



# Guidance Paper on Social Dialogue, Freedom of Association and Collective Bargaining in the palm oil sector in Indonesia

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In order to develop this Guidance Paper, we interviewed a number of trade unions and companies (amongst the largest players in this sector) to obtain and verify information.

A reference group, composed of large companies in this sector, has provided its feedback on the Terms of Reference and the Draft version of this paper.

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# 1. Introduction

Freedom of Association and Collective Bargaining are trade union rights. They are important pillars of decent work as defined by the ILO and they form the foundation of Social Dialogue and industrial relations to establish fair wages and working conditions, sharing information, consultation and managing conflicts in the workplace. They are covered by two ILO core conventions (87 and 98). Ratifying countries are expected to apply these conventions in national legislation and practice. Besides governments, buyers and producers are also expected to respect these rights within their value chains. International guidelines, including the OECD guidelines for multinational corporations and the UN Guiding Principles for Business and Human Rights, have been established to monitor and safeguard these processes. Nevertheless, these standards are amongst the most violated around the world.

Throughout value chains, the palm oil industry being no exception, stakeholders and supply chain actors still find it difficult to understand the value of freedom of association, what the rights really mean for them and how they can play a role in achieving and implementing them.

For companies, especially buyers in the supply chain it often is not fully clear what this topic really means for them and how they can play a role. Producers often feel trade unions are not beneficial to their business and a great deal of distrust exists. For workers, these basic rights are often not self-evident either as they are often unaware of their rights and have little understanding of how Freedom of Association and Collective Bargaining can benefit them.

This document is developed to provide guidance to palm oil supply chain actors; producers (plantation and mills), refineries, traders, manufacturers and international consumer goods companies connected to the palm oil sector in Indonesia. It provides accessible and practical information to understand and how to act on Social Dialogue, including information and links for further reading. The focus in terms of workers in this document is mainly those at the upstream producers level namely mills and plantations.

This document consists of:

1. Introduction
2. Brief description of the workforce in the palm oil sector in Indonesia
3. The value of Social Dialogue explained
4. Freedom of Association and Collective Bargaining in Indonesia
5. Actors in Social Dialogue in Indonesia
6. Challenges in Social Dialogue in Indonesia
7. Addressing the challenges

The annex provides an overview of relevant stakeholders.



## 2. Brief description of the workforce in the palm oil sector in Indonesia

As an introduction, this section shines some light on the situation of the workers at the level of the plantations and mills in the palm oil sector in Indonesia.

### Employment in the palm oil sector in Indonesia

The palm oil industry in Indonesia plays a significant role in providing employment. According to 2018 data from the Indonesian Social Development and Planning Agency (BAPPENAS), the palm oil industry employs approximately 16.2 million people; 14.2 million direct and 2 million indirect workers. The number represents 42% of total employment in agriculture, forestry and fisheries and 13% to total employment in Indonesia in 2018.

### Types of workers - permanent contracts and daily casual workers

Broadly speaking, workers at the plantations and mills can be employed on the basis of a Fixed-Term Employment Contract (PKWT) - such employees are also known as “contract workers or casual workers” – or with an Indefinite Employment Agreement (PKWTT) – these employees are also known as “permanent workers”.

### Casual Workers

In oil palm estates, the PKWT contracts are widely used for plantation workers; mostly for maintenance roles (such as fertilizer application, pesticide spraying, manual weeding and picking up loose fruits) and in some cases for harvest workers too. In industry terminology these workers are referred to as “Buruh/Pekerja Harian Lepas” or “daily casual workers”. These casual workers constitute a very large part of the palm oil industry workforce. They make up some of the most vulnerable worker groups and are predominantly women who work in risky conditions.

According to Indonesian regulation (Art. 11), these definite-time contract workers work for jobs that are changing in time and volume. Their wage is earned, based on their presence. Workers can be hired for 21 days a month or less, for a maximum of 3 consecutive months and are paid a daily minimum wage. If this period extends beyond these limits, the contract is then considered to be permanent by default. Although these workers are formal in the sense that they should be provided with an official contract and registered to the Manpower department, they are often recruited because their labour is cheap and there are no complicated long term commitments. According to interviews they sometimes remain casual workers for an extended period, even for life, due to a lack of compliance with law.

The Manpower Act and Decree of the Minister of Manpower and Transmigration No. 100 of 2004 governs the use of the PKWT workers, including daily casual workers. However, in practice, different interpretations and implementations of the law are found at the plantation level. Some practices in the field can contradict the regulations and mandated procedures of employing casual workers. As these workers are not provided with employment contracts, they often lack access to benefits such as social security, health insurance and adequate Personal Protective Equipment (PPE), even though this is mandated by law.

1 [Bappenas: Oil Palm Industry Absorbs 16.2 Million Workers \(korindonews.com\)](https://korindonews.com)

2 [Guideline-Fair-Employment-of-Casual-Workers.pdf \(earthworm.org\)](https://earthworm.org); [https://www.jobexpect.com/assets/docs/Manpower-Decree-100-Year-2004\\_English.pdf](https://www.jobexpect.com/assets/docs/Manpower-Decree-100-Year-2004_English.pdf)

## Violations of labour rights in the palm oil sector

Workers on plantations, on family farms, in mills, refineries, manufacturing plants, and throughout the palm oil value chain, have rights related to their labour relations with their employers. Despite increasing attempts to address labour rights issues in the palm oil value chain, labour rights violations in the sector remain prevalent. The most prevalent labour issues in the Indonesian palm oil industry are the following:<sup>3 4 5</sup>

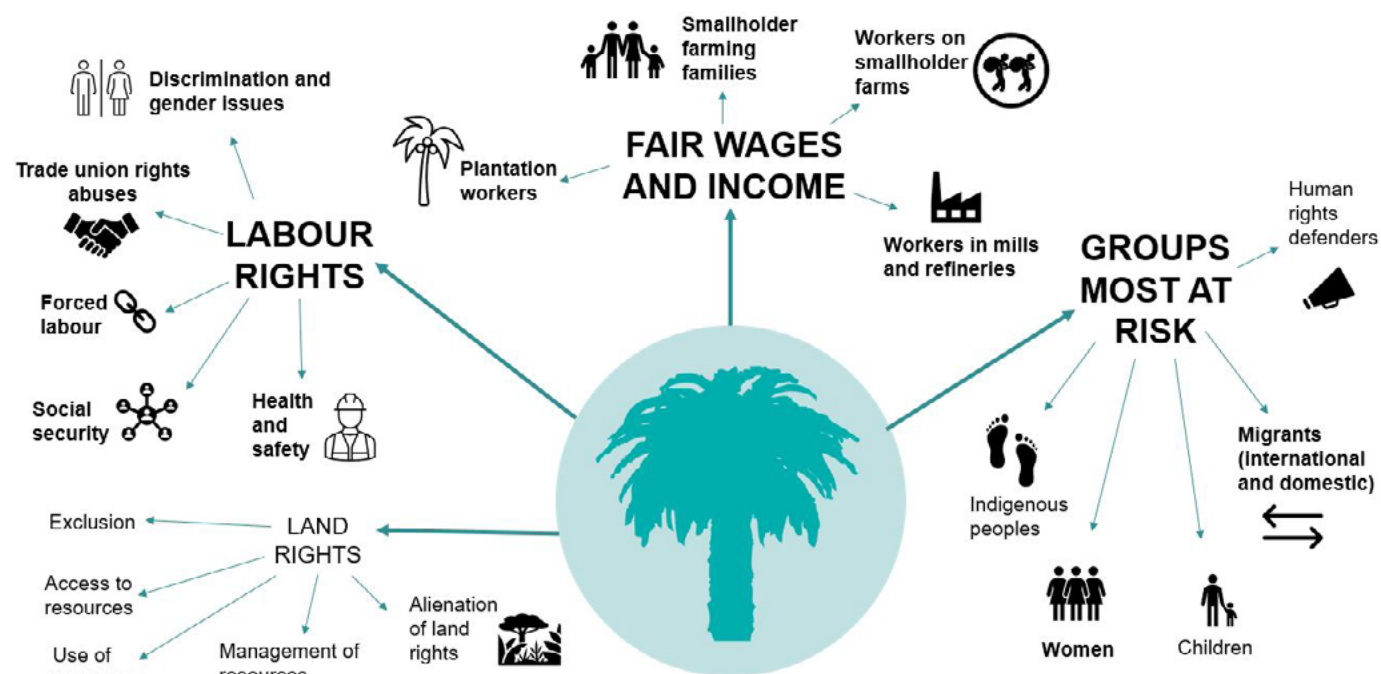


Fig 01: Proforest infographic of the findings of the [DBA analysis](#) of severe human rights issues in the palm oil value chain (2019)

- Child labour
- Forced labour
- Discrimination
- Unethical hiring and contracting practice (recruitment fees migrant workers)
- Insufficient income and income insecurity
- Lack of FoA and CB rights
- Unfair targets (motivating harvesters to bring wives and children to work)
- Insufferable working hours and overtime without proper compensation
- Unhealthy and unsafe working conditions
- Lack of gender equality and social protection for women
- Unreasonable movements restrictions
- Limited access to communication

Employment arrangements and the working conditions sometimes limit workers' ability to organise and collectively advocate for better conditions. Research and experience however show that sustainable and structural labour improvements can only take place through Social Dialogue.<sup>6</sup>

3 Study of Labour Compliance in RSPO Certified Oil Palm Plantations in Indonesia, Profundo 2018.

4 Toolkit for palm oil Producers on Labour Rights, Verité 2021.

5 [Child Labour in palm oil plantations](#), ILO/Kiezebrink, V. , 2017 and [Palming off responsibility - Labour rights violations in the Indonesian palm oil sector](#), SOMO/CNV Internationaal, 2017.

6 Creating an Alliance for Change through Social Dialogue, CNV Internationaal, 2021.

## Women in palm oil

Half of all palm oil plantation workers are women<sup>7</sup>. They are vulnerable to serious labour and human rights violations. Most of them are daily casual workers often in low-paid positions with little power. They work in maintenance, including spraying harmful pesticides and chemicals, pruning, and applying fertilisers, predisposing them to more health problems than men.<sup>8</sup> They often work without adequate work tools and PPEs and as a result, suffer from several health concerns. Also, women workers are kept in temporary employment and paid below minimum wages. Despite a minimum wage requirement set in 2017, women receive 66,000 rupiah (\$5) a day, where their male counterparts obtain nearly 100,000 rupiah (\$7.50) a day. Most are without health insurance and social security, having almost no access to proper facilities.

The industry as a whole, has made many efforts to improve environmental and social outcomes. Given the large number of people who depend on the palm oil industry for their livelihoods, the industry also holds the responsibility to ensure that the rights of all workers are protected and respected.

However, although the palm oil Agribusiness Strategic Policy Institute (PASPI) reported recently that based on its research, palm oil plantations have created job opportunities and business opportunities which have raised income and purchasing power of local people, especially the poor people in the villages, its workers remain vulnerable to adverse working conditions.<sup>9</sup>

7 Figures are based on the research done by GAPKI and Hukatan in 2019.

8 The vulnerability of women workers in the sector is also described in the report of PAN Asia Pacific 2017: “The Price of Indonesia’s [Palm Oil: Vulnerable and Exploited Women Workers](#)”. And: [Palm Oil Production in Indonesia - The Borgen Project](#), 2020

9 “Palm Oil Plays Significant Role In Reducing Global Poverty”, Indonesian Palm Oil Association (GAPKI IPOA) 2022

### 3. The value of Social Dialogue explained

#### What is Social Dialogue?

Social Dialogue is defined by the ILO to include all types of negotiation, consultation or simply exchange of information between, or among, representatives of governments, employers and workers, on issues of common interest relating to economic and social policy.<sup>10</sup> The main goal is consensus building and democratic involvement of workers. Preconditions for Social Dialogue are strong, independent and representative trade unions and employers' organisations, corporate institutional frameworks promoting and enabling Social Dialogue and respect for fundamental rights at work.

- There is **"Bipartite Social Dialogue"** (without participation of government) at company level, covering collective bargaining, any form of other collective negotiations, consultation and information exchange (for instance negotiation with a gender committee on separate sanitary provisions at the work floor) as well as dispute prevention and resolution.
- **Tripartite Social Dialogue** takes place between organisations of Employers, Workers and Government. This can be at decentralised (for instance at district level) or at national and even international level where representatives of governments, employers' organisations and trade unions meet to dialogue labour issues at the International Labour Organization(ILO).
- **Multiparty Social Dialogue** is a dialogue between different stakeholders, for instance in the [Sustainable Palm Oil Choice](#) (SPOC) where participants unite a group of companies and organisations who are convinced that palm oil can play a positive role in society when produced sustainably.

#### Social Dialogue is NOT:

1. General information sharing on working conditions between employers and their employees. For example, annual employee contract negotiations are considered standard business practice.
2. One-way communication. Social Dialogue requires a two-way interaction between the parties involved. For example, if an employer proposes a new policy which requires employees to work a certain number of hours and they do not have the opportunity to respond to this request, there is no Social Dialogue.

Social Dialogue is formed by **trade union rights**. These are defined as workers' Freedom of Association and the right to Collective Bargaining.<sup>11</sup>

#### What is Freedom of Association?

Freedom of Association (FoA) is the right of workers to join and form trade unions or organisations of their choosing. FoA is enshrined in the Universal Declaration of Human Rights and in ILO Conventions. It includes the right to freedom of assembly, association, and trade union membership.

This means that:<sup>12</sup>

- ✓ Workers can form and join trade unions of their own choosing.
- ✓ Unions have the freedom to function independently.
- ✓ Elections and the duties of union representatives are free of interference.
- ✓ Independently elected worker representatives should not fear intimidation, harassment, or reprisals. They are the measure of how freely workers can express and contribute to their industry or workplace through formal structures such as collective bargaining.
- ✓ Workers and employers can be formally represented in negotiations to arrive at solutions for improving working conditions.

<sup>10</sup> [ILO](#)

<sup>11</sup> Respecting Trade Union Rights in Global Value Chains, FNV 2019.

<sup>12</sup> [Social Dialogue Platform CNV](#)

It is important to note that FoA also applies to those workers without (permanent) employment contracts. However in practice this can be very complicated to implement since casual workers incomes, they are hesitant to pay the TU membership fee. Finally, temporary workers lack time to invest in a trade union and are afraid they might lose their job because of trade union activities. More on this is explained in the next chapter.

Employers also have the right to FoA and therefore to join organisations of their choosing.

## What is a trade union?

Trade unions are membership-based organisations of workers, constituted for the purpose of defending the interests of workers (ILO). They represent and negotiate on behalf of working people. Unions provide advice to workers who are often unaware of their rights, and they can also negotiate with employers to improve wages and working conditions. There are various type of unions:

- **Independent trade unions** represent the ideal model for worker representation. Trade unions have legal protection, access to resources, the support of a wider trade union networks, and are free from influence from the employer and the government. The Indonesian Law 21 of 2000 on Trade Union/Labour Union is enacted to protect, among other things, unions' independence.
- **Yellow unions** are trade unions that are constituted and controlled by company management or government (this term is applied globally and not only in Indonesia). For instance, workers may be selected to be the representatives on workers' committees rather than being democratically elected, or company management may pay union fees, making the union less independent. Yellow unions can have different levels of independency; a union that started as "yellow" can also develop into a critical, constructive semi-independent union. At the other hand, employee councils or yellow trade unions can also act only in managements' interest.<sup>13</sup>
- **Workers' committees:** In many countries you will find workers participation committees, health and safety committees, or anti-harassment committees. These types of committees, sometimes required by law, can certainly be useful, although they are not an alternative to a trade union, mainly because they do not offer workers the same kind of legal protection and they do not have the right to participate in the collective bargaining process. Some exceptions exist, like in Myanmar, where these committees do have the legal right to participate. Further, these committees lack support beyond the enterprise level, meaning they are not supported by district and national trade unions.

In general where FoA is restricted by law and/or (independent, democratically elected) trade unions cannot be formed because of (impossible) conditions for registration as a union, the next best available form of independent worker representation should be pursued. Fortunately in the palm oil in Indonesia this is not the case.

By using the [CNV and FNV Checklist for companies on trade union freedom and Social Dialogue](#), you will get a better understanding of how trade union freedom is practised.

## What is Collective Bargaining?

Closely linked to this is the right to Collective Bargaining (CB), which allows workers to freely negotiate their working conditions with their employers. These rights apply to all workers, regardless of their race, religion, gender, occupation, nationality, or political opinion.

CB is the process of all negotiations between an employer or an employers' organisation and one or more trade unions with the aim of developing a Collective Bargaining Agreement (CBA). CBAs outline work conditions at the workplace, or at regional, national, or sectoral level. These are written, legally binding contracts requiring employer and company compliance.

<sup>13</sup> In Indonesia there is some confusion with non-affiliating unions (called SPTP), since yellow unions are typically not affiliated to any federation or confederation. However, not all non-affiliating unions (SPTP) are or can be regarded as yellow union. More is explained in Chapter 5.



## International rules and regulations on Freedom of Association and Collective Bargaining

The rights to FoA and CB are laid out in binding *international ILO conventions*, namely:

[Freedom of Association and Protection of the Right to Organise Convention \(No 87\), 1948](#). This Convention enshrines the right of workers to join a trade union of their choice, the right to independence from government and employer interference, and the right for trade unions to elect officials and organise their own affairs.

[Right to Organise and Collective Bargaining Convention \(No 98\), 1949](#). This Convention provides protection against anti-union discrimination, protection of workers' and employers' organizations against acts of interference by each other, and measures to promote and encourage CB.

These Conventions are two of the eight fundamental Conventions of the ILO (see annex), meaning that all ILO Member States must respect, promote, and implement FoA and the effectively recognize CB, even if they have not ratified the relevant ILO conventions. This is laid down in the ILO Declaration on Fundamental Principles and Rights at Work<sup>14</sup>. These standards set clear expectations for States to establish appropriate regulatory contexts to ensure that companies respect these rights in practice.

The vast majority of countries in the world has signed and ratified these conventions. Ratified means that national parliaments have approved these conventions and are committed to ensuring that national laws reflect and protect these rights.

### Non-core ILO Conventions on FoA

ILO has also formulated non-core (not mandatory for member States) conventions on FoA and CB;

- C135 - Workers' Representatives Convention, 1971 on protecting workers' representatives and facilitate union activities
- C141 - Rural Workers' Organisations Convention, 1975
- C011 - Right of Association (Agriculture) Convention, 1921

### FoA: a Universal Human Right

Besides being included in the ILO Core Conventions, FoA is also an International Human Right, as defined by the UN in the Universal Declaration of Human Rights.<sup>15</sup> Article 20 states : "Everyone has the right to freedom of peaceful assembly and association and no one may be compelled to belong to an association".

### The UN Guiding Principles on Business and Human Rights

Although these international Labour standards set clear expectations for States to establish appropriate regulatory contexts to ensure that companies respect these rights in practice, this isn't always complied with. However, even when States have not fully met their obligations, businesses still have a responsibility to work towards meeting these international standards and respect human rights across their value chains. **The UN Guiding Principles on Business and Human Rights**<sup>16</sup> as well as the **OECD Guidelines for MNEs**<sup>17</sup> for OECD members, are recognized globally as the authoritative framework for how businesses should prevent and address negative impacts on people. Also the **UN Global Compact**<sup>18</sup> has guidelines formulated on FoA and CB in its Principle 3.

## The value of Social Dialogue

The benefits of Social Dialogue range from resolving economic and social issues which are important to workers, to encouraging good governance, promoting social and industrial peace and stability, and even boosting economic progress. Social Dialogue is an essential element to ensure decent work and economic growth, one of the United Nations' Sustainable Development Goals.<sup>19</sup>

<sup>14</sup> [ILO Declaration on Fundamental Principles and Rights at Work \(DECLARATION\)](#).

<sup>15</sup> [Universal Declaration of Human Rights | United Nations](#)

<sup>16</sup> [Introduction to the UN Guiding Principles on Business & Human Rights \(business-humanrights.org\)](#)

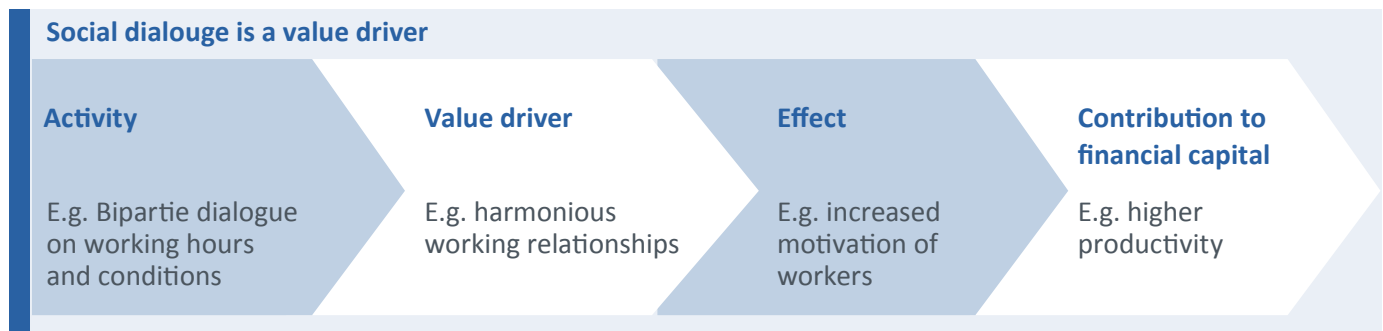
<sup>17</sup> [Guidelines - Organisation for Economic Co-operation and Development \(oecd.org\)](#)

<sup>18</sup> [Principle 3 | UN Global Compact](#)

<sup>19</sup> [The Global Deal](#) multi-stakeholder initiative aims to strengthen social dialogue, negotiation between or among representatives of governments, employers and workers on economic and social policy issues.

## Enabling rights

What makes it specifically important to improving sustainability, is the fact that trade union rights are also “enabling rights”. It means that respecting these rights can lead to the fulfilment of a number of other rights such as living wages, reasonable working hours, a healthy and safe workplace that is free from discrimination and harassment. Trade unions can enable workers to collect information, to negotiate, improve, and monitor their own working conditions in a sustainable and empowering manner. This way, trade unions can help address root causes of workplace related human rights impacts. Therefore, Social Dialogue is a key instrument to sustainably improve the quality of work, labour conditions, and income.<sup>20</sup>



Besides the human right to FoA and CB, SD has benefits for workers, for companies and suppliers. A description of the business case of Social Dialogue is included in the [document](#) “The importance of FoA and CB for Brands” (pages 6-7) and in the [document](#) “The business case of SD” of the Global Deal (pages 5-11).

### Benefits for workers

- It is a workers’ right to express their problems, concerns, and demands without fear of oppression or discrimination.
- Workers protection against discrimination, interference, and harassment.
- It empowers workers to improve their labour conditions.
- It empowers workers, as an equal partner in the production process, to determine their own needs and priorities and to participate in decision making with management.
- It provides the possibility to negotiate and act collectively to realize an equal and fair power balance.

### Benefits for companies and suppliers - a positive business environment for suppliers<sup>21</sup>

- Stability
- Increase in productivity and firm performance
- Efficiency
- Improve staff retention
- Save money
- Make better business decisions
- Provide access to learning and skills
- Safe workplaces
- Less non-compliances
- Promote equality

<sup>20</sup> Creating an Alliance for Change through Social Dialogue, CNV Internationaal 2021.

<sup>21</sup> [Thematic-Brief-Achieving-Decent-Work-and-Inclusive-Growth\\_The-Business-Case-for-Social-Dialogue.pdf \(theglobaldeal.com\)](#)

### **BOX 1: Improved workers conditions through the workers union**

In Indonesia the trade union at a palm oil company has empowered its workers. As a result of the workers union establishment, health and safety measures have been improved, such as the work on chemicals, particularly for pregnant women. A gender committee was formed to addresses harassment, sexual intimidation and discrimination against women. Women report to feel more protected from inappropriate behaviour now. The housing and equipment situation has improved, for example through better provision of drinking water. Permanent workers now have health insurance. Qualified temporary workers are following a track towards permanent positions and contracts, which will allow them to get access to health insurance as well. The company is in the process of contracting all workers and has decreased the working hours in harvesting time as part of better working conditions.<sup>22</sup>

### **Risks of not adopting or implementing Social Dialogue**

Stakes are high if the key labour risks (think of forced labour, human trafficking, low wages, child labour) are not addressed, when mechanisms such as Social Dialogue can be implemented to do so. Companies across the supply chain face threats of legal sanctions, loss of business, lasting damage to reputation and brand value, once these are not addressed. They might face criminal or civil sanctions, including steep fines, compensation to victims, and imprisonment. Damage to reputation may result in the loss of contracts and future business opportunities and allegations of human rights abuse also jeopardise investor relations.<sup>23</sup>

<sup>22</sup> <https://www.sustainablepalmoilchoice.eu/palm-oil-workers-unions/>

<sup>23</sup> [Verite-Palm-oil-toolkit-English.pdf](#)

## 4. Freedom of Association and Collective Bargaining in Indonesia

How is FoA and CB embedded legally in Indonesia and how is it being put into practice? This section provides information on the legal framework and the reality of implementation.

### National laws and regulations on FoA and CB

Indonesia has ratified the two core ILO conventions 87 and 98 that aim to protect and promote workers' rights to FoA and CB. This is reflected in Indonesian laws and regulations. In the Indonesian constitution of 1945, it is stated that "Employers should uphold the right of every worker to be free to associate, to assemble and to express their opinion".<sup>24</sup> The right to FoA is also recognized by law number 39 of 1999<sup>25</sup> and the more recent Indonesian Act Concerning Trade Unions 21 of 2000.<sup>26</sup> This act stipulates provisions for trade union formation and operations, access and dues, CB, trade union discrimination and interference. Finally, Indonesia's Manpower Act No. 13 of 2003<sup>27</sup> regulates labour and manpower and has led to the development of several derivative regulations in this area.<sup>28</sup>

| Indonesian Laws and Acts                  | Year | FoA | CB | Article #                        |
|---|------|-----|----|----------------------------------|
| The Indonesian constitution               | 1945 | X   | -  | 28E                              |
| Indonesian Law number 39                  | 1999 | X   | -  | 24, 39                           |
| Indonesian Act Concerning Trade Unions 21 | 2000 | X   | X  | 5(1), 6-7 9, 15, 25, 28, 29, 43) |
| Indonesia's Manpower Act No. 13           | 2003 | X   | X  | 103, 104                         |

### The Omnibus Law

A relatively new law, the Indonesian Law No 11 of 2020 on Job Creation, also called the

"Omnibus Law", has been said to deteriorate labour conditions in terms of minimum wage setting, dismissal procedures and CB. With the adoption of the Omnibus Law in 2020, outsourced workers have been deprived of their right to CB. This new law was drafted without the participation of unions, and is therefore in itself against the principles of CB.<sup>29</sup> On 25 November 2021, the Constitutional Court issued decision no. 91/PUU-XVIII/2020, ruling that the Law is "conditionally unconstitutional".<sup>30</sup>

### Other sector related incentives on FoA and CB

Besides national laws and regulations, specifically for the palm oil sector, principles and certification criteria from bodies such as Indonesian Sustainable Palm Oil (ISPO) and the Roundtable for Sustainable Palm Oil (RSPO) also require palm oil companies to protect and respect workers involved in their operations.<sup>31</sup>

Also the 'No Deforestation, No Peat and No Exploitation' commitment, abbreviated to NDPE<sup>32</sup>, is mentioned in interviews with stakeholders as an important instrument of the supply chain actors in the Indonesian palm oil industry, to protect and support smallholders and workers, to promote gender equality and to prevent child labour wherever possible.

<sup>24</sup> [Indonesian Constitution](#).

<sup>25</sup> [Indonesia - Law on Human Rights \(No. 39 of 1999\). \(ilo.org\)](#)

<sup>26</sup> [Indonesia - Law No. 21 of 2000 Concerning Trade Union/Labour Union. \(ilo.org\)](#)

<sup>27</sup> [Indonesian Labour Law - Act 13 of 2003 \(ilo.org\)](#)

<sup>28</sup> For more information on Indonesian laws on Freedom of Association and Collective Bargaining Indonesian laws and decrees Provisions that companies should comply with Indonesia Constitution of 1945, see "Study of Labour Compliance in RSPO certified oil palm plantations in Indonesia, Profundo 2018"

<sup>29</sup> Information from interviews.

<sup>30</sup> [Industrial: Indonesian government told to suspend Omnibus law. \(December 2, 2021\)](#)

<sup>31</sup> [NDPE Commitment » European Palm Oil Alliance](#)

<sup>32</sup> [Microsoft Word - Efeca\\_PO Standards Comparison .docx \(sustainablepalmoil.org\)](#)



## Social Dialogue in practice in Indonesia at different levels

Tripartite consultations are generally held at national, provincial and district levels. They may also take place on a sectoral basis and in institutions such as the Wage Council, the Employment Council, the Occupational Safety and Health Council, the Training Council, the Productivity Council<sup>33</sup> and the Industrial Relations Dispute Settlement Court. Dispute settlement is regulated in Law 2 of 2004 on Industrial Relations Dispute Settlement.

- **Tripartite Social Dialogue at National Level**

The most important tripartite SD body in Indonesia is the Tripartite Cooperation Institution, the “LKS Tripartite” (Lembaga Kerja Sama Tripartit). The LKS Tripartite mostly serves as an exchange of information around policies and plans, rather than mutual consultations. It is composed of 45 representatives, with equal numbers from trade unions, the employers’ association and the government. Furthermore, in the National Wage Council, suggestions and considerations are provided to the central government in formulating the wage policy and developing a national wage system.<sup>34</sup>

- **Tripartite Social Dialogue at decentralised level**

Since 2000, with the implementation of the Autonomy Law, the functions of the Department of Labour are incorporated into the structure of provincial and district governments. There is no uniform structure of tripartite dialogue in all provinces and districts – it depends on the local needs of each local government. In most cases however, there are three tripartite bodies: the general tripartite body, the wages body and the occupational safety and health body.<sup>35</sup>

- **Bipartite Social Dialogue at company level**

Social Dialogue at company level is realised in a bipartite committee (LKS Bipartit) formed by a workers’ and an employers’ organisation. This bipartite committee is the first step to start a negotiation towards a CBA. According to law, every company that employs at least 50 workers must form a bipartite committee. And although no national data on the number of LKS’s is available, from a mapping in Siak and Pelalawan it is obvious that in practice the number of LKS’s is relatively low.<sup>36</sup>

### BOX 2: CBAs in Indonesia

In Indonesia there are regulations and agreements:

**Company regulation:** Based on the Indonesian Labour Law, a company regulation (PP) is written by the company itself. The content is directly related to the work requirements and code of conduct.

**Collective Bargaining Agreement (CBA):** A CBA, or often in Indonesia mentioned a Collective Labour Agreement (PKB). This is an agreement which is the result of various types of negotiations. They can be with one trade/labour union or they can be between several trade unions/ labour unions that are registered in the agency responsible for the negotiation on labour conditions with the employer. They can also be agreements between several employers or business associations. CBAs include terms of employment, as well as the rights and obligations of both parties.

<sup>33</sup> [indonesia\\_social\\_dialogue\\_for\\_development\\_en.pdf \(ituc-csi.org\)](#)

<sup>34</sup> Salary, Minimum Wage, Regular Pay - Indonesia - WageIndicator.org - WageIndicator.org

<sup>35</sup> [indonesia\\_social\\_dialogue\\_for\\_development\\_en.pdf \(ituc-csi.org\)](#)

<sup>36</sup> [Mapping Social Dialogue in Siak and Pelalawan, CNV 2022](#)

According to the Ministry of Manpower, in 2018 14.423 companies (all sectors) had a CBA in place (all sectors); 30% of all companies in Indonesia. Meanwhile, the number of companies with company regulations is 68.192 or 19%.<sup>37</sup> The number of CBA's and company regulations in the entire palm oil sector in Indonesia is not known. However in the regions Siak and Pelalawan (Riau) data on the number of workers, CBA's, Company Regulations and Bipartite Committees have been defined in the framework of the Siak Pelalawan Landscape Program (SPLP) . Table 1 presents the preliminary results:

| TABLE 1:                                  |             |                  |
|---|-------------|------------------|
|   | Siak – Riau | Pelalawan – Riau |
| Number of producers                       | 35          | 47               |
| Number of unions at plantations (m/w)Etc. | 18          | 11               |
| Number of CBAs (PKB)                      | 10          | 11               |
| Number of Company Regulations (PP)        | 15          | 6                |
| Number of bipartite committees (LKS)      | 10          | 21               |

## ITUC Global Rights' Index

Although the mentioned laws and regulations in Indonesia are still in effect, in practice there are still cases of union busting, including criminalization of union leaders and formation of yellow unions. Therefore, the ITUC Global Rights Index (depicting the world's worst countries for workers by rating 139 countries on a scale from 1-5 based on the degree of respect for workers' rights), rated workers' rights in Indonesia with a 5, meaning a low respect for workers' rights<sup>39</sup>.

Examples of restrictions on FoA are for instance the States power to refuse official registration of trade unions on arbitrary, unjustified or ambiguous grounds and the administrative authorities' power to unilaterally dissolve, suspend or de-register trade union organisations.

### Box 3: Example of restrictions to CBA's

An example of a restriction is for instance that CBA's must be concluded within 30 days after the beginning of negotiations or must be submitted to the statutory conciliation and arbitration process (Article 23, Minister of Manpower and Transmigration Decree 48 of 2004). In practice however, a CBA process is complicated and takes more time, sometimes years.

<sup>37</sup> Only 30% of companies in Indonesia have a CBA, Bisnis.com, 5 February 2019

<sup>38</sup> As part of The Siak Pelalawan Landscape Program (SPLP; CNV and CORE/Proforest 2021-2022) , a mapping study on social dialogue was conducted in Siak and Pelalawan.

<sup>39</sup> [Indonesia - ITUC Survey of violations of trade union rights \(ituc-csi.org\)](https://www.ituc-csi.org/indonesia)

## 5. Actors in Social Dialogue in Indonesia

Workers at plantations and mills, represented by Indonesian independent trade unions on different organisational levels; companies in the palm oil; employers' organisations in Indonesia; governmental institutions; NGO's working on sustainability in the palm oil sector in Indonesia, multi stakeholder organisations; all are stakeholders needed to strengthen the successful implementation of Social Dialogue practises in the sector. Hereby we mention the main stakeholders directly involved in Social Dialogue. In the annex, other also important stakeholders are listed.

### Trade unions at company level in Indonesia

- **Affiliated trade union.** These are company level unions, having or belonging to a trade union structure at district, provincial, and national level. Some even have an affiliation at the international level.
- **Non-affiliated trade union, or company-level unions** to any federation or confederation. In Indonesia they are called SPTP (Serikat Pekerja Tingkat Perusahaan / Company Level trade union). Recently, SPTP have often been seen as "non-independent" because they are not established from the grassroots, but instead by the company to fulfil administration requirements for government inspections or audits.<sup>40</sup> SPTP does not necessarily mean yellow unions. There are SPTPs that are genuinely organised by workers but do not want to affiliate with federation/ confederation.

### Indonesian Trade unions involved in palm oil

#### HUKATAN

HUKATAN (Federasi Serikat Buruh Kehutanan, Perkebunan dan Pertanian Serikat Buruh Sejahtera Indonesia) is a trade union federation with over a 100.000 members, affiliated to the trade union confederation KSBSI (see below). HUKATAN is protecting workers' rights in Indonesia in the forest sector, plantation sector (palm oil) and in the agricultural sector in Sumatra, Kalimantan and Sulawesi. HUKATAN is a member of RSPO and has an active partnership with CNV Internationaal (see below).

#### JAPBUSI

JAPBUSI (Indonesian Palm Oil Trade Union Network) is a trade union network in the palm oil sector. It was founded in 2018 after an international forum with the ILO. JAPBUSI's mission is to encourage the justice and welfare of palm oil workers along the supply chain. It consists of nine trade union federations that are part of the four largest confederations in Indonesia. JAPBUSI represents more than 300.000 palm oil workers in more than 10 provinces. Since 2021, JAPBUSI has been officially registered in the Ministry of Law and Human Rights as an association of trade unions.

#### KSBSI

The Confederation of All Indonesian Trade Union (KSBSI) is one of the biggest confederations in Indonesia. It was established in 1992 and has more than 820.000 members. KSBSI has 10 federations working in various sectors, including transportation, textile, plantations, mining, chemicals, forestry, hotel, financial and educational sector, etc. KSBSI is affiliated to the International Trade Union Confederation ITUC. KSBSI has a partnership with CNV Internationaal (see below).

### Confederations in Indonesia

Unions at company or sectoral level, also in palm oil, may be affiliated to a National Trade Union Centre or a Confederation. There are four major Confederations in Indonesia;<sup>41</sup>

- the Confederation of All Indonesian Trade Union (K-SPSI-Rekonsiliasi)
- the Confederation of All Indonesian Trade Union (K-SPSI-Kongres Jakarta)<sup>42</sup>
- the Confederation of Indonesian Trade Unions (CITU), and
- the Confederation of Indonesian Prosperity Trade Union (K-SBSI).

<sup>40</sup> Preliminary Report Baseline Research - Palm Oil Collective Bargaining Agreement (CBA) Pilot Mapping in West Kalimantan, Indonesia, CNV Internationaal.

<sup>41</sup> The 2 KSPSIs and KSBSI have federations that are part of the JAPBUSI coalition. In Indonesia some company level unions affiliate to a federation that is not from the same sector. For this reason, there are company level palm oil unions affiliated to the metal workers federation, banking federation, transportation federation, etc.

<sup>42</sup> [151201 document \(ituc-csi.org\)](#)

## International level

The Global Union Federations (GUFs) and international confederations play an important role in campaign, lobby and advocacy, especially in the context of global supply chain where the companies headquarter or buyers are not in the production countries such as Indonesia. They also provide training and other kind of capacity building support, and even logistics and fund support for the in-country unions. The in-country unions pay membership dues to them and participate in the GUFs and international confederations events, meetings, etc.

## ITUC

National Confederations can be affiliated to the International Trade Union Confederation (ITUC). In 2019 the ITUC counted 200.182.174 members in 332 affiliated organisations in 163 countries and territories.

The ITUC affiliates in Indonesia are:

- the Confederation of Indonesian Trade Unions (CITU) (KSPI/CITU) and
- the Konfederasi Serikat Buruh Sejahtera Indonesia (KSBSI), together representing 1.270.000 members.<sup>43</sup>

The ITUC can support affiliates with violations of labour rights, as they did with the recent judicial struggle regarding the Indonesian omnibus law.<sup>44</sup>

## Global Union Federation

Trade unions organising workers in a specific sector like palm oil in Indonesia, can also be affiliated to a Global Union Federation (GUF). A GUF is an international federation of national trade unions organising specific industry sectors or occupational groups. Many unions are members of one or more global union federations, relevant to the sectors where they have their members. Unions in the palm oil sector can become a member of the IUF; the International Union of Food, Agricultural, Hotel, Restaurant, Catering, Tobacco and Allied Workers' Associations. (IUF) is an international federation of trade unions representing workers employed in agriculture and plantations; preparation and manufacture of food and beverages; hotels, restaurants and catering services; and tobacco processing. In 2019, the IUF was composed of 422 member organisations in 127 countries, representing more than 10 million workers. In Indonesia the IUF has 3 members;

- the Federation of Hotel, Restaurant, Plaza, Apartment, Catering and Tourism Workers' Free Union (FSPM),
- National Federation of Food and Beverage Workers (FSBMM) and
- Serikat Pekerja P.T. Sarihusada Generasi Mahardhika (PERKASA).

Other GUF's relevant for the palm oil industry are Building and Wood Workers International (BWI)<sup>45</sup> and Industrial.<sup>46</sup>

## International trade unions and their non for profit organisations

International Trade Union Organizations are non-profit foundations, aligned to or part of national trade union confederations. These trade union confederations are members of international trade union networks, and therefore through these partner networks related to certain countries or sectors. An example is the Dutch trade union confederation CNV, with CNV Internationaal as their non-profit foundation, supporting and promoting decent work in Indonesia. CNV Internationaal has an Indonesian office and works in close cooperation with KSBSI, HUKATAN and JAPBUSI, works in close cooperation with NGO's like Proforest and is a member of RSPO and the Sustainable Palm Oil Alliance.

<sup>43</sup> [151201 document \(ituc-csi.org\)](#)

<sup>44</sup> [Indonesian unions celebrate critical "omnibus" law victory - International Trade Union Confederation \(ituc-csi.org\)](#)

<sup>45</sup> [BWI Homepage view | BWI Home \(bwint.org\)](#)

<sup>46</sup> [IndustriALL \(industrialall-union.org\)](#)



## Employers' organisations

Employers' organisations represent the interests of business as these relate to labour and social policy at the national and international levels. They play a crucial role in shaping a supportive environment for competitive, sustainable enterprises, which are essential for economic and social development. Employers' organisations play a critical role in any Social Dialogue process. Employers' organisations play a critical role in any Social Dialogue process and help to ensure that national social and economic objectives are properly and effectively formulated, taking into account the needs of business and to promote sound economic development. In the palm oil in Indonesia we find:

- **APINDO**, the Indonesian Employers' Association. It is the only officially recognized employer's organisation in Indonesia to deal with industrial relations and human resource development issues as mandated by the Indonesian Chamber of Commerce<sup>47</sup>. Palm Oil companies are part of the Association. However, figures about the exact number are not available.
- **GAPKI (Indonesian Palm Oil Association (IPOA) : Official Website ([gapki.id](http://gapki.id)))** is the Indonesian Palm Oil Association (IPOA) or locally known as Gabungan Pengusaha Kelapa Sawit Indonesia (GAPKI). It has over 700 company-members,<sup>48</sup> consisting of state-owned plantation companies (PTPN), privately-owned foreign and local companies as well as smallholders organised in cooperatives. In Riau the number of members is 64.<sup>49</sup>

## Governmental organisations

The primary state body involved in Social Dialogue is the [Indonesian Ministry of Labour](#), known as the Ministry of Manpower (Kementerian Ketenagakerjaan). This Ministry is organized and active at district/ city and provincial level. In general the primary responsibility of the Indonesian Ministry of Labour is the welfare of workers in the country. They are also responsible for the labour laws that govern industry and for regulation of labour migration.

The specific roles of this Ministry are divided into four tasks:

- regulator – issuing regulations, including ministerial decrees, after consultation with relevant parties;
- facilitator – creating structures for Social Dialogue and mechanisms for dispute resolution;
- mediator – providing official mediation in the settlement of disputes; and
- patron – ensuring a supply of efficient and capable human resources.

A number of other Ministries also take part in tripartite Social Dialogue structures, holding one seat on the National Tripartite Council, such as the Department of Home Affairs, the Department of Trade and the Department of Industry.

## Tripartite bodies in SD

### ILO Jakarta

The ILO Country Office for Indonesia and Timor-Leste ILO in Indonesia and Timor-Leste (ILO in Indonesia and Timor-Leste) covers both Indonesia and Timor-Leste. Labour and employment issues are at the top of the development agenda in both countries. The ILO's Decent Work Country Programme is centred around supporting Indonesia and Timor-Leste, through tripartite constituents, to move towards an integrated development that links rights at work and Social Dialogue with employment policies and social protection.

<sup>47</sup> Workers' and Employers' Organizations in Indonesia and Timor-Leste (ILO in Indonesia and Timor-Leste)

<sup>48</sup> <https://gapki.id/en/gapki-members>

<sup>49</sup> (<https://www.gapki-riau.id/anggota-gapki-cabang-riau/>)

## 6. Challenges in Social Dialogue in Indonesian palm oil

The implementation of Social Dialogue is not always easy, and multiple challenges are often faced by the industrial relations actors.

In general, Social Dialogue practices in the palm oil are limited to information exchange and dispute settlement on normative issues, and NOT used for prevention of conflicts, consensus building or negotiation. Apparently until now, CBAs have not been seen as an achievement or a tool to resolve labour disputes and to reduce social and economic costs for both parties.<sup>50</sup> Unfortunately, most companies only have company regulations -documents which are drafted exclusively by the management without involvement of a trade union (see Box 2)- and not CBA-documents which are resulted from an agreement between companies and unions.<sup>51</sup>

### Trade Union Challenges

Some of the underlying challenges in Social Dialogue,<sup>52</sup> identified in the palm oil sector in Indonesia are as follows:

#### Decrease of active unions

Most workers in palm oil plantations are not represented by independent unions or labour organisations. Reports<sup>53</sup> in Indonesia show that FoA and CB rarely exist in the palm oil sector. The total number of unions covering all sectors in Indonesia has even been decreasing significantly, from around 14,000 in 2007, to about 7000 in 2017. The number of union members in 2017 was 2,7 million workers compared to 3,4 million in 2007 .

#### Lack of Knowledge and Awareness of workers to defend their rights

Trade unions also indicate that workers on plantations merely focus on working, hereby accepting their working conditions as a fact they are not able to change<sup>55</sup>. Not many of them are aware of the possibility of being active in trade unions to defend their rights and improve their labour conditions.

#### Low representation vulnerable workers

One of the major reasons for the decline of union members has been the massive use of illegal outsourcing<sup>56</sup> and contract workers. As in many other cases, these workers tend to avoid joining unions in order to secure their jobs due to their vulnerable position.

#### Low level of communication and negotiation skills among trade unions at company level.

The capacity building of trade unions at plantation level is far from adequate. There is a huge lack of capacity of trade unions in understanding their rights and in negotiation skills. There is also a lack of communication skills, as well as knowledge on labour law. For instance trade unions are not trained to build trust with management, key to a constructive Social Dialogue which can contribute to the success of a CBA negotiation<sup>57</sup>.

#### Trade Union Fragmentation

Fragmentation, divisions and disputes between trade unions can occur because of differences in views between unions, or because of pragmatic interests, such as the closeness of union leaders with management.<sup>58</sup> Such union split has a negative impact on the implementation of Social Dialogue; they often end up in the law court and it would be difficult for company management or the Manpower Office to determine their dialogue partners. Fragmentation (even during CBA negotiations with companies) also causes problems among unions to align perceptions or articulate workers' aspirations. It makes their position at the negation table weaker. This is not only the case for labour unions in the palm oil sector, but also between the sectors.

<sup>50</sup> Mapping on Social Dialogue in Siak and Pelalawan, 2022

<sup>51</sup> Preliminary Report Baseline Research - Palm oil Collective Bargaining Agreement (CBA) Pilot Mapping in West Kalimantan, Indonesia, CNV Internationaal 2021

<sup>52</sup> Mapping on Social Dialogue in Siak and Pelalawan, 2022.

<sup>53</sup> DBA's Analysis of Severe Human Rights Issues in the Palm Oil Value Chain and Follow-up actions, SER 2019

<sup>54</sup> Ministry of Manpower, 2017.

<sup>55</sup> Preliminary Report Baseline Research - Palm oil Collective Bargaining Agreement (CBA) Pilot Mapping in West Kalimantan, Indonesia, CNV Internationaal 2021

<sup>56</sup> Illegal outsourcing means practices where companies contract workers through outsourcing agencies, for positions that are supposed to be filled in by permanent workers. It's a general practice, not only in palm oil. In palm oil, the phenomena is reflected in the daily casual workers, often practicing regular jobs, instead of being contracted directly and on a permanent basis by the company..

<sup>57</sup> Preliminary Report Baseline Research - Palm oil Collective Bargaining Agreement (CBA) Pilot Mapping in West Kalimantan, Indonesia, CNV Internationaal 2021

<sup>58</sup> The mapping done by CNV and Proforest raised this concern as well..

### Lack of Independent Trade Unions

Not all companies have an independent trade union. Data shows that 39% of the Indonesian palm oil companies have non-affiliated trade unions (SPTP). SPTP most likely are not affiliated, for instance to a sectoral or regional union (federation) or national confederation of trade unions, making it difficult for them to bring the issue to a higher level, for example if they want to advocate complaints to palm oil headquarters in Jakarta or abroad. Many of these unions are established by the management (yellow unions) for (a combination of) various purposes<sup>59</sup>: certification (RSPO/ISPO), preventing establishment of independent unions, or to counterbalance the existing independent unions. To be able to protect workers' interests, it is important for trade unions to act independently of the employer, to have democratically elected union representatives.

### Intimidation and harassment of labour defenders

Labour rights defenders and union members are reportedly harassed and not allowed entry to plantations. This makes it difficult for them to organise the workers and collect their grievances in order for them to effectively negotiate a CBA with their employers. Workers sometimes also indicate that companies refuse to negotiate CBAs.<sup>60</sup>

#### BOX 4: Example of avoiding SD

According to information from interviews, one of the methods to avoid Social Dialogue by companies, can be the removal of union leaders or workers who are actively voicing the aspirations of workers. This can be done by transferring the workers to another company or a plantation in another area.

### Bureaucratic and administrative challenges- The eligibility of trade unions to negotiate CBA

By law, only 10 workers are needed to establish a trade union at company level. In case there is a trade union (with 50% of the total workforce + 1 members), this union can propose to negotiate a CBA. With multiple trade unions in one company, the CBA negotiations can be done jointly by the three largest trade unions, who represent a minimum of 10% workers in total. If a union can get support through voting from at least 50% from the total workers outside their own members, it can also negotiate a CBA.

To achieve 50% can be a huge challenge given the high number of workers and the extensive area of the palm oil plantations (which can be thousands of hectares). Trade unions who have not achieved 50% membership of the workers of the company + 1, are not entitled to negotiate a CBA with the management. However this does not mean they cannot be proactive in promoting labour rights or even work towards a CBA negotiation. They can still strengthen Social Dialogue in a bipartite committee, were – although they cannot negotiate a CBA- , they still can influence short-term improvements in the company. Trade unions can also choose to be active in the tripartite committee at the district and provincial level to influence policies and meanwhile they can build trust and confidence amongst the workers and keep recruiting and building capacity amongst the members<sup>61</sup>.

#### BOX 5: Example of West-Kalimantan

Well-established trade unions and CBAs have the potential to substantially strengthen the rights of the workers on palm oil plantations. Yet a recent assessment in West-Kalimantan showed that the number of companies with trade unions and CBAs remains terribly low. Only 2,9% of all plantations have a CBA. 23,3% Have a company regulation, meaning that 72,45% of the companies in palm oil, have *no regulations* at all.<sup>62</sup> If workers unions exist, 40% of them are not affiliated with sectoral or regional trade unions. Instead, they were established by the companies themselves to fulfil administrative or certification requirements. These unions tend to negotiate in favour of the company instead of representing workers' interests. Some of the existing CBAs were of poor quality in certain areas, sometimes breaching Indonesian law or containing segments that were at the disadvantage of the workers.<sup>63</sup>

<sup>59</sup> Preliminary Report Baseline Research - Palm oil Collective Bargaining Agreement (CBA) Pilot Mapping in West Kalimantan, Indonesia, CNV Internationaal 2021.

<sup>60</sup> Quiroz, D., Achterberg, E., Arnould, J. (2021, May), Sector Analysis: Latin American Palm Oil, Amsterdam, The Netherlands: CNV Internationaal and Profundo.

<sup>61</sup> Information from interviews.

<sup>62</sup> Preliminary Report Baseline Research - Palm oil Collective Bargaining Agreement (CBA) Pilot Mapping in West Kalimantan, Indonesia, CNV Internationaal 2021.

<sup>63</sup> [Improve the situation of palm oil workers through workers unions - Sustainable Palm Oil Choice](#)

## Low representation of women

Women workers, in palm oil often casual daily workers, are rarely involved in trade union activities or other forms of Social Dialogue, for a variety of reasons:

- Trade unions have historically been male-dominated, which has often created an unwelcoming environment for women to break into (not only at local, but also at national and international level).
- Women are commonly in atypical forms of work, temporary or part-time work, without any form of contract. Workers in such precarious positions tend to unionise less, out of fear of losing their work. They might also think that only permanent workers can be trade union members.
- In addition to working at their jobs, women often do the majority of unpaid care work (at home), including housework, childcare, and elder care. Therefore, they have less time than men to dedicate to trade union activities.
- Religious and cultural norms and constraints around women in leadership and decision-making roles are prevalent.
- Socialisation can only be done after working hours. Women daily workers still have their domestic work at home after their plantation working hours. And they may face restrictions on their movement or access to spaces where negotiations may occur due to gender-based security problems.
- Female trade unionists in general may face a higher risk of sexual violence or harassment.

It remains an important challenge for trade unions to reach out to these women to make sure they have a voice and that their specific needs and rights are also included in the CBAs and/ or unions.<sup>64</sup> Including women in unions and allowing their voices to be heard when developing union policies and strategies and CBAs can have a significant positive impact on women workers. Women (might) have different needs. Unions with adequate female representation will think more about a safe and secure environment, getting equal opportunities for all, equal remuneration, childcare facilities, clean toilets, hygienic conditions, maternity benefits, and grievance and remediation mechanisms into a company's labour strategies and CBA.

## Challenges in Social Dialogue at Company level

### A negative mindset of producers about the trade union movement

Management might be hesitant to start a Social Dialogue. There sometimes isn't enough understanding of the roles unions can play, or even prejudices about unions as troublemakers may still exist. Management tends to avoid dialogue even though the issues raised by unions are often normative issues.<sup>65</sup>

One of the causes of these practises is that trade unions in Indonesia often start their activities with denouncing non-compliances by the companies they work for. Non-compliances for example in relation to requirements of certifying organisations (like RSPO and ISPO), regarding workers' welfare like housing, wages and occupational safety and health. As companies fear disclosure of these alleged non-compliances, whether correct or false, they might choose to prevent a trade union to be organised or strengthened.

### Low Commitment to Dialogue

The formation of Bipartite LKS or the creation of PKBs can be done only to meet the requirements of the law or certification bodies such as ISPO and RSPO. The Bipartite LKS does not function as it should; the yearly meetings take place in small numbers and without a clear agenda for discussion.

### Companies using strategies to influence or delay agreements

The validity of CBAs in Indonesia is only two years and extendable for one year.<sup>66</sup> So a quick decision-making process is crucial. However, in practice, the process to develop a CBA can take much longer, examples are known of CBA processes of 4 years.<sup>67</sup> According to information from interviews, trade unions sometimes have the impression that companies try to delay the dialogue e.g. by saying that "they are still waiting for a decision from the headquarter". Or companies tend to share bad news such as the decreasing CPO price, which is a reason for not including improvements for the workers in CBAs.

<sup>64</sup> Preliminary Report Baseline Research - Palm oil Collective Bargaining Agreement (CBA) Pilot Mapping in West Kalimantan, Indonesia, CNV Internationaal 2021

<sup>65</sup> Mapping on Social Dialogue in Siak and Pelalawan, 2022

<sup>66</sup> Preliminary Report Baseline Research - Palm oil Collective Bargaining Agreement (CBA) Pilot Mapping in West Kalimantan, Indonesia, CNV Internationaal 2021

<sup>67</sup> Information from interviews



### **Lack of transparency of information**

Companies seldom share a copy of the CBA or regulations with trade unions/workers. This also concerns Human Rights policies in line with for instance requirements of certifying organisations as ISPO. Here there is an issue with transparency by management. Trade unions alleged that companies sometimes intentionally lack to disclose the company regulations and will use this to sanction workers who infringe these regulations. Trade unions state that they are afraid to ask for company regulation because the company will see them as “provocateur” and they are afraid for retaliation like intimidation by management.<sup>68</sup>

### **Lack of Monitoring and Evaluation of HQ’s**

Monitoring and Evaluation systems at the Head Quarter or sourcing company to assess compliance with policies, regulations and CBAs by management of the producers can be weak or absent. In case of non-compliance, no sanctions are in place.

### **Lack of Independent Grievance Mechanism**

Often there is no effective and independent complaint mechanism with dispute settlement when conflicts between workers and management arise.

### **Low awareness of companies of the benefits of Social Dialogue and CBA**

Even companies that already have trade unions can lack awareness and capacity on the value of having a CBA. Therefore, continuous socialisation about the benefits for all parties concerned is needed to encourage CBA negotiations. Support from certifying organisations, market and investors to push CBA development is important to make sure that labour conditions are improved.

## **Mutual perceptions**

### **The way to see each other**

Trade unions often feel that many palm oil companies see trade unions as “troublemakers” who are demanding unreasonable things and want to go to strike.<sup>69</sup> Trade unions think companies are not interested in the role unions can play. With such mutual labelling, building trust between companies and trade unions will take a long time, preventing a good Social Dialogue to take place, a precondition for a quality CBA. However, trade unions not only have a responsibility to raise awareness to members about the importance of CBAs to protect their rights, but also on the importance to change the paradigm of companies on how they see trade unions. Trade unions at the higher level (district, province and national level) can play a proactive role in this, by initiating a constructive dialogue with the companies, to make sure that FoA and Social Dialogue at plantation level are respected for the benefit of all. This is exactly one of the functions of a trade union federation (district/provincial/national level union); to support their members at company level in conducting SD with the management –especially if the company level union is new and lacks experience or skills. Besides, trade union federations can negotiate with employer associations on more general issues, assuming the associations will follow up the agreements with their members at company level.<sup>70</sup> An example of this is agreement that several trade union federations in Riau signed with Gapki, the district Governor, BNI (National Bank of Indonesia), and BPJS (Indonesian Social I Health Insurance) on a housing (credit) program for palm oil workers. This is an indirect way of promoting SD at company level.<sup>71</sup>

<sup>68</sup> Preliminary Report Baseline Research - Palm oil Collective Bargaining Agreement (CBA) Pilot Mapping in West Kalimantan, Indonesia, CNV Internationaal 2021

<sup>69</sup> Preliminary Report Baseline Research - Palm oil Collective Bargaining Agreement (CBA) Pilot Mapping in West Kalimantan, Indonesia, CNV Internationaal 2021

<sup>70</sup> Informal comments CNV Internationaal Indonesia.

<sup>71</sup> Mapping on Social Dialogue in Siak and Pelalawan, 2022.

## Uneven Capacity and Competence for Dialogue

One of the challenges in building Social Dialogue is the capacity of the parties involved. Sometimes the representatives delegated by the organisation to negotiate (being it the labour union or the company) lack the understanding of labour issues or the dialogue skills. This is partly due to the tendency of prioritising positions over competence. This can result in a weak dialogue process. In addition, dialogue skills are also found to be rather uneven among stakeholders, both at the bipartite and tripartite levels.<sup>72</sup>

Another important thing in relation to capacity and competence is the weak gender perspective amongst stakeholders. As an implication, both at the bipartite and tripartite levels, the representation of women and the issue of gender equality is still very limited.<sup>73</sup>

### BOX 6: Example of need for training

In Pelalawan, for example, since 2017 the Manpower Office has stopped conducting training for labour unions in its area, due to budget constraints. However, for the unions these training sessions were and still are very important.

## Don't know how to start CBA negotiations

Related to this: companies and trade unions sometimes lack the knowledge on how to start CBA negotiations. According to the Provincial Manpower Office, if companies already have a Company Regulation, then the discussion on a new CBA can start from there. The content of the CBA should be more elaborate than the Company Regulations. National regulations are general and sometimes can be multi-interpretable.<sup>74</sup>

## Low added value of CBAs

Often CBAs are only repeating the law, and therefore have no added value. A good quality CBA has an added value above the law, and is specified for the risks occurring in the specific sector. They can be more “tailor made” to the context of the specific sector, company and workers.<sup>75</sup>

## Administrative, encouraging and enforcing challenges

### Policies and Laws that Undermine Social Dialogue

Policies and changes to the rule of law in the field of employment can have a serious impact on the implementation of Social Dialogue. For instance, the determination of wages at district level is no longer the result of a dialogue process but is based on a calculation formula carried out by the authorised institution. This formula is based on aggregate economic data of inflation, economic growth, or purchasing power parity. Previously, the calculation of wage increase was based on survey on decent living needs of workers and their families, reflecting the needs of workers and their families. This calculation is subject of tripartite social dialogue.<sup>76</sup>

### Lack of Guidance and Supervision

Social Dialogue at the company level could be more developed if the guidance and supervision from the government and other external parties could be maximised. One of the reasons for this lack of guidance and supervision is the lack of coordination between the local district Manpower Office and labour inspectors at the provincial level (see also below on *Weak Enforcement*).

<sup>72</sup> Preliminary Report Baseline Research - Palm oil Collective Bargaining Agreement (CBA) Pilot Mapping in West Kalimantan, Indonesia, CNV Internationaal 2021

<sup>73</sup> Mapping on Social Dialogue in Siak and Pelalawan, 2022

<sup>74</sup> Preliminary Report Baseline Research - Palm oil Collective Bargaining Agreement (CBA) Pilot Mapping in West Kalimantan, Indonesia, CNV Internationaal 2021

<sup>75</sup> Preliminary Report Baseline Research - Palm oil Collective Bargaining Agreement (CBA) Pilot Mapping in West Kalimantan, Indonesia, CNV Internationaal 2021

<sup>76</sup> Information provided by CNV Internationaal Indonesia

## Weak enforcement – No reward and sanction from Labour Inspectors

CBA has a legal basis in the Indonesian Labour Law Number 13/2003 Article 1 (21), which is the result of negotiations between trade unions; or several trade unions that registered in the agency who is responsible for Manpower affairs with the employer; or several employers or business associations. It contains terms of employment, as well as the rights and obligations of both parties. This means that the roles of the Indonesian Manpower offices are focused on administration e.g registration of CBAs. Regarding the implementation or the quality of CBAs, there is no clear control and sanction mechanism against the companies. Inspections do not take place on a sufficient scale, due to a limited number of labour inspectors. But besides this, there seems to be a general lack of competence, transparency and accountability.<sup>77</sup>

### BOX 7: Labour Inspection

Recently a field guide for labour inspection in Indonesia's palm oil sector has been completed by the ILO. The Guide is expected to support the work of Labour Inspectors in improving compliance with the prevailing labour norms. This instrument is a combined effort of the Ministry of Manpower in supporting the implementation of the Presidential Instruction No. 6, 2019 on the National Action Plan on Sustainable Palm Oil and the ILO Office for Indonesia and Timor Leste through the project on "Advancing workers' rights in Indonesia's palm oil sector."<sup>78</sup>

## Documentation and monitoring in the District Manpower Office

There is a lack of administration of CBAs because there is no supervision nor sanctioning of companies who fail to register their CBAs and Company Regulations duly. Missing CBA files also occur, due to staff changes. Monitoring is difficult, because of the lack of coordination between Manpower at the district and provincial levels and the weakness in enforcement by the labour inspectors whom are operative only at the province level instead of the district level.<sup>79</sup>

### BOX 8: E-registration

Provincial Manpower Office is preparing an e-registration system for CBAs in all sectors (including palm oil) that allows the companies and trade unions to register the CBA without a physical visit. However, this project is still in development by the Ministry of Manpower. If realised, the project might focus on the districts regarded as the Green Zone.<sup>80</sup>

## CBA in the context of compliance to sustainability certification

CBA is also mentioned in RSPO Principles and Criteria 2018.<sup>81</sup> However, based on the auditor's guideline (though not a mandatory tool), and although auditors have completed the ISO 19011 auditor training that teaches the skills to check the process, efficiency and effectiveness pertaining to each criteria audited, it is no guarantee that the process and quality of a CBA will be checked by the auditor. For instance, in a meeting with unions conducted in Kubu Raya, out of five unions operating in a company being an RSPO member, only two unions had ever been interviewed by RSPO.<sup>82</sup>

<sup>77</sup> Mapping of Social Dialogue in Siak and Pelalawan, 2022

<sup>78</sup> [wcms\\_831222.pdf \(ilo.org\)](#)

<sup>79</sup> Concluded in the mapping in Pontianak West-Kalimantan and a CNV research on labour inspectors in 2018.

<sup>80</sup> According to information from the Manpower Office of West Kalimantan, with regard to labour issues, the Office divides the districts in West Kalimantan into 3 zones: Green (comply with labour law and administration), Yellow (partly comply with labour law and administration) and Red (mostly not comply with labour law and administration). The districts in Green Zone are: Mempawah, Sintang, Sanggau and Kubu Raya.

<sup>81</sup> RSPO: 6.2.1; applicable labour laws, union and/or other collective agreements and documentation of pay and conditions are available to the workers in national languages and explained to them in a language they understand. 6.3.1; a published statement recognising freedom of association and right to collective bargaining in national languages is available and is explained to all workers in languages that they understand, and is demonstrably implemented.

<sup>82</sup> Preliminary Report Baseline Research - Palm oil Collective Bargaining Agreement (CBA) Pilot Mapping in West Kalimantan, Indonesia, CNV Internationaal 2021

## External challenges

### COVID 19

Indonesia has been severely affected by the COVID-19 pandemic, with more than 4,3 million confirmed infections by late February 2022 and almost 1,5 million deaths.<sup>83</sup> The palm oil industry has not been affected significantly by COVID. As the COVID-19 pandemic brought the global economy to a halt, Indonesia initially experienced a drop in its palm oil exports. Globally, palm oil consumption declined as the demand in the food and hospitality industry in key Asian markets (China and India in particular) and Europe (the Netherlands, Spain, Germany and Italy are the top four palm oil importers) dropped. Logistical interruptions including transport and port operations limited import demand even more. After a drop at the beginning of the Covid crisis, palm oil demand is now rising as it is increasingly used in the production of sanitizers, soaps, cleaning products and biodiesel in Europe and the Indonesian domestic market. Production remains stable, prices are high, and there have not been that many layoffs.<sup>84 85</sup> Many parts of the industries have been kept operational. There have not been changes in working conditions in palm oil. The Indonesian Palm Oil Association reported that some protocols were imposed to prevent the spread of the disease among workers, such as the use of PPE or limiting the movement of people in and out of the plantation by demanding self- quarantine for workers leaving the plantation for 14 days. Adherence to health protocols however needs close monitoring.

The COVID 19 pandemic does however influence bipartite and tripartite Social Dialogue, due to mobility restrictions in the country. And since the Ministry of Manpower's offices are restricted in their operations during the pandemic, the process to register and solve cases is delayed.<sup>86</sup>

<sup>83</sup> <https://www.worldometers.info/coronavirus/country/indonesia/> (accessed 3 Febr. 2022).

<sup>84</sup> [GAPKI](#): "Palm Oil remains shining despite the pandemic", Indonesian palm producers have no plans to reduce hours despite virus - association | Reuters

<sup>85</sup> Information from interviews, 2022

<sup>86</sup> Information from interviews, 2022



## 7. Addressing the challenges

Even where countries have *not* fully met their obligations to allow FoA and CB by law, businesses still have a responsibility to actively look for ways to meet these international standards and respect human rights across their supply chains. The UN Guiding Principles on Business and Human Rights and the OECD Guidelines are globally recognized as the authoritative frameworks on how businesses should prevent and address negative impacts on people. This provides clear guidance in the due diligence process that companies should undertake to assess the risks, define policies, take measures to minimise and eliminate these risks and to implement preventive measures for risks to reoccur in their supply chain (see due diligence cycle). But also mandatory laws in various countries and regions are currently developed or prepared<sup>87</sup> to provide a clear framework on what is expected of companies regarding respect for human rights in their supply chains.

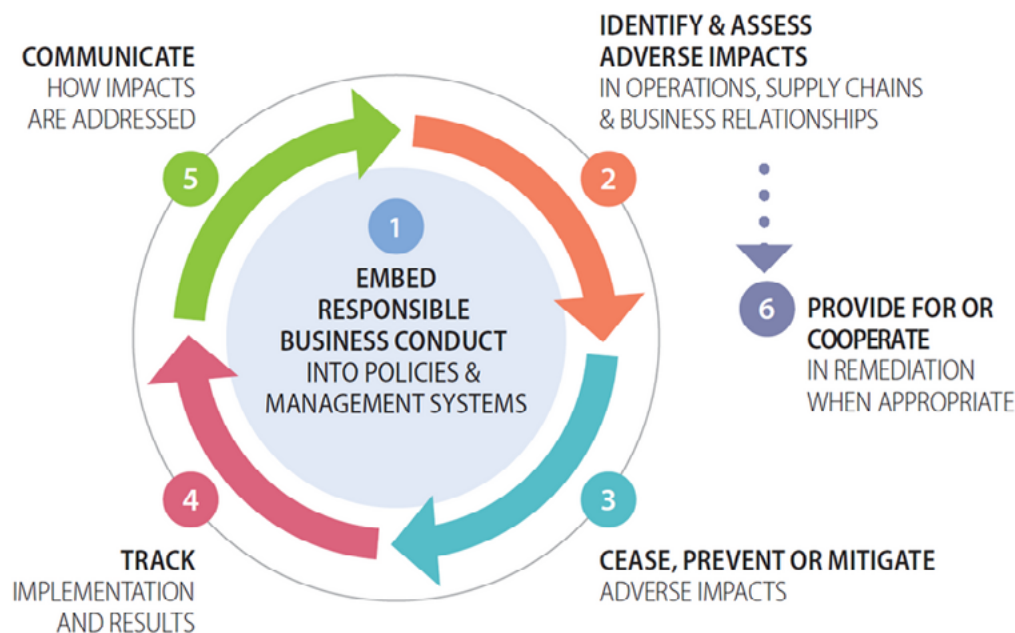


Fig 02: [Six stages of the due diligence process](#)

Given the opportunities, existing challenges and increasing (international) demand for Social Dialogue in the palm oil sector in Indonesia, the question is: what can companies do to promote and support social dialogue practises as part of their supply chain responsibility?

Different steps can be taken at company level in the palm oil sector in Indonesia. Hereby we distinguish different types of companies, according to their function in the palm oil supply chain.

For the purpose of this paper, we focus on two types of companies:

- ↑ **Upstream companies;** these are the Producers (Plantation) and Mills, also called “suppliers
- ↓ **Downstream companies;** these are the (international) “Buyers”, being refineries, traders and consumer goods companies

<sup>87</sup> For further information on union rights in global supply chains and practical approaches for Human Rights Due Diligence (HRDD), read the 2019 [report of FNV and Shift](#).

## Analysis of Social Dialogue in the Indonesian context

|   |   |   |
|---|---|---|
| • Companies can start with deepening their understanding on Social Dialogue, CB and FoA in general, for the specific countries they source from (in this case Indonesia), the palm oil sector specifically and at the level of their own suppliers. | ↑ | ↓ |
| • Companies can learn about the local union structure and closely follow any new decrees or circulars issued by the national and provincial/district authorities, related to (new) labour codes.  | ↑ | ↓ |

## Risk assessment on FoA and CB

|   |   |   |
|---|---|---|
| • Companies can conduct a risk analysis to assess the actual situation surrounding the topic of Social Dialogue for all workers; men and women, including those who are directly contracted by the producing company, those who are sub-contracted by agencies, those who are casual daily workers, workers with a permanent contract.  | ↑ | ↓ |
| • In case of salient risks, a human rights impact assessment could be conducted at company level (plantations and mills) and by refineries, traders and buyers regarding the situation of Social Dialogue in their palm oil producers' supply chain. Hereby traceability of course is key; sourcing companies should have clear knowledge on their supply chain, in order to be able to push suppliers to comply with FoA and CB.   | ↑ | ↓ |
| • The risk assessment should include information on the presence of independent trade unions (How were the representatives elected? By voting? By the workers? Are they affiliated to a Federation or Confederation?), negotiations of and respect for (quality) CBAs, the existence and functioning of independent complaint mechanisms, all forms of workers' consultations (how often and does dialogue take place? On what topics? Check how the trade union consults members about their concerns. How do they reach a consensus? Are union executive committees given time and a place to organise meetings with members?), and the presence and functioning of bipartite (employers-employees) committees, also on issues like OHS, gender, etc. | ↑ | ↓ |

## Work with local stakeholders

|   |   |
|---|---|
| • Companies can engage with local stakeholders to provide input on the risk assessment. Local trade unions, local non-governmental organisations, communities and labour research networks can help companies to better understand the local culture and root causes of the risks which have been identified. In turn, this works to promote Social Dialogue and FoA. In the annex an overview of relevant stakeholders is provided. The most constructive way is to find responses to non-compliance together. | ↑ |
|---|---|

### For overviews of risks you might encounter in your supply chain, also see:

- [Red flags](#) as identified by ETI.
- How companies can diagnose their risks, pp 26-31, [report of FNV and Shift](#).
- Based on answers to questions provided in the [FNV/ CNV checklist](#), your company can identify what risks are present in your supply chains.
- In the [toolkit palm oil of Verité](#), tools are provided to analyse root causes, how to effectuate Labour Risks Management and how to build Management systems.<sup>88</sup>

<sup>88</sup> [Toolkit for palm oil Producers on Labour Rights, Verité 2021](#).

## Policy commitments

- |   |   |   |
|---|---|---|
| <ul style="list-style-type: none"> <li>• Good policy starts with a <b>policy statement</b> to uphold FoA and the rights to CB throughout the companies' operations and down the supply chains. Build an overall statement to show that your company respects the rights of both employees and workers in the supply chain to access and exercise their right to FoA and CB. This statement needs to carry authority from the highest level of management (See ETI, p14 to see what a policy statement should look like).</li> </ul> | ↑ | ↓ |
| <ul style="list-style-type: none"> <li>• In the framework of the Due Diligence process, companies should develop their <b>policy</b> jointly with workers' and their representatives (trade unions) on how to improve Social Dialogue, with clear key performance indicators (KPIs). These policies should also include accessible and independent complaint mechanisms<sup>89</sup> and audit systems. These requirements for Social Dialogue should also be included in their <b>Suppliers Code of Conduct</b>.</li> </ul>        | ↑ | ↓ |
| <ul style="list-style-type: none"> <li>• The policy should be <b>shared</b> with the suppliers in Indonesia and made available also to their workers, so they know you are strongly committed to these rights.</li> </ul>   | ↑ | ↓ |
| <ul style="list-style-type: none"> <li>• Companies can review their suppliers' policies and/or regulations, specifically related to FoA and CB.</li> </ul>  |   | ↓ |

<sup>89</sup> See also: [What makes an 'effective' grievance mechanism: eight criteria under soft law \(triponelconsulting.com\)](#) and [9 - Operational-level grievance mechanisms - What | Toolbox Human Rights \(business-humanrights.be\)](#)

### Supplier Code of Conduct and policies

- Make sure you have FoA and CB included in your Supplier Code of Conduct. It must be clear for your suppliers what you expect from them. Check the document [Freedom of Association in Global Supply Chains](#), ETI, p 16 to see what good policy and a Suppliers Code of Conduct for FoA should look like. ↓
- Companies can formulate, for example, a provision stating that “an independent trade union is mandatory” in terms of FoA and CB while placing orders to the supplier’s plantations and mills and refineries. Companies can pressure suppliers and management authorities to comply with national legislation. However, as an international company, do not push suppliers to establish a union, since forming or joining a trade union is solely a decision for workers to make; management should not force or pressure them either way. Suppliers can provide an environment open to unions and can support workers with information sharing and to dialogue. ↓
- Be aware that participation committees or safety committees are not the same as unions. Companies need to verify that a union is not a yellow union, that there is an elected workers’ representative, and whether CB takes place. Sometimes workers do not even know that there is a union because management established one simply to accommodate their buyers. ↓
- Make sure all your suppliers have a policy on FoA and CB. Does this policy comply with International Core Conventions and Indonesian labour law? The FoA policy must include a non-retaliation clause to protect workers who decide to organise. ↓
- Ensure that these policies, regulations and CBAs are communicated to all type of workers on the plantations and mills and management, including new employees. ↓

### In addition, discuss with your suppliers:

- to provide a CBA copy (to check if this not only complies with labour law, but also allows workers more benefits, for example, a higher wage than the mandatory regional minimum wage) and ask about the negotiation process. ↓
- The importance of stable contracts for workers, wherever products are made (including the outsourced work). ↓
- Non-retaliation letters to be distributed periodically to all workers, guaranteeing that management will not retaliate against workers for forming or joining a trade union. ↓
- An enabling environment, so workers can make preparations to create their union. For example, allow access to trade unions, create space and opportunity on the factory premises to hold meetings with the general workers and fill out membership forms, etc. ↓
- Assurance that trade union members will not be subjected to intimidation/negative treatment/discrimination/harassment/displacement/dismissal; the supplier needs to be accountable to the companies that no one is subjected to mistreatment for joining a trade union and/or a CB process. ↓

### How to use your leverage? B

- Build long-term relationships: Social Dialogue will require investment from the supplier(s) (both in terms of finances and time). This type of investment is not wise for them if they do not see stability and security for future orders. With a long-term agreement, companies can reward their supplier(s). Financial support is also a possibility. ↓
- Sign ‘pay and stay’ agreements with suppliers who commit to taking action towards FoA and CB. This means that companies commit to long-term production as long as quality and other production criteria are upheld (steady prices excluded). This can reassure suppliers that if costs increase, for example from a negotiated CBA, your company also commits to covering some of those expenses. ↓

As mentioned earlier: companies and trade unions sometimes lack the knowledge on how to start CBA negotiations. However if companies already have a Company Regulation, then the discussion on a new CBA can start from there. The content of the CBA should be more elaborate than the Company Regulations or national law.



Elements of good CBA negotiation are **trust**, good will, commitment, transparency, no hidden agenda and similar level of knowledge from both parties. The existence of an independent trade union is also key.



### The need for ground rules

Before negotiations start, there must be a ground rule. In cases where there is a trade union in place, but a bipartite committee is not formed and bargaining is not taking place, an analysis can be done of blocking and facilitating factors. Ultimately an actual CB process could be facilitated with expert facilitators.



### Multi-company CBA

Companies could assess the opportunities to promote establishing a multi-company CBA.

CNV Internationaal aims to promote and strengthen Social Dialogue and improve labour conditions through Multi-Company CBAs (MCCBAs) for different sectors (for instance tea, garment, palm oil) in Indonesia. The major advantage of MCCBAs is that they improve both labour and productivity, while reducing social unrest and avoiding unfair competition. Currently agreements have been made in garment factories and at tea plantations. These MCCBAs, which include matters such as health and safety, working hours, and compliance with wage agreements, apply to several companies of the same sector within the same region. During the process of creating an MCCBA, significant attention is paid to building mutual trust between companies and trade unions and between the trade unions.



See this [video](#), for an example from Indonesia.

#### BOX 9: MCCBA in palm oil

Currently the trade union federation HUKATAN in palm oil in Indonesia, is also in the process of developing a process of MCCBA with various palm oil companies of PT Patiware in Bengkayang. Both parties agreed to establish a bipartite committee and will continue to have regular meetings. A bipartite committee is the first step to start a negotiation towards a CBA.



**Capacity building on Social Dialogue in the palm oil sector is necessary:**

- |  |   |   |
|--|---|---|
| • Before negotiations start, there must be a ground rule. In cases where there is a trade union in place, but a bipartite committee is not formed and bargaining is not taking place, an analysis can be done of blocking and facilitating factors. Ultimately an actual CB process could be facilitated with expert facilitators.                   | ↑ |   |
| • Companies can support and finance workplace training for workers, unions <sup>90</sup> and management to build <i>understanding of their rights and responsibilities</i> and to increase their <i>skills</i> for engaging in Social Dialogue. Stronger capacity leads to better industrial relations, less conflict, and more meaningful dialogue. | ↑ | ↓ |
| • Invest in and support resources to build the capacities of gender committees.  | ↑ | ↓ |
| • Where possible, companies can be linked to service providers who can train both employers and employees on the rights and roles of trade unions and the process of Social Dialogue.  | ↑ |   |
| • Try to find other companies to connect with, ones that are also sourcing in the same country. Learn from each other, seek leverage, participate in (country specific) webinars (organised by CNV, etc.). Disclaimer: this should be done within the boundaries of anti-competition law   |   | ↓ |

**BOX 10: Training in Social Dialogue**

In Indonesia in 2020 18 representatives of trade union confederation KSBSI and employers' organisation APINDO have been trained in implementing Social Dialogue. The train-the-trainer event was organised by the Dutch Trade Union Organisation CNV International and the Dutch Employers' organisation DECP. In the regions of Bandung, Jakarta, Makassar and Medan, participants completed role-playing assignments in which employers played the role of trade unions and vice versa. The plenary discussion of the outcomes of the role plays showed the importance of listening carefully to each other and to make an effort to understand each other. Common conclusion among both participating employers and employees was to keep a positive mindset and assume that everyone is willing to look for solutions.<sup>91</sup>

**BOX 11: The FoA Protocol**

At the end of December 2017, CNV Internationaal, together with Mondiaal FNV and Fair Wear Foundation, European textile brands and Indonesian textile manufacturers, reached an agreement on improved workers' rights. Brands such as Haglöfs, Kjus and SuitSupply signed an agreement in Jakarta, the so-called Protocol for Freedom of Association (FoA Protocol). The FoA Protocol is an agreement between clothing manufacturers, factories and trade unions. It provides pragmatic guidelines for factories and unions to work together effectively for improved workers' rights. The brands that have signed this protocol, commit to ensuring that their suppliers adhere to the protocol. This means, for example, that a supplier facilitates a workers' representation and actively involves this organisation in their business operations and is committed to conclude a collective labour agreement.

The FoA Protocol is the result of negotiations between the national trade unions - actively supported by CNV Internationaal, Mondiaal FNV and Fair Wear Foundation - and International brands that source their clothing in Indonesia.<sup>92</sup>

<sup>90</sup> [The Consumer Goods Forum](#)  [link broken in word doc](#)

<sup>91</sup> [Employers and Employees come together in events in Indonesia - CNV Internationaal](#)

<sup>92</sup> [Werknemersrechten textiel vastgelegd in Indonesië \(cnvinternationaal.nl\)](#)

The local laws and regulations in some countries create challenges to respecting trade union rights in practice. In some cases, companies try to influence the regulatory landscape around trade union rights. Whenever possible, use your company's voice to halt violations of international standards on FoA and CB (ILO Conventions 87 and 98) and collaborate across the industry to address systemic challenges.

## Monitor auditing tools for Social Dialogue

Producers, refineries, traders, and buyers are expected to implement their policy and to monitor and report on FoA, CB and Social Dialogue at company level or at supplier level, through auditing mechanisms. For refineries, traders, and buyers, this should also be included in their procurement policies.



## We recommend companies to implement various measures to ensure audits are more effective.

Make sure the auditors have the proper training and awareness to identify violations of FoA and make the right recommendations for improvement in a Corrective Action Plan.



- Check to be sure the auditors (are willing and able to) identify the structures that support dialogue and consultation between workers and managers. This aspect is extremely important.
- ETI recommends using an effective auditing checklist to strengthen and improve trade union representation in [their five step plan to FoA](#).
- Ensure auditing is part of a broader due diligence approach and use social compliance audits more strategically to identify red flags around trade union rights.
- Collect alternative reports and feedback from local stakeholders on practices of FoA and CB in the suppliers' factories to complement an audit report.
- Ensure workers are interviewed off-site during any audits, so they are more free to share true information without fear of reprisal. When their interviews are conducted in the factories, under the watch of management, workers are less likely to speak freely and openly.
- Try to include other monitoring instruments, such as sudden self-assessments, factory visits, third-party audits, evidence collection, direct communication with workers and the trade union of the supplier's factory.



In the end, the supplier has to be held accountable to the companies and show that no one is being subjected to obstruction/discrimination/harassment for joining a trade union or participating in CB processes.



**When doing company audits, be sure to raise specific questions about female representation at management, supervisory, and work floor levels. More detailed information on gender and Social Dialogue can be found at:**

- [Social Dialogue handbook. Step-by-Step Guidance](#). Amfori, 2020
- [Gender Equality and Social Auditing Guidance](#). BSR, 2018
- [Gender-responsive Human Rights Due Diligence tool](#). Plan International, 2020
- The Contribution of Social Dialogue to Gender Equality. The Global Deal.

## Engage in Multistakeholder initiatives

upstream   downstream

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Producers, refineries, traders and buyers can choose to join multi stakeholder initiatives to jointly address challenges, for example the Indonesian Sustainable Palm Oil Standard (ISPO), the Roundtable on Sustainable Palm Oil (RSPO) the Palm Oil Innovations Group (POIG), or the Palm Oil Collaboration Group.

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Another suggestion is for companies to actively participate in pilots and in a taskforce for Social Dialogue, together with other stakeholders in the palm oil supply chain, to improve Social Dialogue and encourage new forms of worker participation for all workers. CNV Internationaal recently made a [Call for Action](#) to join this taskforce.<sup>93</sup>

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It would be very interesting to undertake a joint baseline study on the business case of Social Dialogue. This kind of information is helpful in convincing companies to promote FoA and CB.

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Next is “Showing by doing!”. International companies and International Trade Union bodies can show how they frequently engage, share information and jointly try to find solutions for existing problems. Be open to how this brings value.

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<sup>93</sup> Creating an Alliance for Change through Social Dialogue, CNV Internationaal, 2021.

## Annexes: List of abbreviations

|                 |  |
|-----------------|--|
| <b>APINDO</b>   | Indonesian Employers' Association  |
| <b>BAPPENAS</b> | Indonesian Social Development and Planning Agency  |
| <b>CB</b>       | Collective Bargaining  |
| <b>CBA</b>      | Collective Bargaining Agreement  |
| <b>CITU</b>     | Confederation of Indonesian Trade Unions   |
| <b>CNV</b>      | Christelijk Nationaal Vakverbond   |
| <b>EPOA</b>     | European Palm Oil Alliance   |
| <b>ETI</b>      | Ethical Trading Initiative   |
| <b>FOA</b>      | Freedom of Association   |
| <b>FNV</b>      | Federation Dutch Labour Movement   |
| <b>FSBMM</b>    | National Federation of Food and Beverage Workers   |
| <b>FSPM</b>     | The Federation of Hotel, Restaurant, Plaza, Apartment, Catering and Tourism Workers' Free Union                  |
| <b>GAPKI</b>    | Gabungan Pengusaha Kelapa Sawit Indonesia  |
| <b>GUF</b>      | Global Union Federation  |
| <b>HRDD</b>     | Human Right Due Diligence  |
| <b>ILO</b>      | International Labour Organisation  |
| <b>IPOA</b>     | Indonesian Palm Oil Association  |
| <b>ISPO</b>     | Indonesian Sustainable Palm Oil  |
| <b>ITUC</b>     | International Trade Union Confederation  |
| <b>IUCN</b>     | International Union for Conservation of Nature   |
| <b>IUF</b>      | International Union of Food, Agricultural, Hotel, Restaurant, Catering, Tobacco and Allied Workers' Associations |
| <b>JAN</b>      | Jaringan Auditor Nusantara   |
| <b>JAPBUSI</b>  | Indonesian Palm Oil Trade Union Network  |
| <b>KSBSI</b>    | Confederation of All Indonesian Prosperity Trade Union   |
| <b>KSPSI</b>    | Confederation of All Indonesian Workers' Unions  |
| <b>LKS</b>      | Lembaga Kerja Sama- Bipartite Committee  |
| <b>MCCBA</b>    | Multi-Company CBAs   |
| <b>NGO</b>      | Non-Governmental Organisation  |
| <b>OECD</b>     | Organisation for Economic Cooperation and Development  |
| <b>PASPI</b>    | Agribusiness Strategic Policy Institute  |
| <b>PERKASA</b>  | Serikat Pekerja P.T. Sarihusada Generasi Mahardhika  |

|              |   |
|--------------|---|
| <b>PKB</b>   | Perjanjian Kerja Bersama -Collective Labour Agreement                   |
| <b>PP</b>    | Peraturan Perusahaan - Company Regulation                               |
| <b>PPE</b>   | Personal Protective Equipment   |
| <b>POIG</b>  | Palm Oil Innovations Group  |
| <b>PTPN</b>  | PT Perkebunan Nusantara - State owned plantation companies              |
| <b>PKWT</b>  | Perjanjian Kerja Waktu Tertentu - Fixed-Term Employment Contract        |
| <b>PKWTT</b> | Perjanjian Kerja Waktu Tidak Tertentu - Indefinite Employment Agreement |
| <b>RSPO</b>  | Roundtable on Sustainable Palm Oil                                      |
| <b>SD</b>    | Social Dialogue   |
| <b>SPOC</b>  | Sustainable Palm Oil Choice   |
| <b>SPTP</b>  | Serikat Pekerja Tingkat Perusahaan                                      |
| <b>UN</b>    | United Nations  |
| <b>WWF</b>   | World Wide Fund for Nature  |



# Overview of other relevant stakeholders for Social Dialogue

## (International) NGO's

Some NGO's working on sustainability in the palm oil sector are: Profundo Indonesia ([Sustainability research and advice | Profundo: about us](#)), Oxfam Indonesia ([Indonesia | Oxfam International](#)), Verité ([www.verite.org](http://www.verite.org)), Solidaridad ([Palm Oil - Solidaridad Network](#)), [GreenPeace Indonesia](#) (mostly in environmental issues) and [Sawit Watch](#).

## Networks, associations, alliances

The Indonesian Auditor Network ([Jaringan Auditor Nusantara – Indonesian Auditor Network](#)) or Jaringan Auditor Nusantara (JAN) aims to become Indonesia's first professional association for (independent) auditors, and maintain and enhance integrity, competence and empathy among its members. JAN organises regular events addressing core values, regularly verifies the competence of its members and shares knowledge – including on sustainable palm oil and its challenges on their website.

The Indonesian Sustainable Palm Oil standard (ISPO; [Home - Indonesia Palm Oil Facts](#)) was introduced in 2011 by the Government of Indonesia and was designed to ensure that all Indonesian oil palm growers, not just those exporting to foreign markets, conform to higher agricultural standards. Based on existing Indonesian legislation, it aims to improve the sustainability and competitiveness of the Indonesian palm oil industry, whilst contributing to the Indonesian government's commitments to reducing greenhouse gas emissions and improving rural livelihoods. It is currently mandatory for all plantations in Indonesia, but voluntary for smallholders and plantations supplying for bioenergy production.

## RSPO ([RSPO - Roundtable on Sustainable Palm Oil](#))

RSPO is a worldwide body of which over 4000 organisations are member. Members include NGOs such as WWF, Oxfam Novib, Solidaridad, IUCN, but also companies like Ahold, Unilever, Mondelez, Wilmar, Sime Darby and financial institutions. Together these organisations have developed rules for production and trade of sustainable produced palm oil; the Principles and Criteria for the Production of Sustainable Palm Oil. Palm oil producers, producing in accordance with this standard can become certified against this international standard.

## The Palm Oil Innovation Group ([poig.org](http://poig.org))

This is a multi-stakeholder initiative that strives to achieve the adoption of responsible palm oil production practices by key players in the supply chain through developing and sharing a credible and verifiable benchmark that builds upon the Roundtable on Sustainable Palm Oil (RSPO), and creating and promoting innovations. Founded in 2013, the initiative was developed in partnership with leading NGOs as well as with progressive palm oil producers.

## The Palm Oil Collaboration Group ([The Palm Oil Collaboration Group](#))

The Palm Oil Collaboration Group (POCG) brings together companies from every stage of the palm oil supply chain to accelerate effective implementation of No Deforestation, No Peat Expansion, No Exploitation (NDPE) commitments. In addition to discussions which help to align thinking on key issues, the group also identifies areas for collaborative action. The POCG is made up of more than 30 companies from all stages of the palm oil supply chain including producers, refiners, traders, manufacturers and retailers. Implementing partners and stakeholders are increasingly involved in both ongoing discussions and the working groups.

Work is then taken forward through working groups, which include stakeholders such as social and environmental NGOs, service providers and technical practitioners in addition to companies.

## Sustainable Palm Oil Choice ([SPOC](#))

Participants unite a group of companies and organisations who are convinced that palm oil can play a positive role in society when produced sustainably. It is committed to either use, produce or support the production and consumption of sustainable palm oil and inspire others to do the same.

## The European Palm Oil Alliance (EPOA; [Home » European Palm Oil Alliance](#))

This Alliance is a business initiative between palm oil producers and refiners, to sustainably produce palm oil. It pushes for sustainable palm oil market transformation and support initiatives committed to sustainable palm oil across Europe.

## The Decent Rural Living Initiative

EPOA members are active in sector-wide initiatives tackling these issues are also present in the palm oil value chain. An example of this is The Decent Rural Living Initiative ([Home - Decent Rural Living Initiative](#) ([decent-rural-living.com](#))<sup>94</sup> This project which counts on the collaboration of players such as Cargill, Sime Darby and Wilmar, aims to address systemic labour rights challenges within the sector with the support of **Forum for the Future** ([Forum for the Future](#)). This collaboration has led to the identification of issues affecting workers and their families and the best possible areas for action. The actions that resulted from this project are (1) developing a rights awareness platform, (2) Increasing telecommunications connectivity in rural locations, (3) Spearheading a Social Dialogue with unions and workers (4) Improving family well-being on concession lands.

<sup>94</sup> [Human Rights & Palm Oil » European Palm Oil Alliance](#)



In conjunction with  
the Coalition members  
of the Siak Pelalawan  
Landscape Programme

