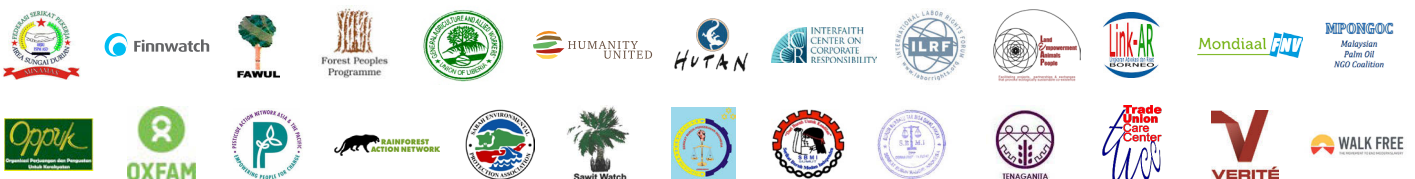




Free and Fair Labor in Palm Oil Production: *Principles and Implementation Guidance*



Introduction

Palm oil is the world's most popular vegetable oil, accounting for more than 30 percent of global vegetable oil consumption. It is used as cooking oil, in household products such as detergents, cosmetics, and processed food, and increasingly for biofuel. Since 1990, global palm oil consumption has quintupled. As consumption grows, there is increasing documentation—by major media outlets, governments, and NGOs—that palm oil production often relies on forced labor and other modern forms of slavery. Even those plantation and mill workers not subject to forced labor face harsh working conditions and challenges to basic human and labor rights. Understanding this reality, it is imperative that those companies that source, trade, and produce palm oil make sure that the rights of workers are respected and that they have the opportunity to earn a decent livelihood for themselves and their families.

Ensuring responsible labor practices on plantations also makes financial sense for businesses at all stages of the supply chain. Consumer brands and other buyers of palm oil cannot risk their reputations by being associated with violations of human and labor rights. To guarantee access to this growing market for responsibly produced palm oil, and because good labor and community relations can enhance productivity and reduce the risk of production delays, growers, processors, and traders are now committing to “no exploitation” throughout their supply chains. The Free and Fair Labor Principles and Implementation Guidance provide a framework to link these commitments to real improvements in working conditions for millions of workers employed on palm oil plantations and mills around the world.

The Free and Fair Labor Principles and Implementation Guidance

The Free and Fair Labor Principles (“Principles”) and corresponding Implementation Guidance (“Guidance”) is intended to support and advance the ongoing dialogue on responsible palm oil

by providing a common point of reference on what constitutes free and fair labor in palm oil production. It is based on the frameworks enshrined in International Labor Organization core conventions and the UN Guiding Principles on Business and Human Rights, and it builds on the existing standard established by the Roundtable on Sustainable Palm Oil (RSPO). It is not intended as a new code of conduct or certifiable standard, but rather as a resource to provide concrete and practical guidance on implementing responsible palm oil production.

The Principles and Guidance focus on the hired labor workforce on palm oil plantations and mills, where the risk of worker exploitation is greatest. Smallholder concerns are related but distinct, and thus fall outside the scope of this document.

The primary objective is to improve working conditions for plantation and mill workers, and therefore palm oil growers are the key audience for this document. Responsible traders, processors, retailers, and consumer brands should also use the Principles and Guidance to implement responsible palm oil policies and supplier codes of conduct. Finally, the Principles and Guidance can also serve as a benchmark for investors, activists, and other stakeholders to assess commitments to responsible palm oil production and sourcing.

The Principles and Guidance are interlinked and mutually reinforcing. The Principles provide the normative standard for labor and working conditions on palm oil plantations and in palm oil mills. The Guidance then outlines a set of practices to operationalize these principles. Effective and full implementation is a long-term proposition that necessarily includes the establishment of interim milestones and meaningful, ongoing stakeholder engagement.

1. “List of Goods Produced by Child Labor or Forced Labor,” *U.S. Department of Labor*, December 1, 2014. <http://www.dol.gov/ilab/reports/child-labor/list-of-goods/>
2. Skinner, Benjamin. “Indonesia’s Palm Oil Industry Rife with Human Rights Abuses,” *Bloomberg Businessweek*, July 18, 2013. <http://www.businessweek.com/articles/2013-07-18/indonesias-palm-oil-industry-rife-with-human-rights-abuses>
3. Maulia, Erwida. “RI workers, children ‘enslaved’ in Malaysia, commission says,” *The Jakarta Post*, September 17, 2008. <http://www.thejakartapost.com/news/2008/09/17/ri-workers-children-039enslaved039-malaysia-commission-says.html>



Free and Fair Labor in Palm Oil Production: *Principles*

1 The International Labor Organization (ILO) Core Conventions are upheld.

Eliminate all forms of forced or compulsory labor. Eliminate the worst forms of child labor. Palm oil plantations and mills should not employ or benefit from the labor of children under the age of 15. No child under the age of 18 should be engaged in hazardous work (e.g., harvesting, pesticide application, milling, etc.). Guarantee equal treatment and non-discrimination of all workers regardless of the stage and details of the employment relationship. Respect freedom of association, including the right to establish and join trade unions and the right to organize and bargain collectively.

2 Ethical hiring and responsible employment are practiced.

Progressively and concretely move toward a system of direct hiring by employers using standard, permanent, or reasonable fixed-term contracts. Prohibit charging of recruitment fees and confiscation of identity documents by recruiters and employers. Ensure that all recruiters comply with accepted ethical standards. Limit casual or day labor to jobs that are truly temporary or seasonal. Prohibit discrimination in all stages of the employment relationship, including hiring and recruitment. Ensure that workers and their families are not subjected to any form of intimidation or harassment, including but not limited to, sexual or physical harassment.

Ensure that ethical hiring and responsible recruitment apply equally to Indigenous Peoples and local communities. Where necessary, adopt special safeguards to prevent discrimination between these and other workers. Prior to the establishment of any plantation, respect the rights of ownership of Indigenous Peoples and local communities over lands to which they hold legal, communal or customary rights. Prohibit their forced removal from such lands and respect their right to give or withhold their Free, Prior and Informed Consent (FPIC) to any developments on their lands. Provide equal employment opportunities, and where plantations have been established without FPIC, provide redress, including compensation or return of lands, for any negative impacts on livelihoods or loss of lands that resulted from the establishment of a plantation.

3 Reasonable production targets, working hours, and leave entitlements are established.

Any production targets or quotas should be based on what can be fairly and realistically achieved by one person within normal working hours. Targets should be based on relevant data from appropriate time and motion studies. Working hours should be recorded at all times to ensure that workers are paid the legal minimum wage for all hours worked, regardless of productivity. Production incentives and bonuses may be offered up to a reasonable limit. Illegal deductions and financial penalties are not permitted.

Working hours, excluding overtime, should be defined by contract and not exceed 48 hours per week. The total hours worked in any seven day period, including overtime, should not exceed 60 hours, and there should be at least one day off after six consecutive workdays. All overtime should be voluntary and compensated at a premium rate consistent with national law or collective agreement.

Provide workers with all legally mandated public holidays and reasonable periods of leave, including parental, compassionate, sick, and paid annual leave.

4 A living wage is paid.

A living wage should be paid to all workers. Determine that wage based on the average living costs of a worker and his/her family, including commodity prices in plantation areas, and in consultation with workers, worker organizations, and independent unions. Ensure that this wage is paid to all workers.

5 Worker health and safety and the welfare of workers and their families are prioritized.

Provide all workers with adequate protective equipment, tools, and safe transportation to and from work free of cost. Provide regular training and information in the workers' own language on occupational health and safety practices and policies. Immediately ban the use of all highly hazardous pesticides, including the herbicide Paraquat dichloride, and replace these with safer alternatives, including non-chemical ecosystem solutions. Disclose the ingredients and any associated health risks of any pesticides and fertilizers used by workers to themselves and their organizations and unions, and obtain their express consent prior to usage. Provide all workers with appropriate levels of accident insurance and compensation for all work-related injuries and illnesses, including death. Ensure pregnant women and nursing mothers are not obliged to perform work that has been determined to be harmful to the health of the mother and/or child, including work with pesticides. Ensure adequate housing, sufficient amounts of clean water, medical, educational, and welfare amenities for workers and their families, to national and international standards, whichever is higher.

6 Access to remedy is guaranteed.

Establish a legitimate, accessible, and transparent complaint and grievance mechanism, at a minimum consistent with the guidelines outlined in the United Nations Guiding Principles for Business and Human Rights. Institute an iterative and ongoing process of multi-stakeholder engagement, including relevant trade unions. Ensure that outcomes and remedies are effectively implemented and communicated in accordance with international human rights law.



Commit to meaningful due diligence, transparency, and disclosure of human rights policies, procedures, and data, with a focus on labor and employment.

Develop and publish a corporate human rights and social responsibility policy, including key elements related to the promotion of free and fair labor practices. Institute a robust due diligence system, complemented by effective stakeholder engagement and remediation processes. Publicly and periodically report on data concerning workforce composition, production quotas, wages paid, average working hours, sickness, and accident rates.



Free and Fair Labor in Palm Oil Production: *Implementation Guidance*

1 Institute a robust due diligence system to identify and address potential or actual labor rights violations, with a particular focus on vulnerable groups (e.g., migrant, casual/temporary, contract, and women workers):

- a. At regular intervals, including during acquisition and joint venture partnership arrangements, conduct internal assessments to identify and assess the nature of the actual and potential adverse labor rights impacts of the business.
 - i. Draw on internal and independent external human and labor rights expertise to develop specialized training for internal assessors to identify and document instances of forced labor and human trafficking.
 - ii. Ensure that evidence includes meaningful consultation with workers and other potentially affected groups and stakeholders, as appropriate to the size of the business enterprise and the nature and context of the operation.
 - iii. Assess the conditions under which workers are recruited and managed by third-party recruitment and employment agencies.
 - iv. Consider particular concerns of women workers, including but not limited to sexual and physical harassment.
- b. Commit to independent, third-party verification, which follows best practice in labor assessments.
 - i. Conduct unannounced site assessments with full, unhindered access to the plantation and related facilities, including mills, living quarters, etc.
 - ii. Assess sub-contractors, including firms responsible for hiring and payroll and other third-party recruitment and employment agencies.
 - iii. Prioritize confidential worker interviews with a representative cross-section of the workforce, and ensure protection of workers against reprisals.
 - iv. 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 auditor.
 - v. Report publicly on findings and corrective action plans. Ensure that the privacy and confidentiality of complainants and/or affected parties is protected.
 - vi. Ensure the independence and objectivity of the entity or individuals responsible for third-party verification.

2

Establish a legitimate, effective, accessible, and transparent grievance mechanism, consistent with international best practices⁴. The system should include:

- a. Robust and regular stakeholder engagement with potentially affected individuals and communities (including workers and their representative organizations) in its design, implementation, and oversight.
 - b. Adequate safeguards to ensure workers can file complaints confidentially and without fear of retribution or dismissal.
 - c. Measures to ensure accessibility to all workers, including appropriate language assistance with filing complaints. Different options and accessibility should be available to those in remote areas and to those unable to read or write.
 - d. Guidelines on procedures and timeframes for each stage of the process, with clear escalation pathways for serious cases and links to outside mechanisms (including local and national human rights commissions) where appropriate.
 - e. Transparent and regular communication with complainants to inform them of the status of their grievance.
 - f. Regular public reporting on the number of grievances received, a summary of the grievances, the duration of time each grievance spends in the process, the outcome of the grievance, and whether, if the complaint was upheld, the outcome and remedy was to the satisfaction of the complainant. Privacy of the complainant must be respected, if desired by the complainant.
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3

Remedy violations through effective and legitimate processes:

- a. Adequately reimburse any withheld wages or illegal deductions made to cover fraudulent costs or services, including reimbursement of all recruitment fees paid by the worker. Compensate workers for any unremunerated work and/or illegal deposits charged.
- b. Return confiscated passports or other personal items held by employers or recruiters.
- c. Provide appropriate assistance to protect the welfare of children found laboring on plantations and in mills, including access to comprehensive health and social protection measures and education opportunities relevant to their age and development.

⁴ See effectiveness criteria for non-judicial grievance mechanisms under Principle 31 of the United Nations Guiding Principles for Business and Human Rights.

- d. Ensure that workers who have been victims of abuse, including forced labor and sexual harassment, receive appropriate victim-centered rehabilitation services and access to social protection.
 - e. Provide assistance for migrant workers to return to their home country on contract completion and in exceptional situations, including becoming incapacitated by sickness or accident at work and/or during the journey to the place of employment, or if a worker is found to have been recruited by misrepresentation, deceit or coercion.
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4

Institute an iterative and ongoing process of stakeholder engagement:

- a. Ongoing dialogue with local communities and all workers, including women, migrant, and temporary workers, and their representative organizations, including trade unions, should be the foundation of any legitimate stakeholder engagement process. Consultation should also include relevant external stakeholders (e.g., unions and the regional and national offices of the ILO).
- b. Workers should have access to information and be made aware of their rights and obligations during all stages of employment, including recruitment.
- c. Engage with government to promote a legal framework that protects worker rights, including migrant workers, and to ensure adequate protections for victims of child and forced labor and other labor exploitation.

5

Develop and implement a policy on ethical recruitment, applicable to all suppliers, which includes as a minimum the following provisions:

- a. Workers enter into employment voluntarily and freely, without the threat of a penalty, and have the freedom to terminate employment without penalty given reasonable notice or as per any relevant collective agreements.
 - b. Prohibit the charging of recruitment fees to any worker. All expenses related to travel and recruitment should be paid by the employer.
 - c. Prohibit the confiscation/retention of worker passports or identity documents; provide each resident worker with a locker for keeping personal documents and possessions.
 - d. Endeavor to hire workers directly. Where third-party recruiters are engaged, use only those third-party recruiters who are registered with the sending country government and who commit to implement the standards contained in these Free and Fair Labor Principles.
 - e. All workers, including temporary workers, casual day laborers, and those employed indirectly through third-party employment agencies, have comprehensive standard written contracts in their own language on file with the plantation or mill's human resources office, signed by the worker and the company.
 - f. Contracts are signed at the beginning of the recruitment process, before any travel takes place. Workers are allowed to independently review the contract with third-party assistance and, where workers are illiterate, the contract should be read out loud in full to the worker in their own language before asking them to sign.
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6

Practice meaningful transparency and disclosure by publicly reporting on:

- a. Policies, performance, and impact on labor and human rights conditions with specific reference to risks of child labor, forced labor, and human trafficking, including a summary of third-party verification findings and associated corrective action plans.
- b. Relevant data regarding plantation and mill workforces, which should be collected as part of regular human resource management practice, should include:

- i. Total number of workers
 - ii. Workforce demographics:
 - % women workers
 - % of workers aged 15-18
 - % by nationality
 - iii. Other workforce data:
 - % of workers hired directly
 - % of workers hired by third-party recruiters
 - % of workers working under fixed (short-term) contracts, disaggregated by function (e.g., harvesters, sprayers)
 - % of workers hired on a casual/daily basis
 - % of workers covered by collective bargaining agreements, disaggregated by function
 - % of workers who belong to a union
 - % provided with personal protective equipment
 - % provided with training on occupational and health safety policies and practices
 - Minimum and average wages, disaggregated by function, including production targets (quotas)
 - Lost Time Accident (LTA) metrics and types and causes of injuries, illnesses, and fatalities (including from the spraying of pesticides), disaggregated by function
 - Worker turnover rate, disaggregated by function
 - iv. For each plantation and mill, listing of:
 - Third party recruitment and employment agencies used
 - Unions to which workers belong and which are recognized by the employer
 - Pesticides used and quantity of use
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Respect the rights to freedom of association and collective bargaining for all workers, including migrant workers who may be unaware of their right to join trade unions:

- a. Engage in good faith bargaining and implementation of collective agreements, including provisions related to direct wage deductions for union dues and mechanisms for dispute settlement.
- b. Ensure that company policies, procedures, and practices do not discriminate against workers because of their views on trade unions or their trade union activity.
- c. Ensure respect for the rights of worker representatives as established by relevant ILO and international human rights standards.

- d. Do not interfere with the organizing activities of workers, worker representatives, or representatives of trade unions.
 - e. Do not prohibit, restrict or otherwise interfere with lawful strike action. In the event of a lawful strike, refrain from hiring replacement workers.
 - f. Allow worker representatives to use appropriate on-site facilities and access company worksites to carry out their functions efficiently, in ways that are not disruptive to regular company operations.
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8

Endeavor to establish a direct payroll system, and in any case ensure that wages are paid in full, regularly, and on time:

- a. Provide wage slips to all workers in a language they understand. Reflect all deductions on the official wage slip.
 - b. Upon termination of a contract of employment and in accordance with national laws or regulations, collective agreement, or arbitration award, effect a final settlement of all wages due.
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9

Create infrastructure and systems that allow for fully-traceable supply chains to the plantations of origin, to ensure the sources of all oil palm fruit are known, documented, and grown in accordance with the Free and Fair Labor Principles:

- a. Ensure that the plantation source of all fresh fruit bunches (FFB) is from documented, geo-referenced plantations with known ownership, including plantations owned by the milling company and any of its third-party suppliers.
- b. Ensure that documentation for sources of FFB is available to meet the traceability requirements of downstream customers (e.g., refineries).
- c. Establish clear contractual agreements for third-party suppliers which require them to a) provide the names, GPS coordinates, and ownership data (including parent company) of all the oil palm concessions and mills it owns or sources from, and b) for growers to independently make this information on their holdings available for use on the Global Forest Watch Commodities mapping and monitoring website.
- d. Maintain records of and publicly report on all sources of FFB, including the names, GPS coordinates, and ownership data (including parent company) of all plantations, dealers, and smallholders.

10

Ensure access to adequate education and training for workers and their families:

- a. Provide regular training and information in the worker's own language on occupational safety and health practices and policies.
 - i. Provide training on gender discrimination, sexual harassment, and the policies in place to protect workers and their families, particularly women workers.
 - ii. Provide training on workplace accident and emergency procedures.
 - iii. Provide training on health risks, safety protocols, prevention of health and environmental risks of pesticides, and pesticide alternatives.
 - iv. Inform workers of areas where pesticides and fertilizers have been used, and identify the type of pesticide and fertilizer.
 - b. For the children of workers living on plantations, ensure access to free, universal, and compulsory primary education and generally-available and accessible secondary education.
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11

Provide adequate and safe housing for workers and their families:

- a. Provide separate and segregated accommodation for single men, single women, and families with sufficient space per person according to international UNHABITAT standard.
- b. Sleeping quarters should be able to be locked from both outside and inside.
- c. Provide each worker a locker to secure his or her belongings.
- d. Provide adequate free electricity around the clock, at a minimum to power small refrigeration units for food storage.
- e. Clean water should be consistently and freely accessible for all basic personal and domestic needs, including drinking, cooking, cleaning, bathing, etc.
- f. No restrictions are imposed which interfere with workers' rights to leave the housing facility during their free time.

12

Provide adequate medical care for workers and their families.

- a. Medical services should be of a standard prescribed by the public authority and include general practitioner care, specialist care, necessary prescribed pharmaceutical supplies, hospitalization when necessary, dental care, and medical rehabilitation.
- b. Medical practitioners should be of a standard approved by the public authority and there should be a sufficient number of qualified personnel. Medical practitioners should have knowledge of the health risks and treatment for pesticide poisonings.
- c. As far as practicable, respect freedom of choice of doctor and hospital care.
- d. Determine medical services in consultation with representatives of relevant workers organizations, including trade unions, where they exist.
- e. Required medical examinations for workers should take place as close to the place of recruitment as possible. 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 return to the place of recruitment.
- f. In case of illness, provide sick leave and cash benefits to replace the wage during the leave period.



The guide was developed by a forum of experts comprised of NGOs, workers organizations, representatives of unions, investors and philanthropic organizations from the United States, Europe, Malaysia, and Indonesia. Partner organizations include: Federasi Serikat Pekerja Minamas, Finnwatch, Firestone Agricultural Workers Union of Liberia, Forest Peoples Programme, General Agriculture and Allied Workers Union of Liberia, Humanity United, HUTAN, Interfaith Center on Corporate Responsibility, International Labor Rights Forum, Land Empowerment Animals People, Link-AR Borneo, MONDIAAL-FNV, Malaysian Palm Oil NGO Coalition, OPPUK, Oxfam, Pesticide Action Network Asia and the Pacific, Rainforest Action Network, Sabah Environmental Protection Association, Sawit Watch, SERBUNDO, Serikat Buruh Medan Independen, Serikat Buruh Mandiri Indonesia, Tenaganita, Trade Union Care Center, Verité, and Walk Free, as well as advisory support from CERES.