

# Compliance audit and Investigation report

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## Background

On the 26<sup>th</sup> of July 2015 the Wall Street Journal (WSJ) has published an article entitled “Palm-Oil Migrant Workers Tell of Abuses on Malaysian Plantations” claiming widespread abuses of human rights in palm oil plantations (ANNEX 1).

The article refers to: trafficking, forced labour, illegal employment, abuse of workers, non-compliance with minimum wage legislation, inhumane and illegal housing, withholding worker’s passports. Some of the practices are either illegal and/or incompatible with RSPO requirements.

RSPO has asked Accreditation Services International (ASI)<sup>1</sup> to investigate the claims published in the WSJ. ASI is the accreditation body of RSPO and its main objective is to ensure that certification bodies conduct their RSPO certification services in line with accreditation requirements.

Based on the information obtained by the RSPO it has been decided that 3 FELDA estates should be involved in the investigations:

- 1.) **Pasoh POM** – The mill has a valid RSPO certificate issued on the the 1<sup>st</sup> of July 2015 by PT Mutuagung Lestari (certificate number: MUTU - RSPO/063);
- 2.) **Serting Hilir POM** - The mill does not yet have an RSPO certificate but Control Union Malaysia Sdn Bhd has conducted the main assessment in January 2015;
- 3.) **Palong Timur POM** - The mill does not yet have an RSPO certificate but Control Union Malaysia Sdn Bhd has conducted the main assessment in January 2015.

The RSPO has requested ASI to conduct:

- A compliance assessment for the mill that is already in possession of a valid RSPO certificate, and
- A compliance and investigation assessment for the mills that have not yet had a valid RSPO certificate issued.

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<sup>1</sup> For more information, please visit <http://www.accreditation-services.com/about/asi>



The slight different between the two is due to the fact that some mills are not yet in the possession of a valid RSPO certificate.

This report outlines how the audits were conducted and presents the key findings of the audits.



# Methodology

## GENERAL CONSIDERATIONS

The focus of both assessments was on the performance and compliance with accreditation requirements of the audit process conducted by the certification bodies (CBs). ASI defines compliance assessment as the assessment of a certificate holder (CH), to determine the level of confidence and the effectiveness of the accredited certification process.

As an accreditation organization, ASI cannot raise non-conformities against RSPO CHs. Only CBs can raise findings against CHs. In a compliance assessment ASI interviews the CH and stakeholders about the conduct of the CB's previous audit. ASI as well compares evidence and some of the conclusions presented in the CB's audit report with reality on the ground. A compliance audit focuses on a limited number of compliance criteria as determined by ASI (usually in collaboration with the scheme owner) – it is not meant as full audit or a 1:1 repetition of a CB's audit. If the situation as seen by the ASI assessment team differs from the conclusions of the CB, ASI will bring these differences to the attention of the CB.

In compliance assessments, ASI assessors are mindful that certain differences in interpretations of requirements may exist between individuals (“expert judgement”) and that CB auditing of clients is based on a sampling basis. In practice this means that if an ASI assessment team sees marginal shortcomings at the CH level, which were not identified by the CB assessment team, it should not automatically put the CB's competence in question.

However, if ASI identifies clear nonconformities at the CH level, which were not identified by the CB at its recent audit, ASI has to understand the reasons and seek rectification from the CB. Reasons for not identifying such nonconformities can be manifold, and can relate to the CB auditor not having sufficient on-site time to complete a rigorous audit, CB auditors or decision makers not being sufficiently technically suited, or even auditors and CBs being hesitant from openly raising significant findings with their certification clients (i.e. “soft-grading”).

As for all nonconformities raised against CBs, CBs will be required to identify the root cause of why its auditors have missed the respective shortcoming at the CH level and to take measures to avoid recurrence. It will be important as well to address the shortcoming identified at the CH level (“correction”), which may occur by the CB raising its own



nonconformity against the CH or by the CB conducting further follow up audits/investigations to gather more evidence to support its certification conclusion.

Depending on the root cause for a shortcoming identified by ASI at the CH level, the need for correction by the CB may not be restricted to one CH only. It is up to the CB to demonstrate to ASI that correction is effective for all its CHs ensuring that certified clients are continuously compliant. In most cases applying a “quick fix” which is targeted to one CB audit process only will not be enough to address the nonconformity raised by ASI.

## SCOPE OF THE ASSESMENTS

In most of the cases the ASI compliance assessments focus on a subset of the requirements. In this case the RSPO has indicated that the assessments should focus on the following RSPO Principles and Criteria (2013):

- 2.1 There is compliance with all applicable local, national and ratified international laws and regulations.
- 4.6 Pesticides are used in ways that do not endanger health or the environment.
- 6.1 Aspects of plantation and mill management that have social impacts, including replanting, are identified in a participatory way, and plans to mitigate the negative impacts and promote the positive ones are made, implemented and monitored, to demonstrate continual improvement.
- 6.5 Pay and conditions for employees and for contract workers always meet at least legal or industry minimum standards and are sufficient to provide decent living wages.
- 6.7 Children are not employed or exploited.
- 6.12 No forms of forced or trafficked labour are used.



## ASSESSMENT TEAM

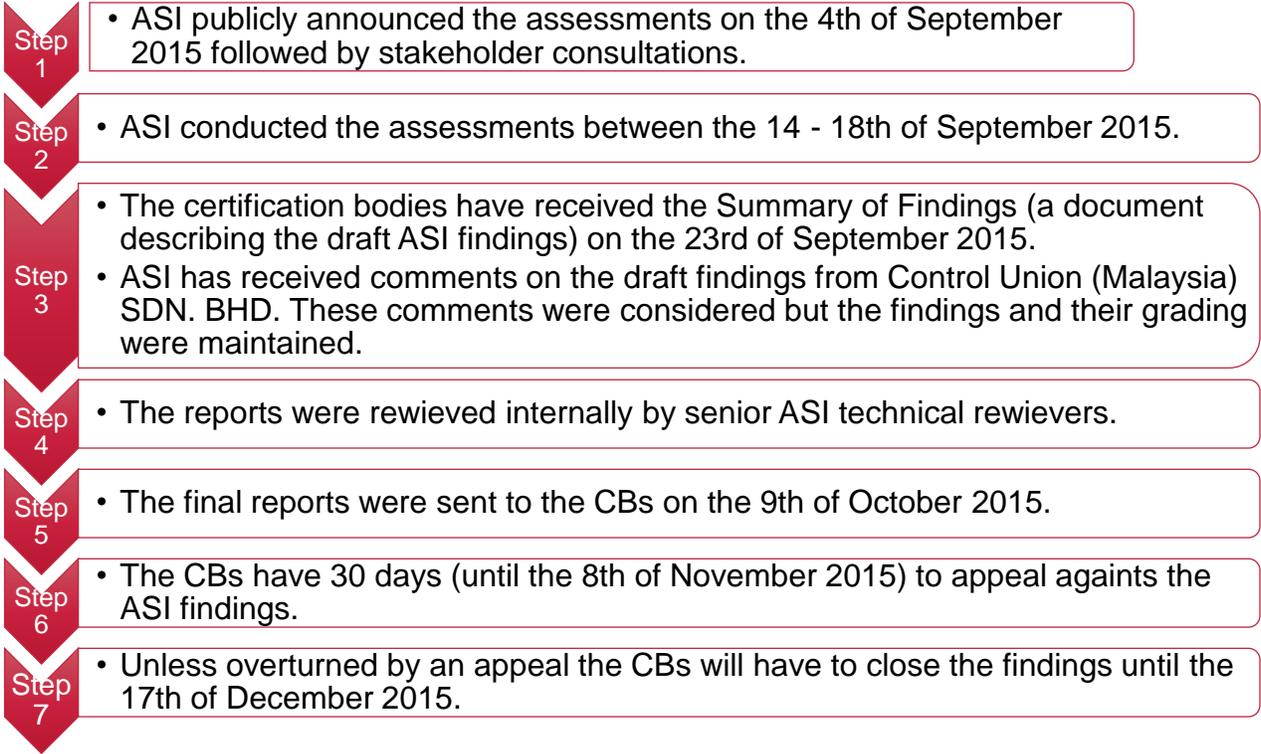
The ASI team had the following composition:

<b>Name</b>	<b>Position</b>	<b>Role in the audit</b>
Mr. Maris Zudrags	ASI RSPO Lead auditor	Lead auditor
Ms. Shikin Rasikon	ASI RSPO Lead auditor	Co-assessor
Ms. Jessie Ooi	ASI FSC Lead auditor	Translator
Mr. Kishokumar Jeyaraj	Independent expert	Local expert
Mr. László Máthé	ASI RSPO Accreditation Program Manager	Observer

On the 10<sup>th</sup> of September 2015 Rainforest Action Network has indicated to ASI that it would like to send a representative to the ASI assessments. According to the ASI procedures the participation of stakeholders as observers in ASI assessments is dependent on the agreement of all parties. In this case ASI was not able to accommodate the request made by RAN.



# ASSESSMENT TIMELINES AND STEPS



# 1. RSPO Compliance P&C Assessment of PT. Mutuagung Lestari at Felda Selancar, Pasoh POM, Malaysia, 2015.

## BACKGROUND

ASI compliance assessment was carried out at certificate holder MUTU-RSPO/063 that has been certified by the Pt. Mutuagung Lestari (MUTU) since 01.07.2015. The certification body conducted pre-evaluation (stage 1) audit 10-11.09.2014 with following main evaluation (stage 2) audit 29.09-03.10.2014.

The scope of the certificate covers single Palm Oil Mill (POM) with 5 estates with total certified plantation area 9360 ha including 7234 ha of mature plantations. There are no conservation areas included in the scope of the certificate. In 2014 production included about 160 000 tons of fresh fruit bunch, 345 000 metric tons of CPO and 82 000 metric tones of PKO.

The certificate holder manages 3 type of plantations:

- owned and managed by the company (own labour or subcontractors),
- owned by smallholders and managed by company,
- owned and managed by smallholders under the company's scheme smallholders group.

During the main audit the CAB raised 5 major, 6 minor non-conformities and 8 opportunities for improvement related to: legal requirements, boundaries, water management plan at the mill, monitoring of integrated pest management, records of use of pesticides, pesticide management, medical surveillance for workers involved in chemical application, labour contracts.

## APPLICABLE STANDARDS

During the ASI compliance assessment the CAB's performance was evaluated against RSPO Certification Systems 2007 standard by directly evaluation the CHs compliance against:

- Malaysian National Interpretation of RSPO P&C for Sustainable Palm Oil Production Malaysia National Interpretation including smallholder NI Approved by the RSPO 2010;
- Malaysian National Interpretation of RSPO P&C for Sustainable Palm Oil Production Malaysia National Interpretation endorsed March 2015;
- RSPO P&C Guidance on Scheme Smallholders 2009.



## ASI EVALUATION PROCESS

The evaluation and verification process included:

- Prior stakeholder consultation,
- Review and verification of documents and records,
- Interviews with the company personnel,
- On-site field visits and interviews with labour, smallholders and company's sub-contractors.

During the assessment ASI audit team visited the same units as visited by the CB during the initial certification audit 2014: Pasoh 3 and Titi 2 estates. During the assessment ASI audit team evaluated the CHs management systems at the estate office level as well as conducted interviews with the local/foreign labour, contractors, smallholders and company staff.

Sites to be visited were selected during the ASI assessment and announced to the CH during the assessment with short notice. Field visits and interviews were carried out based on a random sample. ASI conducted interviews with smallholders, contractors and labour in confidence without presence of company representatives.

As a part of compliance assessment, ASI conducted stakeholder consultation - no comments were received regarding compliance of the CB. The WSJ article was considered as stakeholder input during the assessment.

## FINDINGS

During the assessment ASI team identified some of the aspects that were not sufficiently evaluated/reported by the CB. ASI has raised two major findings and two observations against PT. Mutuagung Lestari.

The findings and the supportive evidence are described below:

<b>Grading</b>	Major
<b>Normative reference</b>	RSPO Certification Systems, 2007:4.2.8
<b>Subject</b>	Evaluation/sampling of smallholders
<b>Requirement</b>	4.2.8 Assessments should include but not be limited to areas of potential environmental and social risk.
<b>Description</b>	There is no evidence that the Certification Body has considered areas of potential environmental and social risks. The CB's sampling has not included verification of implementation of RSPO P&C's by smallholders managing their own plantations.
<b>Evidence</b>	As part of ASI compliance assessment the CB's audit report (RSPO



	Initial Assessment Summary Report RSPO of PASOH POM, Felda Global Ventures, FELDA; approved 01.07.2015) and evaluation checklist (Auditor CHECKLIST RSPO - Malay Interpretation stage-02, PASOH POM - FELDA) was reviewed. From the particular documents ASI was not able to observe that the CAB has addressed management of non-FTP smallholders (smallholders that manage their own plantation). ASI considers that it is potentially the highest risk for the implementation of RSPO requirements. The CB also has not verified CH's management system in relation to non-FTP smallholders and contractors. This finding is graded as major because it results in, or is likely to result in a fundamental failure to achieve the objective of the relevant RSPO requirements.
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<b>Grading</b>	Major
<b>Normative reference</b>	RSPO Certification Systems, 2007:4.2.5
<b>Subject</b>	Non-conformities not identified
<b>Requirement</b>	4.2.5 Certification assessments will determine conformity or nonconformity with each indicator. Non-conformities must be graded as either minor or major, in accordance with Annex 3. A certificate of conformance with the RSPO Criteria cannot be issued while any major non-conformities are outstanding. Major non-conformities raised during surveillance assessments must be addressed within 60 days, or the certificate will be suspended. Major non-conformities not addressed within a further 60 days will result in the certificate being withdrawn. Minor non-conformities will be raised to major if they are not addressed by the following surveillance assessment.
<b>Description</b>	The CH is not compliant with number of RSPO requirements that has been not appropriately evaluated by the CB. Also the CB has not considered during its audit RSPO P&C Guidance on Scheme Smallholders 2009.
<b>Evidence</b>	During the ASI compliance assessment it was identified that Certificate Holder is not compliant with number of RSPO P&C requirements (listed below) that has not been identified by the Certification Body during stage 1 and stage 2 audit.  Criterion 1.1 Providing information for stakeholders; Indicator 1.1.1 Records of requests and responses must be maintained National Interpretation of RSPO P&C's (MYNI, 2010) Specific National Guidance for Scheme Smallholders require that "scheme managers should assist in ensuring compliance by their organised smallholders in providing adequate information" and "must ensure that participants are given copies" of number documents including training materials in IPM and safe use of agrochemicals; up-to-date records of debts and repayments, charges and fees; made available health and safety plan, plans and impact assessments related to environment and social



impacts, details of complaints and grievances. During assessment the CH was not able to present effective system in place for communication of particular information. During settlers interviews at Pasoh 3 it has been expressed that not all of them know and understand their debts and repayments, also they were not aware of complaints and grievance mechanism.

Criterion 4.1 Operating procedures are appropriately documented and consistently implemented and monitored; Indicator 4.1.2 Records of monitoring and the actions taken are maintained and kept for a minimum of 12 months.

The certificate holder has developed number of SoP's that addresses various aspects of RSPO requirements. It also monitors implementation of activities related to the plantation management for FTP and FTP's contractors. Records of location and area of spraying, fertilizing and weeding activities, FFB volumes harvested/delivered were demonstrated. However the CH was not able to present that monitoring covers also such SoP aspects as health and safety requirements, applied chemicals and their concentration. Also the CH was not able to present records and management system in place for monitoring and recording activities done by the smallholders who manage plantation by themselves/family (non-FTP) or hiring own contractors/workers. Also there is no evidence that SoP's have been explained and made available to the non-FTP smallholders.

Criterion 4.5 Integrated Pest Management (IPM) and 4.5.3 Recording areas where pesticides have been used.

Similar as above - the CH was not able to present records for areas where pesticides have been used by the smallholders themselves. Also no evidence that training in IPM techniques and appropriate assistance on agrochemical application for smallholders has been done as it is required by Specific National Guidance for Scheme and Independent Smallholders.

Criterion 4.6: Use of agro-chemicals.

During the field visit ASI observed that FELDA Technoplant (FTP) workers (employed directly by FTP) do not comply with the safety requirements for using Personal Protective Equipment (PPE): spraying activities done without appropriate masks.

Indicator 4.6.10 Records of pesticides used.

The CB has raised minor NC 2014.03 based on interview with the CH staff that in one of the estates chemical spraying activities are handled by the contractor and the actual application record can not be shown. During the assessment ASI observed that the CH can not demonstrate application records by non-TFP smallholders. Also national guidance require that Scheme Managers should provide regular training to their



organised smallholders on agrochemicals use - evidence by the CH not presented.

Criterion 4.8 All staff, workers, smallholders and contractors are appropriately trained.

4.8.1 A training programmed (appropriate to the scale of the organization) that includes regular assessment of training needs and documentation, including records of training for employees are kept.

At the Posoh3 estate training records were available only for workers directly employed by the FTP. Training records for contractor workers and non-FTP smallholders not available (according to FTP managers those are advised and corrected when ever wrong doing seen).

Criterion 6.1 Social impact assessment (SIA)

Social impact assessment has been carried out by the Certificate Holder for both estates September 2014 and it concluded also stakeholder consultation. However AIS considers that particular impact assessment is not adequate as:

It addresses only issues around settlers and village

Not all impacts addressed. For example during consultation at Pasoh 3 estate there has been feedback on settlers "constant" debt issue which has not been addressed. Also CH grievance/complaint register indicates number of issues around road damages that has not been reflected in SIA

Criterion 6.3 Handling complaints and grievances.

The CH's complaints and grievances procedure is not effectively implemented as interviews with smallholders and workers showed that particular procedures are not known.

Criterion 6.5 Pay and employment conditions.

From the reviewed payslips of FTP workers at Pasoh 3 estate, it has been observed that not always workers are paid minimum salary (900RM). Especially during January/February. Also from the daily records of works completed it was observed that some of the workers has been working 7 days a week without the rest and one worker up to 28 days without holidays.

RSPO National Interpretation requirements includes Specific Guidance for Scheme Smallholders that require that Scheme Manager should assist and/or ensure implementation of particular requirements at the level of smallholders. The Certificate Holder was not able to present that it controls implementation of RSPO requirements at the level of non-FTP smallholders (those who manage plantations by themselves). From the interviews with the CH staff it was confirmed that non-FTP smallholders are responsible for their own plantation management (for example fertilising, weeding, spraying, harvesting etc). Also interviews with the



	smallholders demonstrated that there is no knowledge of RSPO requirements. This finding is graded as major because it results in, or is likely to result in a fundamental failure to achieve the objective of the relevant requirement and is systematic.
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<b>Grading</b>	Observation
<b>Normative reference</b>	NA
<b>Subject</b>	Old RSPO P&C's used for evaluation
<b>Requirement</b>	NA
<b>Description</b>	During the audit the Certification Body used Malaysia National Interpretation of RSPO Principles and Criteria (P&C) for Sustainable Palm Oil Production, April 2006 including requirements for smallholders (2010). New RSPO P&C's have been approved 2013 which includes additional requirements for example on forced labour, trafficked labour and general human rights which were not considered by the CB during the audit.
<b>Evidence</b>	The Certification Bodies public summary report (RSPO Initial Assessment Summary Report RSPO of PASOH POM, Felda Global Ventures, FELDA; 01.07.2015), auditor checklist (Auditor CHECKLIST RSPO - Malay Interpretation stage-02, PASOH POM - FELDA), copy of the certificate issued by the CB.

<b>Grading</b>	Observation
<b>Normative reference</b>	ISO/IEC GUIDE 65:1996-11.a)
<b>Subject</b>	Content of audit report, checklist
<b>Requirement</b>	11. Evaluation report The certification body shall adopt reporting procedures that suit its needs but, as a minimum, these procedures shall ensure that: a) personnel appointed to evaluate the conformance of the products shall provide the certification body with a report of findings as to the conformity with all the certification requirements;
<b>Description</b>	In some cases from the Certification Body's full audit report (including auditor checklist) it is not possible to understand clearly based on what specific objective evidence the auditor has concluded that the Certificate Holder is compliant with the requirements.
<b>Evidence</b>	For example from the audit report and checklist it is not possible to understand which/how many smallholders has been evaluated against RSPO P&C requirements. Number of RSPO National Interpretation requirements includes Specific Guidance for Scheme Smallholders that require that Scheme Manager should assist and/or ensures implementation of particular requirements at the level of smallholders.



	However from the evidence it is not always clear has this been verified just for FELDA directly managed plantations (under FTP) or does it include also non-FTP smallholders.
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## 2. RSPO Compliance and Investigation P&C Assessment of CU at Felda Palong Timur and Serting Hilir POM, Malaysia, 2015.

### BACKGROUND

An ASI compliance assessment was carried out at two Control Union Malaysia Sdn. Ghd. (CU) applicant palm oil mills.

At the both certification units the company manages 3 type of plantations:

- owned and managed by the company (own labour or subcontractors),
- owned by smallholders and managed by company,
- owned and managed by smallholders under the company's scheme smallholders group

### Palong Timur POM

The scope of the certificate included palm oil mill and its supply base. The main audit was carried out by the CB on 28-31 January 2015 using RSPO P&C's 2013. POM is supplied by own estates as well as external suppliers. Last years production included about 322 000 metric tons of FFB, about 67 000 metric tons of CPO and 18 000 tons of PKO. The mill is supplied by 12 estates out of which two are managing the applicants own plantations. Total plantation area included in the scope of the certificate – 27 248 ha including 14 972 ha of mature plantations. No conservation areas included in the scope of the certificate.

The CBs sample included POM and 3 estates: Palong Timur 3, 5, 6. As a result of the audit the CB raised 4 major and 3 minor NC's and 2 observations related to: handling chemicals, training, emissions monitoring at the POM, boundaries of the estates, communication and implementation of accident and emergency procedures.

The CBs audit included stakeholder consultation process during which negative comments were not received.

### Serting Hilir POM

The scope of the certificate included Palm Oil Mill (MB) and its supply base. The main audit was carried out by the CB 19-23 January 2015 using RSPO P&C's 2013.

POM is supplied by own estates as well as external suppliers. Last years production included about 240 000 metric tons of FFB, about 51 000 metric tons of CPO and 12,9 metric tons of PKO. The mill is supplied by 20 estates out of which 7 are managing the



CH's owned plantations and rest include smallholder plantations. Total plantation area included in the scope of the certificate – 32 890 ha including 22 015 ha of mature plantations. Conservation area identified – 21ha.

The CBs sample included POM and 4 estates: FCVP Tembangau 3, 5, 6 and 7, all managing the applicants owned plantations. As a result of the audit the CB raised 6 major and 9 minor non-conformities and 2 observations related to: legal compliance, handling chemicals, social impact assessment, minimum wages pay, training, fuel use efficiency, emissions/pollutants monitoring at the POM, boundaries of the estates, communication and implementation of accident and emergency procedures, waste management at housing area, withholding workers passport.

The CBs audit included stakeholder consultation process during which negative comments were not received.

### APPLICABLE STANDARDS

During the ASI compliance assessment the CB's performance was evaluated against RSPO Certification Systems 2007 standard by directly evaluating the CHs compliance against Malaysian National Interpretation of RSPO P&C for Sustainable Palm Oil Production Malaysia National Interpretation endorsed March 2015.

### ASI EVALUATION PROCESS

The evaluation and verification process included:

- Prior stakeholder consultation
- Review and verification of documents and records,
- Interviews with the company personnel
- On-site field visits and interviews with labour, smallholders and company's sub-contractors

During the assessment ASI audit team visited the same estate (Tembangau 5, Serting Hilir POM) as visited by the CAB during initial certification audit January 2015; 3 other estates sampled by the ASI were not visited by the CAB (Serting Hilir 2/3 – Serting Hilir POM; Palong 1 and 4 – Palong Timur POM).

Sites to be visited were selected during the ASI assessment and announced to the CH during the assessment with short notice. Field visits and interviews were carried out based on a random sample. ASI conducted interviews with smallholders, contractors and labour in confidence without presence of company representatives.

As a part of compliance assessment, ASI conducted stakeholder consultation - no comments were received regarding compliance of the CB. ASI has considered the WSJ article as a stakeholder input.



## FINDINGS

During the assessment ASI team identified some of the aspects that were not sufficiently evaluated/reported by the CB. ASI has raised two major findings against Control Union Malaysia Sdn. Ghd. The findings and the supportive evidence are described below:

<b>Grading</b>	Major
<b>Normative reference</b>	RSPO Certification Systems, 2007:4.2.8
<b>Subject</b>	Evaluation/sampling of smallholders
<b>Requirement</b>	4.2.8 Assessments should include but not be limited to areas of potential environmental and social risk.
<b>Description</b>	The CB's sampling for Serting Hilir POM has not included verification of implementation of RSPO P&C's by smallholders and for Palong Timur POM - smallholders managing their own plantations that would lead to the certificate issued without credible assurance that there is no major failure in conformance with the requirements of RSPO P&C's across the entire scope of the certificate.
<b>Evidence</b>	<p>As part of ASI compliance assessment the CB's draft certification audit report and evaluation checklist for 2 applicant POM's were reviewed (CU835168_MA_2015_SERTING HILIR POM - Draft Final; CU835111_MA_PALONG TIMUR_2015_Draft Final).</p> <p>The Serting Hilir POM is supplied by 20 plantations/estates out of which 7 plantations are owned directly by FELDA (FGVP). For the audit the CB sampled 4 estates - all FELDA owned and managed plantations. The Palong Timur POM is supplied by 12 plantations/estates out of which 2 plantations are owned directly by FELDA (FGVP). For the audit the CB sampled 3 estates - 2 FELDA owned and 1 managed under FELDA scheme (scheme smallholders).</p> <p>ASI considers that plantation management under scheme smallholders is potentially the highest risk for the compliance with RSPO requirements as it includes plantations managed directly by the Certificate Holder (FTP), use of subcontractors as well as plantations managed directly by smallholders themselves or their contractors. The CB also has not verified the CH's management system in relation to non-FTP smallholders and contractors.</p> <p>This finding is graded as major because it results in, or is likely to result in a fundamental failure to achieve the objective of the relevant RSPO requirements.</p>



<b>Grading</b>	Major
<b>Normative reference</b>	RSPO Certification Systems, 2007:4.2.5
<b>Subject</b>	Non-conformities not identified
<b>Requirement</b>	4.2.5 Certification assessments will determine conformity or nonconformity with each indicator. Non-conformities must be graded as either minor or major, in accordance with Annex 3. A certificate of conformance with the RSPO Criteria cannot be issued while any major non-conformities are outstanding. Major non-conformities raised during surveillance assessments must be addressed within 60 days, or the certificate will be suspended. Major non-conformities not addressed within a further 60 days will result in the certificate being withdrawn. Minor non-conformities will be raised to major if they are not addressed by the following surveillance assessment.
<b>Description</b>	Applicants are not compliant with number of RSPO requirements that has been not appropriately evaluated by the CB.
<b>Evidence</b>	<p>During the assessment 2 estates under each POM were selected and visited including one estate visited during certification audit by the CB: FGVP M Tembangau 5 - plantations owned by FELDA (FGVPM). Other estates visited were managing FELDA scheme smallholders, those whose plantations managed by FeldeTechnoplant (FTP smallholders) and smallholders managing their own plantations (non-FTP smallholders).</p> <p>During the ASI compliance assessment it was identified that the company is not compliant with number of RSPO P&amp;C requirements (listed below) that has not been identified by the Certification Body during audits.</p> <p>The CB's audit at Serting Hilir POM did not covered non of the plantations/estates that manage FELDA scheme smallholders. At Palong Timur POM one estate sampled managed FELDA scheme smallholders. Number of RSPO P&amp;C indicators require implementation of procedures, monitoring and recording activities carried out. For example indicators (but not only): 2.1.1, 2.1.3, 4.1.2, 4.1.3, 4.5.1, 4.6.2, 4.7.1 etc. During ASI assessment the company was not able to present evidence of control of implementation of RSPO requirements for non-FTP smallholders (smallholders managing their land by themselves). Similar applies also for the RSPO requirements related to the training (4.5.2, 4.6.9, 4.7.3, 4.8.1 etc).</p> <p>4.1.2 A mechanism to check consistent implementation of procedures shall be in place.</p> <p>The CH was not able to present mechanism to check consistent implementation of procedures for the non-FTP smallholders (those who manage plantations by themselves). Such mechanism also was not observed in managing sub-contractors used for plantation management</p>



(for example weeding, spraying etc). Based on interviews with the company staff whenever during field visits wrong doing is observed it is mentioned. However the company was not able to present evidence that this is implemented. Also there is no evidence that SoP's have been explained and made available to the contractors and non-FTP smallholders.

Indicator 4.1.3 Records of monitoring and any actions taken shall be maintained and available, as appropriate.

The company monitors implementation of activities related to the plantation management for FGVPM, FTP smallholders and FELDA contractors. Records of location and area of spraying, fertilizing and weeding activities, FFB volumes harvested/delivered were demonstrated. However the CH was not able to present that monitoring covers also such SoP aspects as health and safety requirements, applied chemicals and its concentrations, labour related issues etc. Also the CH was not able to present records and management system in place for monitoring and recording activities done by the smallholders who manage plantation by themselves/family (non-FTP) or hiring own contractors/workers.

Indicator 4.6.2 Records of pesticides use shall be provided

Data on use of pesticides by non-FTP smallholders not available in Palong 1 and 4.

Indicator 4.6.5 Application of pesticides.

During ASI field visit at FGVPM Tembangau 5 it was observed that use of PPE's/safety masks is not appropriate. Also the company was not able to present evidence that workers/smallholders handling and applying pesticides in non-FTP smallholder are adequately trained.

Indicator 4.6.9 Evidence of continual training to enhance knowledge and skills of employees and associated smallholders on pesticide handling shall be demonstrated or made available.

The CB's checklists for Seriting Hilir POM and Palong Timur POM refers that "No smallholders is involved". Particular statement is given for FELDA Palong Timur 3 estate that manages 209 FTP and 27 non-FTP smallholders (according data given by FELDA). There is no evidence given demonstrating compliance with the requirement for FELDA scheme smallholders. Also at estates with smallholders sampled by ASI (Palong 1, Palong 4), the company was not able to present evidence related to training, knowledge and skills.

Indicator 4.7.3 All workers involved in the operation shall be adequately trained in safe working practices (see Criterion 4.8). Adequate and appropriate protective equipment shall be available to all workers.

For the spraying and fertilising at FGVPM Tembangau 5 safety masks



N95 and 3M3200 are used. The company did not had “masks” for the sprayers in stock and internal purchase order was placed 18.06.2015. It was also observed that sample mask demonstrated by the company does is equipped with dust filter that is no suitable for spraying activities. Also company records demonstrated that masks have been given to workers beginning of 2015 and no records of replacement were demonstrated. Also company SoP’s does not determine how frequent masks have to be changed.

Also company was not able to present evidence that adequate training has been given to the contractor workers at Serting Hilir 1/2/3 estate and non-FTP smallholders/their workers at Palog 1 and 4 estates.

Indicator 4.8.1 A formal training programme shall be in place that covers all aspects of the RSPO Principles and Criteria, and that includes regular assessments of training needs and documentation of the programme. During ASI assessment, company was not able to present evidence that FELDA contractors and smallholders (including non-FTP smallholders) were trained.

The CB has raised major NC for both POM’s regarding adequacy and implementation of the training program. The non-conformity statement includes that “Awareness of RSPO requirements – social, environment, corporate policies needs to reach all levels of staff and workers”. From the finding it is not clear does it cover also FELDA and smallholder contractor staff/workers and smallholders it selves.

#### Criterion 6.1 Social impact assessment (SIA)

The CB raised major NC regarding SIA done by Serting Hilir POM estates as stakeholder feedback was not reflected in the SIA. ASI considers that Social Impact Assessments done by the company are not adequate as:

It does not included consultation with all potentially affected stakeholder groups. For example SIA carried out by FGVPM Tembangau 5 (04.03.2015) has been consulted with clinic, internal workers, settlers, contractors and school. No evidence of engagement with such external stakeholders as authorities or NGO’s; Serting Hilir SIA done 17.3.2014 and consulted only with own employees/staff.

SIA addresses only issues around settlers and village and for example impacts on labour/employees not addressed. Palong 4 SIA (19.03.2014) identifies only 2 positive (education&healthcare and incentives payed) and 1 negative (facilities/infrastructure) impact.

6.1.5 Particular attention shall be paid to the impacts of smallholder schemes (where the plantation includes such a scheme).

It is not clear based on what evidence the CB concluded that both POM’s are compliant with particular requirement as in the checklists it refers that



there are “no smallholder scheme”. During ASI assessment the company was not able to present how social impacts have been addressed (both for FTP and non-FTP smallholders).

Criterion 6.3 System for dealing with complaints and grievances, implemented and accepted by all affected parties.

The CH has number of mechanisms (JCC - Joint Consultative Committee, OHS committee, gender committee etc) in place for receiving and dealing with complaints and grievances including complaints and grievances procedure (ML-1A/L2-PR4). However during ASI interviews with settlers and workers it was observed that specific procedures on how to deal with complaints and grievances are not known. Same situation was observed in relation to implementation of RSPO indicator 6.9.3 - grievance mechanism exist but not known by all female workers.

Criterion 6.5 Pay and conditions for employees and for contract workers always meet at least legal or industry minimum standards and are sufficient to provide decent living wages.

At Tembangau 5 estate the CB auditors observed that workers not always get minimum pay 900RM/month and major non-conformity was raised. This has been observed also by ASI during review of workers payslips at Tembangau 5 and Palong 1 estate (especially during January/February). Besides that at during ASI field visit at Tembangau 5 estate it was observed that company employs workers wives to pick loose fruits. According interviews women work full day. During review of employments contracts and verification with the company staff particular women have been considered as part time employees. Monthly salary of those workers according to payslips varies between 500-700RM and only team leader gets paid minimum 900 RM/month.

Indicator 6.5.2 Labour laws, union agreements or direct contracts of employment detailing payments and conditions of employment shall be available in the languages understood by the workers or explained carefully to them by a management official.

All contracts with workers sampled and checked by ASI are made in Bahasa and is not available in the languages foreign workers (for example those who are from Nepal, Bangladesh and India) might understand. Only in one of the estates (Palong 4) translators have been hired and employment conditions explained to workers.

Indicator 6.5.4 Growers and millers shall make demonstrable efforts to monitor and where able, improve workers’ access to adequate, sufficient and affordable food.

The company has been found compliant with particular RSPO requirement based on the fact that nearest town is about 30km from the plantation and groceries shops are available within 3-5km from workers



housing area. However during ASI interviews with workers it was observed that in average for food workers spend about 250RM that forms substantial part of wages received by workers (minimum pay is 900RM/month). Also company was not able to present how particular RSPO requirement is addressed.

Criterion 6.12 Forced labour and trafficking, 6.13 Respect of human rights. During ASI compliance assessment no violations were found with particular RSPO criteria and indicators. However the company was not able to demonstrate how it controls implementation of particular requirements at the level of contractors and non-FTP smallholders (smallholders who manage their plantation by themselves or hiring own contractors/workers).



## Conclusions and final remarks

The assessments mentioned in this report were the first compliance assessments conducted by ASI for the RSPO accreditation program. In this context the cooperation of all parties was crucial. ASI would like to note that all parties had a very constructive approach and the ASI team has not encountered any obstacle that would have a significant negative impact on the audit process.

The assessments were conducted at the request of RSPO to answer the following key questions raised by the WSJ article:

### **1. Are there illegal/trafficked workers on the plantations?**

As noted in the evidence section, ASI found no evidence that forced or trafficked labour would be used in the FELDA estates included in the assessments. However the company was not able to demonstrate how it controls implementation of particular RSPO requirements at the level of its contractors and smallholders who manage their plantation by themselves or hiring own contractors/workers. ASI considers that it is potentially the highest risk for the implementation of RSPO requirements. The CBs have not audited the CH's management system in relation to these smallholders and their contractors.

### **3. Are workers being adequately trained/equipped by the company and its contractors?**

As noted in the evidence ASI found examples of workers not being properly equipped, not being adequately trained on the use of protective equipment or protective equipment not being available. Contractors, especially the ones hired by smallholders are a high risk in this context, with no evidence that requirements are consistently enforced.

### **3. Do workers have their medical bills paid?**

Based on the evidence gathered by ASI during the assessments the workers have their medical bills covered. At one of the estates the company also covered visits to private health service providers. ASI also notes that not all workers are aware of the terms and conditions of their medical insurance.

### **4. Have wages been uniformly above minimum wage in the last few years?**

Based on the evidence gathered by ASI during the assessments a number of cases were found when the minimum wage is not achieved. This was especially true for January and February but also in some cases June and July. ASI noted that there was significant variability between estates and in one estate there were only very few cases of the minimum wage not being achieved. ASI also notes that not all workers were aware of the



terms and conditions of their employment contracts and the contracts were only provided in Bahasa. Only one estate was able to provide evidence of translators being hired to explain terms and conditions to the migrant workers.

#### **5. Are passports and other identity documents retained?**

Yes. However ASI has found that all the employees signed a declaration stating that they have handed their passports for safe keeping to the certificate holder voluntarily. This practice is permissible considering the guidance provided under 6.12.1 of RSPO of the MYNI 2014.

As stated in previous sections, certification bodies can appeal the conclusions of the ASI audit until the 8<sup>th</sup> of November 2015. In case of an appeal ASI will follow its Appeals Procedure details of which can be found on the ASI website<sup>2</sup>.

If the findings are not appealed the certification bodies will have 3 months to address the findings due to the fact that these were graded as majors. ASI also raised observation, but certification bodies are not required to respond to these as these do not constitute non-conformities with applicable accreditation requirements. Addressing the major findings might involve corrections at the level of the certificate holder. The deadline to address the non-conformities is the 12<sup>th</sup> of December 2015. In case the findings are not addressed in a timely manner according to the accreditation requirements overdue major findings will lead to suspension of the accreditation. ASI will make a public statement after this deadline to inform the RSPO and its stakeholders about the status of the non-conformities.

Furthermore based on the outcome of these audits the ASI RSPO accreditation program will include more compliance assessments in the 2016.

ASI is ready to cooperate with RSPO, stakeholders, CBs to further improve the implementation of the RSPO standards.

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<sup>2</sup> <http://www.accreditation-services.com/dispute-management/appeals>

