

ISCC Technical Committee Meeting South East Asia Jakarta, August 12, 2015

Working group “Social Issues”

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FinnWatch Report on alleged social non-conformities on IOI plantations in Malaysia (I)

- Report from Finnish NGO Finnwatch (“The law of the jungle – Corporate responsibility of Finnish palm oil producer”, published on 16 September 2014) contains allegations of breach of social standards at four IOI plantations in Malaysia covered by ISCC certificates
- Report also questions the impact of sustainability certification
- Alleged breaches of social standards include:
 - High recruitment costs for foreign workers, working contracts not available in appropriate languages, no payment of minimum wage to foreign workers, restrictions of freedom of association, withholding of identity papers of foreign workers
- ISCC auditor visited all four plantations in September and October 2014
- ISCC published statements on this matter on 16 September and 2 December 2014
- In January 2015 ISCC published updated requirements for farm/ plantations that already covers issues such as passports



FinnWatch Report on alleged social non-conformities on IOI plantations in Malaysia (II)

Findings from ISCC auditor include:

- General discrimination of foreign workers could not be confirmed
- Few cases of payment less than minimum wage were detected but could be explained (e.g. less working hours, low crop season, long-time sickness)
- Overtime is also paid to foreign workers
- Differences in payment can be explained by levels of skills and harvesting conditions
- Withholding of passports by company could be confirmed but seems to be common practice (for security reasons).
- However, it is critical that passports will only be handed back for “important and emergency reason” and that it takes a day or more and a filed leave form

Further steps:

- Issues raised (e.g. passports) should be addressed in joint action from certification systems, companies and NGOs
- ISCC initiates **working group “Social issues” within the framework of the TC South East Asia**
- Representative of FinnWatch attended TC SEA meeting in March 2015

Finding of FinnWatch Report: comparison with ISCC requirements, findings of ISCC Integrity Audit, “GAP” and possible measurements (I)

Findings of FinnWatch Report	Findings ISCC Integrity Assessment	ISCC requirements at the time of FW report	“GAP” between should be and status quo	Action plan
1. Recruitment of foreign workers				
High recruitment fees and further expenses to get a job at IOI plantation. Workers sometimes take loans or sell property/ cattle to pay recruitment agency and other expenses (passport, visa, flight etc.)	Worker’s wage is sometimes deducted to pay recruitment agencies. Deduction complies with Art. 16 of MY Employment Act 1955 (2012 revision). Interviews confirmed that workers had been aware of amount to be paid back before coming to MY	202/4.4.4: There is no indication of forced labour at the farm (in accordance to ILO convention 29 and 105) 202/4.4.6: The farm does pay a living wage which meets the at least legal or industry minimum standards	Recruitment fees or other costs to obtain a job at a plantation are currently not covered under ISCC. Requirement to pay minimum fee is covered	Detail statement in monthly pay slip about any deduction has to be included Minimum wage or at least “decent” wage to be obtained despite deduction
Employment contracts for foreign workers only available in Bahasa Malaysia (for Indonesian workers) and English (for other nationalities). Workers are either illiterate or do not understand Bahasa Malaysia or English	This finding could be confirmed. Management stated that translators are available to assist before workers sign contracts. Workers stated that contracts were explained to them. It could not be settled if contracts were always fully understood	202/4.4.15: Do all employees are provided with fair legal contracts?	ISCC requirements and verification guidance does not specifically state that contracts should be available in appropriate languages (translations available for foreign workers, special assistance for illiterate workers?)	Include requirement in 202 standard that working contracts has to be available in appropriate languages. In case of illiterate workers appropriate assistance should be available

Finding of FinnWatch Report: comparison with ISCC requirements, findings of ISCC Integrity Audit, “GAP” and possible measurements (II)

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2. Passports				
Voluntary surrendering of passports to employer for safekeeping. Employees have unrestricted but documented access to passports – upon request.	This could be confirmed. Safekeeping seemed to be result of both common practice and legal requirements for companies to prevent illegal employment of their workers at other plantations.	This topic was not covered under the ISCC requirements in 2014	This topic was not covered under the ISCC requirements in 2014	Update of 202 standard in January 2015 includes under requirement 4.4 (no indication of forced labour at farm): “...employees shall not be requested to lodge their identity papers with the owner or a third party...” Safekeeping of passports at farm could be ensured e.g. by providing lockers to the workers Working group “Social Issues” to discuss further solutions

Finding of FinnWatch Report: comparison with ISCC requirements, findings of ISCC Integrity Audit, “GAP” and possible measurements (III)

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3. Minimum wage				
20% of foreign workers earn below minimum wage due to incomplete tasks or below stipulated hours	<p>Pay slips of workers who earned below minimum wage were examined. Lower payment could be explained with absence from work without a leave, probation period or not fulfilled agreed piece performance.</p> <p>No records and working hours were kept for piece rate workers</p> <p>Within contracts the regular working hours are limited to legal limit of 8 hours, also for piece rate workers. However, it is possible for workers to work up to 10-12 hours per day.</p>	<p>202/4.4.6: The farm does pay a living wage which meets the at least legal or industry minimum standards.</p> <p>202/4.4.16: Does a time recording system show daily working time and overtime on a daily basis for all employees?</p> <p>202/17: Do the working hours and breaks of the individual worker are indicated in the time records...?</p> <p>202/4.4.18: Do payslips document the conformity of payments with at least legal regulations and/or collective bargaining agreements? (Guidance: overtime documented on the payslip, it shall be able to gain minimum wage within regular working hours</p>	<p>ISCC standard contains clear and sufficient requirements on minimum wages and keeping of records (working time, overtime)</p> <p>Requirement 4.4.6 is a major must</p> <p>Requirements 4.4.16 – 18 are minor musts</p> <p>Not all requirements were fulfilled at the plantations assessed</p>	<p>Requirements 4.4.16 – 18 to be upgraded as major musts?</p> <p>Clear statement of working hours, overtime and leave days is necessary to verify if minimum wage was earned.</p> <p>In case minimum wage was not matched by worker the reason should be explained and documented</p> <p>Updated 202 standard contains requirement that “gross wages are paid at least monthly to workers”</p>

Finding of FinnWatch Report: comparison with ISCC requirements, findings of ISCC Integrity Audit, “GAP” and possible measurements (IV)

Findings of FinnWatch Report	Findings ISCC Integrity Assessment	ISCC requirements at the time of FW report	“GAP” between should be and status quo	Action plan
4. Freedom of association				
<p>Freedom of association is restricted by IOI</p> <p>Only Malaysian workers (20% of workforce) are members of NUPW (National Union of Plantation Workers). IOI refuses to conduct membership fee for migrant workers from salaries. Access of NUPW to migrant workers only with prior approval of management</p> <p>Industrial action is restricted. IOI has right to terminate contract with migrant workers in case of involvement in strikes or other industrial action</p>	<p>Industrial action restricted but agreed in workers contracts, and is part of Malaysian law</p> <p>Foreign workers did not join the union since they are not allowed to hold any offices, and high membership fees</p> <p>Workers’ representatives in the management</p> <p>Complaints and disputes settled by Employee Consultative Committee. “Grievance book” available to all workers</p> <p>Two union secretaries interviewed, and no allegations regarding restrictions mentioned</p>	<p>202/4.4.5: Do workers have the freedom the join labour organisations or organise themselves to perform collective bargaining? Workers must have the right to organise and negotiate their working conditions.</p> <p>Workers exercising this right should not be discriminated against or suffer repercussions.</p>	<p>ISCC standard contains clear and sufficient requirements on freedom of association</p> <p>Requirement 202/4.4.5 is a major must</p> <p>Association of foreign workers in unions seems to be restricted by Malaysian law and financial issues</p>	<p>In general, the cooperation between unions and plantations could be improved</p> <p>Plantations should allow that union membership fee can be deducted from workers’ salaries and forwarding it to the union</p> <p>Unions to lower membership fees?</p> <p>Unions to allow foreign workers to take offices?</p> <p>Remove provision from working contracts that participation in industrial action is prohibited?</p>

Finding of FinnWatch Report: comparison with ISCC requirements, findings of ISCC Integrity Audit, “GAP” and possible measurements (III)

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5. Discrimination of foreign workers				
<p>Foreign workers are not allowed to marry to Malaysians or bring their family to Malaysia or marry locals</p> <p>Foreign workers are only male</p> <p>Foreign workers work in collecting palm, pruning and spraying (no supervision or admin)</p> <p>Foreign workers earn less than local workers</p>	<p>It could be verified that bringing the family to Malaysia is prohibited by working contract</p> <p>Prohibition of bringing family or marry to locals is rooted in Malaysian Immigration Law</p> <p>No discrimination in payment of Malaysian and foreign workers for same work could be confirmed</p> <p>Difference in payment due to different levels of skills or type of work</p>	<p>202/ 4.4.2: Employment conditions comply with equality principles (according to ILO convention 100 (equal pay) and 111 (employment and occupation))</p> <p>202/4.4.3: There is no indication of discrimination...based on individual characteristics, group membership or associations (on the basis of e.g. race, caste, nationality, religion, gender etc).</p>	<p>202/4.4.2 is a major must</p> <p>Requirements regarding marriage or other family affairs are not covered by ISCC</p>	