



Ref. : 0111 – 06/ 22
Date : June 9th, 2022

Ms. Marcia Eugenio
Director of the Office of Child Labor, Forced Labor and Human Trafficking
Bureau of International Labor Affairs
U.S. Department of Labor

Dear Ms. Eugenio,

I write to you in reference to the allegations made by the U.S. Department of Labor (DoL) concerning labour rights in the Malaysian palm oil sector. Specifically, the claims and methodologies within the Trafficking Victims Protection Act (TVPRA) assessment, which has included Malaysian palm oil since 2014, and the sources relied upon for this TVPRA assessment.

The Malaysian Palm Oil Council (MPOC) of which I am Chair, has compiled an analysis of the sources and data relied upon by your Department. I attach herein the analysis compiled by MPOC. I would be grateful if you would take the time to review this document and provide me with a response.

The document highlight significant shortcomings and weaknesses that we have identified in the source materials:

- Several data and evidence sources are more than 10 years out-of-date
- Omission of data and evidence shows positive action by Malaysian palm oil sector
- Very limited inclusion of comments from Malaysian government or private sector
- Lack of understanding of the importance of private sector initiatives, including NGO-private sector cooperation, in driving progress towards labour rights reforms and improvements
- Reliance in several instances on reports by campaigning organisations that are explicitly opposed to palm oil cultivation. Using such reports as source documentation is not serious public policy, given the pre-existing bias built into those organisations.

For the avoidance of doubt – the Malaysian palm oil community accepts that there have been shortcomings in some parts of Malaysia’s regulatory regime around labor rights. Government Ministers, palm oil companies and others have recognised that we fell short in some areas and these need to be addressed. Reforms are already underway, including the recent establishment of a working committee between the Malaysian Human Resource Ministry and certain U.S. government agencies.

However, the fact that there are shortcomings in specific areas, does not equate to blanket or systemic problems across the industry or country. I am sure that you understand this crucial difference. Regrettably, the impression given currently is that DoL’s approach to Malaysia is relying on a *de facto* conclusion of systemic labour issues, even though that conclusion is nowhere to be found in the evidence and data provided by DoL.

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MPOC welcomes dialogue and engagement with our partners on this issue. MPOC is supportive of the engagement of Social Accountability International (SAI) and ProForest in the context of their ongoing project in Malaysia funded by DoL. MPOC has committed to support this project wherever possible. We are also committed to open dialogue with other U.S. government agencies, including U.S. CBP and ILAB.

I trust that you will find the attached document instructive, and I look forward to opening a more regular and structured dialogue on these issues. I am sure you will understand my frankness: the need for transparency and accuracy applies to all sides in this very important discussion.

I look forward to hearing from you.

Thank you.

Yours sincerely,



YB LARRY SOON
Chairman

RESPONSE TO LABOUR AND CHILD RIGHTS ALLEGATIONS

An analysis by the Malaysian Palm Oil Council



Malaysian Palm Labor Facts

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Executive Summary

- Multiple U.S. government agencies have publicly released assessments, including criticism, of the labour situation related to Malaysia's palm oil sector. These agencies' assessments are based on a variety of qualitative and quantitative sources. The sources themselves, and the data and evidence they present, deserve significant scrutiny.
- Decisions are made based on these sources and their data, which affect millions of workers in Malaysia, as well as costing companies millions of dollars. The U.S. government in general is transparent about much of its source material, which allows an independent assessment to be made. Close assessment of the source materials cited by the U.S. Department of Labor, Department of State, and the Department of Homeland Security's Customs & Border Protection, reveals that much of the data provided by sources such as NGOs, or petitioner organisations, are out-of-date (in some cases by almost 40 years) or are not applicable to the specific complexities of the Malaysian palm oil sector.
- This document sets out these concerns about the underlying source materials, in detail. It can be summarised as follows:
 - The U.S. Department of Labor's assessment of the palm oil sector relies on significantly outdated sources and datasets, and fails to take into account initiatives undertaken by the private sector in terms of preventative action;
 - The U.S. State Department's assessment similarly fails to acknowledge the work undertaken by the private sector to establish better practices and NGO collaboration where government policies have not kept up to date with global benchmarks;
 - The presence of child labour in Malaysian plantations has been confirmed by the Malaysian government; yet the incidence of child labour is relatively small, largely isolated to the States of Sabah and Sarawak, and for the most part involves unpaid family members assisting parents and children in legal employment exposed to suboptimal conditions; there is no evidence of widespread or systematic or institutional forced labour of children;
 - The claims regarding forced labour against the palm oil industry ignore two things:
 - » The incidence of forced labour in the Malaysian palm oil industry appears to be lower than in other sectors and other countries in the region; and
 - » The Malaysian palm oil industry – via MSPO standards revisions, work with trade unions and NGOs such as Earthworm and other organisations – has objectively taken more steps towards best practice than other industries.
 - Many of the claims against the industry regard unethical recruitment of workers, which the industry has taken steps against and is continuing to seek workable solutions.
 - Additional concerning elements of the source texts include:
 - » There is a significant conflation of Indonesia and Malaysia in many of the source documents and data, which betrays a lack of understanding of the significant differences between the countries themselves, and their palm oil sectors;
 - » Child labour appears to have greater weight than migrant labour. This is in line with both emotive campaign tactics and the priorities of government policies around the world in attempting to eradicate child labour (but does not align with the focus on Malaysia, where there is no evidence of widespread forced child labour); and
 - » There is reliance in several instances on reports by campaigning organisations that are explicitly opposed to palm oil cultivation in the region. Using such reports as source documentation is not serious public policy, given the pre-existing bias built into those organisations. This approach undermines the claim that actions taken are independent and evidence-based and undermines the goal of rooting out forced labour.

Response to U.S. Department of Labor Report

The U.S. Department of Labor (DoL) undertakes three assessments on international slave and child labour.

1. The first is an assessment under the TDA (Trade and Development Act) on the Worst Forms of Child Labor.¹ This includes a great deal of contextual reporting (e.g. development indicators, enforcement efforts, laws/regulations and other information), as well as both qualitative and quantitative assessments of the child labour situation in jurisdictions. Malaysia is not included in this report. However, Indonesia is currently listed for a number of products including palm oil.
2. The second is the assessment made under the Executive Order (EO) 13126, Prohibition of Acquisition of Products Produced by Forced or Indentured Child Labor.² This Order mandates that “the Department of Labor, in consultation and cooperation with the Departments of State and Homeland Security (the three Departments), publish a list of products (EO List), identified by their country of origin, that the three Departments have a reasonable basis to believe might have been mined, produced, or manufactured by forced or indentured child labor.” Neither Malaysia, nor Malaysian palm oil, is included in this report, nor are any palm oil products included.
3. The third is an assessment under the TVPRA (Trafficking Victims Protection Act). This assessment produces a ‘list of goods’ that the Department of Labor “has reason to believe” might be produced with either child labour or forced labour.³ The Department of Labor states the list “is intended to raise public awareness about child labor and forced labor around the world, and to promote and inform efforts to address them. A starting point for action, the List creates opportunities for Bureau of International Labor Affairs (ILAB), an agency within the Department of Labor, to engage and assist foreign governments. It is also a valuable resource for researchers, advocacy organizations and companies wishing to carry out risk assessments and engage in due diligence on labor rights in their supply chains.” Malaysian palm oil is included in this list for both child labour and forced labour.

The methodology for the TVPRA list is considerably weaker than the TDA list or EO list and appears to generate ad hoc results mostly based on media materials and advocacy campaigns. In 2014, palm oil was added to this list. A bibliography for the TDA’s inclusions is published by the DOL⁴.

There are considerable flaws in the Department of Labor assessment of Malaysia’s palm oil sector. These include:

1. There is no specific accusation levelled at Malaysian palm oil

The assessment is limited purely to the inclusion of a bibliography, and then supplemented with a listing of those bibliographic materials.

2. Shallow and out-of-date research in the Department of Labor Bibliography

The median age of the sources used in the bibliography is 10 years, i.e. from 2012. A number of the sources used do not mention palm oil in any depth at all; the sector is only mentioned in passing in relation to broader problems with Malaysia’s labour governance.

3. Failure to account for private sector initiatives

Although there have been shortcomings in some parts of Malaysia’s regulatory regime, the research by both the Department of Labor and the State Department fails to take into account the non-

1 United States Department of Labor International Labor Division (2013). Findings on the Worst Forms of Child Labor. US DOL, Washington DC.

2 United States Department of Labor International Labor Division (2014). List of Products Produced with Forced or Indentured Child Labor. US DOL, Washington DC.

3 United States Department of Labor International Labor Division (2014). List of Goods Produced With Child Labor or Forced Labor. US DOL, Washington DC

4 [TVPRA Bibliography for 2021 \(dol.gov\)](https://www.dol.gov)

government, i.e. industry, initiatives addressing forced and child labour risks, and the extensive collaborations that have taken place between the private sector and NGOs.

The absurdity of this is underlined by the inclusion of a report by NGO Finnwatch criticising one company, but the absence of subsequent reports by the same NGO that were a result of increased transparency and ongoing collaboration between the company and the NGO. Such cherry-picking is a significant flaw in the material.

Therefore, the only means of responding to the Department of Labor listing is by examining the bibliography. A critical examination of the reports cited in the bibliography is presented below, assessing each of the sources used by the Department of Labor, and the major claims in each. In some cases, there is a further critical examination of the cited sources.

1. Accenture. Exploitative Labor Practices in the Global Palm Oil Industry. 2013⁵

This report is still referred to on a regular basis by campaigners against the palm oil industry, and arguably played a role in the decision to disrupt some palm oil exports to the U.S. It was commissioned by consulting firm Accenture on the request of the NGO Humanity United, a group that Malaysian palm oil companies have collaborated with at various points (see below).

This report was comprehensive and very broad in scope. The bulk of the 57-page report concerns the industry in general; there are a number of claims about migration and immigration abuses, and a very small number of claims about the industry — just 8 claims altogether. There are, however, significant problems with the report's claims.

First, sources are not given in a number of these cases. In a series of three claims about the industry's treatment of workers on plantations, no sources are given.

Second, the report at various points conflates Indonesia and Malaysia, specifically in relation to the arrangements between plantation companies and smallholders. This is significant given the vast differences between land tenure regimes in the two countries and the way smallholder schemes have been developed (and continue to develop) in both countries.

Third, some of the source evidence on child labour used is more than 30 years old, meaning that it is significantly out of date not just in terms of quantified data, but also qualified data. For example, thirty years ago, the proportion of migrant labour in the Malaysian workforce was significantly lower than it is now, meaning that any discussion of child labour would have likely referred to domestic workers and families.

Fourth, some of the numerical estimates cited by advocacy groups appear to greatly overstate published academic estimates in relation to stateless children.

Despite this, and the decade-old data in the report, the document continues to be used by the Department of Labor⁶ and formed part of the Grant Einhofer petition.⁷

The claims within the report, sources and responses are summarised below.

5 [http://humanityunited.org/pdfs/Modern Slavery in the Palm Oil Industry.pdf](http://humanityunited.org/pdfs/Modern_Slavery_in_the_Palm_Oil_Industry.pdf)

6 [TVPR-2020-Bibliography.pdf \(dol.gov\)](#)

7 [Microsoft Word - 2829953_1.docx \(gelaw.com\)](#)

CLAIM	SOURCE	ANALYSIS
In Malaysia, forced labor in the palm oil industry is generally a result of international trafficking in people.	No source is given.	As there is no evidence given for any of the statements made, it's impossible to assess the veracity of the claims.
... workers are completely at the whim of plantation owners or managers, whose priority it is to maximize productivity, often at the expense of reasonable working and living conditions and the rights of plantation workers. When faced with these conditions, workers have little recourse other than to leave the plantations; however, workers are unable to do so due to the closed nature of plantations.	No source is given.	As there is no evidence given for any of the statements made, it's impossible to assess the veracity of the claims. However, commitments from Malaysian industry have been strong and numerous in recent months to address similar allegations. The MPOA Responsible Employment Charter, for example, commits the industry to banning all debt-bondage scenarios.
Workers are often forced to submit work permits, visas, and passports to employers, which makes it impossible for them to legally depart plantations. This often does not prevent migrant workers from leaving the premises. However, if they leave, migrants are highly susceptible to extortion by local police, whose primary course of action is to return workers to the plantations where they are employed. Those migrants that successfully escape a plantation are unable to find legal employment in Malaysia. If they do find employment elsewhere, it is often at small, independent plantations that draw few visits from industry and government regulatory groups, making these migrants susceptible to further exploitative labor practices.	No source is given.	As there is no evidence given for any of the statements made, it's impossible to assess the veracity of the claims. However, the examples of similar situations that have been found on the public record focus specifically on operations in Indonesia rather than Malaysia. Given conflation of Malaysia and Indonesia at other points in the report, it is possible that the authors may have again conflated the two countries.
Commercial estates may exploit smallholder plantation owners - a section in the report that contains claims about the relationships between commercial plantations and smallholders	Multiple – sources are accurate	The report does not specify that the allegations relate solely to Indonesia, and none of the sources are related to Malaysia
In Malaysia, children can be found working on palm oil plantations, where they assist their parents to collect loose fruit, help carry and load bunches of oil palm fruit, and weed the oil palm fields. One report estimates that 60 percent of the children working on palm oil plantations in Malaysia are 6 to 10 years old.		The source given is an interview with CAMSA, an NGO based in Malaysia, however, it would appear that the source is incorrect and is conflated with the source below (Department of Labor, 1995). There is no substantiation for the data, nor is any context given, specifically in relation to the status of the parent workers, e.g. whether they are working with their families outside of educational hours, which is within international norms.
In order for workers on plantations to meet their daily quota of palm fruit harvested and collected, it has been identified that "assistance from the child worker is the savior."	Department of Labor, 1995	The Department of Labor source quotes from another source, which is a report from 1992. However, the primary source of the original quote and data is in fact a report published in 1984 – almost 40 years ago.
In Malaysia, it is estimated that between 72,000 and 200,000 stateless children work on palm oil plantations.	Asia Foundation 2010	There is no primary source for this data. However, the only published estimates (from 2009) estimate approximately 36,000 Indonesian stateless children in Sabah.

It should also be noted that the authors of the report – Humanity United – have previously praised the efforts of the industry in terms of increasing transparency, and specifically as part of Senate testimony in 2015.⁸

Why, then, are source materials being used by Department of Labor that clearly emphasise historic allegations – including some from decades ago – rather than addressing the positive story of progress made by the palm oil industry in the present day? Such cherry-picking leads to the suspicion of dice being loaded against Malaysia in the preparation of the Department of Labor report's source material.

2. Al-Mahmood, Syed Zain. "Palm-Oil Migrant Workers Tell of Abuses on Malaysian Plantations"⁹

The news article contains specific allegations from a named whistleblower, with accusations of poor treatment, poor OH&S, passport retention, and debt bondage. Syed Zain Al-Mahmood, the story's author is a correspondent for the WSJ based in Bangladesh. There did not appear to be a particular agenda with the news story other than attempts to undertake advocacy work for Bangladeshi victims of modern slavery and trafficking.

⁸ [DA Testimony before SFRC 2-4-15 Final \(senate.gov\)](#)

⁹ The Wall Street Journal, July 26, 2015 [accessed August 6, 2015]; <http://www.wsj.com/articles/palm-oil-migrant-workers-tell-of-abuses-on-malaysian-plantations-1437933321>.

However, FGV, which was the subject of the story, noted a number of inconsistencies in the reporting¹⁰, particularly regarding three key claims:

- Mohammed Rubel, the principal source for the story, was not recorded at any point as a FGV employee, and noted that FGV does not use labour contractors; FGV determined that Rubel was on the plantation as a visitor;
- FGV contradicted claims by workers that the cost of medical treatments was not covered;
- FGV also stated that passports were held for safekeeping, and not forcibly removed (since 2016, all FGV workers keep their own passports, in safe boxes provided for that purpose).

As a result of the article, RSPO commissioned a third-party compliance investigation¹¹ that supported FGV's rebuttals, with the exception of claims around minimum wages, and that they were not in compliance with all safety requirements.

The article, despite truth in some of the claims, cannot be considered completely accurate with regards to forced labour.

3. Center for Anthropological Research, University of Indonesia. Assessment on Human Trafficking/Debt-Bondage in Sabah. International Catholic Migration Commission (ICMC). 2010

This source is not publicly available and it is therefore impossible to assess the veracity of any claims, noting in addition that the source is 12 years old.

However, the closest document available appears to be the ICMC publication, "Migration and Situation of Trafficking in Sabah, Malaysia",¹² also published in 2010. However, it should be noted that this publication is a series of training modules on human trafficking for those undertaking enforcement activities that uses specific case studies; it covers a number of sectors, with plantations being just one sector included. The available document is not a qualitative or quantitative assessment of labour problems within in Malaysia.

4. ILO. Application of International Labour Standards 2017 (I). Report of the Committee of Experts on the Application of Conventions and Recommendations. Geneva; 2017¹³

The ILO document states, "Fishermen, mainly from Cambodia and Myanmar are trafficked for bonded labour to work on Thai fishing boats in Malaysian waters as well as in oil palm plantations." It should be noted that the ILO's source for this statement is an Office of the United Nations High Commissioner for Human Rights (OHCHR) report¹⁴, which states: "There are also indications that fishermen mainly from Cambodia, Burma and Myanmar, are trafficked for bonded labour to work on Thai fishing boats in Malaysian waters. The Special Rapporteur was informed that those who escape from those boats in Malaysian coasts are often reportedly re-trafficked into palm oil plantations in Sarawak State."

It should be noted that this source, although credible, notes more significant problems in the country's agricultural, manufacturing and services industries more broadly, rather than being specifically focused on palm oil.

¹⁰ [FGV Clarifies on Wall Street Journal Allegations of Abuses of Malaysian Plantations - FGV Holdings Berhad](#)

¹¹ <https://rspo.org/files/download/40cbe54823271bc>

¹² [soul.indd \(icmc.net\)](#)

¹³ http://www.ilo.org/wcmsp5/groups/public/---ed_norm/---relconf/documents/meetingdocument/wcms_543646.pdf

¹⁴ https://www.ohchr.org/EN/HRBodies/HRC/RegularSessions/Session29/Documents/A_HRC_29_33_Add.1_en.doc A/HRC/29/38/Add.1

The Malaysian Government has recently ratified the ILO Protocol 29 on Forced Labour, adding to existing commitments from government and the private palm oil sector to stamp out any forced labour or trafficking activities by unscrupulous middlemen. Such commitments, and the enforcement alongside them, should be given more weight in analysis carried out by Department of Labor and other agencies.

5. Jakarta Post. “Children Deprived of Proper Education.” Jakarta; July 25, 2009¹⁵

The story is an exploration of the problems faced by stateless children in Sabah that have been unable to access state education.

Noting again that the source is more than a decade old - where the presence of stateless children is established in operations, the private sector has taken a number of initiatives to educate stateless children in Sabah, as current legal requirements do not allow state schools to accept non-residents and non-citizens. This has largely been in the form of grants to NGOs such as Humana that operate schools for stateless children. This has been documented at various points in academic journals,¹⁶ and media reports.¹⁷ Media reports noted that Humana received around 70 per cent of its funding from palm oil companies. These are steps that have been undertaken by the industry of its own volition.

Selective use of source material gives a particular impression, when the reality is of a problem not created by the palm oil industry, but one that the industry is playing a leading role in the efforts to find a sustainable and humanitarian solution on the ground.

6. Malaysian Human Rights NGO. Interview with U.S. Department of Labor official. January 29, 2014.

The interview is not publicly available. Cannot assess the veracity of the claim.

7. Motlagh, Jason. “In Indonesia and Malaysia, as Demand for Palm Oil Grows, So Do Environmental, Labor Concerns.” The Washington Post, November 26, 2012¹⁸

Noting that this story is ten years old, and that it is principally about environmental concerns around palm oil – specifically deforestation and greenhouse gas emissions – rather than labour.

On labour complaints, it covers a family that migrated from Indonesia to Malaysia as illegal immigrants. Specifically it covers the story of a 17-year old migrant who ‘worked’ on a plantation from the age of 12. It is not clear whether some, or all, of this falls under the definition of ‘child labour’, as neither the working hours nor pay and conditions of the child are included in the story. The ILO has been clear that there are circumstances, specifically on family-owned farms or smallholdings, when children helping parents on plantations is not a ‘child labour’ problem¹⁹. Malaysian law also reflects this same approach.

In this case, this child completed primary school but had no access to secondary school. Although the child is not being ‘forced’ to work without parental consent or being put in a situation that involves debt bondage or similar, the concerns are around educational outcomes for children (along the lines of the positions UNICEF claims); this would also raise concerns regarding parental responsibility.

¹⁵ <http://www.thejakartapost.com/news/2009/07/25/children-deprived-proper-education.html>.

¹⁶ IJCWED3_9.pdf

¹⁷ Palm oil industry struggles to build trust in rights pledges | News | Eco-Business | Asia Pacific

¹⁸ http://www.washingtonpost.com/world/asia_pacific/in-indonesia-and-malaysia-as-demand-for-palm-oil-grows-so-do-environmental-labor-concerns/2012/11/25/857010fa-3036-11e2-a30e-5ca76ecec857_story.html.

¹⁹ https://www.ilo.org/asia/publications/WCMS_817703/lang-en/index.htm

8. Nettleton S. “Helping Children of Malaysia’s Plantation Workers Get a Quality Education.” UNICEF.²⁰

Noting that this report is more than 10 years old, the report is an advocacy piece by Unicef and is largely supportive of efforts by the private sector to ensure the stateless children of plantation workers have access to education, despite not having access to government services. The report notes that a school facility has been established by the Borneo Child Aid Society, with financial support from a plantation company, and that “UNICEF is supporting the Borneo Child Aid Society and is establishing a collaboration with the Roundtable for Sustainable Palm Oil (RSPO) in Malaysia to convince other enterprises across the region of the advantages – both from a business and humanitarian perspective – of doing the same.”

9. Netto, Anil. “Migrant Worker’s Death Exposes Slave-Like Conditions.” Inter Press Service.²¹

The news report is 15 years old. It covers the death and apparent murder of an immigrant worker – whose industry is not specified – in Malaysia who died in tragic circumstances; employers were eventually charged with murder.

Another section in the article refers separately to a number of unrelated workers who were required to spend “a few days” at an oil palm plantation as part of their outsourcing and contract work for a labour recruitment company; this is the only mention of palm oil and it does not specify the nature of their treatment on the oil palm plantation. It is not connected to the death of the worker.

In other words, the article is not specific to the palm industry; it has a greater concern with the murder of the worker (whose industry is not specified) and needed reforms to labour recruitment processes.

10. New Straits Times. “When Family’s Livelihood Comes First.” Spotlight: Children at Work.²²

The news report is 12 years old. The article advocates for better educational outcomes for the children of migrant workers in Borneo, specifically Indonesian workers, that have travelled from Kalimantan.

The article appears to genuinely be concerned for the educational outcomes of children, rather than attempting to disparage palm oil companies per se. It can therefore be considered a credible assessment of flaws in Malaysian government and policy approaches towards migrant workers and their families.

It also notes initiatives taken by the private sector to ameliorate the situation, specifically: “The company did not allow children to work on the plantations but sometimes during school holidays, the older ones helped their parents out with light work, he said ...Working with non-governmental organisation Borneo Child Aid, Melangking Oil Palm provides education at three schools on its 8,000ha plantation in Sukau in Sabah’s east coast.”

²⁰ [Helping children of Malaysia’s plantation workers get a quality education | Malaysia | UNICEF](#) March 12, 2012

²¹ May 8, 2007; <http://www.ipsnews.net/2007/05/labour-malaysia-migrant-workers-deathexposes-slave-like-conditions/>

²² Kuala Lumpur; January 12, 2010 [source on file].

11. Sapienza, S. "Growing Demand for Palm Oil Drives Malaysia to Employ Child Migrant Workers."²³

The article outlines the problems associated with the children of migrant workers – ‘stateless children’ – in Malaysia. However, the main focus of the article is the initiatives that the palm oil industry – specifically PPB Plantations – have funded and undertaken in order to address the situation in spite of government policy.

12. Tenaganita. Fact Finding Report: Outsourcing in Labour or Trafficking in Migrant Labour?²⁴

Noting that this report is 15 years old, it is also not available online. It is occasionally referenced in other publications but otherwise not on public record.

13. U.S. Embassy- Kuala Lumpur. Reporting, June 3, 2008.

The reporting is not available. Cannot assess the veracity of the report.

14. U.S. Embassy- Kuala Lumpur. Reporting, November 3, 2017.

The reporting is not available. Cannot assess the veracity of the report.

15. U.S. Embassy- Kuala Lumpur. Reporting, December 21, 2017.

The reporting is not available. Cannot assess the veracity of the report.

16. Vérité. Labor Risks in Palm Oil Production: Findings From Multi-Country Research²⁵

Noting that the report is nine years old based on research that is ten years old, this is a short document (6pp) that examines without significant detail labour risks in supply chains. There is a relatively short section on Malaysia that the authors state is based on field research undertaken in 2012 and 2013 in Malaysia, specifically Sabah.

It states: "Interviews were conducted with plantation workers and their families, social workers and community-based outreach workers, key NGOs and academics, management of palm oil companies, and through observation and social mapping of plantations and sending communities"

It states that passport retention, child labour, and restrictions on freedom of association are problems. It also noted problems with living conditions as well as OH&S.

The report can be considered credible in that it is highly likely that the interviews with workers took place, particularly given that the author appears to be from the Philippines and there is a focus on Filipino workers in Sabah.

However, the objectives of the project do not appear to be an attempt to advocate for any particular change to labour regulations, but to spruik business services for supply chain risk management for forced labour.

²³ Public Broadcasting Service and Pulitzer Center on Crisis Reporting. 2013; <http://www.pbs.org/newshour/bb/world-jan-june13-palmoil-02-12/?print>.

²⁴ Kuala Lumpur; ca. 2007.

²⁵ Amherst, Massachusetts; 2013; [source on file].

17. Verité. Sustainable Palm Oil? Promoting New Measures to Combat Risks of Forced Labor and Human Trafficking in Palm Oil Supply Chains²⁶

The White Paper is a summary of earlier research undertaken by Verité approximately 12 months earlier (see above). It does not provide any new data on palm oil and palm oil practices in the field.

The paper reiterates the points made on fees charges from recruitment companies, and also regarding the access of children to migrant labour.

The document cannot be considered new or as making substantive claims. It appears to essentially be marketing collateral for Verité's "Ethical Labor Practices in Palm Oil" program, which appears to have disbanded.

18. Verité. Understanding Labor Risks in Palm Oil Production²⁷

The short (4pp) document covers risks to companies relating to labour exploitation. As with other Verité reports, this appears to be more concerned with generating business rather than advocating for institutional change. It contains a case study on 'Eric', an indentured worker from the Philippines working on oil palm plantations in Sabah, who was recruited by outsourcing agents who illegally held his passport.

The report regarding 'Eric' appears to be credible but not necessarily substantive. However, see above (2013) regarding Verité reports being used as marketing collateral. In addition, the report was produced with funding from Humanity United, an NGO founded by the Omidyar Group, which was established by the founders of Ebay.

19. Wehrfritz, George et al. "Bottom of the Barrel: Millions of Asian Workers Producing Goods Here Are Trapped in Servitude."²⁸

Noting that the report is 14 years old, this report appears to have been an advocacy / outreach activity from the International Organization of Migration (IOM). The report focuses more squarely on the electronics industry, and more specifically the manufacturers of components from computers, with a company 'Local Technic' named as a key offender. Palm oil is mentioned only in passing, with greater reference to rubber: "when that plantation's harvest goes to market, it looks just like rubber from anywhere else." Other markets – Thailand – are also named.

The report can be considered credible, but it cannot be considered as related to palm oil, with stories on the agricultural sector in Malaysia only nominating rubber.

20. Win, Thin Lei. "Sabah's Stateless Children Seek Official Status."²⁹

This article is effectively advocacy for education for the children of oil palm workers. It is worth noting that this was a series on 'statelessness' for migrant workers partly funded by the Open Society Foundations.

This article can be considered credible, but there is actually no suggestion in the article that palm oil is made with child labour or indentured labour. This is advocacy for migrants and migrant rights, particularly for children and education.

26 White Paper. Amherst, Massachusetts; May 2013; http://www.verite.org/sites/default/files/images/Palm_White_Paper_May_2013_Final_Draft0.pdf.

27 Quezon City, Philippines, and Amherst, Massachusetts; 2013; <https://www.verite.org/wp-content/uploads/2016/11/PalmOil-Primer-EN.pdf>.

28 Newsweek, March 15, 2008; <http://www.newsweek.com/2008/03/15/bottom-of-the-barrel.html>.

29 Thomson Reuters Foundation and AlertNet. [previously online] August 23, 2011; [http://www.trust.org/item/20110823105300-](http://www.trust.org/item/20110823105300-cnt3r/?source=search)

[cnt3r/?source=search](#) [source on file]

Response to U.S. State Department Trafficking in Persons (TIP) Report

The U.S. State Department's Trafficking in Persons (TIP) report³⁰ has alleged the use of trafficked labour in Malaysia since 2005.³¹

The methodology for the U.S. TIP Report and the tier placement of countries is based entirely upon a government's legal, regulatory and policy responses to human trafficking; it does not consider non-government or private sector responses, despite the fact that private sector actions – including in the Malaysian palm oil sector – have a significant positive effect on the ground, at improving labour rights and resolving issues raised by the TIP Report.

This means that efforts by certain subsectors (e.g. palm oil) or individual companies to prevent, mitigate or remediate problems within their supply chains will not necessarily be recognised by the State Department, even if those actions materially and verifiably succeed at resolving questions raised in the TIP report. It is therefore not practical for industry to respond to all claims in the TIP report on palm oil.

Despite whatever problems there may or may not be in Malaysia, the private sector – specifically the palm oil industry – has taken a number of measures to address the treatment of migrant workers in the country.

Unlike the Department of Labor report, the TIP report does not publish a bibliography of sources. It is understood from consultations with officials that the State Department has relied heavily upon the Fair Labor Association's 2018 report³² as a bibliographic source. These sources are noted in the Annex.

1. Report recommendation text: "Take steps to eliminate recruitment or placement fees charged to workers by recruiters and ensure recruitment fees are paid by employers."

The industry, government, and NGOs have taken clear steps to eliminate recruitment and placement fees charged to workers via the MSPO (Malaysian Sustainable Palm Oil) certification system.³³

MSPO certification is a mandatory certification system for all Malaysian palm oil supply chain participants, from large plantations and smallholders through to mills, processors and traders.

The MSPO standards were revised to specifically eliminate the ILO's 11 indicators of forced labour, with specific and clear prohibitions on: "a) Abuse of vulnerability; b) Deception; c) Lack of freedom of workers to resign and restriction of movement; d) Isolation; e) Physical and sexual violence; f) Retention of identity documents or passports except during the renewal process and/or legal administration purpose with the consignment letter agreed by both parties; g) Withholding of wages; h) Debt bondage; i) Abusive working and living conditions; j) **Payment of statutory recruitment fees by workers**; k) Involuntary or excessive overtime; l) Contract substitution; and m) Penalty for termination of employment."

The standards were developed and revised with the participation of the Malaysian Trade Union Congress (Malaysia's labour representative at the ILO) and the National Union of Plantation Workers.

MSPO is audited via independent third-party auditors, with minimum social audit training and experience requirements for auditors.

30 [TIPR-GPA-upload-07222021.pdf \(state.gov\)](https://www.state.gov/j/tip/pr/gpa-upload-07222021.pdf)

31 For a full list of the annual reports, visit: <http://www.state.gov/j/tip/rls/tiprpt/index.htm>

32 [palm_oil_report_fla-cgf_final.pdf \(fairlabor.org\)](https://www.fairlabor.org/palm_oil_report_fla-cgf_final.pdf)

33 See for example *MSPO 2530-3-2:2022 Malaysian Sustainable Palm Oil (MSPO) - Part 3-2: General principles for oil palm plantations (more than 500 hectares)*

2. TIP Recommendation: “Continue to expand cooperation with NGOs, including through financial or in-kind support to NGOs to provide some victim rehabilitation services.”

The industry has collaborated at length with NGOs in order to prevent worker exploitation, and has now recently provided financial support as remediation for victims of underpaid workers.

Industry collaboration with NGOs includes organisations Verité,³⁴ Finnwatch,³⁵ Proforest³⁶, and the Fair Labour Association,³⁷ among others.

In addition, the revised mandatory MSPO standards were developed and revised with the participation of the Malaysian Trade Union Congress and the National Union of Plantation Workers.

3. TIP Recommendation: “Effectively enforce the law prohibiting employers from retaining passports without employees’ consent, including by increasing resources for labor inspectors, and include language explicitly stating passports will remain in the employee’s possession in model contracts and future bilateral memoranda of understanding with labor source countries.”

As noted above, the mandatory MSPO standards contain blanket prohibitions on the “f) Retention of identity documents or passports except during the renewal process and/or legal administration purpose with the consignment letter agreed by both parties.”

The Malaysian Palm Oil Association (MPOA)’s Responsible Employment Charter also commits explicitly to “prohibition on recruitment fees”³⁸ among many other commitments. Individual companies, notably Sime Darby Plantations, have made explicit commitments to remediation for any past recruitment fees paid by workers³⁹.

4. TIP Quote: “The government continued to operate an anti-trafficking hotline, established in 2018”

The country’s larger palm oil companies have deployed helplines for grievances, including full standard operating procedures for helplines and case management.⁴⁰

5. TIP Quote: “The government continued to enforce its ban of Malaysia-based outsourcing companies, which previously often used practices that perpetuated debt-based coercion among migrant workers... The law did not define what comprised a “placement fee” and enforcement of this rule was lacking...”

Major companies have policies in place that prohibit the payment of placement fees and recruitment fees borne by workers; these payments are reimbursed in full to workers, if paid. This is a matter of public record.

³⁴ [joint-statement-wilmar-verite-collaboration-final.pdf \(wilmar-international.com\)](#)

³⁵ [untitled \(ioigroup.com\)](#)

³⁶ <https://www.proforest.net/es/lo-que-hacemos/projects/the-palm-oil-collaboration-group-14066/>

³⁷ [FGV-Holdings-Berhad’s-Statement-of-Commitment-on-Upholding-Labour-Standards.pdf \(fgvholdings.com\)](#)

³⁸ <https://www.mypalmlaborfacts.com/malaysias-private-sector-palm-oil-association-launch-responsible-employment-charter/>

³⁹ <https://simedarbyplantation.com/reaching-out-to-former-workers-for-remediation/>

⁴⁰ [SOP-Suara-Kami-Helpline_15Apr2020.pdf \(simedarbyplantation.com\)](#)

6. TIP Quote: “the government publicly released the results of a survey it funded from June 2018-January 2019 on the prevalence of forced and child labor in the palm oil sector.”

With regards to information gathering as a means of prevention, the private sector has cooperated fully with the 2018 Employment Survey in Oil Palm Plantations, as a member of the Working Group; the survey was also supported by the Department of Labor’s BRIDGE Project.

The survey was undertaken in line with ILO methodologies.

The forced labour prevalence for the industry was estimated at around 0.8 per cent. Although this is not a perfect record by any means, it is not significantly higher than the national estimate of 0.69 per cent, and consistent with higher prevalence for rural and agricultural industries. It is also lower than national estimates for other economies in the region, such as Thailand (0.89 per cent), Brunei (1.9 per cent) and Cambodia (1.7 per cent).⁴¹ It is worth noting that none of these nations has been downgraded to Tier 3 in the TIP Report, as Malaysian has been⁴².

The survey estimated that there are around 4,900 individuals that could be considered in situations of forced labour; the largest category was involuntary overtime (around 25 per cent).

The survey also estimated that around 4,800 children could be considered in a child labour situation representing around 11.5 per cent of the total number of working children; the vast majority of these (more than 75 per cent) were unpaid family members; around 24 per cent were employees, which roughly coincides with the percentage of 15 to 17 year olds in employment.

Although 11.5 per cent can be considered to be a higher incidence of child labour than the regional average for the Asia-Pacific, it should be remembered that oil palm plantations are part of the agricultural sector, which has the highest incidence of child labour, and is a rural activity, which also has a high incidence of child labour.

7. TIP Quote: “Malaysian birth registration policies have left more than 500,000 individuals, including children, stateless and therefore unable to access some government services, including legal employment, increasing their vulnerability to trafficking.”

With regards to stateless individuals, the private sector is limited in the measures it can undertake to assist, as legally it is unable to employ stateless or undocumented workers. However, it is able to assist with the education of stateless children that have been either brought to Malaysia or born in Malaysia and have been unable to access government services. The industry has supported a large number of educational service providers to provide schooling for stateless children. This is another demonstration of the Malaysian palm oil industry taking proactive action to resolve a social and labour rights problem, without waiting for government action or requests.

⁴¹ [GSI-2018_FNL_190828_CO_DIGITAL_P-1645513074.pdf \(globalslaveryindex.org\)](https://www.globalslaveryindex.org/2018/FNL-190828-CO-DIGITAL-P-1645513074.pdf)

⁴² <https://www.state.gov/reports/2021-trafficking-in-persons-report/>

8. TIP Quote: “A 2018 NGO report documented multiple indicators of forced labor associated with the production of palm oil in Malaysia, including coercive practices such as threats, violence, lack of clarity of employment terms and conditions, dependency on the employer, lack of protection by police, debt bondage, high recruitment fees, and involuntary overtime.”

The source appears to be a report commissioned by the Consumer Goods Forum, authored by the Fair Labour Association, noting that a number of Malaysian companies have engaged with the FLA (see above).

As indicated above, the industry – particularly large plantation companies – has taken a number of measures to prevent, mitigate and remediate these practices, specifically via the implementation of certification systems, as well as introduction of numerous internal policies to prevent these practices (see above).

The report made clear recommendations for the industry at the time, many of which were implemented at that time either through RSPO certification or company policy. While many major companies have RSPO certification, MSPO can be considered the minimum standard to which Malaysia’s major palm oil companies conform, and the MSPO revisions have undertaken specific measures to address the ILO’s 11 forced labour indicators. The recommendations are listed below with corresponding RSPO criteria and/or company responses. MSPO is a far superior standard to RSPO in terms of labour and human rights.

RECOMMENDATION	RESPONSE	RESPONSE (RSPO/COMPANY POLICY)
Employers cover the recruitment fees.	MSPO 4.4.3.2 Indicator 2: There shall be no forms of forced or trafficked labour whereby all work the following are prohibited: j) Payment of statutory recruitment fees by workers;	RSPO (Criteria 6.1.2) and company policies
Workers are issued a proper contract by the employer, which includes clear terms and conditions.	4.4.3.8 Indicator 8: All employees, including contractors’ employees, shall be provided with fair contracts that have been agreed by both employee and principal employer in accordance with legal requirements. The contract shall be made available in a language the worker understands and copies of employment contracts shall be available to employees.	RSPO (Criteria 6.2.2)
Workers are made aware of their rights and of the terms and conditions of their employment, to which they voluntarily agree.	See above	Company policies
Require reasonable work hours and prohibit forced overtime or have defined production quotas.	4.4.3.6 Indicator 6: A transparent system for recording working hours, paid leave and overtime shall be implemented in accordance with legal requirements and/or provisions in the Collective Agreements. Overtime shall be mutually agreed, compensated at applicable rates and legal requirements.	RSPO (Criteria 6.6.1)
Workers are paid according to national law, including benefits.	4.4.3.5 Indicator 5: The organisation shall ensure that employees’ (including employees of contractors) pay and conditions, working hours and breaks of each employee, wages and overtime payments documented on pay slips shall comply with legal requirements and where applicable, Collective Agreements.	RSPO (Criteria 6.2.6)
Passport (or other important documentation) retention practices are eliminated.	4.4.3.2 Indicator 2: There shall be no forms of forced or trafficked labour whereby all work the following are prohibited: f) Retention of identity documents or passports except during the renewal process and/or legal administration purpose with the consignment letter agreed by both parties;	RSPO (Criteria 6.6.1)
Living conditions (worker accommodation) are improved as per the international guidelines.	4.4.4.1 Indicator 1: Where housing is provided, decent living conditions applicable legal requirements in accordance with shall be adhered to.	RSPO (Criteria 6.2.4)
Undocumented workers should be legally registered at no cost.	Company policy (i.e. via remediation)	Company policy (i.e. via remediation)
Pay legal wages as well as the mandated benefits and overtime premiums at legal rates.	RSPO (Criteria 6.2.3)	RSPO (Criteria 6.2.3)
Strengthen standardization of practices	This is ultimately the goal of certification standards.	This is ultimately the goal of certification standards.

Response to Claims Made in Petitions to U.S. Customs and Border Protection

There are a large number of reports authored by NGOs that either make direct claims about the labour situation in Malaysia, or are often used as secondary sources to support claims made about labour in Malaysia.

The petitions made to the U.S. Customs and Border Protection (CBP) rely heavily on specific NGO reports. This can be demonstrated by the following:

- The Grant and Einhofer petition to CBP against FGV
- The Liberty Shared petition to CBP against Sime Darby Plantations

They are also cited in the U.S. Department of Labor reports and are responded to in previous chapters.

It is important that these additional sources are also assessed critically; desk-based research that does not vet its sources can result in the distortion of data and/or repeating of unsubstantiated claims. The consequences for companies and workers that can flow from such sources, are substantial and serious, as we have seen from some of the largest Malaysian companies in recent weeks and months. Sources must therefore be rock-solid if they are to be used in cases with some tough sanctions.

The risks of this can be seen in the use of Section 307 by environmental campaigners to petition CBP to create trade disruptions for palm oil imports. The petition by Grant and Eisenhofer⁴³ resulted in a significant disruption for exporters.

In addition to NGO reports that are funded by non-government sources, there are a number of reports that have been funded under USAID programs, specifically those authored by Winrock and Liberty Shared.

Liberty Shared is a long-standing partner of the U.S. Government through USAID, the U.S. international development agency.⁴⁴ Its first collaborations with USAID commenced in 2016 on the Counter Trafficking in Persons (CTIP) program⁴⁵ as part of a consortium with aid contractor Winrock.

Liberty Shared first commenced collaborating directly with CBP in 2019, primarily via work on imported seafood products.⁴⁶ Prior to this it had been working with U.S. seafood importers since 2015 in developing tools for preventing the import of seafood produced with forced labour.⁴⁷

Liberty Shared's work in developing a victim case management system (VCMS) was originally funded by the State Department⁴⁸ and it has since gained standing with the Department as a valid information source.⁴⁹ The organisation has stated that it uses commercially available entity data as part of its investigative operations.⁵⁰

The Liberty Shared complaint against Sime Darby Plantations in April 2020 to CBP was unusual in that CBP was working with USAID's Counter Trafficking in Persons (CTIP) program at that point in time.⁵¹ At

43 [Microsoft Word - 2829953_1.docx \(gelaw.com\)](#)

44 [USAID Asia Counter Trafficking in persons](#)

45 [PA00WDRT.pdf \(usaid.gov\)](#)

46 [Liberty Shared applies information and data to support U.S. Customs and Border Protection trade enforcement to combat forced labour – Liberty Shared](#)

47 [Seafood Obtained via Illegal, Unreported, and Unregulated Fishing: U.S. Imports and Economic Impact on U.S. Commercial Fisheries \(usitc.gov\)](#)

48 [Microsoft Word - CdeBaca_Testimony_FINAL.docx \(house.gov\)](#)

49 [2019 Trafficking in Persons Report \(state.gov\)](#)

50 [Orbis | Compare Private Company Data | Bureau van Dijk \(bvinfo.com\)](#)

51 [USAID Asia Counter Trafficking in persons](#)

the time Liberty Shared was finalising a report on recruitment in the palm oil sector in Malaysia for the CTIP program; the CTIP report was published in September 2020.⁵²

This situation is unusual; it can be inferred that one U.S. government agency (USAID) was paying an external group to lobby another government agency (U.S. Customs and Border Protection) to undertake action against Malaysian exports.

These NGO reports are listed below, and a response to the claims made in the reports is provided.

1. Amnesty International, 2010. Trapped: The Exploitation of Migrant Workers in Malaysia

This NGO report is an extensive and detailed examination of labour exploitation in Malaysia, focusing particularly on indentured labour and the problems of unethical recruitment. It should, however, be noted that palm oil is not mentioned at all throughout the report, although references to plantations are made several times. The emphasis on manufacturing should be noted in that there are approximately 20 references made to plantations but a total of 71 references made factory or factories. This would appear to indicate the emphasis of the reporting. No palm oil incidents are listed, nor are any palm oil companies. This source does not demonstrate a need, nor make any recommendations, for a focus on the palm oil sector.

2. Finnwatch (2016) “Working conditions at the IOI Group’s oil palm estates in Malaysia: A follow-up study” and another follow up report in 2018.

This NGO report is a follow up to Finnwatch’s initial studies on IOI plantations, which have given the researchers generally unrestricted access to workers, plantations and facilities.

As with the previous report in the series, arguably the largest problems noted about the IOI Group’s operations are unethical recruitment processes, noting that “The estate managers interviewed for this report confirmed that there were problems in the recruitment process.” According to the managers, they have received feedback from workers saying that the work at the estates does not correspond with what the workers had been promised at the time of recruitment. According to IOI, this applies primarily to the Bangladeshi workers who have been recruited through the G2G initiative between Malaysia and Bangladesh. The G2G initiative involves the registration of millions of migrant workers by the Bangladeshi government, of whom some 20,000 workers are allocated to plantation companies in Malaysia. According to IOI, these workers are selected by a system which does not take into account the workers’ preferences.” The report notes that “IOI Group acted in a very open manner during the research. The corporation’s comments on the findings from the interviews with the workers, are presented in the following chapters.”

The 2018 report notes that: “No blatant violations of human rights were found at the three IOI Group estates (Moynod, Luangmanis and Baturong 1) where field research was conducted for this report. The 30 workers that were interviewed were largely satisfied with both their salaries and their working and living conditions. This is also reflected in the length of their stay working for the company: on average, the interviewees had been employed by IOI for over 10 years.”

3. ILO, 2016. Review of Labour Migration Policy in Malaysia

This Report is a critical and impartial examination of labour policy in Malaysia and its potential impacts on the Malaysian economy, as well as its impacts on the lives of workers. The report takes an impartial view of all industries in comparison, noting that the use of migrant labour in Malaysia is prevalent across

⁵² [LS_CruelOutcomes_11.6929x13_A4_Booklet_v11.pdf \(winrock.org\)](#)

all sectors. No companies are mentioned and no specific incidents are referred to; it can be considered highly credible in that it undertakes qualitative and quantitative research on the prevalence of labour exploitation in Malaysia for migrants, and impartially assesses them across different sectors.

4. Fair Labor Association, 2018. “Assessing Forced Labor Risks in the Palm Oil Sector in Indonesia and Malaysia.”

This report is a desk-based NGO report that examines the governance systems of the palm oil sector in Malaysia and Indonesia. It is aimed at assisting Consumer Goods Forum members to ensure their supply chains do not contain forced labour. The report is closer to a ‘strategy document’ for Western companies than it is an NGO exposé on labour practices or similar, with the simultaneous aim of providing tools for purchasing companies to assess their own risks. The report uses a number of methodological tools, including interviews throughout the supply chain, to arrive at its key findings on Malaysia, specifically that ethical recruitment is the most pressing problem for the industry.

In this regard it should not be considered as ‘evidence’ that there are labour violations taking place. Rather, it is an assessment of risk based on pre-existing research.

5. Fair Labor Association, “Triple Discrimination: Woman, Pregnant, and Migrant”

This paper has been mentioned in criticisms of the palm oil industry, such as the petition against FGV to CBP. However, palm oil is not mentioned at any point in the report, nor is the Malaysian plantation sector.

6. Tenaganita (2018). “Women workers in palm oil plantations - a neglected sector of M’sian labour”, Published in Malaysiakini,

The newspaper report highlights the specific concerns of an immigrant female oil palm plantation worker and occupational health and safety problems at her workplace. The article draws attention to poor working conditions, discrimination against women and problems associated with migrant labour recruitment. It draws findings based on an interview with the particular workers mentioned. However, it should be noted that no specific companies or locations are mentioned; effectively preventing any companies from taking clear action or responding to any problems.

7. RAN (2018). “Human Cost of Conflict Palm Oil Revisited”

The NGO Report by RAN takes specific aim at the practices of Jakarta-based company Indofood and its suppliers, and specifically because of its relationship with PepsiCo. Although the Malaysian company FELDA is mentioned, it is entirely concerned with the Indonesian palm oil sector.

8. Fair Labour Association (2018). Fair Labour Association’s Mapping Study on Seasonal Agriculture Workers and Worker Feedback and Grievance Mechanisms in the Agricultural Sector

The report is a broader examination of grievance mechanisms in various agricultural industries across the globe – not just palm oil or Malaysia. It examines closely the recourse available to workers who are in a situation where their rights are abused. The report consists of repeat claims from earlier reports with no new research. In some cases, the references used in claims against palm oil are incorrect, referring to reports that concern Malaysia but do not mention palm oil.

9. **Suhakam (2019). “Sold Like Fish: Crimes Against Humanity, Mass Graves and Human Trafficking from Myanmar and Bangladesh to Malaysia from 2012 to 2015.”**

This report is an examination of human trafficking between Myanmar/Bangladesh and Malaysia in the period from 2012 to 2015, when mass graves of refugees were found at the Malaysia-Thailand border as a result of human trafficking. The report focuses almost entirely on human trafficking and ethical recruitment, and is less concerned with any specific sectoral problems; palm oil is not mentioned in the report at any point.

10. **Asia Monitor Resource Centre And Solidar Suisse (2019). “Exploited and Illegalised: The Lives of Palm Oil Migrant Workers in Sabah.”**

This report appears to be an examination of the problems associated with migrant workers in Sabah, particularly Indonesian migrant workers. The report relies on fieldwork undertaken over several months in Sabah (specifically Tawau). Issues around Indonesian workers in Sabah deserve genuine investigation given the porous border and the risks that brings. However, this report appears to be more focused on its part in a broader campaign by Swiss labour NGOs to prevent the importation of palm oil more generally; Solidar Suisse was part of a campaign headed by the Swiss Farmers’ Union⁵³ to prevent the importation of palm oil into Switzerland. In this regard, this appears to be more about economic protectionism than the genuine protection of worker rights and welfare.

11. **Earthworm (2019). Insights Into Recruitment Costs and Practices Amongst Small-Medium Sized Companies In The Palm Oil Industry In Peninsular Malaysia**

The report concentrates almost entirely on recruitment practices of palm oil companies on the Peninsula. The report methodology states that “The study interviewed the management of 2 palm oil mills, 1 estate, and 1 contractor to an estate (collectively referred to as the “employers”); 1 labour agent in Malaysia (as the “intermediary”) who was common to both mills; and a total of 58 migrant workers comprising 48 Nepalese, 7 Indonesian and 3 Bangladeshi workers.” Overall the study is seeking to better understand the nature of recruitment practices in Malaysia and provide policy solutions that may be applicable for the Malaysian context.

12. **Associated Press (2020). “Palm oil labor abuses linked to world’s top brands, banks”**

The news report concentrates specifically on human rights abuses of oil palm plantation workers, with a specific focus on unethical recruitment practices. The report is largely based on original research: “The AP interviewed more than 130 current and former workers from two dozen palm oil companies who came from eight countries and labored on plantations across wide swaths of Malaysia and Indonesia.”

The report appears to be advocating for the severing of ties between large U.S. banks and purchasers and FGV in particular. The report is also highly critical of RSPO, and FELDA is named as a key subject of allegations.

However, there are several points that should be noted.

First, the report does appear to have significant involvement from the Rainforest Action Network. The report was also funded with the support of a McGraw Foundation grant, rather than simply being a news report.

Second, there appear to have been zero action within relevant grievance trackers and mechanisms relating to the allegations made in the story. There has not been a complaint lodged with RSPO on labour regarding the story, nor with FELDA's grievance mechanisms.

13. USG and Ford Institute (2020). Human Trafficking in Palm Oil Supply Chains Final Report.

This report is a joint report between the U.S. Government and the University of Pittsburgh, noting that "In partnership with the U.S. Department of State's Office to Monitor and Combat Trafficking in Persons, the Ford Institute for Human Security at the University of Pittsburgh's Graduate School of Public and International Affairs examined human trafficking in palm oil supply chains, researched current policies and social compliance protocols, and identified promising public and private sector practices."

The report is primarily a desk-based research examination of different policies to approach human trafficking within palm oil supply chains. It examines government policy, as well as private governance initiatives (e.g. RSPO) in order to determine a number of potential policy responses from both the Malaysian and Indonesian governments.

The report can be considered credible in terms of its academic approach, but there is no new field research undertaken and cannot be considered relevant for the purposes of this report as it does not apply to Malaysia.

14. Liberty Shared (2018) "Malaysia's Palm Oil Industry" and (2020) Cruel Outcomes

This 2018 research report is one of the first reports published by Liberty Shared in relation to the Malaysian palm oil sector with USAID backing. It is essentially a background document in that it assembles and analyses documentation and policies covering: legal and regulatory instruments governing the industry in Malaysia; labour standards present in Malaysia; enforcement mechanisms and capabilities in Malaysia. The report does not, however, report on specific incidents or name particular companies in its analysis. Although the report can be considered credible in terms of policy analysis, it is not necessarily a credible representation of the on-ground situation in Malaysia in that it does not contain any field research. Although this is not the intention of the document, it is nonetheless undermined by the fact that it repeats broad and general claims against the industry without substantiation and takes those claims at face value.

The 2020 report is an extensive, U.S. Government-backed study that focuses on recruitment processes in the palm oil sector, focused specifically on Malaysia. Other sectors and other commodity groups are generally not considered. The report contains original research: "interviews were conducted in the presence of at least two interviewers and recorded anonymously. In parallel, over the course of over two years, we conducted long form interviews with a number of workers, activists and industry stakeholders." The report appears to have followed a methodology for interviews, but the full methodology (e.g. guided interview questions) does not appear to have been included.

The aim of the report is to use interviews to assess the sector against the ILO indicators of forced labour, concluding that forced labour exists in the Malaysian palm oil sector.

Although companies are named (IOI, FGV, Sime Darby and Wilmar) the specifics of the interviewees and their relationships to individual companies are not. No specific incidents are listed. This report can be considered particularly credible in that it has undertaken field research, focuses specifically on Malaysia's palm oil sector, and has had backing from U.S. agencies meaning that its methodology has been vetted, as well as the organisation, and in the eyes of numerous officials it will be considered to be very reliable.

However, there are some critical elements that are missing from the report. Although there are clearly indications from workers that there are problems taking place, the links to specific companies and the adequacy or impact of pre-existing governance systems is not indicated. Instead, vague indicators are used by the report's authors, such as: "it is very difficult to be convinced that the protection of workers and prevention of worker abuse, of the nature described by workers themselves and by members of civil society, is being effectively and sufficiently addressed in their corporate governance, enterprise risk management and internal controls."

This is a significantly different assessment than that of social audits, for example, which are used by many of the companies named.

Conclusion

To respond to ongoing NGO and other claims about palm oil and labour rights, this report has closely reviewed a total of 48 reports from NGOs and IGOs, as well as news reports and broader desk reports from the U.S. Government.

Based on the assessment it is apparent that many of the reports that have been used as 'evidence' in building a case against Malaysia are largely based on recycled claims or claims that are relevant to the palm oil industry across ASEAN, or different industry sectors in Malaysia.

Only 10 of the reports – spanning more than a decade – used informant interviews. The use of informants is common, but when reports are based on old claims, and recycled information, the use of informants is not serious.

The bulk of the reports simply repeated claims from other sources. While this is not a suggestion that these non-primary reports are not credible, there are instances where reports that would be considered 'high profile' – such as those by Liberty Shared and EIA – are closer to advocacy documents rather than investigative or analytical documents.

Why is this significant?

The 48 reports analysed all feed into regulatory processes associated with Malaysia via U.S. government agencies, such as the Department of Labor and State Department, as well as the Department of Homeland Security, Customs and Border Protection).

A textual analysis of the material indicates that:

There is a significant conflation of Indonesia and Malaysia. A text-based analysis indicates that prevalence of Malaysian focus is approximately double that of Indonesia – this is despite the fact that these are in theory Malaysia-focused reports.

Much of the discourse around labour in Malaysia and the region ignores other sectors. As indicated elsewhere in the report, campaign groups appear to be 'choosing' palm oil over other sectors where problems are arguably as or more significant. This approach is not based in facts or data – or indeed fairness.

Child labour appears to be conflated and have greater weight than migrant labour. Analysis indicates that the prevalence of stories, anecdotes and data involving children is significantly higher than those involving migrants and migrant labour. This, in our view, is in line with both emotive campaign tactics and the priorities of government policies around the world in attempting to eradicate child labour. In the case of Malaysia, as this document explains, child labour is minimal.

Trade features heavily as a policy issue. The prevalence of trade policy within the materials is particularly high, significantly higher than other policy areas including environmental concerns. This is not surprising given that the reports are being driven by the international community, and that trade policy is one of the few tools available to policy makers attempting to achieve labour objectives.

Annex

This Annex catalogues the numerous claims against the industry by various groups in various reports.

Many of these reports are cited in the U.S. Department of Labor bibliography, the U.S. State Department materials, the FLA bibliography and in CBP petitions against companies (against Sime Darby Plantations (SDP) and FELDA Global Ventures (FGV)), and are noted accordingly. There is a degree of crossover between the reports in that some reports are cited across all four.

Reports that focus on other countries such as Indonesia, other commodities such as rubber and other policy areas such as the environment, have generally been ignored.

AUTHOR	YEAR	REFERENCE	TYPE	SUMMARY	INCIDENT	ASSESSMENT	DOL	STATE	CBP (SDP)	CBP (FGV)
REPORTS CITED BY DEPARTMENT OF LABOR										
ACCENTURE	2013	Exploitative Labor Practices in the Global Palm Oil Industry. 2013; available from http://humanityunited.org/pdfs/Modern_Slavery_in_the_Palm_Oil_Industry.pdf .	NGO report	The report examines the industry at large; there are a surprisingly small number of claims about treatment of workers or migration that name specific incidents. Criticisms of labour and migration practices within the report are generally targeted at other sectors (e.g. manufacturing) than at palm oil per se. There was no specific field work, nor were there any interviews undertaken with 'exploited' workers; it appears to be an entirely desk-based exercise.	No specific incidents outlined – repeated claims	The report cannot be considered credible in that none of the material used in the report could be considered appropriate for internal or third-party audits, for example, or as the basis of a prosecution (see chart in previous section).	Y	Y	Y	Y

AUTHOR	YEAR	REFERENCE	TYPE	SUMMARY	INCIDENT	ASSESSMENT	DOL	STATE	CBP (SDP)	CBP (FGV)
VERITE	2016	"Rapid assessment: Labor risks in palm oil production: Findings from multi-country research https://www.verite.org/wp-content/uploads/2016/11/Palm-Oil-Research-Study.pdf	NGO Report	The report is a short document (6pp) that examines without significant detail labour risks in supply chains. There is a relatively short section on Malaysia that the authors state is based on field research undertaken in 2012 and 2013 in Malaysia, specifically Sabah. It states: "Interviews were conducted with plantation workers and their families, social workers and community-based outreach workers, key NGOs and academics, management of palm oil companies, and through observation and social mapping of plantations and sending communities" It states that passport retention, child labour, restrictions on freedom of association are problems. It also noted problems with living conditions as well as OH&S.	Interviews with workers	The report can be considered credible in that it is highly likely that the interviews with workers took place, particularly given that the author appears to be from the Philippines and there is a focus on Filipino workers in Sabah. However, the objectives of the project do not appear to be an attempt to advocate for any particular change to labour regulations, but to spruik business services around supply chain risk management for forced labour.	Y	Y		
IOM	2007	Netto, Anil. "Migrant Worker's Death Exposes Slave-Like Conditions." Inter Press News Agency May 8, 2007; available from LABOUR-MALAYSIA: Migrant Worker's Death Exposes Slave-like Conditions Inter Press Service (ipsnews.net) .	News article	This covers the death and apparent murder of an immigrant worker in Malaysia who died in tragic and mysterious circumstances, with seemingly little action from Malaysian authorities. Another section in the article refers specifically to a number of workers that were required to spend "a few days" at an oil palm plantation as part of their outsourcing and contract work for a labour recruitment company. The article appears to be a piece of advocacy work by the IOM for the rights of immigrant workers.	No specific incidents	The article is credible in that it is attempting – with genuine evidence – to report the unlawful death of a worker, as well as to advocate for the reform of labour recruitment processes in Malaysia. However, it should not be considered relevant, as it does not focus on claims against practices in the oil palm industry.	Y			
TENAGANITA	2007	Tenaganita. Fact Finding Report: Outsourcing in Labour or Trafficking in Migrant Labour? Kuala Lumpur, ca. 2007.	Report	Not available	No data	Not available	Y			
USG	2008	U.S. Embassy- Kuala Lumpur. reporting. June 3, 2008.	Internal report		No data	No data	Y			

AUTHOR	YEAR	REFERENCE	TYPE	SUMMARY	INCIDENT	ASSESSMENT	DOL	STATE	CBP (SDP)	CBP (FGV)
IOM	2008	"Bottom of the Barrel: Millions of Asian Workers Producing Goods Here are Trapped in Servitude." Newsweek, March 15, 2008; available from http://www.newsweek.com/2008/03/15/bottom-of-the-barrel.html .	News article	This report appears to have been an advocacy / outreach activity from the IOM. The report focuses more squarely on the electronics industry, and more specifically the manufacturers of components from computers, with a company 'Local Technic' named as a key offender. Palm oil is mentioned only in passing, with greater reference to rubber: "when that plantation's harvest goes to market, it looks just like rubber from anywhere else." Other markets – Thailand – are also named.	No incidents	The report can be considered credible, but it cannot be considered and related to palm oil, with stories on the agricultural sector in Malaysia only nominating rubber.	Y			
Forum of Non-Permanent Teachers for the Education of Migrant Workers' Children	2009	"Children deprived of proper education." Jakarta Post, Jakarta, July 25, 2009 National; available from http://www.thejakartapost.com/news/2009/07/25/children-deprived-proper-education.html .	News article	This article states that "some plantations were deliberately exploiting children" in Malaysia as a result of migration between Indonesia and Malaysia. There are also a number of claims around corruption and the embezzling of funds associated with different NGOs – Humana and a teachers' organisation.	No specifics	The article appears to be more interested in settling scores between NGOs and donors rather than attempting to disparage the palm oil industry per se, and both organisations genuinely seem concerned with the welfare of immigrant children. Although on balance it could be considered substantive, the objectives of the article are not entirely aimed at the industry.	Y			
UNICEF	2010	"When family's livelihood comes first." New Straits Times, Kuala Lumpur, January 12, 2010 Spotlight: Children at Work.	News article	The article advocates for better educational outcomes for the children of migrant workers in Borneo, specifically Indonesian workers, that have travelled from Kalimantan. The article contains record of a child of Indonesian palm oil workers in Malaysia who assists her parents on oil palm plantation on weekends The article is principally a piece of advocacy for UNICEF in fulfilling its mission.	Yes	The article appears to genuinely be concerned for the educational outcomes of children, rather than attempting to disparage palm oil companies per se. It can therefore be considered a credible assessment of flaws in Malaysian government and policy approaches towards migrant workers.	Y			
HUMANA	2011	"Sabah's Stateless Children Seek Official Status." Thomson Reuters Foundation and AlertNet, August 23, 2011; available from http://www.trust.org/item/20110823105300-cnt3r/?source=search .	Online news article	This is a story that is effectively advocacy for education for the children of oil palm workers. It is worth noting that this was a series on 'statelessness' for migrant workers partly funded by the Open Society Foundations.	No incidents	This article can be considered credible, but there is actually no suggestion in the article that palm oil is made with child labour or indentured labour. This is advocacy for migrants and migrant rights, particularly for children and education.	Y			

AUTHOR	YEAR	REFERENCE	TYPE	SUMMARY	INCIDENT	ASSESSMENT	DOL	STATE	CBP (SDP)	CBP (FGV)
PULITZER CENTRE	2012	<p>"In Indonesia and Malaysia, as demand for palm oil grows, so do environmental, labor concerns." Washington Post, November 26, 2012; available from http://www.washingtonpost.com/world/asia-pacific/in-indonesia-and-malaysia-as-demand-for-palm-oil-grows-so-do-environmental-labor-concerns/2012/11/25/857010fa-3036-11e2-a30e-5ca76eeec857_story.html.</p>	News article	<p>The article was funded with a grant from Pulitzer Center on Crisis Reporting.</p> <p>The story is principally about environmental concerns around palm oil – specifically deforestation and greenhouse gas emissions – rather than labour.</p> <p>On labour complaints, this covers a family that migrated from Indonesia to Malaysia as illegal immigrants. Specifically it covers the story of a 17-year old migrant who worked on a plantation from the age of 12. This child completed primary school but had no access to secondary school.</p> <p>There is a particular worker, Leonary Marcus, who is featured in all Pulitzer stories.</p>	Specific interview	<p>This report cannot be considered credible in the context of the forced labour and modern slavery debate, but has some credibility in terms of child labour. Although the child is not being 'forced' to work without parental consent or being put in a situation that involves debt bondage or similar, the concerns around educational outcomes for children (along the lines of the positions UNICEF claims).</p> <p>However, the focus of the article is the environment, rather than labour. It is therefore difficult to consider its credibility in the labour debate.</p> <p>It also appears likely that the Pulitzer Center received funding from the Climate Land Use Alliance to fund this work in alliance with RAN; there have been significant institutional links between the organisations for several years.</p>	Y			

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UNICEF	2012	Helping children of Malaysia's plantation workers get a quality education, UNICEF, March 12, 2012 http://www.unicef.org/infobycountry/malaysia_61973.html .	UNICEF Public Relations article	Unavailable, but still referred to in US DOL report that are online. https://www.dol.gov/sites/dolgov/files/ILAB/ListofGoodsBibliography2017.pdf	No data	No data	Y			
PULITZER CENTRE	2013	Growing Demand for Palm Oil Drives Malaysia to Employ Child Migrant Workers: Public Broadcasting Service and Pulitzer Center on Crisis Reporting; 2013, http://www.pbs.org/newshour/bb/world-jan-june13-palmoil_02-12/?print . (VIDEO)	Online news video	See above in relation to Washington Post story; this story is largely supportive of work to solve problems associated with education for the children of illegal palm oil workers. The video largely features coverage of Humana's work to facilitate education for the children of migrants.	No incidents	The video largely appears to be positive in that it is supportive work being undertaken by Humana. This appears to have been funded through the Pulitzer Centre.	Y			
VERITE	2013	Verité. Sustainable Palm Oil? Promoting New Measures to Combat Risks of Forced Labor and Human Trafficking in Palm Oil Supply Chains. White Paper, Amherst, MA, May 2013; available from http://www.verite.org/sites/default/files/images/Palm_White_Paper_May_2013_Final_Draft_0.pdf .	NGO report	The White Paper is a summary of earlier research undertaken by Verité approximately 12 months earlier. It does not provide any new data on palm oil and palm oil practices in the field. The paper reiterates the points made on fees charges from recruitment companies, and also regarding the access of children to migrant labour.	No incidents named – repeat claims	The document cannot be considered new or as making substantive claims. It appears to essentially be marketing collateral for Verité's "Ethical Labor Practices in Palm Oil" program, which appears to have disbanded. The key author has also changed career.	Y			
USG	2014	Malaysian Human Rights NGO. Interview with USDOL official. January 29, 2014.	Unpublished interview	No data	No data	No data	Y			
WSJ	2015	"Palm-Oil Migrant Workers Tell of Abuses on Malaysian Plantations", Wall Street Journal, July 26 2015	News report	The news article contains specific allegations from a named whistleblower, with accusations of poor treatment, poor OH&S, passport retention, and debt bondage. Syed Zain Al-Mahmood, the story's author is a correspondent for the WSJ based in Bangladesh; his stories tend to orient towards advocacy. He has, for example, written a number of stories for the Guardian. There did not appear to be a particular agenda with the news story other than attempts to undertake advocacy work for Bangladeshi victims of modern slavery and trafficking.	Specific incidents and original research	The report is arguably the most credible report that has been published on labour and palm oil, as well as ethical recruitment. The report subsequently prompted an investigation from RSP0.	Y		Y	Y

AUTHOR	YEAR	REFERENCE	TYPE	SUMMARY	INCIDENT	ASSESSMENT	DOL	STATE	CBP (SDP)	CBP (FGV)
VERITE	2016	Verité. Understanding Labor Risks in Palm Oil Production. Quezon City, Philippines, and Amherst, MA, 2013; available from http://www.verite.org/sites/default/files/images/Palm%20Oil%20Primer%20-%20EN.pdf .	NGO report	The short (4pp) covers risks to companies relating to labour exploitation. As with other Verité reports, this appears to be more concerned with generating business rather than advocating for institutional change. It contains a case study on 'Eric', an indentured worker from the Philippines working on oil palm plantations in Sabah, who was recruited by outsourcing agents who illegally held his passport.	Incidence of unethical recruitment and passport retention.	The report regarding 'Eric' appears to be credible but not necessarily substantive. However, see above (2013) regarding Verité reports being used as marketing collateral. In addition, the report was made with funding from Humanity United, an NGO founded by the Omidyar Group, which was established by the founders of Ebay.	Y			

AUTHOR	YEAR	REFERENCE	TYPE	SUMMARY	INCIDENT	ASSESSMENT	DOL	STATE	CBP (SDP)	CBP (FGV)
ILO	2017	<p>International Labour Organization, "Report of the Committee of Experts on the Application of Conventions and Recommendations" at https://www.ilo.org/wcmsp5/groups/public/---ed_norm/---relconf/documents/meetingdocument/wcms_543646.pdf (pg 205)</p> <p>International Labour Organization, "2018 Report of the Committee of Experts on the Application of Conventions and Recommendations" at https://www.ilo.org/wcmsp5/groups/public/---ed_norm/---relconf/documents/meetingdocument/wcms_617065.pdf (Pg 576)</p>	IGO Report	<p>The report contains a specific quote: "Malaysia faces challenges as a destination and, to a lesser extent, a transit and source country for men, women, girls and boys subjected to trafficking in persons. Fishermen, mainly from Cambodia and Myanmar are trafficked for bonded labour to work on Thai fishing boats in Malaysian waters as well as in oil palm plantations; a large number of women are trafficked into domestic servitude by employment agencies in their home country or in Malaysia or employers in Malaysia with the alleged complicity of State officials; a high number of women are trafficked into the sex industry; a significant number of refugees, asylum seekers and stateless persons, particularly from the Filipino and Indonesian communities in Sabah and Rohingya from Myanmar, are increasingly becoming victims of trafficking."</p> <p>It also makes a request: "the Committee requests the (Malaysian) Government to take the necessary measures to promote collaboration between the labour inspectorate and other relevant stakeholders and to provide training to the labour inspectors to detect cases of children engaged in hazardous work in the oil palm plantations. The Committee finally requests the Government to provide information on the number of children of Indonesian migrants who have been provided education by the Human Child Aid Society."</p> <p>It is also noted in the report of the following year that the request was not responded to: "The Committee notes with regret that the Government has not replied to its previous comments. The Committee once again requests the Government to provide information on the submission to the Parliament of Malaysia of the instruments adopted by the Conference at its 95th (Recommendation No. 198), 96th, 99th, 100th, 101st, 103rd and 104th Sessions (2006–15)."</p>	No specific incidents	This report is highly credible and presents significant problems for the Malaysian palm oil sector in an international context in that it specifically says that workers are "trafficked for bonded labour ... in palm oil plantations."	Y		Y	
REPORTS CITED BY STATE DEPARTMENT / FLA										
UNICEF	2017	Untitled Assessment of palm oil industry in Indonesia and Malaysia	IGO Report	<p>This report is referred to within numerous bibliographies, but appears not to exist. The published report appears to be held at https://www.unicef.org/indonesia/media/4391/file, but it focuses exclusively on child labour in Indonesian plantations, rather than those in Malaysia.</p>	NA			Y		

AUTHOR	YEAR	REFERENCE	TYPE	SUMMARY	INCIDENT	ASSESSMENT	DOL	STATE	CBP (SDP)	CBP (FGV)
FINNWATCH	2018	"Working conditions at the IOI Group's oil palm estates in Malaysia: A follow-up study,"	NGO Report	<p>The report, as the title suggests, is a follow up to Finnwatch's initial studies on IOI plantations, which have given the researchers generally unrestricted access to workers, plantations and facilities.</p> <p>As with the previous report in the series, arguably the largest problem noted on the IOI Group's operations are through unethical recruitment processes, noting that "The estate managers interviewed for this report confirmed that there were problems in the recruitment process. According to the managers, they have received feedback from workers saying that the work at the estates does not correspond with what the workers had been promised at the time of recruitment. According to IOI, this applies primarily to the Bangladeshi workers who have been recruited through the G2G initiative between Malaysia and Bangladesh. The G2G initiative involves the registration of millions of migrant workers by the Bangladeshi government, of whom some 20,000 workers are allocated to plantation companies in Malaysia. According to IOI, these workers are selected by a system which does not take into account the workers' preferences."</p>						
FAIR LABOR ASSOCIATION	2018	<p>The Fair Labor Association and the Consumer Goods Forum, "Assessing Forced Labor Risks in the Palm Oil Sector in Indonesia and Malaysia," https://www.theconsumergoodsforum.com/wp-content/uploads/2018/11/201811-CGF-FLA-Palm-Oil-ReportMalaysia-and-Indonesia_web.pdf (pgs 3, 15)</p>	NGO Report	<p>This report is a desk-based report that examines the governance systems of the palm oil sector in Malaysia and Indonesia. It is aimed at assisting Consumer Goods Forum members to ensure their supply chains do not contain forced labour.</p> <p>The report is closer to a 'strategy document' for Western companies than it is an NGO expose on labour practices or similar, with the simultaneous aim of providing tools for purchasing companies to assess their own risks.</p> <p>The report uses a number of methodological tools – including interviews throughout the supply chain to arrive at its key findings on Malaysia, specifically that ethical recruitment is the most pressing problem for the industry.</p>	No specific incidents	This report can in some ways be considered very credible in that it is based on new field research and interviews and is oriented towards finding a solution to numerous problems that exist in the palm oil supply chain. However, it is an assessment of risk, as opposed to evidence of wrongdoing.		Y	Y	Y

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RAN	2018	"Human Cost of Conflict Palm Oil Revisited" https://www.ran.org/wp-content/uploads/rainforestactionnetwork/pages/19315/attachments/original/1511714176/Human_Cost_Revisited_vWEB.pdf?1511714176	NGO report	The NGO Report by RAN takes specific aim at the practices of Indofood and its suppliers, and specifically because of its relationship with PepsiCo.	No specific incidents – Repeat claim	The report can be considered irrelevant for the purposes of this assessment, as the Malaysian aspects of the report are repeat claims.		Y		Y
REPORTS CITED IN CBP PETITIONS										
AMNESTY	2010	Trapped: The Exploitation of Migrant Workers in Malaysia	NGO Report	The report is an extensive and detailed examination of labour exploitation in Malaysia, focusing particularly on indentured labour and the problems of unethical recruitment. It should, however, be noted that palm oil is not mentioned at all throughout the report, although references to plantations are made several times. The emphasis on manufacturing should be noted in that there are approximately 20 references made to plantations but a total of 71 references made factory or factories. This would appear to indicate the emphasis of the reporting.	No palm oil incidents.	This report can be considered very credible, however, it cannot necessarily be considered relevant for the purposes of this research, nor are there claims against the palm industry.				Y
(Academic)	2012	Pye, O., Daud, R., Harmono, Y., & Tatat. (2012). <i>Precarious lives: Transnational biographies of migrant oil palm workers</i> . <i>Asia Pacific Viewpoint</i> , 53(3), 330–342. doi:10.1111/j.1467-8373.2012.01496.x	Academic article	The academic article is a Marxist critique of labour relations in the palm oil industry in Malaysia, which take aim at FELDA in particular. New field research is undertaken.	Specific incidents around migration	The field work in the report can be considered credible. However, it is difficult to present the political conclusions seriously because of its political leanings.			Y	Y
TENAGANITA	2018	Das, Glorene, "Women workers in palm oil plantations - a neglected sector of M'sian labour", Published in Malaysiakini, https://www.malaysiakini.com/news/422451	NGO report / News article	The newspaper report highlights the specific concerns of an immigrant female oil palm plantation worker and occupational health and safety problems at her workplace. The article draws attention to both poor working conditions, discrimination against women and problems associated with migrant labour recruitment. It draws research based on an interview with the particular workers mentioned.	Specific incident recorded	The publication is highly credible and very relevant to the industry in that it is very specific and is seeking via a local NGO to improve worker rights in Malaysia.			Y	
(Academic)	2018	Pye, Oliver, "Commodifying Sustainability: Development, Nature and Politics in the palm oil industry" Pye, O. (2018). <i>Commodifying sustainability: Development, nature and politics in the palm oil industry</i> . <i>World Development</i> . doi:10.1016/j.worlddev.2018.02.01	Academic article	The academic article is a Marxist critique of labour relations in the palm oil industry in Malaysia, which take aim at FELDA in particular. No field research is undertaken.	No specific incidents	The report cannot be considered particularly credible for this assessment as it is a political critique of the industry – and capitalism – more broadly.			Y	

AUTHOR	YEAR	REFERENCE	TYPE	SUMMARY	INCIDENT	ASSESSMENT	DOL	STATE	CBP (SDP)	CBP (FGV)
(Academic)	2018	Eric Gottwald (2018). Certifying Exploitation: Why "Sustainable" Palm Oil Production is Failing Workers. New Labor Forum 1-8.	Academic article	The article is critical of the RSPO and its failure to manage worker rights under the auspices of its certification framework. The report is primarily a desk review of literature and a footnoted catalogue of claims against the industry in both Malaysia and Indonesia.	Repeat claims	The article can be considered credible to some degree in that it appears to be genuinely interested in engagement of workers and trade unions within the sector and improving the conditions of workers, particularly migrants, in Malaysia. It generally does not focus on any environmental concerns. However, it does not make substantiated claims based on field research.				Y
SUHAKAM	2019	SUHAKAM and Fortify Rights, "Sold Like Fish: Crimes Against Humanity, Mass Graves and Human Trafficking from Myanmar and Bangladesh to Malaysia from 2012 to 2015," https://www.fortifyrights.org/downloads/Fortify%20Rights-SUHAKAM%20-%20Sold%20Like%20Fish.pdf	NGO Report	This report is an examination of human trafficking between Myanmar/Bangladesh and Malaysia in the period from 2012- to 2015, when mass graves of refugees were found at the Malaysia-Thailand border as a result of human trafficking. The report focuses almost entirely on human trafficking and ethical recruitment, and is less concerned with any specific sectoral problems.	No palm incidents, but interviews conducted	This report can be considered highly credible from a labour point of view. However, it is not specific nor directly relevant to the palm oil sector.				Y
ASIA MONITOR RESOURCE CENTRE AND SOLIDAR SUISSE	2019	Exploited and Illegalised: The Lives of Palm Oil Migrant Workers in Sabah	NGO Report	This report appears to be an examination of the problems associated with migrant workers in Sabah, particularly Indonesian migrant workers. The report relies on fieldwork undertaken over several months in Sabah (specifically Tawau).	Specific fieldwork and experiences – unethical recruitment	The report is highly credible in that it genuinely appears to be seeking to advocate for the rights of workers and provide new solutions to the multiple problems associated with migrant labour.			Y	

AUTHOR	YEAR	REFERENCE	TYPE	SUMMARY	INCIDENT	ASSESSMENT	DOL	STATE	CBP (SDP)	CBP (FGV)
REPORTS CITED IN OTHER NGO CAMPAIGNS										
EARTHWORM	2019	Insights Into Recruitment Costs and Practices Amongst Small-Medium Sized Companies In The Palm Oil Industry In Peninsular Malaysia, (2019) ⁴	NGO report	The report concentrates almost entirely on recruitment practices of palm oil companies on the Peninsula. The report methodology states that "The study interviewed the management of 2 palm oil mills, 1 estate, and 1 contractor to an estate (collectively referred to as the "employers"); 1 labour agent in Malaysia (as the "intermediary") who was common to both mills; and a total of 58 migrant workers comprising 48 Nepalese, 7 Indonesian and 3 Bangladeshi workers." Overall the study is seeking to better understand the nature of recruitments practices in Malaysia and provide policy solutions that may be applicable for the Malaysian context.	No specific incidents, but original work is undertaken.	This report can be considered credible in that it undertakes original research, does not focus on any environmental problems and is seeking to provide the industry with workable solutions for ethical recruitment practices. However, it does not make substantiated negative claims against the industry.				
USG and Ford Institute	2020	Human Trafficking in Palm Oil Supply Chains Final Report, University of Pittsburgh trafficking-palm_oil_supply_chains.pdf (pitt.edu)	USG Report	<p>This report is a joint report between the US Government and the University of Pittsburgh, noting that "In partnership with the U.S. Department of State's Office to Monitor and Combat Trafficking in Persons, the Ford Institute for Human Security at the University of Pittsburgh's Graduate School of Public and International Affairs examined human trafficking in palm oil supply chains, researched current policies and social compliance protocols, and identified promising public and private sector practices."</p> <p>The report is primarily a desk-based research examination of different policies to approach human trafficking within palm oil supply chains. It examines government policy, as well as private governance initiatives (e.g. RSPO) in order to determine a number of potential policy responses from both the Malaysian and Indonesian governments.</p> <p>For its case study, the report draws entirely on research undertaken by Amnesty International on Indonesian plantations.</p>	No	The report can be considered credible in terms of its academic approach, but there is no new field research undertaken and cannot be considered relevant for the purposes of this report.				

AUTHOR	YEAR	REFERENCE	TYPE	SUMMARY	INCIDENT	ASSESSMENT	DOL	STATE	CBP (SDP)	CBP (FGV)
LIBERTY SHARED	2020	Liberty Shared (2020) Cruel Outcomes L.S. CruelOutcomes_11.6929x13_A4_Booklet_v11.pdf (winrock.org)	USG and NGO Report	<p>This report is an extensive, U.S.-backed study that focuses on recruitment processes in the palm oil sector, focused specifically on Malaysia. Other sectors and other commodity groups are generally not considered.</p> <p>The report contains original research: "interviews were conducted in the presence of at least two interviews and recorded anonymously. In parallel, over the course of over two years, we conducted long form interviews with a number of workers, activists and industry stakeholders."</p> <p>The report appears to have followed a methodology for interviews, but the full methodology (e.g. guided interview questions) does not appear to have been included.</p> <p>The aim of the report is to use interviews to assess the sector against the ILO indicators of forced labour, concluding that forced labour exists in the Malaysian palm oil sector.</p> <p>Although companies are named (see right) the specifics of the interviewees and their relationships to individual companies are not.</p>	No specific incidents, but interviews conducted	This report can be considered particularly credible in that it has undertaken field research, focuses specifically on Malaysia's palm oil sector, and has had backing from US agencies meaning that its methodology has been vetted, as well as the organisation, and in the eyes of numerous officials it will be considered to be very reliable.				
ASSOCIATED PRESS	2020	Palm oil labor abuses linked to world's top brands, banks AP News, Associate Press, September 2020	News report	<p>The report concentrates specifically on human rights abuses of oil palm plantations workers, with a specific focus on unethical recruitment practices. The report is largely based on original research: "The AP interviewed more than 130 current and former workers from two dozen palm oil companies who came from eight countries and labored on plantations across wide swaths of Malaysia and Indonesia."</p> <p>The report appears to be advocating for the severing of ties between large U.S. banks and purchasers and FGV in particular.</p> <p>The report is also highly critical of RSPO.</p>	Specific incidents and experience	<p>The report can be considered both relevant and substantive in terms of its claims against the industry, which are largely in line with previous reports from the Wall Street Journal and with data published by MPIC. .</p> <p>However, the report does also to have significant involvement from the Rainforest Action Network. The report was also funded with the support of a McGraw Foundation grant, rather than simply being a news report.</p>				

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WORLD VISION	2013	Forced, child and trafficked labour in the palm oil industry Forced-child-and-trafficked-labour-in-the-palm-oil-industry-fact-sheet.pdf (worldvision.com.au)	NGO Report	This report has been compiled by World Vision, a church-based NGO based in Australia. The report is part of a larger series of product and a broader campaign aimed at preventing human trafficking, which advocates for stronger action by the Australian government in relation to human trafficking and poor labour conditions. The campaign features a number of other commodities in its campaign, including coffee and chocolate, which it uses to advocate for certification systems such as Fair Trade.	No specific incidents – repeat claims	This report is credible in that it attempts to stop labour exploitation, but it is not necessarily relevant to palm oil. Similarly, because the report is a compilation of earlier claims, this means it is not making new and substantiated claims.				
PULITZER CENTRE	2013	The Atlantic (8 April 2013). Palm Oil for the West, Exploitation of Young Workers in Malaysia.	Magazine article	The article is a balanced representation of both social and economic concerns around oil palm plantations in Malaysia. It is supportive of Wilmar's efforts in relation to children's education.	No specific incidents	The article largely appears to be positive in that it is supportive work being undertaken by Humana. This appears to have been funded through the Pulitzer Centre.				
EIA	2015	"Who watches the watchman: Auditors and the breakdown of oversight in the RSPO," https://eia-international.org/report/who-watches-the-watchmen/	NGO Report	The report reprises claims made in a specific RSPO complaint and uncovered in the WSJ article.	No specifics – repeat claims	The report cannot be considered a substantive report on labour for three reasons. First, it is not new research on labour. Second, it is more interested in environmental concerns than labour concerns. Third, it is more interested in criticising RSPO than actually having reforms undertaken in the labour sector in Malaysia.				
MAPA	2015	V. T. Chandra Segaran, 'Reliance on Foreign workers in the plantation sector: the reality', Presentation at the Workshop on Industrial Engagement on Demand for Skilled Workers, 28–29 September 2015.	Academic Paper	This paper is generally unavailable online. It is, however, often cited by NGOs for the reason that it contains a statistic on the presence of foreign labour on plantation sites in Malaysia: "The Malaysian Agricultural Planters Association (MAPA) puts the share of foreign labour in plantations at 80% of the total, and the Malaysian Palm Oil Board (MPOB) databases yield an even higher level, at 84%"	No specific incidents	The documentation is not available.				

AUTHOR	YEAR	REFERENCE	TYPE	SUMMARY	INCIDENT	ASSESSMENT	DOL	STATE	CBP (SDP)	CBP (FGV)
AL JAZEERA	2015	"Malaysia's Invisible Children" in Al-Jazeera, https://www.aljazeera.com/indepth/features/2015/04/malaysia-invisible-children-150429064406390.html	News article	The news article does not appear to be the result of an advocacy campaign; it appears to be genuine reporting of the poor living conditions and rights problems associated with immigrants and their children in Sabah.	No specific incidents	The report is highly credible, but not necessarily relevant; the focus of the reporting is the rights of children. Plantations are mentioned alongside fishing and construction. Nor does it make substantive claims against the industry.				
LIBERTY SHARED	2016	Liberty Shared, "The Environment of Criminality Surrounding the Palm Oil Industry" https://static1.squarespace.com/static/5592c689e4b0978d3a48f7a2/t/5b9a158840ec9a28d650707c/1536824736371/Briefing+Paper+-+Criminality+and+Palm+O	NGO Report	This briefing (5pp) was one of the earliest papers issued by Liberty Shared in relation to palm oil; at this point Liberty Shared did not have the backing of the U.S. Government. Consequently, the report is more directed at the private sector, encouraging companies assess their own risk for criminal activity. The report does not specifically distinguish between Indonesia and Malaysia, and looks more broadly at the 'industry' without detailed discussion.	No specific incidents – repeat claims	This report cannot be considered substantive in that it does not conduct new research, and does not track specific incidents or companies. It simply commences a missive against the palm oil sector.				Y
LIBERTY SHARED	2016	Liberty Shared, "Potential for legal liabilities and claims for unpaid wages in the palm oil industry" https://static1.squarespace.com/static/5592c689e4b0978d3a48f7a2/t/5b9a15438985830bc3e5b27d/1536824656319/Position+Paper%231+-+Palm+Oil.pdf	NGO Report	This briefing paper is the second in a series by Liberty Shared that was written and published without the backing of USAID. As with the previous paper, it is based on desk research and is designed to have companies assess their own legal risk in relation to unpaid wages in the palm oil sector. The report ultimately warns of the possibility of class actions by workers against companies in the event of civil or criminal wrongdoing.	No specific incidents	This report cannot be considered relevant nor substantive in that it is a desk study that effectively lays out a legal position, rather than providing new information, new research or advocacy for genuine change in the palm oil sector that assists with the promotion of rights.				Y
ILO	2016	Review of Labour Migration Policy in Malaysia, report, from https://www.ilo.org/asia/publications/WCMS_447687/lang-en/index.htm	IGO Report	The report is a critical and impartial examination of labour policy in Malaysia and its potential impacts on the Malaysian economy, as well as its impacts on the lives of workers. The report takes an impartial view of all industries in comparison, noting that the use of migrant labour in Malaysia is prevalent across all sectors.	No specific incidents	This report is highly credible in that it undertakes qualitative and quantitative research on the prevalence of labour exploitation in Malaysia for migrants, and impartially assesses them across different sectors.				

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FINNWATCH	2018	"Working conditions at the IOI Group's oil palm estates in Malaysia: A follow-up study,"	NGO Report	<p>The report, as the title suggests, is a follow up to Finnwatch's initial studies on IOI plantations, which have given the researchers generally unrestricted access to workers, plantations and facilities.</p> <p>The report notes that: "No blatant violations of human rights were found at the three IOI Group estates (Moynod, Luangmanis and Baturong 1) where field research was conducted for this report. The 30 workers that were interviewed were largely satisfied with both their salaries and their working and living conditions. This is also reflected in the length of their stay working for the company: on average, the interviewees had been employed by IOI for over 10 years."</p>	No incidents	The report can be considered genuine in that original research was undertaken, utilising field work and with the input of the company as well as workers.				
LIBERTY SHARED	2018	<p>Liberty Shared "Malaysia's Palm Oil Industry," pgs 6-7</p> <p>https://static1.squarespace.com/static/5592c689e4b0978d3a48f7a2/t/5b9a15db88251b25f1bc59d1/1536824861396/Malaysia_Analysis_120218_FINAL.pdf</p>	NGO Report	This research report is one of the first reports published by Liberty Shared in relation to the Malaysian palm oil sector with USAID backing. It is essentially a background document in that it assembles and analyses documentation and policies covering: legal and regulatory instruments governing the industry in Malaysia; labour standards present in Malaysia; enforcement mechanisms and capabilities in Malaysia. The report does not, however, report on specific incidents or name particular companies in its analysis.	No specific incidents.	Although the report can be considered credible in terms of policy analysis, it is not necessarily a credible representation of the on-ground situation in Malaysia in that it does not contain any field research. Although this is not the intention of the document, it is nonetheless undermined by the fact that it repeats broad and general claims against the industry without substantiation and takes those claims as face value.				
FAIR LABOR ASSOCIATION	2018	Fair Labor Association, "Triple Discrimination: Woman, Pregnant, and Migrant" (pages 19-25) https://www.fairlabor.org/sites/default/files/documents/reports/triple_discrimination_woman_pregnant_and_migrant_march_2018.pdf	NGO report	This paper has been mentioned in criticisms of the palm oil industry. However, palm oil is not mentioned at any point in the report, nor is the Malaysian plantation sector.	No specific incidents	The publications is not relevant.				

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FAIR LABOUR ASSOCIATION	2018	Fair Labour Association's Mapping Study on Seasonal Agriculture Workers and Worker Feedback and Grievance Mechanisms in the Agricultural Sector, (2018) ;	NGO Report	The report is a broader examination of grievance mechanisms in various agricultural industries across the globe. It examines closely the recourse available to workers who are in a situation where their rights are abused. The report consists of repeat claims with no new research.	Repeat claims	The report can be considered credible in that it attempts to improve conditions – specifically grievance mechanisms – for workers in the agricultural sector, but it does not make substantiated broad claims against the industry.				



Malaysian Palm Labor Facts