



Sector analysis

Latin American Palm Oil

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Colophon

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Summary

This study has been commissioned by CNV Internationaal. Its purpose was to map the palm oil supply chain in the Latin America region with a particular focus on the countries where CNV Internationaal has established partnerships with trade union organisations and where there is leverage potential for improving the labour rights situation of workers in the sector. The study will provide CNV Internationaal with information about the feasibility of developing successful partnerships in the region to improve working conditions and labour rights in the palm oil sector and related global supply chains.

This study drew from a variety of sources to examine the supply chain and financial links between the Netherlands and Latin American palm oil producers, as well as the labour rights situation in the sector and the policies (both public and corporate) that enable this situation.

Production of Latin American palm oil and trade relations with the Netherlands

This study found that three of the six LATAM countries included in this study fill out the list of the world's top 10 palm oil producers, with Colombia coming in at number four, and Ecuador and Honduras placing seventh and tenth, respectively. Undoubtedly, the palm oil sector is one of the subsectors that contributes the most to the region's agricultural GDP.

Palm oil producers in the region is rather heterogeneous. In Colombia and Ecuador, the sector is highly atomised with each over 6,000 and 6,685 producers, and a great majority of small scale oil palm farmers. In Peru and Honduras, albeit less numerous, small landholders are also important suppliers of oil palm fruits. In Guatemala and Costa Rica, primary production is concentrated in large landholdings belonging to privately-held corporations, many of them part of family-owned conglomerates.

With regards processing, in all countries relatively few mills press FFB into palm oil. Colombia, Peru, and Ecuador are notable for the level of organisation of smallholders into cooperatives, which also own a few mills. In Peru, most mills buy FFB from farmers (including smallholders). This modality, albeit less prevalent, is also present in Honduras. Guatemala and Costa Rica palm oil pressing is exclusively done by large holdings.

The Netherlands is the single most important buyer of palm oil from Colombia, Guatemala, Honduras and Peru. Between a quarter and half of these LATAM countries' exports enter Europe through the Port of Rotterdam. Albeit not the main destination for exports from Costa Rica and Ecuador, these countries also maintain a steady supply to the Dutch market.

Financing of Netherlands-based buyers of Latin American palm oil

This study found that between 2016 and 2020, three Dutch banks (ABN Amro, ING Group, and Rabobank), three Dutch asset or investment management companies (Exor, TCW Group, Shell Asset Management Company), 4 Dutch insurance companies (Achmea, Aegon, ASR Nederland, and NN Group), and 7 Dutch pension funds financed the activities of three Dutch refineries (Bunge, Cargill, and Wilmar). In total, these financiers invested over US\$ 286 million.

Human rights due diligence policies and practice of Netherlands-based palm oil buyers

The five Netherlands-based refineries that import Latin American palm oil – AAK, Bunge, Cargill, Olenex and Sime Darby – have a responsibility to identify, prevent, mitigate, and remediate violations of human and labour rights in their supply chains. Though not (yet) required by law, the Dutch government formally expects multinational companies to conduct due diligence, which is particularly crucial in high-risk supply chains such as the palm oil industry in Latin America.

This study found that all Dutch refineries have taken important steps to conduct due diligence and to address adverse impacts in their palm oil supply chains. Meeting some minimum due diligence expectations, AAK, Bunge, Cargill, Olenex and Sime Darby all have RBC policies in place that provide commitments to labour rights largely in line with the ILO Fundamental Principles.

However, the serious gaps that all refiners leave in identifying and addressing labour rights violations raise significant concerns about the actual capability of these companies to prevent workers from being subjected to unfair labour practices and unsafe working conditions. A lack of transparency on how risks are identified, limited policies to legitimately protect labour rights in practice, a complete lack of intersectional gender considerations, insufficient safeguards against retaliation towards human rights defenders, and no guarantees of remediating affected individuals and communities are just a couple of the severe shortcomings in all due diligence mechanisms of AAK, Bunge, Cargill, Olenex and Sime Darby.

The impact of RSPO

These concerns are not just theoretical: all five Netherlands-based refineries have recently been linked to adverse impacts of their sourcing activities through suppliers, and our controversy scan uncovered additional documented labour rights violations by direct and indirect suppliers of palm oil that enters the Dutch market. These controversies also include RSPO members and certified suppliers, evidencing that despite the welcome and significant advances that the RSPO system as realised, this voluntary approach is not sufficient to mitigate and prevent all labour rights violations.

In other words, company commitments on paper do not automatically translate to better practices on the ground. Despite the progress made through corporate HRDD processes and industry initiatives such as RSPO, palm oil supply chains continue to threaten livelihoods of workers and communities, and Netherlands-based refiners continue to fail to live up to their own commitments.

Labour rights situation in Latin American palm oil-producing countries

With regards to the labour rights situation of Latin American countries, this study found that despite the adherence of palm oil producing countries to core labour conventions, the Latin American palm oil industry is embedded in numerous labour rights issues: outsourcing, labour discrimination, and union busting prevail alongside other human rights violations, including land grabbing, criminalisation of and violence against rights defenders, and rampant deforestation and environmental degradation. These breaches of labour and human rights are enabled, at best, by the insufficient national capacities to implement and enforce the law and, at worst, by the collusion of powerful businessmen with the justice system and even criminal groups.

While data on the level of worker organisation in the Latin American palm oil sector is scarce, the overall level of unionisation in the region remains low. This is in part due to the legislative framework regarding unions, which does not apply to agricultural and/or subcontracted workers. In this context, the bulk of the workforce in the palm oil sector in Colombia, and possibly Guatemala, is made up by subcontracted workers. Although there is no data on the proportion of subcontracted workers in Ecuador, Honduras, Peru, and Costa Rica, in general, the LATAM's agroindustries increasingly rely on this type of working contracts. Therefore, it is likely that subcontracting also prevails in those countries. Moreover, in the case of Colombia and Guatemala, the low level of unionisation amongst workers is exacerbated by a history of decade-long violent conflict that resulted, amongst other things, in the systematic stigmatisation of trade unions.

A few civil society labour initiatives for the palm oil sector exist in the region, namely in advancing social dialogue Colombia and Peru. The common thread in all countries included in this study, in terms of labour rights initiatives, is the RSPO certification system, which increasingly more palm oil producers are joining. While striving for higher production standards (including better working conditions) is a positive development, RSPO standards still fall short from delivering better outcomes for the sector's workers. This is illustrated in the case of Guatemala, where the majority of palm producers with trade relations to the Netherlands are RSPO-certified but do not fulfil their obligations to guarantee the right to free association of their workers (as evidenced by the fact that there are no trade unions active in the palm oil sector). In this context, this study recognises that, other than the cases where discriminatory labour practices have been proven, there is no concrete evidence that Guatemalan palm oil producers actively suppress union formation, the local industry's reliance on seasonal labourers offsets unionisation.

With regards to wages while in all countries salaries in the agricultural and/or palm oil sectors are generally above the legal minimum, these salaries still lay below the living minimum wage. Vulnerable groups such as women, indigenous peoples, afro-descendants, migrant workers and subcontracted workers are routinely paid less too.

Abbreviations

CSO	Civil Society Organisation
ENS	Escuela Nacional Sindical
FFB	Fresh Fruit Bunches
FMCG	Fast-moving consumer goods
FPIC	Free Prior Informed Consent
HRDD	Human Rights Due Diligence.
ILO	International Labour Organization
LATAM	Latin America(n)
OECD	Organisation for Economic Co-operation and Development
OSH	Occupational Safety and Health
PO	Palm Oil
PKO	Palm Kern Oil
PPE	Protective Personal Equipment
RBC	Responsible Business Conduct
RSPO	Roundtable on Sustainable Palm Oil
RVO	Rijksdienst voor Ondernemend Nederland (Government Service for Dutch Entrepreneurs)

Introduction

While the palm oil sector has been traditionally dominated by South-East Asian producing countries, Indonesia and Malaysia, the Latin American (LATAM) region's global market share has been gradually increasing. In 2019, the region accounted for over six percent of the world's palm oil production.¹ Particularly in South America, palm oil production was often promoted by governments and development agencies in an effort to "replace" coca cultivation and to stem cocaine production.² The sector's growth in the region has been such that the Roundtable on Sustainable Palm Oil (RSPO) has set up a LATAM office and increasingly more locally-owned operations seek to enter the global market through RSPO membership or certification.³

Despite its economic potentials, industrial oil palm production in LATAM is not exempted from the same controversies that characterise the sector elsewhere. Human rights violations, deforestation, and biodiversity loss are all endemic to LATAM's palm oil sector as well. According to Forest Heroes, however, the LATAM palm oil sector is unique in that it has remained relatively insulated from demands by human rights and environmental campaigners and international buyers. There are three main reasons for this:⁴

1. LATAM palm oil production is largely oriented towards domestic or regional market.

In 2019, Peru exported only 2 percent of the 932,300 tonnes it produced,⁵ indicating that most Peruvian crude palm oil is produced for domestic consumption. Moreover, the majority of Peru's exports in this period went to other countries in the LATAM region.⁶ Likewise, Mexico is one of Guatemala main palm oil trading partner, comprising 26 percent of palm oil exports in 2019,⁷ and between 30 percent and 46 percent of exports from Costa Rica and Panama, in 2017.⁸ Major international consumer brands, which are under constant scrutiny by environmental and human rights organisations, are generally less active in these supply chains and therefore less able to exert the type of pressure needed to improve conditions.⁹

2. Palm production companies are mostly privately-held, often family-owned, and in many cases subsidiaries of powerful and politically connected national conglomerates.

Most Latin American palm producers are privately-owned ventures. A remarkable number of these are family-owned.¹⁰ Compared to companies that are publicly listed, this ownership structure allows them to be less transparent. Palm production businesses are also frequently part of larger, vertically integrated parent conglomerate groups. In some cases, the parent group is buying and selling to itself through various subsidiaries. In the most extreme cases, as in Peru, these larger conglomerates essentially control large portions of the national palm supply chains from input to export, creating monopolies. When the seller and the buyer are the same company, there is very little space for campaigners to exert pressure using traditional supply chain tactics.¹¹

3. State corruption and violence against environmental, land and human rights defenders is endemic.

All but one of LATAM's top ten palm producing countries (Costa Rica) are ranked as "highly corrupt" by Transparency International.¹² Moreover, these countries have a track record of land rights conflicts, civil wars and impunity for violence committed against communities and human rights activists.¹³ Local, regional and national governments often collude with companies in abuses in Colombia¹⁴ and Honduras.¹⁵ The frequency and consistency of violence against rights defenders in the LATAM region renders campaigners at great risk and retaliation against communities that denounce abuses is common too.¹⁶

Against this background, there is a dire need to gain better understanding of the LATAM palm oil sector, in terms of the trends that drive its growth and the problems it originates, particularly in the context of labour rights, of which very little is known. From this perspective, the objective of this research project is to map the palm oil supply chain in the LATAM region with a particular focus on the countries where CNV Internationaal has established partnerships with trade union

organisations (Nicaragua, Venezuela, Peru, Colombia, Guatemala, and Bolivia) and where there is leverage potential for improving the labour rights situation of workers in the sector.

This report provides CNV Internationaal with information about the feasibility of developing successful partnerships in the region to improve working conditions and labour rights in the LATAM palm oil sector and related global supply chains. Special attention is given to the leveraging the potential of the RSPO in the context of CNV International's upcoming membership in this multi-stakeholder platform. This project fits into CNV International's improved labour rights and supply chains programme.¹⁷

A summary of the findings of this report can be found on the first pages of this report.

1

Methodology

This study draws from a variety of sources to examine the supply chain and financial links between the Netherlands and Latin American palm oil producers, as well as the labour rights situation in the sector and the policies (both public and corporate) that enable this situation.

1.1 Selection of LATAM palm oil producing countries

As a first step, trade statistics were used to determine which countries in Latin America the Netherlands has imported palm oil and palm products from in the two years prior to the implementation of this study.

Data from Eurostat for the period January 2018 to June 2020 was used to analyse palm products being imported to the Netherlands. These are figures reported by Netherlands import authorities and are the most reliable source of public information regarding trade between Latin American countries and the Netherlands.

The following Harmonised System (HS) codes relevant to palm products were searched:

- Palm oil and its fractions, whether or not refined (excl. chemically modified)
- Crude palm kernel and babassu oil
- Fatty acids, industrial, monocarboxylic; acid oils from refining (excl. stearic acid, oleic acid and tall oil fatty acids)
- Palm kernel and babassu oil and their fractions, whether or not refined, but not chemically modified (excl. crude)
- Oilcake and other solid residues, whether or not ground or in the form of pellets, resulting from the extraction of palm nuts or kernels
- Palmitic acid, stearic acid, their salts, and esters

The following countries' imports of the above palm products to the Netherlands were searched: Anguilla, Argentina, Bolivia, Brazil, Chile, Colombia, Costa Rica, Ecuador, El Salvador, Guatemala, Guyana, Honduras, Mexico, Nicaragua, Panama, Paraguay, Peru, Suriname, Uruguay, Venezuela.

The trade statistics for the period January 2018 to June 2020 showed that:

- No or very low volumes (< 150 metric tonnes) of the following palm product categories were being exported from Latin America to the Netherlands: Palm kernel and babassu oil and their fractions, whether or not refined, but not chemically modified (excl. crude); Oilcake and other solid residues, whether or not ground or in the form of pellets, resulting from the extraction of palm nuts or kernels, and Palmitic acid, stearic acid, their salts and esters.
- The following countries were not exporting palm products to the Netherlands: Mexico, Paraguay, El Salvador, Suriname, Anguilla, Guyana, and Bolivia.
- The following countries were exporting low volumes (<1,000 metric tonnes) of palm products to the Netherlands: Nicaragua, Uruguay, Chile, Panama, and Venezuela. Given the insignificant trade links with the Netherlands, CNV Internationaal and Profundo jointly decided not to select these countries for further research.

- The following countries were exporting important volumes (>1,000 metric tonnes) of palm products to the Netherlands, and should thus be prioritised for research: Colombia, Honduras, Guatemala, Ecuador, Costa Rica, Peru, Brazil and Argentina.

After consultation with CNV Internationaal, Brazil and Argentina were not selected for further research for the following reasons:

- Argentina is not known to be a significant producer of palm oil, and has been exporting only very refined vegetable oils under the trade code “Fatty acids, industrial, monocarboxylic; acid oils from refining (excl. stearic acid, oleic acid and tall oil fatty acids).” It is thus not likely to be trading any significant volumes of refined or altered palm oils.
- Though Brazil is experiencing a renewed surge of palm production in the context of favourable biofuels policies and has an important presence of players in the RSPO, the country was not found to be strategically relevant for CNV Internationaal’s future advocacy work.

The final selection of countries for further research in this report are represented with respective trading volumes and palm products in Table 1.

Table 1 Final selection of countries exporting palm products to the Netherlands between January 2018 - June 2020, and volume of imports (thousand metric tonnes)

Country	Palm oil and its fractions, whether or not refined (excl. chemically modified)	Crude palm kernel and babassu oil	Fatty acids, industrial, monocarboxylic; acid oils from refining (excl. stearic acid, oleic acid and tall oil fatty acids)	Total volumes
Colombia	715.8	71.1	0.2	787.1
Honduras	577.9	41.8	3.3	623.0
Guatemala	512.9	44.8	3.7	561.3
Ecuador	32.8	1.4	2.3	36.4
Costa Rica	28.2	2.9	1.1	32.1
Peru	6.3	0.0	1.3	7.6
Total volumes	1,873.7	162.0	11.9	2,048

Source: Eurostat (n.d.), “Netherlands palm imports from selected Latin American countries between January 2018 and June 2020,” viewed on 6th October 2020.

1.2 Mapping supply chain links between selected countries in Latin America and palm oil refineries in the Port of Rotterdam, Netherlands

Following the selection of focus countries for this study, we identified supply chain links between LATAM producers and Dutch importers of palm. According to the Port of Rotterdam website,¹⁸ the six vegetable oils and fats refineries currently operating in the port are:

- Bunge Loders Croklaan (formerly IOI Loders Croklaan)
- MaasRefinery (AAK)
- Olenex (joint venture between ADM and Wilmar)
- Cargill Refined Oils Europe
- Wilmar Edible Oils
- Sime Darby Oils (SDO) Zwijndrecht (formerly Unimills BV)

Moreover, we looked for supply chain links between LATAM palm oil producers and fast-moving consumer good (FMCG) companies with operations in the Netherlands. The FMCG included:

- Danone
- Nestlé
- FrieslandCampina
- Unilever
- Mars

Once the supply chain links were established, Profundo gave the concerned companies the opportunity to comment on the findings. These were shared by email, including a brief report of the documented human rights breaches of their suppliers. Most companies responded to our request for comment. Their input has been included in Chapters 2, 4, and 5.

Compared to most other agricultural commodity supply chains, palm oil has a high standard of traceability, meaning that companies buying palm oil are expected to voluntarily provide public information about where their supply comes from. All the major global traders, refiners, and producers of palm oil – including all the companies in Rotterdam - report on a half year or quarterly basis which mills are supplying their palm oil. This is referred to as a mill list.

Sometimes, these companies report a mill list for each of their refineries. These lists show which mills around the world are supplying a particular refinery, whether directly or indirectly (i.e., through another supplier). More often however, the mill list is at a global level, meaning the company reports one list for all of its supply, without distinguishing which refineries the palm oil is going through. To understand the supply chain links between the selected Latin American countries and the Port of Rotterdam refineries, the latest public mill lists for the group companies, and where available the refineries themselves, were examined. The findings are captured in Chapter 2.

Based on these mill list, we identified and mapped palm oil producing companies (i.e., operations where oil palm is cultivated and/or palm oil is extracted) in LATAM that supply to Dutch importers. These producers were profiled and compiled in a dataset (provided in a separate Excel file) containing the companies' ownership structure, market shares, geographical presence, RSPO affiliation, processing capacity/cultivated area, names of all relevant subsidiaries, establishments and number of workers employed. Key stakeholders (communities, governments, suppliers, and customers) of each company were also mapped.

1.3 Identifying financial links between palm oil producers in selected countries in Latin America and Dutch investors

To identify Dutch investors in the palm oil sector in the countries of study, financial research was conducted to investigate financing to and investments in the companies identified in section 1.2. Both LATAM palm oil producers and Netherlands-based refiners, importers, and FMCG companies were researched.

For this purpose, we used the financial databases (Thomson Reuters, Bloomberg, IJGlobal, TradeFinance Analytics, Thomson EMAXX and Thomson EIKON) and company publications, company registries, and media archives to identify financing by Dutch financial institutions in the form of investments in bonds and shares, and the provision of loans and issuance underwriting services to companies operating in the palm oil sector.

1.4 Controversy scan of palm oil producers

We conducted a controversy scan of the palm oil producers identified in section 1.2. The purpose was to identify breaches to the rights of workers employed at these operations as well as other human rights and environmental and governance issues of these producers. Information was sought in media, CSO publications, and company grievances lists. The research covered the period from 2015 to 2020. Note that in the section reserved for reporting the findings of this activity (Chapter 4) only includes producers with trade links to Netherlands-based refineries.

1.5 Analysis of refineries' Human Rights Due Diligence policies

To shed light on the human rights due diligence (HRDD) of companies, we assessed the level to which the Netherlands-based refineries that source palm oil from the six countries included in this study implement OECD guidelines for Multinational Enterprises and the six steps of OECD Due Diligence Guidance for Responsible Business Conduct (RBC).

The OECD Guidelines for Multinational Enterprises (the Guidelines) are the first international instrument to integrate respect for human rights as a corporate responsibility, thereby aligning with the UN's Guiding Principles on Business and Human Rights.¹⁹ The OECD Due Diligence Guidance for Responsible Business Conduct provides practical support to enterprises on the implementation of the Guidelines by providing plain language explanations of its due diligence recommendations and associated provisions.²⁰

For this purpose, we identified all relevant RBC documentation of the company that are publicly available on the website of the parent or holding company (i.e., at conglomerate or group-level), paying particular attention to the palm oil supply chain and sourcing as well as human and labour rights. Most of this documentation was found on the Sustainability webpages of companies and include policy statements, due diligence documents, risk analyses, palm oil dashboards, grievance mechanisms and sustainability progress reports, in addition to financial and governance documentation such as annual reports. All identified RBC documentation was indexed, reviewed, and summarised.

Subsequently, we assessed all RBC documentation against ten established criteria:

1. Embed responsible business conduct into policies and management systems (OECD Guidelines Stage 1).
2. Identify and assess actual and potential adverse impacts associated with the enterprise's operations, products, or services (OECD Guidelines Stage 2).
3. Cease, prevent and mitigate adverse impacts (OECD Guidelines Stage 3).
4. Track implementation and results (OECD Guidelines Stage 4).
5. Communicate how impacts are addressed (OECD Guidelines Stage 5).
6. Provide for or cooperate in remediation when appropriate (OECD Guidelines Stage 6).
7. Respect for and commitment to human rights in accordance with the UNGPs and other internationally recognised mechanisms.
8. Respect for and commitment to labour rights in accordance with the ILO Fundamental Principles.
9. Intersectional gender perspectives and inclusive approach to human rights.
10. Proactive and committed attitude to continuous improvement.

Each criterion is worth maximum ten points, and companies were scored against ten checklist items per criterion. Per checklist item, companies could earn 1 point when the checklist item was met (or at least 75% was respected), 0.5 points when most elements were present, but the company left gaps, or 0 points when the requirements were not respected at all, less than 25% met or when compliance could not be verified, and non-compliance was assumed. In total, companies could earn maximum ten points per ten criteria, totalling to a score between 0 and 100. To compare companies, we assigned colour codes using a traffic light system:

Table 2 Colour codes

Colour code	Level of compliance	Definition
	Very low Score 10-40	The company does not meet the minimum requirements for human rights due diligence. Generally speaking, the company does not adequately address human rights risks and does not take proactive steps to prevent, mitigate and cease human rights violations across its supply chains.
	Low Score 40-50	The company has implemented some elements of human rights due diligence but has not sufficiently implemented these processes or only on a too limited range. In reality, this means the company is not able to effectively prevent, mitigate and cease most (potential) adverse impacts.
	Medium Score 60-70	The company has taken significant steps towards implementing a meaningful human rights due diligence process and has most of the necessary policies, steps and processes in place. However, the company leaves significant areas of improvements that should be addressed to ensure that potential or actual adverse impacts are mitigated, ceased and prevented.
	High Score 80-100	The company has implemented adequate, effective and meaningful human rights due diligence mechanisms. Although there may be some areas of improvement that should be tackled, the company is showing well-implemented and proactive efforts within its capacity to prevent, cease and mitigate adverse human rights impacts.

1.6 Analysis of the palm oil sector in selected countries

To provide CNV Internationaal with a complete overview of labour rights issues in the selected LATAM countries and to contextualise the findings of activities laid out in sections 1.1 to 1.5, we conducted an analysis of the labour code and the labour rights situation (i.e. compliance with core labour standards) in those countries. Moreover, we conducted interviews with 2 key informants with expertise of labour rights issues in the LATAM palm oil sector.

2

Palm oil supply chain links between Latin America and the Port of Rotterdam

This section outlines supply chains links found between key LATAM palm oil producing countries and the Netherlands, and where possible, with the Port of Rotterdam specifically. This information draws on trade statistics and company publications and gives an overall picture of the significance of LATAM suppliers in the Dutch palm oil supply chain.

2.1 Trade of palm oil between the Port of Rotterdam and selected countries in LATAM

To understand the supply chain links between the selected LATAM countries and the Port of Rotterdam refineries, the latest public mill lists for the refineries (Table 3).

Table 3 Summary of Port of Rotterdam refineries and companies and relevant mill lists

Group	Port of Rotterdam refinery	Global or Rotterdam mill list?	Reporting period for latest mill list	Selected Latin American countries supplying palm oil	Source
Cargill	Cargill Refined Oils Europe	Global	January-March 2020	Colombia, Costa Rica, Guatemala, Honduras	21
Bunge Lodders Croklaan	IOI Lodders Croklaan (now Bunge Lodders Croklaan)	Rotterdam	April-June 2020	Colombia, Honduras	22
AAK	AAK Rotterdam, AAK Netherlands BV	Global	January-June 2020	Colombia, Costa Rica, Ecuador, Guatemala, Honduras	23
Archer Daniel Midlands (ADM) and Wilmar	Olenex	Rotterdam	July 2019 – June 2020	Colombia, Guatemala, Honduras	24
Sime Darby	SDO Zwijndrecht	Rotterdam (Zwijndrecht)	January-December 2019	Colombia, Costa Rica, Guatemala, Honduras	25
Wilmar	Wilmar Edible Oils	Rotterdam	July 2019 – June 2020	None: Only sourcing lauric acid (PKO) from Indonesia/Malaysia	26

Sources: Company mill lists reported between 2019-2020.

To interpret the findings from these analysed mill lists, it is important to keep in mind the following:

- **Refinery mill list versus Global mill list**

Olenex, Bunge, Wilmar, and Sime Darby all publish mill lists for their refineries located in or near Rotterdam. It is thus possible to specify which of the LATAM mills they are sourcing from are

providing palm oil that goes via Rotterdam port. Only the mills supplying refineries in the Port of Rotterdam have been included in the findings (i.e., the LATAM mills supplying these companies via other refineries have not been included).

AAK and Cargill only publish global mill lists. As such, it is not possible to determine which of the LATAM mills in their mill list are supplying palm oil via Rotterdam port. The Latin American mills supplying AAK and Cargill globally have been included in this report and may still give an indication of which palm oil companies AAK and Cargill have leverage over in their wider supply chain.

- **Reporting periods**

All companies report their palm oil traceability for slightly different periods, and at different frequencies. This means that some companies collect and publish data for quarterly supplies of palm oil, while other companies do it for the half year or the full year. The information in this report is based on the latest published mill lists for all companies analysed.

By the time this research was conducted, mill lists had not been published for the last two quarters of 2020 (Table 3). This is central because no supply chain links were found between the Netherlands-based refineries and Peruvian producers during 2019 and Q1 and Q2 2020, although customs data confirm that palm oil was imported to the Netherlands from Peru in 2020. With this in mind, it is possible that Peruvian palm oil imports into the Netherlands occurred during Q3 or Q4 2020. Accordingly, sections 4.6 and 6.6. include information on the Peruvian palm oil sector.

- **Direct versus Indirect supply**

Some companies specify whether the supply of palm oil from a mill in their list has been purchased directly or indirectly. The difference between these terms are as follows:

- Directly i.e., the company has bought palm oil directly from the mill or the mill company/group. In this case, the mill company/group is a Tier 1 supplier.
- Indirectly i.e., the company has bought palm oil from an intermediary supplier who has reported buying palm oil from the mill or the mill company/group. In the case of indirect supply, it is not possible to determine from public information how many intermediary (Tier 2, Tier 3, etc) suppliers are between the company and the palm oil mill. Often, the reporting companies themselves do not have this level of traceability.

Where available, this information has been included in the findings because of the important implications this has on a company's responsibility and leverage regarding human rights due diligence. Where a company has not specified whether a mill is supplying palm oil directly or indirectly, this has also been noted.

- **RSPO certification status**

Where a mill list has specified the RSPO certification status of the palm oil supply, this has been added as information. Where it has not been specified in the mill list, the status has been marked as 'Unspecified.' Because there is a lot of overlap in mills that these large global players are sourcing from, the certification information from one list has been used to determine the status of mills in another company's list. Note that these mill lists may not be accurately reporting the current RSPO certification status of the mills and that the information has not been verified by Profundo.

2.1.1 Cargill Refined Oils Europe

Between January and March 2020, Cargill's global operations sourced palm oil from 49 mills belonging to 40 companies in Colombia, Costa Rica, Guatemala, and Honduras (Table 4).

Table 4 Cargill's supply from selected Latin American countries, with number of mills and breakdown by RSPO status of supplying mills

Mill company or group, by country	Number of mills supplying RSPO certified palm oil				Total number of mills
	Identity Preserved	Mass Balance	No	Unspecified	
Colombia	5	7	16	4	32
Costa Rica	2	1	2		5
Guatemala	6		1	2	9
Honduras	1		2		3
Grand Total	14	8	21	6	49

Source: Cargill (2020), "Cargill Global Mill List - Quarter 1, 2020," online: <https://www.cargill.com/doc/1432132443976/cargill-palm-mill-list.pdf>, viewed October 2020.

Cargill specifies in its global mill list whether the supply from each mill is direct or indirect, and is the only company researched for this report that sources directly from the mills in selected countries in the LATAM region. Note however that it is not possible to determine whether this direct supply is going via Rotterdam port, as Cargill's mill list is global.

See Appendix 1 for the full list of companies and reported RSPO certification status of mills that Cargill is sourcing from in Colombia, Costa Rica, Guatemala, and Honduras, and whether this supply is direct or indirect.

2.1.2 Bunge Loders Croklaan

Between April and June 2020, Bunge's Rotterdam refinery sourced palm oil from 32 mills belonging to 29 companies in Colombia and Honduras (Table 5). Bunge specifies that all supply from these two countries is indirect.

Table 5 Bunge's supply from selected LATAM countries, with number of mills and breakdown by RSPO status of supplying mills

Mill company or group, by country	Number of mills supplying RSPO certified palm oil				Total number of mills
	Identity Preserved	Mass Balance	No	Unspecified	
Colombia	10	4	12	1	27
Honduras	1	2	2		5
Grand Total	11	6	14	1	32

Source: Bunge Loders Croklaan (n.d.), Policy & commitments, online: <https://europe.bungeloders.com/en/material/palm>, viewed October 2020.

See Appendix 2 for the full list of companies and reported RSPO certification status of mills that Bunge is sourcing from in Colombia and Honduras.

2.1.3 AAK Netherlands

Between January and June 2020, AAK's global operations sourced palm oil from 103 mills belonging to 83 companies in Colombia, Costa Rica, Ecuador, Guatemala, and Honduras (Table 6). AAK does not specify whether supply from mills is direct or indirect, nor does it provide information about palm oil going through its facility in the Port of Rotterdam. In response to our findings, AAK clarified that it only sources indirectly from the identified Latin American mills through its suppliers Olenex, and to a lesser extent Cargill and Sime Darby Oils.

See Appendix 3 for the full list of companies and reported RSPO certification status of mills that AAK is sourcing from in Colombia, Costa Rica, Ecuador, Guatemala and Honduras.

Table 6 AAK's supply from selected LATAM countries, with number of mills and breakdown by RSPO status of supplying mills

Mill company or group, by country	Number of mills supplying RSPO certified palm oil				Total number of mills
	Identity Preserved	Mass Balance	No	Unspecified	
Colombia	12	8	47	4	71
Costa Rica	2	1	2		5
Ecuador	1		2		3
Guatemala	7		3	2	12
Honduras	1	3	8		12
Grand Total	23	12	62	6	103

Source: AAK (2020, September), "Public Mill List," online:

<https://www.aak.com/contentassets/a5bb91b203604ee2bae695050414fd15/aak-public-mill-list-sept-2020.pdf>, viewed October 2020.

2.1.4 Olenex, ADM/Wilmar

Between July 2019 and June 2020, Olenex's Rotterdam refinery sourced palm oil from 61 mills belonging to 51 companies in Colombia, Guatemala and Honduras (Table 7). Although the mill list does not specify whether sourcing is direct or indirect, in response to our findings Olenex clarified all purchases from Latin American mills are indirect, through intermediary traders.

Table 7 Olenex (ADM/Wilmar) supply from selected LATAM countries, with number of mills and breakdown by RSPO status of supplying mills

Mill company or group, by country	Number of mills supplying RSPO certified palm oil			Total number of mills
	Identity Preserved	Mass Balance	No	
Colombia	10	7	30	47
Guatemala	2		1	3
Honduras	1	3	7	11
Grand Total	13	10	38	61

Source: Olenex (2020), "Olenex Edible Oils B.V. – Rotterdam Traceability Summary – Supplies July 2019 – June 2020," online: https://olenex.com/wp-content/uploads/2020/10/Europe_Q32019-Q22020_Rotterdam.pdf, viewed October 2020.

See Appendix 4 for the full list of companies and reported RSPO certification status of mills that Olenex is sourcing from in Colombia, Guatemala and Honduras.

2.1.5 Sime Darby Oils Zwijndrecht

Between January and December 2019, Dime Darby Plantations' Rotterdam refinery (formerly known as Unimills) sourced palm oil from 15 mills belonging to 14 companies in Colombia, Costa Rica, Guatemala, and Honduras (Table 8). Sime Darby Plantations specifies that all supply from these four countries is indirect.

Table 8 Sime Darby Oils Zwijndrecht supply from selected LATAM countries, with number of mills and breakdown by RSPO status of supplying mills

Mill company or group, by country	Number of mills supplying RSPO certified palm oil			Total number of mills
	Identity Preserved	Mass Balance	No	
Colombia	3	1	5	9
Costa Rica	2			2
Guatemala	2			2
Honduras	1		1	2
Grand Total	8	1	6	15

Source: Sime Darby Oils (n.d.), "Traceability Declaration Document, Sime Darby Oils Zwijndrecht Refinery B.V. (Sime Darby Unimills BV)," online: <https://www.simedarbyplantation.com/sites/default/files/SDO%20Zwijndrecht%20-%20TDD%20Q1%20to%20Q3%202019.pdf>, viewed October 2020.

See Appendix 5 for the full list of companies and reported RSPO certification status of mills that Sime Darby Oils Zwijndrecht is sourcing from in Colombia, Costa Rica, Guatemala, and Honduras.

2.1.6 Wilmar

According to their latest mill list, Wilmar's Rozenburg refinery in Rotterdam only sources PKO from Indonesia and Malaysia.²⁷ Thus, they have been excluded from further analysis in this report.

2.2 Trade of palm oil between Netherlands-based fast-moving consumer goods (FMCG) companies and selected countries in LATAM

In addition to researching supply chain links between LATAM palm oil producers and Dutch refineries, the links of these producers with Netherlands-based FMCG companies (Table 9) were examined.

Table 9 Summary of Netherlands-based FMCG companies and relevant mill lists

Company name	Global or national mill list?	Reporting period for latest mill list	Selected Latin American countries supplying palm oil	Source
Danone	Global	July-December 2019	Colombia, Costa Rica, Guatemala, Honduras	28
FrieslandCampina	National		Colombia, Costa Rica, Guatemala, Honduras	29

Company name	Global or national mill list?	Reporting period for latest mill list	Selected Latin American countries supplying palm oil	Source
Nestlé	Global	April 2019	Colombia, Costa Rica, Guatemala, Honduras	30
Mars	Global	January – December 2019	Colombia, Costa Rica, Guatemala, Honduras	31
Unilever	Global	January – December 2019	Colombia, Costa Rica, Ecuador, Guatemala, Honduras	32

Sources: Company mill lists reported between 2019-2020.

2.2.1 Danone

Danone (France) is the third largest dairy products company by turnover globally.³³ It markets among others a variety of dairy products on the Dutch market. In the Netherlands, the company produces baby nutrition under the brand name Nutricia.³⁴

Danone's 2019 Global Palm Oil Supplier and Mills Update was published in October 2020, separately listing tier 1 suppliers and mills, not allowing to make links between the two.³⁵ According to this list, among Danone's thirteen tier 1 suppliers are:

- AAK
- Cargill
- Bunge Lodders Croklaan
- Wilmar International

No geographic locations of the tier 1 suppliers are specified, thus not allowing to make a direct link with production in the Netherlands. However, all four companies also have facilities in or near the port of Rotterdam.

Of the selected countries in Latin America, the following are listed in Danone's mills disclosure and are showing up in supplier lists of one or more of its tier 1 suppliers (see 2.1). An overview of LATAM mills that supply Danone is provided in Table 10. Appendix 6 provides a full list of companies and reported RSPO certification status of mills.

Table 10 Overview of Danone's palm oil suppliers from selected LATAM countries

Mill company or group, by country	RSPO-certified mills	Non RSPO-certified mills	Total number of mills
Colombia	1	1	2
Costa Rica	3	0	3
Guatemala	5	0	5
Honduras	0	1	1
Grand Total	9	2	11

Source: Danone (2020), Palm oil Suppliers & Mills list update - H2 2019, online: danone-palm-oil-suppliers-mills-list-update-2019-h2.pdf, viewed in February 2021.

It could not be confirmed from the available data whether palm oil from these suppliers is indeed used in the production of Danone products in the Netherlands or in Danone products sold on the Dutch market. Danone was contacted to provide feedback on the findings in this report and, while our request was acknowledged, no timely response was received.

2.2.2 FrieslandCampina

FrieslandCampina (FC), headquartered in the Netherlands, is the fifth largest dairy products company by turnover globally.³⁶ FC has sites in 36 countries, however, with 46 facilities the Netherlands is the most important production location.³⁷ It uses palm oil in the production of coffee creamer, fat powders, toppings, and sweetened condensed milk.³⁸

FC lists 30 tier 1 suppliers for its global operations, among which Bunge Lodders Croklaan, Wilmar International.³⁹ Of the selected countries in Latin America, the following are listed in FC's global mill list (last updated in March 2020), all of which described as linked via Bunge Europe.⁴⁰ Table 11 provides an overview of these suppliers. A complete list is provided in 0.

Table 11 Overview of FrieslandCampina's palm oil suppliers from selected LATAM countries

Mill company or group, by country	RSPO-certified mills	Non RSPO-certified mills	Total number of mills
Colombia	4	10	14
Costa Rica	1	3	4
Guatemala	4	2	6
Honduras	4	2	6
Grand Total	13	17	30

Source: FrieslandCampina (2020, February), Palm Oil and PKO Mill List, online: <https://www.frieslandcampina.com/uploads/2020/03/Palm-and-PKO-Mill-List-Feb2020.pdf>, viewed in February 2021.

It could not be confirmed from the available data whether palm oil from the LATAM suppliers listed above is indeed used in the production of FC products sold on the Dutch market.

In response to these findings, FC clarified that although these mills appear on its mill lists because FC sources through other suppliers, such as Bunge, it only purchases segregated sustainable palm oil from RSPO certified mills. For issues raised in relation to RSPO certified mills, FC claims to be in the process of engaging its direct suppliers on actions taken to mitigate abuses.

2.2.3 Nestlé

Nestlé (Switzerland) is among the largest food producers worldwide. In the Netherlands, it operates a baby food production site and sells many of its branded products sourced from other countries.⁴¹

Nestlé publishes a global palm oil mill list. The latest one was published in April 2020 and provides a snapshot for April 2019.⁴² An overview of Nestlé's LATAM suppliers is provided in Table 12. A complete list is provided in Appendix 8.

Table 12 Overview of Nestlé's palm oil suppliers from selected LATAM countries

Mill company or group, by country	RSPO-certified mills	Non RSPO-certified mills	Total number of mills
Colombia	18	29	47
Costa Rica	1	0	1
Guatemala	2	7	9

Mill company or group, by country	RSPO-certified mills	Non RSPO-certified mills	Total number of mills
Honduras	4	4	8
Grand Total	25	40	65

Source: Nestlé (2020, April), Supply Chain Disclosure Palm Oil – Snapshot April 2019, online: [supply-chain-disclosure-palm-oil.pdf](https://www.nestle.com/supply-chain-disclosure-palm-oil.pdf) (nestle.com), viewed in February 2021.

It could not be confirmed from the available data whether palm oil from these suppliers is indeed used in the production of Nestlé products in the Netherlands or in Nestlé products sold on the Dutch market.

Nestlé was contacted to provide feedback on the findings in this report and, while our request was acknowledged, no timely response was received.

2.2.4 Mars

Mars Nederland holds the biggest chocolate factory in Europe, where it produces - among others- Snickers, Twix and Bounty. Mars Inc.'s mill list of May 2020⁴³ includes mills from Colombia, Costa Rica, Guatemala and Honduras (Table 13). A complete list of mills is provided in Appendix 9.

Table 13 Overview of Mars' palm oil suppliers from selected LATAM countries

Mill company or group, by country	RSPO-certified mills	Non RSPO-certified mills	Total number of mills
Colombia	5	2	7
Costa Rica	1	0	1
Guatemala	2	5	7
Honduras	1	1	2
Grand Total	9	8	17

Mars (2020, May), Mars Simplified/Segregated Palm Oil Mill List Europe, Australia, Middle East & Brazil, online: <https://gateway.mars.com/m/735cfb58c739e5b6/original/Mars-Simplified-Palm-Oil-Mill-List-2020.pdf>, viewed in February 2021.

From the data available, it could not be confirmed whether palm oil from the above suppliers is used in the production of Mars products sold on the Dutch market.

In response to our findings, Mars clarified that it only sources indirectly from the Latin American mills, and Mars is aware of the allegations raised and claims to be actively monitoring, through its direct suppliers, whether the issues are adequately addressed.

2.2.5 Unilever

Unilever is one of the largest food producers globally, with headquarters in the Netherlands and the UK. Production in the Netherlands includes Calvé peanut butter and Ben & Jerry's ice cream.⁴⁴ In addition, a large range of other Unilever products are sold on the Dutch market.

Unilever publishes a global palm oil mills list, with the latest one covering the year 2019.⁴⁵ During that period, Unilever imported palm oil from five LATAM countries (Table 14). A complete list of mills is provided in Appendix 10.

Table 14 Overview of Unilever's palm oil suppliers from selected LATAM countries

Mill company or group, by country	RSPO-certified mills	Non RSPO-certified mills	Total number of mills
Colombia	20	30	50
Costa Rica	1	1	2
Ecuador	2	14	16
Guatemala	2	7	9
Honduras	3	7	10
Grand Total	28	49	87

Source: Unilever (2020), Palm Oil Mill List from Unilever Suppliers 2019, online: https://www.unilever.com/Images/palm-oil-mill-list-from-unilever-suppliers_tcm244-530097_en.pdf, viewed in February 2021.

It could not be confirmed from the available data whether palm oil from these suppliers is indeed used in the production of Unilever products in the Netherlands or in Unilever products sold on the Dutch market.

In response to the findings, Unilever confirms it sources directly from Naturaceites, and indirectly from the other mills. Unilever claims to have "initiated an assessment focused on reviewing our internal audits, tracing the mentioned suppliers in our supply chain, and engaging the companies listed". Unilever also affirms that its products manufactured in Europe all use RSPO-certified palm oil but recognises that it needs to move beyond certification and claims the company plans to reduce complexity in its sourcing chains and to prioritise relationships with suppliers that meet social criteria and due diligence processes, though no concrete steps were communicated.

3

Palm oil financial links between Latin America and the Netherlands

This section presents the financiers and investors of listed Latin American palm oil producers as well as of refiners in the Port of Rotterdam.

After identifying the biggest palm oil producers in Latin America, as well as Dutch refineries and singling out those LATAM producers with trade relations to Dutch refiners, financial links between these producers and Dutch banks and investors were researched. We prioritised (1) producers that are publicly listed and (2) producers with multiple links to Dutch companies (e.g., mills mentioned across multiple mill lists). This resulted in a selection of 49 companies, which were checked for ownership structure, links to European / Dutch creditors and investors.

The following data sources were consulted:

- TE: any time
- IJGlobal & TFA: any time
- Annual Reports: from 2014
- Company sites: any time
- Media archives: from 2014
- Company registers: from 2014

3.1 Latin American palm oil producers

Not much recent data was available for most producers, except for the only publicly listed company in the assessment: Alicorp (Peru). Based on this limited scope, only 10 European investors and creditors were identified to have financial links to the included companies, of which none are Dutch, see Table 15.

Table 15 Financial links to European creditors and investors

Group	Country	Type of financing	Closing / issue / filing Date	Total Loan / Total Per Investor Value (in mln USD)	Creditor / Investor Parent	Creditor Parent Country
Alicorp	Peru	Term Loan	24-06-2015	316.00	BBVA	Spain
Alicorp	Peru	Term Loan	27-06-2014	8.00	BBVA	Spain
Alicorp	Peru	Term Loan	14-07-2014	0.22	BBVA	Spain
Alicorp	Peru	Shareholding	31-10-2020	7.40	Svenska Handelsbanken	Sweden

Group	Country	Type of financing	Closing / issue / filing Date	Total Loan / Total Per Investor Value (in mln USD)	Creditor / Investor Parent	Creditor Parent Country
Alicorp	Peru	Shareholding	31-07-2020	4.42	Crédit Mutuel CIC Group	France
Alicorp	Peru	Shareholding	31-07-2020	2.93	HSBC	United Kingdom
Alicorp	Peru	Shareholding	30-09-2020	1.14	Ashmore Group	United Kingdom
Alicorp	Peru	Shareholding	31-08-2020	0.91	BBVA	Spain
Alicorp	Peru	Shareholding	30-06-2020	0.88	Acciona	Spain
Alicorp	Peru	Shareholding	30-09-2020	0.50	Trinetra Investment Management	United Kingdom
Alicorp	Peru	Shareholding	30-09-2020	0.47	Swedbank	Sweden
Alicorp	Peru	Shareholding	31-08-2020	0.08	Skandinaviska Enskilda Banken	Sweden
Alicorp	Peru	Shareholding	31-05-2020	0.03	Deutsche Bank	Germany

For the other 48 assessed companies no financial links could be identified, particularly because these producers are privately-owned and only have limited information publicly available, making it difficult to assess financial performance, market shares and ownership structures. A majority of these companies are family-owned, often by prominent families in powerful positions (for example, Oleoflores, a palm oil producer in Colombia, is owned by the country's former Agriculture Minister Carlos Murgos, see section 4.1.1), or by families that hold multiple companies in the industry (e.g. CI Top in Colombia is held by the same family that owns Thin Oil Products).

In general, the ownership structures of palm oil producers in Latin America are untransparent and complex. Palm production businesses are frequently part of larger, vertically integrated parent conglomerate groups. In some cases, the parent group is buying and selling to itself through various subsidiaries. Where vertically integrated supply chains exist, traditional RBC methods of applying leverage to Tier 1 suppliers hardly functions, since the buyer and the seller are essentially the same entity. In the most extreme cases, as in Peru, these larger conglomerates essentially control large portions of the national palm supply chains from input to export, creating monopolies.

Of the selected companies, only one link to a European bank through creditor relationships could be identified: Spanish bank Banco Bilbao Vizcaya Argentaria (BBVA) lent USD 10 million to La Fabril (Ecuador) in 2002 and over USD 100 million to Alicorp (Peru) between 2014-2015. In addition, ten European investors hold shares in Alicorp, though mostly for relatively small amounts (see Table 15). No links with Dutch creditors and investors could be identified, which is not surprising, since most companies are privately owned and Dutch financiers rarely invest in SMEs overseas.

3.2 Dutch refineries

With regards to the financiers of Dutch refineries that import palm oil from Latin America, this research found that between 2016 and 2020, three Dutch banks (ABN Amro, ING Group, and Rabobank), three Dutch asset or investment management companies (Exor, TCW Group, Shell Asset Management Company), 4 Dutch insurance companies (Achmea, Aegon, ASR Nederland, and NN Group), and 7 Dutch pension funds financed the activities of three Dutch refineries (Bunge, Cargill, and Wilmar). In total, these financiers invested over US\$ 286 million (Table 16).

Table 16 Financing per type of finance, financial institution, and refinery, 2016-2020

Type of finance	Investor Parent	Refinery	Sum of Per Investor Value (in mln US\$)
Bond issuance	Total		17.98
	ABN Amro	Bunge	4.82
	ING Group	Bunge	7.21
	Rabobank	Bunge	4.8
		Cargill	1.15
Bondholding	Total		7.81
	Aegon	Bunge	0.75
		Cargill	1.4
	NN Group	Bunge	0.008
	EXOR	Bunge	0.59
	TCW Group	Bunge	0.08
		Cargill	0.13
	ABP	Cargill	0.06
	BpfBOUW	Cargill	0.01
	PH&C	Bunge	0.02
	PMT	Bunge	2.25
		Cargill	0.73
	PME	Bunge	1.49
		Cargill	0.27
Corporate loan	Total		29.34
	ABN Amro	Wilmar	29.34
Revolving credit facility	Total		226.45
	ABN Amro	Bunge	11.9

Type of finance	Investor Parent	Refinery	Sum of Per Investor Value (in mln US\$)
		Cargill	14.51
		Wilmar	43.68
	ING Group	Bunge	41.16
		Cargill	19.49
		Wilmar	47.53
	Rabobank	Bunge	5.28
		Cargill	15.66
		Wilmar	27.2
Shareholding	Total		4.43
	ABN Amro	Bunge	0.004
	Achmea	Bunge	0.053
	Aegon	Bunge	0.000
		Wilmar	0.001
	ASR Nederland	Bunge	0.085
	ING Group	Bunge	0.1
	NN Group	Bunge	0.116
		Wilmar	0.218
	PME	Bunge	0.581
		Wilmar	0.007
	PFZW	Bunge	0.871
		Wilmar	1.711
	PGGM	Bunge	0.237
		Wilmar	0.477
	Shell Asset Management Company	Bunge	0.06
	TCW Group	Wilmar	0.001
Total			286.01

4

Controversies of Latin American palm oil producers

This section exposes documented labour rights abuses perpetrated by Latin American producers supplying palm oil to the Netherlands. Moreover, attention is given to controversies related to other human rights and environmental and governance issues.

This section presents only producers with controversies that occurred after 2015 (i.e., producers for which no controversies were found or with controversies that occurred before 2015 are not included) linking them to Netherlands-based refineries and FMCG companies. For the specific trade relations between these producers and the Netherlands-based buyers (i.e., Tier 1 or 2 relations, and the precise quarter when imports occurred), please refer to Chapter 2 and the appendices. In addition to the controversies, any feedback provided by the Netherlands-based buyers on these polemics is presented here.

The results of the controversy scan are presented here highlighting the state of RSPO affiliation of the LATAM producers. In this context, the fact that almost half of them have joined the RSPO points at the insufficiency of this scheme to safeguard the labour rights and the human rights of communities neighbouring palm oil concessions (for an overview of the weaknesses of RSPO). Moreover, it is important to note that Peruvian producers for which there are reported controversies were included here, despite the absence of trade links to Netherlands-based refineries during the four quarters of 2019 and the first two quarters of 2020.

BOX: Weaknesses of RSPO certification

The Roundtable on Sustainable Palm Oil (RSPO) is a not-for-profit established in 2004 with the purpose to address the drawbacks of palm oil production worldwide and to promote the growth and use of sustainable palm oil. The RSPO brings together seven groups of stakeholders in the industry: producers, processors or traders, FMCG companies, retailers, banks/investors and environmental and social non-governmental organisations, including trade unions.⁴⁶ A key aspect of the RSPO is the certification system, which assesses compliance against the sustainability and human rights standards in the RSPO's Principle and Criteria (P&C). Despite the increasing adoption of the RSPO standard, several significant weaknesses of RSPO certification raise concerns that breaches to labour and human rights, as well as environmental degradation hide behind a sustainability seal.

In this context, CSOs the world over have raised concerns about the inadequacy of RSPO's monitoring and failing audits,⁴⁷ the lengthy processes that companies engage in to address noncompliance,⁴⁸ and seldom satisfactory remedies offered to the affected communities.⁴⁹ Adding to this, the fact that many companies around the world rely on the RSPO to offset their due diligence obligations, poses a serious obstacle to the achievement of the palm oil sector's sustainability.

Against this backdrop, RSPO's shortcomings can be summarised as follows:⁵⁰

- Unbalanced representation of stakeholders: The RSPO is dominated by the business sector, with marginal participation by NGOs and civil society organisations and without representation of plantation workers and vulnerable groups such as indigenous peoples, women, and youth.
- Inadequate grievance procedures: There is a lack of appropriate grievance mechanisms for the affected workers and communities. In this context, complaints must be filed in English directly with the secretariat, and must be extensively documented, leaving most communities unable to file complaints due to the lack of means to gather evidence or to communicate in English.
- Limited scope of RSPO's criteria: The RSPO's commitment to a "process of continuous improvement," fails to adequately address or resolve the plethora of social and environmental problems generated by the expansion of the oil palm crops. Moreover, there are insufficient guarantees that remedy will be provided for past, current, and future damages caused by mills and plantations.

4.1 Colombian producers

4.1.1 Grupo Empresarial Oleoflores

Cargill, Bunge, AAK, Olenex, Nestlé, Mars, and Unilever sourced palm oil from this producer between 2019 and 2020.

Grupo Empresarial Oleoflores has been identified as one of the many investors in the political campaign for the presidency of Álvaro Uribe Vélez in 2002, contributing 2 million Colombian pesos (COP) (almost € 1,000 at the time) and becoming a recipient of the subsidy scheme Agro Ingreso Seguro (AIS) (in 2005, it received AIS 291,035,723 COP, ca € 101,478) by the then Minister of Agriculture. AIS aimed at the development of small and medium agricultural producers in Colombia but has been linked to cases of corruption associated with the payment of political favours to legal and illegal actors through this subsidy scheme.⁵¹ While Oleoflores fends off these accusations claiming high ethical standards,⁵² it is undeniable that the company has governmental ties (and a potential influence peddling and/or conflict of interests) as proven by the fact that Carlos Murgas Guerrero, current C.E.O of Oleoflores has served as Minister of Agriculture under different presidential administrations.⁵³

Oleoflores is also linked to cases of land and water grabbing.⁵⁴

4.1.2 Manuelita Aceites y Energía

Cargill, Bunge, AAK, Olenex, Nestlé, and Unilever sourced palm oil from this producer between 2019 and 2020.

Manuelita Aceites y Energía has been linked to the purchase of lands belonging to drug lords which is viewed by human rights advocates as a strategy for drug lords to "clean" their bloody trail and for corporations to grab more land.⁵⁵ Almost 40 percent of Manuelita's 1,100 workers are subcontractors.⁵⁶

4.1.3 Sapuga

Cargill, Bunge, AAK, Olenex, Nestlé, and Unilever sourced palm oil from this producer between 2019 and 2020.

With regards to Sapuga's economic impact, a 2018 study found that the bulk of the company's labour force is formed by workers who came from regions other than those where the company operates.⁵⁷ This not only excludes local communities from the economic potentials of palm oil production, but is a strategy known to discourage workers from unionising.⁵⁸

4.1.4 Poligrow Colombia

RSPO member since 2009-07-21.

Cargill, AAK, Friesland Campina, and Unilever sourced palm oil from this producer between 2019 and 2020.

Poligrow has been linked to several human rights breaches, including failures establishing and keeping a relationship, dialogue and participation of neighbouring communities, land grabbing, free, prior and informed consent (FPIC) of indigenous peoples, workers' rights violations, including indigenous peoples, and the conservation and preservation of the environment, ecosystems and natural resources.⁵⁹

Moreover, the company's business structure is unclear. Poligrow Colombia is controlled by the Spanish Poligrow Inversiones SL, with legal headquarters in Madrid, but the dominant partner of the Madrid holding is Serlick S.A., a company established in Uruguay, a country that guarantees the confidentiality of corporate and financial information.⁶⁰

In 2015, a video by the Environmental Investigation Agency (EIA) in collaboration with La Comisión Intereclesial de Justicia y Paz (Justicia y Paz) showed that Poligrow had taken over indigenous land in Mapiripan without respecting FPIC, in addition to restricting the free movement and access by the community to their sacred sites.⁶¹ The land was allegedly taken through intimidation of local people and activists, including by paramilitary forces hired by the company. Although no formal complaint was filed, RSPO launched an independent investigation into the allegations, but is yet to update the status of the case, which has under investigation since October 2015.⁶²

4.1.5 Extractora del Sur de Casanare

RSPO certified since 2015-11-03.

Cargill, Bunge, AAK, Olenex, Nestlé and Unilever sourced palm oil from this producer between 2019 and 2020.

In 2018, a subcontracted worker of Extractora del Sur de Casanare died after falling from a platform into a mill, pointing to a low compliance with workplace safety standards.⁶³ In a letter sent to Cargill, Extractora del Sur de Casanare claims that the worker and the subcontracted company did not comply with safety protocols established by the mill. The mill further claims extra safety measures have been taken, and the situation is being investigated by the Colombian authorities, although no further updates on this fatal accident have been provided. In response to our findings, Cargill relies on the Colombian authorities to handle the case and claims to be "following the developments closely". Other companies sourcing indirectly from Extractora del Sur de Casanare, including Olenex and AAK, also claim to be monitoring the situation, though no specific actions in this regard were laid out.

4.1.6 CI Biocosta

Cargill, Bunge, AAK, Olenex, Sime Darby, Danone, FrieslandCampina, and Mars sourced palm oil from this producer between 2019 and 2020.

CI Biocosta is a trading branch of Palmagro S.A., which has been recently accused of violating the right to freedom of association and the right to collective bargaining of its workers.⁶⁴ In response to these findings, Olenex contacted Palmagro, who claims that the labour union did not follow the proper administrative and legal procedures, which was the reason to suspend negotiations over a collective agreement and to file a complaint to the Ministry of Labour, and is currently awaiting a resolution. Worker representatives, however, claim that the company is simply denying their rights to bargain and organise because the union is demanding better pay and job stability.⁶⁵

4.1.7 Palmas del Cesar

RSPO certified since 2017-03-22.

Cargil, AAK, Olenex, Nestlé, and Unilever sourced palm oil from this producer between 2019 and 2020.

In 2015, the Ministry of Labour fined this company for improper outsourcing of services. Fines amounted to 7.7 billion COP (€ 2,394,729). Through labour union action, the company formalised 225 subcontracted workers. To date, 47 workers are still employed through subcontractors.⁶⁶

In response to these allegations, Olenex cited an agreement between Palmas del Cesar and the subcontracted workers in 2015 and another extra-conventional act signed on July 10, 2019 in which the company undertakes to maintain the employment contracts of 85 workers who still continue with the fixed-term contract modality with the company. In this agreement, Palmas del Cesar also undertakes to continue giving the same guarantees, benefits that these workers have enjoyed until today. Nonetheless, Olenex continues to engage with Palmas del Cesar to gain clarity about its subcontracted workers.

4.1.8 Procesadora de Aceite Oro Rojo

Cargill, Bunge, AAK, Olenex, Nestlé, and Unilever sourced palm oil from this producer between 2019 and 2020.

Together, Industrial Agraria La Palma and Procesadora de Aceite, conform Indupalma Ltda. Almost 75 percent of the workforce of Indupalma (1,120 workers) are subcontracted workers.⁶⁷

In response to the allegations, Olenex confirmed having received a formal letter from Indupalma informing third parties that it would enter a process of dissolution and liquidation. According to Colombia's National Labour Union School (ENS), this planned dissolution and liquidation are likely a move to decimate unions, as it is impossible that the palm oil producer is facing bankruptcy. In this context, Indupalma has been coercing workers into voluntary termination of their working contract, citing economic insolvency.⁶⁸

4.2 Costa Rican producers

This research found no recent controversies linked to Costa Rican palm oil producers.

4.3 Guatemalan producers

4.3.1 Naturaceites

RSPO certified since 2015-07-27.

Cargill, AAK, Sime Darby, Danone, FrieslandCampina, Nestlé, and Unilever sourced palm oil from this producer between 2019 and 2020.

In 2017, on two different occasions a group of workers was abducted from a plantation in Alta Verapaz from NaturAceites, raising significant concerns about workers' safety.⁶⁹ In 2019, government actions against illegal drug trafficking near NaturAceites' palm oil plantations – potentially the traffickers had used the company's airplane landing strips around the plantations – led to the death of three soldiers, triggering violence and more concerns for the safety of the impoverished communities living in the area.⁷⁰ During the COVID-19 crisis, workers on the Naturaceites plantations and mills have filed complaints with the Congressional Labour Commission that the company violated health and safety policies in the context of the pandemic.⁷¹

NaturAceites has also been associated with the undue lobby activities to stop a U.N. Commission Against Impunity, which was investigating palm oil plantations for violations of human rights and environmental destruction,⁷² as well as women's rights violations⁷³.

Companies purchasing from NaturAceites recognise these issues. Cargill ranked the mill as a 'high-risk supplier' and claims to be engaging the company with an action plan on worker safety concerns. According to Cargill as well as other companies that source from NaturAceites indirectly, such as AAK, significant progress has been made by the mill and it is seen as a successful example of supplier engagement to mitigate abuses. However, the systematic concerns, including the most recent complains during the COVID-19 pandemic, also indicate that NaturAceites is still not meeting its human and labour rights responsibilities.

4.3.2 Palmas del Machaquila

Cargill and AAK sourced palm oil from this producer between 2019 and 2020.

A community in Sayaxché voiced serious complaints that palm oil plantations in the area, including Palmas de Machaquilá, are polluting the rivers, causing a mass death of fish.⁷⁴ These concerns have been met by threats and intimidation of managers of the company towards community leaders.⁷⁵ According to Cargill, Palmas del Machaquila has been actively engaged, and the company is monitoring whether the mill is following up on its commitments to the community.

4.3.3 Agroaceite

RSPO certified since 2019-03-11.

Cargill, AAK, and Mars sourced palm oil from this producer between 2019 and 2020.

In July 2020, an anonymous complaint was filed with RSPO against the dumping of toxic chemicals and hazardous waste by Agroaceite. The pollution severely harmed the nearby mangrove, local marine species as well as the local communities' access to safe drinking water and fish which may have been poisoned by the toxic waste. The investigation is ongoing.⁷⁶

4.3.4 Braden Group

RSPO certified facilities: Agroindustria Palmera San Román (since 2020-01-17), Palmas del Ixcán (since 2020-01-17).

Cargill, AAK, Nestlé, and Unilever sourced palm oil from this producer and/or its subsidiary between 2019 and 2020.

A subsidiary of Braden Group, Palmas del Ixcán, has been accused of polluting community drinking water in two different villages, La Chapina and Sonora, and failing to meet its promises to build wells and solve the issue. In addition, the company is accused of land grabbing, coercing smallholders into selling their land to the plantation or even using contractors who pretend to be a farmer to buy the land only to resell it to the company later, and blocking access to lands. The company justified these actions by claiming that the company provides employment opportunities in this 'forgotten area'.⁷⁷ Palmas del Ixcán has also been associated with the assassination of human rights defender Manuel Xi, who was leading the community's efforts to boycott Palmas del Ixcán, though this murder was never investigated.⁷⁸

4.3.5 Industrias Chiquibul S.A.

Nestlé and Unilever sourced palm oil from this producer between 2019 and 2020.

According to a complaint submitted to the Government of Guatemala by the UN Special Rapporteur on trafficking in persons together with the Special Rapporteur on the modern forms of slavery, there are numerous complaints about excessive work goals imposed on workers of Industria Chiquibul by the company. These reports were submitted to the Ministry of Labor and Social Welfare by workers from at least 2016 to at least March 2019. Moreover, it is alleged that currently at least 300 workers still do not receive the minimum wage, and other legal benefits, despite different meetings and dialogue tables that have been convened under the auspices of the Ministry of Labor and Social Security. These tables would have the objective of improving the working conditions of workers. However, the workers and their representatives allege that sufficient and consistent progress has not yet been made and the Ministry continues not to exercise its sanctioning power, as established in the Labor Code.⁷⁹

In another inspection report of March 20, 2019 related to Industrias Chiquibul S.A., reference is made to the hiring of a minor. However, there has not been any follow-up regarding the imposition of sanctions. Moreover, during an inspection on March 7, 2019, the Ministry of Labor and Social Welfare found that *"the personnel of Industrias Chiquibul do not have protective equipment to carry out activities in each of the areas, they do not have drinking water, thus there is also no suitable place to receive medical attention at any given time, likewise there is no first aid kit, nor any person trained to provide first aid"*.⁸⁰

In addition, there are serious doubts and a lack of transparency about the total number of workers that Industrias Chiquibul S.A. has registered in the social security system. The labour inspectors in their inspection report of March 20, 2019, reported that they had reviewed 1,445 individual work contracts, putatively corresponding to the company's regular personnel. However, they only saw social security contribution slips for the last two years for only 712 workers. They also reported proof of payment of Bonus 14 for the last two years relative to 390 workers. This discrepancy would leave doubts about the number of workers that the company manages in relation to the different legal obligations, and the possibility of fraud with negative consequences for the workers and the Guatemalan Social Security Institute (IGSS) itself.⁸¹

4.3.6 REPSA (Reforestadora del Petén S.A.)

Unilever sourced palm oil from this producer between 2019 and 2020.

In November 2020, the UN Special Rapporteur on trafficking in persons, especially women and children; of the Working Group on the issue of human rights and transnational corporations, the Special Rapporteur on the rights of indigenous peoples and the Special Rapporteur on the modern forms of slavery, including its causes and consequences presented the Government of Guatemala with a complaint against, amongst other Guatemalan palm oil producers, REPSA for several breaches of labour rights. According to the complaint, the labour rights abuses perpetrated by REPSA include:⁸²

- Salary conditional on excessive work goals: The salary workers receive is calculated based on targets for the collection of tons of FFB, as well as targets for the application of pesticides and other activities related to the cultivation and care of the oil palm. It is alleged that these goals are imposed unilaterally by the representatives of the companies in a context of defencelessness of the workers due to their null or scarce bargaining capacity, as there are not proper unions or other representative structures at the plantations. Workers have denounced that the goals imposed to reach the equivalent of the minimum wage are inordinate, physically exhausting and translate into days that can exceed the legal limit of 8 hours in conditions of extreme heat and humidity. The extra time provided to achieve the goals imposed are not duly remunerated, and the workers are routinely subjected to coercion.
- Constant failure to pay the minimum wage and other mandatory benefits by law such as bonuses, Christmas bonus, vacations, and compensation for unjustified dismissals.
- Abusive hiring practices that violate conditions decent work and trafficking elements (see anonymous complaint submitted to RSPO above).
- Possibly fraudulent contracting mechanisms: It has been reported that the majority of workers are hired temporarily, for short periods of time ranging from 7 to 14 days and 3 to 6 months in duration. These contracts are sometimes re-established after a suspension impedes workers from reaching seniority, even for some benefits such as paid vacations and retirement contributions, which could constitute fraud on the part of company.
- OSH: It has been reported that occupational health and safety conditions would not be adequate. It has been reported that, generally, workers do not receive PPE for the application of pesticides and chemicals (such as Angluron, Paraquat, Gramoxone, and Glyphosate, which contain carcinogenic substances), nor is there adequate medical assistance in the case of accidents. Workers, fearing they will be excluded from future jobs, prefer not to be absent due to illness even though they are entitled to sick leave.
- Workers lack or have insufficient access to social security.

4.3.7 Nacional AgroIndustrial, S. A. (a subsidiary of KH Regional Group Inc.)

RSPO certified since 2019-03-29.

AAK, Danone, and FrieslandCampina sourced palm oil from this producer between 2019 and 2020.

In June 2019, RSPO received an anonymous complaint against Nacional Agro Industrial for the unfair dismissal of 50 workers in Sayaxché. The complaint is currently being appealed, and due to the confidential status of the case, no additional information has been provided yet.⁸³ This case was also reported as part of the complaint described below.

In November 2020, Guatemala's the UN Special Rapporteur on trafficking in persons, especially women and children; of the Working Group on the issue of human rights and transnational corporations, the Special Rapporteur on the rights of indigenous peoples and the Special Rapporteur on modern forms of slavery, including its causes and consequences presented the Government of Guatemala with a complaint against, amongst other Guatemalan palm oil producers, Nacional Agro Industrial for several breaches of labour rights. According to the complaint, the labour rights abuses perpetrated by Agro Industrial include:⁸⁴

- **Salary conditional on excessive work goals:** The salary workers receive is calculated based on targets for the collection of tons of FFB, as well as targets for the application of pesticides and other activities related to the cultivation and care of the oil palm. It is alleged that these goals are imposed unilaterally by the representatives of the companies in a context of defencelessness of the workers due to their null or scarce bargaining capacity, as there are not proper unions or other representative structures at the plantations. Workers have denounced that the goals imposed to reach the equivalent of the minimum wage are inordinate, physically exhausting and translate into days that can exceed the legal limit of 8 hours in conditions of extreme heat and humidity. The extra time provided to achieve the goals imposed are not duly remunerated, and the workers are routinely subjected to coercion.
- **Constant failure to pay the minimum wage and other mandatory benefits by law** such as bonuses, Christmas bonus, vacations, and compensation for unjustified dismissals.
- **Abusive hiring practices that violate conditions decent work and trafficking elements** (see anonymous complaint submitted to RSPO above).
- **Possibly fraudulent contracting mechanisms:** It has been reported that the majority of workers are hired temporarily, for short periods of time ranging from 7 to 14 days and 3 to 6 months in duration. These contracts are sometimes re-established after a suspension impedes workers from reaching seniority, even for some benefits such as paid vacations and retirement contributions, which could constitute fraud on the part of company.
- **OSH:** It has been reported that occupational health and safety conditions would not be adequate. It has been reported that, generally, workers do not receive PPE for the application of pesticides and chemicals (such as Angluron, Paraquat, Gramoxone, and Glyphosate, which contain carcinogenic substances), nor is there adequate medical assistance in the case of accidents. Workers, fearing they will be excluded from future jobs, prefer not to be absent due to illness even though they are entitled to sick leave.
- **Workers lack or have insufficient access to social security.**

4.4 Ecuadorian producers

4.4.1 Extractora Rio Coca

AAK and Unilever sourced palm oil from this producer between 2019 and 2020.

In 2016, municipal officials closed down Extractora Rio Coca, formerly known as Pamela, for several days because the company contaminated the water source from which the surrounding communities take their drinking water, though it was not specified for how long the closure lasted nor whether any sanctions were imposed, and since many workers depend on the company for their incomes, the municipality did not want to push a conflict.⁸⁵

4.5 Honduran producers

4.5.1 Hondupalma

RSPO certified since 2019-08-29.

Bunge, AAK, Olenex, FrieslandCampina, Nestlé, and Unilever sourced palm oil from this producer between 2019 and 2020.

Hondupalma has plantations within the Jeanette Kawas National Park, land which it obtained before the region became a protected area, and communities claim that the dumping of wastewater from the processing plants have caused skin diseases among the children of the community and resulted in the death of fish in the rivers. In addition, producers in this region are suspected of illegally purchasing palm oil from unlicensed farmers who often deforested areas within the park to cultivate the fruit, also referred to as the palm oil deforestation version of money laundering.⁸⁶ According to Olenex, who reached out to the mill, Hondupalma has denied that its affiliated cooperatives operate within the boundaries of Jeanette Kawas park, and claims that its treatment plant does not discharge into natural bodies of water in the region.

4.5.2 Corporación Dinant

Bunge, AAK, Olenex, and Unilever sourced palm oil from this producer between 2019 and 2020.

Corporación Dinant has an infamous reputation for using extreme violence, including murder, torture, assault, battery, trespass, and unjust enrichment against hundreds of community members in the Bajo Aguán Valley. The company's private security forces acted against farmers surrounding the palm oil plantations over land conflicts, and purposefully used extreme violence to intimidate the communities and force farmers into handing over their land. The violence resulted in the death of nearly 100 people, mostly farm workers as well as 19 Dinant security guards, and a lawyer representing a group of workers.⁸⁷ In 2017, members of the community filed a class action lawsuit against the World Bank for financing and thereby enabling the violence of Corporación Dinant without considering the risks and overlooking the patterns of aggression that had been ongoing for decades. Corporación Dinant denied all allegations and Compliance Advisor Ombudsman has closed the case based on the findings of the independent investigation conducted at its request.⁸⁸

Wilmar is working with Corporación Dinant to address these issues through the company's grievance mechanism. According to Olenex, Dinant has made significant progress that included the withdrawal of firearms of all guards and introducing strict ethical standards. Dinant has recently become ISCC certified and is in the process of becoming an RSPO member.

4.5.3 Exportadora del Atlántico

Bunge, AAK, and Olenex sourced palm oil from this producer between 2019 and 2020.

As a subsidiary of Grupo Dinant, the concerns related to the group company relate to Exportadora del Atlántico as well, see section 4.5.2.

4.6 Peruvian producers

4.6.1 Palmas del Espino

RSPO member since 2016-04-15.

In 2015, Palmas del Espino, part of Grupo Palmas which in turn is owned by Grupo Romero, was planning to cut down 9,300 hectares of primary forests.⁸⁹ Following the allegations and pressure from its customers, such as Nestlé, Grupo Palmas shifted towards a zero-deforestation approach and implemented an NDPE policy.⁹⁰

In 2017, the communities of the Ucayali Region filed a complaint with RSPO against Palmas del Espino for failing to respect FPIC principles, violating the law on forest conservation, mistreating employees, including arbitrary dismissal, and failing to conduct HCV assessments for new plantations. The case was closed, but it is not clear if and how the situation was adequately assessed, investigated or remediated.⁹¹

4.6.2 Plantaciones de Pucallpa (Grupo Ocho Sur)

In June 2020, Plantaciones de Pucallpa was intervened by the Public Prosecutor's Office of Ucayali after various organisations (including the Federation of Native Communities of Ucayali (Feconau), the Human Rights Commission of Pucallpa, and the Institute of Legal Defense (IDL)) filed a complaint for alleged poor working conditions of this company's staff amid the COVID-19 emergency.⁹² According to Feconau's lawyer, during an inspection, it was found that the company obliged employees with COVID-19 symptoms to come to work, endangering the health of all workers.⁹³

It should be noted that Grupo Ocho Sur acquired the assets of Melka Group, which suspended its activities in 2012 after a criminal court ruled that the company had engaged in unlawful activities. Particularly, Ucayali plantations and Pucallpa plantations (currently Ocho Sur U and Ocho Sur P) usurped communal lands and caused sizable deforestation in the Peruvian Amazon.⁹⁴ Melka Group also has inquiries in Loreto and one of these inquiries has reached a conviction at first instance against its directors.⁹⁵

In this context, in December 2015, the indigenous community of Santa Clara de Uchunya supported by Federation for native communities of the Ucayali region (FECONAU), the Institute for Legal Defense (IDL) and the Forest Peoples Programme (FPP) filed an RSPO complaint against Plantaciones de Pucallpa for violating RSPO standards on deforestation. At least 5,200 hectares of forests were destroyed since 2013, and included the illegal sale of timber, fires, and a complete lack of FPIC with the community. On top of that, the company was accused of denying access to land and water that is essential to the community's access to food, drinking water, medicinal plants and other subsistence, as well as pollution of the waterways.⁹⁶

RSPO did indeed find the company to have breached RSPO codes after an independent investigation, but because the company withdrew its membership following the complaint in 2016 and claimed it had divested from the palm oil industry, no further action could be taken. In the words of the RSPO complaints panel: *"these findings and decisions are of moral and persuasive value only, and cannot be enforced in light of Plantaciones de Pucallpa's resignation as an RSPO member."*⁹⁷

5

Human rights due diligence policies of Netherlands-based palm oil refineries

This section presents the findings of the human rights due diligence (HRDD) analysis of the five refineries in the Netherlands that import palm oil from Latin American producers.

Following the methodology outlined in section 1.5, the responsible business conduct (RBC) policies and due diligence processes of the five main importers of LATAM palm oil were analysed and given a score between 0 to 100 based on their policy commitments and mechanisms to identify, prevent, mitigate, and cease adverse human rights impacts in their supply chains.

The findings below, however, need to be interpreted with caution. The assessment focused on publicly available company policies, which means that unpublicised internal management frameworks and policies may not have been considered – though this is also weighed in the analysis since transparency and openness are key requirements of due diligence. But policies, unfortunately, do not always reflect the reality on the ground. Although this was considered as part of criteria 10 (proactive and committed attitude to continuous improvement), in which accusations of violations and general reputation on human rights were taken into account, the overall score mostly reflects the company's performance on paper. As a result, smaller companies which have less policies in place yet generally have a relatively fair reputation (such as AAK) may score lower than large conglomerates that have strong policy frameworks but in reality, are seen as the worst companies in the world and mass abuses of human rights, labour rights and environmental standards (such as Cargill).

BOX: The urgent need for gender-responsive due diligence in the palm oil sector

The impacts of business activities in global supply chains may differ across different groups of people and individuals, and some are affected disproportionately. This is the case for women compared to men, but also particularly for groups and individuals with intersecting identities that are at heightened risks of discrimination and marginalisation, such as Indigenous peoples, migrant workers, people with disabilities, LGBTQI+ people, people from ethnic, religious, language, cultural or sexual minorities, marital status, and other forms of identity. Which groups and individuals are at heightened risk is partially context and sector-dependent, and can also vary based on geographical, cultural, societal or industry-specific dynamics. Nevertheless, a general trend across all global supply chains can easily be observed in the unique and disproportionate ways that women with various intersecting identities are disenfranchised by companies.⁹⁸

In the global palm oil supply chain, women in different countries face similar human rights abuses. Women have little economic opportunities on and around oil palm plantations, and even if they are employed by the sector, women usually work in lower status and lower paid positions compared to men.⁹⁹ In addition, women are much more likely to be informally employed, which limits their access to legal protections and social security benefits.¹⁰⁰ The majority of informally employed female workers do not earn independent incomes but instead support the family or household income, which is usually controlled by the male head of the household.¹⁰¹ This is also common practice in the palm oil industry where women support male harvesters to meet their piece rate quotas.¹⁰² Such practices not only limit the economic independence of working women, but also causes them to be overlooked as a crucial part of the palm oil workforce and limits their access to healthcare, social benefits, fair wages, and key labour rights protections.¹⁰³

The low status of women in the palm oil sector also leaves them to undertake strenuous work and dangerous tasks with no access to personal protective equipment or other OSH measures, such as handling pesticides and herbicides without masks and gloves.¹⁰⁴ This is further compounded by the high levels of gender-based discrimination, unfair labour practices and sexual harassment that women face working in this sector.¹⁰⁵

In practically all countries in the world, including those that produce palm oil, women carry out by far most of the unpaid care and household work, which means that they often face a double workload on top of paid work. When women are married to plantation workers, they are also expected to take care of their husbands, which implies that they must provide them with meals during and after work.¹⁰⁶ Women who are widowed or single mothers often have no choice but to see their income further reduced by the necessity to pay for childcare while they work.¹⁰⁷

In addition, the palm oil industry in all producing countries is consistently associated with land grabbing, water pollution and deforestation. Since women are often responsible for gathering food and medicine from forests and fetching water, women now face severe difficulties providing for their families in this manner with restricted access to forests and safe drinking water.¹⁰⁸ Although the palm oil industry increasingly implements principles of Free, Prior and Informed Consent in land acquisitions and expansions, women are often not consulted about the selling of their shared lands and do not share in the financial benefits.¹⁰⁹

For due diligence measures to adequately address the potential and actual adverse impacts on human rights and the environment, it is crucial to understand these different and disproportionate impacts on women. A gender-responsive approach to due diligence recognises that rightsholders are not a homogeneous group, and that abuses in supply chains may affect certain people differently.¹¹⁰ Such an approach is also crucial in the palm oil industry, where otherwise the impacts on women are likely to be overlooked, since they form a minor part of the workforce yet are impacted severely by the companies' activities.

However, current due diligence guidance tools, such as the UNGPs and the OECD Guidelines, hardly go beyond the inclusion of gender other than referring to non-discrimination principles.¹¹¹ To assess whether Netherlands-based palm oil refiners consider gendered impacts of their supply chain, we have included a criterion of 'intersectional gender perspectives and inclusive approach', in addition to considering gender-responsiveness throughout all other steps of due diligence policies and mechanisms.

5.1 Overview of HRDD policies

Overall, it was found that all companies have taken steps to address human rights, including labour rights, in and around palm oil production, and meet some minimum due diligence expectations. AAK, Bunge, Cargill, Olenex and Sime Darby Plantations also each leave very serious gaps which suggests that, in practice, the companies are insufficiently managing and monitoring (potential) human rights violations and do not have adequate mechanisms in place to cease and remediate adverse impacts.

Although the performance of the five assessed companies varied per criterion, the companies all received a total score in the range of 51-65, see Table 18. In some areas, all companies have taken similar approaches, for example publishing palm oil 'dashboards' to communicate traceability efforts or following standardised sustainability reporting principles. All five refineries have also committed to various international initiatives, such as RSPO or becoming member of the UN Global Compact, and actively promote their own initiatives in the fields of philanthropy. But upon more detailed inspections, many of the commitments and policy statements are severely incomplete and fail to effectively provide safeguards for all humans impacted by palm oil supply chains, let alone guarantee appropriate remediation after adverse impacts have occurred.

Table 18 HRDD Analysis of Dutch palm oil importers

Criteria	Description	AAK	Bunge	Cargill	Olenex	Sime Darby
1.	Embed responsible business conduct into policies and management systems.	8.0	5.0	9.0	7.5	7.5
2.	Identify and assess actual and potential adverse impacts associated with the enterprise's operations, products or services.	5.5	5.0	6.0	4.5	3.5
3.	Cease, prevent and mitigate adverse impacts.	7.0	5.0	5.5	7.0	6.0
4.	Track implementation and results.	8.5	6.5	7.5	8.0	5.0
5.	Communicate how impacts are addressed.	7.0	5.5	5.5	5.0	5.5
6.	Provide for or cooperate in remediation when appropriate.	3.0	3.0	4.5	7.5	5.5
7.	Respect for and commitment to human rights.	9.0	8.0	8.0	9.0	7.0

8.	Respect for and commitment to labour rights in accordance with the ILO Fundamental Principles.	6.0	6.5	9.0	8.0	8.5
9.	Intersectional gender perspectives and inclusive approach.	1.5	2.0	6.0	5.0	5.5
10.	Proactive and committed attitude to continuous improvement	7.5	4.5	2.0	6.0	6.5
Total	Overall performance of the company's human rights due diligence process.	63	51	63	67.5	60.5

5.2 AAK

AAK, formerly known as AarhusKarlshamn, is a Swedish-Danish multinational vegetable oils and fats producer headquartered in Malmö, Sweden. AAK is publicly listed and owns over 20 production facilities and plants, as well as sales offices in 25 countries.¹¹² In 2019, AAK had a total annual revenue of SEK 28,510 million (€ 2,771 million), with food ingredients and confectionery fats accounting for 95 percent of AAK's net sales value.¹¹³

In early 2019, AAK acquired MaasRefinery B.V., a Dutch refinery located in the Rotterdam Harbour (now called AAK Rotterdam B.V.), currently employing 136 employees in the Netherlands.¹¹⁴ As a direct subsidiary, this Netherlands-based refinery and its sourcing activities are governed by AAK's policies and human rights due diligence framework, which has been assessed in this research.

Table 19 AAK HRDD Performance

Criteria	Description	Score	Justification
1.	Embed responsible business conduct into policies and management systems. (OECD Guidelines Stage 1)	8	AAK has a variety of RBC policies and mechanisms available and applies RBC basic requirements to both direct and indirect suppliers.
2.	Identify and assess actual and potential adverse impacts associated with the enterprise's operations, products or services. (OECD Guidelines Stage 2)	5.5	Although it seems that AAK conducts risks analyses and bases RBC actions and mechanisms on these risks, the risk analysis is not publicly available and therefore cannot be assessed.
3.	Cease, prevent and mitigate adverse impacts. (OECD Guidelines Stage 3)	7	AAK visibly takes effort to prevent and mitigate adverse impacts but leaves gaps in engaging local stakeholders and rightsholders.
4.	Track implementation and results. (OECD Guidelines Stage 4)	8.5	AAK tracks implementation of its own RBC performance through regular progress reports and traceability information.
5.	Communicate how impacts are addressed. (OECD Guidelines Stage 5)	7	AAK communicates with reasonable transparency on how grievances are managed

			and provides public information on traceability and RBC impacts.
6.	Provide for or cooperate in remediation when appropriate. (OECD Guidelines Stage 6)	3	AAK provides no guidance or commitments on remediation whatsoever and fails to guarantee non-retaliation or protection of human rights defenders / grievance raisers.
7.	Respect for and commitment to human rights in accordance with the UNGPs.	9	AAK is actively involved in various global and industry initiatives to respect human rights and improve RBC impacts.
8.	Respect for and commitment to labour rights in accordance with the ILO Fundamental Principles.	6	AAK commits to basic labour rights but fails to provide specific and detailed policies and meaningful mechanisms to enforce these broad commitments.
9.	Intersectional gender perspectives and inclusive approach to human rights	1.5	AAK completely lacks commitments on women's rights and intersectional gender perspectives. Except for special consideration for women in its shea supply chain, AAK is completely silent on gendered impacts, diversity, inclusion and equality, both in its own workforce as well as among suppliers and wider community impacts.
10.	Proactive and committed attitude to continuous improvement	7.5	Overall, AAK seems willing to improve and committed to RBC management despite leaving various gaps.
Total		63	

At first glance, AAK has an extensive policy framework to manage RBC that outlines commitments on human rights, labour rights, and the environment. Recognizing its extended responsibility, AAK provides Codes of Conduct not only for direct employees,¹¹⁵ but also for suppliers¹¹⁶ and distributors¹¹⁷. AAK states that these policies are based on the UNGPs, the UNGC and the ILO Core Conventions, and outlines company commitments on legal compliance, human rights, labour rights, anti-corruption and the environment in the AAK Sustainability Policy.¹¹⁸ These policies, however, all include only a very limited interpretation of human and labour rights, stating commitments to the bare minimum without specifying how and to whom it applies. For example, AAK's commitment on human rights only reads *"AAK supports and respects the protection of internationally proclaimed human rights and constantly supervises that AAK is not complicit in human rights abuse."*¹¹⁹

Overall, AAK leans heavily on RSPO certification and membership, and although industry cooperation is encouraged, it is important to note the significant shortcomings of RSPO ability to improve human rights situations on and near palm oil plantations.¹²⁰ It therefore remains crucial that companies go above and beyond such initiatives and implement strong internal management mechanisms as well. This is where AAK leaves serious gaps: the company does not adequately commit to engaging stakeholders and affected communities and individuals in any part of the RBC mechanisms – yet rightsholder engagement is crucial not only to understand how they are affected by supply chain activities but also on how this needs to be mitigated and remediated. Additionally, AAK does not publicly share a risk evaluation of the palm oil supply chain other than a summary overview in its Sustainability Reports based on volumes and social/environmental risks¹²¹, making it difficult to assess whether the company considers all relevant risks, such as geographical context or disproportionate impacts on vulnerable rightsholders.

Apart from this, AAK is fairly transparent and publicly shares detailed progress reports¹²², traceability information¹²³, mill lists¹²⁴, grievance lists¹²⁵ and other crucial information for rightsholders, although all of this information is only available in English and Swedish – which makes it difficult for all stakeholders of AAK’s supply chains to access the necessary information, such as for rightsholders in Latin America who may not speak English or only as a third or fourth language.

AAK also has reasonably extensive policies and mechanisms to prevent and mitigate risks¹²⁶, with clear divisions of responsibility across senior and executive management, objectives to improve, and using leverage on Tier 1 suppliers when violations occur in indirect supply.¹²⁷ However, significant weaknesses in AAK’s RBC management are the gaps in grievance mechanisms, which provide no guarantees on remediation nor consultation with stakeholders, and no safeguards for human rights defenders¹²⁸ – elements that are particularly crucial in the Latin American context. In addition, despite AAK’s commitment to labour rights in accordance to the ILO Fundamental Principles, the implementation of these rights is unclear, and the company provides little detailed policies on how suppliers are expected to meet those requirements, such as non-discrimination policies, OSH guidelines, complaint mechanisms or policies against violations of the freedom of association. In addition, AAK only requires suppliers to meet the minimum conditions of work in accordance with legal minimum standards in the respective country of operation, which is often insufficient to even meet the ILO principles.¹²⁹

Despite these important gaps, AAK has a relatively good reputation. AAK has not been frequently associated with human rights violations, although it has been accused of insufficient implementation of NDPE best practices¹³⁰ and indirect links to women’s rights violations in Guatemala.¹³¹ Otherwise, AAK has not recently been associated with severe violations nor with tax evasion, undue influencing or corruption, and the company is open to dialogue, regularly updates its policies, mechanisms and progress reports, indicating a commitment to continue to improve its broad yet still inadequate RBC management system.

In response to the findings in this report on links between AAK and human rights allegations in Latin America, AAK confirmed it is aware of the issues and has included all cases in their grievance procedures. Because AAK sources indirectly from Latin American mills, AAK is engaging its direct suppliers through which it purchases this palm oil, including Olenex, Cargill and Sime Darby. Nonetheless, AAK recognises that its grievance investigations “must be complemented by a robust proactive approach based on human rights due diligence” and recognises the areas of improvement raised in this report. The company claims it is currently in the process of strengthening its mechanisms on human rights and will include some of the raised areas of improvement, in line with the OECD guidelines and the UNGPs, into its new strategy and action plan.

5.3 Bunge

Bunge Limited is a multinational agribusiness and food company specialised in processing vegetable oils, grains and sugar. Bunge was originally founded in Amsterdam, the Netherlands, in 1818 but is currently incorporated in Bermuda and headquartered in the United States, with holdings and subsidiaries all over the world. In 2019, Bunge had a net revenue of USD 41,140 million (€ 33.959 million).¹³² Bunge employs approximately 24,000 employees across 40 countries and has multiple offices and facilities on every continent.¹³³

Palm oil is one of the key supply chains in Bunge’s operations, and the company is involved in the production, sourcing, trading, processing, refining and sales of edible oils through operations in North and South America, Europe, Asia-Pacific, and Africa. In 2018, Bunge acquired a majority ownership interest (70 percent) in IOI Loders Crokiaan, a major processor of palm and tropical oils located near the Port of Rotterdam (now referred to as Bunge Loders Crokiaan, BLC).¹³⁴

Table 20 Bunge HRDD Performance

Criteria	Description	Score	Justification
1.	Embed responsible business conduct into policies and management systems. (OECD Guidelines Stage 1)	5.0	Bunge has various RBC policies in place, but leaves significant gaps in covering all issues, and is unclear about implementation and division of responsibilities across management.
2.	Identify and assess actual and potential adverse impacts associated with the enterprise's operations, products or services. (OECD Guidelines Stage 2)	5.0	Bunge carries out risk assessments but has not made these assessments publicly available, making it impossible for stakeholders to assess if Bunge has adequately considered risks.
3.	Cease, prevent and mitigate adverse impacts. (OECD Guidelines Stage 3)	5.0	Bunge has mechanisms in place to manage adverse impacts but provides little guidance on how impacts are prevented or ceased, and does not actively involve stakeholders.
4.	Track implementation and results. (OECD Guidelines Stage 4)	6.5	Bunge has made significant steps in tracking implementation of its RBC policies through a palm oil dashboard and traceability information but leaves gaps in addressing all potential impacts other than deforestation.
5.	Communicate how impacts are addressed. (OECD Guidelines Stage 5)	5.5	Although Bunge has made efforts to make its RBC policies and mechanisms publicly available and easy to find on the website, the company does not provide all relevant information.
6.	Provide for or cooperate in remediation when appropriate. (OECD Guidelines Stage 6)	3.0	Bunge provides no commitments on remediating affected rightsholders and no evidence could be found that Bunge actively cooperates in remediation efforts. Bunge also does commit to non-retaliation policies.
7.	Respect for and commitment to human rights in accordance with the UNGPs, the Global Compact and other initiatives.	8.0	Bunge has taken efforts to comply with various efforts to make supply chains more sustainable and environmentally and socially responsible.
8.	Respect for and commitment to labour rights in accordance with the ILO Fundamental Principles.	6.5	Bunge's Labor Policy as well as other RBC policies are largely in line with ILO principles, but the company relies on local laws and regulations, which may not be sufficient in some contexts, leaves gaps in non-discrimination policies and does not actively commit to cooperating with trade unions and workers representatives.
9.	Intersectional gender perspectives and inclusive approach to human rights	2.0	Bunge hardly recognises gender considerations, let alone intersectional perspectives. The company is virtually silent on inequalities in its RBC policies, and takes no meaningful efforts to promote equal rights
10.	Proactive and committed attitude to continuous improvement	4.5	Although Bunge has made improvements to its RBC policies and mechanisms in recent years and goes beyond legal minimum requirements, the company leaves significant gaps, remains

			untransparent on key issues, and is continuously associated with violations and adverse impacts.
Total		51	

Bunge has made most of its RBC policies available through its global website, with some additional documentation on the specific website of its Dutch refinery BLC. Although the company has various RBC policies in place, including a Code of Conduct¹³⁵, an Environmental Policy¹³⁶, a Labor Policy & Human Rights¹³⁷, and a Sustainable Palm Oil Sourcing Policy¹³⁸, Bunge leaves significant gaps in its management of (potential and actual) human rights violations across its supply chains. Despite stating broad commitment, Bunge fails to clarify how these commitments are embedded into the company's management systems, or what the mechanisms are to ensure that these commitments are respected throughout the entire extended supply chain. Bunge provides no statements on how RBC commitments are managed or integrated across different business units or departments, nor how its commitments apply to indirect suppliers and extended business relationships. Although it is apparent that Bunge conducts a risk assessment on RBC issues and collects extensive data using various tools on deforestation, water, and climate change, but the assessments are not publicly available, and no data is gathered on human rights or labour rights risks. Bunge claims to proactively risk assess all palm oil suppliers, including indirect supply, but it is not clear what the risk indicators include.¹³⁹

Several statements in Bunge's RBC documentation are worrisome. For example, Bunge's Labor Policy & Human Rights reads: *"We block any supplier that has been credibly accused of human rights violations."*¹⁴⁰ Yet suspension should only be applied as a last resort, ensuring that the company attempts to use its leverage first to improve the situation. In addition, no evidence could be identified that Bunge actively consults and engages stakeholders and rightsholders in any part of the HRDD process, does not provide statements on remediation, does not explicitly provide commitments on working with worker's representatives nor on protecting human rights defenders. Although Bunge has based its Labor Policy on the ILO Fundamental Principles, the company does not directly commit to its principles and tends to refer to minimum legal standards rather than higher, international standards. Bunge also makes no reference to gender or disproportionate impacts, and instead stays in the ambiguous realm of committing to diverse workforce without specifying what this means and how this is to be achieved.

The weaknesses in Bunge's HRDD also translates to real violations of human and labour rights. Over the last three years, Bunge has been repeatedly associated with grievances around palm oil plantations, including deforestation, human and labour rights violations, land grabbing and other policy non-compliance issues. On its own grievance list, Bunge has recorded 108 grievances since 2016, but this list does not include all grievances and allegations raised against the company. Mighty Earth's Trader Tracker, which records grievances related to deforestation and palm oil trader's responses, has recorded 65 grievances directed at the company, yet BLC only resolved 29 of these cases (45%).¹⁴¹ In 2019, Reuters linked Bunge to labour rights violations in Guatemala through a palm oil supplier, which was reported not to pay minimum wages to workers.¹⁴² In that same year, Bunge was associated with environmental destruction and human rights violations related to soy plantations in the Brazilian Amazon.¹⁴³ In an ActionAid report in September 2020, Bunge was linked to women's rights violations and adverse impacts on communities living near palm oil plantations in Guatemala through three mills accused of violations.¹⁴⁴

Bunge did not respond to the invitation to reply to these findings.

5.4 Cargill

Cargill is one of the world's biggest food conglomerates trading in and processing agro-food commodities. Headquartered in the United States, Cargill is the country's biggest privately held, family-owned corporation with a revenue of over USD 114 billion in 2019.¹⁴⁵ Cargill operates in over 70 countries, employing a workforce of 155,000 employees.¹⁴⁶

Table 21 Cargill HRDD Performance

Criteria	Description	Score	Justification
1.	Embed responsible business conduct into policies and management systems. (OECD Guidelines Stage 1)	9	Cargill has RBC policies and commitments in place that cover all aspects of the OECD Guidelines.
2.	Identify and assess actual and potential adverse impacts associated with the enterprise's operations, products or services. (OECD Guidelines Stage 2)	6	Cargill conducts risk assessments and prioritises high-risk activities but does not publish the complete assessments, making it difficult to assess compliance.
3.	Cease, prevent and mitigate adverse impacts. (OECD Guidelines Stage 3)	5.5	Cargill has various mechanisms in place to address adverse impacts but fails to engage rightsholders and is frequently associated with adverse impacts, suggesting its mechanisms do not function adequately.
4.	Track implementation and results. (OECD Guidelines Stage 4)	7.5	Cargill has a fairly extensive monitoring mechanism against measurable KPIs and progress reporting.
5.	Communicate how impacts are addressed. (OECD Guidelines Stage 5)	5.5	Cargill provides a level of transparency in its RBC activities but fails to engage in social dialogue with stakeholders.
6.	Provide for or cooperate in remediation when appropriate. (OECD Guidelines Stage 6)	4.5	Cargill provides little guarantees on remediation for affected rightsholders and does not specify how remedies are determined and provided.
7.	Respect for and commitment to human rights in accordance with the UNGPs.	8	Cargill is involved in a wide range of projects, initiatives, and platforms to promote RBC.
8.	Respect for and commitment to labour rights in accordance with the ILO Fundamental Principles.	9	Cargill's policies follow ILO Core Principles and applies the same standards to suppliers.
9.	Intersectional gender perspectives and inclusive approach to human rights	6	Cargill makes explicit mention of non-discrimination to various groups across different policies but fails to integrate a gender sensitive approach.
10.	Proactive and committed attitude to continuous improvement	2	Cargill is consistently associated with gross violations of human rights, labour rights and environmental laws.
Total		63	

Cargill meets several the requirements under the OECD Guidelines, and has RBC policies publicly available on its global website, including a Code of Conduct¹⁴⁷, sourcing policies¹⁴⁸ and commitments on human and labour rights.¹⁴⁹ Cargill also specifies how responsibilities for HRDD processes are divided across different department, including across executive and senior level management. Although Cargill conducts risk assessment on deforestation as well as social dimensions, it only publishes summaries of these within the Sustainability Progress Reports. Cargill outlines a grievance process, including a roadmap of actions within defined timelines, and claims to engage suppliers to resolve issues, committing to improving their capability to do so when necessary. However, Cargill's Grievance Process does not specify commitments on remediation, aside from a footnote in the annex that *"Cargill is committed to work with the industry and experts to develop guidelines on remediation. Suppliers who are bound by these expectations must submit interim written commitments to remediate once details are finalized."*¹⁵⁰

Progress on Cargill's RBC performance are shared on the website, including through the Palm Oil Dashboard based on various tools and data sources. The company also has strong labour rights policies in place that explicitly refer to the ILO Fundamental Principles, requires suppliers to respect these labour rights across multiple policies, and specifies specific commitments on freedom of association, child labour, non-discrimination, conditions of work and OSH.

However, Cargill performs particularly poorly on engagement with and consultation of rightsholders. In addition, although Cargill has some diversity policies for its own workforce, it has not integrated gender perspectives across different RBC policies. Yet, Cargill's commitment on human rights includes explicit commitments towards migrant or temporary foreign workers, ethnicity, gender, language, physical ability, race, religion, sexual orientation, gender identity and expression, life experience and socioeconomic status.¹⁵¹

But despite a reasonably well-established RBC and HRDD mechanism, Cargill has been named the worst company in the world.¹⁵² Cargill has been frequently associated with gross violations, including child labour¹⁵³, deforestation¹⁵⁴ and labour rights violations such as union busting¹⁵⁵ and discrimination.¹⁵⁶ On top of that, Cargill is known as one of the biggest lobbyists in the agricultural industry,¹⁵⁷ and has consistently been associated with tax avoidance¹⁵⁸ and misuse of tax havens.¹⁵⁹

In response to our findings and the identified human rights abuses in Cargill's supply chain, the company explained it was "aware of the allegations" and is "closely following the developments" of each case. Only a small number of suppliers were more actively engaged through Cargill's responsible sourcing framework with an action plan in place. While such engagement of Cargill with suppliers is crucial, effecting a positive change to mitigate and prevent abuses requires a much more proactive involvement that goes beyond awareness and monitoring. As one of the largest traders and refiners of palm oil, Cargill has an incredibly important position of power that warrants a much stronger commitment to respect human rights in practice. In this sense, Cargill illustrates that strong policies on paper do not necessarily reflect reality.

5.5 Olenex

Olenex Sarl (Olenex) is a joint venture between Archer Daniels Midland Company (ADM), an American food company that is one of the four biggest global traders in agricultural products, and Wilmar International, a Singaporean food processing company focused mostly on palm oil, sugar and specialty fats and chemicals.¹⁶⁰

However, the governance structure and management mechanisms of Olenex as well as the applicability of RBC policies from Wilmar and ADM remain rather unclear. On Olenex's own website, the company shares a Code of Conduct, Wilmar's NDPE policy, sustainability progress reports and traceability information. For other mechanisms, Olenex refers to its 'sustainability partner' Wilmar for grievance mechanisms and sustainability policies, although Olenex relies on ADM's non-compliance mechanisms. Upon request for clarification, Olenex confirmed that the joint venture completely follows Wilmar's sustainability approach and procedures and is committed to increasing transparency on these governance structures and policy mechanisms between the joint venture and its parent companies.

Table 22 Olenex HRDD Performance

Criteria	Description	Score	Justification
1.	Embed responsible business conduct into policies and management systems. (OECD Guidelines Stage 1)	7.5	Olenex provides limited RBC information and policies, but has embedded Wilmar's mechanisms and procedures, which in turn provides extensive policies but leaves some gaps in how this is managed between departments and subsidiaries.
2.	Identify and assess actual and potential adverse impacts associated with the enterprise's operations, products or services. (OECD Guidelines Stage 2)	4.5	Neither Olenex nor Wilmar have a publicly available risk assessment, although it seems from policy commitments that the companies do conduct risks analysis. However, it could not be verified how and against which criteria these risks are assessed.
3.	Cease, prevent and mitigate adverse impacts. (OECD Guidelines Stage 3)	7	Wilmar's grievance mechanism provides fairly extensive information on how identified adverse impacts are ceased and mitigated, and progress is reported through grievance lists and annual progress reports on sustainability.
4.	Track implementation and results. (OECD Guidelines Stage 4)	8	Wilmar tracks NDPE compliance through various platforms, and Olenex publishes traceability information and progress reports, and uses both internal and external data to track implementation.
5.	Communicate how impacts are addressed. (OECD Guidelines Stage 5)	5	Olenex scores poorly on communication due to the consistent confusion of governance and corporate structure as a joint-venture, and grievances cannot be directly traced to Olenex, making the HRDD framework fairly untransparent.
6.	Provide for or cooperate in remediation when appropriate. (OECD Guidelines Stage 6)	7.5	Wilmar has strong policies against retaliation and commitments to protect whistleblowers, but does not outline cooperation with external judicial and non-judicial grievance mechanisms.
7.	Respect for and commitment to human rights in accordance with the UNGPs.	9	Olenex and Wilmar are actively participating in various international initiatives to promote respect for human rights in supply chains. The company is also actively working with NGOs and supports

			philanthropic projects in communities near its supply chain activities.
8.	Respect for and commitment to labour rights in accordance with the ILO Fundamental Principles.	8	Wilmar provides statements that commit to respecting all core labour rights, but provides no statement on actively cooperating with unions or worker representatives.
9.	Intersectional gender perspectives and inclusive approach to human rights	5	Wilmar has several policies in place that integrate gender perspectives, such as an Equal Opportunity Policy and a Women's Charter. The company also incorporates consultation with women through Women's Committees, but insufficiently integrated these principles and intersectional perspectives across RBC policies.
10.	Proactive and committed attitude to continuous improvement	6	Despite Olenex/Wilmar's commitments, the company has been consistently associated with labour rights, human rights and environmental abuses and has not taken sufficient steps to effectively prevent these issues in the future.
Total		67.5	

Wilmar provides an extensive overview of policies and mechanisms on its global website. However, the unclear nature of RBC responsibilities within the governance of this joint venture significantly limits transparency and accessibility. Nevertheless, Olenex is covered by Wilmar's extensive set of Supplier Guidelines¹⁶¹, several labour policies on OSH¹⁶², equal opportunities¹⁶³, a Human Rights Policy¹⁶⁴ and Framework¹⁶⁵, No Exploitation Protocol for Third-Party Suppliers¹⁶⁶ and more. These policies largely meet the requirements of the OECD Guidelines, with safeguards for human rights defenders, non-retaliation, multi-stakeholder consultation processes, clearly defined timelines and roadmaps, and continuously updated monitoring mechanisms. Wilmar has strong guidelines in place to respect all core principles, which are also applied to suppliers. Labour rights are integrated through several Wilmar policies, including the Supplier Guidelines, Equal Opportunities Policy, an OSH policy, Sexual Harassment, Violence and Abuse and Reproductive Rights Policy, a Women's Charter and more. Through these documents, Wilmar also demonstrates recognition of women's rights and the unique impacts that women face, despite leaving significant gaps in addressing other intersecting inequalities and failing to apply those principles to affected individuals outside of the workforce.

Across these policies, several limitations persist. Olenex does not strongly commit to consulting rightsholders across all stages of the due diligence procedures. In addition, the documentation is not optimised for accessibility: even for experts, it is difficult to identify which policies are relevant and apply, partially because of the confusion in governance structure but also due to the sheer number of different documents. In addition, the information is not available in Spanish and PDFs are not optimised for text readers, limiting accessibility for people who are visually impaired, illiterate, or who need to use automatic translators. The lack of a publicly available risk assessment that outlines how risks are assessed, prioritised and scored is a further limitation.

Regardless, Wilmar scores better than most competitors, but gaps in their policies also mean that the Olenex supply chain is not free of adverse impacts. As a smaller subsidiary, Olenex is not frequently named but parent companies Wilmar and ADM are associated with serious adverse impacts. In 2016, Amnesty International published a report alleging gross violations of labour rights in Wilmar's supply chain, including child labour, forced labour, dangerous working conditions and endemic discrimination against women. Although Wilmar acknowledged the findings, a year later Amnesty indicated it found no convincing evidence that Wilmar had addressed the issues.¹⁶⁷

In November 2019, Wilmar was associated with land grabbing, denying local communities in West Sumatra access to their customary lands, and intimidation and criminalisation towards human rights defenders. Although Wilmar launched an investigation and admitted that there were “outstanding issues within the region”, the communities allege that neither RSPO nor Wilmar have taken the actions necessary to address, cease and mitigate the human rights abuses.¹⁶⁸ Again in May 2020, Wilmar was linked to severe violence against local land defenders and land grabbing in Indonesia during the COVID-19 crisis through a supplier.¹⁶⁹

Also, ADM has anything but a clean record on human rights and environmental abuses. In July 2020, Amazon Watch associated ADM with the financing of large-scale deforestation, land grabbing and human rights abuses in the Brazilian Amazon.¹⁷⁰ ADM is also part of an ongoing class lawsuit for human trafficking, child labour and slavery on cocoa plantations in Côte d’Ivoire.¹⁷¹

5.6 Sime Darby Oils Zwijndrecht

Sime Darby Berhad is a Malaysian conglomerate trading across multiple industries, including industrial, motors, logistics, healthcare and retail.¹⁷² In 2017, Sime Darby Plantation Berhad (SDP) and its downstream brand Sime Darby Oils demerged from the Sime Darby Berhad group and became an independent entity. SDP owns a refinery in the Netherlands, Sime Darby Oils Zwijndrecht Refinery B.V., (formerly known as Unimills).¹⁷³

Table 23 Sime Darby HRDD Performance

Criteria	Description	Score	Justification
1.	Embed responsible business conduct into policies and management systems. (OECD Guidelines Stage 1)	7.5	SDP has fairly extensive RBC policies in place covering various areas, but the confusing corporate structure since the demerger leaves gaps in identifying which mechanisms apply.
2.	Identify and assess actual and potential adverse impacts associated with the enterprise’s operations, products or services. (OECD Guidelines Stage 2)	3.5	Although SDP conducts a risk assessment, this is not publicly available, and it was not possible to verify the contents and factors considered.
3.	Cease, prevent and mitigate adverse impacts. (OECD Guidelines Stage 3)	6	Although SDP has taken steps to cease adverse impacts, the company does not provide clear roadmaps or guidelines with timelines and leaves gaps in committing to engage with stakeholders.
4.	Track implementation and results. (OECD Guidelines Stage 4)	5	SDP claims to conduct proactive human rights due diligence and reports on palm oil supply chain using a traceability dashboard and sustainability progress reports, but the company leaves significant gaps in publicly communicating outcomes and fails to utilise external and reliable data sources other than internal mechanisms.
5.	Communicate how impacts are addressed. (OECD Guidelines Stage 5)	5.5	The confusion between Sime Darby Plantations, Sime Darby Oils and Sime Darby Berhad following the demerger makes the company’s communication fairly untransparent and it is often unclear which policies or mechanisms apply. This makes it difficult for stakeholders to assess how impacts are addressed.

6.	Provide for or cooperate in remediation when appropriate. (OECD Guidelines Stage 6)	5.5	The company has not publicly shared a grievance mechanism other than a Whistleblowing policy, and although the company commits to proactively providing effective remediation, it is not clear how remediation is managed.
7.	Respect for and commitment to human rights in accordance with the UNGPs.	7	SDP commits to following the UNGPs, contributing to the SDGs and applies NDPE and FPIC principles, but is relatively inactive in other initiatives.
8.	Respect for and commitment to labour rights in accordance with the ILO Fundamental Principles.	8.5	SDP has fairly strong policies in place to safeguard labour rights and provides commitments on all core issues.
9.	Intersectional gender perspectives and inclusive approach to human rights	5.5	SDP has integrated gender into its policies and considers factors such as ethnicity and other intersectional vulnerabilities but does not integrate these sufficiently and does not explicitly commit to women's rights.
10.	Proactive and committed attitude to continuous improvement	6.5	Although Sime Darby has made efforts to improve its RBC management, it has been associated with serious labour rights abuses and deforestation concerns.
Total		60.5	

Since the demerger, the ownership structure is fairly unclear, leaving ambiguity also in terms of RBC responsibilities and applicable mechanisms, particularly because Sime Darby Plantations (SDP) retained the name of its former holding company, yet is now an independent company. As part of this analysis, we only considered policies and mechanisms of Sime Darby Plantation (SDP), which is the independent holding company of Sime Darby Oils, including the refinery in Zwijndrecht, the Netherlands.

SDP has highly specified RBC policies for palm oil supply chains, which specify clear lines of responsibility on executive and senior management levels. The policies also apply to direct and indirect suppliers, which are risk assessed on NDPE principles – although this is not made publicly available. A particular strength of SDP's system is the guarantees of non-retaliation and safety of complaint raisers, through a Human Rights Defender Policy¹⁷⁴, a Whistleblower Policy¹⁷⁵, and non-retaliation commitments in other policies such as the Human Rights Charter.¹⁷⁶ The latter provides detailed commitments on human rights, including children's rights, land rights, and labour rights. These labour rights follow the ILO Fundamental Principles, and SDP commits to decent and fair wages, adequate housing, non-discrimination against various intersecting identities, OSH policies and labour standards that are applied to both own operations as well as suppliers. In this context, SDP also has a Gender Policy in place, and the company makes references to women's rights throughout its policies, for example by considering the rights of women smallholders and sexual harassment in the workforce.

However, the company also leaves significant gaps. The unclarity on ownership structures and responsibility lines also create a lack of transparency that makes it hard for impacted individuals and communities assess whether SDP is meeting its responsibilities. SDP also does not specify if and how it aims to remediate affected person(s) when a violation has occurred.

In general, SDP's policies are well-developed for its operations in Malaysia and Indonesia but fail to actively address impacts elsewhere. For example, the company's grievance mechanisms for workers focus on Malaysia, and it is not clear how they would apply to supply chain workers in Latin America, nor are these policies and mechanisms available in Spanish or other Latin American languages. In response to our findings, SDP emphasised that the company only sporadically buys from Latin American mills using spot market purchases, which it argues gives them little influence over operations in those countries. However, SDP increasingly sources Latin American palm oil and irregular purchases do not lift them from a responsibility to ensure that their supply chain is fair and just. SDP should therefore broaden the scope of its policies and grievance mechanisms and work actively with its direct suppliers to address issues in its Latin American supply chains.

Sime Darby Plantations has a relatively positive status as a leader in sustainably produced palm oil but has still been associated with RBC issues. In July 2020, an Hong Kong-based NGO, Liberty Shared, reported labour abuse in Sime Darby Plantations in Malaysia that included arbitrary penalties, sexual harassment, physical abuse, unfair pay deductions and poor housing.¹⁷⁷ Also in the Netherlands, workers went on strike in June 2020 following significant obstacles in the collective bargaining efforts, as workers felt the wage offered was too low on top of dismissals and a failure to cooperate in a new retirement plan.¹⁷⁸ In Latin America, there are renewed worries about deforestation driven by SDP, which is increasingly moving operations to the continent due to the restrictions on increasing oil palm plantations in Malaysia and Indonesia.¹⁷⁹

6

Analysis of Latin American palm oil sector

This section presents an overview of the Latin American palm oil sector. Emphasis is on the state of labour rights in the countries of study in general, addressing the situation of the agricultural sector and palm oil sector whenever information is available.

6.1 Colombia

Colombia is the fourth largest producer of palm oil in the world and the first in Latin America. According to Colombia's Ministry of Agriculture, the oil palm is cultivated in 70 percent of the national territory, corresponding to 22 departments in 124 municipalities. In 2018, palm oil production in Colombia generated about 170,000 direct and indirect jobs (on average, one direct formal job and 2.5 indirect jobs for every 7.5 hectares of land cultivated with the oil palm). Moreover, in 2019, palm oil in Colombia was produced by 6,000 producers of which 4,200 are small holder farmers. In the same year, there were 69 palm oil and palm kernel extraction plants. Over 50 percent of all palm oil produced in Colombia is exported. From this 50 percent, about 35 percent is destined for the Netherlands, making the country Colombia's main buyer of palm oil.¹⁸⁰

6.1.1 Working conditions

Colombia is a member of the ILO and has ratified all ILO Fundamental Conventions.¹⁸¹ According to Ulandssekretariatet, Colombia's labour market is regulated by complexed laws and decrees that set standards and restrictions.¹⁸² In this context, the ILO has registered 591 national labour, social security, and human rights-related legislation.¹⁸³

1. Child labour

Colombia has ratified all core international conventions concerning child labour, and the country made significant efforts to eradicate child labour, including the campaign 'Working is Not a Child's Task', aiming to prevent and eliminate child labour through awareness-raising efforts.¹⁸⁴ Likewise, the Ministry of Labour launched a virtual training campus for labour inspectors, including a Fundamental Rights at Work course with modules on child labour, and trained local officials on its Comprehensive Child Labour Information System. In addition, the government expanded the Eyes Everywhere anti-commercial sexual exploitation campaign. Laudable achievements notwithstanding, the government does not employ enough labour inspectors and children in Colombia engage in the worst forms of child labour, including in commercial sexual exploitation and illicit activities, each sometimes as a result of human trafficking.¹⁸⁵

In Colombia, minimum age specified is 15 and the country has not ratified C010 on Minimum Age in Agriculture.¹⁸⁶ This could help explain the incidence of child labour in the agricultural sector. According to the US Department of Labor, in 2019, over 3 percent of Colombia's working population was made up by children aged 5 to 14. Of this, 135,570 children (over 50 percent of the total) work in agriculture.¹⁸⁷ Young girls, particularly Indigenous women, and Venezuelan refugees, are at heightened risk of suffering from forced labour and exploitation, including commercial sexual exploitation. In the agricultural sector, adolescent girls often perform unpaid work on family farms, while facing long hours in unsafe working conditions. On top of this, young girls working in agriculture face gender-based discrimination and violence and sexual harassment in the workplace from male colleagues and plantation managers.¹⁸⁸

2. Freedom of association

The Colombian Constitution, through articles 39 and 55 confers the State the obligation to guarantee the right to form and join unions, bargain collectively, and conduct legal strikes. In this context, the State must promote agreement and other measures for the peaceful solution of collective labour conflicts.¹⁸⁹

In practice, however, problems remain related to various contractual arrangements, such as workers' cooperatives, service contracts and civil and commercial contracts, which cover genuine employment relationships and are used to prevent workers setting up trade unions. According to ITUC, Law no. 1453 of 2011 stipulates that those who grant collective "pacts" that provide better conditions, overall, for non-unionised workers than the conditions set out in the collective agreement for unionised workers in the same enterprise shall be liable to a sentence of between one (1) and (2) years and a fine of one hundred (100) to three hundred (300) times the legal minimum wage. However, according to some affiliates, applying this law is complicated and, in many cases, will depend on how the Judge assesses the "overall" advantages. Decree No 36 of 2016 regulates union contracts, under which unions provide manpower to employers, effectively shifting the role of unions from worker representatives to that of employer.¹⁹⁰ Moreover, Colombian labour legislation offers relatively strict protections for collective dismissals of workers but markedly flexible and weak protections for individual cases of dismissals. Furthermore, there are remarkably few restrictions on the provision of fixed-term contracts, and these can be renewed indefinitely.¹⁹¹

Regarding the right to strike, ITUC cites loopholes in the Colombian labour code that impedes that workers assert their rights. For example, Article 417, section (i), of the Labour Code still prohibits federations and confederations from calling strikes. Moreover, Article 450, paragraph 2, of the Labour Code also allows for the dismissal of workers who have taken part in a strike that was declared illegal, even when the illegality is the result of requirements that are contrary to the principles of freedom of association.¹⁹²

3. Living wages

Article 56 of Colombia's Constitution confers the Commission Permanent Agreement of Salary and Labour Policies the duty to establish the general minimum wage in a concerted manner, taking into account that a decent quality of life must be guaranteed for the worker and their family. In this context, the minimum wage is revised on yearly basis. Colombia's Minimum Legal Monthly Salary in force for 2020 is 877,803 COP (ca. € 208).¹⁹³ While the law stipulates that no worker in Colombia can be paid less than this mandatory minimum wage, in 2019, about 22 million people were paid salaries below the minimum.¹⁹⁴

While the Government of Colombia praises the country's minimum wage as "amongst the highest in the world",¹⁹⁵ the Ulandssekretariatet asserts that this is amongst the lowest in the LATAM region.¹⁹⁶

In addition, a persistent wage gap between men and women means that on average, women earn 10 percent less compared to their male counterparts, according to the Ulandssekretariatet.¹⁹⁷

With respects to wages in the palm oil sector, in 2019 a worker with an indefinite-term contract earned a monthly salary of \$ 1,249,127 (ca. € 291); while fixed-term workers earned an average of \$ 983,187 (229); a temporary sub-contracted worker earned \$ 919,177 (€ 214) and, finally, workers for work or service provision earned \$ 1,023,469 (€ 238).¹⁹⁸

4. Violations to trade union's rights

The Colombian palm oil industry has a long history of union presence and activity, but many of these organisations and their leaders and affiliates have also suffered multiple acts of anti-union persecution, violence and discrimination. Likewise, there is evidence of the Colombian justice collusion with paramilitary groups and some companies or palm businessmen (such as the case of Palmas de la Costa).¹⁹⁹ In this context, ITUG Global Rights Index rates Colombia amongst the worst ten countries in the world for workers.²⁰⁰

5. Occupational safety and health

A 2017 study captured the perceptions of workers in the Colombian palm sector about their health status in relation to their work. The risk factors of the sector identified include wear, fatigue and health-disease conditions associated with the trades of palm cultivation in the field and the industrial process in the oil extraction plant. Payment per Fresh Fruit Bunch (FFB) is the predominant remuneration modality in the sector and the main cause of worker fatigue. Repetitive movements, which are exacerbated by the increasing mechanisation of the sector, are the cause of physical exhaustion, including muscular discomfort as well as the prevalence of hernias. These conditions are compounded by workers' angst to lose the source of income. Although workers cannot be laid off due to work-caused disability or incapacity, they are generally relocated to other areas where they receive a lower salary. This causes great psychological and emotional pressure among the workers. The morbidity felt by the workers suggests that workloads, wear patterns associated with production, exposure to high temperatures and pesticides, in addition to the productive intensification derived from the way of organising work, significantly affect the health of workers in the Colombian palm oil sector.²⁰¹

According to the Colombian Federation of Insurance Companies (Fasecolda), in 2018, there were 9,821 palm oil sector workers affiliated to Occupation Risk Insurers (ARL). This corresponds to less than 6 percent of the total workforce. In the same year there were 2,172 work-related accidents, of which two resulted in dead and six in work-related diseases.²⁰²

6. Significance of the informal sector and migrant workers

Before the law, immigrant workers in Colombia enjoy relatively equal treatment as Colombian workers. In accordance with article 100 of the Political Constitution, on the rights and guarantees of foreigners in Colombia, and based on non-discrimination against foreign workers, in compliance with the conventions and recommendations of the ILO, the Ministry of Labour indicated that immigrants in Colombia have the right to enter into an employment contract; receive a salary for the provision of their services; be affiliated with the social security system in matters of health and pensions, with the ARL and with a family compensation fund; join an association and / or a trade union, and receive vacation pay. However, Law 1429 of 2010 (Law of Formalisation and Generation of Employment) repealed articles 74 and 75 of the Substantive Labour Code and, therefore, the obligation to comply with the proportionality of national and foreign workers in companies.²⁰³

Despite their legal entitlements, many immigrants (particularly those coming from Venezuela) face more precarious working conditions than their Colombian counterparts. Currently, only 25 percent of Venezuelan migrant workers in Colombia have an employment contract, which indicates that the majority (75 percent) work informally, even though they work up to 50 or more hours per week on average, compared to the average normal schedule of Colombian nationals (44 hours).²⁰⁴ Moreover, Venezuelan workers face high levels of xenophobia and work discrimination. As a result, job prospects are uncertain amongst Venezuelan migrants over 25 years of age, although 32 percent have attained higher education and 44 percent have completed tertiary studies.²⁰⁵

With regards to informality in the Colombian palm oil sector, trade unions estimate that almost 80% of the sector's workforce are informal workers. Colombian trade unions base their definition of informality on the contractual agreement of subcontracted workers, who do not have access to basic labour rights such as health and safety at work. In contrast, the Ministry of Labour asserts that less than 20 percent of the workers in the sector are informally employed because they are in the possession of a "labour" contract and their subcontracting occurs within the confines of the law.²⁰⁶ While women represent 19 percent of employed persons in agriculture, women are also more likely to be informally employed, and often perform unpaid labour in support of family members in the agricultural sector.²⁰⁷

7. Access to social security

Law 100 of 1993 sets the legal framework of the Colombian health care system. The social security, public, and private sub-systems are unified under the General System of Social Security in Health (SGSSS). Moreover, the system is organised around functions and responsibilities rather than population groups and there is mandatory universal health insurance to improve the equity and performance of public spending on health.²⁰⁸

Despite these provisions, the SGSSS has fallen short of the objectives stipulated in Law 100. In this context, the SGSSS was conceived in such a way that most of its members contributed, and a minority were subsidised. Today, after twenty-five years, there are more people receiving subsidies than those who contribute. This, in theory, is an achievement for social protection, as people working in the informal economy also have the possibility to access social security. However, this has resulted in a higher number of affiliates, but not all of them have effective access to health. The country remains incredibly unequal when it comes to accessing hospitals and healthcare professionals. In 2018, Colombia had 23 of the best 58 hospitals in Latin America, but these are concentrated in Bogotá, Medellín, Cali, and Bucaramanga, while a significant number of Colombians who are in regions such as the Orinoquia, Pacífica or Amazonia do not have access to even a basic health centre. In terms of health, the country is divided into castes, those who contribute and those who are subsidised, the rich and the poor, those who live in areas where there are good hospitals, and the rest.²⁰⁹

8. Discrimination

The Colombian Constitution recognises equality of opportunity and treatment.²¹⁰ The 2006 Anti-Discrimination Law forbids any kind of different treatment based on race, gender, family, social status, among others. Despite the legal provisions against discrimination, a 2019 study documented the widespread tolerance of Colombian companies and institutions to discrimination. This is most prevalent at contracting when applicants are rejected for gender reasons, not attributing some jobs to applicants on the excuse they do not fit the job profile while however, being qualified candidates. In the same way, discriminatory practices are carried out for age reasons, or derived from some physical condition that has also become due to age, but that does not prevent them from executing some different tasks, thus making it impossible to work stability, or their seniority.²¹¹

Women also face gender-based violence and discrimination in agriculture. According to Ulandssekretariatet, women in the cut-flower industry are subjected to pregnancy screenings before being hired, and face layoffs when they become pregnant. Due to the high rates of informality among women in this sector, the laws on non-discrimination are not effectively enforced in these cases. In addition, women in Colombia face a 'macho culture' as part of which they are more frequently hired for tasks perceived as low-skilled, and women are traditionally burdened with the lion's share of unpaid housework and childcare in addition to paid labour.²¹²

Moreover, Afro-Colombians, of whom the vast majority lives in poverty, are the most vulnerable group to labour exploitation.²¹³

6.1.2 Trade union involvement in the palm oil sector

1. Overall unionisation

According to Colombia's National Workers Union's School (Escuela Nacional Sindical, ENS), there were around 5,523 active trade unions in Colombia in 2017 representing over 1 million workers (12% of the total workforce). Close to three out of four (73%) were in the private sector and one out of four (27%) in the public sector.²¹⁴ Three trade union confederations represent about 27 percent of the unionised workforce:²¹⁵

- Confederation of Workers in Colombia (CTC)
- General Work Confederation in Colombia (CGT)
- Central Union of Workers (CUT)

These confederations represent workers towards employers and governments in formal bi- and tripartite institutions of the labour market. They are composed of regional and national federations from all sectors of the economy.²¹⁶

Women represent 41 percent of union membership, although this is mostly caused by the high levels of unionisation in the service sectors, where the majority of women are employed.²¹⁷

According to FNV the level of organisation in the Colombian palm oil sector is low: only 5 percent of direct workers are represented by unions, while the majority of indirect workers are not covered by CBAs. Trade unions in the Colombian palm oil sector include:²¹⁸

- SINTRATERCERIZADOS (outsourced workers' union).
- SINTRAINAGRO (National Union of Agricultural Industry Workers) represents workers in four sectors: banana, palm oil, sugarcane, and flowers.
- SINTRAPALMAS represents palm oil sector workers in the region of Puerto Wilches.

In March 2018, palm oil workers formed the General Union of Third-Party Agribusiness Workers (UGTTA), which, according to Solidarity Center currently represents 1,000 members.²¹⁹

2. Global Union Federation involvement

Colombia's three main trade union confederations (CTC, CGT, and CUT) are ITUC members.²²⁰ Five Colombian trade unions or trade union federations are IUF affiliates: SINTRAINAGRO, SINTRACIAT (Union of Workers of the CIAT International Center for Tropical Agriculture), SINALTRAINBEC (National Union of Workers of the Beverage, Food, Agri-Food System, Related and Similar Industries in Colombia), SICO (National Union of Workers of the Food Industry, and Beverages, Breweries, Maltera, Juices, Soft Drinks, and Soda of Colombia), and USTIAM (Union of Workers of the Beer, Beverage, Food, Malt and Similar Industry Workers).²²¹

3. Other trade union international solidarity programmes

Between 2017 and 2020, Mondiaal FNV has been supporting the work of Colombian trade unions to advance social dialogue in the palm oil sector and in the context of subcontracting. This is in the framework of FNV's Trade Union Cooperation Programme 2017- 2020.²²² Likewise, the Danish Trade Union Development Agency (Ulandssekretariat) works together with CUT to advance Social dialogue and accountability in the labour market. This programme runs from 2018 to 2021.²²³

Also, the Solidarity Center supports the work of Colombian unions to protect freedom of association, end subcontracting, and promote inclusion of women and Afro-descendant workers.²²⁴

Lastly, several foreign trade union federations support the work of ENS:²²⁵

- The German Trade Union Confederation (Deutscher Gewerkschaftsbund, DGB) funds a few of ENS' programmes and activities, including promotion of OSH awareness in the mining sector, social dialogue, and ENS' unions' opinion survey.

- The Trade Union Solidarity Centre of Finland (SASK) funds some of ESN's research, including domestic work, youth employment, and international exchange of rural workers.
- UNI Global Union.
- The American Federation of Labor and Congress of Industrial Organizations.

6.1.3 Industry associations

The National Federation of Oil Palm Growers (Fedepalma) is Colombia's palm oil sector association in charge of promoting the sector, a task for which it carries out both research and publicity work for the palm agroindustry. Its publications in the form of books, brochures, magazines, and others are distributed through its website and its documentation centre in Bogotá.²²⁶

6.1.4 Government involvement

In 2010, the Government of Colombia, through the Ministry of Agriculture and Rural Development (MADR) and the Ministry of Commerce, Industry and Tourism, launched the development plans for four key sectors of Colombia's agroindustry. In this context, the business plan for the Palm, Vegetable Oils and Fats sector seeks to create more than 89,000 jobs, with a production of more than three million tons by 2019.²²⁷

Moreover, in 2020 the Colombian Government, through MADR stated its intention to enter the Council of Palm Oil Producing Countries (CPOPC).²²⁸

6.1.5 Social dialogue

Colombia is one of the countries with the highest number of complaints to the ILO's regulatory supervisory bodies, especially the Committee on Freedom of Association (CLS). The 1990s were particularly difficult times for workers who could not fully exercise their rights to freedom of association and collective bargaining. Up until 2009, the country was frequently called upon to render explanations before the Commission for the Application of Standards of the International Labour Conference.²²⁹ In 2000, with the technical assistance of the ILO, the Special Commission for the Treatment of Conflicts before the ILO (CETCOIT) was created, a national tripartite body.²³⁰

According to the existing regulations for departmental subcommittees, Law 1757 of 2015 governs, on provisions regarding the promotion and protection of the right to democratic participation. Its article 111 indicates that: "Social dialogue is a democratic mechanism for citizen participation and the strengthening of civil society organisations, with the aim of promoting interaction, communication, consultation and monitoring of public policies at the national territorial level." However, the figure of the departmental subcommittees, which could and should deal with issues of labour disputes, is relatively young and the capacities of their tripartite members undergo continuous changes due to rotations and loss of learned skills.²³¹

Accordingly, social dialogue in the Colombian palm oil sector is still incipient. With shifting intensity, the issue of subcontracting has been the leading campaign of trade unions in the sector.²³²

6.1.6 Dutch governmental support

In 2020, the agricultural department (LAN Bogotá) of the Dutch Embassy in Colombia launched a strategy for the coming years to make the transition towards a more circular agriculture. This strategy is structured in two phases. In this context, a vision was developed, resulting in six priority areas in Colombia related to circular agriculture, including palm oil production. The vision is based on interviews with stakeholders from the private, public and academic sectors in Colombia and on the analysis of trade, policies, objectives, knowledge and activities in Colombia and the Netherlands. The second phase includes identifying actors and funding to implement this vision.²³³ The vision, however, does not encompass human or labour rights.

Moreover, the Dutch Government, through its presence in Buenos Aires, Argentina, provides funding to Solidaridad's Farmer Support Programme in Colombia.²³⁴

6.1.7 Civil society in the sector

1. NGOs

NGOs working in the Colombian palm oil sector include:

- Solidaridad works with farmers to improve agricultural practices and labour conditions in oil palm plantations.
- Asociación Minga, conducts a project on collective memory related to the impacts of Colombia's armed conflicts on, amongst others, workers in the palm oil sector.
- GRAIN regularly publishes investigative reports on the effects of palm oil cultivations on human rights and the environment, focusing, amongst other countries, on Colombia.
- Both ENDS partners with civil society organisations in Colombia to lobby for a sustainable palm oil sector.
- Amazon Watch partners with Indigenous and environmental organisations in campaigns for human rights, corporate accountability, and the preservation of the Amazon's ecological systems.
- In Colombia and Central America, Proforest delivers practical training on using High Conservation Values-High Carbon Stock Approaches (HCV-HCS) and other technical tools to deliver on NDPE (No Deforestation, No Peat, No Exploitation) commitments, as well as RSPO requirements – for lead assessors and producers.

2. Major lobby and campaign activities

The Belgian Coordination for Colombia (Belgische Coördinatie voor Colombia), together a handful of other organisations including 11.11.11, Oxfam Solidarité, FIAN Belgium, launched a campaign called "Colombian palm oil, a "clean" product?", with the objective to contribute to the restitution of illegally seized land, to guarantee the respect of full human rights for the displaced communities and other groups that have been affected by oil-palm farming in Colombia.²³⁵

Frontera Invisible is Transport and Environment's 28-minute documentary that seeking to raise awareness of the social and environmental impacts of palm oil production for biodiesel consumption and the role of Europe fuelling the demand for palm oil.²³⁶

6.1.8 Labour rights initiatives

1. Government initiatives

Practices such as outsourcing have always been part and parcel of the palm oil sector. As part of the process of ratifying the FTA between Colombia and the United States, in April 2011, the two then presidents, Juan Manuel Santos and Barack Obama, signed the Labour Action Plan (PAL) that included 37 measures on 10 topics, all focused on improving the protection of Colombian workers and guaranteeing many of the fundamental labour rights, which, until then, had been mocked by many Colombian businessmen. In subsequent years, despite numerous legislative changes and the substantial increase in the budget of the Ministry of Labour (both to hire inspectors and to reorganise the Ministry's institutional structure and to exert more pressure on the palm sector entrepreneurs, so that they would comply with labour laws and stop practicing union discrimination), efforts have not been enough and, beyond some partial processes of labour formalisation, especially in certain companies in the central area of the country (Palmas del Cesar, Palmas de Monterrey and, more recently, Indupalma), job insecurity and instability continue to be the daily bread for most of the thousands of workers who work activities in this sector.²³⁷

2. NGO initiatives

In Colombia, Solidaridad launched the global producer support program "Farmer Support Program", which amongst other things incentivises certification as a means to formalise the situation of rural workers and improve safety and hygiene conditions on plantations.²³⁸

3. RSPO

Eighteen growers in Colombia are RSPO certified in addition to 22 certified mills, producing 390,186 tonnes across a certified production area of 82,092 hectares.²³⁹ In addition, a total of ten growers and ten processors are RSP members.²⁴⁰ As the biggest producer of palm oil in Latin America, Colombia has been at the forefront of increasing sustainable production and has significantly grown certified volumes: RSPO certified volume has increased with 13.9 percent from 2018 to 2019.²⁴¹ Moreover, according to Solidaridad's most recent study on production and trade of sustainable palm oil in Colombia, 89 percent of the exports to the Netherlands are certified.²⁴² Despite this positive growth, neither RSPO membership nor certification necessarily have an immediate effective impact, particularly when it comes to labour rights and human rights which are inadequately protected in the RSPO norms and Colombian union members continue to face violence and discrimination.²⁴³

4. Other multi-stakeholder initiatives

In 2018, Solidaridad, the Netherlands' Oils and Fats Industry (MVO), the Colombian National Federation of Oil Palm Growers (Fedepalma), and the Sustainable Trade Initiative (IDH) signed a joint declaration to increase the production and trade of sustainable palm oil between Colombia and the Netherlands. The parties involved intend to strengthen bilateral cooperation towards increasing exports of sustainable palm oil in line with the European ambition to embrace 100% sustainable palm oil by 2020. It will also support the Colombian Zero Deforestation Agreement signed by Solidaridad in 2017. Particularly, the signatories to the agreement will support the promotion of good labour practices, social inclusion and protection of high conservation value areas (biological, ecological, social or cultural) through responsible supply chain management as well as the further development a circular economy approach in palm oil production.²⁴⁴

Moreover, in 2011, the governments of Colombia and the United States signed the Labor Action Plan to address rampant labour rights violations and to restricts employer subcontracting and outsourcing.²⁴⁵

Lastly, in 2009, Partners of the Americas, a non-governmental organisation based in Washington, DC with a presence in Colombia, and the National Federation of Oil Palm Growers - FEDEPALMA, signed a memorandum of understanding to join forces in the implementation of the "Palma Futuro" project. "Palma Futuro" is a project funded by the United States Department of Labor (USDOL) and implemented by Partners of the Americas in alliance with Social Accountability International (SAI) and J.E. Austin Associates (JAA). The project is developed in Colombia, Ecuador, Peru and Brazil, and seeks to implement Social Compliance Systems in the palm oil supply chain as well as to fight child labour, forced labour and the promotion of acceptable working conditions.²⁴⁶

6.2 Costa Rica

The land surface cultivated with the oil palm in Costa Rica in 2018 was approximately 68,143 ha, distributed in three of the six functional or planning regions of the country (Central Pacific Region, Huetar Caribe Region and Brunca Region). In this context, the canton with the highest concentration of land dedicated to palm cultivation corresponds to Corridors with a total of 23,961 ha.²⁴⁷

In 2019, the Costa Rican palm sector generated around 7,245 direct jobs and 5,000 indirect jobs. Likewise, the production of palm oil generates benefits for more than 37,000 people, among them 3,899 producers, of which 33 percent work independently and 67 percent are members of cooperatives or associations.²⁴⁸

In Costa Rica, oil palm production is in the hands of the public-private sector, mainly by Compañía Palma Tica S.A. and by the Cooperativa Agroindustrial de Servicios Múltiples de Productores de Palma Aceitera R.L. (Coopeagropal). The National Chamber of Oil Palm (CANAPALMA) is the regulatory body between producers, industry, national and international market.²⁴⁹

6.2.1 Working conditions

Costa Rica has ratified all core ILO conventions.²⁵⁰

1. Child labour

Costa Rica has taken significant steps to eradicating child labour. Although 1.1 percent of children between ages five and fourteen engage in labour, the vast majority of children are in school (96.8 percent). Over one third of child labour in Costa Rica takes place in the agricultural sector, particularly cultivating tropical fruits like banana and pineapples, picking coffee, raising cattle or fishing.²⁵¹

Costa Rica has ratified all key ILO conventions concerning to child labour, and has incorporated laws and regulations in national mechanisms, including a minimum age of work of 15 years (18 years for hazardous work), penal prohibitions for forced labour and child trafficking, and free public education with a compulsory education age.²⁵²

Although the Costa Rican labour inspection has enforced the laws against child labour fairly well, enforcement in rural areas is challenging due to insufficient funds to cover the high costs of traveling, time commitments and facilities.²⁵³

Girls in rural areas, as well as LGBTQI+ youth, Indigenous children, and children from Afro-descendant communities face barriers in accessing and completing basic education due to systemic discrimination, racial and gender-based violence and impoverishment, which increases their vulnerability to child labour.²⁵⁴

2. Freedom of association

The Costa Rican Code of August 23, 1943 determines in its Article 262 the right of association. Article 272 classifies unions into company, industrial, mixed, or various trades unions. Likewise, it recognises the right of association without prior authorisation with twenty workers or five employers and its constitution must be registered with the Ministry of Social Protection. Moreover, it consents to the formation of trade unions of independent workers or ex officio and allows unions to form union federations and confederations (art. 278).²⁵⁵

Article 364 defines the right to strike as the temporary abandonment of work. For it to be declared, it requires that it be done by a group of workers (of three or more) for the purpose of improving or defending their economic and social interests, but it is prohibited in public services (arts. 368 and 369). The lockout is allowed to two or more employers to defend their economic interests, as long as they give one month's notice. Collective conflicts are resolved through direct settlement stages in which the parties involved try to settle the conflict. Conciliation is facilitated by delegates representing each of the disputing parties and, if necessary, the interested parties can file for arbitration before going on strike or unemployment.²⁵⁶

CBAs are regulated through professional law and its entitlements must be adapted to all existing individual or collective contracts or those that are later made in the companies, industries or regions included in these CBAs.²⁵⁷

3. Living wages

The minimum wage system in Costa Rica is complex. Introduced in 1933 with a separate minimum wage for each sector and occupation, further depending on region, enterprise size and skill level, by 1987 the wage decree included 520 different minimum wage levels. This was revised multiple times, and at the moment there are different minimum wages for unskilled, semi-skilled, skilled and specialised workers, plus five additional rates depending on educational level.²⁵⁸

A generic unskilled or semi-skilled worker – which is generally how agricultural workers are classified – is entitled to a minimum wage of CRC 316,965 (€ 432.81) or CRC 341,004 (€ 465,64) per month, respectively.²⁵⁹ However, the living wage per month, based on a family of four with 1.56 workers in a rural area, is estimated at CRC 433,282 (€ 591,65).²⁶⁰

4. Violations to trade union's rights

In 2020, Costa Rica ranked two out of five at ITUC's Global Rights Index. This means that there is a repeated violation of rights.²⁶¹ Moreover, according to ITUC, most private companies do not protect the right to freedom of association. In this context, attempting to form a union or join an existing one exposes the worker to various forms of persecution, including dismissal. Furthermore, in the absence of an adequate institutional response, these events occur in a context of impunity.²⁶²

Since 2019, the Costa Rican Union of Palm oil Industry Workers (SITRAPA) has denounced union busting at Palma Tica, a palm oil producer based in Puerto Jiménez.²⁶³

5. Occupational safety and health

Costa Rica has ratified none of the ILO Conventions on OSH, including C155 – Occupational Safety and Health Convention, 1981 (No. 155), nor C184 – Safety and Health in Agriculture Convention, 2001 (No. 184). However, Costa Rica has implemented OSH regulations and frameworks in national legislation. The Costa Rican Constitution requires employers to take all necessary hygiene and security measures in the workplace, and the General Regulations form the leading legislation on OSH by providing for obligatory OSH conditions t all workplaces, some of which are specified through separate decrees addressing specific hazards or risks, such as the use of pesticides.²⁶⁴

Nevertheless, agricultural work is the most dangerous work for Costa Ricans, particularly for the informal workers who enjoy little protection. Across all economic sectors, 9.7 workers per 100,000 employees fall victim to fatal occupational injuries and over 9400 workers per 100,000 employees are injured non-fatally at work.²⁶⁵

6. Significance of the informal sector and migrant workers

Not unlike other countries in the region, informality in Costa Rica is high. According to ITUC, the rate of informal employment in Costa Rica rose from 36 percent in 2010 to 45 percent in 2016, despite unemployment rate hovering around 9 percent in this period. Of these, over 77 percent of workers in the informal economy were living in poverty.²⁶⁶ Women are more likely than men to be informally employed at 40 and 32.4 percent respectively.²⁶⁷

With respects to migrant workers, ITUC states that as of 2019, there were one million migrant workers in Costa Rica, the majority of which are employed in especially vulnerable sectors such as transportation, agriculture, construction and domestic work.²⁶⁸ According to Solidarity Center, the majority of these workers are Nicaraguan.²⁶⁹

7. Access to social security

Costa Rica's health services system is made up of mainly by the Costa Rican Social Security Fund (Caja Costarricense del Seguro Social, CCSS), which is the governing institution of social security and the one in charge of public insurance of health and pensions in Costa Rica. Other services that are part of the service system health authorities are: The National Insurance Institute (INS) (with jurisdiction on risks and work accidents), Costa Rican Institute of Aqueducts and Sewers (AyA) (in charge of water provision and wastewater disposal) and the Ministry of Health (in charge of sectoral leadership and programs). The first three institutions are semi-autonomous, while the Ministry of Health forms part of the Executive Branch.²⁷⁰

Tripartite contributions finance the CCSS: employers (9.25% SEM), workers (5.50% SEM) and the State (0.25% SEM) 52. The State makes contributions from public workers, in a subsidiary way, part of what corresponds to self-insured persons.²⁷¹ The CCSS has two types of insurance: health insurance and pension insurance against disability, old age and death (IVM). Health insurance allows access to health services and cash transfers in the event of incapacity to work due to illness or maternity leave. The pension insurance includes the transfer in money when the condition of disability, old age or death is met. Access to social security is closely linked to the employment status from which benefits are capitalised.²⁷²

From that perspective, contributory health insurance coverage is 94 percent representing 72.40 percent of the country's economically active population. From 2009 to 2013, the coverage of direct actively insured persons has been increasing slowly, while the proportion of uninsured persons has been in decline.²⁷³ In addition, by working seasonally at the request of their employers, many migrant workers in Costa Rica are deprived of the right to social security.²⁷⁴

However, both in the informal and the formal sector, women have less access to social security coverage than working men, which is partially caused by the lack of childcare services for children younger than three years, which limits the ability of women to enter the labour market while their children are young.²⁷⁵

8. Discrimination

In 2017, Costa Rica introduced a Labour Procedure Reform. Labour discrimination is one of the main cross-cutting of the reform, including 14 grounds of discrimination in article 404 of the Labour Code: age, religion, race, ethnicity, sex, sexual orientation, marital status, political position, union affiliation, filiation, national ancestry, social origin, economic situation, and disability of any kind.²⁷⁶

Despite the reform, acts of union discrimination continue to occur. The aforementioned normative modification has not been a sufficient remedy to stop the unjustified dismissal of workers, particularly of those wanting to form or join a union. In addition to the possibility of facing dismissal, unionised workers face acts of discrimination and persecution such as the assignment of tasks not appropriate to the worker's professional profile and associated salary reduction.

Likewise, discrimination based on gender and national origin is widespread, with labour exploitation of women and migrants being frequent.²⁷⁷ Although in the formal sector, non-discrimination laws are relatively well enforced, women receive lower wages and are vulnerable to gender-based violence.²⁷⁸ Nevertheless, Costa Rica scores relatively well on gender equality (rank 13 out of 153 assessed countries in the Global Gender Gap Index 2020), scoring high on political empowerment (rank 6), but lagging behind on gender equality in economic participation and opportunity (rank 112).²⁷⁹ According to UN Women, Costa Rica has implemented over 80 percent of legal frameworks that promote, enforce and monitor gender inequality.²⁸⁰ Recent policy and legislative initiatives on women's equality in agriculture and rural areas, such as the Gender Action Plan of the National REDD+ Strategy are promising advances towards greater gender equality in these sectors.²⁸¹

6.2.2 Trade union involvement in the palm oil sector

1. Overall unionisation

Freedom of Association is guaranteed through Law No. 2, of Costa Rica's Labour Code of August 26, 1943. Article 344.²⁸² However, migrant workers are exempted from the right to unionise, though they can be represented by unions.²⁸³

According to ITUC, the public sector accounts for more than 80 percent of Costa Rican unionism, yet overall unionisation in Costa Rica remains low at 0.49 percent of the economically active population and 0.54 percent of the employed population.²⁸⁴

With regards to the palm oil sector, the Costa Rican Union of Palm oil Industry Workers (SITRAPA) Costa Rica's main workers union. As of 2020, SITRAPA represents 205 workers nationally.²⁸⁵ Another union exists at Palma Tica, however, it is said that this is a yellow union.²⁸⁶

According to a case study by trade union SITRAPA on unionisation among women in the banana and pineapple sectors, union membership is particularly prohibitive for women working in agriculture. Not only do women work long, strenuous days for lower wages than their male counterparts, they are also burdened with childcare and unpaid housework, which means that they face a double working day. This leaves women working on plantations with very little time and energy to participate actively in trade unions.²⁸⁷

2. Global Union Federation involvement

SITRAPA is an IUF member and so are two Costa Rican trade union federations: FENTRAGH (National Federation of Agroindustry, Gastronomy, Hotel and Related Workers) and SINTRACOBAL (Industrial Union of Costa Rican Banana and Related Free Workers).²⁸⁸ Likewise, two federations are ITUC affiliates: Central del Movimiento de Trabajadores Costarricenses (CMTIC) and Confederación de Trabajadores Rerum Novarum (CTRN).²⁸⁹

3. Other trade union international solidarity programmes

In Costa Rica, the Solidarity Center supports agricultural unions active in the banana, sugar cane and pineapple sectors to train and mentor organisers, facilitate worker affiliation with unions and empower workers, many of whom are migrant and indigenous migrant workers, to effectively advocate for their interests. Moreover, Solidarity Center works together with the Costa Rican Union of Workers in the Sugarcane Industry (SINTRAIKA) to improve housing, strengthen occupational health and safety measures and end wage theft for migrant cane sugar cutters in its collective bargaining agreements.²⁹⁰

6.2.3 Industry associations

The National Chamber of Oil Palm (CANAPALMA) is the regulatory body between producers, industry, national and international market.²⁹¹

6.2.4 Government involvement

In 2010, the Government of Costa Rica launched the Law for the rescue, strengthening and sustainability of the National Palm Sector (Comprehensive Reform Law 8868)N ° 9817. Amongst other things, the law outlines the State's responsibility to allocate, to the extent of its possibilities, institutional resources for the development of training programs, strengthening, sustainability, innovation, entrepreneurship, environmental and business responsibility. In this context, the implementation of the plan involves the following governmental bodies: Ministry of Agriculture and Livestock (MAG), Ministry of Science, Technology and Telecommunications (Micitt), Ministry of Environment and Energy (Minae), the Ministry of Economy, Industry and Commerce (MEIC), Ministry of Public Education (MEP), the National Institute for Innovation and Transfer in Agricultural Technology (INTA), the State Phytosanitary Service (SFE), the Rural Development Institute (Inder), the National Groundwater Service Irrigation and Drainage (Senara), and the

National Learning Institute (INA). While not stating any specific commitments towards improving the rights of workers in the palm oil sector, the law's objectives include "consolidating associative schemes with workers and small and medium producers, in order to generate greater employment and income opportunities and a greater democratisation of the property and production of the palm agroindustry."²⁹²

6.2.5 Social dialogue

There are three legally constituted tripartite bodies in Costa Rica: High Labour Council (CST), the National Wage Council (CNS) and the management boards of institutions such as the Costa Rican Social Security Fund (CCSS).²⁹³ Moreover, in response to the COVID-19 emergency, in August 2020, the Costa Rican government launched an initiative to promote social dialogue called "Costa Rica escucha, propone y dialoga" (literally, Costa Rica listens, proposes, and dialogues), with the objective to expand processes to exchange proposals, recommendations and visions on issues such as finance, economic reactivation with the different sectors of society.²⁹⁴

Despite these institutions and programmes, trade unions and other workers' support organisations criticise the lack of political will to engage in social dialogue, calling these initiatives "a suggestion box" rather than a venue for social dialogue.²⁹⁵

6.2.6 Dutch governmental support

The Dutch Embassy in San José, Costa Rica, the Netherlands Business Support Offices (NSBSOs) and the Netherlands Enterprise Agency (Rijksdienst voor Ondernemend Nederland - RVO), all support Dutch companies to secure business relationships in Central America, including Costa Rica.²⁹⁶ Officials at the embassy and consulate, as well as the NBSOs, help businesses through connecting partners and providing advice on conducting business in the countries where NBSOs are present. The RVO, which is the official agency for entrepreneurs, further supports these efforts with access to financing, as well as providing assistance and information on trading.

6.2.7 Civil society in the sector

1. NGOs

The following NGOs have initiatives aiming at the sustainability of the Costa Rican palm oil sector:

- Coecoceiba - Movimiento Ecologista (Friends of the Earth Costa Rica);
- Costa Rica Conservation Federation (FECON);
- Biodiversity Coordination Network (RCB);
- Latin American Network Against Tree Plantations (RECOMA) is a decentralised network of Latin American organisations, created in 2003, with the basic objective of coordinating activities to oppose the expansion of large-scale monoculture tree plantations on a regional level, be these for the production of timber and pulp, for the production of palm oil or to act as "carbon sinks."²⁹⁷
- Costa Rica's Children Defence International (Defensa de Niñas y Niños Internacional, DNI Costa Rica).

2. Major lobby and campaign activities

The first four NGOs mentioned above have formed a front of persons affected by agribusiness (Encuentro de Afectados y Afectadas por los Agronegocios). The front addresses conflicts caused or accentuated because of the expansion of monocultures. These conflicts include access to drinking water, contamination and depletion of natural resources, problems of land tenure and lack of titling in peasant and indigenous territories, unemployment, and the future of young people.²⁹⁸

6.2.8 Labour rights initiatives

1. Government initiatives

In October 2016, the government of Costa Rica together with employers' and workers' organisations adopted a Tripartite Agreement for the Implementation of ILO Recommendation 204 on the Transition from the Informal to the Formal Economy. The agreement aims to reduce informal employment to 32 percent by 2025, as well as facilitating the formalisation of informal workers and economic units, promoting the creation of decent jobs in the formal economy, and preventing the informalisation of formal jobs. Based on this and with ILO's support, a process of social dialogue was initiated to draw up a national strategy and an action plan to implement the contents of Recommendation 204. This process culminated in February 2028 with the signing of a tripartite agreement for the implementation of this strategy.²⁹⁹

2. NGO initiatives

DNI Costa Rica implements over 90 different advocacy and capacity building programmes to eradicate child labour and exploitation in Costa Rica.³⁰⁰

3. RSPO

Only one oil palm grower and one processor in Costa Rica are RSPO members, although three mills and one grower have achieved certification covering 174,844 tonnes across 22,377 hectares.³⁰¹

4. Other multi-stakeholder initiatives

The Costa Rican Union of Chambers and Associations of the Private Business Sector has a series of inter-chamber commissions working on the following labour issues:³⁰²

- CCSS Commission: Monitors the financial situation of the CCSS and proposes possible solutions.
- Committee for Social Development: It is made up of a group of specialists in labour and social issues from the different affiliated chambers. It is dedicated to analysing and deepening this matter and issues that have an impact on the sector. Its objective is the technical analysis of the different social topics to make proposals on issues of national validity.
- Salary Commission: Analyses, discusses and recommends to the Board of Directors the setting of the minimum wage in the private sector.

6.3 Ecuador

With a yearly production value of 615,000 tonnes of palm oil, Ecuador is the seventh largest producer of palm oil in the world, and the second largest in South America after Colombia.³⁰³ In 2018, Ecuador exported USD 196 million worth of palm oil, around 60 percent of its total production, mostly to Colombia (USD 147 million, 74.8 percent), Mexico (USD 13.6 million, 6.97 percent) and the Netherlands (USD 12 million, 6.15 percent).³⁰⁴

Palm oil is a growing industry in Ecuador and covers a land area of 267,760 hectares. Esmeraldas, a northern department bordering Colombia, is by far Ecuador's largest palm oil producing region, making up around 40 percent of Ecuador's 250,000 hectares in oil palm plantations, followed by Los Ríos, Pichincha, Santo Domingo, and Sucumbíos & Orellana.³⁰⁵

In 2017, there were 6,658 palm oil companies in Ecuador, and most of the oil palm plantations are held by smallholders (90 percent of smallholders together hold about 40 percent of oil palm plantations), though a number of bigger players are involved in the plantation, milling, processing and trading of palm oil.³⁰⁶ In fact, 29 growers together controlled 31 percent of the palm oil cultivation, and only seven companies are responsible for 56 percent of all palm oil exports.³⁰⁷ Although the agricultural sector only contributes 9 percent to the GDP³⁰⁸, the sector employs 29.2 percent of the Ecuadorian workforce.³⁰⁹

A unique aspect of Ecuador's palm oil industry is its approach to RSPO certification, using jurisdictional certification on province-level, see the section on **Solidaridad** launched the global producer support program "Farmer Support Program", which amongst other things incentivises certification to formalise the situation of rural workers and improve safety and hygiene conditions on plantations.

RSPO.

6.3.1 Working conditions

Ecuador has ratified all eight ILO Fundamental Conventions, as well as three out of four priority Governance Conventions, except for *C129 – Labour Inspection (Agriculture) Convention, 1969 (No. 129)*. In general, a significant weakness in Ecuador's labour rights protection is the limited coverage for agricultural workers. In addition to the convention on labour inspections in agriculture, Ecuador has also not ratified *C184 – Safety and Health in Agriculture Convention, 2001 (No. 184)* nor key conventions to protect freedom of association and collective bargaining (such as *C135 – Workers' Representatives Convention, 1971 (No. 135)* and *C154 – Collective Bargaining Convention, 1981 (No. 154)*). Additionally, Ecuador leaves gaps in protection of occupational safety and health (the country has not signed *C155 – Occupational Safety and Health Convention, 1981 (No. 155)* as well as several industry-specific OSH and hazardous work conventions relevant to agriculture, such as working with chemicals).³¹⁰

Ecuador's national legislation largely meets international minimum standards on paper, but several significant gaps persist, particularly regarding enforcement. The Ministry of Labour in Ecuador oversees the country's labour law implementation, which is further supported by the Ministry of Social and Economic Inclusion. The main legal instruments that establish the foundations of Ecuadorian labour law are the Ecuadorian Constitution. The Labour Code stipulates basic rights on working hours (8 hours per day, five days per week maximum, Art 47 of the Labour Code), leave (Art 42, 43 and 152 of the Labour Code), and the Constitution sets out general rights and protections for workers such as the right to work (Art. 33), protection against discrimination at work (Art 43, 331), rights to decent wages (Art. 328) and general labour rights (Art. 326).³¹¹

These laws are quite regularly updated and amended and provide reasonable coverage to protect the rights of workers. Yet, as mentioned, enforcement is a different story. Although in recent years, the Ecuadorian government has taken significant steps to improve the translation from laws on paper to protection on the work floor by introducing new monitoring systems (REF), increasing resources for labour inspections, increases of the minimum wage, and various government programmes to counter forced and child labour.³¹²

Despite those steps, workers particularly in the agricultural industry in impoverished, rural areas, such as the palm oil sector, enjoy little protection. Various reports, including the UN Special Rapporteur on Contemporary Forms of Slavery³¹³ and Verité³¹⁴, shed light on the harsh realities that agricultural workers face: from the inaccessibility of the government's grievance mechanisms due to illiteracy and lack of Internet access, to the lack of protection for informal work arrangements. Despite the legally safeguarded rights to collective bargaining and freedom of association, workers report violence against union members and retaliations towards human rights defenders. A general distrust in the government – particularly among undocumented and migrant workers – combined with disproportionate corporate power, a lack of inspections and poor

implementation of protective mechanisms, means that workers in the agricultural industry are largely on their own in fighting against low wages, hazardous work, and exploitative conditions.³¹⁵

1. Child labour

Ecuador has ratified all key international conventions regarding child labour and has adopted a variety of national laws and policies to regulate child labour in line with international standards, such as a minimum age for work of 15 (or 18 for hazardous work, which includes the agricultural sector regarding dangerous tasks such as applying pesticides or clearing land), prohibitions on forced labour, child trafficking and sexual exploitation or use of children in illicit activities. In this context, Ecuador's Labour Code prohibits child labour and non-compliance is punished in accordance with article 95 of the Code on Children and Adolescents.³¹⁶ However, more significant gaps remain in the implementation of these regulations, particularly due to a lack of financial and human resources to enforce the laws.³¹⁷

Although significant advancements have been made recently to eliminate the worst forms of child labour in Ecuador, including through new protocols to combat trafficking and a national action plan to eradicate child labour, thousands of children continue to be exploited in dangerous types of work. In 2018, 168,530 children between ages 5 to 14 were working, which constitutes 4.9 percent of all children in this age group. Most of these children work in agriculture (82.3 percent), which includes the palm oil sector.³¹⁸

2. Forced labour

Despite ratifications of ILO Conventions against forced labour as well as national legislation, forced labour in the Ecuadorian palm oil sector remains a persistent issue. Particularly at risk are Columbian migrants and refugees in the bordering regions, who face trafficking and misleading recruitment to work on plantations under poor living conditions, long hours with little or no pay, and a general disregard for basic labour rights.³¹⁹ As undocumented workers, these workers are in a particularly precarious position and are often unable to claim their rights without facing retaliation, violence and dismissals. This also relates to the unfair recruitment mechanisms through which poor rural workers and migrants are employed at plantations through brokers that provide misleading information about the wages, quality of housing and working conditions.³²⁰ A combination of informal work agreements, repression of social dialogue and collective bargaining, and retaliation against rights defenders makes it difficult if not impossible for workers to protest against these poor conditions, particularly since many of them are highly dependent on the work for an income and cannot risk dismissal or penalties. Women are among the most vulnerable workers to fall victim to trafficking and forced labour, including in the agricultural sector. This particularly affects impoverished women who are the breadwinners of a household, such as widowed women, single mothers, and migrant women.³²¹

3. Freedom of association

Ecuador has ratified all relevant ILO Conventions on freedom of association and collective bargaining (C087 - Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87), C098 - Right to Organise and Collective Bargaining Convention, 1949 (No. 98), C011 - Right of Association (Agriculture) Convention, 1921 (No. 11)).³²²

The Ecuadorian Constitution also stipulates freedom of association, the right to strike and collective bargaining:

"The right and freedom to organize shall be guaranteed to workers, without prior authorization. This right shall include that of forming trade unions, guilds, associations and other forms of organization, joining those of their choice and freely withdrawing from them. (...) Collective bargaining between workers and employers shall be guaranteed, barring those exceptions provided for by law. (...) The right of workers and their trade-union organisations

to strike is recognised. The representatives of trade unions shall have the necessary guarantees in these cases.” (Ecuador Constitution, Art. 326)

These rights are further codified through the Labour Code, which states:

“Workers and employers, without distinction and without need for prior authorization, are entitled to form professional associations or unions that they deem appropriate, to join or withdraw from them, with observance of the law and the statutes of the respective associations. Professional associations or trade unions have the right to constitute themselves into federations, confederations or any other trade union groupings, as well as joining or withdrawing from or international workers' or employers' organizations. Any worker over the age of fourteen may belong to a professional association or a union.” (Código del Trabajo, ley núm. 2003-13, Art. 440).

The Labour Code also further stipulates the registration of associations, prohibitions against retaliation or unfair dismissal of union members and other protections. Despite these legal safeguards, unions face significant difficulties, see point 6 in this section (Violations to trade unions' rights).

4. Living wages

Agricultural workers on oil palm plantations in Ecuador are entitled to a minimum wage of USD 401.41 (€ 339.69) per month.³²³ This minimum wage is set by the Ministry of Labour depending on the sector and skill level of the worker and increased yearly based on factors such as inflation. Workers on palm oil plantations are considered unskilled workers within the agricultural sector and receive the lowest level of minimum wage as set by the government. However, the cost of living in rural Ecuador is USD 461 (€ 390.19) per month based on a family of four, whereas the cost of basic but decent living is USD 681 (€ 576.39).³²⁴

In reality, many agricultural workers do not even receive this minimum wage. Palm oil plantations, particularly medium and large-scale producers, often favour piece-rate systems. Under Ecuador's national laws, such payment systems still need to meet or exceed the minimum wage, but workers report that often it is impossible to meet this minimum wage with the set piece-rates. In fact, most workers (85 percent) earn far below the minimum wage, whether they are formally or informally employed. The low pay is also caused by the various deductions that employers utilise, such as deductions for housing, use of PPE, contributions to social security, or commissions to labour brokers and contractors. On top of that, certain groups of workers, such as women, indigenous peoples, migrant (Colombian) workers and those of Afro-descent, receive even lower wages. Women often partner with male heads of their households to meet the piece-rate quota and as such, do not earn an independent income but rather support the income of male workers. Even when women do earn independent incomes and are the breadwinners of a household, the additional costs that women incur because they must pay for childcare leaves them with less income to cover other basic needs.³²⁵

5. Violations to trade union's rights

Ecuador received Rating 5 in the ITUC Global Rights Index 2020, indicating that it is among the worst countries in the world for workers, with insufficient guarantees of rights for workers and exposure to unfair labour practices. In the same report, Ecuador is associated with violations of the right to strike, extreme violence – including murder – and repression of workers.³²⁶

Discrimination and violence against union members is a prevalent issue across the agricultural sector. On banana plantations, workers who are union members are blacklisted and any attempts at collective bargaining, open criticism or internal complaints are often retaliated against with dismissals. An Oxfam study on banana plantations found that in none of the 20 companies researched, workers were independently organised or unionised due to fears for dismissals and retaliations.³²⁷

The current government of President Lenín Moreno has also been accused of excessive force against protesters and human rights defenders during protests on multiple occasions.³²⁸ Additionally, cases have been reported where union leaders and members were harassed, fired, or even charged with criminal charges for organizing protest activities.³²⁹

6. Occupational safety and health

Ecuador has not ratified key ILO Conventions to protect the occupational safety and health of palm oil workers, including the C184 Safety and Health in Agriculture and C129 - Labour Inspection (Agriculture) Convention).³³⁰ Also Ecuador's national legislation on OSH is particularly poor, and although the Ministry of Labour has invested in increased labour inspections, the government did not effectively enforce OSH laws – and the limited number of penalties were too insignificant to have an impact. On top of that, most workers in agriculture are employed informally and do not fall under protection of OSH laws.³³¹

Workers on palm oil plantations are vulnerable to a wide variety of risks to their health and safety, including overexposure to the sun, injuries from working at height, cuts from sharp tools, the use of heavy equipment, transport accidents and use of chemicals.³³² A particular health and safety risk for agricultural workers are pesticides, herbicides and other toxic products, against which they are offered little to no protection. When PPE or health checks are provided, the costs of these services are deducted from workers' wages.³³³

Women are at heightened risk, since those who are recruited by palm oil plantations are often among the most vulnerable workers desperate for an income, such as widowed women, single mothers and migrant women living in extreme poverty. Because of their situation, these women often perform the most dangerous and strenuous tasks against the lowest wages, in addition to facing sexual violence and harassment from colleagues and managers.³³⁴

7. Significance of the informal sector and migrant workers

The vast majority of Ecuador's workforce, 73.6 percent of the country's employed population in 2019, works in the informal economy, which makes Ecuador one of the countries in Latin America with the highest rate of informal employment.³³⁵ The rate of informality has been growing in Ecuador since 2015, and is expected to rise even further due to the COVID-19 crisis. According to ILO data from 2015, women are more likely to be informally employed (60.9 percent) than men (57.8 percent) particularly in the agricultural sector, which in general has one of the highest informality rates compared to other sectors.³³⁶ Similarly, migrant workers, indigenous peoples and workers from African descent also face higher rates of informality. These workers are often recruited through brokers and recruitment firms, which puts workers in a precarious position with high dependency on these middlemen, little stability or guarantees, and no protection of their rights.³³⁷ Informal workers are also not covered by the vast majority of labour laws, despite the notion in the Ecuador Constitution that "all people shall be entitled to carry out their work in an appropriate, favourable setting, guaranteeing their health, bodily safety, security, hygiene and well-being" (Art. 326).

Similarly, migrant workers, who are also overrepresented in the informal sector, are among the most vulnerable groups to face exploitative labour conditions with little to no protection. Ecuador has not ratified the ILO Convention on Migrant Workers (1975, No. 143). Most of the palm oil production takes place in the northern department Esmeraldas, which borders Colombia and is home to a high number of Colombian refugees. These refugees, who often work on the plantations, are particularly vulnerable to exploitation, facing debt bondage, inhumane living conditions, excessive working hours, and low pay.³³⁸

8. Access to social security

Ecuador has ratified multiple ILO Conventions on social security, including C102 - Social Security (Minimum Standards) Convention, 1952 (No. 102). Furthermore, the Ecuador Constitution states that *“the right to social security is a right of all persons and it cannot be waived, and it shall be the State that must bear the prime duty and responsibility for this right.”*

These benefits are provided by the national Social Security program part of the Ministry of Labor, but employers need to register workers with the program, which means that informal workers are not covered by the system. Additionally, there are multiple reports that employers fail to register workers in the social security system, and the low coverage puts workers at a high risk of falling into poverty when falling ill or losing a job.³³⁹

Many palm oil companies hire workers either through informal arrangements or through labour brokers to avoid having to provide social security. Not only do workers not have access to benefits, it also means that their employment is precarious, making it difficult to complain or address labour rights violations.³⁴⁰

9. Discrimination

Ecuador has ratified ILO Convention C111 – Discrimination (Employment and Occupation) Convention, 1958 (No. 111) and has included multiple principles of non-discrimination in the workplace as part of the Constitution, yet discrimination and violence against women, racial groups and migrant workers is persistent.

In the Ecuadorian Constitution, the State declares that “any form of discrimination, harassment or violent action, of any nature, whether direct or indirect, affecting women at work is forbidden” (Art. 331). Yet Ecuadorian women are frequently exposed to discrimination and gender-based and sexual violence in the workplace, particularly in agricultural and informal settings.³⁴¹ Oxfam Deutschland reported on discrimination against women on Ecuadorian banana plantations, where women received one-third less in wages compared to their male counterparts, and were fired or discriminated against due to pregnancies.³⁴² In the palm oil sector, women are exposed to wage discrimination and get assigned jobs that are perceived as requiring less skill and therefore warranting lower pay. This also exposes them to heightened health risks, since women often work with fertilisers and pesticides without PPE, even when pregnant.³⁴³

Article 9 of the Ecuadorian Constitution requires that foreigners be provided with the same rights as citizens, yet migrant workers, particularly undocumented workers from Colombia and those from African descent, face high levels discrimination. These workers are more frequently employed informally under poor conditions and face violence, xenophobia and racism. Because of their precarious position, they often do not have the ability to protest and are forced to take the heaviest, lowest paying and most exploitative jobs.³⁴⁴

6.3.2 Trade union involvement in the palm oil sector

1. Overall unionisation

In recent years, the number of officially registered trade unions in Ecuador has increased to 5,882 unions in 2019, an increase of 32% compared to 2013.³⁴⁵ However, since around 4.5 million workers are employed informally, particularly in the agricultural and palm oil sector, a significant portion of workers do not have access to union representation.

There are, however, also concerns about the number of new unions. Most new unions were founded during the President Correa government and in contrast to older, existing unions, these organisations are more favourable towards government policies. According to ITUC, there is a deliberate attempt to fragment unions in Ecuador to weaken the positions of older, authentic unions.³⁴⁶

Ecuador’s umbrella unions (Centrales de trabajadores) include :

- Central Sindical del Ecuador (CSE)
- Confederación de Trabajadores Ecuatorianos (CTE)
- Confederación Ecuatoriana de Obreros Católicos (CEDOC)
- Confederación Ecuatoriana de Organizaciones Clasistas Unitarias de Trabajadores (CEDOCUT)
- Confederación Ecuatoriana de Organizaciones Sindicales Libres (CEOSL)
- Unión General de Trabajadores del Ecuador (UGTE)
- Frente Unitario de Trabajadores (FUT)
- Frente Popular (FP)

In addition, several unions represent agricultural workers:

- Unión General del Trabajadores de Ecuador (UGTE)
- Confederación de Trabajadores Ecuatorianos (CTE)
- Confederación Ecuatoriana de Organizaciones Sindicales Libres (CEOSL)
- Agricultural Workers' Union (UTENAC)
- Federación Única de Afiliados al Seguro Social Campesino (FEUNASSC)
- Mujeres por el Cambio
- Central Única de Comerciantes Minoristas y Trabajadores Autónomos (CUCOMITAE)
- Unión de Campesinos Asociados y Asalariados Agrícolas (UCAE)
- Comité de Empresa y Sindicato de Trabajadores de Nestlé Ecuador S.A. (CESTNE)
- Federación Sindical Independiente de los Trabajadores-as del Ecuador (FESITRAE)
- Confederación Ecuatoriana de Organizaciones Clasistas Unitarias de Trabajadores (CEDOCUT)

2. Global Union Federation involvement

Two Ecuadorian unions are IUF affiliates:³⁴⁷

- Comité de Empresa y Sindicato de Trabajadores de Nestlé Ecuador S.A. (CESTNE)
- Federación Sindical Independiente de los Trabajadores-as del Ecuador (FESITRAE)

ITUC lists only one Ecuadorian union in its member list:³⁴⁸

- Confederación Ecuatoriana de Organizaciones Clasistas Unitarias de Trabajadores (CEDOCUT)

3. Other trade union international solidarity programmes

The Solidarity Center's education programme in Ecuador aims at increasing workers' knowledge of labour law and of instruments to monitor compliance with labour law. This programme focuses on developing leadership of young workers and working women in public and private sectors.³⁴⁹

6.3.3 Industry associations

Two major industry associations represent producers in the Ecuadorian palm oil sector:

- National Association of Palm Oil Growers, ANCUPA
ANCUPA, founded in 1970, aims to represent the interests of palm oil producers, increase productivity, and promote sustainable production. ANCUPA carries out research on palm oil production, provides workshops and support for growers to achieve certifications and permits. ANCUPA represents over 7,000 producers, of which the majority (87 percent) are small-scale producers, although many of these small plantations are in fact in the hands of larger family holding.³⁵⁰
- Foundation of Promotion of Oil Palm Exports, FEDAPAL. Up until 2017, FEDAPAL was actively promoting its activities online. Currently, there is no information that confirms whether or not this industry association is active in the Ecuadorian palm oil sector.

6.3.4 Government involvement

The National Government of Ecuador, through the Ministries of the Environment (MAE) and of Agriculture, Livestock, Aquaculture and Fisheries (MAGAP), are the main supporters of the Ecuadorian palm sector. In this context, the Ecuadorian government has proposed to achieve RSPO certification for the sector, implementing a process of active participation with local governments, MAE, MAGAP, civil society, unions, and producers. Despite the involvement of unions in this process, the stated goal of this initiative is to decrease deforestation and on paper, not much emphasis is given to human and labour rights.³⁵¹

6.3.5 Social dialogue

The Ecuadorian Constitution states that “Social dialogue shall be used to settle labour disputes and reach agreements” (Art. 326). However, the Labour Code does not include any safeguards around social protection or tri-partite systems.

Through a 1992 decree (Acuerdo ministerial núm. 039-A del Ministro de Trabajo y Recursos Humanos), the Ministry of Labor did institute sectoral commissions to function as tri-partite organs to determine wages. A decree from 2004 (Decreto núm. 1779 por el que se crea el Consejo Nacional del Trabajo) also dedicated a tri-partite function to the National Labor Council to advise, foster social dialogue and facilitate negotiations. Despite little legal standing, tripartite social forms have been successfully introduced in the agricultural industry, particularly in the banana and flower sector.³⁵²

6.3.6 Dutch governmental support

Dutch companies trading with or doing business in Ecuador, including in the palm oil sector, can get support from various Dutch government agencies. The RVO provides support to Dutch companies through the network of embassies (the embassy responsible for Ecuador is located in Lima, Peru) and consulates (in Guayaquil and Quito, Ecuador).³⁵³ Additionally, the Dutch ‘Landbouwrapaad’ (agricultural council) supports Dutch companies in the agricultural sector to trade with and do business in Ecuador, including the import of palm oil.³⁵⁴

Moreover, the Dutch Government, through its presence in Buenos Aires, Argentina, supports Solidaridad’s Farmer Support Programme in Ecuador.³⁵⁵

6.3.7 Civil society in the sector

1. NGOs

NGOs working in the Ecuadorian palm oil sector include:

- Acción Ecológica
- Ecumenical Human Rights Commission of Ecuador (CEDHU)
- Pachamama Foundation
- APDH (the Permanent Assembly for Human Rights)
- INREDH (Regional Foundation for Human Rights Support)
- CDDH (the Commission for the Defense of Human Rights)
- Commission for Human Rights of the Northeast, of Los Rios, of Esmeraldas, of Guayas, of Azuay
- WWF Ecuador
- Solidaridad

2. Major lobby and campaign activities

Within the framework of its forest and freshwater programme, WWF Ecuador regularly organises workshops for different actors, including civil society organisations, government institutions and international organisations involved in the palm oil sector, including RSPO.³⁵⁶

6.3.8 Labour rights initiatives

1. Government initiatives

In 2005, the Government of Ecuador, in alliance with different national and international NGOs and civil society organisations, developed the National Plan for the Prevention and Progressive Eradication of Child Labour in Ecuador (PETI), which is executed through different projects led by the Ministry of Labour. Since the PETI was applied, the palm oil production sector has focused on preventing child labour and improving the living conditions of people active in the sector.³⁵⁷

Moreover, ProAmazonia, or the Amazon Integral Program for Forest Conservation and Sustainable Production, is a 5-year programme by the Ecuador Ministry of Environment, Ministry of Agriculture, and the United Nations Development Program (UNDP). Although the program is mostly focused on conservation, forest restoration and ecosystem protection, it also seeks to actively consult and include workers, women, and smallholders to improve decision-making and general production conditions.³⁵⁸

2. NGO initiatives

Solidaridad launched the global producer support program "Farmer Support Program", which amongst other things incentivises certification to formalise the situation of rural workers and improve safety and hygiene conditions on plantations.³⁵⁹

3. RSPO

In 2017, the Ecuadorian government imposed jurisdictional RSPO certification, adopting RSPO principles at the national level and certifying entire provinces rather than individual companies or plantations. This approach would allow regional governments to exert more control over the conditions for smallholders, protect labour and human rights and prevent deforestation, while at the same time it would improve Ecuador's position in the world market. The system also makes it easier for smallholders to get certified, by aligning with provincial criteria rather than applying as individual companies, but critics worry that mass certification may dilute minimum standards, and implementation of jurisdictional certification requires a long-term government commitment, which is not ensured.³⁶⁰

Two growers and nine processors in Ecuador are currently RSPO members, and one grower and mill are currently certified (producing 6,269 tonnes of certified volume on an area of 1,468 hectares).³⁶¹ However, due to the jurisdictional approach to RSPO, this is expected to grow significantly in the coming years.

4. Other multi-stakeholder initiatives

In the banana industry, the Banana Occupational Health and Safety Initiative (BOHESI), largely funded by the Dutch government, is a multi-stakeholder collaboration between governments, companies, banana producers and NGOs to regulate the rights and treatment of workers particularly in relation to safety at work. The project is largely funded by the Dutch government through the Sustainable Trade Initiative (IDH) and is run by Solidaridad, Banana Link, the Ecuador Ministry of Labour and ministry of Agriculture, with support from the ILO and FAO.³⁶²

Moreover, the public and private sectors execute the Competitive Improvement Plan of the Oil Palm Supply Chain (PMC), which is a space where the strategies and actions necessary to achieve a productive transformation of the palm chain are defined in an efficient, sustainable, and socially inclusive way. PMC is an instrument for dialogue and discussion that is covered by the Framework Agreement signed by MAGAP, the Ministry of Foreign Trade (MCE), the MAE and the Ministry of Industries and Productivity (MIPRO). In addition, an Interinstitutional Monitoring Committee for Sustainable Palm (CISPS) has been created with public and private actors involved in the oil palm supply chain, which will have the responsibility of defining and promoting policies, actions and the different plans that are being developed to the implementation of RSPO certification at the national and jurisdictional level. This Committee was created by Ministerial Agreement No. 145 of May 23, 2017.³⁶³

6.4 Guatemala

In just the last three decades, Guatemala has become the sixth top producer of palm oil in the world, and the second biggest producer in Latin America behind Colombia.³⁶⁴ With an annual production of 852,000 tonnes in crude palm oil and an export value of USD 446 million in 2018, the palm oil industry contributes 1.2% to the country's GDP.³⁶⁵

The vast majority, around 80% of the crude palm oil produced in Guatemala is exported³⁶⁶, in particular to the Netherlands (USD 163 million, 41% of total exports), followed by Mexico (USD 73 million, 18.7%), Spain (USD 71 million, 18.1%), El Salvador (USD 42 million, 10.7%) and Nicaragua (USD 16.5 million, 4.2%).³⁶⁷

According to GREPALMA, the biggest palm oil industry association in Guatemala, the industry has generated 28,000 jobs directly plus supports 140,000 indirect jobs³⁶⁸, although these figures are widely criticised for being a gross overestimation, particularly since most of these jobs are not permanent employment but rather informal daily wage labour.³⁶⁹

In total, 165.5 thousand hectares of land in Guatemala are dedicated to palm oil production, which means that around 1.5% of the total land area in Guatemala is used for oil palm plantations. The most important departments for oil palm cultivation are Péten (75,227 ha), Izabal (26,862 ha), Alta Verapaz (24,825 ha), Escuintla (11,102 ha) and San Marcos (9,416 ha).³⁷⁰

6.4.1 Working conditions

Guatemala has ratified all ILO Fundamental Conventions, as well as the four priority Governance Conventions. In addition to the Guatemalan Constitution, which lays out core rights for workers, the Guatemalan Labour Code (Código de Trabajo) is the main legal instrument regulating the rights at work. Ministry of Labour and Social Welfare (Ministerio de Trabajo y Previsión Social) is responsible for implementation, enforcement and monitoring of this legislation.

1. Child labour

Guatemala has ratified the fundamental ILO conventions concerning child labour – including Convention 138 on Minimum Age and Convention 182 on the Worst Forms of Child Labour, as well as the UN Convention on the Rights of the Child. Guatemala's domestic laws and regulations also largely meet minimum international standards on child labour – barring some significant limitations such as the minimum age for child labour at 14 instead of 15 – and the government has made significant strides in addressing child labour since 2019 with the introduction of new protections for adolescents, a new multi-agency mechanism providing care for child trafficking victims, and the adoption of monitoring and evaluation tools as part of an anticipated action plan to combat child labour.³⁷¹

The reality on the ground, however, is far more sobering. According to the US Department of Labor, nearly 290,000 children aged between seven and fourteen are engaged in child labour in Guatemala, representing 9.3% of all children in this age group. Child labour is particularly prevalent in the agricultural sector, which includes the palm oil sector, where 67.5% of working children are employed.³⁷² In this type of work, child labourers face dangerous work, low wages, long working days, and little to no social protection as day wagers. Specific groups of children are particularly at risk of falling into child labour, most significantly indigenous children – who account for half of all child labourers in Guatemala, - girls and children living in rural areas.³⁷³ The high rates of illiteracy among girls, which is partially caused by the barriers to access education for girls due to high school fees, insufficient sanitary facilities at public schools and the risks associated with travelling to and from school. Because of these reasons, completion rates of primary education are significantly lower among girls, which not only puts them at increased risk of child labour but also puts them on a trajectory of less access to decent work, lower wages and informal employment later in life.³⁷⁴

2. Freedom of association

Guatemala has ratified all core ILO Conventions on the right of association and the rights to organise and collective bargaining, including Convention 11 on the Right of Association specifically for the agricultural sector.³⁷⁵

Article 34 of the Guatemalan constitution stipulates a recognition for the right of association as well as the right to join trade unions, which *“can be exercised without any discrimination and without being subject to any previous authorization, having only to fulfil the requirements established by the law. The workers may not be dismissed for participating in the establishment of a union, must be able to enjoy such a right from the time that they notify the General Inspectorate of Labour.”* However, the constitution also places limitations, such as only allowing Guatemalans by birth to intervene in the organisation, direction and advising of labour unions.

While on paper and in legislation, workers have the right to form unions and negotiate collectively, only a very minor percentage of workers are unionised or participate in collective bargaining due to the repressive regime and persistent violations of the right to organise.

Additionally, in February 2020 the Guatemalan Congress approved a decree (No. 4-2020) that restricts freedom of association through criminalisation of foreign funding for “activities that alter public order in national territory”, which would potentially include trade unions and NGOs opposing to suppression of workers’ rights.³⁷⁶ However, following several appeals by CSOs and human rights organisations, the Constitutional Court upheld the decree, recognising that it would breach human rights.³⁷⁷

3. Living wages

Guatemala’s minimum wage for agricultural work is GTQ 90.16 per day (€ 9.85) or GTQ 2,742.37 (€ 299.72) per month.³⁷⁸ Yet the cost of living for a family in rural Guatemala is estimated at GTQ 4,363 (€ 325.89) per month.³⁷⁹ In other words: when working for minimum wage, a palm oil plantation worker needs to work over 48 days a month to sustain their family – an impossible feat. To make matters worse, agricultural workers are often paid far below minimum wage, and on average receive GTQ 61 for long working days of nine to twelve hours.³⁸⁰

Women, particularly Indigenous women, migrant women, and women from ethnic, religious or language minorities, are hardly employed on palm oil plantations and have less access to employment in the sector. But even when they are hired on plantations, they usually perform tasks that are perceived as low-skilled, such as work in plant nurseries, for which they receive much lower pay than their male counterparts.³⁸¹

4. Violations to trade union's rights

Guatemala has a long and violent history regarding the systemic repression of trade unions and violence against its members. Well into 2020, union busting, violence against union leaders and retaliation against workers who partake in collective actions continue to make Guatemala one of the most dangerous places in the world for labour rights defenders. In the ITUC Global Rights Index, Guatemala was given a rating of 5, indicating that the country provides no guarantee of rights and workers are exposed to autocratic regimes and unfair labour practices. As such, Guatemala is named as one of the worst countries in the world of work.³⁸²

The legal protections that Guatemala has in place fail to safeguard the right to organise, the freedom of associations, and the right to collective bargaining, particularly in sectors where informality rates are high, including the agricultural sector. Union members and leaders do not only face unfair labour practices such as dismissal, unfair recruitment, and harassment, they even face violence. Guatemala has the highest per capital rate of trade unionist assassinations. Also, in the agricultural sector, workers do not feel safe to organise and as a result, workers are often forced to accept poor working conditions and low wages to avoid facing retaliation.³⁸³

5. Occupational safety and health

Guatemala has ratified most key ILO Conventions on OSH, including C129 on Labour Inspections (Agriculture). The national legal framework regulating occupational safety and health (OSH) in Guatemala has improved significantly over the last five years, but still leaves significant and concerning gaps. The Ministry of Labour and Social Welfare (Ministerio de Trabajo y Previsión Social) is responsible for implementation and monitoring of OSH and implementation of the General Regulations on Occupational Health and Safety (Reglamento General sobre Higiene y Seguridad en el trabajo), which places obligations on employers to prevent occupational accidents and illnesses (Art. 198 of the Guatemalan Labour Code).

However, as is the case with most labour rights issues in Guatemala, the OSH laws on paper are not effectively implemented and enforced, particularly in the agricultural sector where informality is rampant. Not only do plantation workers face hazardous work with strenuous tasks, but they also often have little or no access to PPE. Palm oil plantation workers are often expected to bring their own PPE and tools, need to either purchase it themselves, or employers deduce a portion of their wage to cover the costs of the equipment supplied by the plantation.³⁸⁴ As a result, many plantation workers do not work with the necessary protective equipment when engaging in hazardous work. In fact, 56% of palm oil plantation workers did not use protection when applying herbicides.³⁸⁵

Companies are also legally required to maintain a first aid kit (Art. 197 of the Labour Code) and provide medical services to workers who are injured at work. However, this is often not the case in the agricultural sectors, and workers report that particularly temporary workers, subcontractors, and informal workers do not have access to medical services from the company.³⁸⁶

6. Significance of the informal sector and migrant workers

In Guatemala, seven out of every 10 employed persons are in informal employment, according to the 2019 National Survey of Employment and Income (ENEI). In this context, the sectors with the highest rate of informal employment are agriculture, artisan, merchants, all of them with 62 percent of informality.³⁸⁷ Women are more likely to be informally employed than men (79.1 and 69.1 percent respectively).³⁸⁸

7. Access to social security

In the constitution, Guatemala recognises and guarantees the right to social security, managed by the Instituto Guatemalteco de Seguridad Social (Guatemalan Social Security Institute, IGSS). Although all workers that benefit from social security are expected to contribute to the system, retirees have a right to gratuitously receive allowance payments and complete coverage of medical

services. Both employers and workers are expected to contribute to the social security system, but workers in the agricultural sector report that despite deductions from their wages for social security and benefits contributions, they never received IGSS social security cards and were not registered in the IGSS system. As a result, even formally employed workers who contribute to the social security system do not always have access to the benefits.³⁸⁹

8. Discrimination

The Guatemalan Constitution requires employers provide equal remuneration for equal work under equal conditions, levels of efficiency and seniority (Art. 102) and the Labour Code prohibits discrimination in recruitment based on gender, ethnicity, and marriage stages (Art. 151). In addition, the Labour Code provides some protections for female workers, particularly for pregnant and breastfeeding women.³⁹⁰

Nevertheless, Guatemala ranks poorly on gender equality, placing 126th (out of 189 countries) in the Gender Inequality Index.³⁹¹ These inequalities are also apparent among workers in palm oil plantations. The percentage of women hired in palm oil plantations ranges between 0.75 percent and 2 percent of the total workforce.³⁹² If women are hired, they are often conducting tasks deemed as low-skilled, such as cooking, cleaning or working in the plant nurseries, and receive low wages.³⁹³ On top of that, because mostly men are hired at plantations who work long days for low wages doing heavy tasks, women face an increased burden to take care of their families as well as earning additional money to supplement their husband's or father's incomes.³⁹⁴

Women, particularly migrant and Indigenous women, also face high risks of gender-based violence and harassment, both in the workplace as well as around palm oil plantations due to the disproportionate influx of a predominantly male workforce. Impoverishment and a lack of economic opportunity also pushes many women around palm oil plantations into sex work, which also increases their vulnerability to sexual and gender-based violence.³⁹⁵

6.4.2 Trade union involvement in the palm oil sector

1. Overall unionisation

As a result of years of violence against union members and repression of organised labour, the level of unionisations has dropped significantly over the last decades. With only about 30 unions in the private sector left, today only 2.6% of Guatemala's workforce is unionised, which is among the lowest rates in the world.³⁹⁶

2. Global Union Federation involvement

Two trade unions in Guatemala are members of IUF:³⁹⁷

- Federación Sindical de Trabajadores de la Alimentación, Agro Industria y Similares de Guatemala (FESTRAS)
- Sindicato de Trabajadores Bananeros de Izabal (SITRABI).

Additionally, three unions are members of ITUC:³⁹⁸

- General de Trabajadores de Guatemala (CGTG),
- Confederación de Unidad Sindical de Guatemala (CUSG)
- Unión Sindical de Trabajadores de Guatemala (UNSITRAGUA).

3. Other trade union international solidarity programmes

Solidarity Center works in Guatemala educating workers on their basic rights under domestic labour law and international labour standards, assist them in adjudicating labour rights violations, and help them improve their wages and working conditions through unionisation campaigns.³⁹⁹

Mondiaal FNV supports the work of Builders and Wood Workers International (BWI) in Guatemala building the advocacy capacity of local unions in the construction sector.⁴⁰⁰

Lastly, in 2019, CNV Internationaal together with trade union confederations MSyPAG launched the Labor Rights Observatory in Guatemala. This observatory will support the trade union movement in Guatemala with knowledge and research on the fight against violations of labour rights.⁴⁰¹

6.4.3 Industry associations

The most important industry association for palm oil producers in Guatemala is GREPALMA, established in 2008 to represent both SMEs and industrial farmers in the sector.⁴⁰² GREPALMA is a powerful industry association with close ties to government officials. Since 2017, GREPALMA has openly supported the unconstitutional efforts by President Morales to expulse a UN Commission Against Impunity and its members are consistently accused of supporting corrupt government officials and supporting the constitutional crisis in Guatemala, as well as being guilty of severe human and labour rights violations and violence against union members.⁴⁰³

6.4.4 Social dialogue

According to Ulandssekretariatet, in Guatemala, labour disputes are governed by the labour code. These are first attempted to be solved under direct settlement between employers and workers. If settlements are not reached, the case may be referred to a Court of Conciliation, which makes a conciliation offer. If that is rejected, the case may be referred to arbitration by the Court of Arbitration, if the parties agree. These courts are presided by a judge from the Ministry of Labour and Social Affairs, and one each representing workers and employers. The most frequent employment disputes that result in litigation involve claims of unlawful termination, with the plaintiff seeking payment of indemnities and reinstatement. Employment disputes involving alleged breaches of collective bargaining agreements with unions also frequently result in litigation.⁴⁰⁴

6.4.5 Dutch governmental support

The Dutch Embassy in San José, Costa Rica, the Netherlands Business Support Offices (NSBSOs) and the Netherlands Enterprise Agency (Rijksdienst voor Ondernemend Nederland - RVO), all support Dutch companies to secure business relationships in Central America, including Guatemala. Officials at the embassy and consulate in Guatemala City, as well as the NBSOs, help businesses through connecting partners and providing advice on conducting business in the countries where NBSOs are present. The RVO, which is the official agency for entrepreneurs, further supports these efforts with access to financing, as well as providing assistance and information on trading.

6.4.6 Civil society in the sector

1. NGOs

The Campesino Unity Commission (Comité de Unidad Campesina, CUC) is a peasant and farm worker organisation that advocates for better agricultural wages and campaigns against discrimination of indigenous peoples.⁴⁰⁵

Solidaridad runs an occupational health and safety programme with smallholder farmer suppliers to the Pantaleón sugar mill in Guatemala, in cooperation with the National Sugarcane Owners Union (Unión Nacional de Cañeros, UNC-CNPR).⁴⁰⁶

6.4.7 Labour rights initiatives

1. RSP0

One processor and four palm oil growers in Guatemala are RSP0 members, and the country produces 419,340 tonnes of certified volumes across 63,855 hectares by seven certified growers and ten certified mills.⁴⁰⁷

Despite the higher uptake and certification rates of Guatemalan producers, the RSPO has faced significant scrutiny in the country. In 2016, an RSPO conference effectively excluded civil society and indigenous organisations from participation in the debates due to the high costs of the conference tickets. In addition, RSPO overestimates the number of smallholders in the industry and thereby misrepresents an industry that is in fact dominated by a handful of large players, particularly in the Guatemalan post-war context as part of which indigenous peoples and communities have lost lands to privatisation funded by the government and the World Bank.⁴⁰⁸ Additionally, prominent RSPO members in Guatemala have been associated with deforestation, water pollution and human rights abuses, including unfair and discriminatory labour practices towards women.⁴⁰⁹

6.5 Honduras

The palm oil industry in Honduras has grown rapidly, and production has more than doubled since 2005. In 2018, Honduras exported a total value of USD 294 million of palm oil, mostly to the Netherlands (50.2 percent), Spain (22 percent), and El Salvador (9.18 percent).⁴¹⁰ This makes Honduras the eighth biggest producer of palm oil, fourth in Latin America behind Colombia, Guatemala and Ecuador.⁴¹¹

Currently, fifteen palm oil mills dominate the industry, sourcing the fruit bunches from 190,000 hectares of plantations, which includes lands owned by these same companies, as well as smallholders and cooperatives. The institutional weaknesses within the country since the coup d'état in 2009 and the current presidency of Juan Orlando Hernández, have contributed to an unsustainable growth of the palm oil industry that included illegal fires in national parks to clear lands for oil palm cultivation.⁴¹²

6.5.1 Working conditions

Honduras has ratified all ILO Fundamental Conventions as well as three of the four priority Governance Conventions – except for C129 – Labour Inspection (Agriculture) Convention, 1969 (No. 129). Additionally, Honduras has not ratified several important technical ILO conventions applicable to agricultural workers, such as C184 – Safety and Health in Agriculture Convention, 2001 (No. 184), C111 – Plantations Convention, 1958 (No. 115) and C141 – Rural Workers' Organisations Convention, 1975 (No. 142), amongst others.⁴¹³

Labour rights are regulated in Honduras through the Constitution (Constitución de la República), the Labour Code (Código del Trabajo), civil law (Código Civil) and penal law (Código Penal). Chapter V of the Honduran constitution guarantees that “every person has the right to work under equitable and satisfactory working conditions, to choose his occupation freely and to give it up, and to protection against unemployment” (Art. 127) and includes safeguards on working hours, pay and conditions (Art. 128). These rights are further codified through the Labour Code as well as civil and penal law decreets and provisions.⁴¹⁴

1. Child labour

Honduras has ratified the C138 – Minimum Age Convention, 1973 (No. 138) with the minimum age set at 14 years, as well as C182 – Worst Forms of Child Labour Convention, 1999 (No. 182).⁴¹⁵ Honduras' national framework on labour law has implemented these principles, setting the minimum age at 14 through the Code on Childhood and Adolescence (Art. 120) and the Labour Code (Art. 32). Furthermore, the minimum age for hazardous work is 18 years (Code on Childhood and Adolescence, Art. 1 and 122) and the country prohibits forced labour, child trafficking and compulsory education until the age of 17 through the Code on Childhood and Adolescence, the Penal Code and the Fundamental Law of Education.⁴¹⁶

Nonetheless, child labour, including the worst forms of child labour, remains a persistent issue in Honduras: 10.6 percent of children aged between 5 and 10 work, of which 51.3% in agriculture

such as melon, coffee, okra and sugarcane plantations. According to Honduras' National Institute of Statistics, a total of 364,765 children between ages 5 and 17 were working in 2019, particularly in rural areas (67%). Certain groups of children are particularly vulnerable to child labour, sexual exploitation and trafficking, including Afro-descendant children, children in the lowest socio-economic classes and migrant children.⁴¹⁷

The Secretariat of Labor and Social Security (STSS) is the government agency in charge of conducting labour inspections and enforcing labour laws, but a severe lack of human and capital resources have consistently limited the agency's effectiveness. In 2019, the STSS employed 154 inspectors – which should be 249 in line with ILO's technical advice of 1 inspector for every 15,000 workers – and only 32 routine, child labour inspections were conducted, during which inspectors faced insufficient funds to cover supplies and travel costs.⁴¹⁸

2. Freedom of association

Although Honduras has ratified the core conventions on the freedom of association (C087 – Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87)) and the right to collective bargaining (C098 – Right to Organise and Collective Bargaining Convention, 1949 (No. 98))⁴¹⁹, the country has a poor reputation on respecting these rights.

Honduras' national legislative framework grants the right to form unions, but places significant restrictions on this right: foreign nationals cannot hold union offices, unions have to represent at least 30 workers, union officials need to work in the same area of business as the workers they represent, seasonal workers are not allowed to form a union nor are armed forces, the police and various other public employees.⁴²⁰ Honduras also places restrictions on the right to strike, as labour confederations are not allowed to call for strikes – only local unions can organise a strike – and these strikes require a two-thirds majority approval of both union and non-union employees. Barring those restrictions, the government also fails to uphold these rights and enforce the law, and companies frequently refuse to engage in collective bargaining or make it virtually impossible, and retaliation against workers who join or lead union activities by employers is a widespread issue.⁴²¹

3. Living wages

The minimum wage in the agricultural sector depends on the number of workers in a given company and can range between HNL 6,762.70 (EUR 232.90) and HNL 8,211.30 (EUR 282.79) per month.⁴²² Yet the living wage for a family is HNL 9,210 (EUR 316.79)⁴²³, which means that unless both parents work, any family with a single-earner income at minimum wage level will be living in severe poverty. Although the formal gender wage gap is low in Honduras, women are much more likely to be unemployed, or to work in the informal sector, which means that in practice, women working in agricultural sectors face lower incomes.⁴²⁴

4. Violations to trade union's rights

In the ITUC Global Rights Index of 2020, Honduras was ranked as one of the countries in the top ten of worst countries for workers. ITUC cites systematic violations of the right to collective bargaining and freedom of association, such as endemic violence, repression and even murders during trade union protests, but also administrative barriers to union registration, unfair dismissal of union workers, retaliation and violence against human rights defenders, and a total lack of action by authorities to investigate and prosecute these crimes.⁴²⁵ According to a 2018 report on Freedom of Association and Democracy in Honduras, State officials were actually the main perpetrators of acts of violence against union members, as 51% of all cases had public officials as alleged perpetrators.⁴²⁶

5. Occupational safety and health

Honduras has ratified none of the ILO Conventions on OSH, including C155 – Occupational Safety and Health Convention, 1981 (No. 155) and C184 – Safety and Health in Agriculture Convention, 2001 (No. 184).⁴²⁷

6. Significance of the informal sector and migrant workers

The informal economy in Honduras represented 79.3% of the total employed population in 2017, which has likely increased during the COVID-19 crisis, similar to trends in neighbouring countries.⁴²⁸ Women in Honduras are more likely to be informally employed than men (77.1 and 70.7 percent respectively).⁴²⁹

7. Access to social security

In 2016, only around 20 percent of the Honduran workforce was covered by the national social security scheme, since it largely excludes persons engaged in informal work and low incomes that do not meet minimum standards. In addition, self-employed, agricultural, temporary and seasonal workers are all excluded from work injury, maternity benefits and sickness leave, which means that palm oil plantation workers generally have no access to sufficient social security benefits.⁴³⁰

8. Discrimination

The Honduran Constitution prohibits “all forms of discrimination on account of sex, race, class, or any other reason prejudicial to human dignity” (Art. 60), as well as non-discrimination in remuneration (Art. 128). The constitution also mandates that “equal work shall receive equal pay without discrimination.”

Nevertheless, discrimination is persistent in the workplace, where particularly persons with disabilities, indigenous and Afro-Honduran persons, LGBTQI+ persons, and persons with HIV/AIDS face discrimination and unfair labour practices. Women in the workforce also have access to lower-status and lower-paying jobs, usually in the informal economy, and have little to no access to legal protection and social security benefits.⁴³¹

6.5.2 Trade union involvement in the palm oil sector

1. Overall unionisation

According to the Ulandssekretariatet, there were 250 unions with over 500,000 members Honduras in 2015. Around 15 percent of the labour force in Honduras is unionised, including among the informal economy. Women represent 47 percent of union membership.⁴³²

2. Global Union Federation involvement

Four Honduran trade unions are affiliates of IUF⁴³³:

- Sindicato de Trabajadores de la Agricultura y Similares de Honduras (STAS)
- Sindicato de Trabajadores de la Industria de la Azúcar, Mieles, Alcoholes y Similares (SITIAMASH)
- Sindicato de Trabajadores de la Industria de las Bebida y Similares (STIBYS)
- Sindicato de Trabajadores del Instituto Nacional Agrario (SITRAINA)

In addition, three trade unions are members of ITUC⁴³⁴:

- Central General de Trabajadores (CGT)
- Confederación de Trabajadores de Honduras (CTH)
- Confederación Unitaria de Trabajadores de Honduras (CUTH)

6.5.3 Industry associations

Palm oil producers in Honduras are represented by the following industry associations:

- Asociación Industrial de Productores de Aceite de Honduras (Aipah)
- Federación Nacional de Asociaciones de Palma Africana de Honduras (FENAPALMAH)

6.5.4 Social dialogue

According to Ulandssekretariatet, some Honduran tripartite institutions are working effectually. For example, the National Commission of Minimum Wage, which crafted the current minimum wages. Despite some achievements, judiciary mediation and arbitration structure has been observed with bias against workers and as a result, social dialogue has been affected by the often conflictive environment between employers and trade unions. This, in turn, has affected the application of collective bargaining agreements.⁴³⁵

6.5.5 Civil society in the sector

1. NGOs

Hondura's NGOs active in the palm oil sector include:

- Foundation for the Protection of Lancetilla, Punta Sal, Punta Izopo and Texiguat national parks (PROLANSATE), an organisation dedicated to natural resource preservation in the Tela Bay area, which largely involved preventing oil palm plantation development from destroying tropical forests and mangroves.

6.5.6 Labour rights initiatives

1. RSPO

As of December 2020, five palm oil growers covering 42 plantations are RSPO members, as well as four processors and traders.⁴³⁶ These members include four certified growers and four certified mills covering a certified production area of 13,518 hectares and a certified volume of 131,869 tonnes.⁴³⁷

The Honduran palm oil sector is characterised by a small group of large players in addition to around 16,000 smallholders, who are organised as part of over 45 cooperatives such as Hondupalma.⁴³⁸ RSPO certification is hard to achieve for smallholders, but these cooperatives have great potential to lead the way in sustainable production. Because of this, RSPO announced increased efforts on smallholder certification in Latin America, including Honduras.⁴³⁹

6.6 Peru

Compared to players such as Indonesia and Malaysia, Peru's still plays a marginal role in the global palm oil trade. However, this sector has been growing steadily over the past decade. In 2019, Peru produced 932,200 tonnes of palm oil,⁴⁴⁰ of which 190,000 tonnes were exported, placing the country as the 17th main exporter of palm oil worldwide.⁴⁴¹ Roughly, 23 percent of Peru's palm oil exports in 2020 (54,313 tonnes)⁴⁴² went to the Netherlands.⁴⁴³

According to the National Palm Oil Board of Peru (JUNPALMA), the palm oil sector contributes 1.8 percent of the GDP of the Peruvian Amazon (the regions of San Martín, Huánuco, Ucayali and Loreto)⁴⁴⁴, but less than one percent of the GDP nationally.⁴⁴⁵ Moreover, the sector employs 7,209 small holder oil palm producers and provides another 37,000 direct jobs.⁴⁴⁶ This is 0.2 percent of Peru's total workforce.⁴⁴⁷ In contrast, the agribusiness sector represents approximately 4.5 percent of the GDP and employs 25 percent of the working population.⁴⁴⁸ ILO estimates that over 22 percent of Peru's employed youth work in agriculture,⁴⁴⁹ however, there are no figures regarding their involvement in the palm oil sector. Women represent 43 percent of the agricultural workforce.⁴⁵⁰

There are no governmental public registries of palm oil producers and mills. However, JUNPALMA members include five processors and five oil palm growers.⁴⁵¹ This research found four additional processors that are not JUNPALMA members (see database of oil palm producers). JUNPALMA

estimates that up to 2018, oil palm plantations covered an area of 91,300 hectares distributed in Ucayali (42%), San Martín (37%), Huánuco (17%), and Loreto (4%).⁴⁵² Peru's Ministry of Agriculture has identified 1,135,000 hectares as potential areas for the cultivation of oil palm,⁴⁵³ of which 250,000 hectares will be developed by 2028.⁴⁵⁴

6.6.1 Working conditions

1. Child labour

Peru has ratified all key international conventions concerning child labour.⁴⁵⁵ Despite of this, child labour prevails in the country. According to the US Department of Labor, children in Peru engage in the worst forms of child labour, including in mining and in commercial sexual exploitation. Moreover, the 2015 National Child Labour Survey found that almost 1.7 million children, ages 5 to 17 engaged in child labour and these rates were higher in the sierra and jungle regions. In this context, the Peruvian government found that 58.4 percent of these children worked in agriculture, fishing, or mining.⁴⁵⁶

Young girls from Ecuador, Colombia and Venezuela are at heightened risk of falling victim to human trafficking and forced labour, particularly in the mining sector and commercial sexual exploitation, but to a lesser extent also in agricultural production.⁴⁵⁷

2. Freedom of association

Peru has ratified C087 - Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87), C098 - Right to Organise and Collective Bargaining Convention, 1949 (No. 98). In this context, the Peruvian Constitution guarantees the right of workers to join trade unions, to engage in collective bargaining, and to strike (Art. 28).

Moreover, the Peruvian Labour Law recognises unions on three levels: workplace unions, sector federations and confederations. Workplace unions require a minimum of 20 members, whereas federations and confederations need to have a minimum of 50 members.⁴⁵⁸ With respects to freedom of association, Peruvian legislation generally meets international standards. However, labour reforms in recent years have sought to make the labour market more flexible, making it more difficult for unions to register. In addition, the high rates of short-term and outsourced labour contracts in addition to the large informal economy hinder union effectiveness.

3. Living wages

The Peruvian Constitution confers the State the responsibility to regulate minimum living wages (*remuneración vital mínima*) with the participation of workers' organisations and employers. In practice, the minimum living wage is set by the government considering a proposal submitted by the tripartite National Council for Labour and Employment Promotion (CNTPE). Since 2007, the CNTPE has been supported by the Special Commission on Productivity and Minimum Wages, a technical body that identifies the statistical indicators and criteria used to adjust the minimum wage. These criteria, which were adopted by the CNTPE, include projected core inflation and multifactor productivity. To facilitate the application of the adjustment mechanism, the Ministry produces technical reports on yearly basis.⁴⁵⁹

Moreover, the Peruvian Government defines minimum living wage as the minimum amount of money that is paid to a worker who works a full day of 8 hours a day or 48 hours a week. The current Minimum Vital remuneration was agreed in April 2018 and is equivalent to 930 Soles (€ 221.10).⁴⁶⁰ However, this minimum vital wage does not seem to apply to the agricultural sector. A report published by Peru's National Institute of Statistics and Informatics (INEI) revealed that average monthly income of the agricultural, fishing and mining sectors was 866.6 Soles (€ 205.5) in 2018. Moreover, according to INEI, 72.7 percent of the salaried employed population in the agriculture, fishing and mining sector works without a contract.⁴⁶¹

Peru has a systemic ethnic and gender wage gap, which compounds vulnerability particularly for Indigenous and migrant women who face the lowest wages and most exploitative working conditions. Rural women also face lower wages than urban women, especially young Indigenous women and those who received less education. Although wage discrimination is prohibited, the laws are not enforced in the large informal sector in which particularly these vulnerable workers operate.⁴⁶²

While there are no official figures concerning the minimum living wage in the palm sector, JUNPALMA asserts that a producer with five hectares of palm generates a monthly income of, on average, four times the minimum wage (approximately € 882.20).⁴⁶³

4. Violations to trade union's rights

According to Education International, Peru is one of the countries with the largest number of filed complaints before the ILO and before the Inter-American Court of Human Rights (IACHR) for the violation of labour rights.⁴⁶⁴ This is not surprising, since Peruvian labour law is deficient and so are certain practices which frequently enable violations.⁴⁶⁵

In 2020, Peru ranked four out of five at ITUC's Global Rights Index. This means that there is systematic violation of rights in Peru and that the government and companies regularly interfere in collective labour rights or fail to fully guarantee important aspects of these rights.⁴⁶⁶ In addition to routinely paralysing unions, ignoring their autonomy and their right to free association and unionisation, corporations threaten union leaders with death and assassination.⁴⁶⁷

5. Occupational safety and health

While Peru has ratified ILO conventions on OSH in the mining and dock work sectors, it has not ratified C155 - Occupational Safety and Health Convention, 1981 (No. 155) nor C184 - Safety and Health in Agriculture Convention, 2001 (No. 184).⁴⁶⁸ The 2011 OSH legislation (*Ley de Salud & Seguridad en el Trabajo*) establishes the responsibilities of all employers to offer a safe and sanitary workplace. In this context, the government outlines shared but differentiated responsibilities: inspection and supervision by the government, prevention by the employer, and participation of the worker. OSH regulation and implementation is supervised through joint councils between the Ministry of Labour and the Ministry of Health. In addition to the general OSH legislation, Peru has promulgated specific legislative texts in place for specific industries, but this is not the case for agriculture.⁴⁶⁹

6. Significance of the informal sector and migrant workers

According to ILO estimates, 59 percent of the non-agricultural workforce in Peru is employed informally, which particularly affects women (66.1 percent), young workers (80 percent), those with less than a highschool education (79 percent) and low-income workers.⁴⁷⁰ In the agricultural sector, around 97 percent, so nearly the entire workforce, is informally employed.⁴⁷¹

7. Access to social security

Around 65 percent of Peru's population is covered by social protection and labour programmes, and over one thirds of the population is not covered by health insurance. Among the economically active population, these rates are higher (73 percent) but women have less coverage (69 percent) than men (77 percent). Although there are no formal social security systems for the informal workforce, several trade union movements have set up their own schemes, including through pooled solidarity funds and schemes where workers cover each other during sickness.⁴⁷²

8. Discrimination

Women in Peru face high rates of sexual and gender-based violence, including harassment in the workplace. Despite various laws against discrimination and sexual harassment at work, the government does not effectively enforce these laws. Women face unfair labour practices, such as the arbitrary dismissal of pregnant women and receive lower pay (68 percent of their male counterparts). Accessing justice around these issues is difficult: repeated reports of police harassment and abuse of women, transgender women and LGBTQI+ persons deter women from reporting violations of their rights.⁴⁷³

6.6.2 Trade union involvement in the palm oil sector

According to the Ulandssekretariatet, Peru's trade union structure is divided into three different levels: workplace unions, sector federations, and confederations. In total, there are 913 private/public trade unions, 76 trade union federations, and 11 confederations.⁴⁷⁴

1. Overall unionisation

According to the Ulandssekretariatet, 759,130 Peruvian workers are unionised across 913 unions. In addition, around 10,000 informal workers are unionised. In the private sector, women only make up 10 percent of union membership, although in the public sector they represent 45 percent of members.⁴⁷⁵

2. Global Union Federation involvement

Two Peruvian trade union federations are ITUC members: Central Autónoma de Trabajadores del Perú (CATP) 12,705 234 Central Unitaria de Trabajadores del Perú (CUT).⁴⁷⁶ Three trade union federations are affiliated to IUF: National Federation of Workers in the Food, Beverage and Related Sector (FNT-CGTP-ABA), Mondelez Workers Union, and National Union of Workers of Peruvian Breweries Backus and Johnston (Backus and Johnston).⁴⁷⁷

3. Other trade union international solidarity programmes

Mondiaal FNV supports Peruvian trade unions at the national and corporate level in strengthening and perpetuating the social dialogue that has been developed in recent years with employers' organisations. Mondiaal FNV also supports projects to improve labour rights in the fruit and vegetable sector.⁴⁷⁸

Moreover, Mondiaal FNV is working together with the Danish Trade Union Development Agency (DTDA) in the elaboration of Labour Market Profiles (LMPs), which are based on a context analysis of the labour market in partner countries or potential partner countries, including Peru. This collaboration includes harmonisation of planning and coordination of technical assistance, as well as support and development of joint Theories of Change.⁴⁷⁹

Lastly, the Solidarity Center, in partnership with Peru's national labour confederations in the mining, garment and agriculture sectors, provides training in membership building, collective bargaining and women's representation.⁴⁸⁰

6.6.3 Industry associations

The National Board of Oil Palm of Peru (JUNPALMA PERÚ) is a private non-profit organisation, created on September 10, 2015. JUNPALMA is the result of the integration of two guilds: The National Confederation of Palm Growers and Oil Palm Companies of Peru (CONAPAL) and the National Federation of Palm Growers of Peru (FENAPALMA PERÚ). JUNPALMA represents the interests of the Peru's palm sector and promotes the expansion of the oil palm agribusiness under the principles of economic, social and environmental sustainability. It currently represents 15 industry members.⁴⁸¹

6.6.4 Government involvement

The Peruvian government, through the Ministry of Agriculture and Irrigation (MINAGRI), the Ministry of Energy and Mines (MINEM), the Ministry of the Environment (MINAM), and the Ministry of Production (PRODUCE) are at the centre of governance of the palm oil sector in the country. The sector is regulated through two main instruments: Law No. 930/2011-CR for the Promotion of the Cultivation of Oil Palm in the Peruvian Amazon and other areas suitable for its cultivation (22.03.2012) and the National Plan for Sustainable Development of Oil Palm in Peru 2016-2025,⁴⁸² in addition to a handful of legislative instruments that regulate land use and deforestation.

The National Plan for Sustainable Development of Oil Palm in Peru 2016-2025, is the offshoot of the namesake regulation developed in 2000 and subsequently revised in 2015. In its first version, the plan sought to promote palm activity as an alternative in the fight against drug trafficking, migratory agriculture, poverty, and extreme poverty. the sustainability criteria for palm oil production, the Plan strives for more inclusion of small holder producers, to avoid deforestation from cultivation, and to promote commercialisation, competitiveness, and technical assistance.⁴⁸³

Despite these instruments, there is no coherent policy in Peru promotion of oil palm, and the isolated policy instruments that exist, lack greater articulation with the rules governing the procedures that regulate the sector.⁴⁸⁴ Moreover, due to the lack of initiative and interest of the Peruvian state, the approval of the Plan remains stagnant until now.⁴⁸⁵

6.6.5 Social dialogue

The National Council for Labour and Employment Promotion (CNTPE) is a mechanism for social dialogue of the Ministry of Labour and Employment Promotion (MTPE). Its aim is to establish labour policies, to promote employment and job training, and social protection. CNTPE includes the most representative trade unions and business associations in the country (including the General Confederation of Workers of Peru (CGTP), National Confederation of Private Business Institutions (CONFIEP), National Society of Industries (SNI), Chamber of Commerce of Lima, Association of Small and Medium Industrial Entrepreneurs of Peru (APEMIPE Peru), Exporters Association (ADEX) Unitary Workers Union of Peru (CUT), Autonomous Unitary of Workers of Peru (CATP), Confederation of Workers of Peru (CTP)),⁴⁸⁶ as well as officials from MTPE and representatives of labour support organisations. CNTPE was established in the year 2000. Its functions are determined through Supreme Decree No. 004-2014-TR and Supreme Decree N° 001-2005-TR.⁴⁸⁷

According to CNTPE, significant progress has been made institutionalising tripartite dialogue at the regional level. To date, 24 Regional Labour and Employment Promotion Councils (CRTPE) have been created, one for each of Peru's 24 departments. These CRTPEs replicate the socio-labour dialogue model of CNTPE.⁴⁸⁸ Despite these claims, others argue that while tripartite debate on economic and labour policies effectively takes place, at the end of the day, the government (often in agreement with employers organisations) turns a blind eye to the concerns of Peruvian unions.⁴⁸⁹

6.6.6 Dutch governmental support

The RVO provides support to Dutch companies through the network of embassies. The Netherlands has diplomatic representation in Lima.⁴⁹⁰

6.6.7 Labour rights initiatives

1. RSPO

Three processors and one grower of palm oil in Peru are RSPO members, and so far, no company in Peru has achieved RSPO certification. Because Peru is not a major producer of palm oil and the limited quantities produced are mostly for domestic markets, this low RSPO membership rate is not surprising.

In 2019, the Shipibo community of Santa Clara de Uchunya filed a formal complaint against Alicorp, which is a member of RSPO, for purchasing palm oil from a plantation that violated labour rights, including low pay, dangerous working conditions and forced labour as well as deforestation and land rights issues. However, RSPO refused to investigate the complaint because Alicorp is not a grower or miller, but a consumer good manufacturer to which different rules apply and stated that the links between Alicorp and the plantation, Plantaciones de Ucayali, were not strong enough. Another incident occurred in 2015 when Plantaciones de Pucallpa, when it received a complaint through RSPO for violations of the free, prior and informed consent principles and denying access to water, simply withdrew its RSPO membership.

These two cases as well as low membership rates and contextual issues, such as the continued financing of deforestation by the Peruvian government, have severely undermined the faith and trust in the RSPO system.

7

Conclusions

This chapter draws conclusions from this study's main findings about the working conditions for workers of the Latin American palm oil sector.

7.1 Labour rights situation of the LATAM palm oil sector

All LATAM countries included in this study are signatories of all core ILO conventions and count with extensive labour laws. Despite these legal provisions, the LATAM palm oil industry is embedded in numerous labour rights issues: outsourcing, labour discrimination, and union busting prevail alongside other human rights violations, including land grabbing, criminalisation of and violence against rights defenders, and rampant deforestation and environmental degradation. These breaches of labour and human rights are enabled, at best, by the insufficient national capacities to implement and enforce the law and, at worst, by the collusion of powerful businessmen with the justice system and even criminal groups.

While data on the level of worker organisation in the LATAM palm oil sector is scarce, the overall level of unionisation in the region remains low. This is in part due to the legislative framework regarding unions, which does not apply to agricultural and/or subcontracted workers. In this context, the bulk of the workforce in the palm oil sector in Colombia, and possibly Guatemala, is made up by subcontracted workers. Although there is no data on the proportion of subcontracted workers in Ecuador, Honduras, Peru, and Costa Rica, in general, the LATAM's agroindustries increasingly rely on this type of working contracts.⁴⁹¹ Therefore, it is likely that subcontracting also prevails in those countries. Moreover, in the case of Colombia and Guatemala, the low level of unionisation amongst workers is exacerbated by a history of decade-long violent conflict that resulted, amongst other things, in the systematic stigmatisation of trade unions.

A few civil society labour initiatives for the palm oil sector exist in the region, namely in advancing social dialogue Colombia and Peru. The common thread in all countries included in this study, in terms of labour rights initiatives, is the RSPO certification system, which increasingly more palm oil producers are joining. While striving for higher production standards (including better working conditions) is a positive development, RSPO standards still fall short from delivering better outcomes for the sector's workers. This is illustrated in the case of Guatemala, where the majority of palm producers with trade relations to the Netherlands are RSPO-certified but do not fulfil their obligations to guarantee the right to free association of their workers (as evidenced by the fact that there are no trade unions active in the palm oil sector). In this context, this study recognises that, other than the cases where discriminatory labour practices have been proven, there is no concrete evidence that Guatemalan palm oil producers actively suppress union formation, although the local industry's reliance on seasonal labourers offsets unionisation.

With regards to wages while in all countries salaries in the agricultural and/or palm oil sectors are generally above the legal minimum, these salaries still lay below the living minimum wage. Vulnerable groups such as women, indigenous peoples, afro-descendants, migrant workers and subcontracted workers are routinely paid less too.

7.2 Characteristics of the LATAM palm oil producers

Three of the six LATAM countries included in this study fill out the list of the world's top 10 palm oil producers, with Colombia coming in at number four, and Ecuador and Honduras placing seventh and tenth, respectively. Undoubtedly, the palm oil sector is one of the subsectors that contributes the most to the region's agricultural GDP.

Palm oil producers in the region are rather heterogeneous. In Colombia and Ecuador, the sector is highly atomised with each over 6,000 and 6,685 producers, and a great majority of small scale oil palm farmers. In Peru and Honduras, albeit less numerous, small landholders are also important suppliers of oil palm fruits. In Guatemala and Costa Rica, primary production is concentrated in large landholdings belonging to privately-held corporations, many of them part of family-owned conglomerates.

With regards processing, in all countries relatively few mills press FFB into palm oil. Colombia, Peru, and Ecuador are notable for the level of organisation of smallholders into cooperatives, which also own a few mills. In Peru, most mills buy FFB from farmers (including smallholders). This modality, albeit less prevalent, is also present in Honduras. Guatemala and Costa Rica palm oil pressing is exclusively done by large holdings.

7.3 Human Rights Due Diligence practices of Netherlands-based palm oil refineries and the impact of RSPO

At present, the Netherlands is the single most important buyer of palm oil from Colombia, Guatemala, Honduras and Peru. Between a quarter and half of these LATAM countries' exports enter Europe through the Port of Rotterdam. Albeit not the main destination for exports from Costa Rica and Ecuador, these countries also maintain a steady supply to the Dutch market.

The five Netherlands-based refineries that import Latin American palm oil – AAK, Bunge, Cargill, Olenex and Sime Darby – have a responsibility to identify, prevent, mitigate, and remediate violations of human and labour rights in their supply chains. Though not (yet) required by law, the Dutch government formally expects multinational companies to conduct due diligence, which is particularly crucial in high-risk supply chains such as the palm oil industry in Latin America.

This study found that all Dutch refineries have taken important steps to conduct due diligence and to address adverse impacts in their palm oil supply chains. Meeting some minimum due diligence expectations, AAK, Bunge, Cargill, Olenex and Sime Darby all have RBC policies in place that provide commitments to labour rights largely in line with the ILO Fundamental Principles.

However, the serious gaps that all refiners leave in identifying and addressing labour rights violations raise significant concerns about the actual capability of these companies to prevent workers from being subjected to unfair labour practices and unsafe working conditions. A lack of transparency on how risks are identified, limited policies to legitimately protect labour rights in practice, a complete lack of intersectional gender considerations, insufficient safeguards against retaliation towards human rights defenders, and no guarantees of remediating affected individuals and communities are just a couple of the severe shortcomings in all due diligence mechanisms of AAK, Bunge, Cargill, Olenex and Sime Darby.

These concerns are not just theoretical: all five Netherlands-based refineries have recently been linked to adverse impacts of their sourcing activities through suppliers, and our controversy scan uncovered additional documented labour rights violations by direct and indirect suppliers of palm oil that enters the Dutch market. These controversies also include RSPO members and certified suppliers, evidencing that despite the welcome and significant advances that the RSPO system has realised, this voluntary approach is not sufficient to mitigate and prevent all labour rights violations.

In other words, company commitments on paper do not automatically translate to better practices on the ground. Despite the progress made through corporate HRDD processes and industry initiatives such as RSPO, palm oil supply chains continue to threaten livelihoods of workers and communities, and Netherlands-based refiners continue to fail to live up to their own commitments.

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Appendix 1 Companies supplying Cargill (Global) from Colombia, Costa Rica, Guatemala, and Honduras

Mill company or group, by country	Number of mills supplying RSPO certified palm oil				Total number of mills	Direct supply?
	IP	MB	No	Unspecified		
COLOMBIA	5	7	16	4	32	
Grupo Empresarial Oleoflores		2	1		3	Yes
Palmeras De Puerto Wilches			2		2	Yes
Manuelita Aceites Y Energia		2			2	Yes
Organización La Paz				1	1	Yes
Sapuga			1		1	Yes
Palmeras La Carolina	1				1	Yes
CI Top			1		1	No
Oleaginosas Santana			1		1	No
Cooperativa Palmas De Risaralda				1	1	No
Alianza Del Humea			1		1	Yes
Daabon Group	1				1	Yes
Poligrow Colombia			1		1	Yes
Extractora Del Sur De Casanare		1			1	No
CI Biocosta	1				1	Yes
Extractora San Fernando S.A.				1	1	Yes
Oleocoa			1		1	Yes
Agropecuaria Santa Maria		1			1	Yes
Palmas Del Cesar	1				1	Yes
Grupo Monterrey			1		1	Yes
Palmeras Del Llano				1	1	Yes
Guaicaramo		1			1	Yes
Palmicultores Del Norte			1		1	Yes
Italcol			1		1	Yes
PROCESADORA DE ACEITE ORO ROJO			1		1	Yes
Agroince			1		1	Yes
Semag De Los Llanos	1				1	Yes
Numar Group			1		1	Yes
Oil Sum			1		1	Yes
COSTA RICA	2	1	2		5	
Numar Group	2	1			3	Yes
Palmatec Corporation De Costa Rica			1		1	No
Coopeagropal RL			1		1	No
GUATEMALA	6		1	2	9	
Naturaceites	2			1	3	Yes
Agrocaribe	2				2	Yes

Mill company or group, by country	Number of mills supplying RSPO certified palm oil				Total number of mills	Direct supply?
	IP	MB	No	Unspecified		
Epsa			1		1	No
Palmas Del Machaquila				1	1	Yes
Agroaceite	1				1	Yes
Braden Group	1				1	Yes
HONDURAS	1		2		3	
Asapalsa			1		1	Yes
Palmasa			1		1	Yes
Grupo Litoral	1				1	Yes
Grand Total	14	8	21	6	49	

Appendix 2 Companies supplying Bunge (Rotterdam) from Colombia and Honduras

Mill company or group, by country	Number of mills supplying RSPO certified palm oil				Total number of mills
	Identity Preserved	Mass Balance	No	Unspecified	
COLOMBIA	10	4	12	1	27
CI Biocosta	3				3
Agropecuaria Santa Maria	1	1			2
Grupo Monterrey			1		1
Oleoinversiones Zomac			1		1
Alianza Del Humea			1		1
Italcol			1		1
Bioplanta Palmera Para El Desarrollo			1		1
Palmeras De La Costa	1				1
PROCESADORA DE ACEITE ORO ROJO			1		1
Semag De Los Llanos	1				1
Grupo Empresarial Oleoflores		1			1
Cosargo	1				1
Inversiones La Mejorana			1		1
Daabon Group	1				1
Manuelita Aceites Y Energia		1			1
Entrepalmas	1				1
Palmar De Oriente			1		1
Extractora Central			1		1
Palmeras La Carolina	1				1
Extractora Del Sur De Casanare		1			1
Sapuga			1		1
Extractora San Fernando S.A.				1	1
Aceites Morichal			1		1
Grupalma			1		1
HONDURAS	1	2	2		5
Hondupalma		1			1
Corporacion Dinant			1		1
Jaremar		1			1
Exportadora Del Atlantico			1		1
Grupo Litoral	1				1
Grand Total	11	6	14	1	32

Appendix 3 Companies supplying AAK (Global) from Colombia, Costa Rica, Ecuador, Guatemala and Honduras

Mill company or group, by country	Number of mills supplying RSPO certified palm oil				Total number of mills
	Identity Preserved	Mass Balance	No	Unspecified	
COLOMBIA	12	8	47	4	71
CI Biocosta	3		2		5
Grupo Empresarial Oleoflores		2	1		3
CI Top			3		3
Palmas Oleaginosas Bucarelia SAS			2		2
Palmeras Del Llano			1	1	2
Palmeras De Puerto Wilches			2		2
Agropecuaria Santa Maria	1	1			2
Oleo inversiones Zomac			2		2
Manuelita Aceites Y Energia		2			2
Palmar De Oriente			1		1
Semag De Los Llanos	1				1
Palmeras La Carolina	1				1
Entrepalmas	1				1
Oleonorte			1		1
Extractora Central			1		1
Alianza Del Humea			1		1
Extractora Del Sur De Casanare		1			1
Proteinad Del Oriente S.A.S.			1		1
Extractora El Estero			1		1
Oleocoa			1		1
Extractora Loma Fresca Dur De Bolivar S.A.			1		1
Padelma			1		1
Extractora San Fernando S.A.				1	1
Palmas De Tumaco			1		1
Extractora Santa Fe			1		1
Cooperativa Palmas De Risaralda				1	1
Grasco			1		1
Poligrow Colombia			1		1
Grupalma			1		1
Salamanca Oleaginosas			1		1
Grupo Agroindustrial Hacienda La Gloria			1		1
Oleaginosas Santana			1		1
Bioplanta Palmera Para El Desarrollo			1		1
Agroince			1		1
Grupo Monterrey			1		1

Mill company or group, by country	Number of mills supplying RSPO certified palm oil				Total number of mills
	Identity Preserved	Mass Balance	No	Unspecified	
Organización La Paz				1	1
Grupo Sarmiento Angulo			1		1
Palma & Trabajo	1				1
Guaicaramo		1			1
Palmar El Quitebe			1		1
Hacienda la Cabaña S.A.		1			1
Palmas Del Cesar	1				1
Inversiones La Mejorana			1		1
Palmeras De La Costa	1				1
Inversora Del Magdalena Y CIA S.A.			1		1
Cosargo	1				1
Italcol			1		1
Palmicultores Del Norte			1		1
Aceites Morichal			1		1
PROCESADORA DE ACEITE ORO ROJO			1		1
Numar Group			1		1
Riopaila Castilla			1		1
Oil Sum			1		1
Sapuga			1		1
Oleaginosas De Colombia Limitada			1		1
Daabon Group	1				1
Oleaginosas Del Ocoa S.A.			1		1
COSTA RICA	2	1	2		5
Numar Group	2	1			3
Palmatec Corporation De Costa Rica			1		1
Coopeagropal RL			1		1
ECUADOR	1		2		3
Extractococa Extractora Rio Coca			1		1
Oleodavila			1		1
Extractora Natural Ecuador	1				1
GUATEMALA	7		3	2	12
Naturaceites	2			1	3
Grupo Hame			2		2
Agrocaribe	2				2
Palmas Del Machaquila				1	1
Nacional Agroindustrial	1				1
Braden Group	1				1
Agroaceite	1				1
Epsa			1		1

Mill company or group, by country	Number of mills supplying RSPO certified palm oil				Total number of mills
	Identity Preserved	Mass Balance	No	Unspecified	
HONDURAS	1	3	8		12
Jaremar		2			2
Palmas Centroamericanas S.A. de C.V.			1		1
Grupo Litoral	1				1
Agroindustrial Palma Real			1		1
Coapalma			1		1
Asapalsa			1		1
Hondupalma		1			1
Corporacion Dinant			1		1
Palmasa			1		1
Corporacion Industrial De Sula			1		1
Exportadora Del Atlantico			1		1
Grand Total	23	12	62	6	103

Appendix 4 Companies supplying Olenex (Rotterdam) from Colombia, Guatemala and Honduras

Mill company or group, by country	Number of mills supplying RSPO certified palm oil			Total number of mills
	Identity Preserved	Mass Balance	No	
COLOMBIA	10	7	30	47
CI Biocosta	3		2	5
Palmeras De Puerto Wilches			2	2
Manuelita Aceites Y Energia		2		2
Agropecuaria Santa Maria	1	1		2
Grupo Empresarial Oleoflores		1	1	2
Inversiones La Mejorana			1	1
Palmar De Oriente			1	1
Numar Group			1	1
CI Top			1	1
Agroince			1	1
Cosargo	1			1
Italcol			1	1
Entrepalmas	1			1
Oleaginosas Del Ocoa S.A.			1	1
Extractora Central			1	1
Palmas Oleaginosas Bucarelia SAS			1	1
Extractora Del Sur De Casanare		1		1
Aceites Morichal			1	1
Extractora Loma Fresca Dur De Bolivar S.A.			1	1
Inversora Del Magdalena Y CIA S.A.			1	1
Grasco			1	1
Bioplanta Palmera Para El Desarrollo			1	1
Grupalma			1	1
Oleaginosas De Colombia Limitada			1	1
Grupo Agroindustrial Hacienda La Gloria			1	1
Oleo inversiones Zomac			1	1
Alianza Del Humea			1	1
Palmas Del Cesar	1			1
Palmeras La Carolina	1			1
Palmeras De La Costa	1			1
PROCESADORA DE ACEITE ORO ROJO			1	1
Sapuga			1	1
Palmicultores Del Norte			1	1
Grupo Monterrey			1	1
Proteinad Del Oriente S.A.S.			1	1
Grupo Sarmiento Angulo			1	1
Semag De Los Llanos	1			1
Guaicaramo		1		1

Mill company or group, by country	Number of mills supplying RSPO certified palm oil			Total number of mills
	Identity Preserved	Mass Balance	No	
Hacienda la Cabaña S.A.		1		1
GUATEMALA	2		1	3
Agrocaribe	2			2
Epsa			1	1
HONDURAS	1	3	7	11
Jaremar		2		2
Grupo Litoral	1			1
Palmasa			1	1
Asapalsa			1	1
Hondupalma		1		1
Coapalma			1	1
Palmas Centroamericanas S.A. de C.V.			1	1
Corporacion Dinant			1	1
Agroindustrial Palma Real			1	1
Exportadora Del Atlantico			1	1
Grand Total	13	10	38	61

Appendix 5 Companies supplying Sime Darby (Rotterdam) from Colombia, Costa Rica, Guatemala and Honduras

Mill company or group, by country	Number of mills supplying RSPO certified palm oil			Total number of mills
	Identity Preserved	Mass Balance	No	
COLOMBIA	3	1	5	9
Palmeras De La Costa	1			1
Guaicaramo		1		1
CI Biocosta	1			1
CI Top			1	1
Oleaginosas Santana			1	1
Entrepalmas	1			1
Palmeras De Puerto Wilches			1	1
Grasco			1	1
Grupo Agroindustrial Hacienda La Gloria			1	1
COSTA RICA	2			2
Numar Group	2			2
GUATEMALA	2			2
Naturaceites	1			1
Agrocaribe	1			1
HONDURAS	1		1	2
Grupo Litoral	1			1
Agroindustrial Palma Real			1	1
Grand Total	8	1	6	15

Appendix 6 Companies supplying Danone from Colombia, Costa Rica, Guatemala and Honduras

Mill company or group, by country	RSPO-certified mills	Non-RSPO-certified mills	Total number of mills
COLOMBIA			2
CI Biocosta Palmaceite	0	1	
Palmeras de la Costa	1	0	
COSTA RICA			3
Numar Group	2	0	
Compañía Industrial Aceitera	1	0	
GUATEMALA			5
Naturaceites	1	0	
Agrocaribe	2	0	
Nacional Agroindustrial	1	0	
Procesadora Quirigua	1	0	
HONDURAS			1
Grupo Litoral Aceydesa	0	1	
Grand Total	9	2	11

Appendix 7 Companies supplying FrieslandCampina from Colombia, Costa Rica, Guatemala, and Honduras

Mill company or group, by country	RSPO-certified mills	Non-RSPO-certified mills	Total number of mills
COLOMBIA			14
Ciecopalma	0	1	
Extractora Monterrey	1	0	
Hacienda La Cabaña	0	1	
CI Biocosta Palmaceite	0	1	
Palmera del Llano	0	1	
Oleaginosas San Marcos	0	1	
Grupalma	0	1	
Unipalma	1	0	
Poligrow Colombia	1	0	
Abago S.A.S.	0	1	
Palmeras de la Costa	1	0	
Aceites y Grasas del Catatumbo	0	1	
Riopaila Castilla	0	1	
Oleo inversiones Zomac	0	1	
Agrovicmart	0	1	
COSTA RICA			4
Coopeagropal El Robel	0	1	
Numar Group	1	0	
Cooperativa Agroindustrial de Servicios Múltiples de Productores de Palma	0	1	
Aceitera R.L	0	1	
GUATEMALA			6
Unisource Group	0	1	
Naturaceites	1	0	
Agrocaribe	1	0	
Nacional Agroindustrial	1	0	
Palmasur	0	1	
Uniaceites	1	0	
HONDURAS			6
Hondupalma	0	1	
Centralamerican Palm (PALCASA)	0	1	
Jaremar	1	0	
Palmasa	1	0	
Coapalma	1	0	
Corporacion Industrial de Sula S.A. (COINSU)	1	0	
Grand Total	12	17	30

Appendix 8 Companies supplying Nestlé from Colombia, Costa Rica, Guatemala, and Honduras

Mill company or group, by country	RSPO-certified mills	Non-RSPO-certified mills	Total number of mills
COLOMBIA			47
Abago S.A.S.	0	1	
Aceitagro S.A.	0	1	
Aceites Las Colombianas	0	1	
Aceites Manuelita S.A.	1	0	
Aceites Morichal S.A.	0	1	
Aceites S.A.	1	0	
Agroince Ltda y CIA SCA	0	1	
Agropecuaria Santa María S.A. San Martín	0	1	
Alianza Del Humea S.A.S.	1	0	
Alianza Oriental S.A.	1	0	
Bioplanta Palmera Para el Desarrollo S.A.	0	1	
Extractora El Roble S.A.	1	0	
Entrepalmas S.A.S.	1	0	
Extractora Central S.A.	1	0	
Extractora Cusiana Ltda	0	1	
Extractora del Sur de Casanare S.A.S.	1	0	
Extractora La Gloria S.A.S.	1	0	
Extractora María La Baja S.A.	0	1	
Extractora Monterrey S.A.	1	0	
Extractora San Fernando S.A.	0	1	
Hacienda La Cabaña	0	1	
Extractora San Sebastiano S.A.S.	0	1	
Extractora Sicarare Ltda	1	0	
Extractora Vizcayas S.A.S.	0	1	
Frupalma S.A.	0	1	
Grupo Agroindustrial Rio Paila Castilla	0	1	
Grupo Oleoflores	1	0	
Industrial Aceitera de Casanare S.A.	0	1	
Aceites y Grasas del Catatumbo	0	1	
Industrial Agraria La Palma S.A. (INDUPALMA)	0	1	
Inversiones La Mejorana S.A.S.	0	1	
Oleaginosas de Colombia Ltda	0	1	
Oleaginosas San Marcos Ltda	0	1	

Mill company or group, by country	RSPO- certified mills	Non-RSPO- certified mills	Total number of mills
Oleoinversiones Zomac	0	1	
Palma y Trabajo S.A.S.	1	0	
Palmaceite S.A.	1	0	
Palmar de Altamira S.A.S.	1	0	
Palmas del Cesar S.A.	1	0	
Palmas Oleaginosas Bucarelia	0	1	
Palmas Oleaginosas De Casacare Ltda	0	1	
Palmeras de la Costa S.A.	1	0	
Palmeras De Puerto Wilches S.A.	1	0	
Palmeras Santana Ltda	0	1	
Palmicultores del Norte S.A.S.	0	1	
Procesadora de Aceite Oro Rojo	0	1	
Sapuga S.A.	0	1	
Unipalma S.A.	0	1	
COSTA RICA			1
Numar Group	1	0	
GUATEMALA			9
Agropecuaria Nuevo San Carlos S.A.	0	1	
NaturAceites S.A.	1	0	
Agrocaribe	1	0	
Industria Chiquibul	0	1	
Palma Sur S.A.	0	1	
Grupo Hame	0	2	
Palmas del Ixcán Ltda	0	1	
Palma del Horizonte (Pahosa)	0	1	
HONDURAS			8
Aceites y Derivados S.A.	0	1	
Agrícola Tornabe SA de CV (Agrotor)	0	1	
Asociación Agroindustrial de Palmicultores de Saba, S.A. de C.V.	0	1	
Hondupalma-ECARA	1	0	
Coapalma-ECARA	1	0	
Palmas Centroamericanas S.A. de C.V.	0	1	
Palmeros de Aguan S.A.	1	0	
Corporacion Industrial de Sula S.A. (COINSU)	1	0	
Grand Total	12	17	30

Appendix 9 Companies supplying Mars from Colombia, Costa Rica, Guatemala, and Honduras

Mill company or group, by country	RSPO-certified mills	Non-RSPO-certified mills	Total number of mills
COLOMBIA			7
Oleoflores	1	0	
Agropecuaria Santa María	0	1	
CI Biocosta	0	1	
Palmeras De La Costa S.A.	1	0	
Entrepalmas S.A.	1	0	
Alianza Oriental S.A.	1	0	
Extratora Sicarare Ltda	1	0	
COSTA RICA			1
Numar Group	1	0	
GUATEMALA			7
Extratora Agroaceite	0	1	
Extratora La Francia	1	0	
Extratora del Atlántico	0	1	
Pataxté	0	1	
Panacté	0	1	
Nacional Agro Industrial S.A.	0	1	
Procesadora Quirigua	1	0	
HONDURAS			2
Aceydesa	1	0	
Compañía Agrícola Industrial (Grupo Jaremar)	0	1	
Grand Total	9	8	17

Appendix 10 Companies supplying Unilever from Colombia, Costa Rica, Ecuador, Guatemala, and Honduras

Mill company or group, by country	RSPO-certified mills	Non-RSPO-certified mills	Total number of mills
COLOMBIA			50
Abago S.A.S.	0	1	
Aceitagro S.A.	0	1	
Aceites Las Colombianas	0	1	
Aceites Manuelita S.A.	2	0	
Aceites Morichal S.A.	0	1	
Aceites S.A.	1	0	
Agropecuaria La Rivera Gaitán	0	1	
Agropecuaria Santa María S.A. San Martín	0	1	
CI Top S.A.	1	0	
Cooperativa Palmas de Risaralda Ltda Extractora Loma Fresca	1	0	
Extractora El Roble S.A.	1	0	
Entrepalmas S.A.S.	1	0	
Extractora Cusiana Ltda	0	1	
Extractora del Sur de Casanare S.A.S.	1	0	
Extractora Grupalma S.A.S.	0	1	
Extractora La Gloria S.A.S.	1	0	
Extractora La Paz S.A.	0	1	
Extractora Loma Fresca S.A.	0	1	
Extractora María La Baja S.A.	0	1	
Extractora Monterrey S.A.	1	0	
Extractora San Sebastiano S.A.S.	0	1	
Extractora Sicarare Ltda	1	0	
Extractora Vizcayas S.A.S.	0	1	
Fedepalma (Extractora Central S.A.)	1	0	
Frupalma S.A.	0	1	
Grupo Oleoflores	1	0	
Industrial Aceitera de Casanare S.A.	0	1	
Aceites y Grasas del Catatumbo	0	1	
Industrial Agraria La Palma S.A. (INDUPALMA)	0	1	
Inversiones La Mejorana S.A.S.	0	1	
Oleaginosas San Marcos Ltda	0	1	
Oleaginosas Santana S.A.S.	1	0	
Oleoinversiones Zomac	0	1	
Palma y Trabajo S.A.S.	1	0	

Mill company or group, by country	RSPO- certified mills	Non-RSPO- certified mills	Total number of mills
Palmaceite S.A.	1	0	
Palmar de Altamira S.A.S.	1	0	
Palmas del Cesar S.A.	1	0	
Palmas Oleaginosas Bucarelia	0	1	
Palmas Oleaginosas De Casacare Ltda	0	1	
Palmas Oleaginosas del Magdalena Ltda (PALDEMA)	0	1	
Palmeras de la Costa S.A.	1	0	
Palmeras De Puerto Wilches S.A.	1	0	
Palmeras Santana Ltda	0	1	
Palmicultores del Norte S.A.S.	0	1	
Poligrow Colombia Ltda	0	1	
Procesadora de Aceite Oro Rojo	0	1	
Riopaila Castilla S.A.	0	1	
Sapuga S.A.	0	1	
Unipalma S.A.	0	1	
COSTA RICA			2
Compañía Industrial Aceitera Coto 54 S.A.	1	0	
Cooperativa Agroindustrial de Productores de Palma Aceitera R.L. (COOPEAGROPAL R.L.)	0	1	
ECUADOR			16
Aexpalma S.A. de C. V.	0	1	
Agroindustrias Extractora de Aceites Vegetales CIA Ltda	0	1	
Alcopalma S.A.	0	1	
CIECOPALMA	0	1	
Energy & Palma	0	1	
Extracosta S.A.	0	1	
Extractococa Extractora Rio Coca S.A.	0	1	
Extractora Agrícola Rio Manso	1	0	
Extractora La Joya CIA Ltda	0	1	
Extractora La Sexta S.A.	0	1	
Extractora Natural S.A. (EXTRANATU)	0	1	
MANOBANDACORP	0	1	
OLEODAVILA S.A.	1	0	
PALMAC	0	1	
Palmar de los Esteros EMA S.A.	0	1	
San Daniel Extractora San Daniel CIA Ltda	0	1	

Mill company or group, by country	RSPO- certified mills	Non-RSPO- certified mills	Total number of mills
GUATEMALA			9
Agropecuaria Nuevo San Carlos S.A.	0	1	
NaturAceites S.A.	1	0	
Agrocaribe	1	0	
Industria Chiquibul	0	1	
KH Regional Group Inc.			
Palma Sur S.A.	0	1	
Palmas del Ixcán Ltda	0	1	
Reforestadora de Palma del Petén S.A. (REPSA)	0	1	
Santa Rosa S.A.	0	1	
Palma del Horizonte (Pahosa)	0	1	
HONDURAS			10
Aceites y Derivados S.A.	0	1	
Agrícola Tornabe SA de CV (Agrotor)	0	1	
Agroindustrial Palma Real S.A. de C.V.	1	0	
Asociación Agroindustrial de Palmicultores de Saba, S.A. de C.V.	0	1	
Coapalma-ECARA	1	0	
Compañía Agrícola Industrial	0	1	
Ceibeña S.A. (CAICESA)			
Corporación Industrial de Sula (COINSU)	0	1	
Palmas Centroamericanas S.A. de C.V.	0	1	
Exportadora del Atlántico (Dinant)	0	1	
Palmas Aceiteras de Honduras			
Empresa Campesina	1	0	
Agroindustrial de la Reforma Agraria (Hondupalma ECARA)			
Grand Total	28	49	87

Profundo

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