



Reference: ASA 21/2016.017

Mr Jeremy Goon  
Chief Sustainability Officer  
Wilmar International  
56 Neil Road  
Singapore 088830

4 November 2016

Dear Mr Goon,

Thank you for the response we received on 17 October 2016. We appreciate Wilmar's willingness to engage with us but regret the lack of responses to many of the questions we had raised with the company. We are setting out the substance of our key detailed findings in this letter to give you an opportunity to review and respond to them before we publish our findings. We have also included some questions, which we hope you will respond to.

As mentioned in our previous letter dated 5 October 2016 Amnesty International investigated the working conditions of people employed on palm oil plantations owned by Wilmar's subsidiaries and third-party suppliers. Amnesty International interviewed workers employed on various estates owned by PT Perkebunan Milano and PT Daya Labuhan Indah. Researchers also interviewed workers employed by your third-party suppliers PT Abdi Budi Mulia, PT Sarana Prima Multi Niaga and who work on a plantation owned by the BEST Group. Amnesty International also interviewed some workers employed by PT Mustika Sembuluh to check if they experienced similar issues. Our findings focus on PT Perkebunan Milano and PT Daya Labuhan Indah and the third-party suppliers listed above. Interviews were conducted in February, October and November 2015. Amnesty International reviewed various reports and materials published by Wilmar, including the company's policies, sustainability reports, RSPO certification assessment reports as well as the traceability analysis and summary data produced in collaboration with TFT. Amnesty International has also obtained export data from Indonesia to trace exports from Wilmar companies from ports closest to the refineries which are directly or indirectly supplied by the mills who are supplied by the plantations which Amnesty International investigated. Amnesty International has traced exports from these companies and ports to a number of countries all over the world.

## OVERALL FINDINGS

Companies have a responsibility to respect human rights. The scope and meaning of this responsibility has been clarified in the UN Guiding Principles on Business and Human Rights (UN Guiding Principles).<sup>1</sup> According to the UN Guiding Principles: *"The responsibility to respect human rights is a global standard of expected conduct for all business enterprises wherever they operate. It exists independently of States' abilities and/or willingness to fulfil their own human rights obligations, and does not diminish those obligations. And it exists over and above compliance with national laws and regulations protecting human rights."*<sup>2</sup> The responsibility to respect human rights requires that companies: *"Avoid causing or contributing to adverse human rights impacts through their own activities, and address such impacts when they occur"*.<sup>3</sup> In order to meet this responsibility, companies should put in place: *"A human rights due diligence process to identify,*

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<sup>1</sup> UN Office of the High Commissioner for Human Rights, *Guiding Principles on Business and Human Rights: Implementing the United Nations "Protect, Respect and Remedy" Framework*, UN Doc. HR/PUB/11/04, 2011 available at: [www.ohchr.org/Documents/Publications/GuidingPrinciplesBusinessHR\\_EN.pdf](http://www.ohchr.org/Documents/Publications/GuidingPrinciplesBusinessHR_EN.pdf) (last accessed 23 October 2016).

<sup>2</sup> Principle 11, UN Guiding Principles.

<sup>3</sup> Principle 13 (a), UN Guiding Principles.

*prevent, mitigate and account for how they have addressed their impacts on human rights” and “Processes to enable the remediation of any adverse human rights impacts they cause or to which they contribute.”<sup>4</sup>*

Amnesty International’s investigation has uncovered human rights abuses by Wilmar’s subsidiaries and third-party suppliers. We found that Wilmar has failed to meet its responsibility to respect human rights and that Wilmar and its subsidiaries (Wilmar Group) have abused their workers’ rights to just and favourable conditions of work, health and social security. The evidence that we have collected indicates that PT Perkebunan Milano and PT Daya Labuhan Indah are acting in breach of Indonesian laws and may also have committed criminal offences.

Amnesty International also documented abuses of workers’ rights by Wilmar’s third-party suppliers, including child labour and the involvement of children in hazardous work; forced labour; gender discrimination; workers being paid below the minimum wage; and other abuses of the rights to just and favourable conditions of work, health and social security. It also found evidence that one supplier interferes with worker’s right to join a trade union of their choice. We found that Wilmar does not have an adequate due diligence process in place to identify, prevent, mitigate and account for how it addresses adverse human rights impacts. Wilmar’s lack of adequate due diligence contributes to the adverse human rights impacts experienced by workers employed by its third-party suppliers.

#### **EVIDENCE OF ABUSES OF WORKERS’ HUMAN RIGHTS BY WILMAR’S SUBSIDIARIES**

Please find below a summary of our detailed findings on human rights abuses by Wilmar’s subsidiaries.

- Wilmar’s subsidiaries use a complex system to calculate workers’ wages. The system combines two methods of calculation of wages; workers’ wages are based on the time worked as well as their output. PT Perkebunan Milano and PT Daya Labuhan Indah set output targets for the tasks that workers need to complete which are either based on volume or area which must be covered. The target is not modified in low seasons (when there is a lower yield of palm fruits) and this shifts the burden of poor yield or bad weather conditions on to workers who have to work long hours to meet the same target even though there are fewer fruits to be collected. The work is extremely physically demanding and tiring. The targets set by Wilmar’s subsidiaries are quite high and the use of this ‘target-based’ system makes workers vulnerable to human rights abuses.
- There are a number of smaller tasks which harvesters are required to do in addition to their core tasks of harvesting and collecting the fresh fruit bunches. Workers can face financial penalties and/or receive an oral or written warning if they do not complete any of these tasks. For example, workers can receive a warning for not picking up loose fruit or be fined 5,000 Indonesian Rupiahs if they harvest palm fruit which is still raw.
- Indonesian law prohibits anyone from employing and involving children (any person under the age of 18) in the worst forms of labour.<sup>5</sup> Employers can employ children above the age of 15 years of age<sup>6</sup> and to employ children aged between 13 and 15 years for light work, which does not disrupt their physical, mental or social development.<sup>7</sup> In order to meet their targets, earn more bonuses and to avoid penalties, Amnesty International documented that workers get help from their spouses, children or others to complete certain tasks. Children started working below the minimum age of employment in Indonesia and Amnesty International interviewed some children who began helping their parents when they were as young as eight years old. Amnesty International was told by workers and children that staff in a supervisory capacity see children working but do not take any corrective action. Wilmar’s response to Amnesty International does not acknowledge the responsibility of the Wilmar Group for the involvement of children in the worst forms of child

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<sup>4</sup> Principle 15, UN Guiding Principles.

<sup>5</sup> Article 74, Manpower Act. The worst forms of child labour include work which is harmful to the health, safety or morals of children and are regulated under Ministry of Manpower and Transmigration Decree No. Kep-235/Men/2003 on Forms of Dangerous Labour against Health, Safety and Moral of the Child. The Ministerial Decree defines these types of work to include jobs using certain types of tools or machinery, in a dusty working environment, working environment with extreme temperature or harmful chemical substances, and which involve manually lifting or carrying heavy loads.

<sup>6</sup> Article 68 of the Manpower Act states the employers should not employ children (defined under Article 1 as anyone below the age of 18 years of age). However, the Ministry of Manpower and Transmigration Decree No. Kep-235/Men/2003 on Forms of Dangerous Labour against Health, Safety and Moral of the Child also provides that children aged 15 and above may work, other than in work which may endanger the health, safety or morals of children which is prohibited till the age of 18.

<sup>7</sup> Article 69, Manpower Act.

labour on plantations owned by the Wilmar Group. It does not acknowledge the role played by the low levels of minimum wages, and the use of targets and penalties for certain tasks, as causative factors which lead to parents bringing their children to help their with their work. Wilmar has created these causative factors, which have led to the involvement of children in hazardous work on plantations owned by the Wilmar Group. Its supervisory staff have allowed child labour to continue and the company has benefited from the work children have done. It should not penalise parents for its own failures. The company needs to take responsibility for its own actions and omissions and address these causative factors so that parents do not need to bring their children to work in order to earn enough money for their families.

- Children work without any safety equipment, not even gloves, in an environment where they are vulnerable to injury from handling the fruits and from falling branches. PT Perkebunan Milano's and PT Daya Labuhan Indah's palm oil plantations makes extensive use of chemicals, including weedicides, pesticides and fertilizers and children are exposed to these chemicals when they work on the plantations. Children carry heavy loads, as they have to carry sacks of loose fruits and some transport wheelbarrows full of heavy palm fruit bunches over uneven terrain and narrow bridges. Even children who attend school are working longer hours than permitted by law even in situations where children are engaged in light work in safer circumstances (a maximum of three hours a day). Some children have dropped out of schools to help their parents. Children run the risk of musculoskeletal injuries from repetitive movements and lifting and carrying heavy or awkward loads. They are given no training and have no protection in the event of accidents or injuries. This work absolutely cannot be considered to fall within the exception for light work for children aged 13 to 15 years of age under Article 69 of the Manpower Act. The nature of the work that the children do on PT Perkebunan Milano 's and PT Daya Labuhan Indah's plantations is hazardous and contravenes the prohibition on involvement of children under the age of 18 in the worst forms of child labour.
- Article 73 of the Manpower Act provides that children shall be assumed to be at work if they are found in a workplace unless there is evidence to prove otherwise. This provision indicates that an employment relationship shall be assumed if children are found in a workplace unless there is evidence that they are not working. PT Perkebunan Milano and PT Daya Labuhan Indah may have committed a felony as set out under Article 185 of the Manpower Act. They have also breached Article 74 because of the involvement of children under the age of 18 years in jobs that are harmful to their health and safety. PT Perkebunan Milano and PT Daya Labuhan Indah may have therefore committed a felony under Article 183 of the Manpower Act.
- Women workers in the plant maintenance unit are not paid their daily wages if it rains at a certain time of the day. In these situations the workers have registered for the day's work and worked for some or all their working hours but are not paid the daily minimum wage. Amnesty International also documented instances where workers are not paid for the day's work if they do not meet their targets. They have to complete the work the next day and are only paid for one day though they have worked for two, effectively losing out on one day's minimum wage. If workers don't meet their targets for some days, they are asked not to work for one day. PT Perkebunan Milano and PT Daya Labuhan Indah have contravened Article 90 of the Manpower Act, which prohibits employers from paying wages lower than minimum wages and may have committed a felony under Article 185.
- Amnesty International found that PT Perkebunan Milano and PT Daya Labuhan Indah ignore regulations on limits to working hours and overtime under Indonesian law.<sup>8</sup> Overtime work is not agreed with the worker in writing, and exceeds three hours in a day or 14 hours a week especially when people work on Sundays. Neither company pays worker overtime pay as required under the law. Workers are not provided food or drinks nor are they provided the necessary periods of rest and weekly days off. PT Perkebunan Milano and PT Daya Labuhan Indah have contravened Article 78 (2) of the Manpower Act and may have committed a misdemeanour as set out under Article 187 of the Act. PT Perkebunan Milano and PT Daya Labuhan may also have contravened Article 79 of the Manpower Act by failing to allow its workers to take the necessary periods of rest and leave.
- Indonesia is a party to the ILO Forced Labour Convention, 1930, and has adopted the Convention in its national legislation. Forced labour is defined under the Convention and Indonesian law as "*all work or service which is exacted from any person under the menace of any penalty and for which the said person has not offered himself voluntarily.*"<sup>9</sup> The target-based system of pay, coupled with the wide range of penalties which may be applied at the employer's discretion, and opaque system of pay, makes it easier for company staff to exploit workers' vulnerability. Supervisors employed by Wilmar's subsidiaries use the menace of penalties, including an implicit or explicit threat of loss of privileges, or fear of dismissal to make people work longer hours. These risks are exacerbated for casual daily labourers,

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<sup>8</sup> Articles 77 and 78, Manpower Act (Law 13 of 2003).

<sup>9</sup> Article 2.

as it is easier for company staff to exploit their insecure employment status. Amnesty International documented cases of foremen threatening women workers in plant maintenance with not being paid or having their pay deducted in order to exact work from them. It also found cases of workers being pressurized to work longer hours with implicit and explicit threats of loss of privileges. The system of work where workers are asked to work on Sundays but paid piece-rates leading to people being paid below the daily minimum wage, let alone the overtime payment required under the law, is an area of particular concern. These cases amount to forced labour as work is exacted under the threat of a penalty and the worker is no longer offering him or herself voluntarily.

- Wilmar's subsidiaries have exploited a loophole in Indonesian law to hire women, typically wives of workers, and some men to work as casual daily labourers rather than as permanent employees. Companies should hire people as permanent workers if they require their services on an ongoing basis and agreements for casual day labour should be restricted to situations in which companies require help with additional volumes of work on a temporary basis. However, PT Perkebunan Milano and PT Daya Labuhan Indah hire people as casual daily labourers to carry out work, which the companies requires on an ongoing basis and which is integral to maintaining the plantations. This is clearly evident from the pattern of employment as workers work for the company every month, rather than just during a few months of the year and that companies continue to retain their services year on year. Despite an ongoing working relationship which can span decades, casual daily labourers are left in a precarious situation where they cannot earn a monthly minimum wage. Women and men also continue to work without access to health insurance, pensions and other benefits, including paid maternity leave which would otherwise be required under Indonesia law. Casual daily labourers also face difficulties in accessing paid sick leave. Their employment status is fundamentally insecure and they have no protection against termination of employment.
- The fact that PT Perkebunan Milano and PT Daya Labuhan Indah retain people as casual daily labourers for long periods of time leads to abuses of both men and women workers' rights. Amnesty International's investigation revealed that the majority of women who work on the plantations are retained by the company as casual daily labourers and are not made permanent. The evidence that Amnesty International has collected indicates that PT Perkebunan Milano and PT Daya Labuhan Indah exclude women who work on plantations from opportunities for permanent employment and only employ them in units where they are only offered work as casual daily labourers. The pattern of hiring women on plantations as casual daily labourers and not offering them permanent employment amounts to discrimination and impairs women's rights to and at work, to health and to social security. In its response to Amnesty International, Wilmar has stated that *"temporary contract employment is offered on the basis of mutual agreement between workers, who have alternative sources of employment and prefer to work on casual basis to supplement their regular source of income, and the plantation management"*. We note that in the Sustainability Brief, issued on 21 October 2016, Wilmar has stated: *"While the proportion of female temporary workers is higher than male, it is important to note that almost 50% of the temporary workers are wives of the permanent workers. They prefer to be employed on a casual basis, with flexible working hours that allow them to tend to their household. Permanent work contracts do not allow for flexible working hours."*<sup>10</sup> This is inconsistent with the evidence that Amnesty International collected that wives of permanent workers were not asked if they prefer permanent work contracts and are only offered employment in units where they can only work as casual daily labourers. It is also inconsistent with the reality that many of the same women help their husbands in the afternoons, with tasks such as picking up loose fruit. Wilmar has not offered any reasonable and objective justification for the Wilmar Group's failure to offer permanent employment to the majority of women workers employed on their plantations. Wilmar also did not respond to Amnesty International's request for the numbers of women who are currently employed as temporary workers by the Wilmar Group in Indonesia and how many women have been made permanent since 2011
- Amnesty International's investigation revealed a significant gap in the provision of personal protective equipment to workers and in the maintenance of equipment used by sprayers. Researchers documented gaps in provision or replacement of equipment such as boots, masks, gloves, coveralls (aprons) and goggles when workers spray chemicals or spread fertilizers. The aprons and masks provided offer inadequate protection. The target based system disincentives workers from taking breaks, which are necessary if workers wear the right protective equipment in the heat, as they effectively lose out on pay every time they take a break. Workers described experiencing negative health effects, after exposure to chemicals.

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<sup>10</sup> Wilmar International, Sustainability Brief, October 2016, section 3.2.

- Workers who deal with and/or spray other chemicals do not have adequate information or training on the chemicals that they spray or handle and on the specific health risks associated with these chemicals. Amnesty International found wide divergences in information and knowledge amongst workers, based on the attitude of the foreman who supervised their work. For example some workers do not even know the brand names of the chemicals that they spray, and workers have different levels of safety information. PT Perkebunan Milano and PT Daya Labuhan Indah have breached Article 86 of the Manpower Act, Article 14 of Law No. 1 of 1970, and the Minister of Manpower and Transmigration Regulation No. 08/MEN/VII/2010 Year 2010 on Safety Equipment. Through their failure to provide adequate protective equipment to workers, they may committed an offence under Article 15 of Law No. 1 of 1970.
- Workers employed by PT Perkebunan Milano and PT Daya Labuhan Indah who spray chemicals or spread fertilizers undergo blood tests every six months or yearly. The workers are not given information on the kinds of tests that are carried out on their blood. Workers are not provided with copies of the test results by the companies, despite asking for it. Only a limited number of workers have been able to get a summary of their results. Workers whose blood tests reveal anomalies are told that there is a problem with their blood but still not provided a copy of the results. This leaves the workers extremely anxious about their health. While it could be positive for the companies to screen workers for health impacts linked to exposure to chemicals, any such testing should be voluntary and based on the workers' full and informed consent. This requires that the tests that will be undertaken are explained fully to the workers, their consent is sought and all results are shared with the workers who should also be able to avail of independent medical advice if their results show anomalies.
- Amnesty International documented delays or a failure to obtain adequate treatment for workers who suffered injuries in the course of their employment, which greatly exacerbated the negative health impacts suffered by the workers. It also documented a failure to provide adequate rehabilitation and disability compensation to workers who have been injured.
- 2015 is considered to be the second worst year on record for emissions from Indonesian forest fires.<sup>11</sup> These forest fires led to high levels of air pollution in North Sumatra in the dry season. Workers employed by PT Perkebunan Milano and PT Daya Labuhan Indah were asked to continue to work during this period though physical exertion and working outdoors increase the risk of respiratory damage. Workers were not provided with masks and some workers suffered respiratory infections or other respiratory problems. PT Perkebunan Milano and PT Daya Labuhan Indah failed to respect workers' right to health by exposing them to health risks related to smoke pollution exposure, without providing them with even basic safety equipment.

## WILMAR'S LACK OF ADEQUATE HUMAN RIGHTS DUE DILIGENCE

Please find below a summary of our detailed findings on Wilmar's lack of adequate human rights due diligence related to its third-party suppliers and business relationships.

- Wilmar has implemented one of the operational principles set out under the UN Guiding Principles by adopting a clear statement of policy to respect human rights. This Policy is approved at the most senior level of the business and applies to its entire global operations, third-party suppliers and other actors with which it has a trading relationship. These are positive steps. Nevertheless, Wilmar has grossly failed to put in place an effective system to implement this policy. It has not identified serious and systemic risks factors for human rights abuses and has failed to prevent these abuses. Even when it has identified risks, such as the continuing use of paraquat contrary to its policy, it has not provide any evidence that it has assessed and required mitigation of health risks to workers who continue to be exposed to paraquat. It has also not addressed human rights abuses, which have occurred because of a failure to address serious, systemic and predictable risk factors, and has provided no evidence of remediation of abuses.
- The evidence collected by Amnesty International reveals that women and men working on plantations owned by Wilmar's suppliers faces abuses of their human rights which are systemic in nature and not *ad hoc*. These abuses are linked to factors such as the low levels of minimum wages in Indonesia; the use of performance targets or piece-rates to calculate pay; the large number of penalties which can be applied at the employer's discretion; the use of casual work arrangements for people, especially women, who work for the company on an ongoing basis; and risks associated with continuing use of hazardous chemicals (which are exacerbated by the vulnerable status of casual daily labourers who work with these chemicals). All of these are obvious and predictable areas of concern and risk.

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<sup>11</sup> A. Morales, 'How Indonesia's Fires Made it the Biggest Climate Polluter', Bloomberg, 28 October 2015, available at: [www.bloomberg.com/news/articles/2015-10-28/how-indonesia-s-fires-made-it-the-biggest-climate-polluter](http://www.bloomberg.com/news/articles/2015-10-28/how-indonesia-s-fires-made-it-the-biggest-climate-polluter) (last accessed 22 October 2016)

Similarly, the risks to workers following hazardous levels of air pollution in Central Kalimantan and Sumatra in the dry season after forest fires in 2015 were patently obvious. Wilmar has however failed to identify and address these issues in relation to the suppliers that Amnesty International investigated. It has also failed to provide evidence that it has identified and addressed these risks across its broader supply chain in Indonesia.

- It is clear from Amnesty International's investigation that Wilmar has not meet its target of ensuring that all its suppliers are fully compliant with the labour related provisions of its Policy by the end of 2015. For example, Wilmar itself acknowledges that this target has not been met in relation to paraquat and its suppliers continue to use. In its response to Amnesty International, Wilmar acknowledged in its response to Amnesty International: *"Only a number of our suppliers have been able to fully implement this to date."*<sup>12</sup> Wilmar states that it is working with suppliers to support processes to eliminate paraquat use. However this should have thrown up red flags and been identified as a high risk issue which required further monitoring and mitigation measures to protect the health of workers who have been spraying and continue to spray paraquat.
- Amnesty International asked Wilmar to describe the sites that were visited to date as part of its 'high level engagement' with suppliers and the methodology used to assess working conditions. Wilmar did not provide this information. Amnesty International also asked Wilmar to describe how it had monitored compliance with Indonesian and international labour standards on plantations which were not visited as part of this 'high level engagement' process. Wilmar pointed to the "supply chain surveillance" work carried out on more than 40 palm oil companies at the plantation, mill or group level and to its grievance procedure. Despite being asked to, Wilmar did not provide details of instances in which it identified abuses of international labour standards amongst its subsidiaries and suppliers in North Sumatra and Central Kalimantan and the corrective action taken. It also did not respond to a question asking if it had informed the authorities when its monitoring had revealed breaches of Indonesian labour law by its subsidiaries or suppliers.
- It is difficult to assess Wilmar's 'proactive monitoring of suppliers' in the absence of any information on the methodology used and the criteria for selection of the 40 companies who that are monitored. It is also hard to comment on the efficacy of this monitoring without any information on the abuses or risks that were discovered and the corrective action taken. While the Aggregator Refinery Transformation approach may be useful, it is extremely limited in scope. The criteria used for selection of mills are not based on an adequate pre-assessment of the risk of labour rights abuses. Most of the selection criteria are linked to environmental factors and the ones linked to labour are based on the company's policy framework, RSPO certification and publicly available information. There is no pre-assessment of suppliers' working arrangements or risk factors such as membership of trade unions, the targets set for workers, piece-rate pay, and/or the number of casual daily labourers or migrant workers employed by the company.
- Wilmar is one of the most significant purchasers of palm oil for the third-party suppliers that Amnesty International investigated. As the largest trader of palm oil globally, it is in a unique position to exercise leverage, influence and control, particularly when it as a direct purchaser. Wilmar's lack of adequate due diligence contributes to the adverse human rights impacts experienced by workers employed by its suppliers.

## OVERRELIANCE ON RSPO CERTIFICATION AND WEAKNESSES IN RSPO CRITERIA AND AUDITS

Amnesty International reviewed the Roundtable on Sustainable Palm Oil (RSPO) principles and criteria, audit checklist as well as reports of the certification assessments that were carried out on PT Perkebunan Milano and PT Daya Labuhan Indah's plantations. Please find a very brief summary of our findings.

- In its public materials, Wilmar place great reliance on its membership and certification by the RSPO as proof of its due diligence and respect for human rights. Amnesty International's investigation reveals that the RSPO is acting as a shield which deflects greater scrutiny of Wilmar's and other companies' practices. However, the implementation and monitoring of the RSPO criteria are extremely weak and based on a superficial assessment system.

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<sup>12</sup> Wilmar International letter to Amnesty International, dated 17 October 2016. Wilmar also states: *"Many of our suppliers are undergoing trials to identify practical alternatives, and Wilmar continues to support this process to eliminate paraquat use."*

- The RSPO principles and criteria only include a very limited number of principles and criteria on labour rights issues. The principles are quite superficial even on the issues which are covered, for example, there is no guidance on what kinds of work children between the ages of 15 to 18 could be involved in which would not be hazardous or pose risks to their health or safety. The audit checklist is extremely inadequate in the scope of monitoring which is required. For example, the checklist on forced labour focuses almost exclusively on migrant workers and does not assess other risks of forced labour in line with the guidance provided by the International Labour Organization.
- There is an overreliance on documentary evidence rather than verification of actual conditions. This is also evident from the review of the certification assessments that were carried out on PT Perkebunan Milano's and PT Daya Labuhan Indah's plantations. Amnesty International asked Wilmar in our letter dated 5 October 2016, if assessments teams ever carried out visits to plantations without informing the managers of the plantations. Wilmar did not respond to this question but the evidence collected by Amnesty International indicates that they are no unannounced inspections, which is a critical weakness if one wishes to identify labour abuses. Workers told Amnesty International that their supervisors always told them in advance when assessments would be carried out and made sure that on those days workers had the right equipment or kept certain groups of workers away from any interviewers. Workers were not interviewed in privacy and were told by their supervisors what they should say if they were questioned. The reports indicate that a very limited number of workers are interviewed. From Amnesty International review of the certification assessment reports, the assessment teams do not appear to include people who have specific expertise and experience of detecting labour rights abuses. The weaknesses in the certification assessment methodology are evident from the failure of certification assessment reports to identify the abuses which Amnesty International found in its investigation. Wilmar failed to provide Amnesty International with the information it requested on details of instances in which the assessments have identified abuses of international labour standards amongst its subsidiaries and suppliers in North Sumatra and Central Kalimantan and the corrective action taken.

## LACK OF TRANSPARENCY

Amnesty International analysed the traceability information that has been made available by Wilmar and export data from Indonesia. Please find below a short summary of our findings.

- After going through all the traceability summaries, we concluded that palm oil produced by PT Perkebunan Milano , PT Daya Labuhan Indah, PT Abdi Budi Mulia and PT Sarana Prima Multi Niaga has been supplied directly to the following refineries: PT Multimas Nabati Asahan in Kuala Tanjung; PT Wilmar Nabati Indonesia in Bagendang; PT Wilmar Nabati Indonesia in Padang; PT Wilmar Nabati Indonesia in Gresik; PT Wilmar Nabati Indonesia, Dumai; PT Wilmar Nabati Indonesia, Pelintung; and PT Multimas Nabati Asahan, Pulo Gadung. We also identified that these refineries then supply a number of other refineries in Indonesia and other parts of the world. A large number of refineries directly or indirectly receive palm or lauric from the mills which are supplied by the plantations which Amnesty International investigated.
- Amnesty International obtained export data from Indonesia to trace exports from Wilmar companies from ports closest to the refineries which are directly or indirectly supplied by the mills which are supplied by the plantations which Amnesty International investigated. Amnesty International has traced exports from these companies and ports to a number of countries all over the world.
- Amnesty International has approached consumer goods companies who have previously been identified as Wilmar customers or who state that they currently source from Wilmar. Many of these companies have confirmed that they receive palm oil or palm linked derivatives from Wilmar. One of the companies has told Amnesty International that though it receives detailed traceability information from Wilmar with every shipment, it cannot share this information as it is confidential in line with an agreement with Wilmar. It stated that it required permission from Wilmar to share this information. Amnesty International does not accept claims that the information is commercially sensitive/and or cannot be shared because of confidentiality as a legitimate position, particularly given that Wilmar already makes palm oil information from mills to refineries available on its website. Furthermore, it is not in the public interest to keep this information opaque, particularly since it is being marketed either on customers' websites or on the end-products themselves as RSPO "certified sustainable palm oil". Wilmar claims that it adopted its No Deforestation, No Peat, No Exploitation Policy as "*consumers globally are moving towards and favouring responsibly-produced commodities*".<sup>13</sup> However, the lack of information on the downstream movement of palm oil obstructs consumers'

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<sup>13</sup> Wilmar International, Sustainability Report 2013, p. 4.

ability to know whether or not the palm oil used in the end-products that they purchasing is actually sustainable palm oil which is free for exploitation. It exposes a contradiction in Wilmar's policies and claims about transparency if there is no disclosure of where the palm oil goes to after it reaches Wilmar's refineries. There cannot be scrutiny of responsibility for abuses in supply chains if traceability is restricted to upstream sources and there is no information on the downstream companies who source these materials. Wilmar's efforts to ensure greater transparency of its supply chain could be positive but its utility is greatly reduced if there is no disclosure of where the palm oil goes to after it reaches Wilmar's refineries. If customers and NGOs cannot use this data to map efforts of all the companies involved in the supply chain, it is an exercise that may be useful for large consumer goods companies but does not help consumers who wish to check that they are buying responsibly sourced commodities.

## QUESTIONS

- Please confirm if any of the following companies received palm oil or palm related derivatives from the refineries which source directly or indirectly from the mills who are supplied by the plantations which Amnesty International investigated: Agrupación de Fabricantes de Aceites Marinos, S.A. (AFAMSA), Archer Daniels Midland (ADM), Colgate-Palmolive, ConAgra Foods, Elevance Renewable Sciences, Kellogg's, Mars, Mondelez International, Nestlé, Procter & Gamble, Reckitt Benckiser, and Unilever? If they do not, please provide details of which refineries the palm oil they receive is sourced from.
- Please confirm if Wilmar's customers are restricted from sharing the traceability information they receive from Wilmar and if they cannot share information on the mills/plantations/ports that they receive palm oil from? If there is such an agreement, why was it entered into and was this confidentiality requirement put in at one or more of the customers' or Wilmar's request?
- In Wilmar's response to Amnesty International, Wilmar stated that it provided free face masks to villagers. However, in the Sustainability Brief issued on 21 October 2016, Wilmar claims that it provided "*aid, in the form of facial masks, food supplements, shelter and medical assistance to **workers and communities***" (emphasis added). Please provide us with details and evidence of the masks that were provided to workers and on which plantations. Did Wilmar carry out any assessments on whether and how long workers could work outdoors after the forest fires which led to hazardous levels of pollution in Central Kalimantan and Sumatra? Did it assess what types of safety equipment would be required? Please provide us with details and evidence of the assessments undertaken and the safety measures that were put in place.

In the event that you are unable to provide the requested information, we would appreciate being provided with the reasons why this is not possible. We invite you to provide us with any comments or clarifications that you may have on the information and allegations described in this letter. We intend to publish our detailed findings and may include part or all of your responses in our report. Please provide any comments and responses by **10:00 GMT on 11 November 2016**, to enable us to consider incorporating these into the report. Please respond by email to [seema.joshi@amnesty.org](mailto:seema.joshi@amnesty.org).

Amnesty International has written separately to the third-party suppliers and consumer goods companies named in this letter. The overall objective in conducting this investigation is to obtain better conditions for workers on palm oil plantations in line with international human rights law and standards. Amnesty International does not call for boycotts of companies or products. Furthermore, we note that this letter is not intended to be a submission of a grievance and should not be treated as one under your grievance procedure.

Thank you.

Yours sincerely,



Seema Joshi  
Head of Business and Human Rights