

Wilmar Integrated Policy Rapid Assessment

Sandakan Edible Oils Overarching Report

**Sandakan, Sabah
December 2014**



Point of Information: January 2016

This report was written in 2014 by TFT to the best of the knowledge and abilities of the regional field team at the time of writing.

The report was written with the intended readership of Wilmar's Sustainability team alone, in order for them to understand and target the highest risks and gaps in regards to their policy, currently present in the Sandakan supply base. It was designed as a document to inform operational strategy as Wilmar ventured into its next phase of implementing change on the ground in Sabah. It was not designed for use by the assessed entities themselves (they are offered specific reports tailored to the findings in their entity) nor for wider stakeholders to gain an accurate understanding of the entire supply base.

The style and format of overarching reports and the content of a number of the recommendations made by TFT have since been updated due to experience and new learnings on the ground over time. This is evident in the content of overarching reports written in 2015 and 2016 for other Wilmar regional operations. This document remains as it was written in 2014.

The Sabah regional overarching report is being developed for all of Wilmar's refineries in the state of Sabah (SEO, LDEO, and TSH-Wilmar). This report will supersede the SEO overarching report.



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Wilmar and TFT would like to acknowledge the support of all parties that have participated in this collaboration. A large number of people (both internally and third party suppliers) have provided their time, effort, experience and expertise to this process, which is an essential element in the transformational journey. Company and individual details are not included in this report to respect confidential and commercial data and information.

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INTRODUCTION

Wilmar is in the process of visiting suppliers to its refineries in Malaysia and Indonesia. The objective is to help suppliers produce responsible products i.e. without links to deforestation, peat development or exploitation issues. The process is being undertaken initially at a selection of refineries where there are numerous buyers demanding responsible palm oil products.

GIS analysis is carried out for the mills supplying each refinery. The analysis identifies the overlap of the estimated mill catchment areas with several key datasets such as Permanent Forest Reserve, Key Biodiversity Areas, Forest Disturbance on *International Union for Conservation of Nature* (IUCN) areas and peat soil areas. This analysis and a few other factors helps to gauge the *potential* risk of the palm oil mills and their supply base, and hence the priority for a visit. As a result, a number of mills were identified as high priority palm oil mills to be visited out of a total of 52 mills that supply CPO and Palm Kernel to Sandakan Edible Oils Sdn. Bhd (SEO), a Wilmar-owned refinery in Sandakan, Sabah.

Field assessments were carried out in the supply chain of seven mills and their supply base. The location covered Beaufort district, Beluran district and Sandakan district where the mills supply to SEO. Field assessments were carried out from July 2014 to December 2014 by teams that consisted of 2 to 3 people from TFT and representatives from Wilmar Sustainability Department.

The report portrays the overall findings from the team's visit to the internal and third party suppliers of the mills to help Wilmar understand the overall picture and identify the issues on the ground. Recommendations are included in this overarching report and the individual reports to assist the plantations in the areas of improvement.

SCOPE OF ASSESSMENT

This report reveals the findings of the internal and third party suppliers to the palm oil mills. Most plantations visited (estates, small growers, smallholders) were selected by TFT based on



each mill's supplier data prior to the visit. However, some third party suppliers could not be contacted, hence the mill management arranged for other suppliers that were open to the visit.

The categories of the plantations are described as follows:

Categories of plantation	Acronym	Hectarage
Smallholder	SH	39 hectares or below
Small grower	SG	40 to 499 hectares
Estate	Est.	500 hectares or above



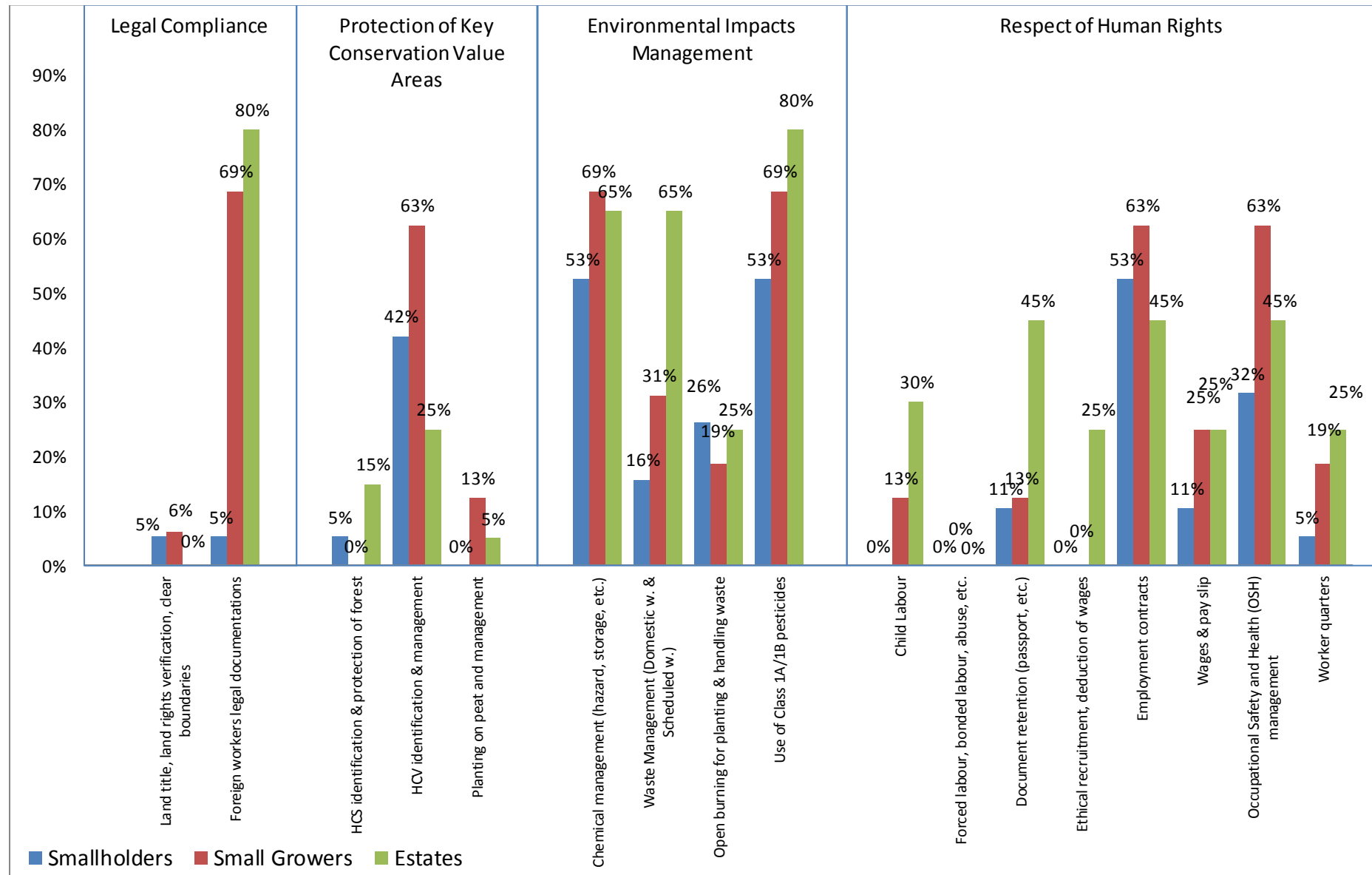
Table 1: Overall findings in Sandakan Hub, across 4 clusters of criteria, in 7 mills and their supply base.

		Legal Compliance		Protection of Key Conservation Value Areas			Environment Impacts Management				Respect of Human Rights							
Palm Oil Mill	No. of plantations	Legal Compliance		Protection of Key Conservation Value Areas			Environment Impacts Management				Respect of Human Rights							
		Land title, land rights, boundaries	Foreign workers legal documentations	HCS identification & protection of forest	HCV identification & management	Planting on peat and management	Chemical management (hazard, storage, etc.)	Waste Management (Domestic w. & Scheduled w.)	Open burning for planting & handling waste	Use of Class 1A/1B pesticides	Child Labour	Forced labour, bonded labour, abuse, etc.	Document retention (passport, etc.)	Ethical recruitment, deduction of wages	Employment contracts	Wages & pay slip	Occupational Safety and Health (OSH) management	Worker quarters
Mill 1	6 SH	0	0	0	3	0	4	0	0	3	0	0	0	0	3	0	2	1
	6 SG	0	1	0	5	0	5	1	0	3	2	0	1	0	3	2	4	1
	1 Est.	0	1	0	0	0	1	1	0	1	1	0	0	0	0	0	1	0
Mill 2	3 SH	1	0	0	2	0	1	0	0	2	0	0	0	0	2	2	3	0
	6 SG	0	6	0	4	0	3	2	3	6	0	0	0	0	6	0	6	0
	2 Est.	0	2	1	1	0	2	2	0	2	1	0	1	0	2	1	2	0
Mill 3	3 SH	0	0	1	2	0	2	0	1	2	0	0	0	0	0	0	1	0
	5 Est.	0	2	2	1	0	5	4	3	4	1	0	2	0	3	0	2	3
Mill 4	5 Est.	0	5	0	1	0	3	3	0	4	0	0	4	2	3	2	2	2
Mill 5	2 SH	0	0	0	1	0	1	0	1	2	0	0	2	0	2	0	0	0
	2 SG	0	2	0	0	2	2	2	0	1	0	0	1	0	1	1	0	1
	2 Est.	0	2	0	0	1	1	2	1	1	1	0	2	0	0	0	1	0
Mill 6	2 SH	0	1	0	0	0	1	2	2	1	0	0	0	0	2	0	0	0
	1 SG	0	1	0	1	0	1	0	0	1	0	0	0	0	0	0	0	0
	3 Est.	0	3	0	1	0	1	1	1	2	1	0	0	3	1	1	1	0
Mill 7	3 SH	0	0	0	0	0	1	1	1	0	0	0	0	0	1	0	0	0
	1 SG	1	1	0	0	0	0	0	0	0	0	0	0	0	0	1	0	1
	2 Est.	0	1	0	1	0	0	0	0	2	1	0	0	0	0	1	0	0
Total	19 SH	1	1	1	8	0	10	3	5	10	0	0	2	0	10	2	6	1
	16 SG	1	11	0	10	2	11	5	3	11	2	0	2	0	10	4	10	3
	20 Est.	0	16	3	5	1	13	13	5	16	6	0	9	5	9	5	9	5
55 Total		2	28	4	23	3	34	21	13	37	8	0	13	5	29	11	25	9
% 1		4%	51%	7%	43%	6%	62%	37%	23%	67%	14%	0%	23%	8%	53%	20%	46%	16%

¹ Referring to the percentage bar which represents issues found in the plantations (regardless of categories) out of total plantations visited; **Yellow** indicates less common issues (<40%), **Orange** indicates common issues (40% and above); **Red** indicates critical issues regardless whether they are commonly found or not.



Figure 1: Findings from the plantations across 4 clusters of criteria under Sandakan Hub.



SUMMARY OF FINDINGS FOR PLANTATIONS

The common issues found in the plantations are in the whole aspect of environmental impacts management, especially in chemical management which includes storage and handling of chemicals, containers and equipment. The use of Class 1A/1B chemicals is pervasive, specifically Paraquat which are commonly used in the plantations.

Among all the plantations that have been visited, issues found among the small growers (40 – 499 hectares) appeared to be more prominent compared to smallholders and estates. It is found that the following issues were more likely to be detected and appear alarming in a small growers' category:

- a. HCV identification and management
- b. Chemical management
- c. Employment contracts
- d. Wage and payslips
- e. Occupational safety & health (OSH)

In estates' category, issues that stood out compared to other categories are found in:

- a. Foreign workers legal documentation
- b. Waste management
- c. Use of Class 1A/1B pesticides
- d. Child labour
- e. Document retention
- f. Ethical recruitment & deduction of wages
- g. Wage and payslips
- h. Workers quarters (accommodation)

There are no issues could be observed more likely to happen in smallholders' category as compared to other categories, except for open burning. However, open burning were more likely to be found in handling domestic waste as contract to open burning before replanting/new planting.



DESCRIPTION OF FINDINGS FOR PLANTATIONS

1. LEGAL COMPLIANCE

1.1. Land title, land rights verification, clearly demarcated boundaries

The status of land rights varies depending on the size of the plantations. Apart from the estates which have good documentation system, the land titles could not be verified in most of the plantations because they are reportedly kept in the head office in town. This situation is more likely to happen for small growers, as they are mid-size companies where managers, assistant managers and supervisors are employed to manage the plantation, but all legal documents are administrated at the head office level and the management on the ground are not certain about the legality of the concessions.

Some smallholders are operating on concessions which are still under land application status. Transfer or buy/sell of land "ownership" under land application status is seen across all districts within the state especially for small growers and smallholders. This could be a problem in the future as the transaction is not legally binding.

Plantations are required to have MPOB license - licence to sell Fresh Fruit Bunches (FFB) issued from Malaysian Palm Oil Board (MPOB) in order to sell FFB to the mills. The license is registered with one or more than one pieces of land, and it could be in land application status. MPOB licenses were checked wherever possible with most entities holding valid licenses. Some were not checked as the documents were kept at their offices in town. All mills visit have a supplier list where MPOB license of the suppliers are recorded.

It was found that some smallholders/small growers selling FFB from an unregistered land or source but using a registered MPOB license of another land. The sources could be from their own concession without title or other suppliers who do not have an access to sell directly to the mill. Some mills track the volume send in by suppliers and match against their corresponding hectareage in the MPOB license but it is difficult to detect such events when it happens.

Recommendations	Est.	SG	SH
A copy of the land titles, MPOB licence and other relevant legal documents should be made available in the plantation office for reference of any relevant authority.	✓	✓	✓
MPOB license should only applied to the registered land with land title or prove of land application status. The license should not be shared for other unregistered land.	✓	✓	✓



1.2. Foreign workers legal documents

Reliance on foreign workers for field work is common regardless of size of the plantation. However, it was noted that a significant number of foreign workers do not have passports and work permits. These findings are common to small growers and estates, where it is relatively easy for workers without legal working documents to move from one plantation to another if they are offered more lucrative opportunities.

Recommendations	Est.	SG	SH
The companies should establish a recruitment policy to ensure all workers recruited have the legal documents.	✓	✓	
The plantations should ensure recruitment of foreign workers with legal documents.	✓	✓	✓
For the existing workers who do not have passports and work permits, the owner or the management team of the plantations should assist the foreign workers in obtaining legal working documents to continue to work in the plantations.	✓	✓	✓



2. PROTECTION OF KEY CONSERVATION VALUE AREAS

2.1. No development of High Carbon Stocks (HCS) areas

Most of the plantations are established plantations with first or second cycle of planted oil palm. There are a small number of isolated cases where plantations are currently in the process of clearing forest for new planting. The density and size of the forests cleared or being cleared varied; however the forests observed are degraded forests which were previously logged over. No HCS studies had been conducted in any of these cases.

It is found that neither the management of plantation companies nor the owners of smallholdings aware of the concept of protecting High Carbon Stock areas. For the big companies, there are no intentions to conduct study to determine the viability of conserving forest areas for their concessions in other places, both in Malaysia and Indonesia.

Figure 2: Forest area within a plantation's concession that is not developed due to steep terrain.



Figure 3: A patch of forest preserved in an estate.



Recommendations	Est.	SG	SH
At the company level, a policy should be established for no development on HCS forest areas should they have other existing plantations or an expansion plan into forest land.	✓	✓	
Plantations should conduct a rapid HCS study with a relevant organisation as a preliminary step to determine if a further analysis is necessary.	✓	✓	✓



2.2. No development of High Conservation Value (HCV) areas

The awareness to protect HCV areas remains low across all sizes of plantations. Only the estates which are RSPO-certified or in the process of certification have made effort to conduct HCV assessment and to conserve identified HCV areas. In many plantations without HCV areas identified and conserved, oil palm is planted very close to the river and stream banks without establishing a riparian zone. Chemical activities prevent vegetative growth and erosion is rampant at the river and stream banks. Other HCV areas often left unprotected include water catchment areas which are crucial sources of drinking water. Very often chemical activities are conducted near to the water catchment area. There are also isolated cases where wetlands and swamp lands with vegetation near to the coast were drained in preparation for new planting of oil palm. Most discoveries regarding development or no protection on potential HCV areas were from the small growers and smallholders' concession.



Figure 4: Picture showing riparian zone is preserved along a stream in an estate.

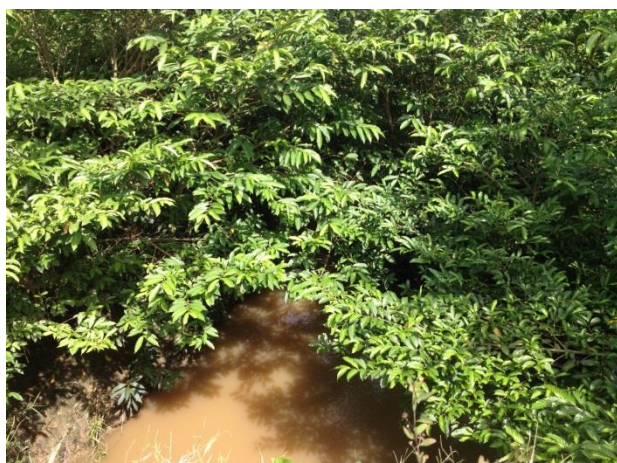


Figure 5: Signs of spraying surrounding water catch area in an estate.



It was found that Environmental Impact Assessment (EIA) was conducted in the big plantation companies with prove of reports, while no evidence of EIA was found in the small plantations (estates and small growers). It is noted under Sabah law that EIA is compulsory for plantations over 500ha² for replanting and new planting from September 1999 onwards. For plantations between 100ha to 499ha, a Proposal for Mitigation Measures (PMM) should be carried out, but there was no evidence of such report for over half of the small grower companies for the replanting after year 1999.

In two cases in Sandakan region, the team discovered 20 hectares of new planting on *Nipah*

Figure 6: On-going clearance of a Nipah swamp which is most likely to be HCV area.



Figure 7: Riparian zone being conserved near to Labuk river and communal cemetery area on the far right.



swamp near the coast (year 2011 planting) and in another case not more than 100 hectares (in the process of felling and draining off water in Figure 6). In both cases there is no evidence of HCV assessment or EIA.

² http://www.sabah.gov.my/jpas/Assessment/eia/handbook/Handbook%20Oil_Palm.pdf. Environmental impact assessment (EIA) guidelines on oil palm plantation development.



Recommendations	Est.	SG	SH												
At the company level, a policy should be established to identify and protect HCV areas.	✓														
For the land has been developed, a rapid HCV assessment should be conducted to identify potential HCV areas. HCV assessment should be carried out prior to any new planting ³ . A management plan should be established to protect any identified HCV area.	✓	✓													
Riparian buffer zone should be conserved at both sides of the rivers and streams according to the Guidelines for Rivers and River Reserves ^{4/5} by Department of Irrigation and Drainage. <table border="1"><thead><tr><th>River/stream width (metre)</th><th>Width of river/stream reserve (metre)</th></tr></thead><tbody><tr><td>>40</td><td>50</td></tr><tr><td>20 – 40</td><td>40</td></tr><tr><td>10 – 20</td><td>20</td></tr><tr><td>5 – 10</td><td>10</td></tr><tr><td><5</td><td>5</td></tr></tbody></table>	River/stream width (metre)	Width of river/stream reserve (metre)	>40	50	20 – 40	40	10 – 20	20	5 – 10	10	<5	5	✓	✓	✓
River/stream width (metre)	Width of river/stream reserve (metre)														
>40	50														
20 – 40	40														
10 – 20	20														
5 – 10	10														
<5	5														
The management team or owner should provide training to their workers to enhance their awareness on no chemical related activities along the riparian zones.	✓	✓	✓												
Markings should be placed along riparian buffer zones to prevent encroachment.	✓	✓	✓												
The estates should conduct Environment Impact Assessment (or Proposal for Mitigation Measures for the development of agricultural estates or plantations covering an area of 100 hectares or more but less than 500 hectares) ⁶ prior to any ground works/land preparation for the replanting program in future.	✓	✓													

³ <https://www.hcvnetwork.org/about-hcvf/the-six-high-conservation-values>. The six HCVs: biological, ecological, social or cultural value of outstanding significance or critical importance.

⁴ http://www.water.gov.my/images/pdf/information_for/garis%20panduan%20pembangunan%20melibatkan%20sungai%20%26%20rezab%20sungai.pdf. Guidelines for Rivers and River Reserves DID (*Bahasa* version), pg. 1-5.

⁵ <http://www.nre.gov.my/ms-my/Biodiversiti/BioD%20Knowledge/RiparianGuideline.pdf>. Managing biodiversity in the riparian zone (English version), pg. 20

⁶ http://www.sabah.gov.my/jpas/assessment/eia/handbook/hbook_eia02.pdf. List of prescribed activities requiring proposal for mitigation measures report, pg. 30.



2.3. No development on peat areas

Peat soil was not found throughout the visits to plantations in Beluran and Sandakan district.

On the contrary, peatland is extensive in Beaufort district, where many plantations of different sizes have oil palm planted on peat soil. Nevertheless, there was no evidence of new planting on peatland during the visit in Beaufort. No evidence was found that these plantations or their parent companies have a policy for the protection of peatland. It was found that there is no proper management practice for palm planted on peatland. Apart from the field drains/canals that were already constructed to drain off water from flood-prone areas, there are no best management practices to monitor and minimize degradation of the peatland.

Figure 8: Developed peatland that is prone to flood.



Figure 9: Blanket spraying in a peatland. Vegetation was not kept on the ground for plantation on peatland.



Recommendations	Est.	SG	SH
At the company level, a policy should be established for the protection of peat land. This includes development in existing plantations and expansion plans that might fall on peatland.	✓		
The management/owner should establish a management plan for plantations existing on peatland, e.g. water management plan, fire prevention plan, and emergency response plan.	✓	✓	✓



3. ENVIRONMENTAL IMPACTS MANAGEMENT

3.1. Chemical management

Findings from the visits revealed that chemical management is one of the most common aspects neglected in the plantations and requires urgent improvement. This is not the case for most estates which are vertically integrated with the mills, but more rampant for the third party suppliers of the mills.

Chemical spillages are commonly found in the chemical stores, fertilizer stores and workshops in some plantations. There are no proper facilities to contain the spillages and there are risks of chemical contamination of soils and watercourses due to run-off.

It is also common to find herbicides, chemical containers and spraying equipment in the workers' quarters especially for the small growers and smallholders. The reason is mainly because of inadequate facilities to store these items in a safe place and lack of management control. As a result, the workers and the family members, especially the children, are constantly facing the risk of exposure to the chemicals. In some instances, used chemical containers are recycled for water storage. The awareness about triple rinsing and recycling of the empty chemical drums is low amongst the plantation management or owners. This is also partly because of a lack of recycling services offered in the region.

Figure 10: Lubricant and hydraulic oil spillages in one of the plantation visited. Housekeeping of workplace is poor.



Figure 11: Pure chemicals were not kept in a proper storage but in the workers' quarters.



Figure 12: Spraying equipment found in a worker's quarter where children move freely.



Figure 13: Herbicide containers used to store water in a workers' quarter.



Recommendations	Est.	SG	SH
Facilities such as a recovery sump and bund should be constructed and spill kit should be made available at chemical and lubricant stores to prevent spillages and contamination in the surrounding the area.	✓	✓	✓
Companies/owners should establish standard operating procedure or a response plan to handle major spillage.	✓	✓	✓
Used chemical containers should be triple rinsed and pierced. These containers should be disposed or sold to licensed buyers who do recycling business.	✓	✓	✓
Safety training/briefing should be conducted to raise awareness among the workers that chemical containers should not be recycled as water containers.	✓	✓	✓

3.2. Waste management

Waste management issues were significantly higher in estates. Some plantations allocate places for landfill for the disposal of domestic waste. However, over half of the plantations had issues with domestic waste disposal, these included: the absence of any rubbish collection system, the landfill situated too near to the workers quarters, rubbish disposed directly at the back of the quarters and burning of the domestic waste.



Figure 14: Scheduled waste with no proper storage and extensive spillage is visible that flowed directly into a water course.



Figure 15: Evidence of domestic waste that is burned as a mean of disposal.



In terms of scheduled waste, the mill and some established estates tended to have facilities to store used lubricant and engine oil, whereas some other estates and small growers were found disposing the scheduled waste in the field.

Mill effluent is another aspect that cannot be neglected. It is generally noted that the allowable discharge from the mill effluent pond cannot be more than 20 ppm and the discharge must be applied to the vertically integrated estate. In a mill that was visited, the risk of overflowed effluent that could contaminate a water course nearby is present.

Figure 16: Evidence of overflow of effluent from one pond to another. Overflow might be contaminating the natural watercourse nearby.



Recommendations	Est.	SG	SH
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Domestic waste should be collected periodically from the workers quarters and disposed at the landfills. The frequency of waste collection should be based on the plantations/mills' capacity.	✓	✓	✓
Landfills should be constructed away from the office, villages and workers quarter. When the landfill is full it should be covered up with soil. Burning of domestic waste must be avoided.	✓	✓	✓
There should be adequate buffer in the mill effluent pond to prevent overflow and contamination of waste water into the water course. All waste from the mill should be dealt with responsibly.	Applicable to mill and integrated estate		

3.3. Open Burning

There were no incidences of open burning for land preparation found during the visits. However, only a very small number of estates have established a zero burning policy.

The team also discovered many cases where domestic waste is burnt on a regular basis as a mean to handle the waste, sometimes near to the workers' quarter.

Recommendations	Est.	SG	SH
The estate should establish a policy prohibiting burning in any of their estate operations, which include land preparation for replant/ new planting and waste disposal.	✓	✓	
Fire should not be used in land preparation for new plantings, re-plantings, other developments and waste disposal.	✓	✓	✓



3.4. Use of class 1A/1B pesticides

It is very common to find plantations using Paraquat as a major herbicide to control the weeds. Estates and small growers have higher tendencies to use Paraquat as compared to small holders, nevertheless about half of the smallholders visited use Paraquat on a regular basis.

It is mentioned in some consumer businesses and traders' policies where Paraquat is prohibited, for instance Wilmar with its Integrated Policy⁷. The implementations of alternative pest control strategies to totally avoid these pesticides are greatly encouraged.

Usage of other class 1A/1B pesticides, such as Metamedophos/*Monocrotophos*, was not found in the plantations.

Figure 17: Paraquat found to be stored with other items in a grocery store in an estate.



Recommendations	Est.	SG	SH
Plantations should implement integrated pest management to reduce reliance on chemicals, especially those of 1A/1B class.	✓	✓	✓
The plantations should phase out the use of Paraquat, and replacing its use with Glyphosate for mature area and Glufosinate ammonium for immature/replanting area (up to 2 years).	✓	✓	✓

4. RESPECT OF HUMAN RIGHTS

4.1. Child labour

The issue of child labour is not extensively found across the visited plantations. However, it poses a serious threat both on violation of human rights and Sabah Labour Ordinance even the occurrence is only limited to a few plantations.

⁷ http://media.corporate-ir.net/Media_Files/IROL/16/164878/NoDeforestation_NoPeat_NoExploitation_Policy_11122013.pdf. Occupational health and safety, pg. 5.



It is common for workers to bring along their children to collect loose fruits. This is aided if there is no one to look after children when the parents are working in the field. Crèche services are provided for the children up to 6-7 years old one in some well-established estates and small growers.

Some children work in the field because there is no education opportunity (cases where children were found helping out their parents to collect loose fruits during school holidays were not flagged in this report). A significant number of foreign workers' children in the plantations have no access to education, neither do they have access to public schools since public education is only offered to Malaysian citizens.

There are some isolated cases where children were seen doing heavy work, such as working on FFB unloading ramps and applying fertiliser. This situation tends to happen in small growers and estates where there is no policy to prevent children from working.

A few plantations companies partnered with Humana Child Aid Society Sabah and provide education to the children. Humana schools are operated in the estates of these companies in Sandakan and Beluran district. These Humana schools provide education the children in the estates up to grade 6 and also accommodate children from neighboring plantations if they have the capacity to do so. In Beaufort district, although there is no Humana school for the foreign workers' children, however they are provided with basic education in Community Learning Centre (CLC). Plantations with schools and crèches have lower risk of child labour.

Figure18: Young children following their parents into the field to collect loose fruits. They do not have access to school.



Figure 19: A young boy is applying fertiliser in an estate. There are other children applying fertiliser and spraying in the same estate.



Figure 20: Crèche is provided in some estates for the children while parents are working in the field.



Figure 21: A Community Learning Centre where children are given basic education by teachers from Indonesia.



Recommendations	Est.	SG	SH
A policy that prohibits child labour should be established.	✓	✓	
The children and “young persons” ⁸ should not be involved in hazardous and non-light work activities, e.g. applying fertilizer and spraying in the field, and the work should not hinder them from having access to education.	✓	✓	✓
The companies of the plantations should support and accommodate the children of the foreign workers so that they have access to education in Humana schools or Community Learning Centres (CLC).	✓	✓	
For children from plantations which do not have the capacity/scale to have educational facilities, the management/owner should seek to cooperate with the nearby plantations which have Humana Schools or CLCs to accommodate children to attend school.	✓	✓	✓
In the case where accommodating more children from neighbouring estate is not possible, teachers could be invited from nearby Humana school or equivalent to teach in a facility prepared by a plantation as an alternative.	✓	✓	✓

⁸ <http://minimumwages.mohr.gov.my/wp-content/uploads/2013/07/LabourLawCap67.pdf>. Employment of children and young persons in Sabah, pg. 38-39.



4.2. Forced labour, bonded labour, abuse, etc.

There is no evidence of forced labour or bonded labour in the plantations where the team visited.

The team did not discover cases of harassment and abuse among the workers in the plantations.

4.3. Document retention

The practice of withholding the passports of the foreign workers is common. Passports are kept in the office of the established estates; however, for plantations with inadequate facilities, passports are often kept in the regional office. Retention of passports is commonly practiced in the estates. Interestingly, some foreign workers who were interviewed gave positive feedback and welcome the practice of the owners/management keeping their passports as they do not have a secured place to keep their own passports.

Reasons for keeping the passports of the foreign workers based on interviews with the managements include:

- Safe keeping/security
- For the renewal of the work permit; it takes approximately 4 to 6 months for the process of permit renewal with the Immigration department.
- General misconceptions that by withholding passports, the plantation management could effectively prevent workers from absconded.

In many cases the workers do not have a photocopy of their passports and permits. There is a fear of getting caught by the police and hence their movement is restricted.

Recommendations	Est.	SG	SH
The management/owner should only keep the passports of the workers for safe keeping purposes. A photocopy of the passport should be given to each worker.	✓	✓	✓
No charge or deposits should be incurred and the passports should be given to the workers within reasonable time (24hours) if they request for the passports.	✓	✓	✓

4.4. Ethical recruitment and deduction of wages

There is no evidence of recruitment fees charged to the workers directly by the employer, i.e. the plantation companies. The workers with legal documents are usually recruited by



agents in their home countries (Indonesia and Philippines). Before arriving in the plantations, usually they have already paid agent fees for legal processes, transportation and commission to the agents. The money paid for agent fees could be raised through savings, selling of properties or borrowing from relatives or friends. This could indirectly cause bondage to the workers, so they are compelled to work to pay for the debt that has already been incurred back home. It is common across the industry that the agents doing recruitment charge agent fees both to the plantation companies and the workers at the same time for bringing in new workers to work in the plantations.

Other workers are introduced to work in the plantations by relatives or friends of workers who are already working in the plantations. There remains a possibility that the new recruits are charged a sum of money by the existing workers as recommendation fees. Besides, some plantations recruit new workers in the form of "walk-in" interview. These workers do not have legal passports and work permits. It was noted that under these two circumstances, legal documentations could be arranged for these workers once employments are confirmed.

It was noted that deduction of wages takes place in some estates for tools required for field work and mistakes committed by the workers at work.

Recommendations	Est.	SG	SH
The workers should not be charged with recruitment fees at the beginning of their employment.	✓	✓	✓
Deduction of salary for tools replacement should only serve as a deterrent factor to discourage workers from carelessly mishandling their tools instead of transferring all cost of tools to the workers.	✓	✓	✓
The companies should have a tool replacement policy in place in the plantations.	✓	✓	
Deduction of salary should only be conducted with the permit from the labour department and it should not be more than 50% of the gross salary ⁹ .	✓	✓	✓

4.5. Employment contracts

Absence of a contract agreement between the employer and the workers was commonly observed for all categories of plantations, with higher occurrence with the small growers.

It is common for the workers in the plantations to be employed only with verbal agreement. There is a risk that the workers may not be treated fairly in employment arrangements based

⁹ <http://minimumwages.mohr.gov.my/wp-content/uploads/2013/07/LabourLawCap67.pdf>. Lawful deductions, clause 8.



on verbal agreement. In other cases, there were contracts signed, however, the workers are not given a copy of the contract.

The issue of employment contracts given to the workers but in a language that they do not understand is not present since the contracts are in Bahasa and most workers speak a fair amount of *Bahasa*. Nevertheless, the high illiterate rate among the workers could mean that they signed or thumb-printed the employment contracts but do not understand what is stipulated inside the contracts.

Recommendations	Est.	SG	SH
The workers should be provided with written contracts in a language that they understand (in Sabah's context, usually in <i>Bahasa</i>), detailing their working conditions, entitlements and the nature of work to be undertaken. A copy of the contract should be kept by the worker.	✓	✓	✓
The companies should explain the contract to the illiterate workers so that they understand the terms and conditions of their employment.	✓	✓	✓

4.6. Wages, pay slips and working hours

There are a small number of plantations where workers are not receiving minimum wages of RM800 per month. Reasons behind earning below minimum wages tended to be due to a low basic rate for work carried out¹⁰ (for the piece-rated work) or a low attendance for the month (i.e. working less than 26 days that should be offered by a company) since minimum wages is calculated by day instead of month¹¹. Such observation is found more common amongst the small growers and estates.

In many plantations, pay slips are not given to the workers hence the workers could not verify their earnings against their work.

Except for big plantation companies which normally employ workers (spraying, fertiliser application, etc.) on daily rated basis, most workers in the plantations are employed based on piece-meal work; their wages depend on their productivity, hence working hours could not be easily verified.

Recommendations	Est.	SG	SH
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¹⁰ For analogy purpose which is adapted from real cases found in some plantations:

Case #1: A harvester is able to harvest at maximum 1.5 tonne of FFB a day; he is only able to obtain RM27 for a day's wage since the piece meal rate is RM18/tonne of FFB.

Case #2: A sprayer is able to carry out circle spraying at maximum 4 hectares a day; she is only able to obtain RM24 for a day's wage since the piece meal rate is RM6/hectare sprayed.

¹¹ RM800 divided by 26 days equals to RM30.77/day.



The companies should ensure all workers are paid at least the legal minimum wages. This also applies to the workers, who are not directly under the payroll of the plantations, e.g. the workers under the employment of a contractor who provides harvesting/spraying labour to the plantations.	✓	✓	✓
In the event when wages paid on piece-rated work did not meet the minimum wages, the workers should be paid the current minimum wages for the day.	✓	✓	✓
The companies should ensure pay slips are given to the workers with recorded details, e.g. days worked, overtime hours, public holiday, annual leaves, sick leaves, productivity for piece-rated work with all relevant rates, etc.	✓	✓	✓
The companies should ensure that workers are not working more than the legal 12 hours per day, including overtime. Overtime hours after 8 hours should be on a voluntary basis and OT rate should be at least 1.5 times of the normal wage rate. The workers should have at least one day off in seven.	✓	✓	✓

4.7. Occupational safety and health

Many plantations do not have OSH management system in place. Only the established estates have comprehensive documentation system and actual monitoring on the ground. The absence of OSH management system is common especially among the small growers.

Aspects that tend to be neglected include risk assessments of plantation operations and medical surveillance for the workers who are involved in chemical activities. The workers are not trained in terms of safe operating procedure, first aid, emergency response, use of personal protective equipment (PPE), etc.

Workers without the legal passport and work permit are not covered by accident insurance. However, for big plantation companies, workers pending regularization are also covered by insurance.



Figure 18: Leak pipes that cause hazard in the mill.



Figure 19: Worker without appropriate PPE and unsafe working condition in a mill.



Recommendations	Est.	SG	SH
The companies should establish a safety policy ¹² and implement OSH management system in the plantations.	✓	✓	
The companies should conduct a risk assessment for all work activities in the workplace. The workers should be adequately trained according to their job scope. The trainings should include safe operating procedure, first aid, emergency response, use of personal protective equipment (PPE) ¹³ , etc.	✓	✓	
Chemical handlers should be sent for medical surveillance ¹⁴ at least once a year, or as recommended in Chemical Health Risk Assessment (CHRA) or audiometric test.	✓	✓	✓
The companies should provide accident insurance to all workers covering medical treatment for work-related illnesses and injuries, and arrange for compensation for work-related illness and injury causing death or permanent disability.	✓	✓	✓

4.8. Workers quarters

Housing conditions in the plantations varies in terms of size and type. In established estates under plantation companies, the houses are generally well maintained with adequate rooms and space, and basic amenities such as water, electricity and sewage system. Most issues in accommodation are from the estates and small growers where the houses need infrastructural maintenance and general upkeep of its cleanliness.

Only plantations that are nearer to the town have access to main grid electricity. Interior plantations utilize generators to produce electricity. For established estates, water is sourced

¹² <http://www.agc.gov.my/Akta/Vol.%2011/Act%20514.pdf>. Duty to formulate safety and health policy, pg. 17.

¹³ Refer to the link above, General duties of employees at work, pg. 21.

¹⁴ Refer to the link above, Medical surveillance, pg. 23.



from catchments and treated before consumption, whereas workers in interior plantations rely on rain water and streams for drinking and other uses.

Figure 20: A workers' quarter with a dysfunctional sewage system and waste scattered around.



Figure 21: Worker quarters with proper management and workers taking ownership to upkeep the area.



Recommendations	Est.	SG	SH
In the absence of approval from labour office, the following characteristics should be met by the companies and their contractors: a. housing are adequate and safe; b. separate and segregated accommodations are provided for single men and women; c. there are no restrictions imposed which interfere with workers' rights to leave the housing facility during their free time; and d. the average living space is not less than 3.8m ² per individual.	✓	✓	✓
The companies or the management should ensure cleanliness of the workers' quarters ¹⁵ and provide basic amenities such as adequate water and electricity ¹⁶ .	✓	✓	✓

¹⁵ <http://www.agc.gov.my/Akta/Vol.%209/Act%20446.pdf>. Weekly inspection of workers' housing, pg. 21.

¹⁶ Refer to the above link. Supply of water and electricity and maintenance of houses, pg. 10



DISCUSSION ON NEXT STEPS

The findings of these assessments have offered an overall perspective of the issues faced in the SEO supply chain, which is an important first step to embark on a transformation process. Many of these issues are prevalent not only in the plantation industry but a systemic challenge the state of Sabah is facing in its interest to develop. To effectively tackle these issues sustainably, involvement from various stakeholders will be critical and players in the supply chain would need to show support by taking ownership in driving a positive transformation.

The common cause underlying these issues is the lack of awareness and motivation to strive towards best practices and legal compliance. Using this report, Wilmar is encouraged to embark on a discussion with the companies in these assessments to identify what is needed to overcome these issues. Feedback and agreement from these companies are important as a form of building an alliance. The transformation process is a long one which Wilmar cannot drive alone.

In addressing these issues, a prioritization process taking into consideration what are the critical issues and common issues across the board. Once identified, a discussion involving related stakeholders should be carried out to determine the best approach to deal with the issues, which can be dealt with over short and long term period. Key points from this process should form the strategy of driving the transformation.

