

# **FGV's Response to the Petition by a coalition of NGO's submitted to the United States Customs and Border Protection**

FGV Holdings Berhad has received a petition submitted by a coalition of non-governmental organisations (NGOs) dated 15<sup>th</sup> August, 2019, addressed to the Acting Commissioner for the United States Customs and Border Protection (CBP).

There are several allegations made against FGV in the petition, citing a number of sources, including an article in the Wall Street Journal which was published on 26<sup>th</sup> July 2015. Regrettably, some of those allegations were indeed factually accurate at the time. Most have been corrected over the period commencing December 2018, with one major item that is expected to be completed by the end of this calendar year. This pertains to the legalisation of foreign workers in the state of Sabah, which has required engagement at government level and involves policy changes.

FGV is also planning to undertake a comprehensive exercise that will involve independent audits on FGV's entire labour recruitment processes and procedures. This is expected to commence in the next few weeks. The agreements with the independent third parties are being finalised and FGV will make the announcement at an appropriate time.

In March 2019, FGV revised its foreign worker recruitment processes and appointed 13 new recruitment agencies for Indonesia and India. All these recruitment agencies are appointed through an open tender process. Each agency has been vetted through a stringent process and engaged under new contractual terms that include protection of the rights of foreign workers, as outlined in the table below. FGV no longer uses the services of contractors who supply foreign labour.

In September 2019, FGV will appoint independent third parties to audit and verify each of the newly appointed foreign worker recruitment agencies to ensure that they are in full compliance with FGV's requirements.

Additionally, FGV also is in the process of engaging and appointing:

- independent third-party assessors to audit and verify our Grievance Mechanism processes.
- independent third-party assessors to map the risks within our traceability protocols for oils produced by our third party suppliers, including smallholders and estates, who account for 70% of the palm oil produced by FGV.

FGV has 68 mills in Malaysia and an oil palm planted hectarage of 339,385 ha. Of this, 290,829 ha is leased from the Federal Land Development Agency (Felda) and was developed as part of the national agricultural development programme more than 30 years ago. A third of FGV's current production of about 3 million tonnes is produced in these estates. FGV has full management control over these estates. The remaining 2 million tonnes is produced by independent or organised smallholders and estates.

A key element in addressing the issues that have been raised in the petition is the traceability of the fresh fruit bunches (FFB) supplied to FGV's mills. At this time, FGV has 100% traceability to all our own estates and to all FFB produced by smallholders who are part of organised government schemes. This accounts for about 70% of the oil produced by FGV. Of the additional 30% or about one million tonnes of oil produced from plantations owned by independent smallholders and estates, FGV is now able to trace 66% of its FFB quantity to Tier 1 suppliers (estates of origin and collection centres). Thus, 86% of the oil produced by FGV's mills is now fully traceable to Tier 1 suppliers. As a result, FGV is able to and has stepped up socialising our commitments to human rights and good labour practices to most of our smallholder suppliers and their dealer agents. This process was initiated in March 2017 and reviewed and stepped up in November 2018. FGV has made it clear that any supplier who does not comply with our requirements on labour standards, human rights and environmental sustainability will be terminated if they are unable to change their practices within a reasonable timeframe.

The coalition of NGOs quite understandably questioned FGV's commitment to change our practices, noting that we have repeatedly failed to demonstrate improvements although the first article from the WSJ was published more than four years ago.

Several things have changed in FGV since 2018. For instance, the Board of Directors is entirely different from the Board that was in place in 2015. Today, the Board comprises subject matter experts and professionals.

In November/December 2018 and in 2019, FGV has also made several changes in its senior management team. This new Board and Management team are committed to reform at all levels, especially in the areas of good governance and sustainability.

FGV has listed the allegation in the table below and provided our responses and updates in each instance.

FGV welcomes all stakeholders who are interested to discuss these issues in greater detail and to visit and/or conduct verification audits of our operations, processes and procedures.

Allegations	FGV's Status Update
Labour provided by contractors	<p>The practice of utilising labour provided by contractors in Peninsular Malaysia was banned in November 2018. Thus, all foreign workers in FGV's operations in Peninsular Malaysia are engaged directly from their countries of origin using recruitment agencies authorised and approved by those governments.</p> <ul style="list-style-type: none"> <li>• There are three source countries, namely Bangladesh, India and Indonesia.</li> <li>• Each recruitment agency has signed new contracts with FGV, which include terms to protect the rights of workers, such as: (i) recruits should not be charged any recruitment fees by the agency, (ii) workers are entitled to terminate their contracts with no penalty at any time.</li> <li>• FGV pays all recruitment fees for workers as per the contracts with the agencies.</li> <li>• All recruited workers are flown in to Malaysia and met at the airport by FGV personnel before they are taken to FGV's training centre for foreign workers.</li> </ul> <p>The situation in Sabah proved more challenging but FGV is making steady progress.</p> <ul style="list-style-type: none"> <li>• As at end July, out of about 10,000 foreign workers in Sabah, more than 7,000 have been absorbed under FGV's payroll. This process commenced in December 2018. The remaining 3,000 will be absorbed directly into FGVs payroll by the end of this year.</li> </ul> <p>FGV is appointing independent auditors to conduct verification audits of the recruitment agencies in their home countries. This is to ensure full compliance with FGV's contractual terms on worker protection.</p> <p>These audits are expected to run from September to November 2019.</p>

#### Treatment of workers

- There is no restriction of movement in FGV's operations.
  - Workers have the choice of keeping their passports themselves or to keep them in secure boxes provided by FGV. Workers have easy and ready access to these secure boxes.
  - FGV provides transport for all its workers to nearby towns.
  - At this time about 80% of FGV's foreign workers have personal bank accounts. Their wages are banked directly into their bank accounts. Workers hold their own banking details.
  - FGV is in the process of ensuring that all workers have access to banking facilities.
- FGV abides by national laws on the number of hours of overtime workers are allowed to undertake.
- We have never required workers to work beyond the legal limit.
  - Workers are free to decline to work overtime.
  - All FGV estates in Peninsular Malaysia are easily accessible from towns and villages.
  - In Sabah and Sarawak, there are two remote estates which are three hours by overland routes from nearby towns. FGV provides access to these towns for their workers.
  - There is zero tolerance for any form of abuse or violence in any of our operations. These rights extend to all FGV employees including foreign workers.
  - FGV has a Grievance Mechanism process in place which all workers have access to.

<p>Women working on palm oil plantations are usually relegated to lower paying positions such as maintaining the palms, which also puts them at a point of greater contact with harmful pesticides.</p>	<ul style="list-style-type: none"> <li>• FGV is an equal opportunities employer. FGV commits to non-discrimination and gender equality. It is true that estate work is largely undertaken by men. This is due to the highly physical nature of tasks workers are required to perform.</li> <li>• All workers are trained in the use of equipment and provided with all the necessary personal protective equipment.</li> <li>• Individuals who are unwell, or in the case of women workers who are pregnant, will not be assigned to tasks that require handling of chemicals.</li> </ul>
<p>Contracts, workers' salaries and benefits</p>	<ul style="list-style-type: none"> <li>• All contracts are presented to workers in their national language.</li> <li>• In the event a worker doesn't speak his or her national language, the terms of the contract and all other information is explained to the worker in his or her mother tongue or preferred language.</li> <li>• All foreign workers are provided with housing, bedding and supplies for their personal use.</li> <li>• All foreign workers are also given an initial RM200 worth of food provisions when they arrive at the estates. They are not required to pay this sum back.</li> <li>• Should a worker require an advance on his or her salaries, estate management will extend an interest free advance.</li> </ul>
<p>After the Wall Street Journal story, FGV commissioned Wild Asia to conduct an assessment on three FGV plantations: Pasoh, Serting Hilir and Palong Timur and Wild Asia confirmed the presence of red flag indicators of forced labor, including passport retention, unfair termination clauses, and debt bondage, concluding that further investigations were vital to ensure the safety of workers.</p>	<ul style="list-style-type: none"> <li>• This is correct. Wild Asia was appointed in November 2015 to conduct verification of WSJ's allegations. They completed the verification and produced a report in March 2016.</li> </ul>

<p>In 2018, the RSPO Complaints Panel conducted an investigation at FGV's Kilang Sawit Seriting mill and its supply base and also confirmed the presence of forced labor indicators, detailed in a follow up letter in late 2018. The letter informed the company that it found exploitative practices on its plantations, including forcing workers to sign contracts in languages they do not understand, depriving workers the right to terminate their job, discrimination against foreign workers, seizure of passports, human trafficking, inadequate food supplies, and other human rights violations. The letter noted that few improvements had been made since the 2015 Wall Street Journal report.</p>	<ul style="list-style-type: none"> <li>• This is correct. RSPO conducted an on-site verification exercise from 26<sup>th</sup> to 28<sup>th</sup> April 2018.</li> </ul>
<p>Following the investigation, the RSPO suspended the certificate of Kilang Sawit Seriting mill and its surrounding plantations. The organization also ordered a full investigation and audit of every other FGV owned and operated plantation in Malaysia.</p>	<ul style="list-style-type: none"> <li>• It is correct that the Complaints Panel of the RSPO suspended FGV's Seriting Mill Complex on 28<sup>th</sup> November 2018. The suspension was lifted on 5<sup>th</sup> August 2019 following FGV's submission of detailed action plans and evidence that the action plan is being implemented.</li> <li>• The RSPO will continue to monitor the implementation of FGV's action plan until 31 January 2020.</li> </ul>
<p>Despite the overwhelming international outcry from newspapers and NGOS, advertisements from third party "recruiters" enticing migrants to seek work at FELDA/FGV can still be found on websites such as Placement India, Youtube, Facebook, and Aasaan Jobs.</p>	<ul style="list-style-type: none"> <li>• These agents do not represent FGV. A check on the sites mentioned, revealed that the agents are recruiting for other organisations.</li> </ul>