



THE GREAT PALM OIL SCANDAL

LABOUR ABUSES BEHIND BIG BRAND NAMES

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Woman employed as a casual workers on a plantation owned by a Wilmar supplier, spraying chemicals without protective equipment.
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Aerial view of PT Perkebunan Milano's palm oil plantation in North Sumatra. PT Perkebunan is a subsidiary of Wilmar International.
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1. EXECUTIVE SUMMARY

Palm oil and palm-based ingredients are found in approximately 50% of common consumer products. Besides its use as a cooking oil, palm oil is found in many food products such as packaged bread, breakfast cereals, margarine, chocolate, ice cream, biscuits, and snack food. It is also used in household detergents, shampoos, creams, soap, lipsticks and in biofuels for cars and power plants.

Global production of palm oil has doubled over the last decade and experts estimate that it will have doubled again by 2020. Indonesia is the largest producer of palm oil in the world and produces 35 million tonnes of the oil per year. The rapid expansion of palm oil plantations in Indonesia has been driven by an increase in the global demand for vegetable oils for food and non-food uses, including biofuels. Palm oil plantations have been developed by clearing forests and the resultant deforestation has been linked to serious environmental problems, including the destruction of habitats for orangutans and the Sumatran tiger.

In response to criticisms over the negative environmental and social impacts of palm oil, the Roundtable on Sustainable Palm Oil (RSPO) was set up in 2004. The stated objective of this body is to enable the palm oil industry to operate sustainably, without environmental damage or exploitation. Palm oil certified by the RSPO is marked as sustainable palm oil, including on the consumer products in which much of the oil ends up.

This report investigates labour exploitation on plantations in Indonesia that provide palm oil to Wilmar, which is the world's largest processor and merchandiser of palm and lauric (palm kernel) oils and controls over 43% of the global palm oil trade. The report also traces the palm oil produced in Indonesia for Wilmar to a range of consumer goods companies that use palm oil in their products. The investigation is based on both fieldwork in Indonesia and desk research. Researchers interviewed 120 plantation workers, including workers holding supervisory roles, on plantations directly owned by two Wilmar subsidiaries and on plantations owned by three companies that supply oil to Wilmar's Indonesian refineries. The two Wilmar subsidiaries are PT Perkebunan Milano (PT Milano) and PT Daya Labuhan Indah. The three suppliers are PT Sarana Prima Multi Niaga (SPMN), PT Abdi Budi Mulia

(ABM) and PT Hamparan Masawit Bangun Persada (PT Hamparan), part of the BEST Group, which supplies Wilmar. Wilmar, SPMN, and all but one of its buyers whom Amnesty International contacted, are members of the RSPO.

Amnesty International found serious human rights abuses on the plantations of Wilmar and its suppliers. These included forced labour and child labour, gender discrimination, as well as exploitative and dangerous working practices that put the health of workers at risk. The abuses identified were not isolated incidents but due to systemic business practices by Wilmar's subsidiaries and suppliers, in particular the low level of wages, the use of targets and 'piece rates' (where workers are paid based on tasks completed rather than hours worked), and the use of a complex system of financial and other penalties. Workers, especially women, are employed under casual work arrangements, which make them vulnerable to abuses.

HARVESTING AND PROCESSING OF PALM OIL

Oil palm trees can grow up to 20 metres tall and have an average life of 25 years. Trees start to bear fresh fruit bunches after three years and reach peak production between the sixth and tenth year. Fresh fruit bunches can contain from 1,000 to 3,000 individual fruits (the size of small plums), together weighing 10 to 25 kg. The fresh fruit bunches have to be transported to palm oil mills within 24 hours of harvesting to start processing the harvested fruits. The extracted oil is transported to refineries where it is processed further. Wilmar has its own plantations and mills and owns 15 refineries in Indonesia. These refineries also source from non-Wilmar owned mills (Wilmar refers to these as third-party suppliers).

The work involved in harvesting palm fruit is extremely physically demanding. Harvesters use long steel poles (egrek) with a sickle at the end, which can weigh around 12 kg, to cut the palm fruit bunches down from trees, which may be up to

20 metres tall. For smaller palm trees up to three metres tall, harvesters use a shorter pole with a big chisel (dodos) at the end. The fresh fruit bunches are then loaded onto wheelbarrows and taken to collection points, often over uneven terrain.

WORK, PAY AND PENALTIES AT WILMAR'S SUBSIDIARIES AND SUPPLIERS

Indonesian law sets limits on hours of work (40 hours a week) and overtime (a maximum of three hours per day or 14 hours per week). It also specifies the payments that workers should receive for overtime work (one and a half to three times the hourly wage). The Governor of each province in Indonesia sets the minimum wage for each province and each city and can also identify minimum wages for particular business sectors. The minimum wages applicable in North Sumatra and Central Kalimantan, where the plantations are located, are quite low. They are insufficient to meet a family's living needs, especially as plantations are located far away from towns and goods are more expensive.

Companies that Amnesty International investigated use a complex system to calculate workers' wages, based on both time worked and output per worker. Companies set output targets for the tasks that workers need to complete. Harvesters (always men) are set targets for the total weight of the fresh fruit bunches that they need to collect. For example, ABM, a Wilmar supplier in Indonesia, sets harvesters a target of collecting 950 kg per day from trees that were planted in 2006 (targets for harvesters are set based on the age and expected productivity of the trees). If the harvester meets his target, he receives his basic monthly wage. If he doesn't meet his target, the company deducts one-seventh of his salary, irrespective of the fact that he has worked his working hours or longer. Harvesters receive a bonus for any fresh fruit bunches that they collect over the target.

Workers in plant maintenance units (mostly women) are given targets for the number of sacks of fertilizer

that they should spread, tanks of chemicals that they need to spray or rows of plants that they need to weed, etc. For example, in PT Milano, a Wilmar subsidiary, workers have to spray nine tanks of chemicals every day. Other workers have a target of spreading 15 to 17 sacks of fertilizers. If the worker is unable to meet the target, she will be paid the daily wage but the work that she hasn't completed is added on to her next day's target.

The targets that workers have to achieve are set by individual companies, and appear to be set arbitrarily to meet companies' needs rather than being based on a realistic calculation of how much workers can do in their working hours. The consequences of not meeting the targets vary across the different Wilmar subsidiaries and suppliers that Amnesty International investigated and across categories of workers. Workers can face deductions of their salary for failing to meet their targets, in some cases leading to their salaries falling below the minimum wage, or lose out on 'bonus' payments despite working long hours in excess of the working hours limit. Workers are rarely paid overtime for extra hours worked.

CHILD LABOUR

In order to meet their targets, earn bonuses and avoid penalties, workers on all the plantations that Amnesty International investigated said that they get help from their spouses, children or others to complete certain tasks.

Indonesian law prohibits anyone from employing and involving children (any person under the age of 18) in the worst forms of labour. The worst forms of child labour include work that is harmful to the health, safety or morals of children; this is regulated under a Ministerial Decree. Children between 13 and 15 are allowed to do 'light work', which does not disrupt their physical, mental or social development. The minimum age of employment is 15 years of age but work that may endanger the health, safety or morals of children is prohibited until the age of 18.

Amnesty International documented evidence of the involvement of children in hazardous work on

plantations owned by two Wilmar subsidiaries (PT Daya Labuhan Indah, PT Milano) and three Wilmar suppliers (ABM, SPMN, and PT Hamparan). Workers employed by these companies told researchers that they have seen children working on the plantation, helping their parents. Because of a fear that they could lose their jobs if they spoke about this issue, parents were nervous about being interviewed about child labour. Researchers however interviewed five children who help their fathers and also interviewed their fathers. They interviewed five other fathers, who are harvesters, who described how their children work with them on plantations.

Some children started working from the age of eight years onwards and all were below 15 years of age. Most of the children help their parents in the afternoons, after attending school, and on weekends and holidays. However, some children have dropped out of schools and work for all or most of the day. Children carry heavy loads, as they have to carry sacks of loose fruits and some transport wheelbarrows full of heavy palm fruit bunches over uneven terrain and narrow bridges. They run the risk of injuries from repetitive movements, carrying heavy loads and from working in an environment where they are exposed to chemicals.

Amnesty International researchers interviewed B, who is 14 years old. His father works for a Wilmar subsidiary. B told researchers: *"I have helped my father every day for about two years [since B was 12 years old]. I studied till sixth grade in school. I left school to help my father because he couldn't do the work anymore. He was sick. I am concerned that I haven't finished school. ... I would like to go back to school, I left because my father was sick and I had to help."*

C, a ten-year-old boy, dropped out of school after the second grade and helps his father who works at a Wilmar supplier. He has helped his father since he was eight years old. His father, K, said: *"I get the premi [bonus] from the loose fruit that's why my kids help me. I wouldn't be able to meet the target ... otherwise. ... The foreman sees my children helping me. The foreman says it is good that my child is helping me. [A senior manager] ... has come when*

my child was helping me and not said anything. He doesn't come out of his car. He yells out orders from his car to the foreman."

The involvement of children is contrary to Indonesian and international human rights law, including the prohibition on involvement of children under the age of 18 in the worst forms of child labour, as well as Wilmar's own company policy.

Amnesty International wrote to all of the companies and presented the organization's evidence of child labour. Wilmar responded to Amnesty International saying: *"Child labour has no place in Wilmar's operations, and is a non-negotiable requirement for our suppliers"*. The company said that *"a lack of access to education and child care is one of the key reasons why this happens"* and pointed to its investment in providing primary education and childcare facilities. It stated that plantation supervisors and managers put up signs that say that child labour is prohibited, and carry out regular patrols to monitor child labour. *"Where the presence of children is detected, specifically during the school holidays when some workers may bring their children to the plantations because there is no one to look after them at home, stern warnings are given to the workers not to bring children to their workplace. Disciplinary action is taken against repeat offenders."*

Wilmar's response to Amnesty International completely disregards the role played by Wilmar's business practices in creating and sustaining the conditions that lead to child labour on its plantations. Wilmar does not acknowledge the impact of low wages and the use of targets and penalties for certain tasks as causative factors that lead to parents bringing their children to help them with their work. The company instead attempts to shift responsibility exclusively onto parents. Wilmar's response also fails to acknowledge that supervisory staff have allowed child labour to continue and the company has benefited from the work the children have done. The evidence gathered by Amnesty International demonstrates that the Wilmar Group is responsible for the involvement of children in the worst forms of child labour on plantations owned by the Wilmar Group.

TSH Resources, the parent company of SPMN, was the only Wilmar supplier who responded and did not engage with the evidence presented by Amnesty International.

Wilmar's subsidiaries' and suppliers' working practices, in particular the use of high targets and penalties, have resulted in children working. By employing children under the age of 15 the companies may have committed a felony as set out under Article 185 of the Manpower Act. The companies may also have breached Article 74 and therefore committed a felony under Article 183 of the Manpower Act because of the involvement of children under the age of 18 in jobs that are harmful to their health and safety.

FORCED LABOUR

Indonesia is a party to the International Labour Organization (ILO) Forced Labour Convention and has adopted the Convention in its national legislation. Forced labour is defined under the Convention and Indonesian law as *"all work or service which is exacted from any person under the menace of any penalty and for which the said person has not offered himself voluntarily."*

Employers can penalize workers for failing to meet targets, do certain tasks or for mistakes in their work (for example, for picking unripe fruit). In most cases, the penalty has a financial dimension and workers can face deductions from their salaries or yearly bonuses or have to give up a day's work or leave. Casual daily labourers are particularly vulnerable as they can be 'scorched' (stopped from working for one or more days or let go altogether) if they fail to meet targets. The large number of penalties, which can be applied at the employer's discretion, and the lack of clarity and transparency on deductions from wages make workers vulnerable to pressure from their supervisors, who can exact work under the threat of loss of pay or loss of employment.

Amnesty International documented cases of foremen threatening women workers in plant maintenance units with not being paid or having their pay deducted in

order to exact work from them. U works as a casual daily labourer in the plant maintenance unit at PT Milano. She said: *“The target is [to spread] 15 – 17 sacks ... If I don’t finish my target, they ask me to keep working but I don’t get paid for the extra time or get any premi [bonus]. I have to finish all the sacks before I can leave. Around three months ago, my friend and I told the foreman that we were very tired and wanted to leave. The foreman told us if you don’t want to work, go home and don’t come again.”* Researchers found that SPMN and PT Hamparan, Wilmar’s suppliers, oblige workers to work beyond normal working hours and in excess of overtime limits set out under Indonesian law, as only in so doing can they earn the minimum wage. The ILO Committee of experts has said that these kinds of practices amount to forced labour.

PAID BELOW THE MINIMUM WAGE AND ARBITRARILY DENIED PAY

Article 17 of the Ministry of Manpower Decree No. 7/2013 provides that ‘piece rate’ workers should not be paid below the daily or monthly minimum wage as applicable. As highlighted above, two Wilmar suppliers, SPMN and PT Hamparan, use a piece rate system. For example, H, who works for SPMN, is given a target of collecting 24 sacks of loose fruit in order to get paid 84,116 Indonesian Rupiahs (US\$6). She said: *“when I pick up the loose fruit, the most I can collect is 18 bags so I only get paid 3,300 (Indonesian Rupiahs) per bag. ...It is very difficult to collect one full sack of loose fruit. ...My lower back hurts from all the bending to pick up the loose fruit”.* Despite doing a full day’s work she is only paid 59,400 Indonesian Rupiahs (US\$4), significantly below the daily minimum wage of 84,116 Indonesian Rupiahs. Other workers also confirmed they are paid below the daily or monthly minimum wage when they don’t meet their targets. Workers who are involved in spraying plants do not get paid at all, or are paid for half a day, if it rains at a certain time, despite the work they have already done till that point.

Amnesty International found evidence that Wilmar’s subsidiaries, PT Milano and PT Daya Labuhan Indah, and its suppliers ABM, SPMN and PT Hamparan do not pay workers a daily minimum wage if they do not meet targets set by the company or if it rains at a certain time of day. All of the companies may therefore have contravened Article 90 of the Manpower Act, which prohibits employers from paying wages lower than minimum wages, and may have committed a felony under Article 185.

WORKING HOURS LIMITS AND OVERTIME

In all the Wilmar subsidiaries and suppliers that Amnesty International investigated, harvesters work long hours, in excess of the limit of 40 hours per week set out under Indonesian law. In the high harvest season, following the rains, workers work long hours to try to earn bonuses. In seasons where fruit is less plentiful, especially during the dry season, workers work longer hours to meet their targets but do not earn much. Harvesters employed by Wilmar’s subsidiaries described working up to 10-11 hours a day, while harvesters who work for Wilmar’s suppliers described working up to 10-12 hours a day. These long hours are a major concern, particularly taking into account the physically demanding nature of the work done by harvesters. Some workers also work on Sundays in an effort to earn enough money to survive or make up for missing targets. Amnesty International documented cases of individuals working 12 hours a day, seven days a week, for below the legal minimum wage. Harvesters employed by PT Milano, a subsidiary of Wilmar, are offered an additional payment, referred to as kontanan, to work on Sundays. They are paid 40,000 Indonesian Rupiahs (US\$ 3) per ton of fresh fruit bunches that they collect instead of overtime pay, as required under Indonesian law. Amnesty International’s investigation revealed that all five companies may have breached Article 78 of the Manpower Act. This requires that companies pay workers certain levels of overtime pay for working beyond working hours, limit the amount of overtime that a worker may do, and

meet certain conditions around overtime. Harvesters can earn good bonuses during the harvest season, in particular, when the fruits are plentiful. While bonuses for exceeding targets could be a positive feature and one that many workers value, they do not make up for the risk of abuses which are generated by the use of targets and which Amnesty International documented. They can also mask the fact that the work actually requires two people to work, as harvesters often get help from their wives or children. Bonuses linked to targets should be in addition to and not replace overtime pay.

ABUSES OF THE RIGHTS TO HEALTH AND TO SAFE AND HEALTHY WORKING CONDITIONS

Palm oil plantations use a range of pesticides and herbicides to manage pests and weeds. Plantations also use a large amount of fertiliser to improve yields. Environmental organizations have highlighted the risks of contamination of other crops, soil and groundwater by the chemicals in these products.

One such controversial chemical, which is used as a herbicide (to control weeds), is paraquat dichloride (paraquat). Paraquat is a highly toxic chemical, which poses severe risks to health. Paraquat has one of the highest acute toxicity values among commercial herbicides and can result in toxicity after ingestion, inhalation or dermal exposure; its use is banned in the European Union and restricted in several other countries. The Indonesian Ministry of Agriculture regulates paraquat as a restricted use pesticide. Only people who have been trained and certified are allowed to apply paraquat.

In 2008 Wilmar committed to phasing out the use of paraquat in its operations and stated that it had done so by 2011. It required its suppliers to stop using paraquat by the end of 2015. Amnesty International researchers found evidence of the use of paraquat-based herbicides by Wilmar's suppliers, in particular SPMN. The RSPO certification assessment of SPMN undertaken in July 2015

confirmed that the company used paraquat but stated that the estate management had plans to reduce its usage. Researchers confirmed, however, through recent photographs taken in October 2016 and interviews that SPMN continues to use paraquat. In its responses to Amnesty International, TSH Resources, SPMN's parent company, did not deny the use of paraquat or Gramoxone (a paraquat-based herbicide). Staff at PT Hamparan, another Wilmar supplier, said that the company uses Gramoxone and other paraquat-based herbicides. A worker employed by ABM, who mixes the chemicals that the workers spray, also stated that this company uses Gramoxone.

Amnesty International's investigation revealed a significant gap in the provision and maintenance of personal protective equipment for workers who spray chemicals or spread fertilizers. Some companies failed to provide equipment, while others did not replace equipment, such as boots, masks, gloves, coveralls (aprons) and goggles, when these were worn out. In addition, Amnesty International found that workers who deal with or spray chemicals do not have adequate information on the chemicals that they handle or the specific health risks associated with these chemicals. Workers described experiencing negative health effects after exposure to chemicals. Amnesty International documented severe injuries caused to workers, including the case of Yohanna who worked at SPMN and was splashed in the face with Gramoxone, leading to severe damage in her eye and her optic nerve. Yohanna told researchers: *"I can't see through the eye. I get headaches in part of my head, when I do, my eye feels really swollen. I still get a bit dizzy"*. The delay in obtaining the treatment Yohanna required worsened her condition.

Most Wilmar subsidiaries and suppliers test the blood of employees for exposure to chemicals but the results are not shared with workers. Workers whose blood tests reveal anomalies are told that there is a problem with their blood but still not provided a copy of the results. Those showing abnormalities are often simply moved to other tasks without ever knowing what the blood test results signify. This leaves the workers extremely anxious about their health.

GENDER DISCRIMINATION

The report highlights a discriminatory pattern of hiring women as casual daily labourers, denying them permanent employment and social security benefits such as health insurance and pensions. Workers in plant maintenance units, who are almost all women, continue to be casual even when they work for the company for years. Wilmar's subsidiaries and suppliers employ some harvesters as casual daily labourers but most harvesters – who are always men – are employed on permanent employment contracts.

Amnesty International asked workers in all companies and the supervisory staff it interviewed whether there were any women employed as permanent workers by the companies. SPMN was the only company at which women were hired on permanent contracts to work on plantations and in supervisory capacities. Researchers were repeatedly told by workers at all the other companies that women are only hired as casual daily labourers and only to work in plant maintenance. There are some limited exceptions, including women who are retained in office administration who are permanent.

Supervisory staff in several companies whom Amnesty International interviewed confirmed that the women working in the fields are not permanent. N, who works in a supervisory position for a Wilmar supplier said: "I don't know why this is. Some women in the offices are permanent. The women in the fields work harder than ones in the office so I am not sure why they are not made permanent". Wilmar, ABM and PT Hamparan have not offered any reasonable and objective justification for their failure to offer permanent employment to the majority of women workers employed on their plantations.

BIG BRAND MANUFACTURERS THAT BUY WILMAR'S INDONESIAN PALM OIL

Using export data and information published by Wilmar, Amnesty International traced palm oil from the plantations it investigated to Wilmar's Indonesian refineries and then to nine global food and household

goods companies. Archer Daniels Midland Company (ADM) purchases palm oil from mills that are supplied by plantations where Amnesty International documented severe labour rights abuses. Agrupación de Fabricantes de Aceites Marinos (AFAMSA), Colgate-Palmolive, Elevance Renewable Sciences, The Kellogg Company (Kellogg's), Nestlé and Reckitt Benckiser are sourcing palm oil from refineries where the palm oil has been directly supplied or, at the very least, been mixed with palm oil produced on plantations where there are severe labour rights abuses. It is highly likely that Unilever and Procter & Gamble, who confirmed that they source from Wilmar's Indonesian operations are sourcing palm oil from refineries where the palm oil has been directly supplied or, at the very least, been mixed with palm oil produced on plantations where there are severe labour rights abuses. All but one of these firms are members of the Roundtable on Sustainable Palm Oil, and claim they use "sustainable palm oil" on their websites or product labels. None of the companies Amnesty International contacted denied that the abuses were taking place, but neither did they provide any examples of action taken to deal with labour rights abuses in Wilmar's operations.

As buyers of Wilmar's oil, these companies have a responsibility to ensure their supply chain is free from abuses such as child labour and forced labour. This is a well-accepted international standard. Amnesty International contacted each of the buyers to ask for their response to the organization's findings and to seek information on what due diligence they undertook on their supply of palm oil. None of the companies was aware of the abuses until contacted by Amnesty International, which in itself strongly suggests that their due diligence is insufficient. The risks of labour abuse on palm plantations in Indonesia is known; NGOs have previously published information and Wilmar itself has stated that its 'No Exploitation' policy was not achieved by the end of 2015. Knowing that the risks existed, it was incumbent on the buyers to check whether the palm oil they purchased was produced in exploitative circumstances.

Each of the companies provided some information on their due diligence processes although none provided

any explanation for why their processes had not detected the abuses documented. The weaknesses in the due diligence processes went beyond failing to identify the actual abuses; none of the companies appeared to have even identified the risk factors, such as piece rate payments and the system of penalties. Had they been identified these practices should have acted as red flags to buyers, worthy of investigation as to their impacts. Some of the companies refuted Amnesty International's allegation that they were failing to exercise adequate human rights due diligence. The full text of the company responses can be found in the Annex to the report.

In addition to the failure to exercise adequate due diligence, the consumer goods companies that buy Wilmar palm oil demonstrated a lack of transparency. Amnesty International sent the companies lists of consumer products that include palm oil as a component, and asked if these items contained palm oil from Wilmar's Indonesia operations. Reckitt Benckiser confirmed that palm derivatives sourced from Wilmar were used to manufacture bar soap. Kellogg's confirmed that palm oil sourced from the identified Wilmar refineries went into Pringles chips made and distributed in China by its joint venture with Wilmar. Colgate-Palmolive and Nestlé said none of the products Amnesty International listed contained palm oil from Wilmar's Indonesia operations. They did not say which of their products do, although both companies acknowledged that they receive palm oil from Wilmar refineries that Amnesty International linked to the plantations investigated for this report. Two other companies (Unilever and Procter & Gamble) did not confirm that the listed products contained palm oil from Wilmar's Indonesia operations but they also did not correct the list. The other consumer companies offered vague or no responses. The lack of transparency around consumer products is worrying, suggesting these companies do not value the rights of the consumers to make informed choices and are attempting to shield themselves and their products from legitimate scrutiny.

FAILURES OF THE ROUNDTABLE ON SUSTAINABLE PALM OIL

The RSPO has criteria for what it considers to be sustainable palm oil - that is oil produced without exploiting workers, without deforestation and without environmental and social harm. Wilmar and most of its buyers place great reliance on its membership and certification by the RSPO as proof of due diligence and respect for human rights. Amnesty International's investigation reveals that the RSPO is acting as a shield which deflects greater scrutiny of Wilmar's and other companies' practices. The implementation and monitoring of the RSPO criteria are extremely weak and based on a superficial assessment system. Amnesty International also found that the companies that buy from Wilmar overly rely on the RSPO certification system, especially for checking conditions at the plantation level. Three of the five palm growers that Amnesty International investigated are certified as producing "sustainable" palm oil under the RSPO, despite the severe abuses that researchers found on their plantations. While large consumer goods companies claim that the palm oil used in their products is "sustainable", Amnesty International's investigation contradicts this claim. Membership of the RSPO and certification assessments cannot and should not be used as proof of compliance with workers' human rights.

CONCLUSION AND RECOMMENDATIONS

Wilmar, its subsidiaries PT Milano and PT Daya Labuhan Indah, and its suppliers, ABM, SPMN and PT Hamparan have abused workers' rights to just and favourable conditions of work, health, and social security. Wilmar, and those companies that buy from it, do not have an adequate due diligence process in place to identify, prevent, mitigate and account for how they address adverse human rights impacts linked to their business operations. Wilmar failed to carry out adequate due diligence on its suppliers. All of the buyers investigated failed to conduct adequate

human rights due diligence in relation to the Indonesian palm oil sourced from Wilmar. All of these companies are benefiting from, and contributing to, severe labour abuses in their palm oil supply chain.

Indonesia has a strong general legal framework on labour rights, though the government needs to urgently address the critical gaps in protection around forced labour, casual workers and other issues identified by Amnesty International. Based on the information gathered by Amnesty International, several of the companies may have breached Indonesian law and may have potentially committed numerous criminal offences. The government is failing to adequately monitor and enforce its labour laws and to prevent and remedy abuses. It is violating its obligation to protect people from abuses of their rights.

Addressing the serious and systemic abuse of labour rights on palm oil plantations requires a broad commitment by Wilmar, its suppliers, and companies that buy from Wilmar. The working practices prevalent on plantations run by Wilmar's subsidiaries and suppliers, such as the use of piece rates, targets, penalties, casual work arrangements, use of hazardous chemicals which create risks to workers' safety, must be eradicated or substantially modified in order to end the human rights abuses identified in this report. Wilmar must ensure such reforms are enacted without delay.

The companies that buy palm oil from Wilmar must address the serious shortcomings in their due diligence processes. None identified the severe labour abuses documented in this report prior to being contacted by Amnesty International. Companies that want to end abuse need to fundamentally

change their mind-set and practices. Such changes must include monitoring and investigations that are designed to detect labour abuses. A compliance based approach linked to RSPO certification is not sufficient to ensure respect for workers' human rights. Companies must be able to carry out physical checks – not merely rely on the guarantees of others, a process that cannot provide them with the level of knowledge and assurance to make commitments to their customers.

Both those companies that produce consumer goods that contain palm oil and the governments in countries where these products are sold must ensure consumers can purchase goods labelled as using “certified” or “sustainable” palm oil with confidence. Right now consumers are asked to rely on a voluntary scheme that cannot give confidence. Companies should be far more transparent and governments should act in the consumers' interest by requiring transparency. A truly sustainable palm oil industry will only be feasible if companies – from the plantation owners to those that make the end products for sale to consumers – take all necessary actions to meet the challenges the industry faces. The serious and systemic labour abuses documented by Amnesty International have been occurring on palm oil plantations in Indonesia for years. They are the direct result of how the businesses are run. Wilmar's dominance in the palm oil sector means the company has substantial scope to set the parameters for palm oil production and ensure conditions that safeguard against abuse. Similarly, Wilmar's buyers – many of them huge consumer brand companies – have, individually and collectively, ample scope to require Wilmar to enact reforms on its plantations and those of any company that supplies it.

2. METHODOLOGY

Amnesty International investigated working conditions on palm oil plantations owned by Wilmar International's (Wilmar) subsidiaries and by its suppliers. Amnesty International selected Wilmar as the focus of the investigation as it controls over 43% of the global palm oil trade. It is the largest processor and merchandiser of palm and lauric (palm kernel) oils worldwide, and the largest palm oil refiner in Indonesia and Malaysia. Wilmar adopted a 'No Deforestation, No Peat, No Exploitation Policy' (the Policy) in December 2013. The Policy applies to Wilmar's own operations as well as all suppliers that Wilmar purchases palm oil from or with which it has a trading relationship. Wilmar, and many of the large consumer goods companies that purchase palm oil from it, have committed to producing and using sustainable palm oil, which does not involve the exploitation of workers. Amnesty International investigated labour abuses on plantations owned by two Wilmar subsidiaries in North Sumatra and three suppliers in North Sumatra and Central Kalimantan in Indonesia. Researchers investigated whether the companies were complying with Indonesian laws and international human rights and labour standards. The Roundtable on Sustainable Palm Oil (RSPO) is a global, multi-stakeholder initiative that brings together palm oil producers and traders, consumer goods manufacturers, retailers, banks, investors, and NGOs. The RSPO has developed a set of environmental and social criteria which companies must comply with in order to produce 'Certified Sustainable Palm Oil'.¹ Amnesty International's investigation also tried to establish the extent to which Wilmar's Policy and its membership of the RSPO had led to respect for workers' human rights.

Researchers consulted with various national and international NGOs who have worked on the palm oil sector in order to identify the specific plantations and geographical areas on which to focus the

investigation. Amnesty International visited North Sumatra and Central Kalimantan in February, October and November 2015. Due to the risk of harassment of and reprisals against workers, Amnesty International only conducted interviews with workers when it was possible to do so without jeopardising their safety. Researchers interviewed 120 adults and children who worked on the plantations; this included 13 people who are currently or had formerly been employed in a supervisory capacity. Amnesty International's investigation primarily focused on harvesters and people working in the plant maintenance units. Researchers interviewed some loaders (who load the fruit onto vehicles to be transported to the mills), drivers (who transport the fruits to the mills and the extracted oil to refineries), as well as security guards. Researchers also met with and interviewed activists and staff of NGOs. Interviews were conducted in Indonesian Bahasa and English, with the assistance of translators. To protect the safety of people whom Amnesty International interviewed, their real names have not been used in the report. When referring to individual statements in particularly sensitive cases, the names of companies, interview locations, and dates of interviews have also not been disclosed to ensure the individual's safety.

Researchers saw and collected copies of workers' pay slips and other documents, such as medical referrals and reports. They saw the personal protective equipment used by workers and photos of chemicals used by the companies. They collected documents related to the companies' working practices.

Since its visit to these areas, Amnesty International has received updates by phone and email.

In order to track where the palm oil from the plantations investigated ends up, Amnesty International took steps to identify Wilmar's customers and trace exports. Amnesty International commissioned Profundo, an economic research consultancy, to assist with initial research. Profundo used publicly available data to compile a list of companies that had connections to Wilmar. From this list Amnesty International prioritised large

1. For more information see www.rsपो.org.

consumer goods companies, which are members of the RSPO. Researchers selected five key countries for the initial research where these companies had manufacturing operations or were headquartered in order to trace exports to these countries.

Wilmar had made data available on its website about its refineries, listing the mills that supply each refinery. Amnesty International had identified which mills were directly supplied by the plantations the researchers investigated. Profundo obtained export data from Indonesia and US customs data to trace exports from Wilmar companies from ports closest to the refineries to the five selected countries. Amnesty International itself obtained and analysed some additional export data. Only a limited number of exports to Wilmar's customers could be confirmed through the export data as Wilmar tends to ship consignments to another Wilmar entity, rather than directly to the purchaser.

Amnesty International did further analysis, using newer data published by Wilmar, and established which Wilmar refineries received palm oil from mills supplied by the plantations investigated. Through this information and export data, Amnesty International traced the movement of palm oil from the plantations that it investigated to refineries and ports to a number of countries all over the world, where companies identified as having connections to Wilmar have manufacturing facilities. The 12 companies that were selected through the initial research and export analysis were: Agrupación de Fabricantes de Aceites Marinos (AFAMSA), Archer Daniels Midland Company (ADM), Colgate-Palmolive, ConAgra, Elevance Renewable Sciences (Elevance), Kellogg Company (Kellogg's), Mars, Mondelez International, Nestlé, Procter & Gamble, Reckitt Benckiser and Unilever. Amnesty International wrote to each of these companies to ask them to confirm if they were Wilmar's customers, which mills and/or plantations supplied the palm oil that the company purchases and the names of ports from which they received palm oil shipments. If companies stated that they were customers of Wilmar and sourced oil from Indonesia, Amnesty International asked them to confirm if they sourced palm oil from any of the refineries that were directly supplied by mills linked to the plantations it investigated.

Researchers undertook a detailed review of publicly available company documents including policies, sustainability and other progress reports, and RSPO certification assessment reports of plantations that were investigated. Amnesty International corresponded with Wilmar, its suppliers, and the 12 companies listed, about the findings of our investigation.

Wilmar, AFAMSA, ADM, Colgate-Palmolive, ConAgra, Elevance, Kellogg's, Mars, Mondelez International, Nestlé, Procter & Gamble, Reckitt Benckiser and Unilever replied to Amnesty International. Of the three suppliers, only TSH Resources Berhad responded to Amnesty International. The companies' responses are included in Annex I and on Amnesty International's website at:

www.amnesty.org/en/documents/asa21/5230/2016/en/.

With the assistance of a legal consultant, Amnesty International identified and assessed provisions of Indonesian labour laws that apply to palm oil plantations.

Amnesty International has shared its findings with the government of Indonesia.

Amnesty International is grateful to Sawit Watch, Wahana Lingkungan Hidup Indonesia (WALHI), Central Kalimantan, Organisasi Penguatan dan Pengembangan Usaha-Usaha Kerakyatan (OPPUK) and Rainforest Action Network for their advice and assistance. The organization would like to thank all the workers who agreed to speak to its researchers.



Signs at PT Daya Labuhan Indah's Wonosari plantation in North Sumatra. PT Daya Labuhan Indah is a subsidiary of Wilmar. © Amnesty International

COMPANIES THAT AMNESTY INTERNATIONAL FOCUSED ON IN ITS INVESTIGATION

Wilmar International Limited (Wilmar), headquartered in Singapore, describes itself as “Asia’s leading agribusiness group”.² As of December 2015, Wilmar reported being one of world’s largest oil palm plantation owners with a total planted area of 240,956 hectares globally, 69% of which is in Indonesia. It is the largest palm oil refiner in Indonesia and Malaysia.³ Wilmar is a member of the Roundtable on Sustainable Palm Oil (RSPO). Wilmar has diversified from palm oil to other commodities including refining other edible oils, sugar, and milling rice and flour. It manufactures consumer products, speciality fats, oleochemicals (chemical compounds derived from oils such as glycerine), biodiesels (an alternative fuel produced from vegetable oil or fat) and fertilisers. Wilmar’s business is an ‘integrated business model’, meaning that Wilmar oversees the whole supply chain from cultivation, to processing, merchandising to manufacturing. According to Wilmar this model has been the key to its success.⁴ Wilmar is listed on the Singapore stock exchange with a market capitalisation of US\$20.92 billion. Wilmar has over 500 manufacturing plants and sells and distributes its products through a vast distribution network in more than 50 countries.⁵

PT Perkebunan Milano (PT Milano), a wholly owned Wilmar subsidiary in Indonesia, is a grower of palm fruits and miller of palm oil.⁶ The company is included in the list of significant subsidiaries named in Wilmar’s Annual Report. It is one of eight Indonesian subsidiaries named in the Annual Report. PT Milano owns four estates (palm oil plantations) and a mill in North Sumatra. PT Perkebunan Milano is certified by the RSPO.

PT Daya Labuhan Indah, a subsidiary of Wilmar in North Sumatra, is a grower of palm fruits and miller of palm oil.⁷ Wilmar owns 95% of PT Daya Labuhan Indah.⁸ PT Daya Labuhan Indah also has a mill and two estates in North Sumatra. PT Daya Labuhan Indah is certified by the RSPO.

PT Sarana Prima Multi Niaga (SPMN), based in Central Kalimantan, is an Indonesian subsidiary of TSH Resources Berhad. It is a grower of palm fruits and a miller of palm oil. TSH Resources Berhad (TSH) is a Malaysian company, and a member of the RSPO. TSH owns 90% of PT SPMN,⁹ which is also certified by the RSPO. SPMN has a mill and an estate. Wilmar has confirmed PT SPMN as a supplier in the documents that it has made available on its website tracing its supply chain.

PT Abdi Budi Mulia (ABM), based in North Sumatra, is a privately owned company which is a grower of palm fruits, and a miller and producer of palm oil.¹⁰ Wilmar has confirmed that the company is one of its suppliers.

PT Hampanan Masawit Bangun Persada (PT Hampanan), located in Central Kalimantan, is a grower of palm fruits.¹¹ It is one of four growers of palm oil in Indonesia that are owned by the BEST Group. Neither PT Hampanan nor the BEST Group are listed as suppliers of Wilmar, but in a letter responding to Amnesty International, Wilmar confirmed that it sources palm oil from PT Batara Elok Semesta Terpadu, a refinery in Indonesia owned by the BEST Group. PT Batara Elok Semesta Terpadu is a member of the RSPO and is supplied by plantations owned by the BEST Group.¹²

2. Wilmar International, *Wilmar in Asia: Annual Report 2015*, p. 1.
3. Wilmar International, *Wilmar in Asia: Annual Report 2015*, pp. 14, 32.
4. Wilmar International, *Wilmar in Asia: Annual Report 2015*, p. 16.
5. Wilmar International, *Wilmar in Asia: Annual Report 2015*, pp. 1, 5.
6. BPS-Statistics Indonesia, *Direktori Perusahaan Perkebunan Kelapa Sawit (Directory of Palm Oil Companies) 2015*, pp. 39, 88 and 94.
7. BPS, *Directory of Palm Oil Companies 2015*, p. 38.
8. Wilmar International, *Wilmar in China: Annual Report 2009*, p. 173.
9. TSH owns 90% ownership interest in PT Sarana Prima Multi Niaga, and holds its interest through a holding company, based in Singapore, Jatoba International Pte. Ltd. TSH states in its annual report that 10% of PT Sarana Prima Multi Niaga is held by a non-controlling interest. See TSH Resources Berhad, Annual Report 2015, p. 128.
10. BPS, *Directory of the Palm Oil Companies 2015*, p. 87.
11. BPS, *Directory of the Palm Oil Companies*, p. 294.
12. See <http://bestindustrygroup.com/news.php?id=1> (last accessed 22 November 2016).



Inside a supermarket. Approximately 50% of common consumer products have palm oil and palm oil based ingredients. © Amnesty International/Watchdog

3. BACKGROUND

PALM OIL AND ITS ROLE IN OUR DAILY LIVES

Palm oil and palm oil based ingredients are found in approximately 50% of common consumer products.¹³ Besides its use as a cooking oil, palm oil is found in many food products such as packaged bread, breakfast cereals, margarine, chocolate, ice cream, biscuits, and snack food. It is also used in household detergents, shampoos, creams, soap, lipsticks and in biofuels for cars and power plants.

Global production of palm oil has doubled over the last decade and it is estimated that it will double again by 2020.¹⁴ Indonesia is the largest producer of palm oil in the world and produces 35 million tonnes of the oil, followed by Malaysia which produces 21 million tonnes.¹⁵

Palm oil is considered the highest-yielding vegetable oil crop as it needs less land area and fewer inputs in terms of fertilizers and pesticides. The palm oil sector is a significant source of revenue for the government of Indonesia, particularly through taxes on exports.¹⁶ However, the rapid expansion of palm oil plantations in Indonesia has contributed to extensive deforestation and considerable harm to wildlife species.¹⁷ This expansion has been driven by an increase in the global demand for vegetable oils for food and non-food uses, including biofuels.¹⁸

13. GreenPalm, 'What is palm oil used for', <http://greenpalm.org/about-palm-oil/what-is-palm-oil/what-is-palm-oil-used-for> (last accessed 23 October 2016).
14. The Guardian, 'From rainforest to your cupboard: the real story of palm oil', www.theguardian.com/sustainable-business/ng-interactive/2014/nov/10/palm-oil-rainforest-cupboard-interactive.
15. Source: IndexMundi, www.indexmundi.com/agriculture/?commodity=palm-oil, (last accessed 23 October 2016).
16. K. Obidzinski, 'Fact File – Indonesia world leader in palm oil production', 8 July 2013, CIFOR, <http://blog.cifor.org/17798/fact-file-indonesia-world-leader-in-palm-oil-production?fnl=en>. The fact file states: "The oil palm sector, particularly CPO production, is an important source of government revenues. The main source of these revenues is the export tax; this ranges from 0 percent (if the export reference price is less than \$500 per tonne) to 25 percent (when the domestic reference price exceeds \$1,300 per tonne), according to the World Bank. In 2008, CPO generated \$12.4 billion in foreign exchange from exports; in the same year, the government earned at least \$1 billion in export tax."
17. Friends of the Earth, Greasy palms: *The social and ecological impacts of large-scale oil palm plantation development in Southeast Asia*, January 2005.
18. World Bank and International Finance Corporation, *The World Bank Group Framework and IFC Strategy for Engagement in the Palm Oil Sector*, 31 March 2011, pp. 11 - 13, available at: http://www.ifc.org/wps/wcm/connect/industry_ext_content/ifc_external_corporate_site/agribusiness/resources/palmoil_strategydocument (last accessed on 17 November 2016).

Palm oil plantations have been developed by clearing forests and on peatland, resulting in a major loss of biodiversity and release of greenhouse gas emissions.¹⁹ A study published in the journal, *Science*, in 2013 calculated that from 2000 to 2012, Indonesia lost more than six million hectares of primary forest – an area half the size of England.²⁰ In 2014, a study published in *Nature Climate Change* found that Indonesia has the highest rate of loss of tropical primary forests in the world.²¹ Greenpeace analysed Indonesian Ministry of Forest maps in 2013 and stated that the palm oil sector was the single largest driver of deforestation between 2009 and 2011. This deforestation threatened forests that were key to Sumatran tigers and to orangutans in Sumatra and Kalimantan.²²

NGOs have also pointed to the negative impacts of acquisition and conversion of land for palm oil plantations for Indigenous Peoples and other rural communities,²³ as well as cases of abuses against migrant and other workers on plantations in Malaysia and Indonesia.²⁴

The Roundtable on Sustainable Palm Oil (RSPO) was set up in response to criticisms of the palm oil industry for its negative environmental, social and human rights impacts. It comprises palm oil producers and traders, consumer goods manufacturers, retailers, banks, investors, and NGOs. In 2007, the RSPO

developed a set of environmental and social criteria that are used to certify palm oil producers. The RSPO has significant influence over purchasers of palm oil as demonstrated by the effect of its suspension of the Malaysian company, IOI Group, in April 2016 for not meeting the RSPO's environmental criteria.²⁵ Many major multinationals dropped the IOI Group from their list of approved suppliers following the suspension.²⁶ However, some NGOs have pointed to the weaknesses in the RSPO's criteria and certification systems. They have also pointed to the RSPO's unwillingness to strictly enforce its standards.²⁷ RSPO members account for around 40% of global palm oil production.²⁸ The RSPO certifies 11.45 million tonnes (17%) of palm oil produced globally.²⁹



Young palm plants. © Amnesty International/Watchdoc

19. P. Pacheco, 'Zero deforestation in Indonesia: Pledges, politics and palm oil', <http://blog.cifor.org/39085/zero-deforestation-in-indonesia-pledges-politics-and-palm-oil?fnl=en>, 7 January 2016 (last accessed 17 November 2016).
20. M. C. Hansen, P. V. Potapov, et. al., 'High-Resolution Global Maps of 21st-Century Forest Cover Change', *Science*, 15 November 2013, Volume 342, Issue 6160, pp. 850 – 853 and N. Sizer, M. Hansen, and R. Moore, 'New High-Resolution Forest Maps Reveal World Loses 50 Soccer Fields of Trees Per Minute', www.wri.org/blog/2013/11/new-high-resolution-forest-maps-reveal-world-loses-50-soccer-fields-trees-minute, 14 November 2013 (last accessed 17 November 2016).
21. B. A. Margano, P. V. Potapov, S. Turubanova, F. Stolle, and M. C. Hansen, 'Primary forest cover loss in Indonesia over 2000 – 2012', *Nature Climate Change*, published online 29 June 2014, available at: www.umdrihtnow.umd.edu/sites/umdrighnow.umd.edu/files/nclimate2277-aop_2.pdf (last accessed 17 November 2016).
22. Greenpeace, *Licence to Kill: How deforestation for palm oil is driving Sumatran tigers towards extinction*, Greenpeace, October 2013, pp. 4 – 7.
23. See for example M. Colchester and S. Chao (eds.), *Conflict or Consent? The oil palm sector at a crossroads*, Forest Peoples Programme, Sawit Watch and TUK Indonesia, November 2013.
24. See for example, Tenganita and Pesticide Action Network (PAN) Asia and the Pacific, *Poisoned and Silenced: A Study of Pesticide Poisoning in the Plantations*, March 2002, E. B. Skinner, 'Indonesia's Palm Oil Industry Rife With Human-Rights Abuses', <http://www.bloomberg.com/news/articles/2013-07-18/indonesias-palm-oil-industry-rife-with-human-rights-abuses>, 20 July 2013, International Labour Rights Forum (ILRF) and Sawit Watch, *Empty Assurances: The human cost of palm oil*, 14 November 2013, OPPUK, Rainforest Action Network and ILRF, *The Human Cost of Conflict Palm Oil*, June 2016.
25. RSPO, 'Notice to RSPO Members on the suspension of IOI Group's Certification', 1 April 2016, available at: www.rspo.org/news-and-events/announcements/notice-to-rspo-members-on-the-suspension-of-ioi-groups-certification. The IOI Group's suspension was lifted on 8 August 2016. See RSPO, 'Update on the status of IOI Group's Certification', 5 August 2016, available at: www.rspo.org/news-and-events/announcements/update-on-the-status-of-ioi-groups-certification, (last accessed 18 November 2016).
26. J. Murray, 'Multinationals drop palm oil supplier as sustainability certifications start to bite', *BusinessGreen*, 6 April 2016, available at: <http://www.businessgreen.com/bg/analysis/2453623/multinationals-drop-palm-oil-supplier-as-sustainability-certifications-start-to-bite> (last accessed 19 November 2016).
27. Environmental Investigation Agency (EIA) and Grassroots, *Who watches the Watchmen? Auditors and the breakdown of oversight in the RSPO*, November 2015, Greenpeace, *Certifying Destruction: Why consumer companies to go beyond the RSPO to stop forest destruction*, September 2013. See also P. Castka, and D. Leaman (eds), *Certification and Biodiversity – How voluntary certification standards impact biodiversity and human livelihoods*, *Policy Matters*, Issue 21, September 2016, International Union for Conservation of Nature and Natural Resources.
28. Greenpeace, *Certifying Destruction: Why consumer companies to go beyond the RSPO to stop forest destruction*, September 2013, p. 1.
29. RSPO, 'Impacts', <http://www.rspo.org/about/impacts>, updated on 30 September 2016, (last accessed 19 November 2016).

WHAT IS PALM OIL AND HOW IS IT PROCESSED?

The oil palm (*Elaeis guineensis*) plant originated in West Africa but was developed on a large scale as an agricultural crop in Southeast Asia in the 20th century.³⁰ Oil palm trees can grow up to 20 metres tall and have an average life of 25 years.³¹ The tree starts to bear fresh fruit bunches (FFBs) after three years and reaches peak production between the sixth and tenth year. A FFB can contain from 1,000 to 3,000 individual fruits (the size of small plums), together weighing 10 to 25 kilograms. The fruit yield is about 10 to 35 tonnes per hectare.³²



Fresh fruit bunches in a wheelbarrow inside a plantation in North Sumatra. © Amnesty International



Oil palm trees inside a plantation in North Sumatra. © Amnesty International



Palm fruit. © Amnesty International/Watchdoc

Each part of the palm fruit is used: crude palm oil (CPO) is extracted from the flesh of the fruit, crude palm kernel oil (CPKO) is extracted from the kernel (the nut found in the centre of each fruit), and the pulp left over is pressed together to form palm kernel meal or expeller.³³ The FFBs have to be transported

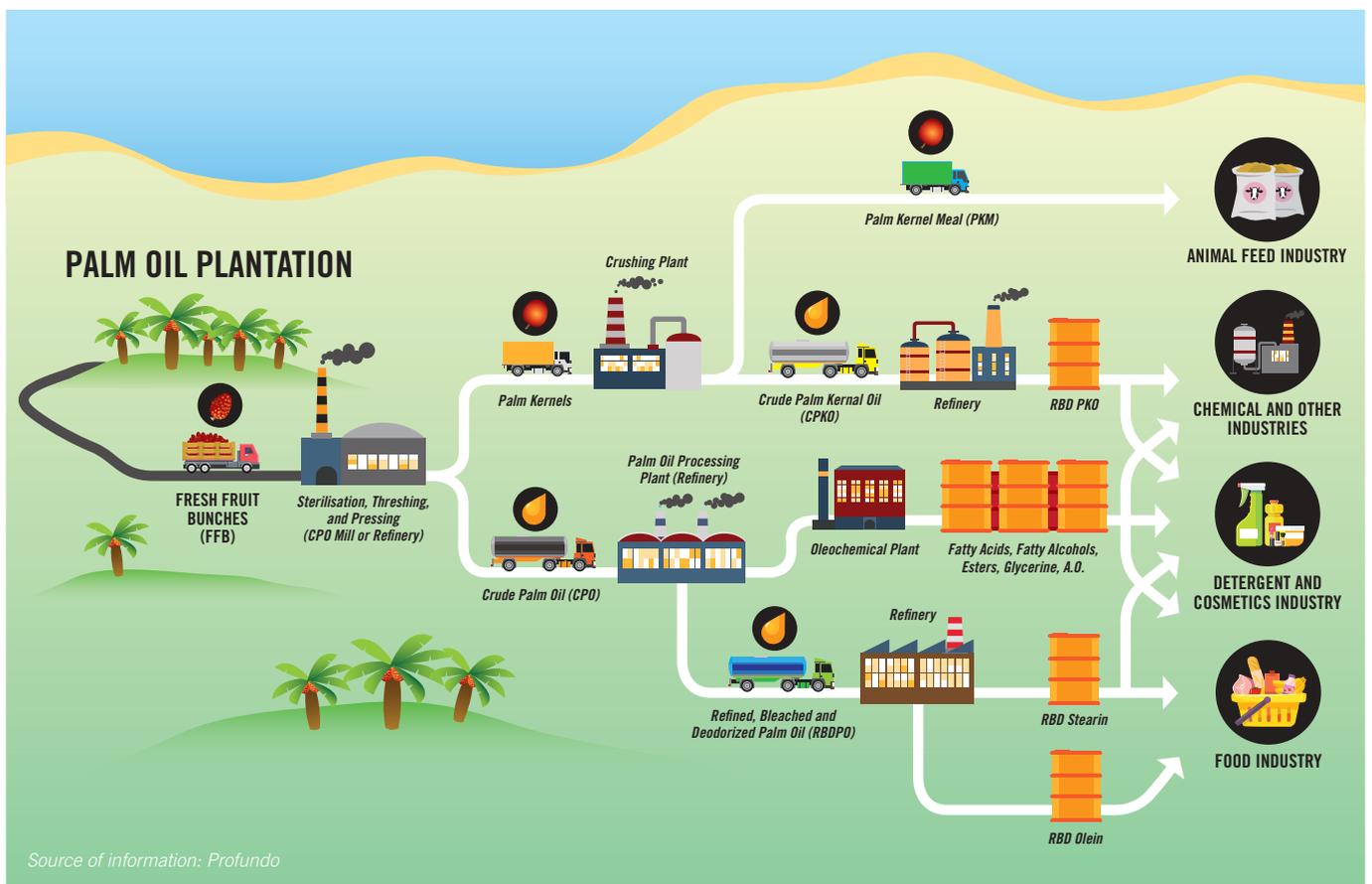
30. Food and Agriculture Organization (FAO), 'Oil Palm', www.fao.org/docrep/005/Y4355E/y4355e03.htm, (last accessed 17 November 2016). The oil palm requires a wet tropical climate with temperatures between 24 and 32 degree Centigrade throughout the year. This means its growth is generally limited to latitudes of approximately ten degrees north and south of the equator, at altitudes below 700 meters.
31. GreenPalm, 'What is palm oil?', <http://greenpalm.org/about-palm-oil/what-is-palm-oil> (last accessed 17 November 2016).
32. J. W. van Gelder, *Greasy Palms: European buyers of Indonesian palm oil*, Friends of the Earth, March 2004, p. 4.
33. GreenPalm, 'What is palm oil?', <http://greenpalm.org/about-palm-oil/what-is-palm-oil> (last accessed 17 November 2016).

to palm oil mills within 24 hours of harvesting to start processing the harvested fruits. Mills are therefore located close to the plantations. At the mills, the FFBs are sterilized and threshed and the palm fruit is separated from the kernel. The palm kernel is

sent to a crushing plant in order to obtain CPKO. The rest of the oil palm fruit is pressed to obtain CPO. The palm kernel meal or expeller which is left over is used in the animal feed industry. See diagram 1 for an overview of the palm oil processing system.



Diagram 1: The palm oil processing system.



The CPO and CPKO is transported to refineries where the oils are processed further into edible oils; speciality fats (used in chocolate, confectionary, cosmetics and other products); oleochemicals (chemical compounds derived from oils such as glycerine); and biodiesel (an alternative fuel produced from vegetable oil or fat).³⁴

Wilmar, under what it describes as its “vertically integrated business model”,³⁵ operates at each stage of the palm oil processing and distribution system. Wilmar has its own plantations where palm fruits are grown and mills where the FFBs are processed. Wilmar owns refineries in Indonesia where CPO and CPKO are processed further. These refineries also source CPO and CPKO from non-Wilmar owned mills (Wilmar refers to these as third-party suppliers). Refineries are generally located close to ports from which the palm oil can be shipped to other destinations. Wilmar owns shipping companies such as Yihai Kerry International Trading Co. Ltd which transport palm oil and other related palm oil products around the world. It has refineries in other parts of the world where the oil may be processed further.³⁶ It sells palm oil and palm-related derivatives to numerous companies and itself produces and markets consumer products such as edible oils, soaps and detergents.³⁷

As palm oil is a liquid commodity, it is mixed at different stages of processing. The RSPO identifies four supply chain models.³⁸ Under one of these models, the ‘identity preserved’ supply chain model, palm oil from a single identifiable certified source is

kept separate from ordinary palm oil throughout the supply chain. Unless a company sources ‘identity preserved’ palm oil, it will receive palm oil which consists of oil from different plantations and mills. Wilmar’s refineries and those of its subsidiaries are mostly certified as ‘mass balance’ and ‘book & claim’.³⁹

WORKERS ON PALM OIL PLANTATIONS

According to the World Bank Group in 2011, the palm oil sector employed an estimated six million people worldwide and approximately two to three million in Indonesia.⁴⁰ Due to low levels of mechanization, large palm oil plantations generate more jobs than other large-scale farming operations.⁴¹ Most of the jobs associated with the palm oil industry are concentrated around growing and harvesting palm fruits rather than the extraction and refining phases (see diagram 1). Clearing and preparing the land for cultivation, planting, fertilizing and managing the plants and trees, and harvesting palm fruits are highly labour-intensive activities. Most of the work is done manually by workers.⁴²

Large palm oil plantations are based in remote, rural areas of Indonesia. The largest areas of land under cultivation are on the islands of Sumatra and Kalimantan. Companies that operate palm oil plantations rely heavily on internal migrants from

34. For further information see <http://www.wilmar-international.com/our-business/tropical-oils/manufacturing/tropical-oils-products/>.

35. Wilmar International, *Wilmar in Asia: Annual Report 2015*, p. 15.

36. See Wilmar International, *Sustainability Report 2015*, pp. 27 – 28.

37. For further information see Wilmar International, *Wilmar in Asia: Annual Report 2015*, pp. 9 – 17.

38. The four models are: 1) Identity preserved: Sustainable palm oil from a single identifiable certified source is kept separately from ordinary palm oil throughout supply chain; 2) Segregated: Sustainable palm oil from different certified sources is kept separate from ordinary palm oil throughout supply chain; 3) Mass balance: Sustainable palm oil from certified sources is mixed with ordinary palm oil throughout supply chain; and 4) Book & claim: The chain is not monitored for the presence of sustainable palm oil. For further information see <http://www.rspo.org/certification/supply-chains> (last accessed 17 November 2016).

39. RSPO, “Members - Wilmar International Ltd - RSPO Annual Communications of Progress 2014”, available at: www.rspo.org/file/acop2014b/submissions/wilmar%20international%20Ltd-ACOP2014b.pdf, (last accessed 17 November 2016).

40. World Bank and International Finance Corporation, *The World Bank Group Framework and IFC Strategy for Engagement in the Palm Oil Sector*, 31 March 2011, pp. 4 and 14.

41. World Bank and International Finance Corporation, *The World Bank Group Framework and IFC Strategy for Engagement in the Palm Oil Sector*, 31 March 2011, p. 14. See also, WWF, FMO, and CDC, *Profitability and Sustainability in Palm Oil Production: Analysis of Incremental Financial Costs and Benefits of RSPO Compliance*, WWF, March 2012, p. 4, which states that the “industry is inherently labor-intensive, requiring a global average of five workers per hectare. Competing oil crops often require approximately one worker for every 200 hectares”.

42. Accenture, *Exploitative Labor Practices in the Global Palm Oil Industry*, Prepared by Accenture for Humanity United, no date, p. 19, available at: http://humanityunited.org/pdfs/Modern_Slavery_in_the_Palm_Oil_Industry.pdf (last accessed 3 August 2016).

other parts of the country for their workforce. Many of these internal migrants were bought to Sumatra and Kalimantan as part of the Indonesian government's controversial transmigration program. Under this program, which was first started by the Dutch colonial government but continues to this day on a smaller scale, millions of landless people were paid by the government to move to the country's less populated islands. Most of these people came from Java and Bali and are referred to as 'transmigrants'.⁴³ Recent and older internal migrants often work on palm oil plantations, especially in Central Kalimantan, which is one of the least populated provinces in Indonesia.⁴⁴ There are very limited options for alternative employment in these rural areas, which are dominated by palm oil plantations.

TYPES OF JOBS THAT WORKERS DO ON PLANTATIONS

Each plantation organises workers into multiple divisions, based on the size of the plantation. Workers are then divided into units based on the types of jobs that they do. The principal units linked to growing and harvesting palm fruits are:⁴⁵

1. Plant maintenance – workers in this unit, many of whom are women on the plantations which Amnesty International focused on, are responsible for planting and maintaining the plants. Amongst other tasks, this requires them to apply fertilizers to planted crops and chemicals to control pests, diseases and weeds.
2. Harvesters – these workers, who are always male, are responsible for harvesting fresh fruit bunches from palm trees. They cut fresh fruit bunches from the tree using long poles with sickles attached to them, collect bunches and any loose fruit kernels which have fallen from the tree and

take them to collection points to be transported to the mill.

3. Transport – loaders and drivers pick up the harvested fresh fruit bunches, load them manually on to small trucks and deliver them to mills where they are processed. Mills are typically located on or near palm oil plantations. Drivers transport extracted crude palm oil and crude palm kernel oil to refineries where the oil is processed further to turn it into refined and edible oils.

Workers are also employed on mills in plantations but milling is a highly automated process,⁴⁶ and as noted earlier, the majority of workers on palm oil plantations are employed to grow and harvest palm oil fruit.



Harvesting palm fruits with a dodos (short pole with a chisel used to harvest fruits from trees up to three metres tall). © Amnesty International

43. World Bank, Independent Evaluation Group, 'Transmigration in Indonesia', <http://lnweb90.worldbank.org/oed/oeddoclib.nsf/DocUNIDViewForJavaSearch/4B8B0E01445D8351852567F5005D87B8> (last accessed on 3 August 2016).

44. L. Potter, 'Oil Palm and the New Transmigration in Indonesia: Examples from Kalimantan', available at: https://crawford.anu.edu.au/rmap/pdf/seminars//seminar_paper_6091.pdf, no date.

45. Amnesty International's interviews with workers and supervisory staff in Central Kalimantan and North Sumatra, in February, October and November 2015.

46. Accenture, *Exploitative Labor Practices in the Global Palm Oil Industry*, Prepared by Accenture for Humanity United, no date, p. 23, available at: http://humanityunited.org/pdfs/Modern_Slavery_in_the_Palm_Oil_Industry.pdf (last accessed 3 August 2016).

STATUS OF WORKERS

Under Indonesian law, workers can be employed either on a permanent or a fixed-term employment contract.⁴⁷ Employers can also hire people as daily labourers for work which is changeable and for which wages are based on attendance, as long as the workers do not work more than 21 days a month. Individuals who work under these daily agreements are commonly referred to as casual day labour (*buruh harian lepas* or BHL workers).⁴⁸

Casual daily labourers, the majority of whom are women on the plantations Amnesty International investigated, are not provided with social security benefits such as health insurance and pensions. Their employment status is fundamentally insecure and they have no safeguards around termination of employment.



Worker loading fresh fruit bunches. © Amnesty International/Watchdoc

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47. Article 56, Law 13 of 2003 Concerning Manpower (Manpower Act). Article 1, Minister of Manpower and Transmigration Decree No. 100/2004 Concerning Stipulation in Implementation of Work Agreement for Specified Period of Time, (Keputusan Menteri TenagaKerjadan Transmigrasi Republik Indonesia Nomor: Kep.100/Men/VI/2004 Tentang Ketentuan Pelaksanaan Perjanjian Kerja Waktu Tertentu).
48. Article 10, Minister of Manpower and Transmigration Decree No. 100/2004.



Aerial view of PT Perkebunan Milano's palm oil plantation in North Sumatra. PT Perkebunan is a subsidiary of Wilmar International.
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4. QUOTAS FOR EXPLOITATION

Amnesty International investigated labour rights abuses on plantations owned by two Wilmar subsidiaries in North Sumatra, PT Perkebunan Milano (PT Milano) and PT Daya Labuhan Indah. Researchers also investigated working practices at plantations owned by three companies that supply palm oil to Wilmar; PT Sarana Prima Multi Niaga (SPMN) and PT Hamparan Masawit Bangun Persada⁴⁹ (PT Hamparan), based in Central Kalimantan, and PT Abdi Budi Mulia (ABM) based in North Sumatra. This chapter describes the output targets and piece rates that companies set for workers and examines the human rights abuses that result because of these targets and piece rates.

A COMPLEX AND OPAQUE SYSTEM WHICH ENABLES EXPLOITATION

Companies that Amnesty International investigated use a complex system to calculate workers' wages, based on both time worked and output per worker. Companies set output targets for the tasks that workers need to complete which are based on either the volume or the area which must be covered. Harvesters are set targets for the total weight of the fresh fruit bunches that they need to collect. The weight of each fresh fruit bunch varies based on the age of the tree so targets are set in relation to the age of the trees that the harvester is collecting fruits from. For example, ABM, a Wilmar supplier, sets harvesters a target of collecting 950 kgs per day (this amounts to 23,750 kgs per month) from trees that were planted in 2006. Targets for harvesters are set based on the age of the trees, and this is linked

49. PT Hamparan one of four growers of palm fruits owned by the BEST Group. Neither PT Hamparan nor the BEST Group are listed as suppliers of Wilmar, but in a letter responding to Amnesty International, Wilmar confirmed that it sources palm oil from PT Batara Elok Semesta Terpadu, a refinery in Indonesia owned by the BEST Group. PT Batara Elok Semesta Terpadu receives palm oil from plantations owned by the BEST Group according to the information on the BEST Industry Group's website, see <http://bestindustrygroup.com/news.php?id=1> (last accessed 22 November 2016).

to the expected productivity of the trees of a given age. If the harvester meets his target, he receives his basic monthly wage. If he doesn't meet his target, the company deducts one seventh of his salary, irrespective of the fact that he has worked his working hours or longer throughout the month.⁵⁰ Harvesters receive a bonus of 37 Indonesian Rupiahs (US\$0.003)⁵¹ per kg for any fresh fruit bunches that they collect over the target (that is anything above 950 kgs per day).

Workers in the plant maintenance units are given targets for the number of sacks of fertilizer that they should spread, number of tanks of chemicals that they need to spray or rows of plants that they need to weed, etc. For example, in PT Milano, a Wilmar subsidiary, workers have to spray nine tanks of chemicals every day. Each tank is 12 litres and the workers has to cover an area of five hectares. Workers have a target of spreading 15 to 17 sacks of fertilizers. If the worker is unable to meet the target, she will be paid the daily wage but the work that she hasn't completed is added on to her next day's target. On the following day, she has to meet her normal daily target and complete any work left over from the previous day's target.⁵²

Drivers' and loaders' targets are set with reference to the weight of fruits that they load or transport.⁵³

MINIMUM WAGE AND OVERTIME PAYMENTS

Indonesian law sets limits on hours of work (40 hours a week) and overtime (a maximum of three hours per day or 14 hours per week).⁵⁴ It also specifies the payments that workers should receive for overtime work (one and a half to three times the hourly wage).⁵⁵



Fresh fruit bunches stored for collection on a plantation in Central Kalimantan. © Amnesty International

The Governor of each province in Indonesia sets the minimum wage for each province and each city and can also identify minimum wages for particular business sectors.⁵⁶ There is a wide divergence in the minimum wage across the country. For example, in 2015 the minimum wage in Jakarta was 2.7 million Indonesian Rupiahs (US\$199), two and a half times greater than Central Java, the province with the lowest minimum wage in that year.⁵⁷

The Governor of Central Kalimantan set the minimum wage in 2015 at 1,896,367 Indonesian Rupiah (US\$139) per month and the sectoral minimum wage for plantations at 1,999,185 Indonesian Rupiah (US\$147). Both of these values, set by the Governor, are lower than the amount identified, by wage councils

50. Amnesty International's interviews with workers, North Sumatra, October and November 2015.

51. All currency conversions in this report from Indonesian Rupiahs to US Dollars have been done using www.xe.com/ucc, exchange rates as of 23 November 2016.

52. Amnesty International's interviews with workers, North Sumatra, October and November 2015.

53. Amnesty International's interviews with workers and supervisory staff, Central Kalimantan and North Sumatra, February, October and November 2015.

54. Articles 77 and 78, Manpower Act.

55. Article 11, Minister of Manpower and Transmigration Decree No.102/2004 Concerning Overtime Work and Overtime Pay, (Keputusan Menteri Tenaga Kerja dan Transmigrasi Nomor Kep.102/MEN/VI/2004 Tentang Waktu Kerja Lembur dan Upah Kerja Lembur).

56. Articles 88 and 89, Manpower Act.

57. The Economist, 'Stage set for stormy minimum-wage negotiations', 1 October 2015, available at: <http://country.eiu.com/article.aspx?articleid=1153548699&Country=Indonesia&topic=Economy> (last accessed 17 November 2016).

in the province,⁵⁸ as necessary for people to have a ‘minimum decent standard of living’: this amount is 2,254,000 Indonesian Rupiahs (US\$166) per month.⁵⁹ The minimum wage per day works out to 84,611 Indonesian Rupiahs (US\$6).

In North Sumatra the minimum wage for 2015 was 1,625,000 Indonesian Rupiahs (US\$120) and the sectoral minimum wage was 2,250,000 Indonesian Rupiahs (US\$167).

Across all the companies that Amnesty International investigated, workers in plant maintenance units and harvesters are rarely paid overtime for extra hours worked. Companies pay harvesters on the basis of targets of weights of fresh fruit bunches that they need to collect and a ‘bonus’ payment for meeting or exceeding these weights. The targets are set by individual companies and, in general, the daily and monthly targets are set so that the worker needs to reach the target in order to be paid the minimum wage. Families are heavily dependent on the ‘bonuses’ that harvesters receive for exceeding targets in order to earn enough to be able to meet their families’ needs. They would struggle to do so if either or both spouses just earned minimum wages, which are too low to meet the living costs for the entire family. Workers who live on one of the plantations investigated by Amnesty International said that the prices of basic goods is more expensive at the shops on or near the plantation as they are far away from main markets.⁶⁰ For example, one of the plantations that Amnesty International focused is situated approximately 100 kms from the closest town. It takes the workers about two and a half hours by motorbike to get to the town. An activist who collected information on living expenses for families working on plantations in Central Kalimantan found that families with two

children need to spend around 1.8 million Indonesian Rupiahs (US\$132) just on food for the family. He also recorded that the price for food can be 40% – 50% higher in shops on the plantations, in comparison to towns.⁶¹

CONSEQUENCES OF NOT MEETING THE TARGET

The consequences of not meeting the target diverge across the different Wilmar subsidiaries and suppliers that Amnesty International investigated and across categories of workers. Workers can face deductions of their salary for failing to meet their targets, in some cases leading to their salaries falling below the minimum wage, or lose out on ‘bonus’ payments despite working long hours in excess of the working hours limit.

In SPMN, a Wilmar supplier, harvesters and those who work in plant maintenance are paid through piece rates for the work done. Piece rate pay occurs when workers are paid by the unit performed (for example the number of trees pruned) instead of being paid on the basis of time spent on the job.⁶² For example, each worker has the target of spreading 18 sacks of manure (fertilizer) per day. If she finishes spreading all the sacks, she is paid the daily minimum wage in Central Kalimantan. If she doesn’t, the company will deduct an amount from her pay for each sack that she has not completed (she will only be paid *pro rata* for the sacks she has spread). If she manages to exceed the target and spread more sacks of manure, she will be paid an additional amount for each additional sack.⁶³ For certain types of work such as clearing pathways, workers in SPMN receive a fixed daily wage.

58. Articles 89 and 98, Manpower Act. Minister of Manpower and Transmigration Regulation No. 13/2012 on Components and Implementation of Steps to Achieve the Needs of Adequate Living (Peraturan Menteri Tenaga Kerja dan Transmigrasi Nomor 13 Tahun 2012 tentang Komponendan Pelaksanaan Tahapan Pencapaian Kebutuhan Hidup Layak) and Minister of Manpower and Transmigration Regulation No. 2/2016 on the Minimum Decent Standard of Living (Kebutuhan Hidup Layak).

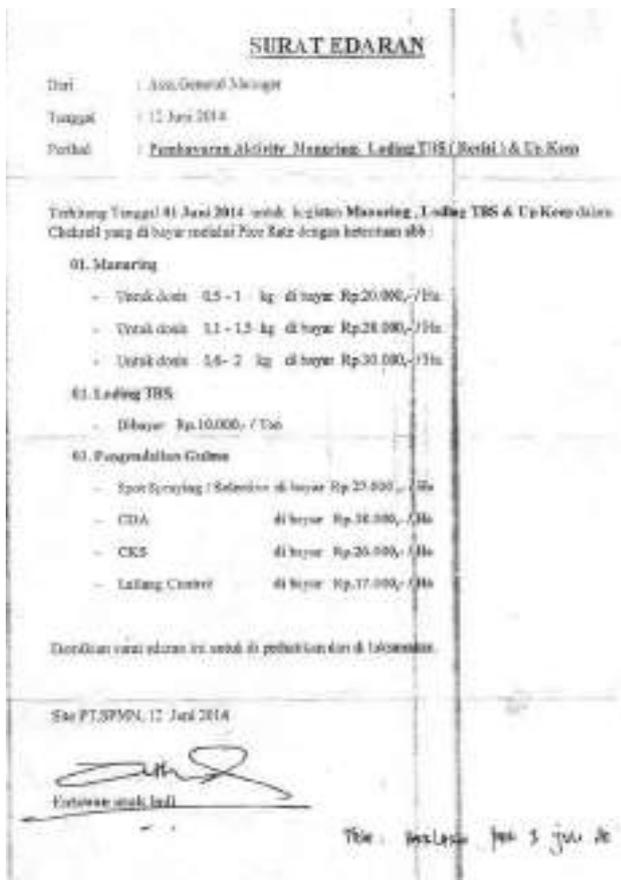
59. See www.bps.go.id/linkTableDinamis/view/id/1212 (last accessed 17 November 2016).

60. Amnesty International interviews with workers in Central Kalimantan, November 2015.

61. Information shared with Amnesty International by email, November 2016.

62. See www.ilo.org/global/topics/wages/minimum-wages/definition/WCMS_439067/lang--en/index.htm for more information on the need for regulation on piece rates to make sure that workers are still paid a fair wage (last accessed 22 November 2016).

63. Amnesty International interviews with workers, Central Kalimantan, February and November 2015. Amnesty International obtained a copy of a circular letter, dated 12 June 2014, from the Assistant General Manager which sets out the rates that workers will be paid at for manuring (spreading fertilisers), loading fresh fruit bunches and upkeep. The circular sets out, for example, that workers will be paid 20,000 Indonesian Rupiah per hectare for spreading fertiliser at the dosage of 0.5 – 1 kg (rates vary based on the dosage). They will be paid 18,000 Indonesian Rupiah per hectare for spraying chemicals using controlled droplet applications (CDA) and 10,000 Indonesian Rupiah per ton for loading fresh fruit bunches.



A copy of a circular letter, dated 12 June 2014, from the Assistant General Manager, to workers at SPMN, which sets out the piece rates that workers will be paid for spreading fertilizers and spraying chemicals. © Private

ABM, another Wilmar supplier, deducts a harvester's wages if the worker fails to meet their targets. Harvesters have a target of collecting 950 kgs of fresh fruit bunches per day for trees that were planted in 2007. If harvesters are not able to meet their monthly target, their monthly salary is deducted by one seventh (there is no known basis for the amount that is deducted). Workers in plant maintenance can lose either a full day's wages or half a day's wages if they do not meet their targets.⁶⁴

PT Hamparan, part of the BEST Group which supplies Wilmar, deducts workers' pay if they do

not meet their targets and workers are only paid for a random proportion of the hours they have worked in the day. Workers in plant maintenance are paid through piece rates.⁶⁵

PT Milano, a subsidiary of Wilmar, deducts the payment that harvesters are meant to receive for picking up loose fruit if they don't meet their targets. In addition to collecting fresh fruit bunches from trees, harvesters are supposed to pick up any loose fruit that falls to the ground and they receive an additional payment per kilogram of loose fruit that is collected. However the payment for the loose fruit that they have collected is deducted by the company by an unspecified amount to make up the gap when a worker hasn't met his target.

If workers in maintenance don't meet their targets, the work that they have not completed is added on by their supervisors to their next day's target. In PT Daya Labuhan Indah, another subsidiary of Wilmar, workers in maintenance may not be paid if they don't meet their targets.⁶⁶ They can carry over the work to the next day but if it takes the worker two days to meet the target, she will only be paid for one day's work. Harvesters who don't meet their targets may receive an oral warning.⁶⁷

Targets appear to be set arbitrarily to meet companies' needs rather than based on a realistic calculation of how much workers can reasonably do in their working hours. A staff member in a supervisory capacity employed by a Wilmar supplier told researchers: "The company looks at the number of plants in one acre and then decides how many people are needed to collect the fruit and this is used to determine how many fruits a worker should collect".⁶⁸ Another supervisor who is employed by a different Wilmar supplier said: "I am afraid that if workers consistently make over the target, the company will raise the target. The company increased the target when they

64. Amnesty International interviews with workers, North Sumatra, October 2015.

65. Amnesty International interviews with workers, Central Kalimantan, February and November 2015.

66. Amnesty International interviews with workers, North Sumatra, November 2015.

67. Amnesty International interviews with workers, North Sumatra, October and November 2015.

68. Amnesty International interview, details withheld to protect identity.

69. Amnesty International interview, details withheld to protect identity.

switched to the piece rate system”.⁶⁹ The targets are not modified in low seasons (when there is a lower yield of palm fruits). This shifts the burden of poor yield or bad weather conditions on to workers who have to work long hours to meet the same target even though there are fewer fruits to be collected. As discussed in greater detail below, workers in plant maintenance are not paid for the day if it rains at a certain time of the morning. This is ostensibly because the rain washes away or dilutes the chemicals they have applied to the plants and this seems to be treated akin to the workers not having met their targets.

“What we want is that if we work for seven hours, we are paid the daily wage but if we work more than that then they pay us for the [extra] work we do. Right now even if we work 10 hours or all day, we cannot get the daily wage ... if we spray until 11[am] from the morning and then it rains – we won’t get paid for that day because what they sprayed has been diluted and has been in vain. We cannot predict nature. If we work until 12[pm] and it rains, we won’t get paid because the poison will be ineffective or less effective. We have to do the work again and only then we will get paid. We don’t get paid additionally for the extra work just the daily wage.

The harvesters have to meet various criteria: the number of fresh fruit bunches - 185ffb for 2005/2006 plants [185 fresh fruit bunches for trees planted in 2005 or 2006] - to get 80,000 [the daily wage]. If they don’t get it, their pay is cut and some people work into the afternoon. The company looks at the number of plants in one acre and then decides how many people are needed to collect the fruit and this is used to determine how many fruit a worker should collect (this is called the harvest frequency rate). If they don’t get the number of fruit they are supposed to, they will get a pay cut.

The number of fruit they can collect is based on the yield, if the yield is low, then it takes longer to collect the fruit. What we want is that we get paid the daily

wage for the hours we do. In factories, people get paid more when they work extra hours.”

– B, who works for PT Hamparan, part of the BEST Group which supplies Wilmar.⁷⁰

PHYSICALLY DEMANDING WORK

The work that harvesters and workers in plant maintenance do is extremely physically demanding. Harvesters use long steel poles (egrek) with a sickle at the end which can weigh around 12 kgs, to cut the palm leaves and branches, and then the palm fruit bunches, down from trees which may be up to 20 metres tall. For smaller palm trees up to three metres tall, harvesters use a shorter pole with a big chisel (*dodos*) at the end. Each palm fruit bunch can weigh from 15 to 25 kgs and harvesters have to load the fresh fruit bunches onto wheelbarrows and take them to collection points. They often have to manoeuvre heavy wheelbarrows filled with fruit over uneven terrain and across narrow bridges that connect harvest areas to the road.

E, a harvester who works for a Wilmar supplier said: *“The work is really hard for me because of the condition of the field. During the rainy season the rows fill with water and we cannot carry the fruit by wheelbarrow so our feet get stuck in the peat and it is tough for us to walk. We have to harvest the fruit and collect the loose fruit. If the area around the tree is clear, it is easier for us, if there is grass, it is hard for us collect the fruit. We have to cut the fruit bunch close to the stem, which is tough. We have to take the fruit to the collecting point. It is very hard to harvest the fruit when the fruit bunches are surrounded by branches. I have to cut the branches to reach the fruit. I have to put all the branches I have cut in a line in the row. I have to cut the leaves and put them in the row. I collect the fruit in a sack and put them in a wheelbarrow and take them to the collecting point. The collecting point is 150 metres from the farthest tree. My working area is two hectares.”⁷¹*

70. Amnesty International interview with B, Central Kalimantan, date withheld to protect identity.

71. Amnesty International interview with E, Central Kalimantan, November 2015.



Harvester using dodos (short pole with a chisel used to harvest fruits from trees up to three metres tall). © Amnesty International/Watchdoc



Egrek. © Private



Egrek - long steel poles with a sickle at the end, which can weigh around 12kgs, that harvesters use to cut palm fruit bunches from tall trees. © Private



Woman spreading fertilizer on a plantation that was investigated in North Sumatra, name of plantation withheld for safety. © Private

ADDITIONAL TASKS AND PENALTIES

There are a number of smaller tasks which harvesters are required to do in addition to their core tasks of harvesting and collecting the fresh fruit bunches.

These include:

1. Cutting down large palm leaves (fronds) from the tree, cutting each frond into two and putting them in special stacking areas between trees;
2. Cutting the main stem on each bunch of palm fruits into a 'V' shape;
3. Cutting down overgrown small plants which grow on the bark of or around the palm trees;
4. Collecting loose fruit kernels which fall from the tree, cleaning them and putting them into sacks; and
5. Organising the fresh fruit bunches at the harvest collecting site after transporting them there in wheelbarrows.

Workers can face financial and other penalties such as receiving an oral or written warning if they fail to complete any of these tasks.⁷⁴

Workers in the plant maintenance units carry out weeding, spread fertilizers, and spray chemicals on plants, amongst other tasks. All of these are manual tasks which are physically demanding. Workers carry heavy sacks of fertilizers to spread them. The protective equipment that they need to wear when handling chemicals is also uncomfortable to wear in the heat.

Literature on musculoskeletal disorders amongst agricultural workers point to a high prevalence of musculoskeletal disorders amongst palm plantation workers.⁷² Most of the studies have pointed to prevalence of musculoskeletal disorders linked to repetitive movements, awkward posture, lifting heavy weights and use of tools to manually cut fresh fruit bunches.⁷³ There has been a limited focus on the work done by women.



Tank used for spraying chemicals. © Amnesty International

72. See for example, Y. Guan NG, et. al., 'The prevalence of musculoskeletal disorder and association with productivity loss: A preliminary study among labour investing manual harvesting activities in palm oil plantations', *Industrial Health*, Volume 52, 2014.

73. See for example, E. H. Sukardarin, et. al., 'Investigation of Ergonomics Risk Factors for Musculoskeletal Disorders among Oil Palm Workers using Quick Exposure Check (QEC)', *Advanced Engineering Forum*, Volume 10, 2013.

74. Amnesty International interviews with workers and supervisory staff, Central Kalimantan and North Sumatra, February, October and November 2015.



Woman collecting loose fruit. © Amnesty International/Watchdoc

UNPAID WORKERS AND CHILD LABOUR

In order to meet their targets, earn bonuses and avoid penalties, workers on all the plantations that Amnesty International investigated said that they get help from their spouses, children or others to complete certain tasks.⁷⁸

Harvesters from all plantations confirmed that they ask their wives and in some cases, as discussed in greater detail below, their children to help complete tasks such as picking up loose fruits.⁷⁹

J, who works for a Wilmar subsidiary in North Sumatra, said: *“It depends on the harvest, if it is harvest time, we work seven days. On Sunday we work for kontanan [cash payment for additional work]. If we want to get a bonus, we work longer. My wife helps me then I get 2.7 million [Indonesian Rupiahs].”*⁸⁰ All of us

work extra because we are scared of our bonus being deducted. This is why I bring my wife to work to help me work extra. ... My wife helps me when she has time, nowadays she is helping me every day because my salary isn't enough.

*... My wife helps pick up the loose fruit. I haven't met the target sometimes and then the foreman and other managers get angry with me. I lost my loose fruit bonus. I feel upset with the company because the condition is not caused by me but by the availability of the fruit, how come they cut my salary for a target which is not met by the fruit? The fear of losing that payment makes me work longer hours, that's why I take my wife.”*⁸¹

T, who works in plant maintenance for a Wilmar supplier, said: *“My husband is a harvester and I help him. ... Based on the type of fertilizer, I need to spread 14 or 15 sacks. I try and finish as quickly as possible and then go to help my husband so we can collect as much money as possible. We are not from here, we are from Central Java. If there is a lot of fruit, we work seven days a week otherwise six days. Our working day depends on the yield, sometimes I finish at 12pm, other days I work till 3pm or 4pm. We take a break for lunch and go back out when there is a lot of fruit to collect.”*⁸² T and the other women who help their husbands can end up working 10 to 12 hour days when they finish their own work and help their husbands in the afternoons. They are however not paid by the company for the work that they do alongside their husbands. Their contribution affects the pay their husbands receive and also helps their husbands avoid penalties for not completing certain tasks. Wilmar does not acknowledge the additional work done by the women in any of its reports on compliance with the companies' policies. It also did not address this issue in response to Amnesty International while discussing the high numbers of female temporary workers.⁸³

78. Amnesty International interviews with workers, Central Kalimantan and North Sumatra, February, October and November 2015.

79. Amnesty International interviews with workers, Central Kalimantan and North Sumatra, February, October and November 2015.

80. US\$ 199.

81. Amnesty International interview with J, North Sumatra, October 2015.

82. Amnesty International interview with T, location and date withheld to protect identity.

83. Wilmar International letter to Amnesty International, dated 17 October 2016.

Some women workers also said that they ask their husbands or another male worker to help them reach their target so as not to lose their pay, though this was rarer. For example, E, who works for a Wilmar subsidiary as a casual daily labourer in the plant maintenance unit said that she pays a male worker some money to buy cigarettes to help her when she is struggling to meet her target and if her husband is not available to help.⁸⁴

N, a former supervisor who worked for a Wilmar supplier said: “Most of the time after 2pm, you can

see harvesters’ wives helping them collect to add to the number of fruit. The wife may be working in the maintenance but will come to help the husband after finishing her shift. It is rare for them not to help their husbands. Out of one year, they would not do that only during three to four months, when the trees have less fruits [the wives help their husbands all year long, other than the three to four months in the low harvest season] ...It is easily visible at the end of the month the people who had assistants earned more.”⁸⁵

HIERARCHY AMONGST SUPERVISORY STAFF

General Manager

Manager

Field Officer (FO)

Field Assistant (FA)

Foreman (*Mandor*)

Kerani [clerk who checks and makes note of the number or weight of the fruits]

CHILD LABOUR

Indonesian law prohibits anyone from employing and involving children (any person under the age of 18) in the worst forms of labour.⁸⁶ The worst forms of child labour include work which is harmful to the health, safety or morals of children; it is regulated under a Ministerial Decree.⁸⁷ The Ministerial Decree defines these types of work to include: jobs using certain types of tools or machinery; working in a dusty environment; working in extreme temperatures

or with harmful chemical substances; and work which involves manually lifting or carrying heavy loads. The Decree’s definition includes any jobs which involve manually lifting and carrying loads that are higher than 12 kgs (if the child is a boy) or 10 kgs (if the child is a girl).⁸⁸ The National Action Plan for the Elimination of the Worst Forms of Child Labour, adopted under Presidential Decree No. 59 of 2002, states that the definition of worst forms of child labour in Indonesia includes children employed on plantations.⁸⁹

84. Amnesty International interview with E, location and date withheld to protect identity.

85. Amnesty International interview with N, location and date withheld to protect identity.

86. Article 74, Manpower Act.

87. Article 74 (2) (d) and (3), Manpower Act.

88. Minister of Manpower and Transmigration, Decree No. 235/2003 on Forms of Dangerous Labour against Health, Safety and Moral of the Child (Keputusan Menteri Tenaga Kerja dan Transmigrasi No. Kep-235/Men/2003 tentang Jenis-jenis Pekerjaan yang Membahayakan Kesehatan, Keselamatan atau Moral Anak).

89. Presidential Decree No. 59/2002 on National Action Plan to Eliminate Worst Forms of Child Labour (Keputusan Presiden Republik Indonesia Nomor 59 tahun 2002 Tentang Rencana Aksi Nasional Penghapusan Bentuk-Bentuk Pekerjaan Terburuk Untuk Anak).

Article 68 of the Manpower Act states the employers should not employ children (defined under Article 1 as anyone below the age of 18 years of age). An exception is made for light work and employers are permitted to employ children aged between 13 and 15 years for light work, which does not disrupt their physical, mental or social development. Such light work should not be for longer than three hours a day and should not disrupt children's schooling.⁹⁰ However, Indonesia has also adopted Law No. 20/1999 (through which Indonesia ratified the ILO Minimum Age Convention, No. 138) and that law defines the minimum age of employment as 15 years of age. The Minister of Manpower and Transmigration Decree No. 235/2003 on Forms of Dangerous Labour against Health, Safety and Moral of the Child also provides that children aged 15 and above may work, other than in work which may endanger the health, safety or morals of children which is prohibited till the age of 18.⁹¹

Wilmar's company policy states that the company, its suppliers or sub-contractors should not knowingly use or promote the use of child labour and shall take appropriate measures to prevent the use of such labour in connection with their activities.⁹²

Amnesty International documented evidence of child labour, including work that would meet the definition of worst forms of child labour, on plantations owned by PT Daya Labuhan Indah, PT Milano, ABM, SPMN, and PT Hamparan.

Workers employed by all of these companies told researchers that they see children working on the plantation, helping their parents. Because of a fear that they could lose their jobs if they spoke about this issue, parents were nervous about being interviewed about child labour. Researchers however interviewed five children who help their fathers and also interviewed their fathers. They interviewed five other fathers, who are harvesters, who described how their children work with them on plantations. All these interviews had to be done carefully because of the risks to the workers and families. Some children started working from the age of eight years onwards. Most of the children help their parents in the afternoons, after attending school, and on weekends and holidays. However, some children have dropped out of schools to help their parents and work for all or most of the day.



An eight year old boy who collects loose fruit to help his father, in the afternoons after school. Name of company and location withheld for safety.
© Amnesty International/
Watchdoc

90. Article 69, Manpower Act.

91. Article 3, Minister of Manpower and Transmigration Decree No. 235/2003.

92. Wilmar International, No Deforestation, No Peat, No Exploitation Policy, 5 December 2013.

THE WORST FORMS OF CHILD LABOUR

Indonesia is a party to the International Labour Organization (ILO) Worst Forms of Child Labour Convention, 1999 (No. 182), which requires governments to take immediate and effective measures to secure the prohibition and elimination of the worst forms of child labour.⁹³ Children are defined as all persons under the age of 18⁹⁴ and 'the worst forms of child labour' comprises amongst others, "work which, by its nature or the circumstances in which it is carried out, is likely to harm the health, safety or morals of children."⁹⁵

The ILO has identified various hazards linked to common tasks in crop agriculture, these include potential health consequences of carrying heavy loads or while weeding and harvesting, risks of using sharp tools, and exposure to extreme weather.⁹⁶ Most recent research has however centred on health impacts of exposure to pesticides. The ILO notes: "Although not well researched, long-term pesticide exposure at low levels has been associated with chronic health problems in children, such as cancer and reproductive health problems ... Particularly alarming are studies that show that young people's neurological development is affected by exposure to pesticides."⁹⁷

The ILO has also identified specific safety and health hazards in relation to children working on palm oil plantations. These include being hit by falling fruit branches; injuries from cutting tools; skin abrasions due to contact with oil palm fruit and thorns; eye damage from falling palm fronds; poisoning and long term health effects from pesticide use or exposure; musculoskeletal injuries from repetitive movements and lifting and carrying heavy or awkward loads; high levels of sun exposure which can result in skin cancer and heat exhaustion; long working hours; stress; and snake and insect bites (especially mosquitoes and fire caterpillars, an oil palm pest). The use of the *dodos* and *egrek* to harvest fruit bunches puts a lot of strain on the musculoskeletal system.⁹⁸ The Indonesian Minister of Manpower and Transmigration carried out a pilot action research on hazardous forms of child labour in the palm oil plantation sector. The Minister interviewed 75 child labourers aged between nine to 17 years. Amongst other findings, they highlighted that: the average load carried was 10 kilograms over a distance of 250 metres; nearly 75% did not have gloves, and most had suffered cuts, scratches and abrasions; nearly 90% had no training before working; 68% experienced heat exhaustion at a "heavy heat stress level"; and the average working time was more than four hours per day, without any regular break time.⁹⁹

CHILDREN WHO HAVE DROPPED OUT OF SCHOOL TO WORK

X, works as a harvester for a Wilmar subsidiary. He said: "My son who is 14 years old helps me. He has helped me for the last two years. He doesn't

go to school because I often feel unwell and can't meet my target so I asked him to help me. My sons collects fruits and when I am tired, he harvests and transports fruits to the collection point. He also weeds. I have two other children who are 10 and 12 and they help me after school as does my wife."¹⁰⁰

93. Article 1, ILO Worst Forms of Child Labour Convention, 1999 (No. 182).

94. Article 2, ILO Worst Forms of Child Labour Convention, 1999 (No. 182).

95. Article 3 (d), ILO Worst Forms of Child Labour Convention, 1999 (No. 182).

96. ILO, *Children in Hazardous work: What we know, what we need to do*, 2011, pp. 21 - 22, available at: www.ilo.org/wcmsp5/groups/public/@dgreports/@dcomm/@publ/documents/publication/wcms_155428.pdf (last accessed 14 September 2016).

97. ILO, *Children in Hazardous work: What we know, what we need to do*, 2011, p. 23, available at: www.ilo.org/wcmsp5/groups/public/@dgreports/@dcomm/@publ/documents/publication/wcms_155428.pdf (last accessed 14 September 2016).

98. ILO, *International Programme on the Elimination of Child Labour Safety and Health Fact Sheet: Hazardous Child Labour in Agriculture – Oil Palm*, March 2004, p. 1.

99. ILO, 'Child labour in plantation', available at: www.ilo.org/jakarta/areasofwork/WCMS_126206/lang--en/index.htm (last accessed 14 September 2016)

100. Amnesty International interview with X, North Sumatra, date and company name withheld to protect the worker's safety.



X and his family who help him with his work as a harvester at a Wilmar subsidiary. His 14 year old son B, has dropped out of school to help him full time. His 10 and 12 year old sons, J and M, help in the afternoons after school. © Amnesty International

Amnesty International researchers interviewed X's family as he is helped by his 14 year old son B who has dropped out of school to help him and after school by his 10 and 12 year old sons J and M. His son B, who is 14 years old, said: "I have helped my father every day for about two years [since B was 12 years old]. I studied till sixth grade in school. I left school to help my father because he couldn't do the work anymore. He was sick. I am concerned that I haven't finished school. ... I would like to go back to school, I left because my father was sick and I had to help.

I help my father from the morning till the evening. I join the morning briefing at 7am. I meet the foreman there. The foreman one, the assistant and the manager have all come to the morning briefing when I have been there. The foreman, foreman one, assistant and the kerani [clerk who checks and makes note of the number or weight of the fruits] come every day. The manager comes every week.

I work from 8am till 4pm. We work from Monday to Saturday. I cut the fruit with the dodos [short pole with a chisel], I transport the fruit using the wheelbarrow, I collect the loose fruit, I throw away the branches, I organise the fruit at the collection point. It is tiring. It is hard to use the dodos, I learnt to use it from my father. My palms hurt and my arms are tired and sore. The foreman asks me every day whether my block was completed or not. Around the time I started, the foreman told me to put the loose fruit into the sack. The kerani asks me every day how many fruit have I collected? They have never asked why I am not in school. There are other children of my age who join the morning briefing. I have joined the morning briefing every [working] day for the last two years.

I regret leaving school. I would have liked to gone to school to become smarter. I would like to become a teacher."¹⁰¹

101. Amnesty International interview with B, North Sumatra, date and the company name withheld to protect the child's safety.



K works as a harvester for a Wilmar supplier. C, his 10 year old son, dropped out of school to help him with his work. Name of company and location withheld for safety. © Amnesty International

C, a 10 year old boy, dropped out of school after the second grade and helps his father who works at a Wilmar supplier. He has helped his father since he was eight years old. He said: *“I help my father from 6am – 12pm every day from Monday to Saturday. I don’t go to school ...I only pick up the loose fruit. I carry the sack with the loose fruit by myself but can only carry it half full. It is difficult to carry it, it is heavy. I do it in the rain as well but it is difficult. I collect two to five full sacks. The hardest thing is to gather the loose fruit because they are heavy. My hands hurt and my body aches. The foreman talks to me. I see other children helping their parents.”*¹⁰²

His father, K, said: *“I get the premi (bonus) from the loose fruit that’s why my kids help me. I wouldn’t be able to meet the target ... otherwise. ... The foreman sees my children helping me. The foreman says it is good that my child is helping me. [A senior manager] ... has come when my child was helping me and not said anything. He doesn’t come out of his car. He yells out orders from his car to the foreman.”*

K’s other children also sometimes work with him. K told Amnesty International that his 14 year old daughter helps him in the afternoon and C, his 10 year old son, helps him in the morning and sometimes also in the afternoons. His daughter takes the fruit bunches using a wheelbarrow to the collection point. K also works in maintenance in the afternoons to make additional money and said that his daughter helps him weed.¹⁰³

HAZARDOUS WORK BY YOUNG CHILDREN

Children described to Amnesty International researchers how they work without any safety equipment, not even gloves, in an environment where they are vulnerable to injury from handling the fruits (which have thorns and can also have worms) and from falling branches. As discussed in the next chapter, all the palm oil plantations made extensive use of chemicals, including weedicides, pesticides and fertilizers and children are exposed to these chemicals when they work in harvesting or in plant maintenance. All of the children described carrying heavy loads, as they have to carry sacks of loose fruits, which normally weigh 25 – 30 kgs if full and 12 – 15 kgs if they are only half filled. Some transport wheelbarrows full of heavy palm fruit bunches over uneven terrain and narrow bridges. Even children who attend school are working longer hours than permitted even in situations where children are engaged in light work in safer circumstances (a maximum of three hours a day). Children like B who use long poles to harvest palm fruits are particularly at risk of musculoskeletal injuries but all the children run the risk of musculoskeletal injuries from repetitive movements and lifting and carrying heavy or awkward loads.¹⁰⁴ They are given no training and have no protection in the event of accidents or injuries. The nature of the work that the children do on plantations owned by Wilmar’s subsidiaries and suppliers is hazardous and contravenes the prohibition on involvement of children under the age of 18 in the worst forms of child labour.

102. Amnesty International interview with C, location, date and the company name withheld for safety.

103. Amnesty International interview with K, location, date and the company name withheld for the worker’s safety.

104. ILO, *International Programme on the Elimination of Child Labour Safety and Health Fact Sheet: Hazardous Child Labour in Agriculture – Oil Palm*, March 2004, p. 1.



Child transporting a wheelbarrow full of heavy palm fruit bunches over a narrow bridge on a plantation that was investigated in North Sumatra, name of company and location withheld for safety. © Amnesty International/Watchdoc

E, works for a Wilmar supplier as a harvester. He said: *“It is common to see children working. I have seen children of 10 years and below working. Once the child can work, the parents will bring them to plantation. In the afternoon my children help after school. My children are 12 year old boy and a nine year old girl. After 1pm, I take them to the fields. If my children are not lazy, I take them every day but if they feel lazy, I leave them. They help me from 2 – 5pm collecting loose fruits. They do their homework before the electricity goes at night.*

There are children who help their parents in the morning and don't go to school. In my division, there is a boy of around 12 year old who helps his father. The foreman sees the child working in the morning and he doesn't do anything about it. Honestly, it is too hard for us to meet the target, that's why we take our children to work. If we can get the target by ourselves we would not take our children.”¹⁰⁵



E works as a harvester for a Wilmar supplier. D, his 12 year old son, helps him by picking up loose fruit in the afternoons after school. Name of company and location withheld for safety. © Amnesty International

105. Amnesty International interview with E, location, date and the company name withheld to protect the worker's safety.

D, his 12 year old son told Amnesty International:

“I go to school, I am in sixth grade. I help him every day, from Monday to Saturday, from 2 – 6pm. My father works till 6pm. I pick up the loose fruits. It is not tough to pick up the fruit but there is a small worm (fire worm) that bites me. I put the fruits into the sack and carry it to the collection point. I cannot carry the full sack so I carry half [full] sacks. By the end I collect 10 full sacks. The hardest thing is to gather all the loose fruit which are scattered everywhere. I don’t wear gloves and it hurts to pick them up. I don’t wear boots, I wear sandals. I work when it is raining, it is slippery. I slip while carrying the sack. I have fallen sometimes, I get bruised but there is no bleeding or cuts.

I do my homework after going home. I do it for around half an hour. I feel very tired at the end of the day. I don’t have enough time to study. I would like to have more time. During the Eid holidays, I go to our village. I help my father all day on school holidays otherwise. There are other children who help their parents. There are some children who don’t go to school at all. The foreman seems me helping my father everyday but he doesn’t say anything.

I want to be a policeman when I grow up. It seems cool to be a policeman and I like the guns.”¹⁰⁶

E told Amnesty International that he didn’t think he could pay for his son’s education to support him to become a police officer.¹⁰⁷

J and M, B’s brothers (B is featured above, he dropped out of school to help his father full time), told researchers that they help their father, X, who works as a harvester for a Wilmar subsidiary, every day after school. They said that they collect loose fruit, help throw away branches, and take the fruit to the collection point using the wheelbarrow.

J, a 10 year old boy, said: *“I help him [my father] till 4pm or 5pm. My hand hurts when using the wheelbarrow. I have met the foreman and he said it is good that you pick up the loose fruit. We end school at 12pm and we go help dad. We also help on the weekends.*

...We missed school for two weeks to help our father when he was sick. The teacher warned us and said why aren’t you at school? I told them I am working.”¹⁰⁸

M, who is 11 years old, said: *“I do my homework later in the evening or at night. The work is not hard but it is tiring sometimes. When you throw away the branches it is the hardest as the branches have thorns. My back hurts when using the wheelbarrow. I have met the foreman almost every week”.¹⁰⁹*

O, who works as a harvester at a Wilmar supplier told researchers that his son has been helping him in the morning for the last two years. His son dropped out of school after finishing the eighth grade to help him in his work. His younger children who are between 10 and 12 years of age attend school in the morning but then help his wife, who works in maintenance, for five hours to meet her targets. They help her every day in tasks such as cutting grass. O said: *“The company is happy if we bring children because they can collect loose fruit. ...The ... manager ...came this month and saw me working with my children and said ‘It is good that you have your children to help you’”.¹¹⁰*

Some harvesters were reluctant to admit that their children help them. P, a harvester who works for a Wilmar subsidiary, said he brings his four children who are aged between five to eight years old once or twice month. He said his children played with the loose fruit though his colleagues said that he brought his children regularly to help collect loose fruit.¹¹¹

106. Amnesty International interview with D, location and date withheld for safety.

107. Amnesty International interview with E, location and date withheld for safety.

108. Amnesty International interview with J, location and date withheld for safety.

109. Amnesty International interview with M, location and date withheld to protect identity.

110. Amnesty International interview with O, location, date and company name withheld for safety.

111. Amnesty International interview with P and other workers, North Sumatra, date withheld to protect identity.

Other workers interviewed by Amnesty International confirmed that that they had been present when staff in supervisory and management positions had visited and children were working in the fields with their parents and had not taken any action. B, who works as a supervisor for a Wilmar supplier, said: *“In almost every plantation, children are helping their parents with their work, every day. They don’t get paid themselves but are helping their parents. I am on plantation ... and there are still children helping their parents harvest ... a worker is helped by his 10 year old son... the kid is not going to school ... the foreman knows that the child helps his parents.”*¹¹²

A woman who works in plant maintenance for another Wilmar supplier said that she sees a 14 year old boy helping another harvester when she helps her husband, who is a harvester, in the afternoons. R, who works as a harvester for a Wilmar subsidiary told researchers: *“Every day the [two to three] workers [in my unit] bring their children [he though they were about 17 years old] even in the morning, though they won’t stand in the assembly. If there is a guest, they are told by the foreman to hide them. The assistant have seen the children but they pretend not to know. I have been physically present when the assistant has come and the children are working with the parents and he doesn’t say anything. There are signs in the plantation saying that children should not work.”*¹¹³ A harvester at another Wilmar subsidiary also said that his friends bring their children to help on regular work days to collect loose fruits. He said that he sees people bring younger children to help them on weekends. He described how foremen and field assistants see children working but don’t say anything.¹¹⁴

G, a harvester employed by a Wilmar subsidiary told researchers that he had heard a foreman tell a worker that the company doesn’t allow workers to bring children below the minimum age and if there was an accident, the company would not take responsibility. G also said that the company doesn’t ask workers to

bring their wife or children but it doesn’t stop workers from doing so. He said his wife, who works as a casual daily labourer in plant maintenance, helps him by collecting loose fruit but he doesn’t bring his daughter to work because the work is dangerous.¹¹⁵

Children as young as eight years old are working on plantations owned and operated by Wilmar’s subsidiaries and suppliers, far below the minimum age of employment in Indonesia. Each of the five children Amnesty International interviewed starting working on plantations when they were under 15 years of age. Amnesty International was told about other children both below and above 15 working on plantations. Even children who are now between 15 to 18 years of age should not be involved in the work considering its hazardous character and the risk to children’s health and safety. The work carried out on palm plantations absolutely cannot be considered to fall within the exception for light work for children aged 13 to 15 years of age under Article 69 of the Manpower Act. The involvement of children is contrary to Indonesian and international human rights law, including the prohibition on involvement of children under the age of 18 in worst forms of child labour, as well as Wilmar’s own company policy.

COMPANIES’ RESPONSES TO AMNESTY INTERNATIONAL

Amnesty International wrote to Wilmar and all three of its suppliers and presented them with a summary of its detailed findings. Only Wilmar and TSH Resources, SPMN’s parent company responded.

Wilmar responded to Amnesty International and said: *“Child labour has no place in Wilmar’s operations, and is a non-negotiable requirement for our suppliers”*. It pointed to *“a lack of access to education and child care is one of the key reasons why this happens”* and to its investment in providing primary education and

112. Amnesty International interview with B, location, date and company name withheld for safety.

113. Amnesty International interview with R, North Sumatra, date withheld to protect identity.

114. Amnesty International interviews with workers, Central Kalimantan and North Sumatra, dates withheld to protect identity.

115. Amnesty International interviews with G, North Sumatra, October 2015.

child care facilities. It stated that plantation supervisors and managers put up signs that say that child labour is prohibited, and carry out regular patrols to monitor child labour. *“Where presence of children is detected, specifically during the school holidays when some workers may bring their children to the plantations because there is no one to look after them at home, stern warnings are given to the workers not to bring children to their workplace. Disciplinary action is taken against repeat offenders.”*¹¹⁶

Wilmar’s response to Amnesty International completely disregards the role played by Wilmar’s business practices in creating and sustaining the conditions that lead to child labour on its plantations. Wilmar does not acknowledge the impact of low levels of minimum wages, combined with the use of targets and penalties for certain tasks, as causative factors which lead to parents bringing their children to help their with their work. The company instead attempts to shift responsibility exclusively onto parents, men and women who work for Wilmar on low wages and face the threat of lost wages if work targets are not met. Wilmar’s response also fails to acknowledge that supervisory staff have allowed child labour to continue and the company has benefited from the work children have done.

To attempt, as Wilmar has done, to shift the corporate responsibility to prevent child labour on its plantations onto the parents runs completely contrary to the international standards on business and human rights, which require companies to identify the impacts of their business practices. It also demonstrates a lack of willingness by Wilmar to act even in the face of evidence.

Regardless of its attempt to reframe the issue, the evidence gathered by Amnesty International demonstrates that the Wilmar Group is responsible for the involvement of children in the worst forms of child labour on plantations owned by the Wilmar Group.

It should not penalise parents for its own failures. The company needs to take responsibility for its own actions and omissions and address these causative factors so that parents do not need to bring their children to work in order to earn enough money for their families.

TSH Resources, the parent company of SPMN, was the only one amongst Wilmar’s suppliers, who responded to Amnesty International. It stated in its response that only people over the age of 18 and above are employed, that there is daily supervision to ensure that no children work in the field, and this is also communicated regularly at the morning briefings.¹¹⁷ TSH Resources did not engage with the evidence that Amnesty International presented.

POTENTIAL CRIMINAL OFFENCES BY THE COMPANIES

Amnesty International documented evidence that children under 15 years of age work on plantations owned by PT Daya Labuhan Indah, PT Perkebunan Milano, PT Abdi Budi Mulia, PT Sarana Prima Multi Niaga, and PT. Hamparan Masawit Bangun Persada. The companies’ working practices, in particular the use of high targets, and penalties, have resulted in children working. Amnesty International documented evidence that supervisory staff are aware of children’s work. This is contrary to Article 68 of the Manpower Act, which prohibits ‘entrepreneurs’ from employing children (under the age of 18 according to the Act and under 15 according to the Ministerial Decree¹¹⁸). Article 73 provides that children shall be assumed to be at work if they are found in a workplace unless there is evidence to prove otherwise. This provision indicates that an employment relationship shall be assumed if children are found in a workplace unless there is evidence that they are not working. These companies may therefore have committed a felony as set out under Article 185 of the Manpower Act.¹¹⁹

116. Wilmar International letter to Amnesty International, dated 17 October 2016.

117. TSH Resources Berhad’s responses to Amnesty International, received on 18 November 2016.

118. Minister of Manpower and Transmigration, Decree No. 235/2003.

119. Article 185 provides that “Whosoever violates what is stipulated under” Article 68: *“shall be subjected to a criminal sanction in jail for a minimum of 1 (one) year and a maximum of 4 (four) years and/or a fine of a minimum of Rp100,000,000 (one hundred million rupiah) and a maximum of Rp400,000,000 (four hundred million rupiah)”* [US\$7,369 – US\$29,451].

The companies may also have breached Article 74 because of the involvement of children under the age of 18 years of age in jobs that are harmful to their health and safety and committed a felony under Article 183 of the Manpower Act.¹²⁰

The corporate legal entity itself can be held criminally liable under specific laws in Indonesia though the existing Criminal Code only covers individuals.

The Manpower Act defines the responsibility of ‘entrepreneurs’ who can be individuals, partnerships or an enterprise, which is defined as every form of business which employs workers.¹²¹ Offences are defined as ‘whosoever violates’ particular provisions under the Act and therefore cover both individuals who are employers as well as businesses.¹²² Companies can therefore be held criminally liable under the Manpower Act.

RIGHTS AT WORK

Article 7 of the International Covenant on Economic, Social and Cultural Rights guarantees the right of all persons to the enjoyment of just and favourable conditions of work. Amongst other things, this right includes:

- Remuneration which provides people with fair wages;
- Equal remuneration for work of equal value, without discrimination;
- Remuneration that provides all workers with a decent living for themselves and their families;
- Safe and healthy working conditions;
- Equal opportunity for everyone to be promoted in his employment to an appropriate higher level, subject to no considerations other than those of seniority and competence; and
- Rest, leisure and reasonable limitation of working hours and periodic holidays with pay, as well as remuneration for public holidays.

This right is also guaranteed under a range of Conventions adopted by the ILO which set out detailed standards in relation to minimum wage, occupational health and safety, hours of work and rest, part-time work, protection during maternity etc.¹²³

PAID BELOW THE MINIMUM WAGE AND ARBITRARILY DENIED PAY

Wilmar’s company policy provides that the company and its suppliers/sub-contractors shall ensure all workers are paid a wage equal to or exceeding the legal minimum wage.¹²⁴

Article 17 of Minister of Manpower Decree No. 7/2013 provides that piece rate workers should not be paid below the daily or monthly minimum wage as applicable. As highlighted earlier, SPMN, a Wilmar supplier, switched workers to a piece rate system in 2014. This means they are only paid *pro rata* for the work done for most tasks such as harvesting fresh fruit bunches or spraying chemicals.¹²⁵ For some

120. Article 183 states: “Whosoever violates the provision under Article 74 shall be subjected to a criminal sanction in jail for a minimum of 2 (two) years and a maximum of 5 (five) years and/or a fine of a minimum of Rp200,000,000 (two hundred million rupiah) and a maximum of Rp500,000,000 (five hundred million rupiah)” [US\$14,811 – 36,850].

121. Articles 1(5) (6) and (15). Article 1(4) defines an employer as an “individual, entrepreneur, legal entities, or other entity that employ manpower by paying them wages or other forms of remuneration”.

122. See for example Article 185, described above.

123. These include to name a few: the Safety and Health in Agriculture Convention, 2001 (No. 184), Minimum Wage-Fixing Machinery Convention, 1986 (No. 26), Minimum Wage Fixing Convention, 1970 (No. 131), Part-Time Work Convention, 1994 (No. 175), and Maternity Protection Convention 2000 (No. 183).

124. Wilmar International, No Deforestation, No Peat, No Exploitation Policy, 5 December 2013.

125. Amnesty International interviews with workers, Central Kalimantan, February and November 2015. Amnesty International obtained a copy of a circular letter, dated 12 June 2014, from the Assistant General Manager which sets out the rates that workers will be paid at for manuring (spreading fertilisers), loading fresh fruit bunches and upkeep.

tasks, workers still receive a fixed daily wage. H, a permanent worker in the plant maintenance unit at SPMN told Amnesty International researchers that prior to 2014 she used to be paid the monthly minimum wage in Central Kalimantan. She isn't assigned to any particular tasks and the foreman tells her each day which tasks she needs to undertake that day, which may vary from collecting loose fruit to spraying chemicals or spreading fertilizers. She described how, since the system has been changed, she gets below the daily minimum wage when she collects loose fruits. She is given a target of collecting 24 sacks of loose fruit in order to get paid 84,116 Indonesian Rupiah. She said: *"when I pick up the loose fruit, the most I can collect is 18 bags so I only get paid 3,300 [Indonesian Rupiahs]¹²⁶ per bag. ...It is very difficult to collect one full sack of loose fruit. ...My lower back hurts from all the bending to pick up the loose fruit"*. Despite doing a full day's work she was only paid 59,400 (US\$4) Indonesian Rupiah, significantly below the daily minimum wage of 84,116 Indonesian Rupiahs (US\$6) in 2015.¹²⁷



Women workers who work on piece rates for a Wilmar supplier. Name of company and location withheld for safety. © Private

This was confirmed by other workers in maintenance who described how they are paid below the daily or monthly minimum wage when they don't meet their targets.¹²⁸ F, is a permanent worker with SPMN and works in plant maintenance. She described how she is only paid 1.6 million Indonesian Rupiahs per month, because she often misses her target. This means that she is paid 500,000 Indonesian Rupiahs less than the monthly minimum wage in Central Kalimantan, even though she works the full month. She explained how she has to find water to mix into the chemical to spray onto the plants (the workers are given chemicals in small bottles but have to find water themselves to mix with the chemical). She takes water from ditches in the fields but finds it difficult to find the water when it is very dry. She struggles to survive on her salary and has to take on additional work. She said: *"Usually I spend more, 500,000 or 600,000¹²⁹ [Indonesian Rupiahs], on food, the rest I spend on my youngest child's education expenses. My salary isn't enough for me and my family so I take side jobs like doing laundry and cooking for other families. I also do massage and then I make enough to live on for the month"*.¹³⁰

PT Hamparan, part of the BEST Group which supplies Wilmar, also pays workers in plant maintenance through a piece rate system where workers are paid pro rata for that work they complete. P works as a casual daily labourer in plant maintenance at PT Hamparan. She told researchers: *"Per day I have to do five to six blocks. If we don't meet the target, they don't count it as a working day and I only get 9,000 – 10,000 [Indonesian Rupiahs] for the day. I never meet the target, the most I have gotten is 600,000 [Indonesian Rupiahs] for the month."* P was paid 10,000 Indonesian Rupiahs (US\$ 0.7) when she doesn't meet her target though the daily minimum wage was 84,116 Indonesian Rupiahs (US\$6) in 2015. Other workers employed by the company also confirmed the extremely low wages paid by PT

126. US\$ 0.2.

127. Amnesty International interview with H, Central Kalimantan, November 2015.

128. Amnesty International interviews with workers, Central Kalimantan, February and November 2015.

129. US\$37 – US\$44.

130. Amnesty International interview with F, Central Kalimantan, November 2015.

Hamparan to workers in plant maintenance, far below the minimum wage applicable in Central Kalimantan.¹³¹ These cases illustrate the unrealistic nature of the targets set by PT Hamparan, which make workers vulnerable to abuses such as being paid far below the minimum wage.

Workers employed by SPMN and PT Hamparan described how they are not paid at all or only paid for half a day for the work they have done if it rains at a certain time in the day. This is apparently because the rain washes away or dilutes the chemicals they have applied to the plants and this seems to be treated akin to the workers not having met their targets or having done the work at all. H who works for SPMN said: *“The morning briefing is at 5am and we start work at 6am. If it rains at 10am or after, we get paid for what we have done, if it rains before then we don’t get paid”*. Amnesty International was told by workers and staff in supervisory roles that it was up to each field assistant to decide if the workers are paid or not when it rains. So for example, F who works for SPMN told researchers that she is paid for half a days’ work when it rains but H and other women said that they were not paid at all.¹³²

The ILO has emphasized: *“To be fair and effective, piece rate systems should be transparent, reward employees according to the difficulty and quality of their work, and ensure that motivated workers can earn substantially more than the minimum wage. If a larger group is not making the minimum wage, it usually means the piece rate pay is set too low, and workers’ efforts are being undervalued.”*¹³³ The piece rates set by SPMN and PT Hamparan are set at levels which mean that workers may be paid below the minimum wage, contrary to Article 17 of Minister of Manpower Decree No. 7/2013.

These issues are not unique to SPMN and PT Hamparan or only linked to the use of the piece rate

system of payment by these companies. Practices in other Wilmar subsidiaries and suppliers also result in casual workers being denied pay arbitrarily. Women workers in the plant maintenance unit in ABM, a Wilmar supplier in North Sumatra, described how they are not paid at all if they don’t meet their target, if it rains or if the equipment that they are using breaks down at some point during their working hours. Z, who is employed as a casual daily labourer by ABM, told Amnesty International how she has to go home without a day’s wage if the sprayer she is using breaks down after she has sprayed four to five tanks. She is not paid for the work she has done and is told to go home. She said: *“This happens one to two times a month. When it rains, the sprayer doesn’t work well and I spray six to seven tanks and then it breaks down. ...I feel upset and heartbroken because I have worked so hard”*.¹³⁴

J, another woman who is a casual daily labourer in the plant maintenance unit at ABM, said: *“If it rains at 10am then I am told to go home and I don’t get paid for the day. ... If I don’t reach my target, then no pay.”* She said on average over the last six years, there were at least two to three days per month where she had worked but not been paid. She said this could increase to two to three days per week in the rainy season when she was only paid for the work she had done if it rained after 10.30am.¹³⁵

Workers in the plant maintenance units at PT Milano, a subsidiary of Wilmar in North Sumatra, also told researchers that they are not paid for the work they have done if it rains before or at 9am. U, a casual daily labourer, told Amnesty International researchers: *“If I have sprayed and the rain comes before 9am, I don’t get paid. ...If the rain comes between 9am and 12pm, they pay me but I have to come the next day and redo the work. If you do not come, you won’t be paid.”* She asked the researcher, *“when we work for one or two hours, should we*

131. Amnesty International interviews with P and other workers, Central Kalimantan, February and November 2015.

132. Amnesty International with workers, Central Kalimantan, November 2015.

133. ILO, *Minimum Wage Policy Guide*, undated, p. 10, available at: www.ilo.org/wcmsp5/groups/public/---ed_protect/---protrav/---travail/documents/genericdocument/wcms_508526.pdf (last accessed 22 October 2016).

134. Amnesty International interview with Z, North Sumatra, October 2015.

135. Amnesty International interview with J, North Sumatra, October 2015.

get paid? We don't know anything, we are only the workers."¹³⁶ As noted earlier, Amnesty International documented instances where workers in PT Daya Labuhan Indah are not paid for the day's work if they do not meet their targets. They have to complete the work the next day and are only paid for one day though they have worked for two, effectively losing out on one day's minimum wage.

COMPANIES' RESPONSES TO AMNESTY INTERNATIONAL

Amnesty International wrote to Wilmar and all three of its suppliers and presented them with a summary of its detailed findings. TSH Resources, SPMN's parent company and Wilmar responded.

TSH Resources, the parent company of SPMN, was the only company that responded to Amnesty International. TSH stated: *"a. Piece rate has been in practice since 2011. This is a common practice in most of the Oil palm industries but the only difference could be the unit of measurement b. Purpose of piece rate system is because it eliminates wastage and rewards performers. In return, employees have the opportunity to earn more or above the regulatory minimum wage. c. To determine the targeted piece*

*rate within the stipulated work hours i.e. 7hrs, time motion studies and historical daily productivity records were taken into consideration ... The piece rates were also reviewed and amended from time to time in accordance to the national minimum wage policy. f. Minimum wage is monitored and checked monthly. Employees not meeting minimum wage were consulted. Reason for not achieving the minimum wage were also recorded. g. Cases of Employees not meeting the minimum wage requirements due to uncontrolled circumstances i.e. due to low crop or bad weather, normally referred to Management to determine the top up."*¹³⁷

TSH Resources' response appears to acknowledge that some employees do not achieve the minimum wage. It also suggests that when people have not been able to earn the minimum wage through the piece rates they are paid, due to circumstances outside their control such as low crop yields or bad weather, they are not paid a daily minimum wage automatically. Instead this is referred to management to determine how much money they can get. Amnesty International's investigation found that the piece rates that have been set by SPMN require people to meet extremely high targets to earn a minimum wage, and leave people at risk of not being paid the minimum wage, even when they have worked a full day or month.



One of the harvesters interviewed by Amnesty International.
© Amnesty International/Watchdoc

136. Amnesty International interview with U, North Sumatra, November 2015.

137. TSH Resources' responses to Amnesty International, dated 22 November 2016.

WILMAR'S INTERNAL ASSESSMENT OF LABOUR ISSUES AT PT MILANO AND PT DAYA LABUHAN INDAH

Wilmar informed Amnesty International in its second letter that: *"In August 2016, we have been made aware of labour issues in the same plantations cited in your letter, and we immediately initiated an internal review process which is still ongoing."* Its letter included a timeline for the review, which stated that an inquiry into wage practices had been undertaken by the human resources department from 12 August to 2 September and that a second assessment to check progress was planned for November 2016. Wilmar specified that site visits with BSR and Wilmar's internal team were planned for December 2016. At Amnesty International's request, Wilmar shared a copy of the report of the inquiry. The document titled Internal Assessment Report on Human and Labour Rights Issues in North Sumatra is publicly available.¹³⁸ The report states that the assessment was carried out by four Wilmar staff members. The issues assessed included unfair payment of wages, Underpayment of wages, child labour, discrimination on women and temporary workers, handling of hazardous chemicals without personal protective equipment and lack of access to portable water.

Amnesty International appreciates Wilmar's transparency in making the assessment public. However, in Amnesty International's view, the fact that Wilmar needed to undertake an internal assessment of abuses directly linked to practices and issues that are entirely under its control such as wages, targets and personal protective equipment illustrates the company's failure to respect human rights in its operations.

POTENTIAL CRIMINAL OFFENCES BY THE COMPANIES

Article 90 of the Manpower Act prohibits employers from paying wages lower than the minimum wage and the Manpower Decree No. 7/2013 provides that piece rate workers should not be paid below the daily or monthly minimum wage as applicable.

Amnesty International found evidence that PT Perkebunan Milano, PT Daya Labuhan Indah, PT Abdi Budi Mulia, PT Sarana Prima Multi Niaga and PT Hamparan Masawit Bangun Persada do not pay workers a daily minimum wage if they do not meet targets set by the company or if it rains at a certain time of day. PT Sarana Prime Multi Niaga and PT Hamparan Masawit Bangun Persada use a piece rate system of pay, which results in workers being paid below the daily minimum wage when they fail to meet targets set by the company. In these situations

the workers have registered for the day's work and worked for some or all their working hours but are not paid the daily minimum wage. All of the companies may therefore have contravened Article 90 of the Manpower Act, which prohibits employers from paying wages lower than minimum wages and may have committed a felony under Article 185.¹³⁹



Signs at PT Hamparan's plantation> one of them states that children below the age of 17 are not allowed to work. © Amnesty International

138. Wilmar International, *Internal Assessment Report on Human and Labour Rights Issues in North Sumatra*, 16 September 2016, available at: www.wilmar-international.com/sustainability/wp-content/uploads/2016/11/Internal-Assessment-Report-on-Human-and-Labour-Rights-Issues-in-North-Sumatra.pdf (last accessed 22 November 2016).

139. Article 185 is described above.

Sorana Prima Multi Niaga
Payroll Bulan January 2014

Nama Karyawan		Jabatan	
Nomor Karyawan		Nomor KTP	
Lokasi			
Masa Kerja			
Nomor Jam Kerja			

PEMBAYARAN PERUSAHAAN	PENGURANGAN	KONTRIBUSI
Tarif BPJS rate	Jamsostek	Jamsostek
1,297,797	38,171	86,647

Tarif	1,297,797	Tarif	38,171	Upah Bersih	1,259,626
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Tanggungan tidak dibuikan

Harvester, who works for a Wilmar supplier. Like most harvesters that Amnesty International interviewed, he works long hours and relies on his family to help him complete his work. © Amnesty International/Watchdoc

AN OPAQUE SYSTEM

Workers do not get a clear breakdown of pay based on targets met or the deductions that have been applied. Workers repeatedly told Amnesty International that it was very difficult for them to understand how they are paid because the payslips do not include a breakdown of the weight of fruit that they have collected or loaded.¹⁴⁰ Targets for harvesters are set based on the year that palm trees are planted and the average weight of a fruit bunch. For example, in PT Milano, for trees that are planted in 1986, the target for harvesters is set at collecting 900 kilograms (kgs) of fresh fruit bunches per day. Workers try to collect 40 fresh fruit bunches daily as they are told by the foreman that, on average, each fresh fruit bunch weighs 22 kgs. However, the company weighs the fruit after it has been collected and it may turn out that the average weight is 21 kgs. The worker, who may think he has met his target by collecting 40 fresh fruit bunches every day, could find that he has not met the target as by the company's calculations he has only collected 840 kgs per day. He is therefore 1,500 kgs short of his monthly target (which is 900 kgs x 25 days) but the weight of the fruit and the calculations are not included on his pay slip. For casual workers, in some companies, the payslips can be even more basic and just show the numbers of days for which they are being paid. Some casual workers also said that they did not have any contracts or letters confirming their employment, nor did they receive payslips.

140. PT Daya Labuhan Indah had better practices in this regard because even though the information was not provided in harvesters' pay slips, harvesters told Amnesty International that they were allowed to see a copy of the foreman's book which contains the numbers of fresh fruit bunches collected, the weight of what was collected and the average monthly weight for the fruit.

WORKING HOURS LIMITS AND OVERTIME

Wilmar's company policy provides that the company and its suppliers/sub-contractors shall ensure that workers are not working more than sixty (60) hours per week, including overtime; that overtime hours are worked on a voluntary basis; and that workers have at least one day off in seven.¹⁴¹

WORKING OVER THE WORKING HOUR LIMIT

In all the Wilmar subsidiaries and suppliers that Amnesty International investigated, harvesters work long hours, in excess of the limit of 40 hours per week set out under Indonesian law.¹⁴² Harvesters start work between 5.30am to 6.20am. They have to attend a morning assembly, where they are briefed by the foreman and field assistants, before going to their working area where they harvest palm fruits. They work a six day working week, which means under the law if they start work at 6am they should only work seven hours each day and should stop work by 1pm (barring any breaks). The companies, however, count their working hours from the time they reach their working area rather than the assembly, despite attendance at the assembly being a mandatory requirement. The official hours are therefore considered to be 7am to 2pm for harvesters working in Wilmar's subsidiaries in North Sumatra. Workers at suppliers said that they start earlier; their morning briefings can be at 5.30am. In the high harvest season, following the rains, workers work long hours to try and earn bonuses. In seasons where fruits are less plentiful, especially during the dry season, workers work longer hours to meet their targets but do not earn much. Harvesters employed by Wilmar's subsidiaries in North Sumatra described working up to 10 – 11 hours a day, while harvesters who work for Wilmar's suppliers in North Sumatra and Central Kalimantan described working up to 10 - 12 hours a day.¹⁴³ These long hours are a major concern taking

into account the physically demanding nature of the work done by harvesters and the risk of musculoskeletal injuries.¹⁴⁴

COMPANIES IGNORE REGULATIONS ON OVERTIME WORK

Harvesters employed by SPMN, one of Wilmar's suppliers, told researchers that they usually work a seven day week during seasons where there is a low yield of fruits, in order to meet their targets. They are paid piece rates for the fresh fruit bunches they collect. N said that harvesters usually work 11 or 12 hours daily and highlighted the low rates of payment by the company. For palm trees planted in 2005, the harvesters are paid 52,000 Indonesian Rupiahs (US\$4) per ton of fresh fruit bunches collected and this increases to 70,000 (US\$5) Indonesian Rupiahs per ton for fruits planted in 2007. This means that harvesters need to collect 1.5 tonnes of fruit, a very high amount, from trees planted in 2005 to receive a daily minimum wage. V told researchers that harvesters usually have to work on Sundays, meaning work seven days a week, in order to earn the monthly minimum salary of 2.1 million Indonesian Rupiahs (US\$155).¹⁴⁵

Tahun Tanam	2015	2016	Keterangan
2004	45	30	20%
2005	50	22	20%
2006	58	38	30%
2007	70	61	30%
2008	85	63	30%
2009	95	70	30%
2010	100	75	30%
2012		95	30%

Piece rates for harvesters in SPMN who are paid per kilogramme of fruit that they harvest based on year that the tree was planted. Harvesters need to collect 1.5 tonnes of fruit from trees planted in 2005 to receive a daily minimum wage. © Private

141. Wilmar International, No Deforestation, No Peat, No Exploitation Policy, 5 December 2013.

142. Article 77, Manpower Act.

143. Amnesty International interviews with workers, Central Kalimantan and North Sumatra, February, October and November 2015.

144. See for example, Y. Guan NG, et. al., 'The prevalence of musculoskeletal disorder and association with productivity loss: A preliminary study among labour investing manual harvesting activities in palm oil plantations', *Industrial Health*, Volume 52, 2014.

145. Amnesty International interview with N and V, Central Kalimantan, November 2015.

Harvesters employed by PT Hamparan said that they often work 11 to 12 hours to earn 80,000 (US\$ 5.8) Indonesian Rupiahs. They told researchers that they used to work on Sundays and be paid for their work but the company changed the policy in January 2015.¹⁴⁶

Harvesters employed by PT Milano, a subsidiary of Wilmar in North Sumatra, are offered an additional payment, referred to as *kontan*, to work on Sundays. They are paid 40,000 Indonesian Rupiahs (US\$ 3) per ton of fresh fruit bunches that they collect instead of overtime pay.

S works as a harvester for PT Milano. He said:

“I work from 6.15am for seven working hours but it depends on the target, sometimes I work till 4pm as we are forced to get 60 ffb [fresh fruit bunches] per day. If we cannot fulfil the target, our loose fruit [the loose fruit workers are required to collect] will be used to count the target. ...Management doesn't consider this to be overtime. The management tell us we have a 60 ffb target, we never get any record of our extra time. ...I am scared when I don't meet the target because the foreman can get angry with me. I am scared of getting fired. I feel when I lose my loose fruit bonus that I am being colonised. I work hard for that. I sweat for that. ...The longest I work is from 6.15 to 4pm with a 20 minute break for lunch. I am a married man, however hard it is, I need to do the work.

For working on Sundays, I get 50,000 [Indonesian] Rupiahs for the whole day – for seven hours. I can work from 8am to 4pm. I don't get a day off to make up for that day. The company forces us to pick up the loose fruit [on Sundays] but they don't pay us for that.

For me personally, I want more welfare, I want a decent salary. ...I want to get similar welfare to people working in other companies. So that in my old age,

*I can see my children get higher education and not end up like me”.*¹⁴⁷

S is paid by the weight of the fruits collected and described being paid as little as 50,000 Indonesian Rupiahs (US\$3.7) for seven hours of work on Sunday. This payment is far less than what he should receive as overtime payment. It is also lower than the daily minimum wage. Sundays are the weekly day of rest, according to the Minister of Transmigration's Decree on Overtime. Workers should receive twice their hourly pay for the first seven hours of work and three to four times their hourly pay for the eighth and ninth hour of work if they work on Sundays.¹⁴⁸ This would mean that they should receive, at the very least, twice the daily minimum wage for working on a Sunday instead of receiving less than the daily minimum wage as S does.

As noted earlier, there are also restrictions under Indonesian law on overtime work. Any overtime work must be agreed with the worker in writing, should not exceed three hours in a day or 14 hours a week and employers should pay the worker overtime pay.¹⁴⁹ Employers are required to ensure that workers are provided with the chance to have enough rest. They should also provide them with meals and drinks of at least 1,400 calories if the overtime work is executed for three hours or more.¹⁵⁰ Wilmar's subsidiaries and suppliers do not pay harvesters overtime pay for the extra hours worked during their working week, relying instead on the system of bonuses. For overtime work on Sunday, SPMN and PT Milano pay workers by weight of fruit collected, rather than a higher hourly payment as set out under the law. Overtime is not agreed in writing, workers are not provided food or drinks and the overtime frequently exceeds the 14 hour limit, especially when workers work on Sundays.¹⁵¹ Minister of Manpower and Transmigration Decree No. 102/2004 provides that workers who work on a piece

146. Amnesty International interview with workers, Central Kalimantan, November 2015.

147. Amnesty International interview with S, North Sumatra, October 2015.

148. Article 11, Minister of Manpower and Transmigration Decree No. 102/2004 Concerning Overtime Work and Overtime Pay, (Keputusan Menteri Tenaga Kerja dan Transmigrasi Nomor Kep.102/MEN/VI/2004 Tentang Waktu Kerja Lembur dan Upah Kerja Lembur).

149. Article 78, Manpower Act. Article 6, Minister of Manpower and Transmigration Decree No. 102/2004.

150. Article 7, Minister of Manpower and Transmigration Decree No. 102/2004.

151. Amnesty International interviews with workers, Central Kalimantan and North Sumatra, February, October and November 2015.

rate system should also be provided with overtime pay. The monthly wage for piece rate workers is determined based on the average wage paid over the prior 12 months and the average wage should in no circumstances be below the regional monthly wage.¹⁵²

The Manpower Act places an obligation on employers to allow workers periods of rest and leave, which includes half an hour rest after working for four hours in the day and one to two days off a week based on whether the worker works a six or five day week respectively.¹⁵³ However, workers who work on Sunday at PT Milano and SPMN are not given a day off for working on Sunday and many harvesters told Amnesty International that they have worked up to three months without any break in the high harvest season.¹⁵⁴ B, who works as a harvester at PT Milano, said: *“We run out of money by the end of the month and then I do kontanan. ...I have been warned by the harvester foreman for not doing kontanan. He said to me if you want to stay here, follow what the company says. I normally do kontanan but wasn't feeling well that day. The longest period I have worked without a break is three months”*.¹⁵⁵

Loaders and drivers who transport the fresh fruit bunches to mills and refineries work to a different system of bonuses. Loaders and drivers, employed by a Wilmar subsidiary, highlighted how they work longer hours in the week (up to 12 hours a day) and on Sundays, without a day off in lieu. Q, who works in the transport unit for PT Milano said: *“When there is high season, we work every holiday and Sunday, if there is any fruit left, we work on Sunday. Within the four months of the high season, there is a rotation of harvesters, so they go back to the beginning of the block but when that doesn't happen, then we have to do kontanan. We often work for four weeks at a stretch. The longest we have gone without a break is three months. The company doesn't offer us an extra day off after we work through the weekend.*

We haven't calculated our hourly wage. We know that Indonesian law only allows a maximum of 40 hours of work so have asked the company for overtime but they say they don't want to provide overtime only kontanan. We raised this with the GM [General Manager] when there was a meeting for collective bargaining and he said he doesn't want to do that. ... This was in 2013”.¹⁵⁶

BONUSES AND TARGETS

Harvesters can earn good bonuses during the harvest season, in particular, when the fruits are plentiful. Some harvesters told researchers that they can earn up to five million Indonesian Rupiahs (US\$368) in the high harvest season, with bonuses added in. Based on the company and the type of work that they do, workers in plant maintenance can also earn some bonuses though these are not as high as those earned by harvesters. While bonuses for exceeding targets could be a positive feature and one that many workers value, they do not make up for the risk of abuses which are generated by the use of targets and which have been discussed at length in this chapter. They can also mask the fact that the work actually requires two people to work – as harvesters often get help from their wives or children - to exceed the targets and still be able to do all the accompanying tasks that are required of them. Bonuses linked to targets should be in addition to and not replace overtime pay, which must be paid by the companies in line with national regulations and targets. Any targets or piece rates that are used need to be realistic, and not create risk to worker's health and safety or make them vulnerable to abuses.

152. Article 9.

153. Article 79. Manpower Act.

154. Amnesty International's interviews with workers, Central Kalimantan and North Sumatra, October and November 2015.

155. Amnesty International interview with B, North Sumatra, October 2015.

156. Amnesty International interview with Q, North Sumatra, October 2015.