

THE DANISH
INSTITUTE FOR
HUMAN RIGHTS



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



NESTLÉ'S PALM OIL SUPPLY CHAIN IN INDONESIA

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

This report and the information contained therein are intended as a general guide to the issues addressed. They must not be considered a substitute for legal advice and questions regarding the legal interpretation and application of the information should be directed to appropriate legal counsel. Any actions taken or omissions or alterations made on the basis of this information are done at the user's risk. The Danish Institute for Human Rights and The Forest Trust are not responsible nor liable for any direct, indirect, consequential, special, exemplary, punitive or other damages arising out of or in any way related to the application or use of this report and its information.

Provided such reproduction is for non-commercial use, this publication, or parts of it, may be reproduced if author and source are quoted.

This report is laid out according to DIHR guidelines in order to make it as accessible as possible. It uses large font size, short (hyphen-free) lines, left-aligned text and strong contrast for maximum legibility. For further information about accessibility please click www.humanrights.dk/accessibility

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

Pictures in the report taken by: Tulika Bansal, Danish Institute for Human Rights; The Forest Trust; Golden Agri-Resources

Layout: Hedda Bank

© 2018 The Danish Institute for Human Rights
Denmark's National Human Rights Institution
Wilders Plads 8K
DK-1403 Copenhagen K
Phone +45 3269 8888
www.humanrights.dk

The Danish Institute for Human Rights (DIHR) is an independent, national human rights institution modelled in accordance with the UN Paris Principles. The Institute, which was established by statute in 2002, carries on the mandate vested in the Danish Centre for Human Rights in 1987. This encompasses research, analysis, information, education, documentation and the implementation of national and international programmes.

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

The Institute cooperates with organisations and public authorities in Denmark, with academic institutions and humanitarian organisations in other countries, as well as with the Council of Europe, the EU, the OSCE, the UN, the World Bank and a range of international donors.

The Forest Trust is a global non-profit organisation working to transform supply chains for nature and people. We believe in leveraging the transformative power of companies to bring positive change to how products are sourced. Our supply chain, social and environmental experts work to ensure that global commodities like palm oil, pulp and paper, rubber, stone, cocoa, charcoal and timber are produced responsibly.

We innovate with companies to bring value to everyone in the supply chain - from grower to customer. And because the needs of our planet are so urgent, with climate change, human exploitation, population growth and food security becoming priority issues, TFT focuses on creating solutions that can be adopted and scaled up.

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

THE DANISH
INSTITUTE FOR
HUMAN RIGHTS





EXECUTIVE SUMMARY

OVERVIEW

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

AIMS AND OBJECTIVES OF THE LABOUR RIGHTS ASSESSMENT

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

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

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

PALM OIL IN CONTEXT

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

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

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

NESTLÉ'S PALM OIL SUPPLY CHAIN

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

SUMMARY OF KEY FINDINGS

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

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

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

Smallholder farmers	<ul style="list-style-type: none">• Large smallholders were in essence operating estates divided and registered as smallholder plots, avoiding falling under the regulatory framework governing estates.• Casual workers without labour contracts• Workers earned generally less than minimum wage• Some workers between 20-23 years old had started working at age 15• Lack of PPE and unsafe use and storage of Gramoxone™ and RoundUp™	<ul style="list-style-type: none">• Untrained security guards carried knives when guarding plantation during the night• Pesticides were applied to trees close to local rivers contrary to legal provisions• Reported water scarcity due to palm oil cultivation
----------------------------	---	--

The findings of this assessment are not unique to Nestlé’s palm oil supply chain, but rather are representative of industry-wide challenges in the provinces and in Indonesia. Therefore, this report – in addition to recommendations to Nestlé on how to address the assessment findings across the different tiers – includes recommendations to other key stakeholders, like other palm oil buyers, the government of Indonesia, national and international sustainability certification bodies such as ISPO and RSPO, and investors. The following table provides a summary of the recommendations.

TABLE 2: SUMMARY OF KEY RECOMMENDATIONS

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

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

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

NOTES

- 1 Roundtable for Sustainable Palm Oil, Indonesia: Benchmark for Sustainable Oil Palm in Emerging Markets, 2011: <https://www.rspo.org/files/images/2011%20NR%20Report%20FINAL.pdf>
- 2 More information available at: <http://greenpalm.org/about-palm-oil/what-is-palm-oil/what-is-palm-oil-used-for>
- 3 See for example: Amnesty International, Key facts about palm oil, 2016: <https://www.amnesty.org/en/latest/news/2016/11/key-facts-about-palm-oil/>.
- 4 Environmental Investigation Agency, Who watches the watchmen?, November 2015: <https://eia-international.org/report/who-watches-the-watchmen;> SOMO/CNV International, Palming off responsibility, 2017: https://www.cnvinternationaal.nl/_Resources/Persistent/494a6d41ea4525468b46072a02e31f21e85a59c6/CNVI-0118%20Palmolie%20Indonesie-rapport-Low%20Res.pdf.
- 5 Amnesty International, Indonesia: The great palm oil scandal, 2016: <https://www.amnesty.org/en/documents/asa21/5243/2016/en/>; SOMO/CNV International, Palming off responsibility, 2017: https://www.cnvinternationaal.nl/_Resources/Persistent/494a6d41ea4525468b46072a02e31f21e85a59c6/CNVI-0118%20Palmolie%20Indonesie-rapport-Low%20Res.pdf.
- 6 Nestlé, Palm oil: <https://www.nestle.com/csv/communities/responsible-sourcing/palm-oil>.
- 7 For the purpose of this report, the term estate is being used in connection with plantations that are larger than 25 hectares, and are therefore required to register as a business according to Indonesian law.

THE DANISH
INSTITUTE FOR
HUMAN RIGHTS

