the situation is emphasized by the fact that the country has dropped to the third category i.e. the lowest category in the US government's TIP report on human trafficking.
- All requirements the realization of which is not monitored must be immediately removed from the criteria for certification systems. This report observed that both the RSPO and ISCC criteria require that workers are paid decent living wages, but the systems do not define any manner for determining what a decent living wage is. These criteria deceive both consumers and the companies that pay for certification assessments.
- In light of the findings of this report it seems that there are problems in the way certification systems monitor social responsibility. The guidelines and training for certification assessments must be improved immediately.
- ISCC must publish all its certification assessment reports. RSPO must ensure that the certification assessments it has published include all essential information with regard to assessing the realization of the RSPO criteria.

FOR FINNISH DECISION MAKERS

- Implementation of the UN's Guiding Principles on Business and Human Rights, which were drawn up in Finland, must be carried out ambitiously. Special focus should be given to the key questions in the UN guiding principle on corporate human rights due diligence, corporate responsibility reporting and development of legal protection methods for victims of human rights violations. The objective for implementation should be development of binding corporate responsibility regulations.
- Finland must pay more attention to the responsibility of government-owned companies and stay consistent in holding to already made decisions. For example, Neste Oil's supplier chain must be disclosed in accordance with the government's existing decision in principle.

FOR CITIZENS

- Citizens must demand more ambitious corporate responsibility policies from decision makers. Respecting human rights must not be voluntary for corporations, but rather matters related to corporate responsibility must be in the scope of regulation.
- Consumers should contact companies that use palm oil and request information on the responsibility of the palm oil. Companies must be prompted to mark the certification percentage for the palm oil they use on their products' packaging and the mechanism for monitoring certification.
- At present, it is difficult to determine which products in stores contain palm oil, as palm oil is often hidden behind the term "vegetable fats" in ingredient listings. However, a law that will enter into force at the beginning of 2015 will change this and provide consumers with the opportunity to find out whether certain products contain palm oil or an alternative vegetable oil.

13. IOI's comments

Issue Mentioned	IOI response	Comments by Finnwatch
<p>General report</p>	<p>We regret that the findings here are solely focused on the negative, and did not highlight the positive findings which are also presented and witnessed by the writer.</p> <p>We welcome the findings and the opportunity to dialogue further with Neste Oil and Finnwatch on the issues at hand.</p> <p>We believe that the limited time of which the writer has spent on the field and on the ground is not sufficient to form a complete and impartial judgement on the issue. The compliance of the Malaysian law also need to be put in context for the overall issues identified in the report.</p>	<p>Finnwatch would like to thank IOI for its openness during the process and the company's willingness to continue dialogue with Finnwatch. Finnwatch has also highlighted positive issues in the report, such as work place safety, which we found estates had organised very well. Other positive observations: 13 public holidays (instead of the mandatory minimum of 10 days), phasing out of Paraquat, non-deduction of levy from workers' wages, although this is permitted by the law.</p> <p>Finnwatch's research was conducted by a local expert and Finnwatch's Executive Director, both of whom have years of experience and expertise in migrant workers' rights. The research process and the time spent on research were far more thorough in comparison to regular sustainability audits carried out at estates.</p> <p>Malaysian law is also put in context side-by-side with international standards and conventions.</p>
<p>Workers incur big expenditure to come to work.</p> <p>No documents authorising deductions.</p>	<p>There are fees which need to be borne by the company (IOI) and the workers respectively to the recruitment agencies for every recruitment. This is normal practice when recruiting a new foreign worker. The fees average about RM 1500 for the worker, where companies by law (Employment Act 1955 section 24(4)) are only allowed to deduct not more than RM 150 per month. The deduction are authorised by the Labour office under approval letter dated 01/10/2003 (Ref PP2/34/0071). Only around 40% of total IOI workers at the moment have taken option on debt deduction from their salaries. The rest have either paid to the recruitment agent in full or, in the case of Bangladeshi workers, where recruitments are done by government bilateral agreements through government agencies, no deductions or charges are made by IOI to these workers.</p>	<p>Recruitment fees are a big problem for migrant workers, as these mean that workers have accumulated debt before they even begin working at the estate.</p> <p>IOI should pay the full cost of recruiting foreign workers. IOI's business partners should be strictly prohibited from charging workers for recruitment fees. IOI should end business relationships with agencies and brokers found to have done so.</p> <p>The estate management did not seem to be aware of such an approval letter; only the letter approving deduction of NUPW dues was cited. Nevertheless, the existence of such an approval letter does not justify a practice that goes against internationally accepted labour rights norms on matters related to foreign workers.</p>
<p>Human Resources department of IOI doesn't know how much workers have to pay recruitment fees to the agents.</p>	<p>HR department of IOI is aware that the workers have to pay their part of the recruitment fees but are not sure of the quantum. The deductions made by IOI are consented by the workers who acknowledged their indebtedness to the agents and in accordance to the law. Payroll is captured in computer systems. The workers are given salary slips which contain details of their salary and deductions (if any).</p>	<p>See previous comment.</p>

<p>Video presentations did not correctly depict the reality of their actual work conditions.</p>	<p>The video presentation provides a representative sample of living and working conditions of our 86 estates. IOI provides the agents up-to date videos but has no control over what version of video presented by the agents in the source country since they are also recruiting for other plantation companies and other industries.</p>	<p>Some of the workers interviewed for this research had not seen any video, and they had no idea what type of work they had committed to. It is IOI's responsibility to make sure that all workers understand what kind of work they will be doing and the terms and conditions for this work.</p>
<p>Medical examinations are conducted on all workers which they have to pass for their contract requirement.</p>	<p>This is a compulsory requirement according to Malaysian law which IOI does not have any influence.</p>	<p>IOI cannot change Malaysian law, and this is not the cause for Finnwatch's criticism. It is Finnwatch's view that IOI needs to pay their workers' recruitment fees and travel expenses for their home journey, if the worker's employment contract has been terminated because of illness.</p>
<p>The contract is not completely understood by the workers.</p>	<p>We acknowledge the fact that the workers speak various languages and there are workers who are functionally illiterate even in their own mother tongue. IOI has contacted the relevant embassies with the contract and the contracts have been endorsed by the embassies. The agents are then responsible to socialize these contracts to the workers.</p>	<p>It is irrelevant whether embassies have endorsed the contracts. IOI must make sure that all their workers understand the terms of employment they are committing to.</p>
<p>Probationary period salary daily wages are RM 25.</p>	<p>According to the National Wages Consultative Act of 2011 on Minimum Wages order, probationary period wages are allowed under article 5(1) as long as it is not more than 30 percent lower than regular wages for not more than 6 months.</p>	<p>Finnwatch does not claim that IOI's wage for the probationary period is unlawful, but states that it is a very small salary and not equal to a living wage. Many new workers, who are already in debt because of the recruitment fees, must resort to taking out loans in order to survive on their salary for the first 6 months of employment. It is Finnwatch's view that it would be reasonable to reconsider whether the probationary period needs to be this long, or if this is just a way to save labour costs.</p>
<p>Workers are not paid adequately for overtime and that there are workers which do not achieve normal minimum wage salaries.</p> <p>Rate per bunch varies up to 64%.</p>	<p>IOI has a comprehensive computerized system to ensure that every work done by the workers are accounted and paid for. Salaries are directly linked to productivity. This same system identify workers who are in risk of receiving below minimum wage salaries, and these workers are offered alternative works such as pruning, manuring, circle raking, POME application etc. Thus there is a possibility that the wage slip sighted by the writer does not yet include the extra work which the workers have done. We believe the inadequate wages claimed by the writer does not reflect actual conditions on the ground; Low salaries are linked to low productivity of the worker. We are prepared to re-visit the alleged low paid income slip which was claimed in this report.</p> <p>Rate per bunch are determined in a comprehensive manner which include factors such as average bunch weight and yield bracket.</p>	<p>Salaries should be linked to working hours, and overtime should be paid for in accordance with the law. Low palm fruit productivity or other similar issues should not affect the workers' income. All wages should be included in each salary slip, and these should clearly cite the number of working hours and other important issues affecting the worker's salary. All workers must receive at least the statutory minimum wage every working month, if they have not been absent from work without a valid reason.</p>

Difference in headman allowance.	Difference in allowance reflects the seniority and responsibilities borne by each of the headman.	The reasons for differences in salaries must be clearly stated and explained to the workers. The wage and allowance guidelines do not mention seniority and responsibility; they merely differentiate between local and foreign workers.
Wages slip look complicated.	The employees are briefed on the salary and its relation to productivity. Productivity is announced publicly within the estate workers and the workers can comment on the wages where necessary. Anyone who does not understand the wages can ask the relevant officer for explanation	Workers interviewed for the research did not understand their salary slips and the reasoning behind their monthly salary. It is clear that more briefing is required.
The workers are not paid properly for annual bonus payment related to their leave. In practice the workers had no annual leave.	We think that it's best to explain to the writer further on the leave day mechanism . Basically, every worker can take leave (14 days for workers with less than 5 years' service and 16 for workers with more than 5 years' service). As workers are paid by productivity, the wage of the worker paid for their leave day is paid at the end of the year. Thus for example. Worker A, worked in IOI for 6 years is eligible for 16 days leave. If he takes 12 days leave in the year and stay with IOI until the end of the year, Worker A gets paid the 16 day vacation leave pay, as long as he is not absent for more than 10% of the working days within that year. Last year, Regent estate paid in total of RM 57,653.38 for VLP for 103 foreign workers	Workers didn't understand the concept of annual leave. It was clear that in practice the workers took no annual leave. Workers from Regent Estate need more information about the payment of annual leave.
Estate clinic is very reluctant to issue Medical Leave, and they have an unwritten rule against issuing more than one day's medical leave to a worker in a month.	IOI hospitals are run by properly trained Hospital Assistant and Visiting Medical Officer. These are independent medically qualified personnel. Judgment of illness can be subjective to those not properly trained and IOI completely trust the professional medical judgment of the medical officer	Staff at the IOI hospitals cannot be considered independent. If workers have reported that sick leave is restricted, IOI should look into the matter and make it clear that decisions on sick leave should be based on the workers' state of health, and not savings on sick leave payments.
Medical records are not maintained for foreign workers.	Of the 3 sites visited by Finnwatch, we acknowledge that medical records are not maintained by Pamol Barat estate. The other 2 estates visited maintain medical records of foreign workers. In fact, all other clinics also maintain proper records. Pamol Barat will rectify this immediately.	

<p>Workers are not reimbursed properly for transport and they have to find their own transport.</p>	<p>For Regent Estate, if we take that as an example, the distance to the nearest government clinic is only about 3km from the estate. In case of an emergency the workers would be transported either by the mandores, staffs or executives. Transport reimbursements are paid in full if proper receipts are produced by the worker making the claim. A total pay-out of transport reimbursement at RM 1009.10 was done for the last financial year 2013/14. The usual reimbursements which are paid are as follows: Hospital Tampin – RM 7.00 (bus fare) Hospital Seremban – RM 20.00 (bus fare) In case of other means of transport are used the management would still reimburse them, normally for foreign workers the staff or executive would be involved in sending them. Transport reimbursement is not paid if the worker goes to external clinic/hospital without the referral of the Hospital Assistant unless it was an emergency.</p>	<p>The workers report otherwise. Unfortunately, IOI did not allow us the opportunity to check this with the management. It was also reported that the ambulance had not functioned for a number of years</p>
<p>Worker compensation is far than what is considered equitable.</p>	<p>Worker compensation follows Malaysian law</p>	<p>As an international company selling to the European market, IOI should follow international standards and pay better compensation, if compensation based on national law is insufficient.</p>
<p>In Regent estate, the housings were in very poor state of repair. Electricity was unavailable due to damaged wiring.</p>	<p>Housing repairs is an ongoing process in the estate. Apart from receiving complaints from workers about the problems, the management carries out a monthly housing census to ascertain types of repairs needed to be done at each housing block. This was also discussed with estate union rep and foreign workers rep during estate safety meeting and employee consultative meeting. Houses with damaged wiring at times had occurred due to illegal wiring tapping done by estate workers. These had been verified by the electrician when they had come in to repair the houses.</p> <p>The writer has singled out Regent Estate as having poor living conditions but these are hearsay from the workers. IOI wish to highlight that Finnwatch did not visit Regent estate as part of the audit to verify the findings and to make impartial judgment but the report singles out Regent Estate as being not compliant. IOI wish to take this opportunity to stress that the pre-selected 3 estates were done by Finnwatch prior to the audit and Regent estate was not selected.</p>	<p>Finnwatch has requested a visit to Regent Estate numerous times, but as of yet IOI has been hesitant to organise the visit.</p>

<p>The workers do not have membership in the local union NUPW, and the union claims they do not have access to the workers.</p>	<p>Based on our on-the-ground interviews, actually the foreign workers are not favourable for more deduction for fees from their salary. NUPW based on Malaysian law does not allow foreign national to become active office-holders in any union (http://tp.fairlabor.org/en/migrant-worker-rights-forum/Occasional%20Paper_Migrant%20Workers%20in%20Malaysia.pdf) while the foreign workers would like to have elected representation in their union. Thus, based on our checking, the workers prefer the Joint Consultative Committee of which members of this committee represents the worker's interest. Meeting minutes and agendas are available for review. The representatives in this council are directly chosen from the workers. The union is consulted during stakeholders' meetings by the respective certifying bodies during RSPO/ISCC audits.</p>	<p>The local trade union must be given free access to IOI estates, and workers must be allowed to decide for themselves if they want to join the trade union. The workers' Joint Consultative Committee, operates under the estate manager's control, and it is not a union because it has no bargaining power. Malaysian law restricts migrant workers from holding office in the union. This is against ILO's core conventions. However, this does not give IOI a valid reason to restrict freedom of association in any way.</p>
<p>Employment contract states that the employer has the right to terminate work permits in the event of a strike or similar industrial action.</p>	<p>IOI obligation follows the Malaysian law on this issue. The law states that it is only lawful and permitted if certain mandatory procedures under the Trade Union Act (TUA) and Industrial Relation Act (IRA) are followed. Otherwise, it is illegal and those involved commits an offence and is liable to prosecution. Under the IRA and TUA, severe penalties are imposed on workers participating in an illegal strike, and on those instigating or providing financial assistance. Offences related to illegal strikes (and lock-outs) are treated as "seizable" offences for which a person may be arrested without a warrant.</p>	<p>IOI working contracts do not refer to illegal strikes but forbid taking part in all strikes and industrial action.</p>
<p>Many of the workers stated that they were not able to get their passports even when requested.</p>	<p>IOI is acting on behalf on what is regulated under passport act (1966) which states that within the jurisdiction of the Immigration Department of Malaysia, the Employer has the lawful authority to deal with its foreign workers' passport due to legal, statutory and contractual obligations as well as responsibilities imposed on the Employer by the Immigration Department such as (7) if the workers' passport is lost or damaged, it is also the responsibilities of the Employer to apply for new passport for the workers at the respective Embassy of High Commission, make police report and then liaise with the Immigration Department or other authorities on the same.</p> <p>In practice any worker can request their passport using the passport request form; which can be given to them anytime within office hours.</p>	<p>Workers reported in a clear manner that they had not been given their passports when they had requested their return. This practice is also clearly visible in IOI's internal instructions. It is strongly against international labour standards and should be corrected immediately. The fact that it is a common practice among employers in Malaysia cannot be a justification for such practices. Furthermore the Passports Act 1966 12 (i) (f) stipulates that: "Any person, who without lawful authority, has in his possession any passport or internal travel document issued for the use of some person other than himself is guilty of an offense ". The documents purportedly signed /thumbprinted by the workers authorising the Estate to hold their passports, have obviously been signed under duress, and the workers have not had the option of not giving their consent.</p>

14. Neste Oil's comments

We believe NGOs do valuable work in highlighting problem areas that are overlooked. Responsible, sustainable companies play an important role in addressing grievances and improving conditions in today's global supply chains. Finnwatch highlighted various issues related to the use of foreign workers and the status of migrant workers by our Malaysian palm oil supplier in its report. Together with Finnwatch, we have gone through the preliminary report and take the observations it contains seriously. Based on the discussions we have had with Finnwatch and the findings of the preliminary report, we have initiated the following measures:

- We have requested the supplier in question to provide us with an explanation of each of the points that have been highlighted
- We met the supplier in Kuala Lumpur on 28 August and discussed findings with them in detail and the measures needed to rectify them.
- We have requested TFT, an impartial third party organization, to take part in further investigation work and related development work.
- We will enhance the effectiveness of the way we monitor workers' rights in our supply chain and introduce even stricter due diligence practices.
- We are investigating together with the certification standards the audits which were carried out by the auditing bodies from the labour rights point of view.
- We will begin a more extensive investigation, with the help of a third party expert, of the share of migrant workers in our supply chain and how working conditions are assessed and how well workers' rights are upheld, in collaboration with an impartial third party.

Neste Oil's principles

We are committed to sourcing only sustainably produced feedstocks. We expect all our partners to commit to sustainability and to abide by the law and international conventions. Our key sustainability principles are outlined in Neste Oil's Sustainability Policy, Neste Oil No-Deforestation Policy and Neste Oil's Sustainability Principles for Biofuels.

Our principles in practice

Our sustainability requirements are an integral part of the terms and conditions of our contracts. Independent third-party auditors monitor our supply chain regularly every year. If issues are identified-supplier concerned is requested to rectify the situation and we work with our suppliers to help them develop their operations. If there is no improvement or there is no action plan to meet essential sustainability requirements we will re-evaluate and terminate the contract if appropriate.



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