

FGV Holdings Berhad (800165-P)



YBhg. Dato' Henry Barlow
Chairperson of the Complaints Panel
Roundtable for Sustainable Palm Oil (RSPO)
A-37-1 Menara UOA Bangsar
59000 Kuala Lumpur

5 October 2020

YBhg. Dato',

FGV HOLDINGS BERHAD'S PROGRESS REPORT ON THE RSPO COMPLAINTS PANEL'S DIRECTIVES OF 28 NOVEMBER 2018

I wish to refer to the Roundtable on Sustainable Palm Oil (RSPO) Complaints Panel (CP)'s Directives of 28 November 2018 as well as FGV Holdings Berhad (FGV)'s action plan and its previous progress reports submitted to the CP.

Appended herewith is FGV's latest progress report, which reflects FGV's efforts to date in addressing the CP's Directives. I am pleased to inform you that much progress has been made, and FGV is committed to ensuring that the action plan is fully implemented.

In relation to this, I wish to stress that one item that remains high on FGV's agenda is the regularization of workers in Sabah. While this was never part of FGV's original action plan, FGV has dedicated much energy to pursue that matter, and FGV continues to provide updates on its status. FGV notes that issues around the situation of undocumented workers in Sabah had led to the CP's decision, in January 2020, to re-suspend the certification of FGV's Serting Complex, and to suspend FGV's ongoing certification processes.

As we all know, the issue of undocumented workers in Sabah is not only an industry-wide concern, but it also cuts across sectors. FGV's participation in the regularization initiative by the Sabah Government is in line with FGV's commitment to phasing out contractors and is part of its effort to promote greater enjoyment of the rights of workers. And as much as FGV would like to expedite the regularization of these workers, the power to process and approve the regularization applications remains with the State authorities. FGV is also concerned that the current political situation in Sabah and the re-escalation of COVID-19 cases, may affect negatively the regularization process.

As part of FGV's ongoing effort to respect human rights and uphold labour standards, FGV became a Participating Company of the Fair Labor Association (FLA). FGV is currently implementing programmes under its affiliation to the FLA, and believes that concrete progress

has been made in the six months of implementation beginning April 2020. The FLA published an [Assessment Report](#) on FGV's progress on 30 September 2020.

I would also like to take the opportunity to address the Withhold Release Order (WRO) which was issued on 30 September 2020 by the US Customs and Border Protection (CBP) against palm oil and palm oil products made by FGV. FGV is disappointed by the CBP's decision given the various efforts carried out by FGV in the past several years to enhance its labour practices. Like RSPO, FGV is also concerned with the impact of the WRO on the livelihoods of more than 112,000 settlers, who supply to FGV. For your information, FGV is currently taking the necessary measures to address WRO, and we hope to resolve sooner than later.

As a member of the RSPO, FGV remains committed to sustainable and responsible business practices, and I wish to thank the RSPO and the Secretariat for its continued support.

Yours sincerely,



Dato' Haris Fadzilah Hassan
Group Chief Executive Officer



FGV's Action Plan in Response to RSPO's Complaints Panel's Directives of
28 November 2018

Progress Report – October 2020

FGV Holdings Berhad
Wisma FGV, Jalan Raja Laut
50350 Kuala Lumpur

2 October 2020

FGV's Progress Report – October 2020

Notes:

1. Many of the Complaints Panel (CP)'s Directives have been put into action as highlighted in the FGV's previous progress reports. As this report will focus on progress achieved until 2 October 2020, it should be read together with the other progress reports.
2. In October 2019, FGV, with the support of the Procter & Gamble Chemicals (PGC), became a Participating Company of the Fair Labor Association (FLA). FGV's affiliation to the FLA is part of FGV's commitment to human rights and ongoing endeavour to uphold labour standards. As part of this affiliation, FGV developed its action plan in consultation with FLA as well as other stakeholders including United Nations agencies, civil society organisations as well as academicians. The [background and summary](#) of the action plan for 2020 was made public on 31 March 2020 and is accessible on FGV's website. The implementation of this action plan, which is currently underway, is being monitored and assessed independently by the FLA.
3. Due to the Covid19 outbreak and the Movement Control Order (MCO) imposed by the Malaysian Government, some of FGV's efforts in addressing the CP's Directives, especially the regularization exercise in Sabah and the construction of new housing for workers, have been affected, and as a result, the completion of certain programmes has been delayed. In light of this, FGV expresses its appreciation to the CP for providing an extension to FGV to complete these initiatives.

No.	Complaints Panel's Directives	FGV Assessment Finding	Action	Progress Update as at 2 October 2020
A. Employment Contract				
1.	FGV shall undertake a full legal and operational audit and review of its current employment contract practices/ processes/ policies/ procedures for all workers (including contractor's workers) to ensure full compliance with national laws and the P & C.	<p>FGV undertook an assessment of the Employment Contract between December 2018 and January 2019.</p> <p>Based on the assessment, it was found that:</p>	<ul style="list-style-type: none"> • FGV to revise the Employment Contract as per the CP's directives. • The revised version (V2) shall be: <ul style="list-style-type: none"> • Translated into National Languages of Migrant Workers 	<ol style="list-style-type: none"> i. The CP's Directives in relation to the employment contract have been implemented as stated in FGV's previous progress reports. ii. To further strengthen our practices, FGV has established One-Stop Centres (OSC) in Malaysia and in strategic locations in the workers' countries of origin. At the

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		<ul style="list-style-type: none"> • FGV had translated the Employment Contract for migrant workers (V1) into six languages – Tamil, Bengali, Nepali, Tagalog, English and Indonesian. • The translated versions (version 1) of the Employment Contract is available at sites. • Communications on the terms in the Employment Contract was carried out to all migrant workers. • Despite the above, the provisions of the existing Employment Contract for the migrant workers are insufficient as addressed by RSPO CP. • The Employment Contract was signed in Malaysia instead of sourcing country. 	<ul style="list-style-type: none"> • Communicated to relevant embassies of migrant workers employed by FGV. • Explained to workers during orientation of new workers. • Signed by all new migrant workers at their home countries. • Communicated to existing workers, including explaining that the new contract shall supersede any previous contract(s), and arrange for signing. 	<p>OSC, briefings are provided based on FGV's Communication Pack to ensure that workers understand the following:</p> <ol style="list-style-type: none"> a. Terms of employment b. Nature of work c. Benefits and entitlements d. Rights and responsibilities <p>At the moment, OSCs have been established in the following locations:</p> <ol style="list-style-type: none"> e. Gemencheh, Negeri Sembilan, Malaysia f. Kolkata, India g. Chennai, India h. Lombok, Indonesia <p>Interpreters have been appointed by FGV to facilitate understanding of the briefings by the workers.</p> <p>In the case of India, FGV is working with the Offices of the Protectors of Emigrants under the Ministry of External Affairs to participate in the pre-departure briefing sessions for workers who are coming into FGV's operations, to ensure that they understand their terms of employment.</p>

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2.	<p>As per P & C 6.12.3, a special labour policy and procedures shall be established and implemented in respect of all migrant workers employed by FGV, including contractor's workers. The special labour policy should include:</p> <p>i. statement of non-discriminatory practices; ii. no contract substitution; iii. post-arrival orientation programme to focus especially on language, safety, labour laws, cultural practices, etc; and iv. decent living conditions to be provided.</p>	<ul style="list-style-type: none"> • FGV's Group Sustainability Policy (GSP) was first approved and implemented in 2016. However, it does not adequately cover the aspect of labour. In addition, it was also noted that the GSP (and its Bahasa Melayu version) was distributed, but was not effectively communicated, throughout FGV's operations. • There is no specific policy on labour. However, there are a number of SOPs which govern different aspects of recruitment processes. These SOPs lack, or do not make, specific references to the applicable labour standards. 	<ul style="list-style-type: none"> • FGV Group shall, where necessary, strengthen existing policies, and develop a special labour policy/SOP, to address the following issues relating to labour, including but not limited to: <ul style="list-style-type: none"> • statement of non-discriminatory practices; • no contract substitution; • post-arrival orientation programme to focus especially on language, safety, labour laws, cultural practices, etc; and • decent living conditions to be provided. • FGV shall ensure that all its policies and procedures relating to labour are communicated to, and are binding on, all its recruitment contractors, agents and supply chains. 	<p>i. The CP's Directives in relation to the strengthening of policies and SOPs on labour related matters have been fulfilled as stated in FGV's previous progress reports.</p> <p>ii. The Socialization Programme undertaken by FGV since July 2019 seeks to communicate and promote awareness and understanding about the contents and expectations of FGV's revised Group Sustainability Policy (GSP), the Guidelines and Procedures for the Responsible Recruitment of Foreign Workers (GPRRFW), the Supplier Code of Conduct (SCOC) and other relevant policies among the personnel of its own operations as well as its contractors and suppliers. By the end of December 2019, FGV has completed the socialization programme for all its complexes as planned. To date, FGV has conducted 54 Socialization sessions involving around 1400 participants.</p>
3.	<p>In particular, FGV shall ensure that accurate information of working conditions in the host country, including nature of</p>	<ul style="list-style-type: none"> • Based on FGV's assessment, it was noted that there were no adequate communications 	<p>FGV to address the gaps by adopting the following:</p>	<p>i. The CP's Directives in relation to the recruitment of foreign workers have been put in action as stated in FGV's previous progress reports. These actions</p>

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	<p>work, wages, benefits and duration of contract are duly communicated at the time of recruitment.</p>	<p>between FGV and the appointed agent in workers' home country, and thereby the transfer of information relating to the work in FGV is limited.</p>	<ul style="list-style-type: none"> • Where possible to conduct direct recruitment of foreign workers; • Where the use of recruitment agents is inevitable, FGV must ensure that the selected recruitment agents either in Malaysia or the sourcing countries are legally registered in accordance with the applicable national laws/ regulations. • To ensure that all information on all aspects of working conditions in FGV's operations, including the terms of employment, nature of work, wages and other benefits are duly communicated to the foreign workers in their home country. • Where recruitment is done through agent, FGV shall ensure that the same information is provided to the agent to be communicated to the potential workers during the recruitment process. 	<p>continue to be implemented throughout the recruitment process of FGV's migrant workers.</p> <p>ii. Since July 2019, FGV has been conducting briefing sessions for its appointed recruitment agencies to communicate and promote understanding about the contents and expectations of the Guidelines and Procedures for the Responsible Recruitment of Foreign Workers (GPRRFW). To date, 17 sessions have been conducted, including in India and in Indonesia involving recruitment agents and where applicable, sub-agents. Emphasis is given in particular on ethical recruitment processes and on the non-imposition of recruitment fees by the recruitment agencies on the workers as stipulated in the contract between FGV and the recruitment agencies.</p> <p>iii. FGV is participating in a labour supply-chain mapping project conducted by the United Nations International Organization for Migration (IOM) and the non-profit organization Earthworm Foundation. The scope of this project, which started in October 2019, includes</p>

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				<p>reviewing processes and procedures relating to the recruitment of migrant workers, with a view to identifying any gaps and proposing initial recommendations. As of today, IOM and Earthworm Foundation has interviewed migrant workers at six of FGV's plantations, as well as a number of FGV's appointed recruitment agencies. IOM and Earthworm Foundation have also interviewed agents in the countries of origin, namely India and Indonesia. The project will help FGV align its recruitment processes and procedures with international standards.</p>
4.	<p>Employment contracts should be written in a language that the workers understand, signed in the workers' countries of origin and only after the terms have been properly explained to the workers (including all documents referred to in the employment contracts such as the <i>Kadar Upah Kerja</i>). The key is to ensure full disclosure to enable workers to make an informed decision as to the signing of the contract.</p>	<ul style="list-style-type: none"> i. The CP's Directives relating to employment contracts have been fulfilled as stated in FGV's previous progress reports, and continue to be implemented in FGV's recruitment process. ii. Please refer to Paragraph 1 above. 		

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5.	To promote non-discrimination against illiterate workers, the content of the contract is to be orally transmitted to the workers, by or on behalf of the employer.	FGV uses seasoned migrant workers who can best speak and understand Bahasa Melayu, and is able to effectively communicate with the illiterate workers, to explain the terms of the employment contract.	<ul style="list-style-type: none"> • FGV to put in place a process which will require actions to be taken in the home country to ensure that illiterate workers are not discriminated and that the contract is orally read and explained to them. • For existing illiterate migrant workers, FGV shall ensure that the contract is orally transmitted to them. If necessary, an interpreter shall be provided. 	<ul style="list-style-type: none"> i. The CP's Directives relating to non-discrimination against illiterate workers have been fulfilled as stated in FGV's previous progress reports. These actions continue to be implemented in FGV's recruitment process. ii. Please refer to Paragraph 1.
6.	Once signed, FGV shall ensure that no contract substitution occurs, whereby contracts signed by workers in their home country is respected and adhered to by FGV and the work they perform is in accordance with their contractual terms.	There were instances where employment contract was substituted when the workers arrived in Malaysia.	<ul style="list-style-type: none"> • There shall be only one employment contract (V2) signed by migrant workers. • For new workers, this employment contract shall be signed in their home countries and workers shall be provided with a copy for their safe keeping. • For existing workers employed, FGV will seek their agreement to accept and sign the V2 contract which will supersede the previous contract. • FGV will respect the workers 	<ul style="list-style-type: none"> i. The CP's Directives relating to no contract substitution have been fulfilled as stated in FGV's previous progress reports, and continue to be implemented as FGV's standard practice.

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			<p>right not to accept the revised employment contract.</p> <ul style="list-style-type: none"> • There shall be periodical assessments to ensure there is no violation of the contractual terms. 	
7.	<p>Further, workers' freedom to resign without penalty and in accordance with law must be respected.</p> <p>Action plan shall consider issues that may arise from termination under the contract either by FGV or on the initiative of the workers, including costs implication and costs sharing, without undermining workers' freedom of movement</p>	<p>The V1 contract is silent on the worker's freedom to resign from the company.</p>	<ul style="list-style-type: none"> • FGV shall recognise and respect the workers' right to terminate the employment contract in accordance with prescribed requirements. eg. Notice or pay in lieu). • This shall be reflected in the revised employment contract and informed to all the workers. • On the implication of termination of employment, FGV shall identify an amicable solution in particular on matters relating to any cost implication resulting from the termination of employment. 	<p>i. The CP's Directives relating to workers' freedom to resign without penalty in accordance with the law have been put into action as stated in FGV's previous progress report, and continue to be implemented as FGV's standard practice.</p>

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B. Labour recruitment contractors/agents				
8.	<p>FGV shall adopt and apply Standard Operating Procedures (SOPs) for all its labour recruitment contractors/agents (in Malaysia as well as those in the countries of origin) in full compliance with the P & C.</p> <p>Among others, the following elements should be included in the said SOPs:</p> <ul style="list-style-type: none"> - FGV only engages duly registered labour recruitment contractors/agents who do not support or partake in any form of forced or trafficked labour; - no recruitment fees/ costs should be charged to/deducted from workers at any stage of the recruitment process, including by its contractors; - such recruitment fees/costs should be borne by FGV; - there is an effective grievance mechanism in place to receive complaints from workers, without any fear of reprisal; 	<ul style="list-style-type: none"> • FGV has the relevant SOPs pertaining to processes of recruitment of migrant workers. However, the SOPs do not adequately address the elements specified by the CP. 	<ul style="list-style-type: none"> • FGV to strengthen its SOP to address the elements stipulated by CP including, but not limited to: <ul style="list-style-type: none"> i. Ensuring that FGV only engages duly registered labour recruitment contractors/ agents who do not support or partake in any form of forced or trafficked labour; ii. Clarity on the imposition of recruitment fee; iii. Strengthen the grievance mechanism to receive complaints from workers, without any fear of reprisal; iv. Applicable procedures to monitor and scrutinise the recruitment agents and contractors. This shall include actions necessary to address and manage errant contractors/agents, one of which shall include termination of service; v. Applicability of all FGV policies and SOPs on 	<ul style="list-style-type: none"> i. The CP's Directives relating to the adoption of SOPs for engaging labour recruitment agencies have been fulfilled as stated in FGV's previous progress reports, and continue to be implemented as FGV's standard practice. ii. Please also refer to Paragraph 3.

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	<p>- errant contractors/agents should be "blacklisted" and terminated; and</p> <p>Transparency and accountability should be required of contractors/agents in the entire recruitment process and this principle should feature prominently in the said SOPs</p> <p>The SOPs, upon completion, should enter into immediate force. Staff at all levels should be trained on its substance and implementation measures. It should also be assessed and reviewed regularly to ensure it meets national and international standards on recruitment and employment of migrant workers.</p> <p>FGV is obligated to exercise due diligence over its contractors/agents and will be held accountable for breaches by such contractors/agents</p>		<p>agents and contractors to ensure transparency and accountability in their actions.</p> <ul style="list-style-type: none"> • The SOPs shall be communicated to the relevant personnel for effective implementation. • Periodical review of the SOPs will be carried out to ensure the SOPs adequately addresses new / revised requirements pertaining to legal and/or sustainability standards. 	
9.	Acting on FGV's commitment to phase out contractors, FGV should where possible, conduct direct and in-person hiring in the workers' countries of origin.	<ul style="list-style-type: none"> • FGV noted that the probabilities of contractors hiring irregular migrant workers is high. • FGV has given a direction to 	<ul style="list-style-type: none"> • FGV to phase out contractors with irregular workers, and where possible will recruit workers directly to fill the void. 	i. As of January 2020, FGV has phased out its contractors, save contractors providing replanting and FFB transportation services. The use of such contractors is common

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		<p>stop engaging / terminate renegade contractors through an internal memo – <i>“Pemberhentian Tender Baru Kerja-Kerja Pertanian & Amalan Pengurusan Tenaga Kerja Luar yang Baik”, Bil (163) 010810/HQ/JAB.OP.18/PLANTATIONS/AM”, dated 3 December 2018.</i></p>	<ul style="list-style-type: none"> • Where inevitable, FGV is committed to engage contractors with good labour management practices and will ensure that selection and appointment of contractors follow the applicable SOPs. • FGV to strengthen provisions in the contract between FGV and contractor requiring contractors to, amongst others (i) have in place good labour practices; (ii) comply with FGV's policy and procedures on labour management; and (iii) comply with the applicable standards on health and safety for their workers. 	<p>throughout the industry. Nonetheless, FGV will continue to monitor its contractors to ensure compliance with national laws and with FGV's commitments and standards.</p> <p>ii. Please also refer to paragraph 2(ii).</p>
C. Pay and working conditions				
10.	<p>FGV shall undertake a full legal and operational audit and review of its current practices/processes/policies/procedures relating to wages/deductions and working/living conditions for all workers (local and foreign) to ensure full compliance with the P & C.</p>	<p>i. This CP directive has been implemented by FGV as stated in FGV's previous progress reports. Please also refer to Paragraphs 1, 2 and 3 above.</p>		

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	<p>In this regard, FGV should remove all forms of discrimination between local and foreign workers.</p>			
11.	<p>As per P & C 6.12.3, a special labour policy and procedures shall be established and implemented in respect of all migrant workers employed by FGV, including contractor's workers. The special labour policy should include:</p> <ul style="list-style-type: none"> i. statement of non-discriminatory practices; ii. no contract substitution; iii. post-arrival orientation programme to focus especially on language, safety, labour laws, cultural practices etc.; and iv. decent living conditions to be provided. 	<ul style="list-style-type: none"> i. The CP's Directives relating to the adoption of a labour policy have been fulfilled as stated in FGV's previous progress reports, and continue to be implemented as FGV's standard practice. FGV's Guidelines and Procedures for the Responsible Recruitment of Foreign Workers contain the elements stipulated by the CP's Directives. 		
12.	<p>Considering the nature/risk profile of work in the plantations, FGV shall ensure access to medical amenities and affordable healthcare is available to workers in accordance with national and international laws as well as the P & C.</p>	<ul style="list-style-type: none"> • Transportation is provided all workers who is in need of medical treatment. • FGV also provides allocation at a sum specified in the employment contract to cover the medical cost of outpatient treatment. • For in-patient treatment, all 	<ul style="list-style-type: none"> • FGV to continue its current practices with regard to ensuring access to, and affordability of, appropriate / medical treatment and social security protection for all its workers. 	<ul style="list-style-type: none"> i. The CP's Directives relating to access to medical amenities and affordable healthcare have been fulfilled as stated in FGV's previous progress reports. Such actions continue to be implemented as FGV's standard practice.

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		migrant workers are covered by insurance.		
13.	In addition, FGV shall ensure that workers are made aware of the terms and benefits of the FWCS under which they are insured.	<ul style="list-style-type: none"> Migrant workers are not made aware of their medical and insurance benefits. 	<ul style="list-style-type: none"> FGV to ensure that migrant workers are adequately briefed and informed of their medical benefit and entitlements. Also, FGV must ensure that migrant workers are informed of their insurance benefits under FWCS. 	<p>i. The CP's Directives stipulating that workers are made aware of the terms and benefits of their FWCS been fulfilled as stated in FGV's previous progress reports especially through the adoption and application of the FGV's communications pack and the Guidelines and Procedures for Responsible Recruitment of Foreign Workers. These actions continue to be implemented as FGV's standard practice.</p> <p>ii. Please also refer to Paragraphs 1, 2 and 3 above.</p>
D. Passports				
14.	Whilst the Complaints Panel notes steps already taken by FGV with regard to migrant workers' passports, the Complaints Panel reiterates that retention and withholding of passport and other identity documents of workers, in particular migrant workers, is	<ul style="list-style-type: none"> FGV has returned all migrant workers' passports in Peninsular Malaysia. However, for migrant workers in Sabah and Sarawak, their passports are still kept by the estate management as safety boxes have not been constructed yet. 	<ul style="list-style-type: none"> FGV shall ensure that all migrant workers' passports are returned to all workers. In facilitating the safe keeping of passports, FGV shall ensure all complexes are equipped with safety boxes. 	<p>i. As mentioned in FGV's previous progress reports, all passports are kept by the migrant workers. All of FGV's plantations in Peninsular Malaysia, Sabah and Sarawak are equipped with passport safety boxes which may be used by migrant workers to keep their passports, if they wish. The safety boxes are accessible to the workers at all</p>

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	<p>prohibited by law. In instances where the workers request the assistance of the employer in safekeeping of their passport or identity documents, this shall be done through written request in the workers' own language; and the workers must, at all times, have access to the documents.</p>	<ul style="list-style-type: none"> • Installation of safety boxes in Seriting complexes, for the safekeeping of migrant workers' passport was completed in March 2017 and all passports have been returned in April 2017. • FGV does not practice holding migrant workers' passport even though some workers have requested that the company keeps their passports. 	<ul style="list-style-type: none"> • FGV to expedite the installation of the safety boxes in Sabah and Sarawak. • FGV shall ensure that workers understand their responsibility to keep their passports securely and safely. In case the passports are damaged or lost, workers shall bear the associated cost for the replacement of the legal document. 	<p>times.</p>
15.	<p>There should be no constraints on the ability of the worker to leave the place of employment or any restrictions placed on their freedom of movement, outside working hours. The Complaints Panel notes FGV's submission that "legally, the workers are employed under FGV's work quota and therefore, the responsibility to know the presence of the workers lies with FGV." Nevertheless, it is important that FGV strike a balance between oversight and the workers' freedom of movement outside work time. In this regard, FGV shall adopt and</p>	<ul style="list-style-type: none"> • Migrant workers hold their own passports which are kept in the safety boxes installed in all estates. • Migrant workers are required to seek "approval" to leave FGV premises. 	<ul style="list-style-type: none"> • FGV to ensure that it respects workers' freedom of movement and do not impose unnecessary restrictions. This must be communicated to all workers. 	<p>i. As stated in FGV's previous progress reports, it is now an established practice throughout all FGV operations that workers, including migrant workers, do not need to seek approval to leave the premises, but merely have to notify the guardhouse or plantation's management for safety purposes.</p>

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	<p>apply Standard Operating Procedures (SOPs) setting out, among others, the circumstances under which permission to leave the plantations outside work time may be granted or denied. In coming up with these SOPs, FGV shall ensure that the workers' freedom of movement is not undermined.</p>			
E. Undocumented Workers				
16.	<p>FGV shall undertake a full legal and operational audit and review of its foreign workers (including contractor's workers) to ensure full compliance with national¹ and international² laws, as well as the P & C.</p> <p>FGV shall undertake a full legal and operational audit and review of its contractors including their labor force to ensure that any gaps or deficiencies are rectified, possibly including restitution in case of underpayment of wages</p>	<ul style="list-style-type: none"> The existing agreement between FGV and its contractors is not adequate to address the human rights and labour concerns raised by the CP. 	<p>i. As communicated to the CP previously, the situation of undocumented persons in Sabah is highly complex and is a result of a multiplicity of contributing factors. The historical, socio-economic, political, cultural and geographical contexts all add to the intricacies surrounding the issue of undocumented persons in Sabah. The issue of undocumented persons working in plantations in Sabah is not unique to FGV's case but is an industry-wide concern. In April 2019, the Sabah State Government introduced a programme that would allow undocumented migrant workers in Sabah to apply for regularisation. In relation to this, and in keeping with our commitment to phase out contractors, as well as to support national efforts to eradicate poverty and to respect human rights, FGV has invited those undocumented workers from contractors to join our workforce. The application for regularisation is facilitated by FGV and we are also covering the</p>	

¹ Anti-Trafficking in Persons and Anti-Smuggling of Migrants Act 2007 [Act 670]

² **UN Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime, Article 3(a)** - "Trafficking in persons" shall mean the recruitment, transportation, transfer, harbouring or receipt of persons, by means of the threat or use of force or other forms of coercion, of abduction, of fraud, of deception, of the abuse of power or of a position of vulnerability or of the giving or receiving of payments or benefits to achieve the consent of a person having control over another person, for the purpose of exploitation. Exploitation shall include, at a minimum, the exploitation of the prostitution of others or other forms of sexual exploitation, forced labour or services, slavery or practices similar to slavery, servitude or the removal of organs;"

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	<p>or illegal/ excessive deductions, in full compliance with applicable legal requirements as well as the P & C.</p>			<p>fees involved in the regularisation process. As per FGV's submission to the CP on 13 February 2020, FGV has registered 6158 migrant workers with the Sabah State Government to undergo regularisation, and has developed a mechanism to monitor the regularisation process. As of 1 October 2020, the figures relating to the regularisation process are as follows:</p> <ol style="list-style-type: none"> a. Number of workers registered: 6158 b. Number of passports issued: 3752 c. Number of work permits approved: 976 <p>While the initial target date to complete the regularisation exercise was end of June 2020, this timeline is no longer valid given the Covid19 outbreak and the Movement Control Order (MCO) imposed by the Malaysian Government, which has disrupted the regularisation process. The regularization of the workers is contingent on the issuance of passports by the Indonesian and Philippine authorities, and on the consideration and approval of the relevant agencies of the Sabah State Government.</p> <p>Given the newly established State Government in Sabah, FGV is currently seeking confirmation from the relevant authorities on the status of the regularization exercise.</p> <p>ii. Please also refer to paragraphs 1, 2 and 3 above.</p>
17.	<p>The unlawful outsourcing of FGV's foreign workers to contractors shall immediately stop. FGV shall commit to only recruit legal migrant workers and this commitment extends to its contractors. As clearly enshrined in P & C 6.12, FGV and</p>	<ul style="list-style-type: none"> • FGV had erred when it allowed its contractor to utilize FGV's quota for migrant workers. • The contractor used the quota to recruit migrant workers to work for them. 	<ul style="list-style-type: none"> • FGV shall ensure that this incident do not recur in the future. • With regard to quota distributed in the past, FGV shall undertake the necessary remediation action to provide fair redress 	<p>i. The CP's Directives relating to the outsourcing of FGV's migrant workers to contractors have been resolved as stated in FGV's previous progress report. The practice of outsourcing migrant workers to contractors has</p>

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	<p>its contractors shall ensure that no trafficked labour are used. To this end, FGV shall undertake a full legal and operational audit and review of its foreign workers (including contractor's workers) to ensure full compliance with national³ and international⁴ laws, as well as the P & C. Pursuant to the aforementioned audit/review, FGV shall draw up an action plan to effectively address any gaps/deficiencies identified.</p>	<ul style="list-style-type: none"> The sharing of quota initiative was immediately stopped in line with the CP directives. 	<p>to all parties involved in particular the workers.</p>	<p>totally stopped and has been addressed.</p>
18.	<p>Noting the findings/breaches established under items ii – iv in the preceding column, FGV should act on its commitment to phase out contractors on its plantations. In this regard, an action plan should be drawn up to guide FGV's implementation to this end, while ensuring minimal adverse impact on the contractor's workers.</p> <p>Notwithstanding, FGV shall undertake a full legal and operational audit and review of</p>	<p>i. Please refer to paragraphs 1, 2, 3 and 9(1) above.</p>		

³ Anti-Trafficking in Persons and Anti-Smuggling of Migrants Act 2007 [Act 670]

⁴ **UN Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime, Article 3(a)** - "Trafficking in persons" shall mean the recruitment, transportation, transfer, harbouring or receipt of persons, by means of the threat or use of force or other forms of coercion, of abduction, of fraud, of deception, of the abuse of power or of a position of vulnerability or of the giving or receiving of payments or benefits to achieve the consent of a person having control over another person, for the purpose of exploitation. Exploitation shall include, at a minimum, the exploitation of the prostitution of others or other forms of sexual exploitation, forced labour or services, slavery or practices similar to slavery, servitude or the removal of organs;"

No.	Complaints Panel's Directives	FGV Assessment Finding	Action	Progress Update as at 2 October 2020
	<p>its contractors including their labour force to ensure that any gaps or deficiencies are rectified, possibly including restitution in case of underpayment of wages or illegal/ excessive deductions, in full compliance with applicable legal requirements as well as the P & C.</p>			
F. Health and safety requirements				
19.	<p>FGV shall review its current OSH/PPE policy and Standard Operating Procedures (SOPs), and ensure full compliance with P & C 4.7 and 4.8. FGV shall ensure that such reviewed OSH/PPE policy and SOPs are properly implemented and monitored in respect of all workers including contractor's workers.</p>	<ul style="list-style-type: none"> • OSH Policy is available but needs revision. • Hazard Identification, Risk Assessment and Risk Control (HIRARC) is not effectively developed and monitored by relevant personnel. • Guideline on tasks that require PPE and types of PPE is available. • PPE is provided to all workers at no cost. Damaged PPE are replaced at no cost for all workers. • Records of distribution and replenishment of PPE are also available. • Workers are provided with training on how to use PPE and precautions on handling 	<ul style="list-style-type: none"> • FGV to ensure that all OSH policies and SOPs are reviewed periodically to ensure compliance to the required standards. • With regard to contractors, FGV shall require contractors to comply with FGV's health and safety standards for their workers. 	<ul style="list-style-type: none"> i. As mentioned in FGV's previous progress reports, the CP's Directives relating OSH/PPE policy and SOPs have been put into action, which continues to be carried out as a standard practice. ii. For our contractors, they are monitored continually by plantation and mill personnel, and audited by our internal audit team.

No.	Complaints Panel's Directives	FGV Assessment Finding	Action	Progress Update as at 2 October 2020
		<p>of chemicals. This training is carried at the estates in their respective national languages through translators.</p> <ul style="list-style-type: none"> • There is no clarity on how FGV monitors the contractors' compliance to health and safety of their workers. 		
20.	<p>As per the Specific Guidance for P & C 6.12.3, a comprehensive post-arrival orientation programme, which among others focuses on safety, should be drawn up and implemented in respect of all new migrant workers to ensure that these workers are well equipped and adequately prepared to commence work on the plantations.</p>	<ul style="list-style-type: none"> • The workers undergo on-the-job training on safety aspects including the use of PPE. • There was no specific training on safety and use of PPE during recruitment and/or during orientation. 	<ul style="list-style-type: none"> • FGV to include OSH and PPE information into training materials for all workers during post-arrival orientation programme. 	<ul style="list-style-type: none"> i. Information relating to OSH and PPE is included in FGV's communications pack that is used during pre-departure and post-arrival orientation programmes. ii. Please also refer to Paragraph 1 above.
G. Adequate housing/ accommodation				
21.	<p>FGV should undertake a full legal and operational audit and review of the housing / accommodation conditions of its migrant workers (including contractor's workers) to ensure full compliance with national</p>	<ul style="list-style-type: none"> • Based on the field audit, it is noted that actions were being taken to build new housing for workers. • Also at the time of visit, it was noted that the available accommodation was overcrowded due to 	<ul style="list-style-type: none"> • FGV is committed to ensure its workers' accommodation are in line with the applicable national standards. This commitment must be supported by necessary financial provisions. 	<ul style="list-style-type: none"> i. As stated in FGV's previous progress reports, new houses are being constructed to ensure the workers enjoy their right to adequate housing in compliance with national laws and international standards.

No.	Complaints Panel's Directives	FGV Assessment Finding	Action	Progress Update as at 2 October 2020
	<p>laws, international human rights standards as well as the P & C</p>	<p>construction of the new housing blocks.</p> <ul style="list-style-type: none"> Periodical inspection of workers' accommodations were not carried out as required by the Workers' Minimum Standard of Housing and Amenities Act 1990. 	<ul style="list-style-type: none"> In order to maintain good lineside management and to ensure healthy and safe housing conditions, there shall be periodical inspections of workers' accommodations. 	<p>For Peninsular Malaysia and Sarawak, 17 projects under Batch 1, which started in June 2019, have been completed. The construction of new housing for workers in Sabah which includes projects for nine villages under FGV Plantations Malaysia (FGVPM) and three estates under Pontian United Plantations (PUP), have been completed.</p> <p>While the new houses for FGV's complexes in Sabah have been completed, FGV has decided to construct additional units. The progress in this regard has been affected by the Movement Control Order (MCO). However, following the relaxing of the MCO, FGV resumed construction.</p> <p>Below are updates to date:</p> <ul style="list-style-type: none"> i. Peninsular Malaysia – units in 17 of 22 estates completed. Remainder expected to be completed by end of 2020. ii. Sabah (Yapidmas) – units in 14 of 15 estates completed. Remainder expected to be completed by end of 2020. iii. Sarawak (Sampadi) – completed.

No.	Complaints Panel's Directives	FGV Assessment Finding	Action	Progress Update as at 2 October 2020
21.	FGV shall remove all forms of discrimination between FGV's workers and contractor's workers, as well as between local and migrant workers.	i. The CP's Directives relating to non-discrimination have been put into action as stated in FGV's previous progress reports, and such actions continue to be carried out as a standard practice. The principle of non-discrimination is clearly embedded in FGV's Group Sustainability Policy, Supplier Code of Conduct and Guidelines and Procedures for the Responsible Recruitment of Foreign Workers. Efforts are being made to ensure the continuous adherence to such principle.		
22.	Relatedly, FGV should consider implementing reasonable ways to reduce the burden of electricity and water costs charged to migrant workers (including contractor's workers). For these purposes, FGV shall draw up an action plan to guide its implementation/ rectification in accordance with national laws, international human rights standards as well as the P & C.	<ul style="list-style-type: none"> • FGV subsidizes workers' utilities cost as follow – RM 6 for electricity and RM 4 for water. This is also included in the V2 contract. • In response to the RSPO's CP's directives, FGV had made public its commitment to provide free water supply to all workers in its mill/estate operations. 	<ul style="list-style-type: none"> • FGV shall reasonably consider ways to reduce the utilities burden of migrant workers. 	i. The CP's Directives relating to reducing the burden of electricity and water costs charged to migrant workers have been put into action as stated in FGV's previous progress reports, and such actions continue to be carried out as a standard practice.
H. Adequate food and supplies				
23.	FGV should undertake a full legal and operational audit and review of the access to adequate, sufficient and affordable food/supplies by its migrant workers (including contractor's workers) to ensure compliance with international human rights standards as well as the P & C.	<ul style="list-style-type: none"> • These sundry shops are also frequented by FGV workers and villagers from the surrounding areas. The price of the goods sold are the same for everyone. • Capitalising on the limited options, external vendors from the nearby towns often seen entering the estate's housing areas to supply fresh 	<ul style="list-style-type: none"> • FGV issued a circular to the estate and mill management to ensure that the prices are monitored periodically, especially those by merchants coming straight to workers' housing areas. • FGV shall advise workers to inform management if there are incidences where prices 	i. The CP's Directives relating to access to adequate and affordable food supply by its migrant workers have been put into action as stated in FGV's previous progress reports, and such actions continue to be carried out as a standard practice.

No.	Complaints Panel's Directives	FGV Assessment Finding	Action	Progress Update as at 2 October 2020
	<p>Gaps and deficiencies identified must be rectified to ensure meaningful improvements to migrant workers' (including contractor's workers) access to adequate, sufficient and affordable food and supplies, including basic necessities. In this regard, FGV shall eliminate profiteering by third party suppliers.</p>	<p>products which are sold at a higher price – margin between 6-10% as compared to nearby town.</p> <ul style="list-style-type: none"> • Most workers prefer to purchase their food and supplies in bulk from shops in nearby towns. For this purpose, the transportation is provided by the estate management. • FGV does not profit from the third party suppliers. 	<p>are unjustified. FGV will investigate accordingly.</p>	
I. Protection of whistleblowers and complainants				
24.	<p>FGV should undertake a full legal and operational audit and review of its grievance mechanisms, particularly the hotline.</p> <p>Guidelines for the use of the mechanisms should be adopted, and explained to the workers. There should be an accessible database to record, track and monitor the complaints and issues. Fixed response times should be set and informed to the workers.</p> <p>FGV's staff should be trained to</p>	<ul style="list-style-type: none"> • FGV Group adopted a Whistleblowing Policy in 2012 and it is administered by Governance at the Group level. • However there is lack of awareness and understanding of the whistleblowing and grievance processes amongst the workers and staff members at the operations. • With regard to grievance mechanism, it is noted that the estate management have in place several platforms which workers can use to raise their 	<ul style="list-style-type: none"> • FGV shall ensure that workers have adequate access to functional grievance mechanism and that they can voice their concerns/grievances without fear of reprisal. • To achieve the above, FGV will develop guidelines on grievance mechanism which shall be communicated and implemented throughout its operation. • Additionally, adequate monitoring and tracking system should be developed 	<p>i. The CP's Directives relating to grievance mechanisms have been put into action as stated in FGV's previous progress reports, and such actions continue to be carried out as a standard practice.</p>

No.	Complaints Panel's Directives	FGV Assessment Finding	Action	Progress Update as at 2 October 2020
	implement the grievance mechanisms, and to constructively engage with the workers to allay the risk/fear of reprisals.	<p>complaints/grievances namely (i) suggestion box; (ii) verbal to management; and (iii) through a hotline.</p> <ul style="list-style-type: none"> That said, while the platforms are available, there is no clear policy or SOP on how those grievances shall be managed/addressed. Most of the time, those grievances are addressed in a conventional manner, which to a certain extent, have been proven to be inefficient and ineffective. 	to ensure grievances are addressed accordingly.	
25.	FGV to implement a policy on protection of human rights defenders (whistleblowers and complainants) and institute relevant mechanisms for reporting and protection.	FGV is bound and guided by the protection of whistleblowers as provided by its Whistleblowing Policy and the Whistleblower Protection Act 2010.	<ul style="list-style-type: none"> The revised GSP includes a strengthened section on human rights which makes reference to the United Nations Guiding Principles on Business and Human Rights (UNGPs), applicable international human rights treaties as well as relevant ILO conventions. The principle of respecting human rights is applied throughout FGV's operations, in line with FGV's commitment to human rights, as underscored in its GSP. FGV is committed to ensuring workers have access to appropriate grievance mechanism without fear of reprisal. Please see paragraph 24 above. 	
J. Compliance for human rights at the operational level				
26.	FGV shall ensure that its human rights policy is properly communicated and effectively implemented to all levels of its workforce including to its contractors and their workers.	<ul style="list-style-type: none"> The existing communications of sustainability and human rights policy is weak. This resulted in lack of appreciation on labour and human rights issues. 	<ul style="list-style-type: none"> FGV shall establish a communication strategy to ensure that the approved policies and relevant SOPs supporting the policies are adequately communicated 	i. Please refer to paragraph 2 above.

No.	Complaints Panel's Directives	FGV Assessment Finding	Action	Progress Update as at 2 October 2020
	Regular and compulsory capacity building and training programmes on human rights should be conducted.		<p>and implemented internally at all levels.</p> <ul style="list-style-type: none"> In addition, these policies shall also be communicated to all FGV's external stakeholders. In particular to its contractors and supply chains to ensure that they understand that they are expected to comply and implement the same in their operations. 	

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