

THE HUMAN COST OF CONFLICT PALM OIL REVISITED

**How PepsiCo, Banks, and the
Roundtable on Sustainable Palm Oil**

Perpetuate Indofood's Worker Exploitation





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Indofood's target-based system, coupled with the wide range of penalties which may be applied at the employer's discretion, an opaque system of pay, and ability to extract work under the menace of being paid below the minimum wage levels, **creates a serious risk of forced labor.**

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Executive Summary



Increasingly, the exploitation of workers has been at the center of controversies in the palm oil industry. In 2015, forced labor and human trafficking on the plantations of one of Malaysia's biggest palm oil companies, Felda Global Ventures, made front page news in the *Wall Street Journal*,¹ showing that global brands are buying Conflict Palm Oil² produced by forced labor. Shortly after in June 2016, Indonesia's largest conglomerate, Indofood,³ was exposed for systemic violations of workers' rights, including: maintaining a heavy reliance on invisible *kernet* workers—unofficial workers who help harvesters meet unrealistically high quotas, but have no direct employment relationship with the company—and casual workers; paying unethically low wages that often did not meet minimum wage; setting unattainable quotas, which resulted in children working on the plantation; putting workers' health and safety at risk; and undermining Freedom of Association.⁴ By the end of 2016, Amnesty International released a scathing exposé of human rights abuses, including the use of forced and child labor, on Wilmar and its suppliers' Indonesian plantations.⁵

The market has slowly responded to the growing number of exposés of palm oil worker exploitation, as well as new legislation in the United States, United Kingdom, and France, which impose bans on imported goods produced using forced labor and require enhanced due diligence reporting related to forced labor and human trafficking in supply chains.⁶ Global brands and retailers in the Consumer Goods Forum — a group of 400 major global brands — have publicly committed to drive reforms in their palm oil supply chains.⁷ The leading industry certification scheme, the Roundtable on Sustainable Palm Oil (RSPO), has created a new Labor Task Force to address existing gaps in its standard — and in the implementation and compliance of its standard — by its members,⁸ and financiers such as BNP Paribas and HSBC have recently updated their palm oil policies to explicitly require no deforestation, no new development on peat, and no exploitation by their clients.⁹

However, the actions of buyers, joint venture partners, financiers, and the RSPO to date have failed to remedy documented abuses or ensure respect for internationally proclaimed human rights. As this report shows, systemic labor exploitation continues unabated on Indofood's plantations, including union busting, poverty wages, routine exposure to toxic chemicals and a high risk of forced labor conditions, nearly a year and a half after labor abuses were first exposed.

Indofood has a major role to play in the marketplace: it is Indonesia's largest food processing company and the world's biggest producer of instant noodles,¹⁰ and is also a subsidiary of First Pacific, which is controlled by The Salim Group — one of Indonesia's largest and most influential conglomerates, with its Chairman Anthoni Salim as a notable man of influence in Asia.¹¹ Indofood is also Indonesia's largest private palm oil company without an adequate 'No Deforestation, No Peatland and No Exploitation' (NDPE) policy,¹² and a business partner and palm oil supplier to major global brands throughout the world. Indofood is a joint venture partner to PepsiCo—producing all PepsiCo-branded products within Indonesia — as well as Nestlé and Wilmar.¹³

This report investigates labor conditions on the same RSPO-certified Indofood plantations as the original June 2016 report, *The Human Cost of Conflict Palm Oil: Indofood, PepsiCo's Hidden Link to Worker Exploitation in Indonesia*, as well as on one additional RSPO-certified Indofood plantation located in North Sumatra. The research reveals that, after one year and five months, systemic labor violations persist on Indofood plantations, and the RSPO system is failing to detect these violations and effectively sanction the company. Specifically, our research finds the following:

- 1 Indofood continues to heavily rely on precarious employment practices — including unpaid *kernet* workers and long-term casual workers — to carry out core plantation activities. This denies workers secure employment, the ability to earn monthly minimum wage, and access to benefits.
- 2 Indofood practices wage theft through non-payment of minimum wage, externalizing production costs to workers, making unfair deductions to workers' wages, and not paying workers for overtime. These practices run a high risk of creating forced labor conditions.
- 3 Risks of child labor remain high, as Indofood has failed to raise workers' wages and lower quotas, the main drivers of child labor.
- 4 Indofood workers continue to face serious occupational safety and health risks, including routine exposure to hazardous pesticides and fertilizers, increased risk of injury from inadequate personal protective equipment, inconsistencies and potential fraud in the enrollment and receipt of state health care, and difficulty in receiving sick leave from the company clinic.
- 5 Indofood continues to undermine Freedom of Association, a core enabling right, by supporting a yellow union — or worker organization dominated or influenced by an employer — and utilizing union busting tactics to intimidate members of an independent union. Company-controlled yellow unions are specifically prohibited under international law.¹⁴
- 6 Numerous forms of discrimination exist on Indofood's plantations, including discrimination in treatment and benefits based on gender, age, and union membership.
- 7 RSPO audits are failing to identify labor violations on Indofood's plantations, and the RSPO complaint process has failed to suspend Indofood. Instead, Indofood has been allowed to continue selling RSPO-certified oil while violating the RSPO standard for more than a year.

What's more, Indofood confirms in its own reporting that many of these practices are not isolated to the plantations investigated. In its 2016 Sustainability Report, IndoAgri — Indofood's plantation arm — reports that 34,782 of its employees are hired as casual workers; 1,548 as non-permanent employees; and only 38,104 as permanent.¹⁵ This very high rate of precarious work — nearly 50% — puts these workers at great risk of rights violations and essentially guarantees that they will not earn the monthly minimum wage, will not be entitled to benefits, and will lack any form of job security, making joining a union or advocating for their own rights nearly impossible. Furthermore, these numbers don't include the large number of "invisible" *kernet* workers that continue to work on Indofood-owned plantations. By contrast, other palm oil companies are reporting precarious employment rates below 20 and even 10 percent.¹⁶

To date, Indofood's response has been to deny the problems on its plantations or to adopt cosmetic "fixes" that fail to address the root causes of labor abuses. For example, to address the undocumented *kernet* workers (often the wives or children of permanent workers) working on the plantation, the company has put up signs saying *kernet* workers are banned, rather than formalizing these workers as employees or lowering harvester's quotas. By contrast, after Wilmar was exposed for similar labor violations by Amnesty International, it responded by committing to reduce the ratio of temporary employees on its plantations by moving casual workers to permanent contracts.¹⁷ IOI Group similarly responded to Finnish NGO Finnwatch's findings of forced labor, payment below minimum wage, and restriction of Freedom of Association on its plantations, by adopting a number of precedent-setting policies to ban recruitment fees, respect Freedom of Association and strive to pay a living wage.¹⁸ Musim Mas, another large Indonesian palm oil company, took on proactive labor assessments of its operations and as a result instituted several new, industry-leading policies, including formalizing the employment of all *kernet* workers, and recording and compensating all overtime hours.¹⁹ In a shifting industry, Indofood's inaction is increasingly isolating it as a rogue player.

Indofood's customers and financiers have largely failed to live up to their own responsible sourcing and financing policies, with the exception of a few. Since June 2016, IOI Group and Nestlé have publicly stated that they have ended purchasing palm oil from Indofood, while Deutsche Bank has dropped financing to the company. However, the majority of customers, joint venture partners, and financiers have continued business relationships with Indofood, often in violation of their own commitments. This includes PepsiCo, Nestlé, and Wilmar, which have continued to profit from their joint venture partnerships with the company; traders like Musim Mas which have continued sourcing despite knowledge of labor abuses; and major brands like Unilever, Mondelez, Mars, Hershey's and General Mills, which have failed to publicly report on their own exposure to Indofood or any actions taken. Indonesia-based Bank Central Asia and Japan-based Mizuho Financial Group are Indofood's largest financiers and have no comprehensive responsible financing policies. Banks like Citigroup, Rabobank, Standard Chartered, and DBS have continued to finance Indofood despite policies prohibiting exploitation by their clients, while HSBC, BNP Paribas and Bank of America are among the banks financing Indofood's parent company First Pacific. Many of these actors continue to outsource their own policy enforcement to the RSPO, despite its noted failures to detect labor rights violations and sanction non-compliant members.

In order to reform the policies of Indofood, and the practices and working conditions on its plantations, immediate and robust actions need to be taken by Indofood's customers, joint venture partners, financiers, and the RSPO. However, the questions remain, will these actors step up to the challenge to reform Indofood? Will joint venture partners like PepsiCo, Nestlé and Wilmar continue to be complicit in the labor abuses and other violations in Indofood and the wider Salim Group palm oil holdings? And will the RSPO impose sanctions or continue to allow Indofood to sell "sustainable" palm oil despite continued worker exploitation? Until such actions are taken, these responsible parties will continue to aid and abet worker exploitation in Indonesia, and flood the global market with Conflict Palm Oil.



Introduction



It is now, sadly, well documented that palm oil's meteoric rise in popularity, quickly having become the most used vegetable oil in the world, has wreaked havoc for the forests of its major producing countries, largely the forests of Indonesia and Malaysia. But only recently have stories been told of what conditions are like after the forests are cleared and the plantations of oil palm trees mature. The people that labor among the long rows of oil palm all too often tell of unending years of human rights and labor rights abuses.

As one of the first to report on the problem in depth, the report *The Human Cost of Conflict Palm Oil*, published in June 2016, sought to expose the labor abuses hidden in the palm oil sanctioned by the leading certifier of "sustainable" palm oil, the Roundtable on Sustainable Palm Oil (RSPO) — the same palm oil being made by Indonesian food giant Indofood, joint venture partner to the biggest globally traded snack food company in the world, PepsiCo.

As first publicized in RAN and Rainforest Foundation Norway's September 2015 report *A Loophole the Size of Indonesia: Indofood, PepsiCo's Indonesian Palm Oil Problem*, PepsiCo's most recent palm oil policy language reads strongly, but unfortunately contains a loophole that exempts its joint venture partner, Indofood, from meeting the same production requirements for its palm oil.²⁰ That exemption remains, as does Indofood's current certification from the RSPO, nearly a year and a half after the labor abuses were first documented.

In order to understand the impact of this continued inaction by Indofood, PepsiCo, the RSPO, and Indofood's other business partners and financiers, a team of researchers went back and investigated the living and working conditions of laborers on the same two palm oil plantations first reported on in the June 2016 report, as well as a third plantation, also RSPO-certified. These plantations are all owned and operated by PepsiCo's joint venture partner Indofood, under the plantation company PT PP London Sumatra Tbk (Lonsum), located on the island of Sumatra in Indonesia, and through a web of traders and brands, source the world with Conflict Palm Oil.



TIMELINE OF INACTION²¹

SEPTEMBER 2015	Rainforest Action Network and Rainforest Foundation Norway release Aidenvironment's "Palm oil sustainability assessment of Indofood Agri Resources"
OCTOBER 2015 - MARCH 2016	Rainforest Action Network and Rainforest Foundation Norway make repeated requests to meet with Indofood and IndoAgri to discuss a responsible palm oil policy; Indofood does not accept the request to meet, denies key report findings, and threatens legal action
APRIL 2016	RAN and partners conclude field investigations on labor conditions on Indofood plantations and shares findings with Indofood for comment prior to report release; Indofood denies the findings, stating it complies with all Indonesian laws, and again threatens legal action
JUNE 2016:	RAN, OPPUK and ILRF release of <i>The Human Cost of Conflict Palm Oil</i> report
OCTOBER 2016	RAN, OPPUK and ILRF file the first RSPO labor complaint against Indofood subsidiaries London Sumatra and Salim Ivomas for systemic violation of the RSPO Principles and Criteria and call for their suspension from the RSPO
SEPTEMBER 2016	Accreditation Services International (ASI) carries out an assessment of its certification body SAI Global's auditing performance at one of Indofood's plantations and finds many violations of the RSPO's labor standards that SAI Global missed
DECEMBER 2016	ASI suspends SAI Global — Indofood's certification body — for poor performance
JANUARY 2017	RAN, OPPUK and ILRF formally request that the RSPO Complaints Panel make a decision on the suspension of Indofood, per the filed complaint
JULY 2017	The RSPO Complaints Panel proposes a second independent investigation of Indofood's plantations ASI reinstates SAI Global RSPO accreditation without a public explanation as to why
NOVEMBER 2017	RAN, OPPUK and ILRF release of <i>The Human Cost of Palm Oil Revisited</i> report, finding ongoing systemic labor violations on Indofood's SAI Global RSPO-certified plantations in violation of the RSPO Principles and Criteria Indofood continues to sell RSPO certified oil to the marketplace

The Evidence: THE HUMAN COST OF CONFLICT PALM OIL REVISITED: INDOFOOD'S ONGOING LABOR ABUSES IN NORTH SUMATRA



INVESTIGATION OVERVIEW & METHODOLOGY

Following the initial investigation for the June 2016 report, ongoing monitoring of working conditions took place on three Indofood RSPO-certified plantations between October 2016 and October 2017 — the two plantations where the original investigations were conducted, as well as a third location in a different district. All three plantations are operated by Indofood subsidiary PT. PP London Sumatra Indonesia Tbk (Lonsum) — under the operation of IndoAgri, or Indofood's plantation arm — and located in the province of North Sumatra, Indonesia.

For this report, a total of 71 field workers were interviewed in focus group discussions, as well as in one-on-one interviews across different job categories, work status and gender. Work documents were also reviewed and onsite observations were made of workers' living quarters and workplace practices. IndoAgri's sustainability reports and RSPO audit reports were also reviewed, and Indofood and IndoAgri were contacted for their comment on the findings of the investigations. The company replied, "As a publicly listed company we comply with all labor laws and regulations of Indonesia." It also stated, "As can be seen from the RSPO complaints web-site regarding the complaint lodged by RAN, London Sumatra has been audited by ASI, with terms of reference based on your previous unsubstantiated allegations. The conclusion from the audits was that we are in compliance with all RSPO criteria, and all corrective actions have been completed."²²

At the request of the interviewed workers, and to protect their safety from any risk of intimidation or reprisal from management, their real names have not been used. The names and locations of the specific estates, interview locations and dates of interviews have also not been disclosed to ensure workers' safety.

References throughout the report to worker conditions are as reported by the 71 workers interviewed.

INVISIBLE AND TEMPORARY:

Indofood's exploitative labor model

More than a year has passed since the first report on Indofood's labor violations, and still, a large percentage of workers on its plantations remain precariously employed as casual workers or *kernet* — unofficial workers who help harvesters meet their unrealistically high quotas, but have no direct employment relationship with Indofood. These precariously employed workers make little to no wages and suffer from insecure employment, few benefits and little legal protection.

Kernet workers

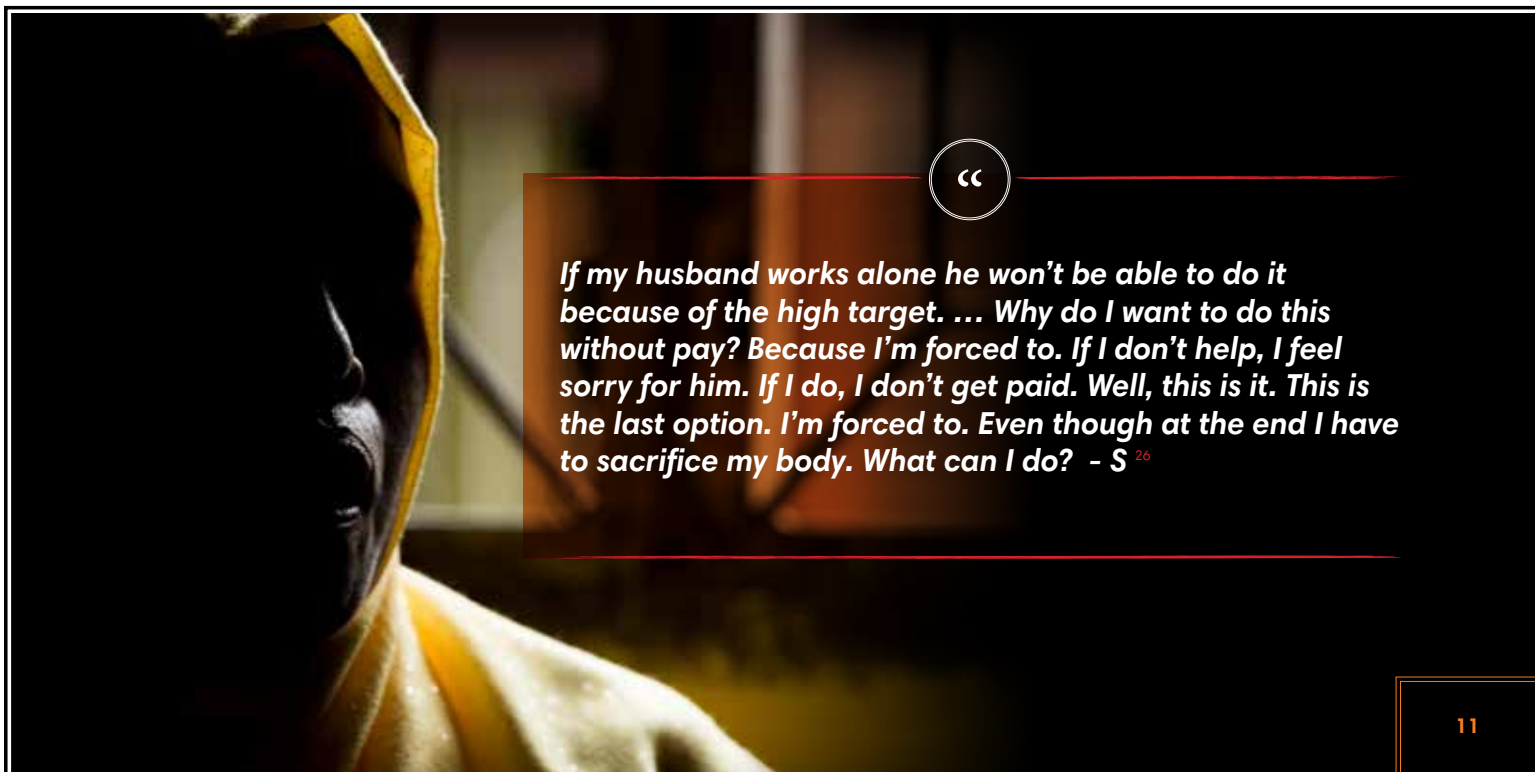
Indofood claims to have banned *kernet* workers (or “unregistered workers” as Indofood refers to them)²³ since the first report, but *kernet* workers were still found to be working with harvesters to collect loose fruit and haul fruit bunches on all the plantations investigated. Signs have been put up around all the plantations that say “unregistered workers are not allowed” and some harvesters reported that it is now prohibited to bring *kernet* workers. But production targets have remained unrealistically high, so harvesters are compelled to continue bringing *kernet* workers to achieve their quotas. Across all three plantations investigated, harvesters reported still having to pay *kernet* workers' wages out of their own salaries, while women *kernet* workers who help their husbands continue to work for free.

U, a harvester who has worked for Indofood at one plantation for over seven years, told us:

The target that the company sets, in my opinion, is too high for my ability to work as a harvester within 7 hours. The company sets the target for [trees planted from] 2008 to collect 110 fruit bunches [in a day]. Now, having to collect that much, we took the initiative to bring a kernet worker. We facilitate the kernet workers, we provide [their] wages — not the company... And then for the past few months, the company advised that we no longer bring kernet workers because it is illegal. But the company didn't accompany [that change] with lowering the basic [target]. So when we bring a kernet worker the target is 110, when we don't bring a kernet worker it is still 110. Logically it's impossible for us to get that. So in the end, whether we like it or not we do it [and bring a kernet worker].²⁴

Palm oil trees planted from 2008 produce palm oil fruit bunches that weigh on average 11 kilograms.²⁵ Collecting 110 fruit bunches amounts to lifting and hauling over 1.2 tons per day.

S, a *kernet* worker who has been helping her harvester husband collect and haul palm oil fruit for seven years also told researchers:



“

If my husband works alone he won't be able to do it because of the high target. ... Why do I want to do this without pay? Because I'm forced to. If I don't help, I feel sorry for him. If I do, I don't get paid. Well, this is it. This is the last option. I'm forced to. Even though at the end I have to sacrifice my body. What can I do? - S²⁶

S has been complaining about abdominal pain that she suspects is from hauling heavy fruit bunches as part of her work.

Without the help of *kernet* workers, harvesters would not be able to collect the same amount of fruit or hit the high target set by the company, which demonstrates how essential *kernet* workers are in the production process. Workers at all three plantations reported that management announced that they will formalize — i.e. directly hire — *kernet* workers earlier this year. Many *kernet* workers submitted a copy of their identification and family card to management, but months have passed without any change in their employment status.

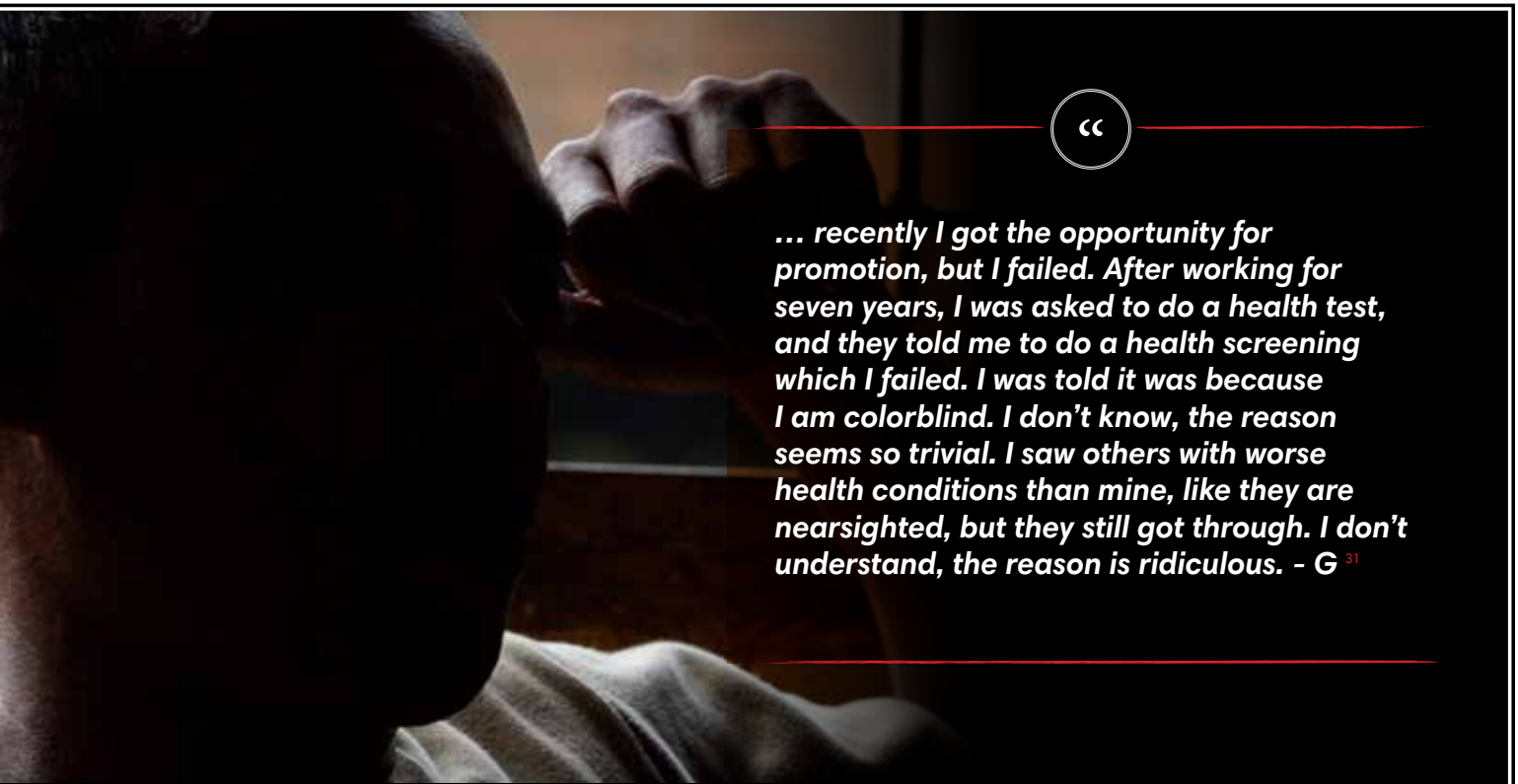
Indofood states that the “daily quotas of harvesting are based on several considerations such as the age and height of the trees and the topography of the land. It is for commercial reasons that the quota is achievable within a day by a single harvester”.²⁷ Indofood’s own statement shows that its quotas are driven by commercial interest without consideration of the physical toll it may impose on workers. Indofood has also stated that the quota is based on a mutual agreement with labor unions, but fails to address the concern that company-controlled yellow unions are deceptively claiming false representation, as will be discussed later in this report.²⁸

Casual workers

Casual workers—or workers whose work is categorized as temporary or seasonal — are still used to fill core positions, such as harvesting and maintenance, on the Indofood plantations investigated. Harvesters across all the plantations visited, who are at the core of palm oil production, reported that they had been told that they needed to start off as casual workers and work their way up to permanent status, which is untrue. In fact, a 2013 Indonesian industrial court decision stated that work performed by palm oil harvesters is permanent by nature, so harvesters with casual status should be made permanent and differentiating wage and benefits for harvesters performing the same work amounts to discrimination.²⁹

Indofood also claims that casual workers are “hired particularly for seasonal work such as weeding and peak crop season” and that “promotion is possible too depending on skills and job availability”.³⁰ But the reality is many of the casual harvesters we spoke to have been casual for many years without any idea of when or if they will ever be promoted, while performing core harvesting work like any other permanent worker, regardless of the season.

G, a casual harvester who has worked at one of Indofood’s Lonsum plantations for 8 years, was denied a promotion and continues to work as a casual harvester. He told researchers:



“*... recently I got the opportunity for promotion, but I failed. After working for seven years, I was asked to do a health test, and they told me to do a health screening which I failed. I was told it was because I am colorblind. I don’t know, the reason seems so trivial. I saw others with worse health conditions than mine, like they are nearsighted, but they still got through. I don’t understand, the reason is ridiculous.* - G³¹



An aerial photograph of a vast palm oil plantation, showing a dense grid of green palm trees. In the center, there is a dark, semi-transparent rectangular box containing white text. Above the text, there is a small white circle containing two black quotation marks. The background image is framed by a thin black border.

“

All of us, the casual workers, on average have worked for 14 years, 15 years.

- J

Despite common industry practice to hire maintenance workers on a casual basis, maintenance work also plays a core function in palm oil production. Many casual maintenance workers at Indofood's plantations reported that they have worked for the company for 15 to 20 years. According to Indonesian law, casual workers should only be employed for work that is truly temporary or seasonal, and can only be employed for less than 21 days a month in that arrangement. If they work for more than 21 days in 3 consecutive months (or more), by law they should automatically be considered permanent.³² A letter obtained by researchers at one plantation estate instructed all field assistants to limit casual workers to work a maximum of 19 days per month, a clear attempt to circumvent the law.

J, a casual maintenance worker who has worked at one of Indofood's Lonsum plantations for 10 years, told researchers:

... all of us, the casual workers, on average have worked for 14 years, 15 years. I, myself, have worked for more or less 10 years. ... We were told casual workers are also like permanent workers. ... But permanent workers get severance pay. Why not us? What's the difference? We all work for Lonsum. We're not asking for much...³³

Casual workers' employment is renewed on a daily basis, based on the "needs" of the company on that given day. This makes casual workers very vulnerable, and effectively discourages casual workers from raising any employment issues due to the threat of dismissal and fear of being unemployed. This fear is exacerbated when casual workers have no documentation of their employment, such as a written work agreement or wage slip, which significantly weakens their position in any dispute.

Under Indonesian labor law, failure to provide casual workers with a written contract should automatically turn their status to permanent.³⁴ In Indofood's case, many longtime casual workers have been working without a written contract for the past 10 or more years. Instead of making them permanent, Indofood has recently given some casual workers written contracts dating back to only 2016, neglecting the entitlements due to them over the years. Under the same law, a list of casual workers employed by a company, including their name, address, job description, and wage, should also be submitted to the local labor office.³⁵ Since the release of our previous report, some daily casual workers have been given short-term written contract,³⁶ but this is still a misclassification as it is similarly reserved for non-permanent work.³⁷ Keeping workers who perform core work as anything but permanent is a way for the company to avoid providing workers the full compensation, benefits and legal protections due to them.

NICKLE AND DIMED:

Indofood Continues to Use an Exploitative Wage System, Running High Risks of Forced Labor

Workers at Indofood's plantations are still being paid below the minimum wage and far below a living wage. Low wages are further eroded through wage deductions, non-payment of overtime work and externalized production costs. These practices amount to wage theft,³⁸ a practice that occurs when workers do not receive the pay and benefits to which they are legally or contractually entitled, and may also lead to forced labor conditions.

Indofood continues to pay workers below minimum wage

Indofood claims that it "strictly compl[ies] with the minimum wage regulations set by the Government, and ensure[s] that all employees are adequately compensated for their work" and that it "focus[es] on respecting minimum wage increases across [its] operations".³⁹ However, our findings show that the basic wage of permanent workers at one of the plantations visited is still below the official minimum wage set by the Government. In January 2017, the North Sumatra Governor decreed that the 2017 minimum wage for Deli Serdang District is IDR 2,491,618⁴⁰ but permanent workers on one Lonsum plantation are still paid IDR 2,369,255 — or IDR 122,363 below the legal minimum wage.

Indofood has not only failed to pay its workers the minimum wage, but is actively fighting the new minimum wage in court as a member to an association of companies called Asosiasi Pengusaha Indonesia (APINDO). APINDO lost the appeal at the North Sumatra Administrative Court, which ruled in favor of the Governor's increased minimum wage, but is appealing the wage increase again at a higher court.⁴¹

Indofood has provided some casual workers with wage slips since our initial investigation, allowing them to document their monthly wage, deductions, and their number of working days in a month. The wage slips show, however, that wages for casual workers — which we maintain should be permanent—fall below the monthly minimum wage due to the restriction imposed by management on their working days. From the wage slips collected, casual workers' monthly earnings range from IDR 1,195,629 to IDR 2,026,874 depending on the number of days they work — earnings which fall up to 50 percent below the monthly minimum wage.⁴² Accreditation Services International (ASI), the Roundtable on Sustainable Palm Oil's (RSPO) own accreditation body, also found the same violations of casual workers' sub-minimum wage on another Indofood estate in October of 2016.⁴³ Other casual workers on Indofood plantations remain without wage slips, making them vulnerable to wage theft as they have no record to accurately calculate their working days, deductions and earnings.

DAFTAR PERHITUNGAN GAJI KARYAWAN-PHL	
Tanggal : 01 APR 2017	
NO :	[REDACTED]
NAMA :	[REDACTED]
NIK :	[REDACTED]
JOB :	U&C - Labour (OP)
TOTAL HK :	16
+ PENDAPATAN HK :	1,429,178
+ PREMI PANEN /ANGKUTAN :	-
+ PREMI HASIL(PRUN/GANO) :	-
TOTAL :	1,429,178
PEMOTONGAN LAIN :	
- BPJS TENAGA KERJA :	21,786
- BPJS KESEHATAN :	27,886
Total Pemotongan :	49,673
BAYAR :	1,379,505

DAFTAR PERHITUNGAN GAJI KARYAWAN-PHL	
Tanggal : 02 JUNI 2017	
NO :	[REDACTED]
NAMA :	[REDACTED]
NIK :	[REDACTED]
JOB :	U&C - Labour (OP)
TOTAL HK :	18.40
+ PENDAPATAN HK :	1,743,768
+ PREMI PANEN /PRUN/ATTD. :	-
+ PREMI HASIL(GANODERMA) :	-
TOTAL :	1,743,768
PEMOTONGAN LAIN :	
- BPJS TENAGA KERJA :	23,693
- BPJS KESEHATAN :	5,265
Total Pemotongan :	28,957
BAYAR :	1,714,811

In Indonesia, minimum wage is determined based on a survey of over 60 basic-needs items, including food, clothing, housing and transportation, for a single person.⁴⁴ However, for plantation workers, who typically have families to support and live in remote areas where the cost of goods is significantly higher, this wage calculation often falls short of what is needed to support a family. Additionally, according to Indonesian Labor Law, the minimum wage set by the Government should only apply to a single worker with a work period of zero to one year — requiring companies to pay workers who have worked for over one year above the minimum wage.⁴⁵ Therefore, wages for longtime workers are still below what is mandated by law and far from a living wage.

Indofood externalizes costs to workers

The low wages workers receive are further degraded through an unfair work system that forces workers to absorb costs of production that should be borne by the company. The cost of *kernet* workers' labor, for example, is completely externalized to harvesters and the *kernet* workers themselves. The company benefits from free labor and reduced costs as it rids itself from any obligation to provide benefits or protections due to the invisible status and indirect employment of *kernet* workers. Any cost of equipment, tools, injuries or health problems are absorbed by the harvester or *kernet* worker, rather than the company itself.

D, a harvester, told researchers:

*The problem is the basic [quota] is so high. ... The assistant once said, 'it's allowed to not bring kernet workers... bringing kernet workers are also allowed.' But there is a note. '[If] you bring loose fruit pickers, you have to pay for them yourselves. You know, like usual.' If you don't bring loose fruit pickers, you still have to get the basic [quota]. If not, well your wage or premiums will be reduced.'*⁴⁶

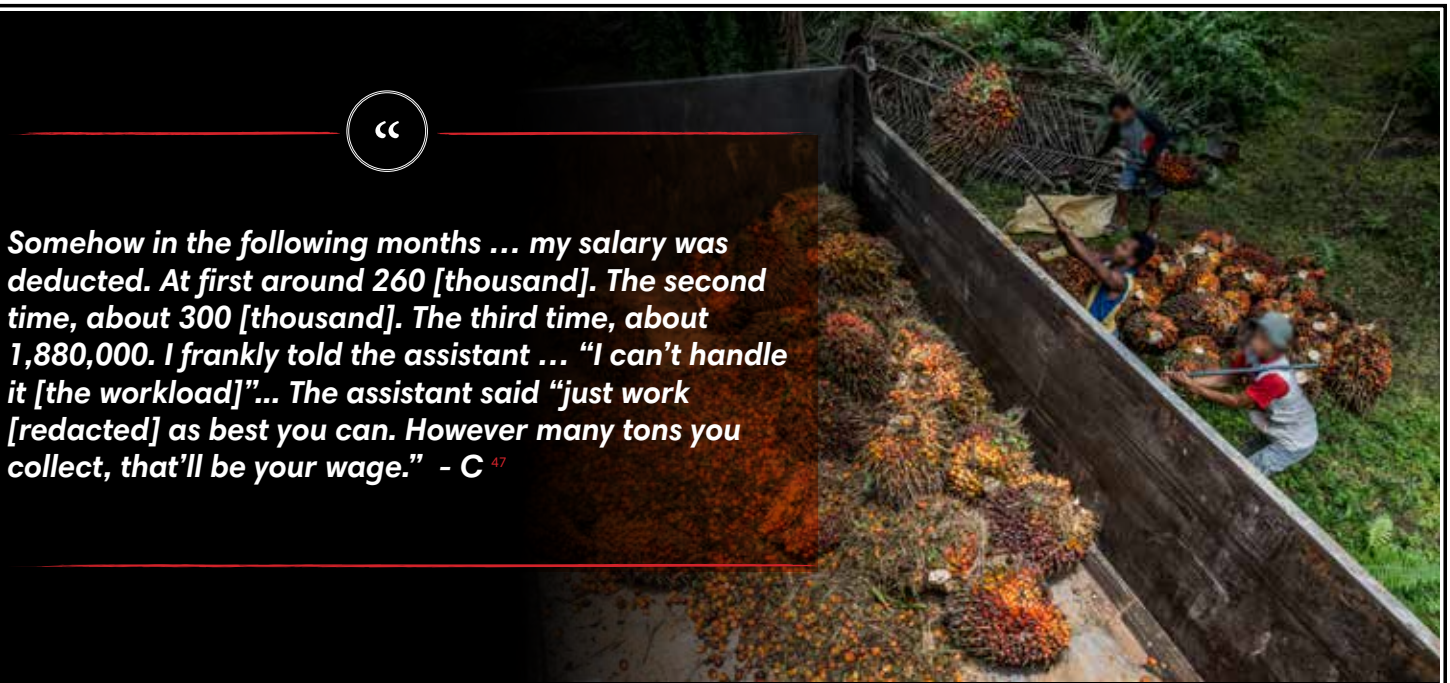
Casual workers are also often cheated out of their day's wage. Pesticide sprayers who are stopped from working mid-day when it rains often do not get paid their full day's wages, often only getting paid a half-day's wage or none at all. Casual workers also absorb the costs of their personal protective equipment (PPEs) and tools, which they often have to purchase themselves.

Unfair and nontransparent deductions

The sanctions and deductions highlighted in the June 2016 report are still in effect, including salary deductions imposed on harvesters for misconduct such as not collecting loose palm fruit and leaving fallen fronds uncut. Workers at one plantation also reported financial penalties for not being able to complete their work load.

C works in the transportation division at one of the plantations visited. His job is to load fruit bunches into trucks that go to the mill. He reported having to stop working multiple times from exhaustion and one time even fainting at work:

“*Somehow in the following months ... my salary was deducted. At first around 260 [thousand]. The second time, about 300 [thousand]. The third time, about 1,880,000. I frankly told the assistant ... “I can't handle it [the workload]”... The assistant said “just work [redacted] as best you can. However many tons you collect, that'll be your wage.”* - C⁴⁷



Casual workers at one plantation also reported deductions of their daily wages on Fridays as management unilaterally cuts the day short for Muslim Friday prayers. According to Indonesian labor law, workers who are absent from work due to being sick or to practice their religion should still be paid their wage.⁴⁸

Long hours, no overtime

The daily demands of achieving high production targets often means workers have to work longer hours in order to meet their quotas. This is particularly true for transportation workers who are required to load and transport all the fruit bunches collected daily to the mill to avoid it from spoiling. Transportation workers reported working up to 14 hours to finish their job, often working until late at night during peak season. These workers report receiving a meager premium but that overtime payment does not exist.



Failure to pay workers overtime compensation is a violation of Indonesian labor law, which states that overtime should be voluntary, and no longer than 3 hours per day and 14 hours per week,⁴⁹ and that workers are entitled to be paid 1.5 times the hourly regular rate for the first hour and 2 times the hourly rate for the second and third hour.⁵⁰

Risks of Forced Labor

According to the ILO Forced Labor Convention, forced labor is defined 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.” The ILO Committee of Experts on the Application of Conventions and Recommendations has stated that a penalty “need not be in the form of penal sanctions, but might take the form also of a loss of rights or privileges”.⁵²

The ILO Committee of Experts further states:

*In some cases, fear of dismissal drives workers to work overtime hours well beyond what is allowed under national legislation... In other cases, where remuneration is based on productivity targets, workers may be obliged to work beyond normal working hours, as only in so doing can they earn the minimum wage ... With regard to these issues raised before the Committee by workers' organizations, ... the Committee has observed that **although workers may in theory be able to refuse to work beyond normal working hours, their vulnerability means that in practice they may have no choice and are obliged to do so in order to earn the minimum wage or keep their jobs, or both.** The Committee has considered that, in cases in which work or service is imposed by exploiting the worker's vulnerability, under the menace of a penalty, dismissal or payment of wages below the minimum level, such exploitation ceases to be merely a matter of poor conditions of employment and becomes one of imposing work under the menace of a penalty and calls for the protection of the Convention, according to which the term 'forced or compulsory labour' means 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 or herself voluntarily. In such cases, the Committee has requested that the necessary measures be adopted to ensure compliance with the Convention in order to protect workers in the sectors concerned, including maquilas, plantations and the public service.*⁵³

In line with the guidance provided by the ILO Committee of Experts, **Indofood's target-based system, coupled with the wide range of penalties which may be applied at the employer's discretion, an opaque system of pay, and ability to extract work under the menace of being paid below the minimum wage levels, creates a serious risk of forced labor.** Indofood's work system parallels the forced labor conditions documented at Wilmar and its suppliers plantations by Amnesty International in November 2016.⁵⁴

CHILD WORKERS:

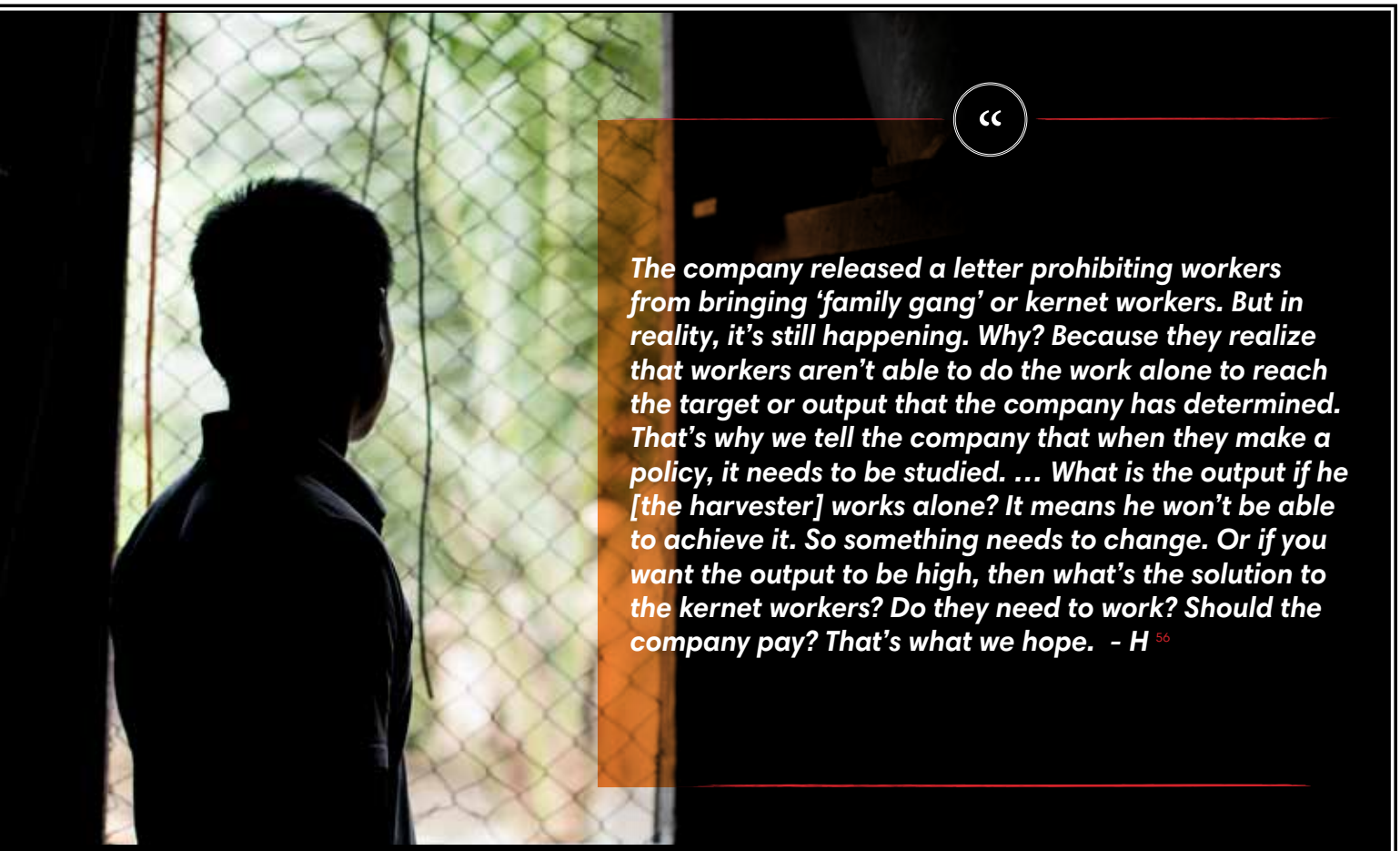
Indofood Still Relies on Unattainable Quotas, a Driver of Child Labor

After the publication of the June 2016 report, workers reported that management posted signs encouraging workers not to bring their children to work on all the plantations. However, Indofood still has not addressed the main drivers behind child labor: unrealistically high quotas and low wages.

On the issue of child labor, Indofood states: “we raise the issue using signs and posters on plantations, stating ... ‘child labour is not allowed’ and ‘children are not allowed to enter working premises’. The aim is to remind workers not to bring children to the work area. In line with our Policy, we will issue warning letters to those allowing children to help with agricultural production work.”⁵⁵ This response fails to analyze the root cause of child labor and its link to high quotas and low wages.

Harvesters on one plantation reported they are still instructed to collect a high quota of up to 2.5 tons of fresh fruit bunches (FFBs) everyday. Although management did prohibit some harvesters from bringing *kernet* workers, many workers report still bringing them discreetly because if they do not, they would find it difficult to collect as much palm oil fruit and would earn less. Children are usually working indirectly as these *kernet* workers.

H, a foreman who has worked for Indofood for over 10 years, told researchers:



Until these high quotas and low wages are adequately addressed, either by lowering quotas or formally hiring *kernet* workers to help harvesters, there will remain a high risk of child labor.



HAZARDOUS AND UNSAFE:

Indofood Continues to Jeopardize Workers' Health and Safety

Workers on all three Indofood plantations continue to face many occupational safety and health risks, including exposure to hazardous chemicals and risk of injuries from inadequate personal protective equipment (PPE). Some casual workers who had fees deducted by management for enrollment in the state social security program did not yet receive their social security card and were therefore unable to access their health benefits despite continuing to pay for it.

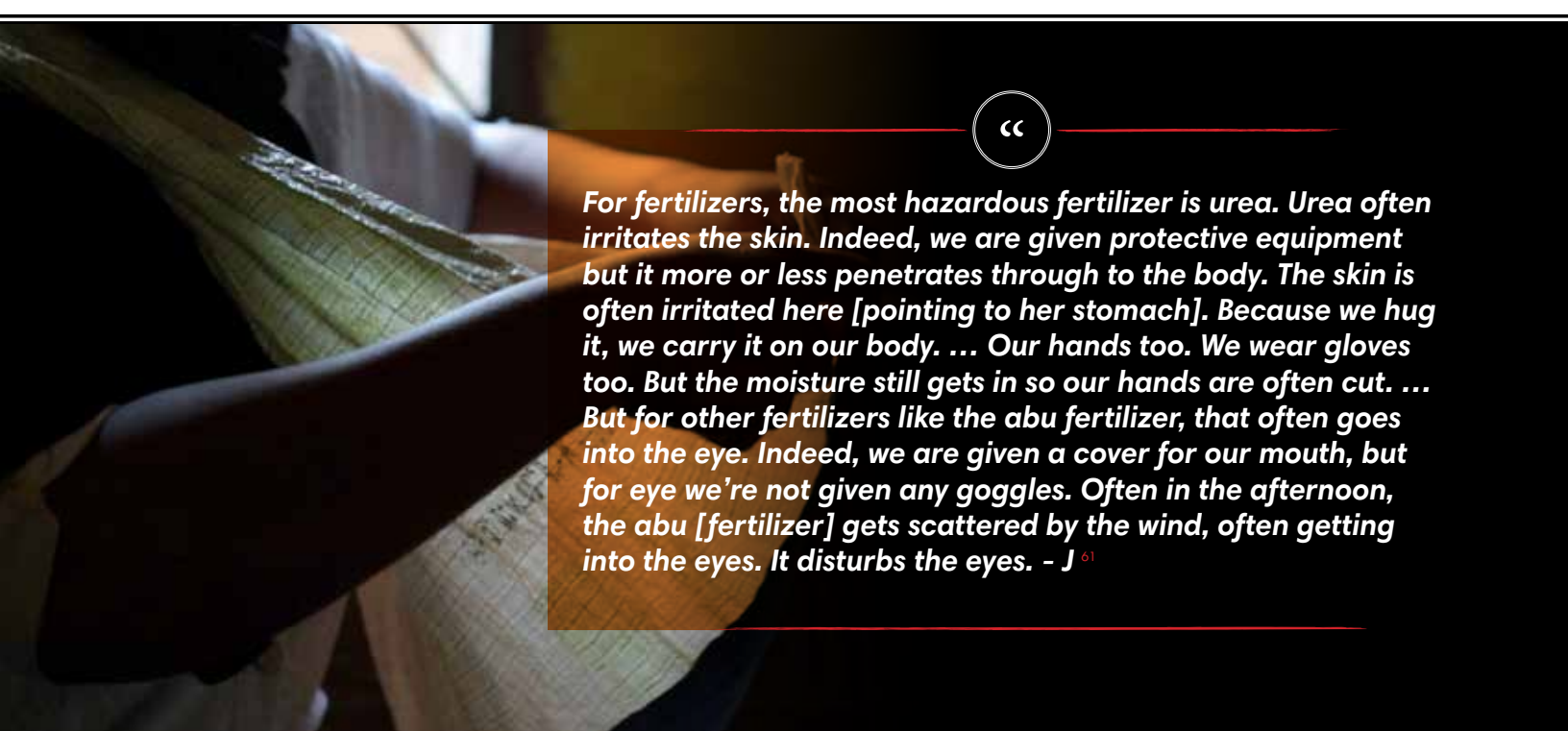
Hazardous pesticide and fertilizers

Many interviewed workers who interact with and are at risk of exposure to hazardous pesticides and fertilizers reported that they were not given proper training on health, safety and handling of the chemicals in use. ASI's assessment in 2016 also found unsafe and inconsistent practices for use and storage of pesticides, including no monitoring of Indofood's hazardous identification and risk assessment (HIRA) implementation.⁵⁷

The pesticide Gramoxone, which contains the highly toxic chemical Paraquat, was found during the first investigation, as documented in the June 2016 report, and has since been replaced with the pesticide brand Elang, along with other pesticides. Indofood states it has phased out the use of Gramoxone in its North Sumatra nucleus operations and 12 of 31 RSPO sites, but Elang contains the toxic chemical Glyphosate, which may be just as harmful.⁵⁸ In 2015, the World Health Organization's International Agency for Research on Cancer (IARC) declared glyphosate a probable human carcinogen, linking it to non-Hodgkin lymphoma and human DNA damage.⁵⁹

Maintenance workers also reported the use of the fertilizer urea. According to the Centers for Disease Control and Prevention (CDC), short-term exposure to urea irritates the eyes, skin and respiratory tracts, while long-term repeated or prolonged contact with skin may cause dermatitis.⁶⁰

J is a maintenance worker for Indofood who often works to spread fertilizer on the oil palm trees. She told researchers about some of the health impacts she has experienced:



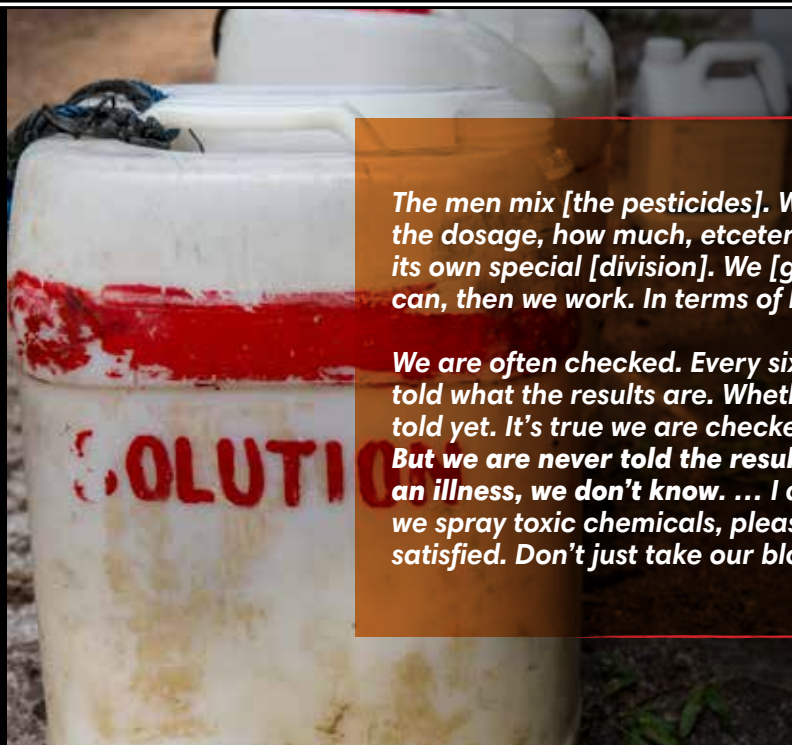
For fertilizers, the most hazardous fertilizer is urea. Urea often irritates the skin. Indeed, we are given protective equipment but it more or less penetrates through to the body. The skin is often irritated here [pointing to her stomach]. Because we hug it, we carry it on our body. ... Our hands too. We wear gloves too. But the moisture still gets in so our hands are often cut. ... But for other fertilizers like the abu fertilizer, that often goes into the eye. Indeed, we are given a cover for our mouth, but for eye we're not given any goggles. Often in the afternoon, the abu [fertilizer] gets scattered by the wind, often getting into the eyes. - J⁶¹



Maintenance workers who deal with both pesticides and fertilizers are subjected to blood tests, which they suspect is to monitor their health and any adverse impacts of toxic chemicals in their body. The workers report that the results of these tests are not shared with them so any health issues that may have been detected are unknown to workers.

Maintenance work is predominantly done by female casual workers, which disproportionately puts them at high risk to adverse reproductive health impacts such as miscarriages, pre-term deliveries, low birth weights, and birth defects from exposure to glyphosate-based herbicides.⁶³

A has been a casual maintenance worker at one Lonsum plantation for five years. She regularly sprays pesticides and is unaware of which pesticide she is exposed to. She also gets her blood tested without being informed of the results. She told researchers:



The men mix [the pesticides]. We just work. The one that gives the pesticide, the dosage, how much, etcetera, are the men. We, women, don't know. That is its own special [division]. We [get it] when it's already poured into the [spray] can, then we work. In terms of how much dosage, how high, we don't know.

We are often checked. Every six months we are checked. But we haven't been told what the results are. Whether we are in danger, have an illness, we're not told yet. It's true we are checked for our health. We go. Our blood is taken. But we are never told the results. So we don't know. So if in our body there is an illness, we don't know. ... I ask that if we are tested for our health because we spray toxic chemicals, please tell us the results. That's it. So we can be satisfied. Don't just take our blood without knowing the results. - A⁶²



Inadequate personal protective equipment

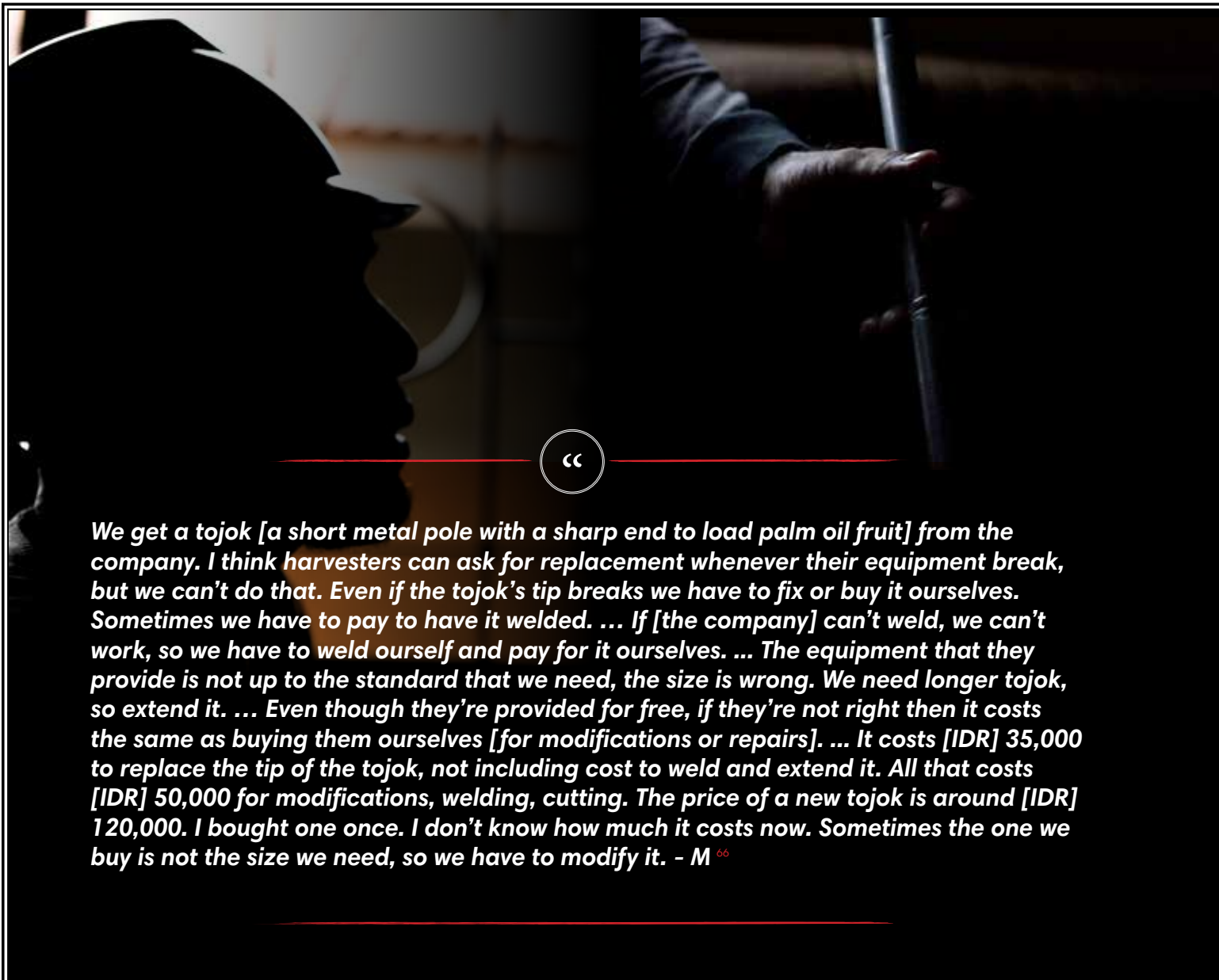
Personal protective equipment (PPE), such as gloves, shoes and helmets, are still not provided to all workers. Many of the PPE and work tools given by the company are inappropriate or ineffective in the plantation work setting and tropical climate, which can put workers' safety at risk, slow them down, create a dangerous thermal load and/or cause overall discomfort that discourages them from wearing PPE.

Indofood claims: "our policy is strict: all workers must use PPE. It is distributed to workers in line with their specific tasks and they are required to sign for PPE when it is received."⁶⁴ But casual maintenance workers report that they still purchase their own equipment and tools like gloves and hoes, otherwise they wouldn't be able to work.

I, a casual worker, told researchers:

We buy our own [work tools and personal protective equipment]. ... Nope, never provided [by the company]. ... [Tools] for weeding is ninety thousand, for a hoe it is fifty thousand. That's doesn't even include the handle. The handle for a hoe, for the digging tool is ten, twenty thousand. Boots are now a hundred thousand, those AP boots. Gloves we buy our own, the fabric kind. It's five thousand a pair. But the fabric doesn't hold. We have to replace it twice every week.⁶⁵

M, a transportation worker, told researchers:



We get a tojok [a short metal pole with a sharp end to load palm oil fruit] from the company. I think harvesters can ask for replacement whenever their equipment break, but we can't do that. Even if the tojok's tip breaks we have to fix or buy it ourselves. Sometimes we have to pay to have it welded. ... If [the company] can't weld, we can't work, so we have to weld ourself and pay for it ourselves. ... The equipment that they provide is not up to the standard that we need, the size is wrong. We need longer tojok, so extend it. ... Even though they're provided for free, if they're not right then it costs the same as buying them ourselves [for modifications or repairs]. ... It costs [IDR] 35,000 to replace the tip of the tojok, not including cost to weld and extend it. All that costs [IDR] 50,000 for modifications, welding, cutting. The price of a new tojok is around [IDR] 120,000. I bought one once. I don't know how much it costs now. Sometimes the one we buy is not the size we need, so we have to modify it. - M ⁶⁶

Health insurance and social security

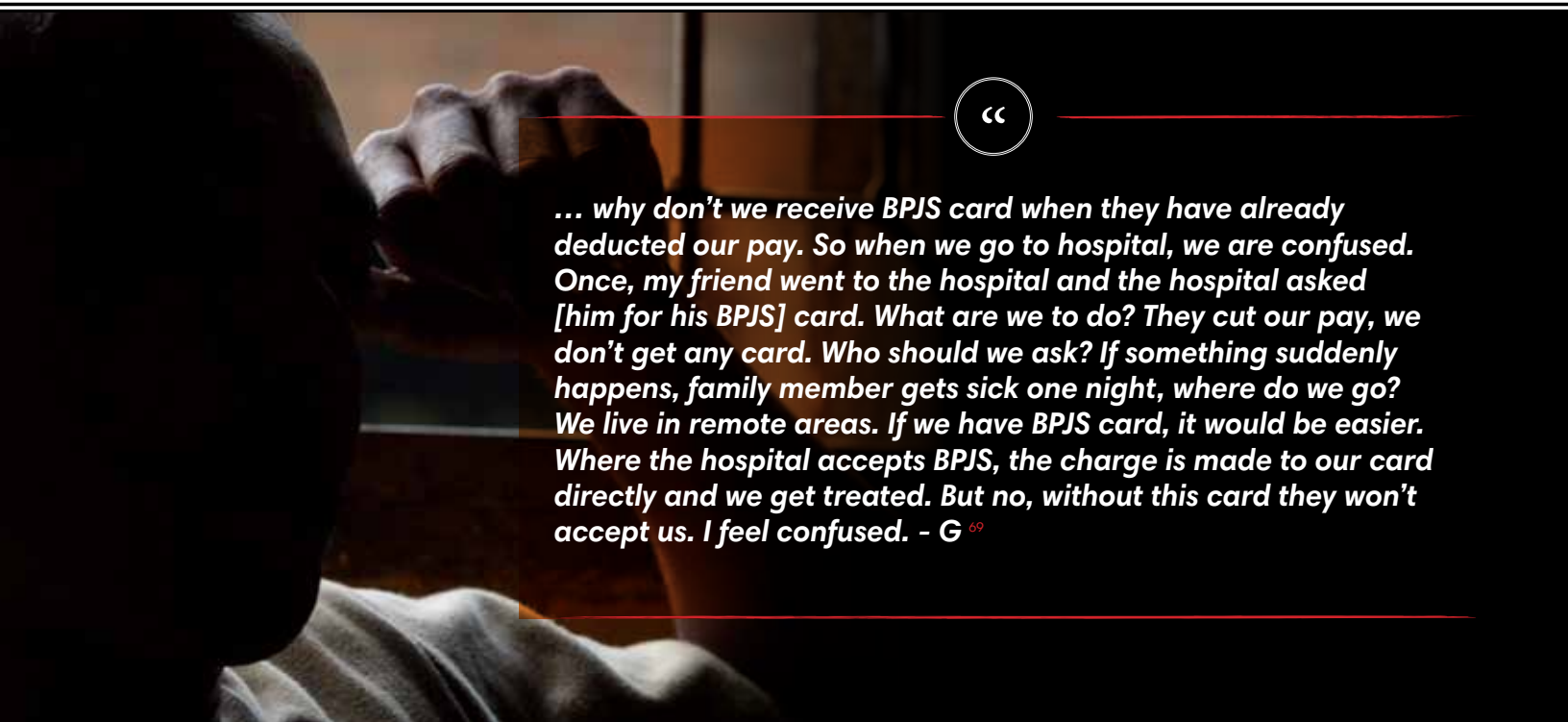
Workers reported that Indofood's management had announced that casual workers will be registered for the state social security program Badan Penyelenggara Jaminan Sosial (BPJS), which is comprised of two programs: BPJS health insurance and BPJS employment.⁶⁷ However, some casual workers stated that they did not submit their documents for enrollment but were deducted anyways. Fee deductions have also been inconsistent, sometimes deducting for one program or the other — or both or neither — ranging in deduction cost from IDR 5,265 to IDR 27,886 from month to month. Female workers whose husbands are permanent employees reported incurring social security deductions despite the fact that their social security was already covered through their husband.

Some casual workers who have been paying the social security fee reported that they have not received their physical BPJS health insurance nor BPJS employment card yet, and therefore were unable to get treatment at the health clinic for free. Others reported that they had only received a photocopy.

B, a casual worker who has seen wage deductions for the state social security program, told researchers:

*There are deductions on our wage slip ... [but] there is no proof of our registration. There has been no sign, as they say. ... [They have deducted] for over six months. ... It varies. ... Recently it is [IDR] 23,963 ... [For workers' social security] a while ago someone was cut 5,700, so it's not consistent. Sometimes they cut, sometimes they don't.*⁶⁸

G, a casual worker who has been similarly deducted for the state social security program for the past five months, told researchers:



... why don't we receive BPJS card when they have already deducted our pay. So when we go to hospital, we are confused. Once, my friend went to the hospital and the hospital asked [him for his BPJS] card. What are we to do? They cut our pay, we don't get any card. Who should we ask? If something suddenly happens, family member gets sick one night, where do we go? We live in remote areas. If we have BPJS card, it would be easier. Where the hospital accepts BPJS, the charge is made to our card directly and we get treated. But no, without this card they won't accept us. I feel confused. - G⁶⁹

Indofood states in its 2016 Sustainability report that “[Permanent] employees are insured under the BPJS[, and] properly registered casual workers (with E-KTP identity card) have access to BPJS health insurance.”⁷⁰ Enrolling all workers, including casual workers, to the BPJS social security program, for both health insurance and employment benefits, is mandatory as stipulated by Indonesian law.⁷¹

Workers also reported having difficulty getting sick letters from the company clinic. The health workers at the clinic on one plantation often dismiss workers' complaints of pain and injury. Not being able to get a sick letter means workers have to go back to work despite being ill and risk deteriorating their health further, or rest at home and be counted as taking unpaid leave.



UNION BUSTING AND YELLOW UNIONS:

Indofood and the Company-Backed Union Continue to Undermine Freedom of Association

Freedom of Association is a fundamental labor right enshrined in the ILO Core Conventions, which have been ratified by Indonesia, and is regulated in Indonesia's Workers/Labor Union Act of 2000. The Act clearly prohibits interference with workers' and unions' right to organize, including joining or leaving a union, intimidation and campaigning against the establishment of a union.⁷²

Workers, particularly members of an independent union, reported being intimidated by the company-backed yellow union, who appear to be acting in coordination with management on Indofood's plantations.⁷³

Independent union members reported that the company's Human Resource personnel at one plantation, along with officers of the company-backed yellow union, called workers into the plantation estate office under the guise of "socialization". Workers who attended the meeting reported that they were given registration forms to join the yellow union instead. They also reported that it was insinuated that workers who did not join the yellow union would be relocated to Kalimantan, Indonesia. Further, it was reported that the yellow union approached their family members recommending that they not get involved in the independent union.

Workers' testimonies contradict Indofood's statements related to Freedom of Association. In IndoAgri's 2016 Sustainability Report, it states: "We believe there are no sites where the right to freedom of association might be at risk. Further, each employee is free to choose to be a member of an union. The workers has [sic] the liberty to register themselves directly with their preferred labour union. The deduction of union membership fees from workers' pay is triggered once a letter of request is received from the union."⁷⁴

It appears that Indofood is in fact deploying common union busting tactics.⁷⁵ Preventing the independent union from growing is clearly advantageous to Indofood, as workers reported that the yellow union has been willing to agree to a "collective bargaining agreement" that sets wages below the government minimum wage.⁷⁶ Indofood appears to facilitate the automatic enrollment of permanent workers into the yellow union without the workers' proper written consent or socialization of the terms of the collective bargaining agreement, thereby allowing the yellow union to claim representation of the majority of workers on Indofood plantations and Indofood to negotiate advantageous terms of employment, some of which fall below legal standards.⁷⁷ Workers report the leadership of the yellow union is comprised of management-level workers, from field foremen all the way up to office employees, that hold the management's best interest above that of workers.





DISCRIMINATION

Indofood's Unequal Treatment Based on Gender, Age, and Union Membership

In Indofood's 2016 Sustainability Report, the company claims "equal employment opportunity is given to every employee regardless of religion, ethnicity, gender and other discriminatory factors."⁷⁸ However, during this investigation, researchers found discrimination in treatment and benefits based on gender, age and union membership.

Gender discrimination

Nearly all the women workers interviewed across all three plantations were employed either as casual or *kernet* workers. Researchers only encountered one permanently employed female field worker, despite there being many whom have worked for the company for over 10 years. The permanent female worker said that she was promoted before Lonsum (the plantation company) was acquired by Indofood, indicating that promotion of female field workers to permanent status is not a practice Indofood initiated. According to Indofood's own reporting, women are hired far less frequently than men (1 woman to every 4 men hired), and women have a significantly higher rate of precarious employment; over 60% of female employees are hired as casual or non-permanent employees.⁷⁹ In fact, the percentage of precarious women workers is much higher, because Indofood's reported numbers exclude the large number of women who also work as "invisible" *kernet* workers on the plantations and include female employees working in office settings.

Casual women workers perform some of the most dangerous work on the plantation, often dealing with hazardous pesticides and fertilizers on a daily basis. Due to their casual work status, they are denied job security, proper health care and accident insurance, and a pension plan to retire comfortably after their years of service. Women *kernet* workers who work to help their harvester husbands are not recognized at all for their contribution, as they do not have a direct working relationship with the company and work without pay.

The researchers encountered no female foremen, indicating little to no career path for women who work in the field. Even at the highest levels of the company, women are rewarded less than men, despite having higher levels of education. IndoAgri reports that 1.3% of female employees are senior managers and managers (73 of 5,729), while 1.6% of male employees are senior managers and managers (552 of 33,923). Meanwhile female employees achieve the highest education level at nearly twice the rate of male employees (12.0% of female employees have university level education compared to 6.5% of male employees).⁸⁰ Again, this number is skewed due to the exclusion of female *kernet* workers in reported numbers.

Age discrimination

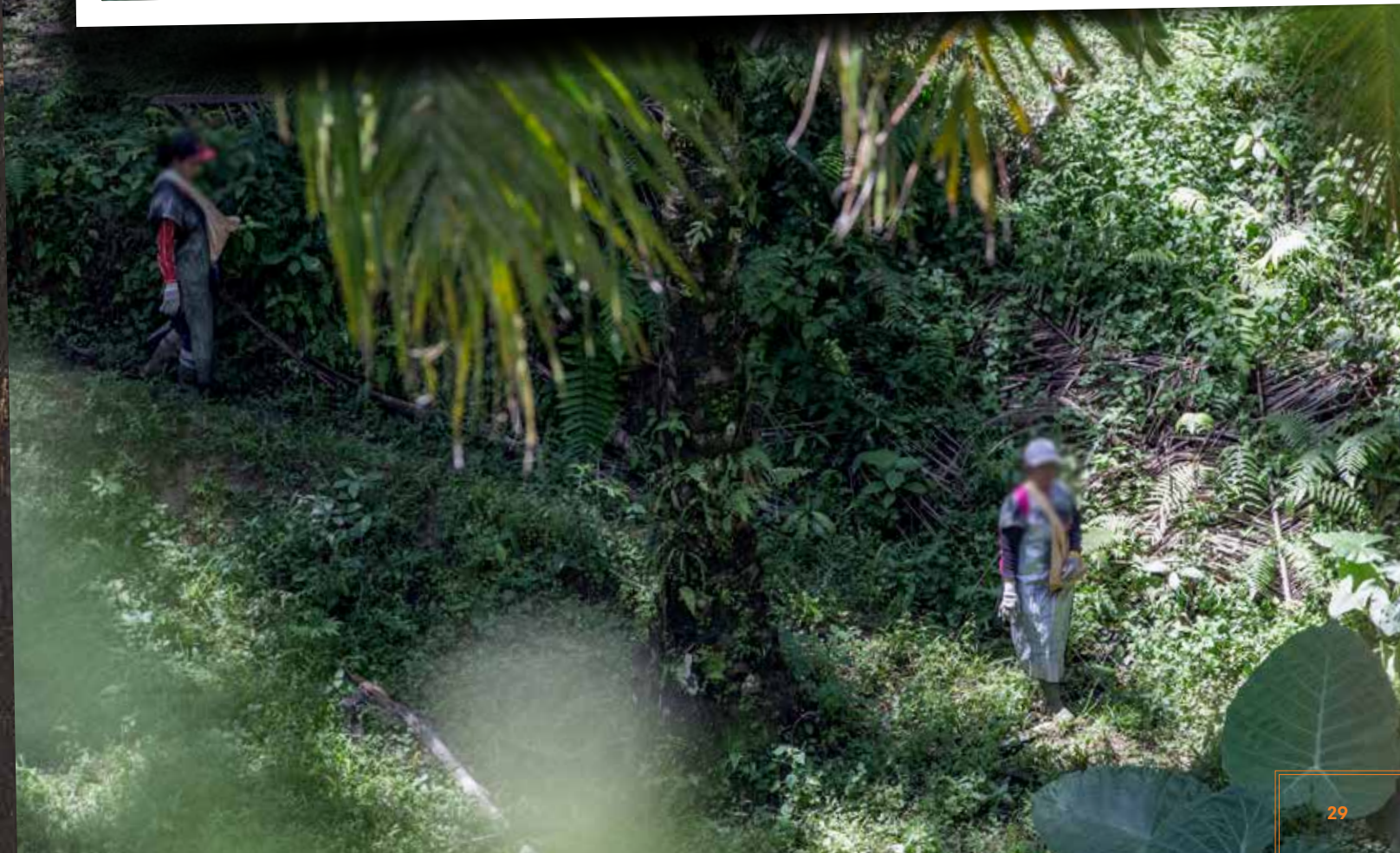
Workers report that there is an age limit of 35 years old to be eligible for a promotion to permanent status. While there is no written evidence of this company rule, workers report that they have been denied opportunities for promotion on this basis. Every worker should have the right to secure and permanent employment regardless of their age. This discriminatory practice is just another barrier to job security that denies workers higher pay and benefits.

Union discrimination

As explained in the previous section, independent union members have been intimidated and pressured to join the company-backed yellow union. In one instance, management's presence during a meeting held by the yellow union to recruit workers demonstrates its preferential treatment towards the yellow union.

Additionally, management questioned members of the independent union after a recent audit carried out by one of the RSPO's certification bodies, in which they were interviewed. The workers reported that they were questioned about what they had told the auditor in their interviews and asked to coordinate with management before sharing any company information with outside visitors. Other workers who participated in interviews with the same auditor, mainly members of the company-backed union, were not subjected to such questioning.

Indofood states that: "In accordance with our Code of Conduct, equal employment opportunity is given to every employee regardless of religion, ethnicity, gender and other discriminatory factors. There were no incidents of discrimination reported via our whistle-blowing facility during the reporting period."⁸¹



Certifying Exploitation: THE RSPO'S ROLE IN INDOFOOD'S ONGOING LABOR ABUSES



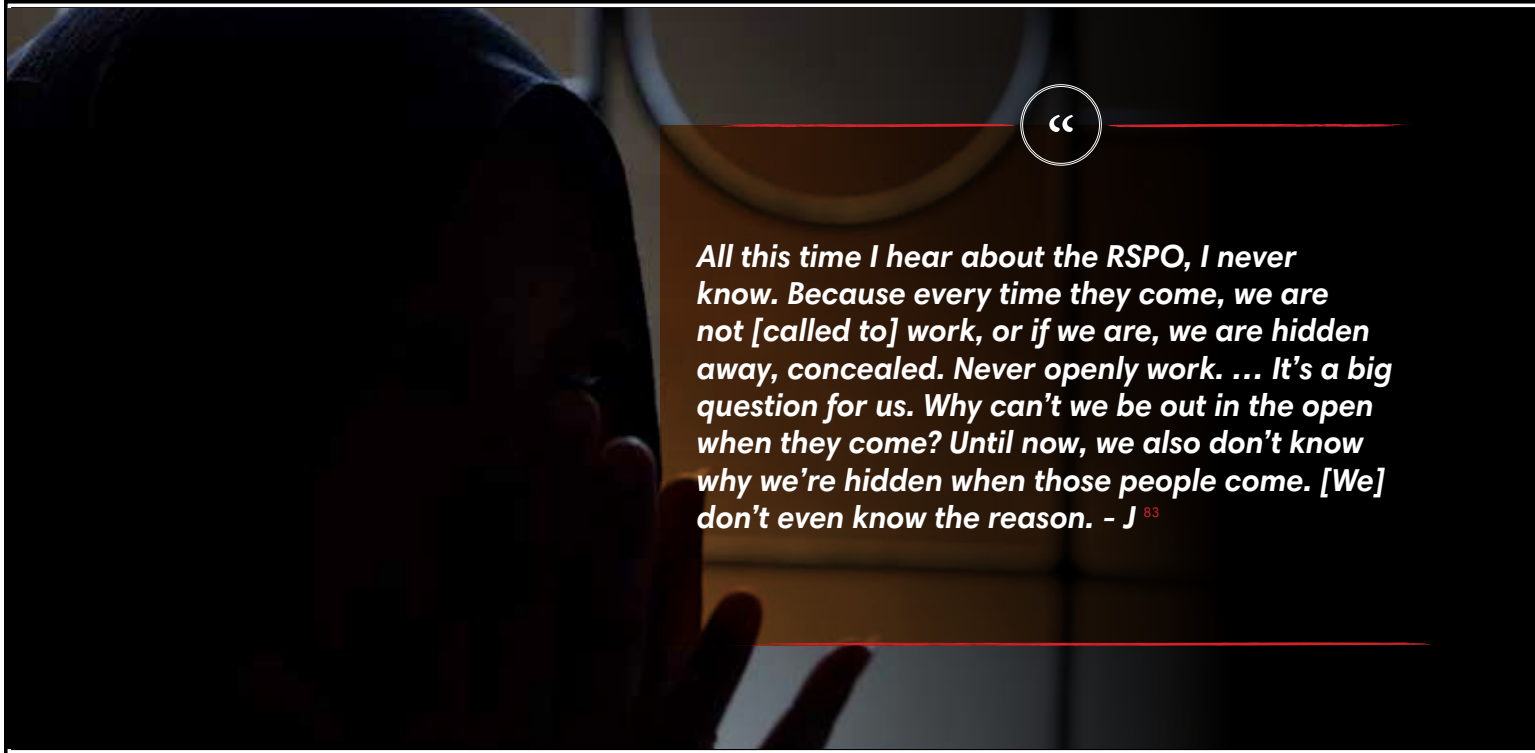
The Roundtable on Sustainable Palm Oil (RSPO) was founded in 2004 in response to the palm oil industry's contribution to widespread tropical deforestation, greenhouse gas emissions and rampant violations of the rights of Indigenous peoples and local communities. Palm oil growers, buyers and financiers sought to create a system that would allow them to present a different picture of the industry, one in which palm oil growers followed responsible practices, ultimately providing customers with a certified "sustainable" product.

Until recently, workers' voices did not factor at all into debates of what "sustainable" palm oil meant within the RSPO, and even currently, workers' rights and concerns are usually only represented through proxy reports such as this one. As a result, the RSPO standard — or its Principles and Criteria — and its auditing and enforcement mechanisms have failed to protect workers. This is reflected in the findings of extensive labor violations in Indofood's RSPO-certified operations, as well as in the unresolved RSPO complaint calling for the suspension of Indofood for systemic violations of RSPO labor and legality standards.⁸²

THE RSPO AUDITING PROCESS:

Failing Workers, Failing Buyers

J, a casual maintenance worker on one of Indofood's plantations, told researchers:



Auditors play a central role in ensuring that the RSPO standard is met, and therefore the integrity and competency of auditors is at the core of what it means to be certified. Within the RSPO, accredited Certification Bodies (CBs) carry out audits and are regulated by an organization called Accreditation Services International (ASI).

The plantations studied in this report were all certified by the same certification body, SAI Global. Through interviews with workers and a review of SAI Global's audit reports of Lonsum and Salim Ivomas (Lonsum's parent company, which is also a RSPO member), several major issues arise.⁸⁴

Insufficient Methodology and Heavy Reliance on the Heads of Yellow Unions:

SAI Global's reports fail to describe in detail the methodology and sampling technique used to conduct worker interviews. From what is written, it appears the auditors only interviewed a small number of workers and heavily relied on local heads of the yellow union, who, as described earlier, have a close relationship with management. This contradicts best practice in labor auditing, which recommends interviewing a large percentage of workers on the plantation or farm, representative of the worker population across gender, nationality, and employee categories.⁸⁵ Interviews should also be confidential, conducted in private, free of management interference and assure respondents that they will not be penalized in any way for participating in the interview. From interviews with workers, it is clear that coaching and intimidation by Indofood management took place.

H, a harvester on one of the plantations investigated, told researchers:

When [SAI Global] gave the floor to [the yellow union], he asked how has the company treated the workers all this time? [The yellow union], their regional branch rep, stated that workers are fine. The company has given the best. There is no problem here at all. ... Then their plantation rep expressed that the company is already good, providing facilities to the workers. There is no problem and workers' rights are

already given. There's no problem. ... Oh, I forgot, the branch rep also said ... the union that is recognized by the company is [the yellow union]. ...

When it is our turn, we told them. That all this time there are problems. [The SAI Global rep] was very surprised. Why is it that when [the yellow union] commented there is no problem. Why is it when it is [the independent union] there are problems. He immediately asked. How so? Well, because we are an independent union. We look down, go to the field. We ask workers what are the problems with your work? What's not provided to you? What's violated? (H went on to elaborate all the issues discussed earlier).⁸⁶

Announced Audits, Coaching and Intimidation of Workers:

RSPO audits are announced in advance and pre-arranged with the company without a guarantee of non-reprisal for workers. Indofood workers reported that in advance of audits, including specifically in advance of one of SAI Global's recent audits, they were coached by management. Harvesters were instructed not to bring *kernet* workers; casual workers were told to work in remote areas, away from the main roads where auditors would be driving; and a worker who was selected to be interviewed was instructed to lie stating that a ban on *kernet* workers had been in place for years. Following the audit, workers reported being interrogated by the management about what they said in interviews with SAI Global.

Incentives for Auditors to Cut Costs and Conflict of Interest

The RSPO uses a competitive bidding process whereby plantation companies can ask any of a panel of certification bodies for a quote. As the RSPO says on its own website, "the competitive bidding should keep the cost down."⁸⁷ In reality, it creates a race to the bottom, where CBs are incentivized to cut costs to get the bid, often meaning using a smaller audit team, spending less time in the field, and making other cuts to good auditing practices.

Once the price of the audit is set, the payment is made directly from the company to the CB, not through an intermediary at the RSPO. This direct financial relationship between the CB and the company, in this case between SAI Global and Indofood, creates a potential conflict of interest. SAI Global has a significant financial relationship with Indofood, carrying out at least six RSPO audits on Lonsum and Salim Ivomas' plantations over the course of 2016 to 2017. With Indofood as their direct client, not the RSPO, SAI Global has a business incentive to continue issuing certification to Indofood.

Lack of Labor Expertise

Credible auditing requires expertise and competency in a number of areas, including the specific industry, the laws of the country, the culture and language of the local communities and workers, and the subject area. In reviewing SAI Global's audit reports for Indofood operations, it's clear that the audit team's issue expertise is much more heavily weighted towards environmental issues and Occupational Health and Safety, than broader labor or human rights issues. This is common amongst RSPO auditors, and one reason that labor violations continue to be undetected across RSPO certified plantations.

The RSPO's Revolving Door for Errant Auditors: SAI Global's Suspension and Reinstatement

Following the release of the June 2016 report, *The Human Cost of Conflict Palm Oil*, Accreditation Services International (ASI) — the RSPO's accreditation body responsible for overseeing its certification bodies — carried out an assessment at Indofood's Gunung Melayu mill to assess SAI Global's auditing performance. ASI found the following violations of the RSPO standard on Indofood's plantations: violations of Indonesian labor law, unsafe and inconsistent practices for use and storage of pesticides, a lack of contracts for casual workers prior to 2016, contract terms for casual workers which prevent them from meeting the basic minimum wage, lack of registration for social benefits for all workers, and discriminatory employment terms.⁸⁸ In December 2016, SAI Global was suspended by ASI for poor performance.⁸⁹

However, SAI Global's accreditation was reinstated by ASI on July 6, 2017 without a public explanation as to why.⁹⁰ When asked for documentation detailing the reinstatement, ASI could not publicly provide any additional information.⁹¹ Given the authors' findings of ongoing labor abuses on Indofood's plantations certified by SAI Global, questions arise regarding the credibility of the standards to which RSPO auditors are held as well as ASI's process for reinstating suspended CBs. As detailed in this report, major problems exist in the RSPO auditing system as it relates to workers' rights, and ASI's reinstatement of SAI Global also calls into question the checks and balances for RSPO auditors. Collectively, this poses a major credibility issue for the RSPO and calls into question if it can ever become a reliable auditing system for labor rights.

THE RSPO COMPLAINT PROCESS:

No Clear Remedy for Workers, No Clear Sanctions for Violators

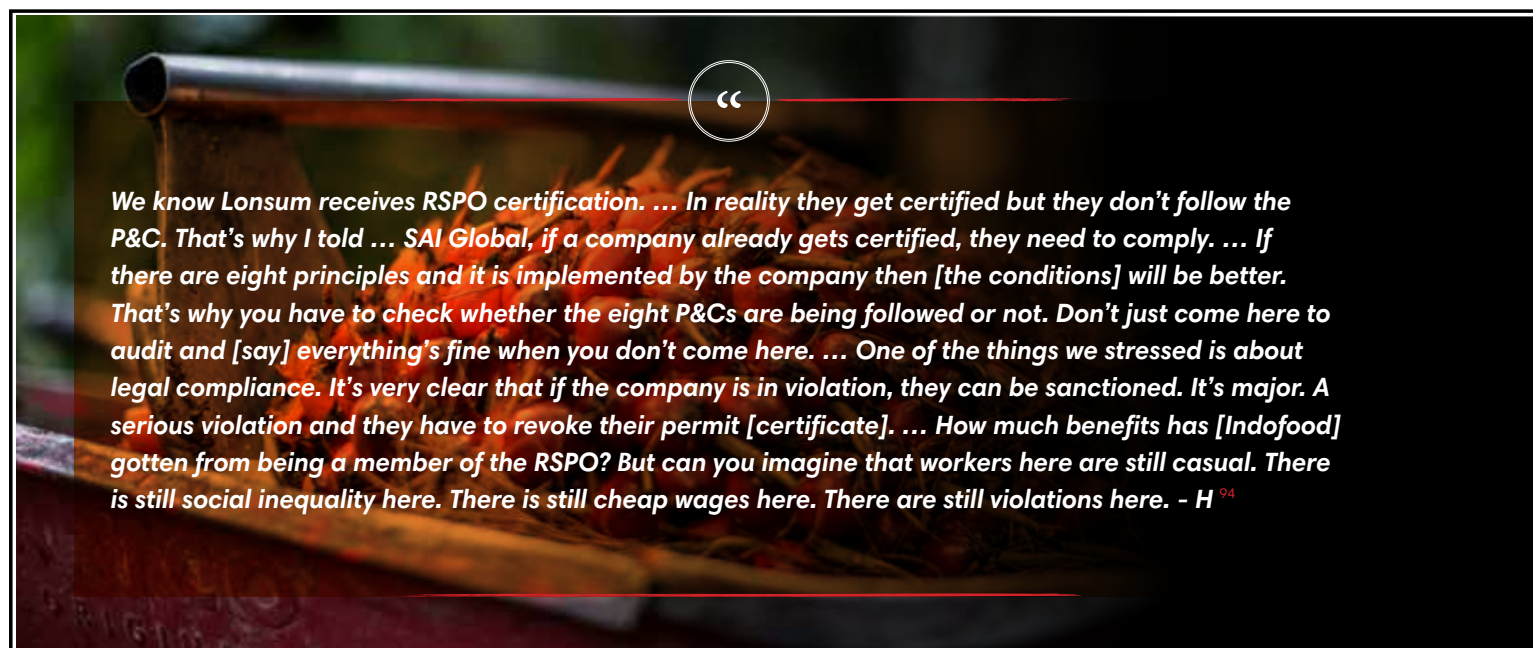
In October 2016, RAN, OPPUK, and ILRF filed the first official labor complaint with the industry certification system, the Roundtable on Sustainable Palm Oil (RSPO), calling on the body to suspend Indofood for systemic violations of the RSPO standard, including violation of more than 20 Indonesian labor laws.⁹² At the time of publication, more than a year after the complaint was filed, the complaint remains unresolved and Indofood continues to sell RSPO certified palm oil to the marketplace without sanction.

The RSPO Complaints Panel has engaged heavily on the complaint; however shortcomings in both the RSPO complaints system and auditing processes, as well as an overall lack of experience handling labor complaints by the institution, has led to a slow response. Currently the RSPO Complaints Panel has proposed to commission an independent audit of Indofood's plantations. Discussions are ongoing over the Rules of Engagement and Terms of Reference for the audit because of the need to address the poor labor auditing practices outlined earlier and to ensure sufficient measures are in place to protect workers. The complainants requested on October 11, 2017 that Indofood publish a statement that there will be no threats, harassment, and/or reprisals to any of the workers, and that the RSPO agree that any reported cases of reprisal or threats will be investigated within 24 hours, and if confirmed, would result in suspension of Indofood's RSPO membership. At the date of this publication, these requests have not yet been fulfilled.

Throughout the current complaint process it has remained unclear if the Complaints Panel would be willing, under any circumstances, to suspend or terminate membership of Indofood. This, combined with an auditing system that continues to fail to detect workers' rights violations, leaves the complainants concerned that the complaints process will neither result in remedy for the violations nor sanction a RSPO member that continues to flout the Principles and Criteria. An effective complaints process must be able to offer both remedy and sanction in a timely and consistent manner.

These shortcomings, however, have not gone completely unnoticed. The newly formed RSPO Labor Task Force has recognized the need to improve the complaints system and committed in May 2017 to "ensure consistency with the Complaints System in relation to development of standards and procedures for investigation and response to ensure worker protection, anonymity, privacy and non-reprisal as well as make relevant recommendations as and when requested."⁹³ It remains to be seen if reforms can be put in place quickly enough to move this complaint forward in a manner that sanctions a non-compliant RSPO company or resolves the ongoing violations.

H, a harvester at one Indofood plantation investigated, told researchers:



We know Lonsum receives RSPO certification. ... In reality they get certified but they don't follow the P&C. That's why I told ... SAI Global, if a company already gets certified, they need to comply. ... If there are eight principles and it is implemented by the company then [the conditions] will be better. That's why you have to check whether the eight P&Cs are being followed or not. Don't just come here to audit and [say] everything's fine when you don't come here. ... One of the things we stressed is about legal compliance. It's very clear that if the company is in violation, they can be sanctioned. It's major. A serious violation and they have to revoke their permit [certificate]. ... How much benefits has [Indofood] gotten from being a member of the RSPO? But can you imagine that workers here are still casual. There is still social inequality here. There is still cheap wages here. There are still violations here. - H⁹⁴

Aiding and Abetting Inaction:

PEPSICO, NESTLÉ, BUYERS, AND FINANCIERS' ROLE IN INDOFOOD'S ONGOING LABOR ABUSES



The UN Guiding Principles (UNGPs) establish that all the business relationships within the scope of a company's responsibilities must respect human rights. This responsibility is further emphasised by the first two of the UN Global Compact's Ten Principles, which state that: "Businesses should support and respect the protection of internationally proclaimed human rights; and make sure they are not complicit in human rights abuse."

As demonstrated by the findings in this report, little has changed in Indofood's operations, and systemic violations continue unabated in contravention of its buyers, financiers, and joint venture partners' 'No Deforestation, No Peatland and No Exploitation' policies and Codes of Conduct. This is shocking, as a large, influential collective of multi-national corporations and financiers have known of the egregious conditions facing Indofood's palm oil workers for one year and five months, and with the exception of one, none have taken the necessary steps to ensure that they are not complicit in human rights abuses.

PepsiCo, Nestlé and Wilmar have continued to profit from their joint venture partnerships with Indofood subsidiaries or parent company First Pacific, palm oil traders Wilmar, Musim Mas, Golden Agri-Resources, Cargill, and ADM's published mill lists indicate they may have been sourcing from Indofood during this period of ongoing labor abuses; and major brands like Unilever, Mondelez, Mars, Hershey's and General Mills have not even issued a public response to let their customers know if they continue to allow their suppliers to source from Indofood. Despite some leadership from Deutsche Bank, other financiers, including major Japanese, European and American banks, have failed to bring about the changes needed to respect human rights.

This collective of large, influential decision-makers remains party to the exploitation of Indofood's palm oil workers. Each company needs to build out their strategies, and invest the time, resources and commercial and business leverage needed to address human rights abuses by Indofood, or exit their business relationships with the company.

JOINT VENTURE PARTNERS AND BUYERS

Since the June 2016 report, the authors have assessed the actions taken by Indofood's joint venture partners and customers in response to the documented human rights abuses. These actions have been weighed against criteria which demonstrate the types of interventions needed to achieve changes in Indofood's policies and practices, or failing that, would result in instructing their suppliers to stop sourcing from Indofood or exiting business relationships with Indofood. The criteria used in the assessment are based on guidance for implementing the UN Guiding Principles which aims to prevent and address negative human rights impacts connected to companies' operations or business partnerships.⁹⁵

Indofood

JOINT VENTURE PARTNERS



DIRECT / INDIRECT BUYERS



Assessment of Traders and Brands Actions To Reform Indofood's Policies and Practices and Address Labor Exploitation

Company name	Issued a public response that demonstrates an acceptance of its company's responsibility to reform Indofood, or evidence of ceasing all business relationships	Company is exercising all available leverage via senior management engagement with Indofood	Initiated due diligence systems to identify salient human rights violations in Indofood's operations using UNGP Framework or stand alone Human Rights Impact Assessment
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JOINT VENTURE PARTNER

PEPSICO



NESTLÉ S.A.



WILMAR



GOODMAN FIELDER



YUM! BRANDS



DIRECT / INDIRECT BUYER

MUSIM MAS



GOLDEN AGRI RESOURCES



CARGILL



IOI



ADM



BRAND AT RISK

UNILEVER



KELLOGG'S



MONDELEZ



MARS



HERSHEY'S






PROCTER & GAMBLE



Engaged affected stakeholders, and their credible proxies, on effective actions to prevent future and mitigate ongoing human rights impacts by Indofood

Set clear and immediate corrective actions to address labor violations as prerequisite for ongoing business relationships with Indofood

Regular and comprehensive reporting on progress

-  - NO
-  - PARTIAL
-  - YES



INDOFOOD'S JOINT VENTURE PARTNERS:

Corporate Spin or Meaningful Interventions to Address Exploitation?

Indofood's position in the marketplace is crucial. Indofood is Indonesia's largest private palm oil company without an adequate 'No Deforestation, No Peatland and No Exploitation' policy, and a subsidiary of First Pacific, which is controlled by The Salim Group — one of Indonesia's largest and most influential conglomerates, with its Chairman Anthoni Salim a notable man of influence in Asia.⁹⁶ The repeated documentation of worker exploitation in Indofood's operations, and the company's refusal to publicly acknowledge and commit to addressing these violations, demonstrates the need for its business partners to exercise any and all types of available leverage to create a change in Indofood's policies and practices.

As the controversies associated with Conflict Palm Oil have grown, so have the number of cases of global brands responding to public campaigns by committing to take action to transform the policies and practices of joint venture partners that are destroying rainforests, peatlands and violating human rights. The following case studies outline actions that have, and have not, been taken by PepsiCo, Nestlé and Wilmar — three of Indofood's joint venture partners. These cases demonstrate the urgent need to accelerate efforts to implement responsible palm oil policies and show how different corporations are refusing to take responsibility for addressing non-compliance in their supply chains and the actions of their business partners.

LESSONS FROM THE PAST:

Kellogg's and Wilmar Set New Benchmark for 'No Deforestation, No Peat and No Exploitation' Palm Oil

The period of 2013 to 2014 will be remembered as a time of significant advancement in global efforts to transform the palm oil industry. A major breakthrough was achieved in part by the actions taken by The Kellogg Company in response to public campaigns that exposed the destruction of Indonesia's rainforests by its joint venture partner Wilmar and its suppliers. Instead of denying the allegations, The Kellogg Company rapidly strengthened its own palm oil policy to make it mandatory for its suppliers to halt deforestation, the destruction of peatlands and the exploitation of communities and workers. Knowing that its own reputation relied on reforming its business partner and supplier, The Kellogg Company used its leverage to engage the owner of Wilmar, and ultimately succeeded in negotiating a new benchmark for responsible palm oil production. By December 2013, Wilmar published its own comprehensive 'No Deforestation, No Peatland and No Exploitation' policy, resulting in a watershed of policy commitments from its peers and customers, which collectively redefined what constituted 'sustainable' or responsibly produced palm oil.⁹⁷

PEPSICO: More Spin Than Leveraging Reforms

In contrast to Kellogg's' efforts to convince its joint venture partner Wilmar to reform its palm oil policies and practices, PepsiCo responded to the same public campaigns in 2013 by refusing to admit that it had a palm oil problem, and to this day, it has failed to adopt an adequate 'No Deforestation, No Peatland and No Exploitation' policy that applies to its joint venture partners' production and procurement operations in Indonesia — the frontline of palm oil expansion and human rights violations.

PepsiCo's unique role in transforming Indofood due to its joint venture partnership and shared brand assets was discussed in the June 2016 report, *The Human Cost of Conflict Palm Oil: Indofood, PepsiCo's Hidden Link to Worker Exploitation in Indonesia*, in which the report authors called on PepsiCo to require Indofood to resolve the documented labor violations, as well as other outstanding Conflict Palm Oil cases, and adopt and implement a comprehensive 'No Deforestation, No Peatland, No Exploitation' (NDPE) policy. However, as clearly documented in this report, PepsiCo's actions to date have fallen short and failed to motivate Indofood to adopt necessary reforms of its labor practices and wider policies.

In 2016, PepsiCo's executives and shareholders generated \$63 billion in net revenues by the sales of branded products across the globe.⁹⁸ These profits are in part possible due to its market dominance and ability to use its leverage to secure large amounts of commodities cheaply, including Conflict Palm Oil. During the same year, PepsiCo used 480,000 metric tons of palm oil in its snack foods and globally known brands, including Frito-Lay, Cheetos, Doritos and Quaker "health food" products.⁹⁹ PepsiCo's snack food joint venture partner Indofood Fritolay Makmur (IFL) — a subsidiary of Indofood — also sources unreported volumes of palm oil for use in the manufacturing of PepsiCo branded products sold in Indonesia.¹⁰⁰ Given the vertically integrated structure of the Indofood conglomerate, IFL is likely to source the palm oil for its consumer branded products, at least in part, from oil that has been produced and processed by the agribusiness division of Indofood — IndoAgri.¹⁰¹ Given the long term contractual relationship between Indofood and Frito-Lay International in this joint venture partnership, and the fact that the partnership delivers profits to both parties and their shareholders, the Chairman and CEO of PepsiCo and senior officials within PepsiCo have numerous avenues to leverage reforms in Indofood's policies and practices. The key question is: have they?

In short, the answer is no. In August 2017, PepsiCo issued a progress report which demonstrated that PepsiCo had not accepted its company's responsibility to reform Indofood's policies and practices; had not undertaken its own assessment to verify if the exploitation of workers was ongoing on its business partner's plantations; and had not taken any commercial action to cancel, or even set pre-conditions, for its ongoing business relationship with Indofood's subsidiary IFL. PepsiCo describes in its progress report that its Chairman and CEO issued a letter to Indofood that described its concerns and PepsiCo's expectations, and that five meetings were held over twelve months to discuss the findings of labor investigations and the actions that Indofood would take to address them.¹⁰² Yet, the only outcome that

PepsiCo has reported from its engagement with its joint venture IFL is its commitment to move to source 100 percent RSPO-certified sustainable palm oil for PepsiCo snack foods produced in Indonesia. The fact that PepsiCo set sourcing RSPO certified oil as a corrective action — when the operations with documented labor violations are RSPO certified and the scheme has failed to protect workers — is a clear demonstration of its failure to utilize its leverage to compel Indofood to resolve the documented labor violations, as well as address other outstanding Conflict Palm Oil cases and adopt and implement a comprehensive 'No Deforestation, No Peatland and No Exploitation' policy.

To make matters worse, instead of fixing the gaps in PepsiCo's own published palm oil policy, and using all possible leverage to expedite a commitment from Indofood to strengthen its policy and address human rights violations in its operations, PepsiCo has tried to shift the blame and "delays" to civil society organizations that filed the complaint with the RSPO. As demonstrated in this report, any delays in addressing labor exploitation on Indofood's plantations are the result of PepsiCo and others not exerting adequate leverage and continuing to outsource responsibility to the RSPO, and its flawed auditing and complaints processes, to deliver protections or outcomes for workers that are aligned with international human and labor rights norms.

The release of this follow-up report is a critical moment for PepsiCo. Thousands of workers on Indofood's plantations, and millions of engaged consumers, are looking to PepsiCo to change its approach, set preconditions that drive the reforms needed of Indofood's policies and practices, and maintain meaningful engagement with affected stakeholders, and their credible proxies, on effective actions to prevent future, and mitigate ongoing, human rights impacts by Indofood. Failing that, PepsiCo should end its business relationships with Indofood, and the use of Indofood's palm oil in PepsiCo products sold in Indonesia and across the globe.



PHOTO: ©HELSEA MATTHEWS / RAN

NESTLÉ'S APPROACH: Cleaning Up Supply Chains But Failing to Reform Policies and Practices

Nestlé is no stranger to scandals involving modern day slavery in its supply chains.¹⁰³ Nestlé's response to the exploitation of workers by Indofood — the most recent documented case of labor abuses in its global supply chains — has been stronger than other brands exposed to sourcing from Indofood, but has fallen short of its responsibilities as a major multinational corporation in a joint venture partnership with Indofood.

Nestlé's joint venture partnership is in a company called PT Nestlé Indofood Citarasa Indonesia, that is a partnership with PT Indofood CBP Sukses Makmur Tbk (ICBP)—a subsidiary of Indofood.¹⁰⁴ Indofood CBP noodles' division operates 16 factories that produce instant noodles sold across Indonesia and 60 countries worldwide, including the United States, Europe, Australia, New Zealand, Africa, the Middle East and Asia. These 16 factories have the capacity to produce over 15 billion packets of noodles annually.¹⁰⁵ Instant noodles are made with more palm oil by weight than any other snack food product on the shelf, so these factories undoubtedly use significant amounts of palm oil.¹⁰⁶ Due to the lack of transparency, it is unclear which of these facilities are sourcing palm oil from plantations where the exploitation of workers has been documented.

PT Nestlé Indofood Citarasa's manufacturing facilities uses 50 tons of palm oil per year to produce co-branded Nestlé and Indofood products sold to Indonesian consumers.¹⁰⁷ In December 2016, Nestlé and Indofood reached an agreement for Nestlé to take over responsibility for sourcing palm oil that would be used in the manufacturing of co-branded products. The transition began in January 2017 and is expected to be completed in February 2018.¹⁰⁸ Therefore, these facilities will continue to produce products using palm oil processed, and potentially grown by IndoAgri, for the next three months.

In 2016 alone, Nestlé used 420,000 tons of palm oil to manufacture Nestlé branded products using supplies provided in large part by major global traders Wilmar, Golden-Agri Resources, and Cargill, all which have had long-term sourcing relationships with Indofood.¹⁰⁹ The latest published mill lists show that these companies may have maintained some sourcing from IndoAgri mills until June 2017, or in GAR's case September 2017.¹¹⁰ Nestlé claims "palm oil from IndoAgri does not enter our supply chain indirectly as it has instructed 'global palm oil suppliers' to not source from IndoAgri." Based on publicly available information, it is unclear if this instructive has led to its suppliers making commercial decisions to suspend sourcing from Indofood by major global traders. The only trader to have publicly stated its decision to stop sourcing from Indofood is IOI Group, which according to Nestlé is no longer one of its suppliers.

Nestlé's engagement with Indofood is a case of a company utilising some, but not all, of its available leverage to address the documented exploitation of workers in its business partners operations. Nestlé has not accepted its company's responsibility to reform Indofood's policies and practices; it has not undertaken its own assessment to verify if the exploitation of workers was ongoing on its business partners plantations; but Nestlé has decided to phase out palm oil sourcing from its joint businesses, and indirect supply chains. The fact that Nestlé is attempting to clean up its supply chains while continuing its business relationship with Indofood is highly problematic, as it has failed to take the most impactful action — to set corrective actions that require Indofood to address labor exploitation and reform its policies and practices as a prerequisite for its ongoing business relationships.

The fact that Nestlé is attempting to clean up its supply chains while continuing its business relationship with Indofood is highly problematic, as it has failed to take the most impactful action — to set corrective actions that require Indofood to address labor exploitation and reform its policies and practices as a prerequisite for its ongoing business relationships.

WILMAR INTERNATIONAL: Influence Weakened By Reliance on the RSPO to Address Exploitation on Indofood's Plantations

Wilmar International is the world's largest trader of palm oil and controls approximately 45% of global palm oil trade.¹¹¹ Wilmar's leverage in the palm oil industry was clearly shown when shortly after publishing its own 'No Deforestation, No Peatland and No Exploitation' policy, its peers in the palm oil processing and trading business followed suit.

In March 2015, Wilmar entered a new partnership with Indofood's parent company First Pacific through their joint acquisition of Goodman Fielder, a major food company selling a large range of food products containing Conflict Palm Oil to consumers in Australia, New Zealand and Asia.¹¹² Wilmar's CEO Mr Kuok Khoon Hong represents Wilmar on the board of the company in addition to Robin Nicolson, the Executive Director for First Pacific.¹¹³ This partnership is poised to increase the sales of products including products made by Indofood, and well known brands of bakery goods and spreads such as White Wings and Meadow Lea, to new consumers across the Asia Pacific region, and increasingly into new emerging markets in Asia.¹¹⁴ However, it is clear that Wilmar has not prioritized reforming the policies and practices of First Pacific, Indofood and Goodman Fielder, given the ongoing, unaddressed labor violations documented in this report, and given that the published policies of its partners do not align with its own 'No Deforestation, No Peatland and No Exploitation' requirements.

To date, Wilmar's response to the documented labor violations shows that, rather than accept its company's responsibility to reform Indofood's policies and practices — as outlined in UN Guiding Principles on Business and Human Rights — it has outsourced responsibility for action to the RSPO, and the RSPO's flawed auditing and complaints process. Wilmar specifically states in its grievance procedure that "any particular grievance raised through the RSPO grievance process will be addressed in accordance with the RSPO procedures," a convenient excuse for inaction that Wilmar is not alone in propagating.¹¹⁵ As shown in this report, the RSPO complaints system and auditing processes cannot be relied on to deliver remedy for workers' rights violations. Since the release of the June 2016 report, the RSPO Complaints Panel has failed to sanction Indofood, meanwhile RSPO auditors have continued issuing RSPO certificates to the company, while it continues to violate its standard.

Wilmar's published mill lists continue to cite a sourcing relationship with numerous Indofood mills, and it has not issued a public statement to confirm if it has suspended sourcing directly from each of the mills named or instructed its other suppliers and trading partners, such as Musim Mas and Golden-Agri Resources, to cease all sourcing from Indofood.¹¹⁶ Wilmar states it has discussed the labor violations with management of the Indofood Group but has not set immediate corrective actions to address the documented labor violations as prerequisite for its ongoing business relationships with Indofood and First Pacific.¹¹⁷

Given Wilmar's commitments to enforce its own 'No Deforestation, No Peatland and No Exploitation' policy in its supply chain and with its joint venture partners, its actions are clearly inadequate. It is critical for Wilmar's leadership team to scale up its engagement with Anthoni Salim, First Pacific, and Indofood until the necessary reforms have been achieved via a further policy revision, the adoption of a time-bound plan for its implementation and the safe resolution of the labor violations documented on its plantations in North Sumatra. Any less will impact the reputation it has tried to build for itself since setting a new bar for responsible palm oil production and potentially result in a loss of the market confidence in its ability to meet the expectations of end-consumers that demand responsibly produced palm oil and a complete transformation of global supply chains, including those of Wilmar's business partner Indofood.

Given Wilmar's commitments to enforce its own 'No Deforestation, No Peatland and No Exploitation' policy in its supply chain, its actions are clearly inadequate.

THE SNACK FOOD 20: All Failing To Address Labor Exploitation

The Snack Food 20 group of companies manufacture a wide range of popular snack foods in the United States and abroad that contain Conflict Palm Oil. Together, the Snack Food 20 have the power to transform the way their suppliers produce palm oil if they each drive the implementation of strong policies that require an end to deforestation, destruction of peatlands and the violation of human rights and worker rights in their supply chains, and the supply chains of their global suppliers. PepsiCo remains the ultimate laggard in the Snack Food 20 as it has failed to close the loophole in its palm oil policy and has continued to turn a blind eye to the ongoing labor violations in its joint venture partner's operations.

PepsiCo is not alone, as others in the Snack Food 20 have failed to act to end their complicity in the ongoing labor violations documented on Indofood's plantation. **This report has shown that despite the adoption of responsible palm oil procurement policies by Nestlé, Unilever, Mondeléz, Mars, Hershey's, Kellogg's, General Mills, Dunkin Brands, Campbell Soup Company and most recently the Kraft Heinz Company — labor exploitation continues on palm oil plantations in their top sourcing region of Indonesia.** Since 2013, this collection of companies have been called frontrunners due to their adoption of policies that go beyond reliance on the RSPO.¹¹⁸ These claims can no longer be made as most have failed to disclose any information on their company's connections to Indofood and none have taken adequate action to address labor violations in Indofood's plantations in North Sumatra.

Nissin Foods, Toyo Suisan and Tyson Foods are lagging behind on both the adoption of time-bound responsible palm oil procurement policy that requires all suppliers to immediately address deforestation, destruction of peatlands and the exploitation of human rights and worker rights in their supply chains and on efforts to truly transform their palm oil supply chains.

A major conclusion of this report is that there is not a single member of the Snack Food 20 that has executed its policy commitment to end the exploitation of palm oil workers.



There is not a single member of the **Snack Food 20** that has executed its policy commitment to end the **exploitation of palm oil workers.**

BANKS AND INVESTORS

Institutions providing financial services to Indofood, its subsidiaries, including plantation arm IndoAgri, or its parent company First Pacific, share responsibility for the harmful impacts and abuses suffered by workers, the environment and local communities resulting from Indofood's operations.

Indofood and its subsidiaries currently receive over 2 billion USD of loans from large banks, including those that have been repeatedly warned about the labor abuses associated with Indofood's palm oil operations. Indofood also receives indirect financing for its operations through First Pacific, which has access to revolving credit facilities totaling 680 million USD as well as 1 billion USD of bonds that are underwritten by HSBC and Mizuho Financial Group (Mizuho). Additionally, shareholders have invested nearly 1.4 billion USD in Indofood, its palm oil-related subsidiaries, and First Pacific.¹¹⁹

Few financiers appear to have meaningfully engaged Indofood despite widely publicized violations by the company against workers, communities and the environment. Even fewer investors have taken steps to divest. Following the exposé of Indofood's labor abuses in June 2016 and the RSPO complaint filed in October 2016, several financiers of Indofood — namely US-based Citigroup and Europe-based BNP Paribas, Deutsche Bank, and Standard Chartered — are known to have initiated engagement with Indofood to address the report's findings. Citigroup and Bank of America, as well as HSBC, Rabobank, BNP Paribas, Deutsche Bank, Standard Chartered, and DBS all have explicit policies prohibiting exploitation by its clients, including child labor and forced labor. However, only Deutsche Bank has subsequently stopped lending to Indofood and its associated companies. Citigroup, Standard Chartered, DBS, and Rabobank continue to finance Indofood in violation of their own policies, while HSBC, BNP Paribas and Bank of America fail to apply their respective policies to their financing of Indofood's parent company.

The top financiers of Indofood — Japan-based Mizuho, Sumitomo Mitsui Financial Group (SMFG) and Mitsubishi UFJ Financial Group (MUFG) and Indonesia-based Bank Mandiri and Bank Central Asia — have made no public commitment to address the negative impacts of Indofood or the wider palm oil industry. Mizuho, SMFG, and MUFG were specifically alerted to Indofood's labor abuses in 2016, but have failed to cut ties or take any meaningful action to address their client's behavior.

Among investors, the Norwegian Government Pension Fund, the world's largest sovereign wealth fund, has been at the forefront of addressing palm oil-related risks in its portfolio: it withdrew its investments from First Pacific and IndoAgri because they "were considered to produce palm oil unsustainably."¹²⁰ Dimensional Fund Advisors also recently excluded Indofood from two of its sustainability portfolios,¹²¹ although its largest funds remain heavily invested in Indofood and its associated companies. Ironically, the largest institutional shareholders of Indofood (see Table X) have all signed the UN-backed Principles for Responsible Investment (PRI), which requires signatories to "incorporate [Environmental, Social, and Governance] issues into [their] ownership policies and practices."¹²² Their financing of Indofood brings into question the credibility of their claims to be responsible investors.

Banks and investors that are financing Indofood must meaningfully engage with Indofood's management and ultimate owner Anthoni Salim, and require the company to immediately address the labor and human rights violations profiled in this report. Failure to do so exposes connected banks and investors to financial and reputational risks, or even legal and regulatory risks as ESG integration and risk disclosure become mainstream.

The top financiers of Indofood — Japan-based Mizuho, Sumitomo Mitsui Financial Group (SMFG) and Mitsubishi UFJ Financial Group (MUFG) and Indonesia-based Bank Mandiri and Bank Central Asia — have made no public commitment to address the negative impacts of Indofood or the wider palm oil industry

Notable lenders to First Pacific Co. Ltd., Indofood Sukses Makmur and its subsidiaries

BANK	COUNTRY	SAFEGUARD POLICY ¹²³		INDOFOOD & SUBSIDIARIES ²⁴	FIRST PACIFIC CO. LTD.		
		PALM OIL	LABOR		GENERAL CORPORATE PURPOSE LOAN ¹²⁵	REFINANCED TERM LOAN ¹²⁶	REFINANCED TERM LOAN ¹²⁷
					ISSUED: 4/12/2013 MATURES: 5/16/2018 TOTAL: 160M USD	ISSUED: 9/25/2014 MATURES: 9/25/2018 TOTAL: 200M USD	ISSUED: 11/30/2015 MATURES: 11/30/2018 TOTAL: 320M USD
MIZUHO FINANCIAL GROUP	Japan	No	No	410M USD	23M USD	40M USD	Participant
MITSUBISHI UFJ FINANCIAL GROUP	Japan	No	No	323M USD			
BANK MANDIRI	Indonesia	No	No	265M USD			
BANK CENTRAL ASIA	Indonesia	No	No	557M USD			
CITIGROUP	USA	Yes	Yes	179M USD			
DBS	Singapore	Yes	Yes	71M USD			
HSBC	UK	Yes	Yes	-	23M USD	40M USD	Participant
SUMITOMO MITSUI FINANCIAL GROUP	Japan	No	No	327M USD		40M USD	Participant
RABOBANK	Netherlands	Yes	Yes	57M USD			
BANK OF AMERICA	USA	Yes	Yes	-	23M USD	40M USD	Participant
MALAYAN BANKING	Malaysia	No	No	-	23M USD	40M USD	
STANDARD CHARTERED	UK	Yes	Yes	7M USD			
BNP PARIBAS	France	Yes	Yes	-			Participant
NATIONAL AUSTRALIA BANK	Australia	No	No	-			Participant
SUMITOMO MITSUI TRUST HOLDINGS	Japan	No	No	-			Participant

Largest Institutional Investors of Indofood



VANGUARD

DIMENSIONAL FUND ADVISORS

BLACKROCK

MACQUARIE GROUP

FIDELITY INTERNATIONAL

GOVERNMENT PENSION INVESTMENT FUND OF JAPAN

PICTET

STATE STREET GLOBAL ADVISORS

SOURCE: [FORESTSANDFINANCE.ORG](https://forestsandfinance.org) (DATA AS OF MAY 2017)

Time will tell if this collective of joint ventures, buyers and financiers will respond to the evidence presented in this second report and exert enough leverage on Indofood to immediately address the exploitation of its palm oil workers in its operations. The assessment of the actions taken to date by this group of multinational corporations shows that very few of these actors have used their leverage to achieve the needed reforms. Some have suspended sourcing contracts or ended financial relationships, while others have engaged in bilateral engagement with Indofood, carried out a Human Rights Impact Assessment or engaged in multi-stakeholder programs to address labor exploitation. Almost all continue to resort to a heavy overreliance on the RSPO's complaint system which, to date, has been shown to be ineffective in protecting the rights of workers, ensuring non-reprisals, and securing improvements in environmental and social performance at the plantation level.

Indofood's joint venture partners', customers', and financiers' willingness to turn a blind eye to these labor violations, while continuing to profit from their business partnerships with the company, is not only negligence, but willful violation of their own policies. Immediate actions must be taken by this collective of companies if they intend to maintain the credibility of their stated commitments to uphold internationally recognized human and labor rights.



WHAT INDOFOOD MUST DO

Indofood's failure to acknowledge, let alone address and resolve, the severe ongoing labor rights violations outlined in this report — most of which have been known about for more than a year and a half — is indicative of the company's overall failing approach to responsible production practices. While other palm oil companies have begun to take meaningful actions to address labor violations,¹²⁸ Indofood has deflected and denied the existence of any issues. Such an approach is clearly not a viable long-term strategy within a changing palm oil industry seeking to align with global market expectations, international human and labor rights norms and ecological necessity.

Indofood must immediately remedy the violations outlined in this report as well as the original June 2016 report through a transparent, time-bound corrective action plan. Such reforms must address the underlying root causes that drive these labor abuses, align with the requirements outlined in the *Free and Fair Labor in Palm Oil Production: Principles and Implementation Guidance*, and apply to all plantations belonging to Indofood, its parent company the Salim Group, and third party suppliers.

Specific recommendations to address the major violations covered in the key findings sections of this report include:

- 1 Immediately stop abusing workers' rights, including all forms of intimidation, harassment or reprisal against workers.
- 2 Hire all workers who perform core plantation work, including kernet workers, harvesters and maintenance workers, as permanent employees and ensure all workers, regardless of their position, have a direct employment relationship with the company.
- 3 Limit short-term contract and casual daily labor to jobs that are truly temporary or seasonal and ensure that precariously employed workers account for no more than 20% of the workforce as required under the Palm Oil Innovation Group (POIG) standard.

- 4 Pay all workers a living wage, determined based on the average living costs of a worker and his/her family and account for inflated commodity prices in plantation areas. At a minimum, comply with minimum wage regulations and ensure wages are sufficient to enable a decent living. Consult directly with workers, worker organizations, and independent unions in determining wages.
- 5 Provide all workers with relevant documentation, including written contracts and pay slips, in a language they understand and ensure they have access to information about their rights and obligations in all stages of employment.
- 6 Cover all costs of production, including any additional kernet workforce to achieve production targets; social security for all workers; and adequate personal protective equipment and replacements as needed.
- 7 Eliminate all unfair deductions and financial penalties, and ensure that deductions never drop workers' wages below the minimum wage. Reflect all deductions on the official wage slip.
- 8 Reimburse any withheld wages or illegal deductions made to cover fraudulent costs or services and compensate workers for any unremunerated work and/or illegal deposits charged, including unpaid overtime and wage deductions resulting from factors outside workers' control.
- 9 Ensure that any production targets are set based on what can fairly and realistically be achieved by one person within normal working hours, using relevant data from appropriate time and motion studies, and that workers are not sanctioned in any form for reasonably not achieving their targets. At the minimum, no target or piece rate should result in people being paid below the minimum wage, working longer hours without overtime pay or relying on help from their spouses or children to complete their work.
- 10 Ensure all overtime is voluntary, consistent with national law, and compensated at a premium rate, or agreed with independent unions in a collective agreement, whichever is higher.
- 11 Eliminate all forms of forced or compulsory labor and ensure that threats of penalties, including those related to targets, dismissal, loss of privileges, and payments below the minimum wage are not used to exact work involuntarily from people. Any penalty linked to employment should be limited to those strictly necessary to ensure a fair and safe workplace and should never infringe the dignity or safety of workers.
- 12 Address the root cause of child labor by ensuring that adult workers earn a living wage so that they are not forced to hire or bring children to work in order to earn a decent living and revise the target system.
- 13 Immediately ban the use of all highly hazardous pesticides, including the herbicide Paraquat and Glyphosate, disclose any associated health risks of chemicals in use.
- 14 Consent should be given for any required medical examinations and the results shared fully with the worker, and if the examination finds that the worker is unfit for employment, the company should cover the cost of treatment.
- 15 Provide all workers, regardless of their employment status, with regular training on occupational health and safety practices and policies, and appropriate levels of health care, accident insurance, compensation for all work-related injuries and illnesses, including death, and pension.
- 16 Respect workers' right to freely associate and do not interfere with the organizing activities of workers, worker representatives, or representatives of independent trade unions.
- 17 Ensure that there is no intimidation or harassment of workers because of their membership or participation in trade union activities.
- 18 Guarantee equal treatment and non-discrimination of all workers regardless of their stages in employment relationship, gender, age and union. Ensure that any discrimination is immediately addressed.
- 19 Guarantee that no punitive action will be taken against any worker for sharing information with RAN, OPPUK and ILRF.



Beyond Labor

Indofood and the wider Salim Group's issues are not confined to the workers rights' violations outlined in this report but indeed cut across environmental, social, and transparency issues as well. These have been well documented by numerous civil society groups.¹²⁹ Indofood must implement an immediate moratorium on all plantation development and expansion across the entire Salim Group and all third-party suppliers and publish time-bound action plans that outline how it intends to address all existing Conflict Palm Oil cases, including unresolved land conflicts with communities in Indonesia.¹³⁰ In order to address and prevent these impacts moving forward Indofood must strengthen its palm oil policy to align with the new global benchmark for 'No Deforestation, No Peatland, and No Exploitation' palm oil production and publish a time-bound implementation plan that includes measurable milestones and a deadline by which its own operations and those controlled by third parties need to achieve third-party verification of policy compliance.

Key shortcomings in the published "IndoAgri Sustainable Palm Oil Policy 2017" that need to be addressed include:

- 1 An ambiguous commitment to 'No Deforestation' through its failure to adopt the High Carbon Stock Approach.
- 2 No commitment to ensure fair labor practices (in line with the *Free and Fair Labor in Palm Oil Production: Principles and Implementation Guidance*), including failure to address its significant reliance on precarious employment, unfair wage system and unreasonable production targets that have incentivized the use of child labor.
- 3 No commitment to establish a credible grievance mechanism that is in line with the UN Guiding Principles on Business and Human Rights.
- 4 No requirement for the company's executive directors to adopt 'No Deforestation, No Peat, No Exploitation' principles in their other business ventures, and no application of the policy to the large palm oil portfolio of Anthoni Salim, the controlling shareholder of IndoAgri.
- 5 No commitment to obtain third party verification of compliance or time bound plan to achieve full traceability despite the fact that a third of its third-party suppliers are undisclosed sources making it difficult to monitor compliance with the policy.

Anthoni Salim maintains control of a complex network of companies known as the Salim Group. The Salim Group must also adopt a 'No Deforestation, No Peatland and No Exploitation' policy¹³¹ that applies to its entire palm oil portfolio, including extensive palm oil concessions controlled by a pyramid of other companies that are responsible for considerable deforestation, including of peatlands and High Conservation Value forest.¹³²

PEPSICO & OTHER JOINT VENTURE PARTNERS & BUYERS

The time is now for PepsiCo and all other Indofood buyers and joint venture partners to step up their game. It has been one year and five months since the release of *The Human Cost of Conflict Palm Oil: Indofood, PepsiCo's Hidden Link to Worker Exploitation in Indonesia*, and as demonstrated in this report, Indofood continues to violate workers rights in contravention of international human and labor rights norms, Indonesian labor law, and the policies of PepsiCo, Nestlé, Wilmar and all other buyers.

PepsiCo and all other Indofood buyers and joint venture partners must require, as detailed above, that Indofood:

- 1 Immediately publish a time-bound action plan which commits to specific actions outlined above that will remedy the violations outlined in this report as well as the original report published in June 2016 in accordance with the *Free and Fair Labor in Palm Oil Production: Principles and Implementation Guidance*;
- 2 Adopt and implement a comprehensive time-bound 'No Deforestation, No Peatland, and No Exploitation' policy and implementation plan that applies to Indofood, and the entire Salim Group and all third-party suppliers;
- 3 Publicly address all outstanding Conflict Palm Oil cases through accountable, mutually agreed upon and credible conflict resolution processes and the establishment of a credible grievance mechanism;
- 4 Demonstrate compliance with its time-bound action plan to remedy labor violations via publishing results of independent assessments undertaken by credible labor experts;
- 5 Publicly report on progress to achieve third-party verification of policy compliance biannually.

If Indofood fails to undertake these reforms, then PepsiCo and all other Indofood buyers and joint venture partners must suspend all existing and future contracts with Indofood and Salim Group companies until the company takes concrete and transparent actions to resolve existing conflicts and move toward responsible palm oil production and sourcing.

INVESTORS AND BANKS

Investors and banks should engage directly with Indofood and its ultimate owner Anthoni Salim, and condition any continued or future financing on Indofood working rapidly to remedy the labor violations outlined in this report, resolve other outstanding Conflict Palm Oil cases connected to the group, and adopt and fully implement a comprehensive 'No Deforestation, No Peatland, and No Exploitation' policy that applies to the entire Salim Group and its third-party suppliers. Investors and banks should regularly monitor Indofood's adherence to these standards by commissioning credible independent assessments and consulting with affected communities and concerned civil society organizations.

Investors and financial institutions must also urgently develop responsible finance due diligence policies and procedures that align with a comprehensive 'No Deforestation, No Peatland, and No Exploitation' framework, including the *Free and Fair Labor in Palm Oil Production: Principles and Implementation Guidance*.

THE ROUNDTABLE ON SUSTAINABLE PALM OIL (RSPO)

The RSPO has a clear decision to make regarding the RSPO membership of Indofood's subsidiaries London Sumatra and Salim Ivomas. This report again confirms the continued violations of Indofood in contravention of the RSPO Principles and Criteria, which have been known by the RSPO for more than a year and five months. Further, there should be zero tolerance for the blatant intimidation and coaching of workers by Indofood management, which took place prior to and following RSPO audits. Common sense calls for the immediate suspension of Indofood if the RSPO wants to stand by its claims of certifying "sustainable" palm oil.

Beyond the suspension of Indofood, the RSPO must work to rapidly align its Principles and Criteria, auditing procedures and complaints process with the *Free and Fair Labor in Palm Oil Production: Principles and Implementation Guidance*. With its current Principles and Criteria review ongoing, the RSPO should seek strong alignment with the normative standards laid out in the *Fair Labor Principles*, which are based on the ILO Core Conventions and UN Guiding Principles on Business and Human Rights, as well as the *Palm Oil Innovation Group Charter* which is the strongest standard and set of verification indicators for responsible palm oil production that aligns with No Deforestation, No Peatland and No Exploitation expectations set by consumers and the global market.

As shown in this report, the RSPO also desperately needs to make critical improvements in its auditing system, including instituting clear requirements on how to properly carry-out confidential worker interviews with a representative cross-section of the workforce and ensure non-reprisal for workers as well as mandating baseline labor qualifications and competencies for auditors. The RSPO should seek to align its auditing practices with *Implementation Guidance 1b* in the *Fair Labor Principles*, which outlines the following best practices in labor auditing:

- » Conduct unannounced site assessments with full, unhindered access to the plantation and related facilities, including mills, living quarters, etc.
- » Assess sub-contractors, including firms responsible for hiring and payroll and other third-party recruitment and employment agencies.
- » Prioritize confidential worker interviews with a representative cross-section of the workforce, and ensure protection of workers against reprisals.
- » Ensure together with employers that worker representatives should have access to all relevant documentation and that they are invited to provide recommendations. Worker representatives should also participate in meetings to discuss findings by the auditors.
- » Report publicly on findings and corrective action plans. Ensure that the privacy and confidentiality of complainants and/or affected parties is protected
- » Ensure the independence and objectivity of the entity or individuals responsible for third-party verification.¹³³

The RSPO should also immediately address the conflict of interest and potential corruption due to the financial dependency of certification bodies on palm oil growers by developing an escrow fund, a reform being called for more broadly by civil society and industry alike.¹³⁴

Lastly, despite some improvements over the last years, the RSPO grievance mechanism needs to undergo significant reform if it is ever to serve as a functional grievance mechanism for palm oil workers. *Implementation Guidance 2* in the *Fair Labor Principles* outlines several recommendations for aligning a grievance mechanism with the UN Guiding Principles on Business and Human Rights. Of particular salience, it notes that such a system should include:

- » Robust and regular stakeholder engagement with potentially affected individuals and communities (including workers and their representative organizations) in its design, implementation, and oversight;
- » Adequate safeguards to ensure workers can file complaint confidentially and without fear of recrimination or dismissal; and
- » Measures to ensure accessibility to all workers, including appropriate language assistance with filing complaints.¹³⁵

This set of actions would serve as critical foundational reforms for the RSPO to demonstrate that it is serious about ensuring the rights of palm oil workers are respected and upheld on its members' plantations.

THE INDONESIAN GOVERNMENT

The findings of the June 2016 report, as well as this one, indicate that Indofood may have violated numerous Indonesian labor laws and undermined workers' constitutional rights to work, to a decent livelihood and to a fair and proper remuneration and treatment in employment.¹³⁶ Many of the issues highlighted in this report point to gaps in legislation and enforcement that does not comprehensively protect the rights of palm oil workers who face unique and heightened risks from their geographic isolation, limited alternative livelihood options and high dependency on palm oil companies.

In line with the *UN Guiding Principles on Business and Human Rights*¹³⁷ and as outlined in the *Coalition of Indonesian Civil Society in Solidarity with Palm Oil Plantation Workers' Position Paper*,¹³⁸ the Indonesian Government must act immediately to remedy workers' rights violations and enforce laws that hold companies like Indofood accountable for failing to respect human rights. In addition, the Indonesian government should enact specific labor laws that aim to regulate precarious employment, wages, the quota system, health and safety practices, and Freedom of Association within the unique context of the palm oil plantation sector.

Urgent attention needs to be paid to women workers and child laborers who are most at risk and least protected, taking into account the quota system and low wages as the primary drivers to their precarious employment and vulnerability. The Indonesian government should ensure that all current jobs and any future jobs truly add to the welfare of workers through strong protections in line with the *Free and Fair Labor in Palm Oil Production: Principles and Implementation Guidance*.

CONSUMERS

PepsiCo cares about what their customers and potential customers think — the company spends millions every year trying to persuade people to trust its brand and buy its products. Join RAN, ILRF, and OPPUK, and over 40 other organizations from around the world that are calling on PepsiCo to urgently address the egregious impacts of its palm oil supply chain and partnerships and to prioritize reform of Indofood's policies and practices.¹³⁹

Send a message to PepsiCo today calling on the company to end exploitation now, and join the campaign at: [RAN.org/open_letter_pepsico](https://www.ran.org/open_letter_pepsico)



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Rainforest Action Network (RAN) preserves forests, protects the climate and upholds human rights by challenging corporate power and systemic injustice through frontline partnerships and strategic campaigns.



The International Labor Rights Forum (ILRF) is a human rights advocacy organization dedicated to achieving just and humane conditions for workers worldwide, founded in 1986 and based in Washington D.C. ILRF works with trade unions and community-based labor rights advocates to expose violations of workers' rights, including child and forced labor, discrimination, and violations of workers' rights to organize and bargain collectively.