

## RESPONSE AND FOLLOW-UP ACTIONS BY IOI ON FINNWATCH REPORT

### 3.1 WORKER'S LIVING CONDITIONS IN THE ESTATE.

*“Workers reported poor living conditions to Finnwatch. There was mould on the walls of the houses, the toilets and kitchen areas were in poor condition and some of the workers slept on the floor without beds and mattresses.” - Finnwatch*

#### Response from IOI:

- Upon arrival, the workers are provided with basic items such as mattresses, pillows, water containers and safety shoes. Beds, gas stoves and meat safes are supposed to be available in workers' homes but due to lack of monitoring and failure to repair /replace old and damaged amenities, some houses lack these items. Many beds have also been found removed from the rooms and left outside the houses as some of them prefer not to sleep on beds.
- On the issue of mattresses, Mekassar estate provided new mattresses to both the workers who filed the complaint as well as to the rest of the workers who required replacement. There was no prejudice against those who did not complain as the replacement process was based on necessity. This was communicated during IOI's engagement process with Finnwatch.
- To ensure that the estate consistently monitors the workers living conditions, IOI has introduced the “Guideline for Providing Basic Amenities to Workers” since December 2020. Regular inspection will be conducted to ensure all the items provided are in good condition and replacement has taken place whenever necessary.
- The estate also carried out scheduled repair/refurbishment works for the workers quarters from October 2020 till March 2021. Workers are also expected to be responsible for their own hygiene.
- Furthermore workers are aware that they can inform the estate management if any repairs are required. They can use any of the channels like the grievance book, Joint Consultative Committee(JCC) meetings or directly inform the management.

### 3.2 WORKERS ARE NOT IN POSSESSION OF THEIR WRITTEN EMPLOYMENT CONTRACTS, PROBLEMATIC WORDING IN EMPLOYMENT CONTRACTS.

*“Workers had signed employment contracts in English, which they did not understand at a recruitment company office in their home country India. They were not given a copy of this contract. Most of the estate’s Indian workers do not understand English at all.”*

*- Finnwatch*

#### Response from IOI:

- At the source country, the appointed agent briefed the workers on their job requirements, employment terms and conditions in their own language. The workers were also briefed on IOI’s “No Recruitment Fee Policy”, letter of undertaking and declaration. Job function video was shown to the workers. These briefings will be recorded and uploaded on YouTube.
- The workers will then sign relevant recruitment documents such as their employment contracts in English and their own language as well as the letter of undertaking, declaration letter, declaration and acknowledgement of the recruitment fee paid by IOI.
- A Court Officer/Advocate High Court is then required to interpret and explain to the workers, in the worker’s language, on the Undertaking / Declaration document, and then a Government Officer/Notary will attest to the said Undertaking/Declaration. This document is executed on stamp paper to endorse its authenticity, and to ensure that the Undertaking/Declaration is legitimate and legally enforceable.
- As workers were often found discarding employment contracts that were issued to them, the estates displayed the contracts in the worker’s own languages on notice board since December 2020.
- Memos and reminders have been sent to the operating centres to ensure that workers have a copy of the contract agreement in their native language. A new copy will be provided by the management if the worker misplaced their contract agreement. We are in the process of reissuing the contracts and compiling data on them.

### 3.3 UNCLEAR WORKING HOURS AND WAGES

*“The estate’s workers began to also be paid for unloading the sacks, which increased the performance-based pay to 2.5 ringgit per one sack. Later, however, the pay was lowered to 2.45 ringgit. According to the workers, IOI has unilaterally changed the pay rates.”*

*- Finnwatch*

**Response from IOI:**

- The rate for fertiliser loading was initially RM0.25/bag but subsequently revised to RM0.30/bag in February 2020.
- However, the rate was reverted to RM0.25/bag in February 2021 after a meeting with regional management to standardise the rate of piece rated work in all estates including Mekassar Estate. The management has diligently informed the workers regarding the revised rate and it had been displayed on the estate's notice board which is accessible by everyone.

*“Pay is not the same in all jobs. For example, workers applying pesticides are required to work much longer hours than the group applying fertilizers. Workers who apply pesticides are paid only 48 ringgit per day, although they may work up to 10 to 11 hours. The company therefore pays them less than the minimum wage.” - Finnwatch*

**Response from IOI:**

- As with any other organisations, different jobs require different skills. In IOI, the rate of a particular job in the estate is determined according to motion studies conducted. For example, for the job of selective spraying by using a mist blower machine, motion studies conducted showed that workers can easily achieve a minimum target of 6 Ha within 7 hours of working time.
- IOI has found that some of the reasons leading to incomplete tasks are the workers' working pace or insufficient training. In view of that, the management undertakes to re-train or re-assign another task to the particular worker, which is in line with the IOI's "Guideline on Minimum Wage and Leave Pay".

*“Wages are tied to achieving the targets set by the employer, and workers may be paid a minimum wage which has been set for an 8-hour working day even if they have worked for much longer. According to the workers it is not possible for them to have breaks for two hours during the working day, but usually only one 30-minute lunch break.” - Finnwatch*

- Workers may manage their breaks in between works as long as they achieve the target set for the particular task on a daily basis. These tasks have been set based on motion studies and not arbitrarily set by the estate management.

If they continuously do not meet the target, the workers will be re-trained in that task. If they still do not meet the target, they are re-assigned to other more suitable tasks.

*“Hours worked are not monitored, it is impossible to verify the legality of the payment of wages from written sources alone.”*

*- Finnwatch*

**Response from IOI:**

- IOI has introduced the “Workers Work Verification Guideline” since May 2021 where all workers can check and confirm their day’s productivity/earnings/number of hours worked. Only after the workers confirm their productivity, the data will be uploaded onto the salary system. Workers are told to inform their supervisors or office staff if they find any discrepancies or inconsistencies.
- Workers salaries are recorded and paid through the new SAP system which is controlled automatically from the Head Office to ensure a high level of accuracy and independence.
- Workers are also given training on understanding their payslips and provided with detailed payslips upon request.

*“The model employment contract which IOI submitted to Finnwatch, which talks about pay based on the daily minimum wage. In addition, the contract states that the performance-based pay is offered as an incentive to provide additional earnings. However, the contract also states that workers will not be paid the minimum wage if they do not meet the target set by the employer. This is not in line with IOI’s minimum wage policy that was introduced in 2017.”*

*- Finnwatch*

**Response from IOI:**

- The performance-based pay is introduced to encourage workers to achieve higher productivity which will eventually result in higher than the minimum wage pay.
- Basically, workers are paid a minimum daily wage when they turn up to work as mentioned in their employment contract. If a worker does not complete their task within the required time, they are still paid the minimum wage but a due inquiry will be carried out to understand the root cause of underperformance. The reasons why some workers do not receive the daily minimum wage after the due inquiry are absent without any valid reasons, intentionally refuse to work, going home without completing their tasks, etc. This practice is fully in line with the requirements set by the National Union of Plantation Workers (NUPW) of which IOI is a signatory.

*“The collective agreement (Article 8 (iii)) allows for the employer to pay the worker a wage below the minimum wage for the days on which he has not completed the target prescribed by the employer. Finnwatch considers the clause to be problematic in terms of workers’ rights. The workers interviewed for this report are not union members and had never met with a union representative.” - Finnwatch*

**Response from IOI:**

- The Collective Agreement is an agreement set with the Union. In the agreement, it is stated that the workers who turn up for work on all days and complete the full duties allotted shall receive the minimum wage as per the Provision of the Minimum Wages Order.
- Regarding the completion of targets, it is set by Management based on motion studies by the estate management based on each estate condition such as crop age, terrain, landscape, weather etc. Workers should be able to achieve the target set by working at a normal pace. Many workers managed to exceed their target and earn much more than the minimum wages.
- Being a union member is voluntary and it is the worker’s choice of whether they want to be a member or not. Under IOI’s “Sustainable Palm Oil Policy”, the right to freedom of association and to collective bargaining and to allow trade unions to have access to our workers are clearly stated. For example, estates will provide the union representatives with all the necessary facilities to meet the workers.

*“IOI has not conducted the assessment, instead it referred to a study published by Monash University in Australia. The study did not focus on IOI (although some IOI estates were visited during the study), nor was it commissioned or paid by the company.” - Finnwatch*

**Response from IOI:**

- The Fair and Decent Wage Study conducted by Monash University with the participation from IOI and other palm oil companies was part of the pledge by IOI to conduct a fair and decent wage assessment and to ensure that the assessment reflects the palm oil sector’s practice in terms of providing fair and decent wages for the workers. This study was impartially carried out without favouritism to the industry players or the workers since the study was not initiated or paid by any party in the palm oil sector.

### 3.4 EMPLOYEES HAVE PAID LARGE RECRUITMENT FEES

*“However, the recruitment company should not charge any fees from IOI workers, as IOI has already paid for the recruitment of the workers and has forbidden charging of recruitment fees. However, workers were not aware of this or did not understand the IOI's ban on recruitment fees at the time. They only found out about IOI's policy after Finnwatch told them of it.”*

*- Finnwatch*

#### **Response from IOI:**

- After the briefing by the recruitment agent or its representatives, the workers will be requested to sign relevant recruitment documents such as employment contract in English and Hindi, letter of undertaking, declaration letter, declaration and acknowledgement of 38,500 rupees for recruitment fee paid by IOI.
- In addition, the agent will also arrange a Court Officer/Advocate High Court to interpret and explain on no recruitment fee, in the Hindi language to the workers on Undertaking / Declaration document, and then a Government Officer/Notary to attest the said Undertaking / Declaration. This document is executed on stamp paper to endorse its authenticity, and to ensure that the Undertaking/Declaration is legitimate and legally enforceable.
- On Youtube, it can be seen that the workers were informed about the 'No Recruitment Fee' policy.
- According to IOI's "No Recruitment Fee" policy, where recruited foreign workers are concerned, no recruitment fees, including any fees incurred to them at any stage of the recruitment process, whether by us, our contractors, our agents or their sub-agents in receiving and sending countries will be charged to them.
- Recruitment agencies are responsible for monitoring their possible sub-agencies to make sure that they follow these guidelines and do not charge any recruitment related fees from the workers. If such fees are found to be charged to the workers, IOI will require the recruitment agency to repay the workers. If such an action has not been undertaken by the recruitment agency, IOI will suspend any relationship with the agency until the matter is rectified.
- IOI will terminate all contracts or partnerships with any recruitment agency that is found to be non-compliant with the Group's policies after the necessary investigations and warnings.

*“Finnwatch considers the IOI Group to be responsible for reimbursing recruitment fees to its workers who are in a position of vulnerability.”* - Finnwatch

- The report did not differentiate between recruitment fees and unverifiable collection of illegal money at the source country. The monies paid by the workers which were highlighted in the report is not part of the recruitment fees and was collected by unknown actor(s). The monies paid and the person who collected the monies are unverifiable and undocumented. In accordance to the International Labour Organisation (ILO), extra-contractual, undisclosed, inflated or illicit costs are never legitimate.
- Reimbursing undocumented or unverified monies will result in IOI being legally subjected to the anti-corruption/ anti-bribery act. IOI has instead suspended the recruitment agency and reported the issue to the Indian embassy and is further considering legal actions if the perpetrator is found to be the recruitment agent.
- IOI strongly condemns such illegal practice and as the activities took place at the source country and are beyond IOI's jurisdiction, cooperation from the source country's government is required to prevent such violation and exploitation from happening to the workers.
- Finally, reimbursing the illegal money collection at the source country not only empowers the criminal act, but it also does not solve the issue, especially for the next batch of workers that will be recruited.

### 3.5 AN ESTATE STAFF MEMBER GUILTY OF MISCONDUCT WAS DISMISSED, PROBLEMS IN HANDLING GRIEVANCES

*“One of the managers on the Mekassar estate had slapped workers and another member of the staff forged workers' signatures on documents.”* - Finnwatch

#### Response from IOI:

- This issue has been resolved promptly after the incident took place. The Assistant Manager who slapped the worker was demoted, his bonus rescinded and transferred to another estate for supervision for the next 6 months. Meanwhile, the staff who forged the documents has resigned after an internal investigation that proves the allegation.

*“Employees Consultative Council (ECC) should be in place at the Mekassar estate with the aim of assessing and acting upon any issues. However, according to the workers, the management of the estate had not listened to the issues raised by the workers within the framework of the ECC either. According to the workers, no memos or minutes of the ECC meetings are prepared for workers to see and approve.”*

*- Finnwatch*

- Minutes of JCC (Joint Consultative Committee) meetings are available at all estates as the minutes are required to be checked by both internal and external auditors. The minutes are read out before every JCC meeting and confirmed by the persons who attended the meetings. The minutes were also distributed to all members. Estates also provided files for the members to file their minutes and “Suggestion/Proposal Form”. Issues that are not settled are raised in the next meeting and issues that can’t be settled at the estate level are highlighted to higher management and IOI HQ.

### 3.6 WORKERS FACE PROBLEMS RETURNING HOME DURING THE CORONAVIRUS PANDEMIC

*“Management of the estate had delayed arranging return flights, citing the coronavirus epidemic. The workers had not been provided with information on the travel arrangements or any explanation as to why the return date was constantly postponed.”*

*- Finnwatch*

#### Response from IOI:

- The unexpected delay was beyond IOI’s control because repatriation arrangements and flights are done or have to go through the local Indian High Commission. Estate management has been following on the available procedure to send the Indian workers back to their home country.
- Flight cancellations and postponements are beyond IOI’s control especially due to uncertainties and various restrictions that resulted from the Covid-19 pandemic.