

# Goodness guaranteed

Assessing the impact of sustainability certification on the labour conditions of farm workers



**Sanne van der Wal & Fleur Scheele**

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SOMO

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Amsterdam, May 2015

# Colophon

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The Centre for Research on Multinational Corporations (SOMO) is an independent, not-for-profit research and network organisation working on social, ecological and economic issues related to sustainable development. Since 1973, the organisation investigates multinational corporations and the consequences of their activities for people and the environment around the world.



## Contents

<b>Acronyms</b> .....	<b>4</b>
<b>Executive summary</b> .....	<b>5</b>
<b>1 Introduction</b> .....	<b>10</b>
<b>2 Methodology</b> .....	<b>12</b>
2.1 Introduction .....	12
2.2 Field study .....	13
2.3 Literature study .....	14
<b>3 Field study</b> .....	<b>20</b>
3.1 Kenya .....	20
3.2 Indonesia .....	28
3.3 Concluding discussion on field study cases .....	34
<b>4 Literature study</b> .....	<b>40</b>
2.1 Overall prevalence and sources .....	40
4.2 Differences between sectors and countries .....	43
4.3 Differences between sustainability certifications .....	46
4.4 Differences between labour rights .....	51
4.5 Social audits and workers awareness .....	58
<b>5 Overall concluding discussion and recommendations</b> .....	<b>60</b>
5.1 Evidence of impacts on aggregated labour rights .....	60
5.2 Evidence of impacts on specific labour rights .....	62
5.3 Recommendations .....	65
5.4 Concluding remarks .....	68
<b>Annex 1</b> .....	<b>69</b>
<b>Annex 2</b> .....	<b>71</b>
<b>Annex 3</b> .....	<b>72</b>
<b>Annex 4</b> .....	<b>75</b>

## Acronyms

ANOVA	Analysis of variance
ASC	Aquaculture Stewardship Council
CSR	corporate social responsibility
EPK	Eastern Produce Kenya
ESR	Equitable, Solidaire et Responsable (Ecocert)
FAO	Food and Agriculture Organization of the United Nations
FSC	Forest Stewardship Council
GDP	gross domestic product
IDR	Indonesian Rupiah
ILO	International Labour Organization
ILRF	International Labour Rights Forum
ISEAL	International Social and Environmental Accreditation and Labelling Alliance
ISO	International Organization for Standardization
ITC	International Trade Centre
ITUC	International Trade Union Confederation
KES	Kenyan Shilling
KHRC	Kenyan Human Rights Commission
MPS-SQ Qualified	Milieu Project Sierteelt (Environment Project Decorative Plant Culture) – Socially Qualified
NGO	non-governmental organisation
PPE	protective personal equipment
RSPO	Roundtable on Sustainable Palm Oil
RTRS	Round Table on Responsible Soy Association
SA8000	Social Accountability 8000
SAI	Social Accountability International
SAN	Sustainable Agriculture Network
SOMO	Centre for research on multinational corporations
USAID	United States Agency for International Development
USLEAP	US Labor Education in the Americas Project
UTZ	UTZ Certified

## Executive summary

Global agricultural production and trade face numerous social, ecological and economic challenges, and international governance for sustainable production has not kept pace with the increasing globalisation of agricultural trade. In this context, schemes certifying the sustainable production of agricultural commodities in developing countries are increasingly successful, capturing considerable shares of global production for commodities such as coffee, cocoa, palm oil and tea. Sustainability certification thrives because it provides companies that produce or trade agricultural commodities with perhaps the best approach to do it sustainably, and to be able to communicate their efforts.

### **Aim**

The growing market for sustainability certification and increasing reliance on it to address sustainability issues in the primary production of tropical agricultural commodities make it increasingly important to assess its effectiveness in practice. However, there is scant literature with a specific focus on the impact of sustainability certification on working conditions generally, and even less on working conditions in developing countries in large scale agricultural production for export. This study therefore aims to contribute to understanding the impact of sustainability certification on working conditions in the large scale production of food and agricultural commodities in developing countries. The results of the study are to support policy makers in governments, civil society, companies and sustainability certifications to improve approaches for decent working conditions on farms.

### **Two pronged approach**

The two main pillars of this study are literature research and case studies developed through field research. Extensive field research was conducted to assess (and compare) working conditions in certified and non-certified companies in the tea and flower sectors in Kenya, and the tea and coffee sectors in Indonesia. The comprehensive and methodologically innovative literature study analyses evidence of violations of workers' rights at sustainably certified developing country plantations in publicly available reports.

### **Complementarity**

The expected complementarity of the approaches was an important reason for conducting both field and literature research. The field research compares the working conditions between certified and non-certified farms, and developments over time. The information in the field study is often more detailed than that of the literature study. The latter, on the other hand, allows us to place the findings from the field study into a broader perspective and provides clues as how representative and how readily generalised these findings may be.

### **Selection**

At least 50 sustainability standards offer their services to farms, food companies and/or retailers. Of these, a group of 14 sustainability certifications was initially identified for further research because they had the desired approach and focus for the study. For half of them (Fair for Life, Fairtrade, MPS-SQ, Rainforest Alliance, RSPO, SA8000 and UTZ Certified), information on farm workers' actual

labour conditions is available and is hence analysed in this report. This information relates to workplace impacts on 70 farms which this group has certified in 13 different countries, and which produced eight specific commodities during the period 2006-2013.

### **Labour rights violations**

The field case studies for this report show that workplace conditions are generally better at certified companies than at non-certified companies reviewed. Most notably, workers at certified estates tend to have higher wages, better health and safety conditions, more security of employment, fewer problems with gender discrimination and claim better fulfilment of their right to freedom of association and collective bargaining than workers interviewed at non-certified farms. Despite this, agricultural workers on sustainability certified farms complain that up to six of their key workplace rights simultaneously are not respected. Many farm workers still struggle with low wages and temporary contracts, are not free to join trade unions, fear prosecution of their trade union leaders, have no protective gear to do their work safely and are exposed to discrimination.

### **Living wage**

Sustainability certification does not achieve payment of living wages for all workers at certified farms. Indeed, overall low pay was the issue about which most workers complained. The cause for this grievance is simple: despite the fact that some of their codes may suggest otherwise, sustainability certifications tend to ensure minimum or regional industry standard wages which are usually (far) below the level of what would constitute a living wage. However the field study also finds evidence of workers earning more on certified farms compared to non-certified farms. A number of important sustainability certifications have recently taken more action to promote living wages, which is commendable.

### **Freedom of association and collective bargaining**

Freedom of association and collective bargaining is the second most violated labour right at the certified plantations reviewed. This finding is particularly problematic because workers wishing to improve their working conditions need to be able to organise. Few sustainability certifications seem to be aware of a need to better promote this right and, in contrast to the issue of living wage, concerted efforts are not being made to this end. Sustainability certifications with better code quality on freedom of association and collective bargaining tend also to have certified fewer farms from which violations of this right have been reported. The field study shows that this right is better respected at the certified companies reviewed than at non-certified companies. Moreover, there was also evidence that certification directly contributed to improving the situation at certified farms.

### **Health and safety**

The third most violated labour right is that of worker health and safety. The two most dominant health and safety issues are inadequate application of protective personal equipment and exposure to pesticides. In the field study there were indications that certification has positively impacted health and safety at the certified companies reviewed, especially by equipping workers with protective personal equipment and training.

**Non-discrimination**

The fourth most violated labour right is the issue of discrimination which, next to tribal discrimination, mostly appears in the form of gender discrimination. Gender discrimination is less pronounced at certified companies than at non-certified companies reviewed in the field research. Also, workers interviewed for this study attributed reductions in discrimination to the impact of certification in a few plantations.

**Security of employment**

The final labour right for which relatively high numbers of transgressions are reported is security of employment. The most prominent problem related to this right as reported by workers is the perpetual casual status many workers experience. Workers at certified companies indicate experiencing more security of employment than counterparts at non-certified companies in the field study in Kenya – this finding is supported by other impact research as well. However, only in one company is this difference attributed by workers to certification.

**Audit quality and worker awareness**

Eight of the 20 reports collected for the literature research show that social audits for at least five important sustainability certifications are flawed. This means that, at least on the farms referenced in these reports, sustainability certifications do not get to see (all of the) important labour rights issues that are of concern to workers and consequently cannot remedy them. In addition, from the case studies it was evident that many workers are simply not aware of the type of certification that applies to their workplace, nor what it entails. Audit quality and worker awareness are likely to have an effect on the labour rights situation on certified farms and that is why they are deemed important by sustainability certifications.

**Prominence**

The literature research shows that, when the relative prominence (i.e. visibility or importance) of all sustainability certifications reviewed is estimated by the number of farms, number of certified commodities and number of years they have been active, violations are reported for the most prominent sustainability certifications only. Hence, the fact that violations have not been reported publicly for half of the 14 sustainability certifications reviewed probably indicates that they simply are not prominent enough for watchdog organisations such as NGOs (non-governmental organisations) and trade unions to take an interest in them, and not necessarily that they are doing better than the others.

**Geographical and sectoral differences**

While cases are reported from certified farms from 13 different countries producing eight different commodities, more cases are reported for some of these countries and sectors than others. From the estimated distribution of certified farms in different sectors and countries it can be seen that the number of reported cases from the coffee sector is exceptionally low, but exceptionally high from the tea sector in India and the banana sector in Costa Rica. While these particular situations could be caused by structural causes, they may also be related primarily to the special attention of watchdog organisations. For the coffee sector, from which exceptionally few cases of violations of labour rights on large scale farms were noted, this is the most likely interpretation.



### **Differences between sustainability certifications**

Many more cases are reported for SA8000, and many fewer for UTZ Certified, than can be expected based on their respective share of the total number of farms. These findings may be related to the particularly large presence of SA8000 in the tea sector and UTZ Certified in the coffee sector.

### **Code quality**

The findings show that code quality is very likely to play a role in the number of violations that are reported from certified farms. Fewer violations are reported from farms certified by sustainability certifications with relatively more elaborate and stringent labour right provisions such as Fairtrade and MPS-SQ, compared to those with relatively weaker standards such as RSPO, UTZ Certified, SA8000 and Rainforest Alliance. The field research also produced a few indications to this end. As no significant statistical relation between code quality and violations can be found when this is assessed on the level of specific labour rights, this suggests that this effect is too subtle to be picked up based on the low number of reported violations.

### **Failed impacts**

Reports of non-compliance with labour rights standards on sustainability certified farms show that sustainability certification is (at least) not always able to achieve working conditions of the standard with which it seeks compliance. As enforcing and/or verifying compliance with labour standards is central to the way sustainability certification aims to promote good working conditions, the findings show that it is failing to properly impact working conditions.

### **Supporting evidence**

No system of rules and enforcement is fail-proof, nor is sustainability certification. There is always, even if it is small, the risk that a system does not achieve (all) the desired outcomes. However, a number of findings clearly support the conclusion that these transgressions are not incidents but symptoms of more structural and systemic problems of sustainability certification in large scale agricultural production. These findings include: the high number of official complaints some sustainability certifications say to receive; the experience of SOMO in conducting field studies on two different occasions in this area; the persistent nature of problems such as trade union rights not being respected or not being addressed adequately, such as living wage; and the pattern indicating that specific conditions not primarily related to sustainability certification quality – such as the interest and capacity of civil society organisations – are necessary to expose problems at certified farms. On the other hand, working conditions on sustainability certified farms are better than those on non-certified farms. Hence, it is hoped that this study's findings and recommendations will support sustainability certifications in further improving conditions for agricultural workers.

## Recommendations

Among the most important recommendations that follow from this study are:

- There is a need for more, and preferably rigorously scientific, research into the impact of sustainability certification on workers' rights in large scale farms – generally and especially on coffee farms.
- Remedial efforts and further analysis by stakeholders is recommended to focus especially on the five labour rights that this research has shown to be most prone to violation at certified farms, and/or are those about which most workers complain.
- Sustainability certifications – especially Rainforest Alliance, UTZ Certified, RSPO and SA8000 – need to consider improving their codes in relation to these five rights as the version of their codes prevailing at the time problems were noted are sometimes rudimentary and inexplicit, and hence open to loose interpretation.
- Sustainability certifications are recommended to require auditors to be more sceptical of the situation at certified farms, be more critical of the information they collect in audits, ensure that they are better informed by workers and pay (more) attention to dissonant sources such as non-dominant trade unions and local labour rights NGOs.
- Sustainability certifications are recommended to seek better involvement of workers in their approaches for example through awareness raising and training.
- Sustainability certifications, individually but especially as a movement, are recommended to seek more involvement of stakeholders such as trade unions, national and local governments, and NGOs and research organisations in their approaches in producing and consuming countries, and to have evidence-based discussions on how to improve their impacts on specific labour rights.

# 1 Introduction

Sustainability standards<sup>1</sup> that aim to ensure sustainable production of agricultural commodities in developing countries have been increasingly successful in penetrating markets. For some commodities such as coffee (40%), cocoa (22%), palm oil (15%) and tea (12%) they have even managed to capture significant shares of global production.<sup>2,3</sup> Not only do most supermarkets in Western countries stock numerous ethically labelled products, the biggest food companies increasingly have accommodated sustainability certification in their business and in specific product lines.<sup>4</sup> Sustainability certification<sup>5</sup> is perceived as a credible and practical way for food and retail companies to ensure and communicate good social, economic and environmental conditions in agricultural commodity supply chains originating in developing countries.

Markets for sustainably certified agricultural products can be found largely in developed countries where consumers are more interested in sustainably certified produce, more willing (and able) to pay a (possible) premium for the certified quality, and (retail) companies are keen to be perceived by citizens and their governments as supporting sustainable production. Sustainability certification thrives as it guarantees a level of sustainability of production in a production base that, at least implicitly, is assumed to be less than optimally sustainable, and that by contrast is mostly concentrated in developing countries. Indeed, sustainability certification has become successful in a context in which global governance has not kept up with the increasing globalisation of trade.<sup>6</sup>

The growing market for sustainability certification and the increasing reliance on it to address sustainability issues in primary production of tropical agricultural commodities make it important for sustainability certifiers and their proponents to demonstrate their effectiveness at the field<sup>7</sup> level. As is clear from the development of the impacts code by ISEAL, the global membership association for sustainability standards, and discussion that preceded its development in 2010, this need has

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- 1 There are various definitions for (voluntary) sustainability standards. In this report they are defined as 'a standard that addresses the social, environmental or economic factors of a defined entity, or a combination of these' and/or the 'collective of organizations responsible for the activities involved in the implementation of a sustainability standard, including standard setting, capacity building, assurance, labelling and monitoring' (citations from ISEAL, ISEAL Credibility Principles, June 2013, <<http://www.isealalliance.org/sites/default/files/Credibility%20Principles%20v1.0%20low%20res.pdf>>).
  - 2 J. Potts, M. et al., The State of Sustainability Initiatives Review 2014: Standards and the Green Economy, 7 March 2014, <[http://www.iisd.org/pdf/2014/ssi\\_2014.pdf](http://www.iisd.org/pdf/2014/ssi_2014.pdf)> (5 June 2014), p. 91.
  - 3 Cf. on average only 44% of standard compliant production is sold to consumers as such and that not all of the standards captured in the statistics use certification.
  - 4 Ibid.
  - 5 In this report we focus primarily on sustainability standards that use certification – something not all sustainability standards use. To emphasise this difference, this report mostly uses the term 'sustainability certification'.
  - 6 See for instance: A. Tallontire et al., "A Review of the Literature and Knowledge of Standards and Certification Systems in Agricultural Production and Farming Systems," September 2012, <[http://www.nri.org/projects/tradestandards/docs/assessing\\_the\\_governance.pdf](http://www.nri.org/projects/tradestandards/docs/assessing_the_governance.pdf)> (5 June 2014).
  - 7 Workplace, farm or producer level.

been obvious for some time.<sup>8</sup> However there still is scant literature with a specific focus on impact of sustainability certification on working conditions, and even less on working conditions in large scale agricultural production for export.<sup>9</sup>

*The aim of this study is to contribute to the understanding of the impact of sustainability certification on working conditions in large scale production of food and agricultural commodities in developing countries.* The results of this study are to support policy makers in governments, civil society, companies and sustainability certifications to improve approaches to ensure decent working conditions for agricultural workers in developing countries.

The two main pillars of this study are two chapters with case studies developed through field research (Chapter 3) and literature research (Chapter 4). Field research was conducted to assess (and compare) working conditions in certified and non-certified companies in the tea and flower sectors in Kenya, and the tea and coffee sectors in Indonesia. The literature study collects and analyses available evidence on the workplace effects of sustainability certification. For a lack of formal impact literature on this subject it builds on a systematic analysis of evidence of violations of working conditions at sustainably certified agricultural producers in publicly available reports. The methodology of both the field and literature research is presented in Chapter 2. Chapter 5 presents an overall concluding discussion and recommendations.

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8 ISEAL website, "Impacts Code", <<http://www.isealalliance.org/our-work/defining-credibility/codes-of-good-practice/impacts-code>> (5 June 2014).

9 See literature research for this report, section 2.3.

## 2 Methodology

This chapter provides information on how the specific research aim is operationalised in a research design. Because of their differing nature and approach, the methodology of the literature and the field research are expanded in different sections below. Before expanding on these different methodologies two considerations that are fundamental to both the literature and field research are explained first.

### 2.1 Introduction

This study explores the workplace impacts of sustainability certification on large scale export oriented agricultural production in developing countries. The choice to restrict the focus of this study to large scale production models and not to include smallholder models relates to the specific interest of the study on how sustainability standards impact (formal) hired labour settings. By definition, large scale farms/plantations employ more workers per employer than smallholder farms that may rely to a large extent on unwaged (family) labour.<sup>10</sup> Consequently, labour relations and producer-level policies for labour conditions are generally more formal and developed on large scale farms compared to smallholder farms. To accommodate for these and other differences, a number of sustainability certification standards reviewed in this report (e.g. Fairtrade, Rainforest Alliance<sup>11</sup> and UTZ Certified) have developed distinct sets of requirements for smallholders and large(r) scale production. For instance, requirements for compliance with key labour rights such as freedom of association, equal remuneration and health and safety are less stringent in the Fairtrade standards for small producers than in those for hired labour.<sup>12</sup>

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10 In practice this report does not use estimates of farm sizes or a farm size threshold to filter out only large scale farms for analysis. In both the field and literature study, the categorisation of sustainability certifications themselves is generally followed as is evident from the type of certification they received.

11 Formally the standard Rainforest Alliance certified farms need to comply with is called the Sustainable Agriculture Network (SAN) Sustainable Agriculture Standard. In this report generally, standard systems including their specific certification are referenced. In the case of Rainforest Alliance this certification is known to producers and consumers as Rainforest Alliance certification. For ease of reference and to avoid confusion it was decided to refer to Rainforest Alliance only.

12 It should be noted that also producers considered by sustainability certifications as smallholders may employ up to 20 workers. It is difficult to see why these producers should then be treated differently from large producers. C.f. C. Cramer et al., Sender, School of Oriental and African Studies at London University, Fairtrade, Employment and Poverty Reduction in Ethiopia and Uganda, April 2014, <<http://ftepr.org/wp-content/uploads/FTEPR-Final-Report-19-May-2014-FINAL.pdf>> (17 November 2014).

## 2.2 Field study

### 2.2.1 Design

Kenya and Indonesia were selected as the focus countries for the field research among many other developing countries producing certified (tropical) agricultural commodities. The main reason was that research would benefit from SOMO's experiences with earlier research in these tea producing countries on sustainability issues and the impact of sustainability certification. A second agricultural sector was selected in each country in which large scale export-oriented and sustainability certified production for export takes place in relative geographic proximity to tea production. The cut-flower sector in Kenya and the coffee sector in Indonesia were selected for these reasons.

Three companies in each sector were selected and matched on the basis of characteristics such as production volumes, acreage under production, location, number of employees and certifications.<sup>13</sup> Per sector, two certified companies and one non-certified but otherwise comparable company were selected. It proved impossible to find more than one large scale certified coffee plantation in Java (Indonesia). As a result the sample for the experimental coffee group only consisted of one certified company.

The research was designed for comparing labour conditions between certified and non-certified companies in absolute terms as well as over time (relative terms) before and after certification. For comparison of groups over time, respondents were asked to reflect on whether they had experienced improvements in recent years and/or since their company had received certification. This way the longitudinal component of the research design was established for a lack of a baseline measure.

### 2.2.2 Implementation

From the outset there was no specific preference to select one sustainability certification over another when selecting companies for the experimental group. There was a desire however, to have a broad mix of popular sustainability certifications. Therefore, companies with multiple certifications of the relevant kind were preferred over those with just one certification when sampling.

It was found that many certified companies in the selected countries and sectors possess more than one sustainability certificate. To illustrate, in the coffee and cocoa sector one of the most popular sustainability certifications, UTZ certified, estimates that roughly 45% of its clients also have at least either a Fairtrade or Rainforest Alliance certificate.<sup>14</sup> This also illustrates that it would have been difficult to select companies for the experimental (i.e. those with certification) group with only one type of certification if so desired.

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13 Randomised selection was not possible due to the limited number of experimental and control farms with matched criteria in specific regions/countries.

14 J. Potts, p. 96.

### **Worker interviews**

In each of the selected farms in the study 16 to 31 workers were interviewed. The sample of respondents included male and female workers, field and factory workers, union and non-union members and casual and permanent workers. Next to semi-structured individual interviews, workers were also interviewed in a focus group setting on each farm. The worker interviews were conducted off-site and outside working hours without the interference or knowledge of the farm management and sustainability certification systems. This was to create a setting in which respondents were free to speak their minds without fear of retaliation.

This stringent focus on non-management interference with worker interviews also effectively blocked a way to use methods to control upfront for sampling bias required in rigorous quasi-experimental research. No lists of workers and employee characteristics were available to the researchers when selecting workers for interviews. If available, such information would have allowed selecting workers with certain characteristics (e.g. sex, age, employment status) randomly for interviews (see the methodology section of the individual country results from the field study for more details on sampling).

### **Field research organisations**

Field research in Kenya and Indonesia was conducted by local Kenyan and Indonesian NGOs (non-governmental organisations) under SOMO's supervision between May and July 2012. The organisations involved were the Kenyan Human Rights Commission (KHRC) based in Nairobi, Kenya, and Fides, based in Solo, Central Java, Indonesia. These organisations were responsible for data collection, analysis and reporting at the national level. Their reports were shared with the company management of all companies sampled to allow them to react to the findings in the reports, and to correct any factual errors. The analysis and presentation of the results for this report were done by SOMO and were shared in the form of a draft of this report with the implicated sustainability certifications for the same reasons. See Annex 4 for a synopsis of the reactions of the companies and sustainability certifications and how these were followed up.

## **2.3 Literature study**

### **2.3.1 Approach**

As part of the literature study, literature on the impact of certification was collected from various public sources on the Internet. Impact assessments aim to establish the effect (outcome) of an intervention (cause) through counterfactual analysis. This means that the outcome of an intervention in a group (experimental group) is compared to the outcome of a similar group (control group) that has not received the treatment. A credible impact assessment design, such as a quasi-experimental evaluation design, includes pre- and post-intervention measurements of statistically matched experimental and control groups. However few studies were found relevant to build the analysis on when searching for impact literature with a focus on conditions for hired-labour on large scale sustainability

certification farms in developing countries.<sup>15</sup> Only one study was found with a rigorous methodology<sup>16</sup> and a few more that did not.<sup>17</sup> Consequently this study looked for an alternative approach to explore impacts of sustainability certification on farm workers based on publicly available information.

### Violations and impacts

For the literature study of this report it was decided to draw on reports on violations of workers' rights in hired labour settings on certified plantations including the case studies from Kenya and Indonesia. To this end an innovative approach was developed (which is further described in the next section) to collect and analyse such cases systematically as no studies were available that had done so before. Whereas this type of information and approach is no substitute for proper impact research, it is argued here that analysis of such reports can contribute to our understanding of impacts of sustainability certification on labour conditions in the absence of more rigorous research. Essentially this is because enforcing/verifying compliance with labour standards is central to the way sustainability certifications aim to promote good working conditions.<sup>18</sup> Reports of non-compliance indicate that sustainability certifications are not always able to achieve the proper working conditions they certify and hence indicate failed impacts on working conditions (see Box 1).<sup>19</sup>

The approach of attributing non-compliance to non-impact seems the best of alternative options. To illustrate, the opposite approach (i.e. attributing impact of certification based on reports of compliance) is more problematic. This is simply the case because working conditions at certified plantations could have been compliant with standards before producers were certified. To control for this bias, baseline data on the same companies would have been needed. It was expected that this would be very difficult or impossible to find, just as it would have been for non-compliant companies. As a result, literature on certified companies being compliant with key labour standards (if available at all) is not reviewed for this research.

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- 15 Two meta-studies of impact literature were used as a starting point for the analysis: A. Blackman & J. Rivera, The evidence base for environmental and socioeconomic impacts of 'sustainable' certification, 26 March 2010, <<http://ssrn.com/abstract=1579083>> (17 November 2014); A. Blackman & J. Rivera, "Producer-Level Benefits of Sustainability Certification." Conservation Biology 25, no. 6 (2011): 1176-1185. The internet was scanned as well for impact literature published after these studies (i.e. between 2010 and 2013).
- 16 R. Ruben & L. van Schendel, The impact of Fair Trade in banana plantations in Ghana: income, ownership and livelihoods of banana workers. In: R. Ruben (2008). The Impact of Fair Trade. Wageningen: Wageningen Academic Publishers, pp. 137-154.
- 17 These studies are referred to in Chapter 5.
- 18 There are of course other means by which sustainability systems can (in)directly impact working conditions, e.g. by giving or requiring training and requiring specific systems or approaches by producers, including facilities or bodies such as the worker body that decides what Fairtrade premiums may be spent on.
- 19 In reaction to the draft report Social Accountability International (SAI) owner of the SA8000 certification notes: "Our standards are no guarantees (...) certification does not mean that non-compliances will never occur, though full compliance should be the organisation's goal." SAI's position is not refuted in this report. It is simply argued that (ample) evidence of violations of labour rights that are sometimes even codified as minimum requirements for certification indicates that somewhere down the line (the implementation of) the sustainability certification approach is not (fully) delivering. Social Accountability International, e-mail 19 December 2014.



### **Box 1: What does sustainability certification guarantee?**

The title of this report Goodness guaranteed means to be provocative and does not describe a factual situation in relation to sustainability certifications, or their claims, reviewed. Nevertheless in the context of this study it is important to reflect on sustainability certification in relation to 'guarantees', as certifications are about trust and reliability.

Certification can be defined as 'the provision by an independent body of written assurance (a certificate) that the product, service or system in question meets specific requirements'.<sup>20</sup> In case of the sustainability certification reviewed in this report it is a production management system and not some end state that meets their specific requirements. These specific requirements are defined in standards that evolve and (hence) are reviewed regularly.

In order to receive their certificate, a producer must not only have specifically required procedures and policies in place, but the outcome of these policies in practice must also be verified through regular auditing and the producers must also be willing to take corrective action in cases of non-compliance with standard requirements. All of this must lead to ever-evolving better practice.

In other words, what is assured by way of certification is a continuously improving approach or risk management process – not an outcome or output (at least not in terms of guarantees). Indeed, ISEAL, the global membership association for sustainability standards, explicitly advises its members not to use the word guarantee in claims in relation to their system or approach.<sup>21</sup>

Obviously the approach that is assured or guaranteed in sustainability certification needs to be of a certain quality to be credible or relevant. This study is based on the assumption that the approaches of sustainability certifications are credible and perhaps the best tools available for sustainable production in a global political climate where more and better regulation through national and international governance to this same end seems unfeasible on the shorter term. Hence it is important that the quality of the sustainability certification approach is indeed assured and that it delivers what it is supposed to deliver.

What can be expected of the sustainability certifications reviewed in terms of working conditions on farms that have received their certification is that labour rights are respected. However, no system of rules and enforcement is fail proof. There is always, even if it is small, the risk that a system does not achieve (all) the desired outcomes. Similarly, full compliance with labour rights cannot always be expected at all certified producers. It is however important to assess in what areas compliance seems less structurally assured based on critical and independent research so as to be able to assess the quality of sustainability certification approaches and make recommendations for improvements. This is one of the areas that this study can contribute to.

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20 ISO website, Standards, "Certification...", <<http://www.iso.org/iso/home/standards/certification.htm>> (7 January 2015).

21 ISEAL, Sustainability Claims Good Practice Guide, 26 November 2014, <[http://www.isealalliance.org/sites/default/files/Claims\\_Good\\_Practice\\_Guide\\_v0.2-26\\_Nov\\_2014-FINAL.pdf](http://www.isealalliance.org/sites/default/files/Claims_Good_Practice_Guide_v0.2-26_Nov_2014-FINAL.pdf)> (7 January 2015).

### Other sources of impact information

Information on non-compliance with key labour rights of otherwise comparable non-certified companies is not reviewed because this is not the specific focus of this research. However it would be interesting to collect and analyse such 'control group' information in a similar way as this study does for certified companies. Indeed, a comparison of these two groups of results would possibly allow assessing more subtle impacts of sustainability certifications, or to explain certain patterns of prevalence of non-compliance on certified farms. Audit reports that underlie certification decisions could potentially also be useful for analysing and comparing impacts on certified farms, but are usually not accessible publicly. Finally, information from the sustainability certifications complaints handling mechanisms could have been an interesting source of information for this analysis. However, with the exception of the RSPO, detailed information on official complaints filled with the sustainability certification is not publicly available.<sup>22</sup>

The few relevant impact studies that were found in the literature review are not specific about non-compliance with labour rights on certified farms. Therefore the relevant aspects of these impact studies are not discussed in the literature study (Chapter 4) but in the overall concluding discussion (Chapter 5). The final chapter of the report has a broader focus than the literature study. It integrates information on the labour rights situation on sustainability certification farms compared to that on non-certified farms, as well as data on the development of the situation on sustainability certified farms over time. This information is extracted from both the impact literature and the case studies for this report.

### 2.3.2 Design and implementation

Through scoping research<sup>23</sup> sustainability certifications were selected with the following common characteristics:

- Compliance is needed with at least the four fundamental rights at work as declared by the ILO<sup>24</sup> for producers to receive or keep certification: freedom of association and collective bargaining no forced labour, no child labour and non-discrimination.
- Compliance is verified through third party verification.
- Sustainability certification applies to food and agriculture products/companies and not exclusively to forestry, biomass or smallholder production.

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22 Fairtrade also produces periodic overviews with statistics of various complaints in relation to the Fairtrade standard including complaints on alleged violations of its code. The overviews are however mostly silent about which specific labour right is violated and further details about the nature of the complaint. FLOCERT, Quality Management Allegations, Appeals, Reviews, Complaints, Statistics 2012, <[http://lists.fairtrade.net/flo-cert/fileadmin/user\\_upload/quality/Complaints\\_Management\\_Total\\_2012\\_4.pdf](http://lists.fairtrade.net/flo-cert/fileadmin/user_upload/quality/Complaints_Management_Total_2012_4.pdf)> (17 February 2014).

23 A web-based database facility called 'standards map' ([www.standardsmap.org](http://www.standardsmap.org)) is used to conveniently identify the relevant sustainability certifications among the maybe hundreds of sustainability standards in existence today. The web tool, which is developed by the International Trade Centre (ITC), allows detailed comparison of different standards based on a uniform framework. With the tool roughly 50 different private sustainability standards that uphold fundamental labour rights in food in agriculture could be screened for the desired traits.

24 ILO website, ILO Declaration on Fundamental Principles and Rights at Work, <<http://www.ilo.org/public/english/standards/relm/ilc/ilc86/com-dtxt.htm>> (8 April 2014).

- ❑ Certified producers (clients) are primarily found in developed countries.<sup>25</sup>

To collect relevant information for the analysis, several data mining approaches were followed:

- ❑ Search strings were used to mine the Internet for violations of the standards of the selected sustainability certifications.<sup>26</sup>
- ❑ Search strings were used to search websites of selected sustainability certifications for violations of their standards.<sup>27</sup>

The information that was collected in this way was then filtered for relevance. In order to be selected as a formal case the information had to meet all of the following criteria:

- ❑ The information relates to large scale agricultural production in developing countries.
- ❑ The information relates to, and is specific about, compliance with, or impact on, at least one of the following eight key labour rights (see explanation in footnote): freedom of association and right to collective bargaining, forced labour, child labour, non-discrimination, living wages, no excessive overtime, security of employment and health and safety.<sup>28</sup>
- ❑ The information makes connections between specific labour rights violations/impacts and specific sustainability certified agricultural production sites (i.e. farms and plantations).<sup>29</sup>
- ❑ The information is published or reported between 2004 and 2013.<sup>30</sup>

### **Selection criteria for violations**

The selection criteria for information on labour rights to be categorised as an alleged violation for subsequent analysis were less clear-cut than those used above. Overall the language of the eight key ILO labour rights led the categorisation of the information, and not the language used by the different sustainability certifications. This approach was taken for practical reasons – the language sustainability certifications use to reference these particular rights varies to some extent. Codes of sustainability certifications often refer to, and are based on, international norms and guidelines. Consequently incidents that can be interpreted as violations according to the language of the ILO labour right would often qualify as violations under the definition of sustainability certifications as well. There are exceptions however. For instance, reports that wages on farms are below living wages, and/or below the minimum wage level, are categorised as a violations in this report.

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25 Labour conditions can be just as bad for farm workers in high- as in low-income countries where sustainability certifications traditionally focus their efforts. Recently a few sustainability certifications have emerged that mostly have clients in developed countries. As this study focusses on the impacts of sustainability certifications in developing countries these initiatives were not included.

26 The search terms used in search strings were 'complaint', 'allegation', 'response', 'impact', 'violation', 'labour rights', 'labour conditions' and 'workers'.

27 Ibid.

28 The first four labour rights are considered fundamental rights at work as declared by the ILO, see footnote 19. The other four labour rights are broadly considered as essential for good labour conditions as well. Cf. Dutch CSR platform: CSR frame of reference, <[http://mvoplatform.nl/publications-en/Publication\\_3738/at\\_download/fullfile](http://mvoplatform.nl/publications-en/Publication_3738/at_download/fullfile)> p.6 (24 September 2014).

29 To designate locations of agricultural production the words farm or plantation are used synonymously in this report.

30 This customary 10 year period was fixed to limit research time. Information on possible remediation of non-compliances was not assessed as it is mostly not publicly available.

Sustainability certifications, by contrast, typically only qualify paying of wages below minimum wage levels as a violation.<sup>31</sup>

### Code versions

In contrast to the initial categorisation of cases as violations or not, further analysis of patterns of violations does take into account the details of sustainability certifications code provisions for various rights wherever this seemed relevant. For the analysis in the literature study, versions of sustainability certifications' codes were used that would have been effective at the time when (most of the) violations were reported from farms certified to this specific sustainability certification. Indeed sustainability certification regularly, often every four years, update their codes and an inappropriate code version may blur the analysis. In practice often the situation on farms was compared with the content of the before last version of the sustainability certifications' codes. Obviously, specific recommendations that may follow such an analysis risk being outdated because of code improvements. Hence, in cases where the authors are (made) aware of relevant improvements to newer versions, these are reflected or acknowledged in the discussion and recommendation section.

### Use of statistics

Statistics are used to support the literature study analysis. To assess whether the frequency distribution<sup>32</sup> of certain events observed in a sample is consistent with a particular theoretical distribution the likelihood Chi-squared test is used. For example, the observed frequency of reports of labour rights violations from certified farms that have received a specific sustainability certification is compared to the expected frequency based on the total number of farms each specific certification has certified. As the probability of a violation being reported is logically related to the number of certified farms – i.e. without certified farms there would be no reports either – comparing actual frequencies against expected frequencies exposes deviations in the pattern which can then be further analysed or explained. Also analysis of variance (ANOVA) is used to ascertain whether code quality is a factor in the distribution of reported violations among farms with different sustainability certifications. The report's use of statistics and the interpretation thereof were externally reviewed by data-analysis expert Rudo Niemeijer.

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31 Also see section 4.4.1.

32 Wikipedia website, "frequency distribution", <[http://en.wikipedia.org/wiki/Frequency\\_distribution](http://en.wikipedia.org/wiki/Frequency_distribution)> (9 March 2015).

## 3 Field study

This chapter presents the results of two case studies conducted to assess the effectiveness of various social certification systems on working conditions. The analysis primarily builds on interviews with employees of certified and non-certified companies in the tea, coffee and cut flower sectors in Kenya and Indonesia. The results for each country are presented separately first. The headline results of the two cases are then discussed in the final section of this chapter.

### 3.1 Kenya

#### 3.1.1 Introduction

Agriculture accounts for 24% of Kenya's gross domestic product (GDP) and 75% of the Kenyan population depend directly or indirectly on agriculture.<sup>33</sup> The top three agricultural commodities in Kenya are tea, horticultural products (mainly cut flowers) and coffee.

##### **The tea sector**

Along with China, Sri Lanka and India, Kenya is one of the world's largest tea exporters. Five million people depend directly or indirectly on tea production and around 26% of total foreign exchange earnings in Kenya are derived from the tea sector.<sup>34</sup> According to the Kenya National Bureau of Statistics, in 2011 the total value of Kenyan tea exports amounted to 102 billion Kenyan Shillings (KES – €954 million<sup>35</sup>).<sup>36</sup> 70% of annual tea production is produced by half a million smallholders, while large scale plantations, most often owned by multinational companies, produce 30% of Kenyan tea. Only 5% of tea produced is consumed in Kenya – the rest is exported. Major destinations are Egypt, the United Kingdom, Pakistan, Afghanistan and Sudan.<sup>37</sup>

##### **The cut flowers sector**

The cut flowers industry is a capital-intensive sector and is currently Kenya's third most important foreign exchange earner after tea and tourism. Since the 1980s, the value of flower exports has grown more than tenfold, from 10,946 tonnes in 1988 to 121,891 tonnes in 2011 and an export value

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33 Tea Board of Kenya website, Kenya Tea Industry, "Facts About Kenya", <[http://www.teaboard.or.ke/industry/kenya\\_facts.html](http://www.teaboard.or.ke/industry/kenya_facts.html)> (31 January 2014).

34 Tea Board of Kenya website, About us, "Our Focus", <<http://www.teaboard.or.ke/about/focus.html>> (31 January 2014), KHRC, based upon information from Tea Board of Kenya, 2012.

35 All conversions from KES to EUR based on currency rate of 0.0093546754 on 1 June 2012, [www.xe.com](http://www.xe.com) (26 January 2014).

36 Kenya National Bureau of Statistics, Kenya Facts and Figures 2012, <<http://knbs.or.ke/downloads/pdf/Kenyafacts2012.pdf>> (3 September 2013), p.59.

37 Tea Board of Kenya, Tea News, April-June 2011, <<http://www.teaboard.or.ke/opencms/export/sites/tbk/news/newsletters/downloads/Tea-News-April-June-2011.pdf>> (31 January 2014).

of 42.9 billion KES in 2012 (€401 million).<sup>38</sup> Half a million people depend directly or indirectly on the floriculture industry. Kenya is a major flower exporter to the EU, supplying 31% of total EU imports. This makes Kenya the EU's biggest non-EU supplier, with 65% of all Kenyan flower exports traded via the Dutch auction.<sup>39</sup>

### Sampling

Selection of relevant non-certified companies for the control group was difficult due to the fact that most exporting companies have adopted certification. For each of the six companies (see Table 1), 23 to 31 workers were interviewed. 28% of in total 170 workers interviewed were women. The poorer participation of female workers in the study was attributed mainly to the interviews being conducted in the evening when they were busy attending to their families.

**Table 1: Overview of Kenyan companies and their certification systems**

Company	Product	Certification systems
Williamson Tea Kenya Limited*	Tea	Fairtrade, UTZ Certified, Rainforest Alliance
Eastern Produce Kenya Limited	Tea	Rainforest Alliance
Kaisugu Tea Estate	Tea	None (control group)
Oserian Development Company Limited	Flowers	Fairtrade
Van den Berg Roses	Flowers	MPS-SQ**
PJ Dave Flowers	Flowers	None (control group)

\* Several months after interviews with workers were conducted, in November 2012 Williamson Tea announced it will withdraw from Fairtrade. Source: Williamson Tea website, 20 November 2012, <<http://www.williamsontea.com/our-news/whats-new/williamson-tea-withdraws-from-fairtrade/>> (2 September 2013).

\*\* Since 2006 the company has attempted four times to receive Fairtrade certification but in vain. Source: KHRC.

### 3.1.2 Freedom of association and right to collective bargaining

In absolute terms the proportion of workers indicating they felt free to join a union did not differ much between certified (90%) and non-certified (83%) tea companies. With 84% and 39% respectively this difference was more pronounced between certified and non-certified flower companies.

A similar pattern emerged for the responses to the question on whether tea sector respondents felt their union leaders were protected or not, but responses were markedly less positive overall. Only

38 Kenya Flower Council website, Industry info, "Market data", <<http://www.kenyaflowercouncil.org/index.php/2013-03-24-08-12-08/market-data>> (1 December 2013).

39 KHRC, based upon information from the Kenya Flower Council, 2011.

46% of the respondents at the certified tea companies, and 31% of the respondents at the control group tea company, felt their trade union leaders were protected.<sup>40</sup> At flower companies the pattern was similar, though levels were lower overall.

Overall, workers reported improvement in freedom of association over time – however, this improvement was especially marked for workers at non-certified companies. For example, workers at certified companies reported an improvement of 86%, and those at their non-certified counterparts reported an improvement of 138% when asked whether they were free to join a union now, compared to the period in which none of the companies was certified.

Respectively 89% and 60% of workers at certified and non-certified companies reported that collective bargaining agreements were in place. In both types of companies these figures have doubled since the certified companies received their first certificate. At the certified flower company Oserian (Fairtrade), workers explained that prior to this company's certification it was impossible to establish a collective bargaining agreement. However, to fulfil Fairtrade certification, the company signed a collective bargaining agreement with the union which led to a salary increment from KES 7,500 (€70) to KES 8,700 (€81) per month.

### **3.1.3 Elimination of forced labour and abolition of child labour**

No forced labour or child labour was reported at any of the companies in Kenya.

### **3.1.4 Non-discrimination**

Workers at all companies report gender and ethnic discrimination. Reports of discrimination at certified companies related, for instance, to tribalism: for example bonuses, promotions and employment of graded staff favoured those from the same tribes as senior management.

At Van den Berg, a MSP-SQ certified flower company, female workers reported having to sleep with senior staff in order to get promotion. Workers are aware that the company has a procedure for reporting sexual harassment but claim that reported cases have never been investigated and that workers were dismissed when they reported such cases.

Positive developments were also observed at two certified companies. At Rainforest Alliance certified tea company Eastern Produce Kenya (EPK), workers reported that tribalism had diminished since the company received certification. Also workers at the tea company Williamson reported that certification has led to a decrease in sexual harassment since the company received Rainforest Alliance, Fairtrade and UTZ certification.

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40 As there was no evidence that trade union leaders were in fact persecuted, this information is not interpreted as evidence of violations of trade union rights.

At the non-certified companies, discrimination was also reported, in particular at tea company Kaisugu. Next to tribalism in hiring, promotion and harassment, workers mentioned rampant sexual harassment by senior staff including demands for (unprotected) sex from female workers.

Gender discrimination in promotion of workers is less prevalent at certified companies than at non-certified companies: 22% of workers at certified companies report sex discrimination in employment opportunities compared to 30% at non-certified companies.

### 3.1.5 Wages

The level of what would constitute a living wage was calculated based on reported expenses by workers in the different companies. This wage, which would cover housing, food, child care, medical care, clothing, transport and other basic household expenses for a worker and his/her family, varied by company but was KES 11,700 (€109) on average per month. However at KES 4,258 (€40) per month the Kenyan minimum wage for the agricultural industry is much lower.

There was no evidence that workers were paid illegally below the minimum wage level and in violation of certification requirements.<sup>41</sup> However, income may fall below daily or monthly minimum wage levels depending on the availability of work, and the contract. Tea workers for instance are paid per kilo of fresh leaves plucked. Hence gross income for tea workers may vary considerably and even fall below minimum wage levels when the volume of tea plucked is below the day target. Indeed it was observed at Kaisugu tea company (control group) that workers sometimes earned below minimum wages levels as the quantities they could pluck combined with the prevailing piece rate that is agreed with in the collective bargaining agreement would not allow it.

Of the workers working in the certified tea and flower sector companies, 12% and 26% respectively report gross wages at living wage levels or above. By contrast, none of the workers interviewed at control group companies reported receiving living wages. At the bottom end of the income categories the results were reversed: 17% and none of the workers at certified tea and flower companies respectively report wages on minimum wage levels or below, compared to 31% and 29% at the respective control group companies.

It should be noted that a net living wage level is compared here to a gross minimum wage level. In reality many workers, at certified and non-certified companies report relatively high costs that are deducted from their salaries. These costs include social security for all workers, hospital insurance fund fees for 95% of workers, very often union membership fees, and for a large share of workers, taxes and/or other costs such as bank fees, funeral expenses, education, loans, and welfare.

After deduction of these costs only 4% of all workers reported net wages above living wage levels. These reports related only to certified companies and predominantly to those producing flowers.

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41 While certification systems may reference living wages in their standards in audit practice this is (erroneously) equated with national/regional minimum wages or prevailing industry wages if these are higher. C.f. section 4.4.1.



Also, overall gross wages at certified companies were 15% and 39% higher at tea and flower companies respectively, compared to control group companies.

### 3.1.6 Overtime

In Kenya, overtime occurs frequently and more often at certified companies than at non-certified companies: 67% of workers at certified tea and flower companies work overtime compared to 49% at control group companies. However the magnitude of the overtime of the workers that have to work overtime is greater at non-certified companies: 19% of the workers at certified companies report working overtime more than four times a week. At non-certified companies this is 42%. Only 27% of workers were paid for these additional hours at certified companies compared to 6% at non-certified companies.

It should be noted that the large majority of workers at tea companies get paid on the basis of the volume of tea they pick. The volume of tea they pick in eight hours of work should allow them to at least earn a daily minimum wage. However, if they work more than eight hours, which they sometimes do, these hours are not recorded as such, nor are they entitled to higher overtime rates. This is a violation of Fairtrade and Rainforest Alliance standards.<sup>42,43</sup> No issues were recorded with factory workers (who are paid daily wages) receiving no payment for overtime hours at certified tea companies. However at the non-certified tea company, factory workers were not receiving these either.<sup>44</sup> While it is possible that workers are interested in working overtime if this entails receiving more income, workers at all certified companies reported not being able to refuse overtime. This is also contravenes the specifications of the standards to which companies should be adhering. Also, workers at Van den Berg report not (always) being paid overtime in violation of the MPS-SQ standard.<sup>45</sup>

About 20% of workers at either certified or control group companies reports weekly average overtime of 12 hours or more. At EPK (Rainforest Alliance certified) the CBA in place requires piece rate workers (tea pickers) to work from 7am to 3pm. However, in practice these workers are required to report for work at 6.30am and leave work as late at 6.30pm during peak periods. All these findings indicate that certified companies are flouting overtime regulations of the standards to which they are supposed to adhere. Indeed Rainforest Alliance, Fairtrade and MPS-SQ standards specify

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42 Provision 3.5.11 of the Fairtrade standard and 5.7 of the Rainforest Alliance standard specify that overtime must be voluntary and paid at a premium. Fairtrade International, Fairtrade Standard for Hired Labour, version 01.05.2011, <[http://www.fairtrade.net/fileadmin/user\\_upload/content/2011-12-29-HL\\_EN.pdf](http://www.fairtrade.net/fileadmin/user_upload/content/2011-12-29-HL_EN.pdf)> (16 December 2013) & Sustainable Agriculture Network, Sustainable Agriculture Standard, July 2010, <[http://sanstandards.org/userfiles/SAN-S-1-1\\_2%20Sustainable%20Agriculture%20Standard\\_docx\(1\).pdf](http://sanstandards.org/userfiles/SAN-S-1-1_2%20Sustainable%20Agriculture%20Standard_docx(1).pdf)> (16 December 2013).

43 ILO Convention 1 has language on overtime needing to be free and paid at a premium. This convention however applies to industrial undertakings only, e.g. not the agricultural sector. sustainability certifications often refer to the plantation convention C110. This convention however is not explicit on these specific issues regarding overtime as it references a weekly day of rest only.

44 It is not clear from the field research whether or not this issue is also problematic for flower sector workers.

45 Stichting MPS, Certificatieschema MPS-SQ, 1 June 2002, <<http://www.my-mps.com/images/documenten-EN/certificaten-EN/EN%20Certificatieschema%20MPS-SQ%20v9%20010414%20incl%20wijzigingen%20gemarkeerd.pdf>> (24 April 2014).

that overtime must not exceed 12 hours per week. However, as the survey is not clear as to whether this maximum is indeed exceeded in any given week, it does not irrefutably prove that overtime regulations are violated.

### 3.1.7 Health and safety

#### Protective gear and exposure to pesticides

Workers in the flower and tea sectors need to protect themselves from exposure to pesticides sprayed over the plants. Also, generally, work in the estates and greenhouses as well as factories and packing stations requires appropriate clothing and boots.<sup>46</sup> Overall 85% of workers at certified companies and 76% of those at non-certified companies reported being issued protective personal equipment (PPE). Or put differently, not all workers receive the PPE they need to do their job safely and in accordance with ILO standard 155.

At the Fairtrade certified flower company Oserian, workers are provided with two sets of PPE. Before certification, workers at Oserian had only one set which was not replaced on time when worn out. Rose workers at Oserian used to not have gumboots but now they do. Unlike the flower sector there was no significant difference in issuance of PPEs between certified and non-certified tea companies overall. At Fairtrade, Rainforest Alliance and UTZ certified company Williamson Tea and non-certified company Kaisugu, respectively 92% and 83% reported receiving PPE whereas at certified tea company EPK (Rainforest Alliance certified) this was 65%. At EPK permanent workers are issued with PPE, whereas temporary workers are not issued with PPE and rely on worn out PPE from permanent workers.

Roughly half of workers interviewed at certified companies reported having received training in health and safety versus 8% of those working in non-certified companies.

### 3.1.8 Security of employment

There was a marked difference in employment status between the certified and non-certified companies. About three quarters of respondents at certified companies were permanent workers whereas at non-certified companies this group represented only about one fifth of the labour force. Generally tea sector companies employed more temporary workers than flower companies.

About half of workers at Rainforest Alliance certified tea company EPK are employed temporarily, mostly on rotating three-month contracts. There were clear indications that this company could employ more workers on a permanent basis but in practice it avoids doing this. Moreover, to some extent, the company relies on the labour of helpers that are informally employed by their workers in violation of the applicable Rainforest Alliance standard.<sup>47</sup> There were no indications of similar practices in other certified companies.

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46 ILO convention 155 (Article 16, 3) is clear about the need for the employer to issue PPE in these sectors. However, in Fairtrade standards it is a critical criterion while in Rainforest Alliance standards it is not.

47 Rainforest Alliance standard 5.3.

Only 17% of workers at non-certified tea company Kaisugu report having permanent status. This was not the case until February 2012 when the company locked out approximately 700 permanent workers on grounds that severe frost and drought had destroyed the crop. Only 50 of them were later rehired on the same terms and 200 new workers were hired with temporary contracts.

At non-certified flower company PJ Dave workers report not having employment contracts at all, which is illegal, but they are told verbally what their employment status is. The seniority of their workforce was markedly different from the other companies: 71% of respondents at this company reported having worked at the company for less than two years. This compares to only 19% at other companies. There was no information on what might have caused this difference.

Although workers are issued with contracts at MPS-SQ certified flower company Van den Berg, workers felt insecure about their jobs due to a high rate of dismissals and terminations that were considered unfair. At Fairtrade certified flower company Oserian, workers reported having more job security than at the other two flower companies. However, workers complained of increased workload that had led 140 workers from the roses section to resign. Only at Fairtrade, Rainforest Alliance and UTZ certified tea company Williamson is improved security of employment clearly attributed to the impact of certification.

### 3.1.9 Other findings

#### **In kind benefits**

All companies provide workers with a number of free services such as housing and access to on-site health care. Such services can be considered as health and safety services but are discussed here instead, as they are less directly linked to formal health and safety at the work place.

At the MPS-SQ certified flower company Van den Berg, workers are critical of the care the company provides. Their complaints include:

- The quality of medical personnel, since three pregnant women died in 2012. These workers were attending pre-natal care in the clinic and developed-late pregnancy complications that resulted in maternal deaths. Workers attributed this to negligence by the company clinic.
- Female workers undergo a pregnancy test preceding employment which is a violation of the MPS-SQ standard.<sup>48</sup> Non-permanent workers may also lose their job when pregnant.
- Medical information on individual workers is disclosed to company management, leading to dismissal.
- Discrimination against workers of certain tribes.<sup>49</sup>

Van den Berg also stands out negatively in terms of access to drinking water: only 84% of workers report having access to drinking water.<sup>50</sup> At other certified companies all workers report having

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48 This is an 'obligatory point' (1.2.5) on which non-compliance can result in certification withdrawal.

49 Ibid. (1.2.6).

50 Ibid. (2.1.3).

access to clean drinking water at work. At the non-certified companies, 90% of flower and 41% of tea workers receive drinking water at work. Workers at Van den Berg Roses explained that the company used not to have drinking water points but that MPS-SQ certification did not change this situation. Rather, when the company attempted to obtain Fairtrade certification in vain, water installations were constructed. At Rainforest Alliance certified tea company EPK, workers explained that the company had started to provide drinking water when it received certification.

At certified tea companies, workers stated that hygiene generally has improved since certification. Workers mentioned the introduction of field toilets, bathrooms and improved maintenance of camps. Also the housing situation had improved at certified tea companies compared to the non-certified tea company. All tea companies provide housing to workers but fewer non-permanent workers have to share housing or rooms with others at certified companies during peak periods. The improvement is the result of the increased adoption of mechanised plucking which requires fewer workers – meaning there is more accommodation available.

Only two of the six companies surveyed provide, or organise, day care for their workers' children. These two are the certified companies Oserian (flowers) and Williamson (tea). Paid sick leave is still impossible to obtain at both the certified and the non-certified companies unless the worker is hospitalised.<sup>51</sup>

### **Labour relations**

Labour relations are far from ideal in the Kenyan companies reviewed. Less than a third of the workers responded positively when asked if they experienced their workplace as a 'free and fair environment'. However with 41% and 10%, there is a marked difference between the responses from certified and non-certified companies respectively. In addition, satisfaction increased 20% and decreased by 15% respectively when asking workers to compare the situation now with that in the past (before certification).

However management and workers' relations varied considerably by farm. Especially between certified flower companies there was a marked difference in satisfaction with labour relations. At Oserian, two thirds of the workers were satisfied, whereas this was only the case for a quarter of the workers at Van den Berg Roses where workers reported a climate of fear, use of abusive language by the manager, inhumane treatment, sexual harassment, and discrimination.

A third of respondents at the Rainforest Alliance certified tea producer EPK considered their workplace 'free and fair'. They report nepotism as new employees do not get employment if they do not know anyone within the company. They also reported (sexual) harassment by supervisors; non-renewal of contracts in cases of personal problems with supervisors, and bribery (for temporary workers to be re-employed).

### **Awareness of and involvement in certification**

At triple certified tea company Williamson, roughly 70% of respondents were aware of certification compared to roughly 60% of employees at EPK who reported to have heard of Rainforest Alliance. In contrast to workers at Williamson, the information that EPK workers based their awareness of

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51 There seems to be no specific language on this issue in sustainability certification standards.

Rainforest Alliance certification on was mostly derived from information material on notice boards in the company premises.

At flower producer Oserian, 60% of respondents were aware of Fairtrade certification. Knowledge of certification was directly attributed to employees having attended formal training on the standards with those who had not attended training reporting no knowledge of the standards.

At flower company Van den Berg, 80% of employees reported never to have heard of MPS-SQ. The majority of employees were aware of Fairtrade certification and had knowledge that the company had been audited against Fairtrade standards four times without success. The workers interviewed did not understand how the company could have another social certification while it had failed to qualify for Fairtrade certification four times. Some worker representatives had heard of MPS-SQ but they were not aware of what exactly the scheme stands for. Hence it may come as no surprise that no improvements in working conditions were reported as a result of MPS-SQ.

Half of respondents indicated that they, or other workers, had not been involved in certification audits whereas the rest of the respondents had. None of the workers indicated having access to audit reports and half indicated receiving no feedback on audit results either. Only 27% of the workers indicated speaking freely to auditors while 40% indicated not speaking freely to auditors for fear of reprisal; the rest did not speak to auditors at all.

## 3.2 Indonesia

### 3.2.1 Introduction

Agriculture is of major importance to Indonesia's economy. It contributes 15% of GDP and accounts for 43% of all employment. Despite the importance and size of the sector, Indonesia is a net importer of food, and poverty in agricultural regions is widespread: 60% of the poorest Indonesians live on small farms. Explanations given for the meagre state of the agricultural sector include inadequate infrastructure, insufficient investment and poor government policies.<sup>52</sup>

#### **The tea sector**

Indonesia is an important tea producer that exports globally. However, with increasing production costs, low prices for Indonesian tea and relatively low productivity, Indonesia's tea sector is not performing as well as in past decades.<sup>53</sup> In 2010, Indonesia was the world's eighth-largest tea producing country (just a few years earlier, it ranked third). The past years have seen a reduction

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52 USAID Indonesia website, no date, <[http://indonesia.usaid.gov/en/USAID/Activity/319/Agricultural\\_Development\\_Activities](http://indonesia.usaid.gov/en/USAID/Activity/319/Agricultural_Development_Activities)> (4 September 2013); Jakarta Post, "OECD Calls on Indonesia to Reform Agricultural Policy", 11 October 2012, <<http://www.thejakartapost.com/news/2012/10/11/oecd-calls-indonesia-reform-agricultural-policy.html>> (4 September 2013).

53 Tempo website, "Indonesia's Tea Production Declining", 28 January 2013, <<http://en.tempo.co/read/news/2013/01/28/055457426/Indonesias-Tea-Production-Declining>> (11 September 2013).

in production: production is decreasing by 0.9% each year and the area planted with tea, located mostly in West Java, is diminishing by 1.7% annually as a result of a shift to oil palm and rubber.<sup>54</sup>

In Indonesia, one third of production is produced at state-owned tea estates. Smallholders account for 43% of the tea producing area but are relatively unproductive as they represent only 23% of production, while private estates produce one fifth of total tea production.<sup>55</sup> The most important export destinations are Russia, Pakistan, the United Kingdom, Malaysia and Germany.

### The coffee sector

Coffee is grown in many provinces on various islands in Indonesia, such as Sumatra, Sulawesi and Java. In 2012 Indonesia produced 657,138 tonnes of coffee. Indonesia ranks third among the world's largest coffee exporting countries (after Brazil and Vietnam).<sup>56</sup> More than the tea sector, the coffee sector is largely dominated by smallholders: 96% of productive land is used by small farmers, whereas larger private and state companies each control 2% (see table below).<sup>57</sup>

In 2011-2012, Indonesia exported around 7.48 million bags, or 448,878 tonnes, of coffee.<sup>58</sup> Major destinations are Japan, South Africa, the EU and the USA.<sup>59</sup> Even though global demand for arabica coffee is higher, Indonesia focuses on the production of robusta, which accounts for about 83% of Indonesia's coffee output.<sup>60</sup>

### Sampling

Interviews were conducted with a total of 137 people in five companies in the tea and coffee sectors (see Table 2). In each company 16 to 31 workers were interviewed. Of these interviewed workers, 77% were casual workers, 22% were permanent workers and 1% were former employees; 51% of all interviewees were women.

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- 54 Fides based upon the Business Center for Tea Research, see also Bisnis.com website, "Lahan berkurang, produksi teh terancam," 2 November 2011 <<http://www.bisnis.com/lahan-berkurang-produksi-teh-terancam>> (4 September 2013); FAO Intergovernmental Group on Tea, Intersessional meeting, Working Group on Smallholders, 17-18 September 2012, <[http://www.fao.org/fileadmin/templates/est/COMM\\_MARKETS\\_MONITORING/Tea/Documents/ISM\\_2012\\_Smallholders.docx](http://www.fao.org/fileadmin/templates/est/COMM_MARKETS_MONITORING/Tea/Documents/ISM_2012_Smallholders.docx)> (4 September 2013).
- 55 FAO Intergovernmental Group on Tea, Intersessional meeting, Working Group on Smallholders, 17-18 September 2012, <[http://www.fao.org/fileadmin/templates/est/COMM\\_MARKETS\\_MONITORING/Tea/Documents/ISM\\_2012\\_Smallholders.docx](http://www.fao.org/fileadmin/templates/est/COMM_MARKETS_MONITORING/Tea/Documents/ISM_2012_Smallholders.docx)> (4 September 2013); Fides research report.
- 56 Indonesian Ministry of Agriculture, "Coffee Production by Province in Indonesia 2008-2012", no date, obtained via <[http://www.deptan.go.id/infoeksekutif/bun/isi\\_dt5thn\\_bun.php](http://www.deptan.go.id/infoeksekutif/bun/isi_dt5thn_bun.php)> (4 September 2013); United States Department of Agriculture, "Coffee, World Markets and Trade 06.21.2013", obtained via <<http://usda.mannlib.cornell.edu/MannUsda/viewDocumentInfo.do?documentID=1801>> (4 September 2013); International Coffee Organisation, Exports of All Forms of Coffee by Exporting Countries to All Destinations, July 2013, <<http://www.ico.org/prices/m1.htm>> (4 September 2013).
- 57 Fides, using data from Indonesian Ministry of Agriculture, no date, obtained via <[http://www.deptan.go.id/infoeksekutif/bun/isi\\_dt5thn\\_bun.php](http://www.deptan.go.id/infoeksekutif/bun/isi_dt5thn_bun.php)> (4 September 2013).
- 58 International Coffee Organisation, Exports of All Forms of Coffee by Exporting Countries to All Destinations, July 2013, <<http://www.ico.org/prices/m1.htm>> (4 September 2013).
- 59 Indonesian Ministry of Agriculture, Exports data per commodity 2012, no date, obtained via <<http://aplikasi.deptan.go.id/eksim2012/eksporKomoditi.asp>> (4 September 2013).
- 60 United States Department of Agriculture, "Coffee, World Markets and Trade 06.21.2013", no date, <<http://usda.mannlib.cornell.edu/MannUsda/viewDocumentInfo.do?documentID=1801>> (4 September 2013).

**Table 2: Overview of Indonesian companies and their certifications**

Company	Product	Certification systems
PT Pagilaran (state owned)	Tea	Rainforest Alliance
PT Chakra Dewata (privately owned)	Tea	Rainforest Alliance
PT Tambi (privately owned)	Tea	None (control group)
PT Perkebunan Nusantara (PTPN) XII (state owned)	Coffee	UTZ Certified
PT Perkebunan Nusantara (PTPN) IX (state owned)	Coffee	None (control group)

### 3.2.2 Freedom of association and right to collective bargaining

Both certified and non-certified tea and coffee companies have trade unions. However, membership is open and mandatory for permanent<sup>61</sup> workers only. By far, most workers – from 70% up to 90% – are employed on a temporary basis. Hence the right to freedom of association and to collective bargaining is effectively denied to all but a small minority of workers at these plantations.

The research did not establish that temporary workers were not allowed to enact their right to freedom of association and collective bargaining through other means than through the official trade union. Workers were not interviewed on this subject. A number of workers interviewed deemed not having access to the trade union as non-problematic as they were primarily interested in getting paid. Local researchers relate this disinterest to low awareness of their rights in this respect, which was clear from the interviews.

The legitimacy of the trade unions is also clearly disputed. In all certified companies, company management was involved in their formation. In Rainforest Alliance certified tea company Chakra Dewata respondents even claimed that workers were not involved in the union formation process at all. They claim that the trade union is merely a façade set up to comply with certification demands. Consequentially they claim that the collective bargaining agreement was not the result of collective bargaining but a statement pushed by the management and signed by a management-friendly worker representative.

<sup>61</sup> The workers on the plantations can broadly be divided in permanent and non-permanent (also called temporary or casual in this report) workers depending on their employment security status. In turn these two groups can be further sub-categorised as permanent workers doing field and factory work and those doing managerial/higher skilled work. The non-permanent group can be divided between seasonal and 'contract' workers. The seasonal workers have the lowest status (no job security, few benefits) and are employed during times when more hands are needed, for instance during the high season. Compared to seasonal workers, contract workers have more status as they mostly have work throughout the year (not only in high season) and have more benefits.

### 3.2.3 Elimination of forced labour and abolition of child labour

No forced labour is reported at any of the companies in Indonesia. However, at the non-certified tea company a small number of teenagers were observed working part-time. This is a breach of Indonesian law, which stipulates that children between 14 and 17 years of age are only allowed to work if this is part of their school curriculum (i.e. an internship). These teenagers however are not going to school at all as they lack the financial means.

### 3.2.4 Non-discrimination

At the UTZ certified coffee company male casual workers earn around Indonesian Rupiah (IDR) 17,000 (€1.4<sup>62</sup>) per day, while women earn IDR 15,000 (€1.3) per day. The difference in pay at this company is explained by the fact that men are assigned tasks with higher workload than women. This practice constitutes a violation of ILO Convention 111. By contrast, at the non-certified coffee producer PTPN IX, all casual workers earn IDR 17,000 per day, regardless of sex. No other clear cases of discrimination were reported in either the tea or coffee sector.

### 3.2.5 Wages

In the tea sector pickers are paid per kilo. The kilo rate is calculated by the companies based on the prevailing regional minimum wage. However, based on worker estimates of the volume of tea picked per day, pickers on certified tea estates earn much less than the regional minimum wage. For example at the Rainforest Alliance certified tea company PT. Pagilaran, pickers take home an estimated IDR 22,000 (€2) per day. For a month with 26 working days this amounts to IDR 572,000 (€48). The minimum wage in the region where this company operates is however IDR 880,000 (€74). Wages of non-permanent workers not picking tea (so not on a quota-based wage) are a little bit higher than those of pickers. With about IDR 30,000 (€3) per day however, their monthly wages are not at the regional minimum wage level either.<sup>63</sup> Indeed, only permanent workers not picking tea (mostly staff) would have an income above minimum wage level at this and the other Rainforest Alliance certified tea company.

At the non-certified tea company Tambi only wages of casual workers that are assigned the task of soil management are just above the district minimum wage, IDR 825,000 (€70) in 2012, at this plantation. Wages for non-permanent workers that are assigned other tasks such as spraying, pruning, factory work and plucking are below the prevailing district minimum wage. With IDR 396,500 (€34) the monthly wages of casual pickers are at the bottom end at this plantation. On a comparative note, in absolute terms, wages of casual pickers at the control group tea company are below those at Rainforest Alliance certified tea company Pt. Pagilaran, whereas the district minimum wage level is roughly the same. Wages of permanent workers at Tambi were on district minimum wage level or above.

62 All conversions from IDR to EUR based on currency rate of 0.0000844939 on 1 June 2012, <www.xe.com> (26 January 2014).

63 No reference has been found for a fixed number of days in relation to the minimum wage in Indonesia.



In the coffee sector, a similar picture emerges. For example, in 2012 the Javanese Malang region was subject to a minimum wage of IDR 1,132,000 (€96) per month. However, at UTZ certified coffee company PTPN XII, active in this region, wages of non-permanent workers are clearly way below the regional minimum wage. Men earn IDR 442,000 (€37) and women IDR 390,000 (€33) a month for the same work. Monthly wage levels recorded for permanent workers range from IDR 800,000 (€68) to 1,110,000 (€94). This means that permanent workers at this company receive wages below the regional minimum level as well. Wage levels at the non-certified coffee company were similar. By contrast, as the minimum wage in the company's region is lower – monthly wages of permanent workers were above that level.

Regardless of the sector or companies that they work in, non-permanent workers indicated that salaries for their full-time work only help them meet very basic daily needs and clearly do not constitute living wages.<sup>64</sup> Depending on the company, the sector and their status, non-permanent workers are entitled to various extents to in-kind benefits such as free health care,<sup>65</sup> school transportation for their children, scholarships and access to water and electricity provided by companies.

At certified tea and coffee companies, workers indicate that they receive annual pay rises. These rises follow annual increases in the regional minimum wage which can be significant. According to a former worker at PTPN XII, the largest wage increase at this company occurred in 2003 when wages were doubled. This was the year when the company received UTZ certification.<sup>66</sup> By contrast, workers at the non-certified coffee company, claimed to not have received annual pay raises for almost seven years. At the non-certified tea company only wages of permanent workers are subject to annual increases.

### 3.2.6 Overtime

There was no data on actual hours worked for all companies. Therefore no meaningful analysis could be done on this particular issue. No irregularities were reported in relation to overtime.

### 3.2.7 Health and safety

ILO convention 155 and certification standards require a safe and healthy workplace. However, only at Rainforest Alliance certified tea company Chakra do all workers receive PPE. At all other plantations surveyed, only permanent workers receive PPE from their employers.<sup>67</sup> This means that non-permanent workers such as seasonal workers have to bring their own PPE such as overalls, hats and boots

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64 Similar results were found in this study: Oxfam, Ethical Tea Partnership, "Understanding Wage Issues in the Tea Industry", May 2013, [http://www.oxfam.org/sites/www.oxfam.org/files/oxfam\\_etp\\_understanding\\_wage\\_issues\\_in\\_the\\_tea\\_industry.pdf](http://www.oxfam.org/sites/www.oxfam.org/files/oxfam_etp_understanding_wage_issues_in_the_tea_industry.pdf) (20 September 2013).

65 This was the bottom line in-kind service rendered to all workers. Seasonal coffee workers in the certified coffee company would just get this benefit.

66 While these two events may be related there was no information that this indeed was the case.

67 At the non-certified coffee company contract workers were also provided with PPE.

needed to do their work safely. However not all workers, especially non-permanent workers in coffee sector companies, use PPE or can afford it. In the state owned Rainforest Alliance certified tea company, a picker reported not using the proper gumboots he needed in the field because he could not afford to buy them.

On the other hand, even workers that have PPE at their disposal do not (always) use them. At both Rainforest Alliance certified tea estates, workers spraying pesticides report (and were observed – see pictures), not using the PPE, such as masks and gloves, required to apply them. Workers indicate that it is more convenient for them to do it without PPE, and that they avoid inhaling pesticides by adjusting the spraying direction with the wind. This is a clear violation of certification standards. PPE is reportedly only used when audits take place.<sup>68</sup>

There were also some examples of improvements in the health and safety situation following certification. At both Rainforest Alliance certified tea companies, post-certification, evacuation routes and areas that have been sprayed with agrochemicals have been indicated. Positive changes at the Rainforest Alliance certified tea company Chakra included PPE being available to non-permanent staff, workers being trained in picking techniques to improve their safety, and only experienced permanent staff being allowed to apply agrochemicals. There were no reports of workers receiving general health and safety trainings at certified companies.

### 3.2.8 Security of employment

Between 70% and 90% of workers at certified and non-certified coffee and tea companies were employed on a temporary basis. Some workers indicated they had been working on temporary contracts for five years. There were no indications that certification has had any effect on increasing employment security.

### 3.2.9 Other findings

All tea companies provide a range of free services including housing, crèches, health care, transportation and primary education. In most cases, these services can be used by the families of workers as well, although family members of temporary workers need to pay for medical services. Also, access to water and electricity for workers living on the tea estates is secured and even free at both Chakra (certified) and Tambi (non-certified).

However, at Rainforest Alliance certified tea companies, non-permanent workers are not entitled to the same range of benefits as permanent workers. These include severance payment, bonuses and pensions.<sup>69</sup> Additionally as was already noted above, the PPE they need to use to do their work is not made available to them by the companies, but has to be bought at their own costs.

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<sup>68</sup> No coffee workers were observed applying chemicals without protection.

<sup>69</sup> In exceptional cases contract workers may be entitled to severance payment or pension.

In the coffee sector, temporary workers are entitled to fewer benefits than their tea sector counterparts. At both companies, in contrast to permanent workers, temporary workers do not have rights to paid sick leave and holidays, pensions or housing facilities. Temporary workers at the UTZ certified coffee plantation do not have rights to free transportation and free medical care at the hospital either. However the company does provide free medical care on the plantation to all workers, and free transportation to contract workers. At the non-certified coffee company, among temporary workers only contract workers have access to medical care as well as to free transportation.

There was no specific information on the general nature of labour relations.

#### **Awareness of and involvement in certification**

From the worker interviews it was clear that the management of the certified companies actively manages the input from workers during certification audits. Management selects workers that are allowed to speak to auditors before the audit takes place. Other workers are not supposed to get involved. The selected workers are then instructed by management to provide the answers they want them to give to the auditors which do not necessarily reflect the working conditions they experience in reality.

At the certified coffee company for example, casual workers are not allowed to answer auditors' questions. When asked why, workers explained that their employer believes they do not understand what certification means and that they therefore should refrain from giving inaccurate information.

Indeed, many workers claim they have no knowledge of certifications received by their employer. For example, at the Rainforest Alliance certified tea company Chakra Dewata, 90% of interviewed workers had no idea of Rainforest Alliance, or any other sustainability certification for that matter. This lack of knowledge is clearly not conducive for workers wanting to claim their rights under this prevailing certification in cases of violations.<sup>70</sup>

### **3.3 Concluding discussion on field study cases**

The aim of the field research is to produce information allowing both qualitative and quantitative comparisons of working conditions over time and between companies (groups). With the four-level design being used, performance of certified companies can be compared to international labour rights standards (1), to non-certified companies (2), to performance before certification (3) and with control group companies before certification (4). However, in practice, the information available does not always allow (quantitative) analysis on all these levels. Analysis on the first level and second level generally was possible, whereas analysis on other levels was not – the data set from Indonesia in particular had limited scope for analysis on level three and four. Because of these limitations, firm conclusions are not always possible. In addition, no strong claims can be made about the generalisation of the results because of the restricted number of companies, workers, countries and commodities included in the sample. Despite these limitations, case studies nevertheless clearly produce some interesting results that provide indications of the workplace impacts of certification in large scale

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70 This also constitutes a violation of criterion 5.18 of the Rainforest Alliance standards.

agriculture in developing countries. The presentation of the results is structured largely by the eight ILO labour rights that are central to this research.

For a better overview, compliance with each of the eight key labour standards (i.e. level one) on each of the 11 farms reviewed in the field research is presented in Table 3 on the next page. The table also shows the positive impacts on these rights attributed to sustainability certification by workers. In columns number 9 and 11 compliance with the standard provisions by the applicable standard itself are noted. These provisions are more specific and usually more stringent than the ILO standard applicable to farm workers.

### 3.3.1 Freedom of association and right to collective bargaining

At the certified companies reviewed in Kenya there is a mediocre situation with respect to freedom of association and right to collective bargaining. Compared to the non-certified control companies, the situation at certified companies is somewhat better. At both groups the fulfilment of these rights at the workplace has improved considerably over time (following certification) although improvement was more dramatic at non-certified companies. This suggests that the improvement at certified companies cannot be attributed to the adoption of certification alone. Workers credit Fairtrade certification for being instrumental for securing their first collective bargaining agreement in the Kenyan flower company Oserian. This is the only clear case in the field research in which positive impacts on this right are attributed to sustainability certification.

In Indonesia, certification was found to have had no effect on the right to freedom of association and collective bargaining as it is categorically denied to the non-permanent workers that constitute the large majority of the workforce. The problem is compounded by the evidence of yellow (non-genuine) trade unionism at all the tea estates. Indonesia has a weak reputation when it comes to freedom of association and collective bargaining, which in practice certification apparently has not been able to positively influence.<sup>71</sup>

### 3.3.2 Forced labour and child labour

No forced labour or child labour was reported by respondents at certified companies in either country. In Indonesia, a small number of teenagers were illegally employed on a part-time basis at a control group tea company. This clearly indicates that child labour is still prevalent in this sector. There was no information on the historic prevalence of child labour at now-certified farms. Hence absence of child labour at these farms cannot readily be attributed to the positive impact of certification.

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71 See for instance: Refworld website, "ITUC, 2012 Annual Survey of Violations of Trade Union Rights – Indonesia", <<http://www.refworld.org/docid/4fd8894730.html>> (9 December 2014).

**Table 3: On-farm compliance with key labour standards in Kenya and Indonesia and positive impacts on these rights attributed to sustainability certification**

<b>Labour right</b> Norm	<b>Freedom of association and right to collective bargaining</b> ILO (C87; C98)	<b>Elimination of forced labour</b> ILO (C29; C105)	<b>Abolition of child labour</b> ILO (C138;C182)	<b>Elimination of Discrimination</b> ILO (C100;C111)	<b>Minimum wage</b> ILO (C95)	<b>Living wage</b> ILO (Tripartite Basic Principle, art. 34)	<b>Overtime</b> ILO (C110)	<b>Overtime (sustainability certification)</b> Standard of sustainability certification	<b>Health and safety</b> ILO (C155)	<b>Health and safety (sustainability certification)</b> Standard of sustainability certification	<b>Security of employment</b> ILO (ILO Tripartite Basic Principle, art. 24–28)
<b>Legenda</b> + compliance/ respect, - non-compliance/ violation NA not applicable P positive impact attributed to sustainability certification											
<b>Company Certification</b>											
Williamson Tea Kenya Limited <i>UTZ Certified, Fairtrade, Rainforest Alliance</i>	+	+	+	- P	+	-	+	-	-	-	+ P
Eastern Produce Kenya Ltd <i>Rainforest Alliance</i>	+	+	+	- P	+	-	+	-	-	+	-
Kaisugu Tea Estate	+	+	+	-	+	-	+	NA	-	NA	-
Oserian Development Company Ltd <i>Fairtrade</i>	+ P	+	+	-	+	- P	+	-	- P	-	+
Van den Berg Roses <i>MPS-SQ</i>	+	+	+	-	+	-	+	-	-	-	-
PJ Dave Flowers	-	+	+	-	+	-	+	NA	-	NA	-
PT Pagilaran <i>Rainforest Alliance</i>	-	+	+	+	-	-	+	+	- P	-	-
PT Chakra Dewata <i>Rainforest Alliance</i>	-	+	+	+	-	-	+	+	- P	-	-
PT Tambi	-	+	-	+	-	-	+	NA	-	NA	-
PTPN XII <i>UTZ Certified</i>	-	+	+	-	-	- P	+	+	-	-	-
PTPN IX	-	+	+	+	-	-	+	NA	-	NA	-

### 3.3.3 Non-discrimination

In all companies surveyed in Kenya there is evidence of discrimination in the form of tribalism and sexism. However at half of certified companies surveyed there was also evidence of a positive impact of certification on this right over time. Overall gender discrimination is less pronounced at certified companies compared to the non-certified companies included in the sample. In the MPS-SQ certified flower company, certification has had no effect on discrimination. No specific information was available on rates of discrimination in control group companies over time.

In Indonesia there is evidence of gender discrimination at the certified coffee company in the sample. This finding indicates that UTZ certification at this company has had no (optimal) impact on this right. No discrimination was reported from other companies reviewed in Indonesia.

### 3.3.4 Wages

In both Kenya and Indonesia certification clearly has not been able to achieve living wages for workers at the companies reviewed. In either country, wages do not allow the vast majority of workers to support themselves and their families with basic needs and some discretionary income.

In absolute terms, wage levels at certified companies in Kenya were higher than at control group countries. In Indonesia, wage differences in absolute terms were more subtle. There was evidence that wages at the control group tea company were somewhat lower than at the certified tea companies whereas wages at certified and non-certified coffee companies were similar. At all companies reviewed in Indonesia, whether certified or not, certain groups of workers were receiving wages below minimum wage level in practice.

It was not possible to compare actual wage levels over time in either country but there is some evidence that indicates that wage levels were impacted positively by sustainability certification in both Indonesia and Kenya. For instance, in Indonesia workers at certified estates tended to benefit from annual pay rises in contrast to most workers at control group companies. In addition, coffee workers received a substantial and historic pay rise in the year their company received its first UTZ certificate. In Kenya workers in one of the tea companies reported having received higher wages when their company was first Fairtrade certified.

### 3.3.5 Overtime

Frequent overtime remains the norm for workers in Kenya. Overtime seems not to have been curbed, if at all, by adoption of certification. Workers at certified companies tend to work less overtime compared to workers at non-certified companies. However, when they work overtime they work more overtime. The magnitude and frequency of the reported overtime is not clearly violating applicable ILO standards or the applicable sustainability certification codes. However, on some farms, Fairtrade and Rainforest Alliance provisions are violated as workers do not receive higher

overtime rates. In Indonesia no irregularities were reported in relation to overtime at any of the companies.

### 3.3.6 Health and safety

The use of PPE has improved at certified companies in Kenya: workers have better access to PPE and are better trained in health and safety. However, to varying degrees, the availability of PPE to workers (and use thereof) is still not up to the relevant ILO standard everywhere. More workers report having received health and safety training and, to a lesser extent, PPE at certified compared to non-certified companies.

In Indonesia, the situation is similar to Kenya in relative terms. However, in absolute terms the health and safety situation is worse. Only one Rainforest Alliance certified company makes PPE available to *all* workers. In all other companies most workers have to do without or bring their own (a major financial burden for workers). What is more, PPE – even when it is available – is often not used systematically and when most needed (e.g. when applying agrochemicals).

### 3.3.7 Security of employment

In Kenya, the share of temporary workers at non-certified companies is significantly higher than at certified companies reviewed. Only in the multiple-certified tea company was improved security of employment attributed to the impact of certification. In Indonesia, no impact of certification systems was observed on job security at the companies reviewed. All companies employ mostly non-permanent workers, which deprives them of a number of benefits permanent workers enjoy.

### 3.3.8 Other findings

The research also seeks to gauge workplace impacts that are not – or are less – linked directly to formal labour rights including benefits, labour relations and social audits. No clear effects of sustainability certification can be established on the distribution of in-kind benefits such as housing and health care in either Kenya or Indonesia on the farms reviewed for this research. In Kenya, tea workers attribute improved hygiene to sustainability certification. Also (better) access to drinking water is referred to by workers as a merit of Rainforest Alliance and Fairtrade but not to MPS-SQ certification. In Indonesia it was very clear that temporary workers do not accrue all the benefits that permanent workers enjoy, ranging from severance payment, bonuses and pensions, to free health care and transportation. From this perspective the apparent lack of impact of certification on the security of employment in this country is even more worrying.

While still at a substandard level overall, labour relations are better at certified companies than at non-certified companies sampled in Kenya and there is evidence that relations have improved as the result of certification at these farms. There was no information available for analysis of impact of certification on labour relations in Indonesia.

General awareness of certification and the potential benefits thereof is very low overall in Indonesia on the farms visited for this research. In Kenya, except for MPS-SQ certification, the majority of workers knew about the kind of certifications their company had received. In both countries it was evident that auditors do not get to hear about the reality on the ground. In both countries only a minority gets to speak to auditors freely, if at all. In Indonesia, audits are actively manipulated by pre-selecting workers that are briefed to this end for audit purposes.

### 3.3.9 Conclusion

Workplace conditions are generally better at certified companies compared to non-certified companies sampled in the field research. Most notably, workers at certified estates tend to have higher wages, better health and safety conditions, more security of employment, fewer problems with gender discrimination and claim better fulfilment of their right to freedom of association and collective bargaining than workers interviewed at non-certified farms. There are also indications that sustainability certification has helped to improve the situation with respect to these same rights although the evidence is often thin (see Table 3). Only in the case of health and safety did workers from three different certified farms attribute positive impacts on this right to sustainability certification. For other rights on which positive impacts were noted, workers in only one or two farms attribute it to sustainability certification.

While workers may be better off overall on certified than on non-certified farms, their conditions are often not up to ILO standards (see Table 3). Many farm workers still struggle with temporary contracts and low wages, are not free to join trade unions, fear persecution of their trade union leaders, have no protection to do their work safely and are exposed to discrimination. Indeed there is strong evidence that worker's rights to freedom of association and collective bargaining, a living wage, non-discrimination, health and safety, and security of employment are violated or hampered on most of the farms sampled, despite certification. In addition overtime has not been curbed if at all on certified farms reviewed and the situation on some of the farms violates the overtime provision of the prevailing sustainability certification. Many workers interviewed are unaware of the meaning of sustainability certification. Verification of compliance with the standards sustainability certifications uphold is seriously flawed at all certified companies reviewed as few workers, if any, feel free to share their concerns with auditors.



## 4 Literature study

In this chapter information from the relevant and available literature on the working conditions of plantations that have received sustainability certificates is presented and analysed. For practical and methodological reasons (see section 2.3) there is a focus on reports of violations of labour rights at these certified companies. The analysis also integrates the information on labour rights violations from the field research. First the results are analysed and presented for factors such as sectors, countries, type of certification and combinations for labour rights generally. In the sections that follow the focus is on analysing patterns of specific labour right violations. The chapter ends with a discussion of system inherent factors such as social auditing and worker awareness.

### 2.1 Overall prevalence and sources

For the literature study, reports were screened that pertain to one or more of the following 14 sustainability certifications<sup>72</sup> selected on the basis of the research criteria outlined in section 2.3.2:

- Aquaculture Stewardship Council (ASC)
- Bonsucro
- ESR (Equitable, Solidaire et Responsable, Ecocert)
- Fair Trade USA
- Fair for Life
- Fairtrade
- Hand in hand – Fair Trade Rapunzel
- MPS-SQ (Milieu Project Sierteelt – Socially Qualified)
- Rainforest Alliance
- Roundtable on Sustainable Palm Oil (RSPO)
- Round Table on Responsible Soy Association (RTRS)
- SA8000 (Social Accountability 8000)
- UTZ Certified
- Veriflora

As can be seen in Table 4, 20 reports (sources) were identified that document violations of labour rights on farms in developing countries (following the methodology outlined in section 2.3.2). Eleven reports refer to violations at only one certified producer each. The other nine reports detail violations at several different certified producers and/or at different certified plantations from a single company. Overall 207 different labour violations were reported at 70 different sustainability certified producers or production units (cases).

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72 ESR, MPS-SQ and ASC were not identified originally by applying the relevant filters in the ITC 'standards map'. They were added because further assessment of their requirements qualified them for selection or were missing from the database altogether.

**Table 4: Reports documenting labour right violations on developing country farms (cases)<sup>73</sup> specifying the number of cases, violations, the nature of the source and the year in which the violation occurred**

Report	Short reference	Cases	Violations	Source	Year
1	Certified Coffee and Tea Indonesia	3	13	SOMO	2012
2	Certified Flowers and Tea Kenya	4	14	SOMO	2012
3	Certified Tea Indonesia, Malawi and India	3	3	Oxfam	2013
4	Fair for Life Mango Peru	1	1	Oxfam	2013
5	Fairtrade Bananas Ghana	1	1	Bananalink	2009
6	Fairtrade Bananas Colombia	1	1	Bananalink	2012
7	Fairtrade Flowers Tanzania	1	2	Friedrich Ebert Stiftung	2010
8	Fairtrade Fruit and Wine South Africa	1	2	Human Rights Watch	2011
9	Fairtrade Pineapple Costa Rica	1	2	Media	2006 2012
10	Fairtrade Tea India	3	13	Colombia University	2010
11	MPS-SQ Flowers Uganda	1	3	Media	2012
12	SA8000 Tea India	17	59	Colombia University	2013
13	Rainforest Alliance and SA8000 Bananas Costa Rica	1	2	Media	2007
14	Rainforest Alliance Bananas Costa Rica	16	32	Bananalink	2010
15	Rainforest Alliance Tea Kenya and India	8	40	SOMO	2011 2013
16	Rainforest Alliance Flowers Colombia	2	2	ILRF	2009
17	Rainforest Alliance Pineapple Costa Rica	1	2	Media	2010
18	RSPO Palm Oil Indonesia	3	8	ILRF	2013
19	SA8000 Pineapple Philippines	1	4	ILRF	2006 2010 2011
20	Rainforest Alliance Bananas Honduras	1	3	ILRF	2009
<b>Total</b>		<b>70</b>	<b>207</b>		

73 See Annex 1 for full references to the number-coded reports. 'Cases' refers to the (number of) farms where violations are reported from in the corresponding report. 'Violations' refers to the (number of) different labour right violations – maximum one for each of the eight key labour rights - that reportedly occur for each case (farm). In the table all the violations for all the cases for each report are added up.

Seven civil society organisations were the source of two thirds of all relevant cases. Most of these cases were reported by Bananalink (18), SOMO (17), International Labour Rights Forum (ILRF) (7) and Oxfam (4) (see Table 4). One academic institution, Colombia University, was the source of another 20 reported cases. The remaining three cases were reported by different media. Of the 20 reports detailing the 70 cases, only three are from (or started) before 2009.

### **Many reports of labour right violations**

The fact that a high number of labour rights violations are reported from a substantial number of farms shows that respect for labour rights is not always achieved by sustainability certifications on the plantations they certify. However, the number is relatively small compared to the 2,943 large scale farms certified in 2013 as being compliant with the norms of the 14 sustainability certifications under review.<sup>74</sup> Yet there are a number of good reasons to believe that the number of farms on which labour rights are violated is much larger in reality.

Firstly, the number of farms (cases) is estimated conservatively in this analysis: in some of the reports there is evidence of higher numbers of farms where labour rights violations may take place but they are not counted as they cannot be properly identified.<sup>75</sup> Secondly, the case study research for this report (i.e. reports #1 and 2) and similar earlier research by SOMO (#15) revealed violations on *all* of the 13 certified farms where workers were interviewed. Moreover, SOMO did not pre-select any certified farms for sampling based on prior knowledge on worker treatment. As such there is no reason to believe these certified farms were not average, certified farms. Hence it is expected that if more certified farms were subject to independent research, more cases of violations would be reported. Thirdly, each year Fairtrade reports receiving complaints in relation to the labour rights situation on up to 8% of all the large farms they certify.<sup>76</sup> Other sustainability certifications may receive similar numbers of complaints relative to number of farms they certify which – if all were added up – represent a considerable number.<sup>77</sup> Finally, independent case studies on the impact of certification require substantial resources for research and follow-up, posing a major obstacle for civil society organisations and journalists who may wish to investigate them in the first place. This may be another cause for underreporting.

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74 No readily available estimate was available in the literature. Also, information from different sustainability certifications is not always disaggregated for type of producer and other relevant characteristics such as nationality, nor was it always available from the same year. Most sustainability certifications publish lists of producers that have valid certification. These lists and other publications of sustainability certification have been used to base the estimates on.

75 Several violations of different aspects of each of the eight key labour rights were counted as a single violation.

76 In 2012 there were in total 17 complaints on the labour rights situation on Fairtrade certified farms: 12 complaints relating to 'labour rights', four to health and safety and one on freedom of association. FLOCERT website, Allegations, Appeals, Reviews, Complaints Statistics 2012, <[https://oc.flocert.net/flo-cert/fileadmin/user\\_upload/quality/Complaints\\_Management\\_Total\\_2012\\_4.pdf](https://oc.flocert.net/flo-cert/fileadmin/user_upload/quality/Complaints_Management_Total_2012_4.pdf)> (9 December 2014).

77 As will be argued in sections 4.3 and 4.5, a number of factors related to the prominence or visibility of sustainability certification (e.g. historical market presence and number of different commodities they certify) and code (implementation) quality (see section 2.3.2) may influence the number of complaints sustainability certifications receive.

## 4.2 Differences between sectors and countries

The findings were analysed to see whether there were differences in the level of success achieved by the various sustainability certifications in terms of promoting good labour conditions across the sectors and countries in which they operate. When looking at the results from a sectoral angle (see Table 5), 70 cases relate to eight commodity sectors: tea, coffee, palm oil, banana, pineapple, mango, wine and flowers. Half of all recorded cases relate to the tea sector. Most other cases relate to four other sectors: banana (20), flower (6), palm oil (3), and pineapple (3). One case is reported from each of the three remaining sectors.

A geographic perspective on findings (see Table 5) shows that cases are reported from developing countries all over the world. Around half of all cases are from Asia, 24 from Latin America and 10 from Africa. When looking more closely at the origin of the cases, it becomes clear that they are confined to just 13 countries. Moreover, two countries, India (28) and Costa Rica (19), are the origin of more than two thirds of all cases. Other countries from which more than one case was reported are Indonesia (7), Kenya (5) and Colombia (3).

**Table 5: Number of certified farms from which labour rights violations are reported in different sectors and countries<sup>78</sup>**

Commodities		Countries			
Tea	35	India	28	South Africa	1
Bananas	20	Costa Rica	19	Uganda	1
Flowers	6	Indonesia	7	Philippines	1
Palm oil	3	Kenya	5	Honduras	1
Pineapple	3	Colombia	3	Peru	1
Coffee	1	Ghana	1		
Mango	1	Tanzania	1		
Wine (and fruit)	1	Malawi	1		

The findings clearly show that more violation cases are reported from specific countries or sectors than others, suggesting underlying sectoral and geographic factors. While there are greater numbers of certified farms in these sectors and areas, which may account for the higher incidence of reported violations, there may be other, more systemic reasons for them.

<sup>78</sup> See Annex 1 for full references to the number-coded reports and acronyms for abbreviations.

## Frequency

As a control for analysing the effect of the number of sustainability certified large scale farms in any sector or country on the number of violation cases, information is needed on these numbers. Because this information is not publicly available for all sustainability certifications reviewed in this study, geographic and sectoral characteristics of Rainforest Alliance certified farms are used in the analysis to estimate the global share (frequency) of certified farms per country and sector. Among the sustainability certifications reviewed in this report, Rainforest Alliance is the most important in terms of the number (970) of large scale producers that have received this certification. Moreover, unlike half of the 14 sustainability certifications reviewed in this report, such as RSPO, RTRS, MPS-SQ and even UTZ Certified, it has a broad portfolio of a total of 79 commodities it certifies in large scale farming in at least 35 countries worldwide.<sup>79</sup> Together these characteristics make Rainforest Alliance the best standard for estimating frequencies among the sustainability certifications reviewed.<sup>80</sup>

## Focus on commodities

The number of Rainforest Alliance certified farms involved in producing commodities for which violations are reported shows that they represent 75% of the total number of Rainforest Alliance certified farms.<sup>81</sup> This shows a concentration of cases in the sectors in which most of the certified farms operate. To analyse non-trivial factors, the observed frequency of violations reported from certified farms in specific countries, or producing specific commodities, is compared with the expected frequency based on the total estimated number of certified farms in the same countries or commodity sectors.

## Comparing frequencies

For the purpose of comparing observed frequencies with the number of certified farms, a likelihood Chi-squared test<sup>82</sup> is used to evaluate how likely it is that any observed number of violations is commensurate with number of certified farms (also see section 2.3.2). The comparison of observed with expected frequencies of violation reports based on the estimated number of certified farms producing this commodity shows that these two groups are significantly different ( $G^2 = 159.04$ ,  $p < .001$ ,  $(df = 3, N = 69)$ ).<sup>83,84</sup> This means that, for the commodity sectors in which violations were reported, the mere number of certified farms active in a country is very unlikely to fully explain the distribution of cases of violation. This suggests that there is a correlation between the type of commodities certified farms produce and the number of reported labour right cases.

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79 To separate large scale from small scale certified producers in the list of producers that Rainforest Alliance makes available online, the Rainforest Alliance producer certification category (i.e. 'group' versus 'single') specification was used.

80 For estimating global frequencies the characteristics of the population of Rainforest Alliance certified farms is not ideal either. For instance Rainforest Alliance does not certify fish from aquaculture or wine (but table grapes are) and, compared to sustainability certifications that focus on a single commodity (e.g. RSPO, RTRS and Bonsucro), it certifies relatively few soy, palm oil and sugar farms.

81 The wine sector, for which one violation is reported, is not included as Rainforest Alliance does not certify farms in this sector.

82 This test is also called a G-test because of the use of the  $G^2$  symbol.

83 Commodities for which no violations were reported are not tested, as no frequency can be calculated for these.

84  $Df$  is the number of degrees of freedom,  $N$  is the number of observations and  $p$  is the calculated probability. When the  $p$  value is below 0.05 this means that a probability is significantly small and the null hypothesis is rejected. Even lower  $p$  values mean one can have more confidence that the difference between groups is significant and not random.

### Interpreting findings

Looking more closely at the details of the comparison reveals that most of the difference between the expected and observed frequencies stems from just two groups of certified farms: those producing tea and those producing coffee (also see Annex 2 Table 9). Many more cases are reported for the tea sector compared to what one would expect based on the estimated number of large scale certified tea farms, whereas for coffee the opposite is true.

The exceptionally high number of tea sector violation reports shows they are not, at least not always, adequately addressed by sustainability certifications. This probably relates to the conditions for tea workers being both extremely harsh and acutely observed by watchdog organisations, especially in India, from where were most of the violations in this sector were reported (see next section). At the same time, the unusually low number of violation cases from the coffee sector is probably not related to sustainability certifications being particularly effective in promoting and/or ensuring good working conditions in this sector. For instance, unlike most other commodities for which cases are reported, coffee is predominantly produced by smallholders (80% of global production).<sup>85</sup> In addition, Fairtrade, one of most prominent sustainability certifications, does not even certify coffee from large scale farms. Such factors may have reduced the probability of watchdog organisations taking an interest in monitoring developments in large scale farming in this sector, and especially on the social impact of certification.<sup>86</sup>

### Focus on countries

Violations are reported in 13 of the 35 countries in which Rainforest Alliance has certified farms globally. This ratio of roughly one to three countries is similar to the ratio of the number of farms Rainforest Alliance has certified in these countries to the overall number of Rainforest Alliance certified farms. This shows an even distribution of violation cases among countries relative to the number of certified farms these countries host. It can be noted that the distribution of cases is less skewed towards countries that have certified relatively many farms, as is evident from the sectoral distribution. This may suggest that the distribution of violation cases is relatively less affected by geographical than sectoral factors.<sup>87</sup>

### Frequencies

As with our commodity comparisons, statistical analysis was used to compare the observed and expected frequencies of violation reports from countries relative to the number of Rainforest Alliance certified producers in these same countries. The test again shows that these two groups are significantly different ( $G^2 = 52.83$ ,  $p < .001$ , ( $df = 5$ ,  $N = 68$ )), although not as much as for the commodity comparison. This means that, for the countries from which violations were reported, the probability

85 Fairtrade International, Powering up smallholder farmers to make food, May 2013, <[http://www.fairtrade.net/fileadmin/user\\_upload/content/2009/news/2013-05-Fairtrade\\_Smallholder\\_Report\\_FairtradeInternational.pdf](http://www.fairtrade.net/fileadmin/user_upload/content/2009/news/2013-05-Fairtrade_Smallholder_Report_FairtradeInternational.pdf)> (9 March 2015).

86 Impact research often focusses on the coffee sector but mostly on small producers, e.g. M. Chan & B. Pound, 24 April 2009, Final report: literature review of sustainability standards and their poverty impact, <[http://www.nri.org/projects/tradestandards/docs/pound\\_and\\_chan.pdf](http://www.nri.org/projects/tradestandards/docs/pound_and_chan.pdf)> (17 November 2014).

87 Rainforest Alliance has a relatively strong presence in Latin America, which may have distorted the comparison; 81% of all Rainforest Alliance certified large scale farms are located in Latin American countries. This compares to: 31% share of Latin American countries of the total number of hectares the relevant sustainability certifications have certified in developing countries (calculations SOMO has based on figures from J. Potts).

that the relative number of certified farms operating in these countries fully explains the distribution of violation cases among countries is very small. In turn this may indicate that regional factors play a role in the distribution of violations.

### Interpreting findings

Most of the discrepancy between the expected and observed number of cases overall stems from India and Costa Rica (also see Annex 2 Table 9). It should be noted that all reports from India relate to its tea sector and 89% of all cases from Costa Rica originate from banana plantations. Hence it is most likely that both sectoral and geographical factors have produced relatively exceptional situations. However, as noted for the coffee sector, these factors need not necessarily relate to sustainability certifications being more or less successful in promoting good labour conditions in these exceptional situations. It may also be related to factors that incentivise watchdog organisations in publicly addressing labour rights issues in these particular situations. Such factors may relate to the relative prominence of the sector or country or the companies active in it, the presence of strong and vocal civil society working in producer countries (e.g. trade unions), and/or to the structural interest of specific watchdog organisations in specific sectors (such as Bananalink for bananas).

## 4.3 Differences between sustainability certifications

Labour rights violations are reported on farms certified by seven of the 14 sustainability certification initiatives initially selected for further research (see section 2.3.2): Rainforest Alliance, Fairtrade, UTZ Certified, RSPO, SA8000, Fair for Life and MPS-SQ (see Table 6). The table clearly shows that more cases tend to be reported for sustainability certifications that have certified more producers.<sup>88</sup> Because producers may have up to three different sustainability certifications (e.g. #2, Williamson Tea), reports of labour rights violations are considered (in this section) as individual cases for each valid certification. As a result the total number of reported cases was 73 as opposed to 70 as noted earlier in this chapter. When using this figure, 88% of all known cases pertain to Rainforest Alliance, SA800 and Fairtrade certified sites.<sup>89</sup> As these three sustainability certifications together account for 'only' 44% of the total number of farms with a relevant certificate, this shows that they nevertheless certified a relatively large proportion of farms from which violations have been reported.

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88 For various reasons the estimates of the numbers of farms that different sustainability certifications have certified may not always be fully comparable. For instance, it is not always clear what kind of unit is certified by sustainability certifications. The level of certification may be a plantation company with several farms or sites, or it may be a single farm or factory. In this report the numbers pertain to the lowest level to which a certificate can apply, which mostly is the farm or plantation level. To illustrate, SA8000 makes a distinction between 'parent' (applying to a plantation company) and 'child' certificates (applying to a plantation or business unit). Hence, in the case of SA8000, the number of child certificates was counted. However, RTRS (for example) makes no such distinction and seems to refer to company level certificates only. As the number of farms covered by specific RTRS certificates could not readily be assessed, the number of farms (business units) RTRS has certified is probably much larger in reality.

89 This overall trend does not change significantly when the duplication of similar cases referenced in two specific sources (e.g. 13 and 15) that pertain to a larger number of different plantations that belong to two different companies (see footnote 10) are discarded.

**Table 6: Estimated number of certified large scale farms (units), number of cases and labour rights violations, year of first certification, and number of different certified commodities for selected sustainability certifications**

Sustainability Certification	Farms		Cases		Violations		History	Portfolio
	Count	Share	Count	Share	Count	Share	Year	Count
	Aquaculture Stewardship Council	70	2%	0	0%	0	0%	2010
Bonsucro	38	1%	0	0%	0	0%	2011	1
ESR	37	1%	0	0%	0	0%	2007	28
Fair for Life	113	4%	1	1%	1	0%	2006	63
Fair Trade USA	55	2%	0	0%	0	0%	2011	13
Fairtrade	211	7%	11	15%	25	12%	1988	28
Hand in hand – Fair Trade Rapunzel	14	0%	0	0%	0	0%	1992	11
MPS-SQ	55	2%	2	3%	7	3%	2002	1
Rainforest Alliance	970	33%	34	47%	92	44%	1993	79
Round Table on Responsible Soy Association	27	1%	0	0%	0	0%	2011	1
Roundtable on Sustainable Palm Oil	304	10%	3	4%	8	4%	2007	1
SA8000	128	4%	19	26%	65	31%	2001	14
UTZ Certified	910	31%	3	4%	9	4%	2001	4
Veriflora	11	0%	0	0%	0	0%	2005	1
<b>Total</b>	<b>2943</b>		<b>73</b>		<b>207</b>			

### Frequencies

Statistical analysis is used to compare the observed and expected frequencies of violation cases based on the number of certified farms the selected sustainability certifications have certified globally. The test shows that the expected frequencies are significantly different from those observed ( $G^2 = 64.59$ ,  $p < .001$ ,  $(df = 4, N = 70)$ ) and roughly as much as for the country comparison (also see



Annex 2 Table 9). Hence, at least for those sustainability certifications for which cases were reported,<sup>90</sup> factors other than the relative number of farms sustainability certifications have certified are likely to play a role.

### **Unexpected results for UTZ Certified and SA8000**

SA8000 and UTZ Certified are the two sustainability certifications that account for most of the discrepancy between the expected and observed number of cases found (also see Annex 2 Table 9). Many more cases are reported for SA8000, and many fewer for UTZ Certified, than can be expected based on their respective share of the total number of farms certified by the sustainability certifications for which cases were reported. For SA8000 the exceptionally high number of cases relate to tea plantations in India from where 89% of all its cases are reported. With 27% and 21% respectively, a considerable share of Rainforest Alliance and Fairtrade cases for relate to the Indian tea sector. This shows that not only SA8000 but also other leading sustainability certifications struggle with improving labour conditions in this country. However, compared to Fairtrade and especially Rainforest Alliance, Indian tea plantations represent a relatively large share of the farms SA8000 certifies globally (for SA8000 this is 20%, while for Fairtrade and Rainforest Alliance this figure is 15% and 2% respectively) and this may be an important factor in the relatively high number of violation cases for this sustainability certification. Similarly, the exceptionally low number of cases for UTZ Certified may relate to the very low number of cases from the coffee sector. An estimated 93% of all large scale farms UTZ Certified has certified are active in the coffee sector, representing a much higher share than for all other sustainability certifications reviewed in this report that also certify coffee producers.

### **Prominence**

As violations are reported only for the most prominent sustainability certifications, the prominence (i.e. visibility or importance) of sustainability certifications also seems to have played a role in the uneven distribution of cases among them. This can probably be explained by the evident and natural inclination of researchers, NGOs or media, to report particularly on labour conditions on farms that have received the certificate(s) of prominent sustainability certifications. Next to the overall number of farms sustainability certifications have certified, the number of different commodities they certify and the number of years they have been certifying farms is estimated to gauge the prominence of sustainability certifications in quantifiable way (see Table 6). Based on these parameters the analysis indeed confirms that prominence is a factor.

### **Exceptions**

For instance Rainforest Alliance, SA8000 and Fairtrade, the sustainability certifications for which, as just noted, most cases are reported, have been around longer and have broader commodity portfolios than most other sustainability certifications reviewed in this report (see Table 6). Among the sustainability certifications reviewed there are only two exceptions to the overall pattern that violations cases are reported only for sustainability certifications that have been around relatively long and have broad product portfolios: RSPO and Hand in hand – Fair Trade Rapunzel. In both cases the number of farms these sustainability certifications certify may have been an additional factor in affecting their relative prominence. Violation cases are probably being reported for RSPO

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90 Chi squared tests do not allow for calculating entries for which frequencies are equal to zero.

despite this sustainability certification being relatively young and having a narrow commodity focus, because it certifies a relatively large number of farms. For Hand in hand – Fair Trade Rapunzel, the reverse may be true.

### Quality factors

Possible differences in the quality of approaches of sustainability certifications may also affect their labour rights impacts and so this factor is also analysed. To estimate quality, the code content of sustainability certifications is analysed as it is the only indicator that is both readily measurable and relevant.<sup>91</sup> To analyse and compare code content of the different sustainability certifications for which cases were reported (i.e. seven) a simple benchmark was made for scoring their code provisions. Table 7 shows the scores and rankings for code provisions of each sustainability certification associated with violations of the five most violated key labour rights (see Annex 3 for more details) as well as the corresponding number of violations.

### Statistical analysis

To analyse whether there is a relation between code quality and the number of reported violations, a statistical test – one way ANOVA – is performed. To allow for this test, quality scores were first optimised to be comparable<sup>92</sup> and standardized. To increase overall reliability of the test, data pertaining to Fair for Life were removed as there is only one violation reported for this sustainability certification.<sup>93</sup> The results show a highly significant effect of code quality on reported violations ( $F = 5.22$ ,  $p < 0.0001$ ,  $df = 1$ ,  $N = 5$ ), meaning that code quality is very likely to affect the distribution of violations. The averages (estimated cell means) for the six different sustainability certifications show that Fairtrade has the highest overall score followed, in descending order by MPS-SQ, UTZ Certified, RSPO, Rainforest Alliance and SA8000. A Scheffe post hoc test shows significant ( $p < 0.01$ ) differences between the average scores for Fairtrade and Rainforest Alliance and SA8000 respectively (both at  $p < 0.005$ ) only.

### Interpreting findings

These findings show that overall, fewer violations are reported for sustainability certifications that have relatively better codes. However, only the quality differences between Fairtrade and Rainforest Alliance and Fairtrade and SA8000 are significant enough to show an effect on the distribution of violations. Moreover, looking at the average scores, roughly two groups can be discerned: Fairtrade and MPS-SQ on the one hand and UTZ Certified, RSPO, Rainforest Alliance and SA8000 on the other. Within these two groups the averages are similar.

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91 There is a wide range of other factors that could also be included in a sustainability certification quality analysis. For instance, one could look at the governance structure, audit cycle and training programmes of different sustainability certifications. However, a comprehensive analysis is beyond the remit of this research.

92 P. Mair & J. de Leeuw, "A General Framework for Multivariate Analysis with Optimal Scaling: The R Package aspect", *Journal of Statistical Software*, Vol. 32, Issue 9, (January 2010).

93 Reports of child labour are also excluded as the code quality for sustainability certification pertaining to this right were not scored.

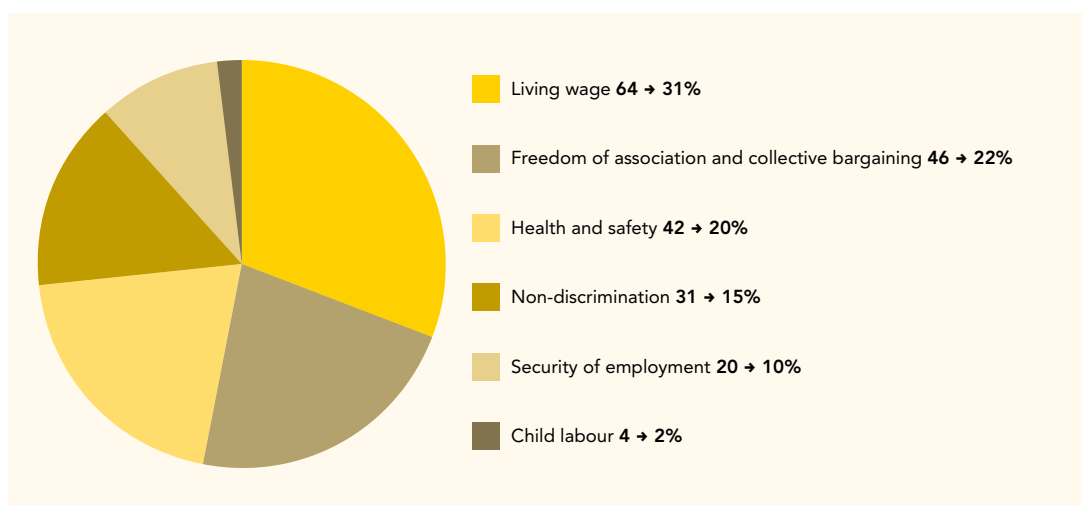
**Table 7: Number of violations, share of the number of violations for specific labour right and code quality scores, and ranks for different sustainability certifications for which violations of selected key labour rights are reported**

Sustainability Certification	Labour right	Violations count	Share within group	Code quality score	Code quality rank
Fair for Life	Living wage	1	2%	2	2
Fairtrade	Freedom of association and right to collective bargaining	6	13%	4	1
	Health and safety	5	12%	4	1
	Living wage	8	13%	2	2
	Non-discrimination	1	3%	4	1
	Security of employment	4	20%	3	1
MPS-SQ	Freedom of association and right to collective bargaining	1	2%	2	3
	Health and safety	2	5%	3	2
	Living wage	2	3%	3	1
	Non-discrimination	1	3%	3	2
	Security of employment	1	5%	3	1
Rainforest Alliance	Freedom of association and right to collective bargaining	30	65%	1	4
	Health and safety	12	29%	2	3
	Living wage	29	45%	1	3
	Non-discrimination	9	29%	1	4
	Security of employment	11	55%	1	3
RSPO	Health and safety	2	5%	1	4
	Living wage	3	5%	3	1
	Security of employment	1	5%	1	3
SA8000	Freedom of association and right to collective bargaining	8	17%	3	2
	Health and safety	19	45%	2	3
	Living wage	18	28%	3	1
	Non-discrimination	18	58%	2	3
	Security of employment	2	10%	2	2
UTZ Certified	Freedom of association and right to collective bargaining	1	2%	3	2
	Health and safety	2	5%	3	2
	Living wage	3	5%	1	3
	Non-discrimination	2	6%	1	4
	Security of employment	1	5%	1	3

## 4.4 Differences between labour rights

In Figure 1 the number of different violations per labour right are represented, as well as their relative weight to the total number of violations. The figure shows that almost all of the 207 violations (98%) are confined to five key labour standards: living wage, freedom of association and collective bargaining, health and safety, non-discrimination and security of employment. The table also shows that just two of them (living wage, freedom of association and right to collective bargaining) account for half of all violations (53%). What is worth noting is that even labour standards that are regarded by the ILO as *fundamental* labour rights at work, such as freedom of association and right to collective bargaining, abolition of child labour and non-discrimination, are at risk in certified companies<sup>94</sup> and that *all* eight key labour standards used in the research framework are violated at least once, except for the elimination of forced labour and overtime.

**Figure 1: Number of violations per labour right and as share of total**



As with the comparisons for aggregated violations in the previous section, the number of different violations reported per labour right were compared to optimised quality scores for the implicated sustainability certifications. However, the effect of quality on the distribution of the number of violations for each labour right was generally weak and not significant, hence no further details are provided on these results in the discussion in the following sections. This means that no statistical relation between code quality and violations can be found when this is assessed on the level of specific labour rights. While there is an overall effect of code quality on aggregated labour rights this suggests that there is an effect but that it is too subtle to be picked up on this level based on the lower number of reported violations.

94 ILO website, ILO Declaration on Fundamental Principles and Rights at Work, <<http://www.ilo.org/public/english/standards/relm/ilc/ilc86/com-dtxt.htm>> (8 April 2014).

#### 4.4.1 Living wage

With 64 recorded violations, the human right to a living wage<sup>95</sup> is clearly the right most workers complain about at certified companies:<sup>96</sup> 31% of all reported violations pertain to this right. This relatively high number of violations may be explained by the fact that sustainability certifications primarily ensure minimum or regional industry standard wages and not 'living wages'.<sup>97</sup> Minimum or regional industry standard wages however are usually (far) below the level of what would constitute a living wage,<sup>98</sup> even when considering that workers may be entitled to in-kind benefits.<sup>99</sup> By contrast, reports of wage levels below living wage standard are considered violations in this study.<sup>100</sup>

There is no reference to 'living wages' or equivalent notions at all in popular standards such as those of Rainforest Alliance and UTZ Certified.<sup>101</sup> However all the other sustainability certifications for which violations of the right to a living wage were reported in this research reference the concept, or even the term, of a living wage in one form or another.<sup>102</sup> The Fairtrade standards for hired labour, for instance, explicitly refer to 'living wages'. However payment of living wages is encouraged ('progress requirement') and not required ('minimum requirement') for certification.<sup>103</sup> The SA8000 standard is not so permissive.<sup>104</sup> According to SA8000 living wages are even central to it.<sup>105</sup> However, despite this, producers apparently get certified without paying them.<sup>106</sup>

#### Concerted efforts

Through their recent joint work to achieve payment of living wages, SA8000, UTZ Certified, Fairtrade and Rainforest Alliance are implicitly open about struggling to ensure this right for workers.<sup>107</sup>

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95 United Nations Universal Declaration of Human Rights, Art. 25.1, <<http://www.un.org/Overview/rights.html>> (26 June 2014).

96 ILO Tripartite Basic Principle, article 34.

97 Cf. Oxfam, Understanding tea industry wage, 2013, <<http://oxfamilibrary.openrepository.com/oxfam/bitstream/10546/287930/1/rr-understanding-tea--industry-wage-020513-en.pdf>> (26 June 2014).

98 Cf. Berenschot, Living wage, Wages in international supply chains, <[http://www.berenschot.com/publish/pages/2787/brochure\\_living\\_wage\\_en.pdf](http://www.berenschot.com/publish/pages/2787/brochure_living_wage_en.pdf)> (26 June 2014).

99 Cf. Oxfam, Understanding tea industry wage.

100 There were also cases of companies not paying minimum wages (see for instance source #1) but these are not recorded separately in this section.

101 Sustainable Agriculture Network & UTZ Certified, Code of Conduct For Coffee, Version 1.2 – November 2010, Version 1.2 – November 2010 <[http://www.utzcertified-trainingcenter.com/home/images/stories/library\\_files/EN+UTZ+Code+of+Conduct+Coffee.pdf](http://www.utzcertified-trainingcenter.com/home/images/stories/library_files/EN+UTZ+Code+of+Conduct+Coffee.pdf)> (26 June 2014).

102 C.f. Bio Foundation Switzerland, Fair for Life Social & Fairtrade Certification Programme, Version 2011, Control Module 2: Criteria for Hired Labour Operations, <[http://www.fairforlife.org/client/fairforlife/file/FFL\\_2011\\_\\_2\\_Hired\\_Labour.pdf](http://www.fairforlife.org/client/fairforlife/file/FFL_2011__2_Hired_Labour.pdf)> (26 June 2014).

103 Fairtrade International, article 1.5.2.5. In the 2014 revision of the Fairtrade standard progress towards a living wage is required for certification if wages are below living wage levels.

104 SAI, SA8000:2008 side by side comparison with SA8000:2014, <[http://www.sa-intl.org/\\_data/n\\_0001/resources/pending/SA8000%20Side%20By%20Side%202008%20and%202014.pdf](http://www.sa-intl.org/_data/n_0001/resources/pending/SA8000%20Side%20By%20Side%202008%20and%202014.pdf)> (29 July 2014).

105 SAI website, Our Work, Programs, "Living Wage", <<http://www.sa-intl.org/index.cfm?pagelD=1584>> (26 June 2014).

106 The reason for this is not clear. It may be for a lack of enforcement or available calculations as a benchmark for wages in certain countries.

107 ISEAL Alliance, A Shared Approach to a Living Wage, 24 November 2013, <[https://utzcertified.org/images/stories/site/pdf/downloads/joint\\_statement\\_on\\_living\\_wage\\_20131124.pdf](https://utzcertified.org/images/stories/site/pdf/downloads/joint_statement_on_living_wage_20131124.pdf)> (26 June 2014).

The short-term goals of this 'living wage working group'<sup>108</sup> include better articulation and definition of this right in their standards, research into what would constitute living wage in different sectors and countries, and aligning mechanisms to evaluate wages against these levels. In the long term the group aims for 'improvements in workers' conditions, including wage levels, in the farms, factories and supply chains participating in our respective certification systems and beyond'.<sup>109</sup>

This concerted effort highlights a number of factors that explain the noted failure in achieving compliance with this right and entails a promising approach. However, from another perspective, it should also be stressed that ever since their conception, sustainability certifications probably have not managed to achieve decent wages for workers at certified farms. Indeed, in practice they (may) have been allowing payment of minimum wages despite ample evidence that these do not meet the basic needs of workers and their families in developing countries. This issue is not only problematic for the workers involved but also entails a risk for the credibility of sustainability certifications. A consumer perception survey commissioned by Fairtrade International shows that 64% of those familiar with its mark strongly associate the label with helping farmers and workers in poor countries escape poverty.<sup>110</sup> It is difficult to see how workers trapped in wages that do not meet basic needs are going to escape poverty.

#### 4.4.2 Freedom of association and collective bargaining

The second most important category of violations relates to the right of freedom of association and collective bargaining, for which 46 violations were recorded. This finding is particularly troubling as it is an enabling right: workers that want to improve their working conditions have a better chance of achieving this if they are well organised. However, these cases clearly show that workers often have trouble organising and bargaining freely. The nature of this trouble varies from case to case, from union (member) hostility/repression (e.g. #9, 19 & 20) and yellow unionism (#1, 10, 12 & 14), to denial of membership (#1) and mandatory membership (#3 & 12). Regardless of the different forms it may take, the evidence from the cases points to a *structural* infringement of this right. This is evident from the fact that some of the cases have been made several times over several years (#9, 19 & 20) and the high number of violations reported by different sources in India and Costa Rica (#13 & 19 respectively).

##### Code language as a factor

The language of the implicated sustainability certifications standards (Rainforest Alliance, Fairtrade, UTZ Certified, SA8000 and MPS-SQ) on freedom of association and right to collective bargaining varies considerably in comprehensiveness and in detail. To illustrate, the Fairtrade provisions<sup>111</sup> on

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108 Also Forest Stewardship Council (FSC) and GoodWeave are involved.

109 Ibid.

110 GlobeScan website, press releases 2011, "Shopping Choices Can Make a Positive Difference to Farmers and Workers in Developing Countries: Global Poll", <<http://www.globescan.com/news-and-analysis/press-releases/press-releases-2011/94-press-releases-2011/136-shopping-choices-can-make-a-positive-difference-to-farmers-and-workers-in-developing-countries.html>> (13 January 2014).

111 Fairtrade International updated standards from 2014 are even more elaborate.

this subject are longer than all those of the others combined. Closer comparison of the codes also reveals qualitative differences. The standards are, for example, not all specifying the need for companies to have a formal policy on this specific right (e.g. UTZ Certified, SA8000<sup>112</sup> and MPS-SQ), inform or train workers on it (e.g. UTZ Certified, Rainforest Alliance & MPS-SQ), allow trade union representatives to have access to workers (Rainforest Alliance, SA8000, MPS-SQ) or refrain from impeding the proper functioning of trade unions (Rainforest Alliance, MPS-SQ). In addition, unlike the other four implicated sustainability certifications, Fairtrade specifies a number of other relevant requirements including the need to have worker committees in the absence of formal trade unions, that farm management should not support one workers' organisation over another, and that they can do their work, including the required regular dialogue with the management, during working hours.

The distribution of the number of reported violations for different sustainability certification for freedom of association and right to collective bargaining suggests that code quality has played a role in prevalence of violations. Rainforest Alliance for example has the weakest freedom of association and right to collective bargaining provisions of all five (see Table 7), especially considering that up to December 2013<sup>113</sup> violations of freedom of association and right to collective bargaining were no reason to withhold or withdraw its certificate, unlike the other four sustainability certifications standards. Perhaps correspondingly, Rainforest Alliance also has relatively many cases of violations of freedom of association and right to collective bargaining compared to its relative share of reported violations overall (see Table 6). SA8000, by contrast (which together with UTZ Certified has the second best code provisions), has relatively few. However this positive difference is not as strong as the negative difference for Rainforest Alliance.

Analysis of the case information does not identify provisions missing from the sustainability certification's codes in relation to the occurrence of specific violations. By contrast it reveals that reports of on-farm violations mostly describe situations in which not one but several aspects of this right are hampered. In most cases one of these aspects alone would already be a violation of one of the basic provisions that all implicated sustainability certifications share, such as the principle of non-discrimination (e.g. union member hostility) and freedom to join the organisation of their choice (e.g. non-free membership).

### **Interpreting results**

Based on the information available for this research there can only be speculation as to the reasons why some of these farms have kept their certification despite public evidence that codes are violated. It could be that the interpretations of the codes by auditors and/or their protocols are very permissive. It could also be that auditors are not informed enough of the situation for workers with respect to this right and/or are unable to pick up these issues up in audits. In any case the findings suggest auditing for this right needs improvement. Also, it is logical to presume that more specific and complete provisions generally increase possibilities for sustainability certifications to identify and address violations and as just noted there is some evidence in this research that supports this

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112 There is, however, a generic requirement for having a company policy for "social accountability and labour conditions", SAI, SA8000:2008 (Requirement 9.1).

113 USLEAP website, "A win for Honduran banana workers!", 19 December 2013, <<http://www.usleap.org/articles/win-honduran-banana-workers>> (13 January 2014).

assumption. Fairtrade is acknowledging the need to improve its impact on trade union rights: stronger requirements for freedom of association and right to collective bargaining are one of the main changes in the 2014 revision of its standards for large farms.<sup>114</sup>

#### 4.4.3 Health and safety

Forty-two violations of the right to health and safety were reported, making it the third most violated labour right in the reports reviewed. Roughly 75% of all reported violations relate to the tea industry. These in turn often relate to poor housing conditions and bad medical care on tea plantations in India (#10, 12 and 15). In most other cases, health and safety violations relate to workers not having adequate PPE at their disposal and/or being exposed to pesticides without proper protection (e.g. #1, 2, 12, 13 and 15). These cases were not particularly confined to a specific commodity or country. In one case, health consequences of exposure to chemicals reportedly were severe (#11). There was also one case of a worker being physically abused (#8).

##### Protective personal equipment

Inadequate application of PPE, or exposure to pesticides, is the most dominant health and safety issue. All of the sustainability certifications for which violations of this right are recorded require that workers protect themselves when doing hazardous work such as applying pesticides. In practice however there is ample evidence from these cases that they are regularly being applied without (appropriate) PPE. Because of the clarity of code provisions in this area, prevalence of this issue must relate to defective enforcement and/or insensitive auditing. Exposure to agrochemicals by those that not apply them directly is also problematic but receives less explicit attention of codes (e.g. SA8000, RSPO<sup>115</sup>) or is not mandatory (e.g. Rainforest Alliance) with the exception of Fairtrade. In case #12 there is even reference to endosulfan still being used regularly – one of the most toxic pesticides on the market and subject to a global ban.<sup>116</sup>

##### Housing

The issue of poor housing can only be considered a violation of ILO health and safety rights (C155) if the plantation as a whole is considered as a workplace that is not healthy and safe.<sup>117</sup> The situation in which tea workers on large estates typically work warrants such an interpretation because many workers live on (isolated) tea plantations (especially in India). Regardless of how this right is interpreted, all sustainability certifications reviewed (and for which violations of this right were found) have special and often mandatory provisions for housing.

114 Fairtrade International website, "Revised Fairtrade Standard for Hired Labour bolsters support for workers", 14 January 2014, <<http://www.fairtrade.net/single-view+M5d237b2c5c6.html?&L=2>> (4 December 2014).

115 RSPO, RSPO-Principles and Criteria for Sustainable Palm Oil Production, Including Indicators and Guidance October 2007, <[http://www.rspo.org/file/RSPO%20P&C2013\\_with%20Major%20Indicators\\_Endorsed%20by%20BOG\\_FINAL\\_A5\\_25thApril2014.pdf](http://www.rspo.org/file/RSPO%20P&C2013_with%20Major%20Indicators_Endorsed%20by%20BOG_FINAL_A5_25thApril2014.pdf)> (29 July 2014).

116 Wikipedia, "Endosulfan", <<http://en.wikipedia.org/wiki/Endosulfan#India>> (29 July 2014).

117 ILO C155: 'Employers shall be required to ensure that, so far as is reasonably practicable, the workplaces, machinery, equipment and processes under their control are safe and without risk to health.'



### Interpreting results

Of all standards reviewed, SA8000 is the one for which most violations of the health and safety right were recorded (see Table 7). SA8000 also received more complaints in relation to this right than could be expected based on its share of all violation cases recorded (see Table 6). This result may relate to the standard being more rudimentary with respect to this right and being less specific to agricultural production than most other implicated standards.<sup>118</sup> All of this may not have been helpful in addressing complaints about poor medical care, housing and exposure to chemicals on farms in India, Costa Rica and the Philippines (#12, 13 and 19). Fewer violations of health and safety rights were reported from Rainforest Alliance certified farms than could be expected based on their overall share of violation cases reported, for which no explanation could be found. Rainforest Alliance provisions are more elaborate and appropriate to the context of agriculture than SA8000, but none of them is compulsory for certification in contrast to SA8000. Hence, across the board, Rainforest Alliance cannot be regarded as having better health and safety provisions than SA8000.

#### 4.4.4 Non-discrimination

The 31 reported violations of the right to non-discrimination also correlate strongly with the tea sector in India. In India, female workers are reportedly discriminated against because they are not entitled to the same benefits as their male colleagues (#12 and 15). In India and other countries, women are also discriminated against in terms of promotion (#1, 2 and 15) and payment (#1). Perhaps the most dramatic form of gender discrimination is reported in Kenya, where female tea workers are exposed to sexual harassment (#15). Ethnic discrimination in the form of tribalism was also reported in Kenya (#15). In Costa Rica immigrant banana workers were threatened with being turned over to immigration services if they continued to complain about being exposed to pesticides (#13).

Overall, non-discrimination is generally addressed as a mandatory requirement in codes of sustainability certifications as it is a fundamental labour right. Relatively more violations were reported for SA8000 and fewer for Fairtrade and Rainforest Alliance compared to their overall share of labour right violations. However this pattern cannot be explained by their respective code qualities. As is clear from some examples (e.g. #12 and 15) non-discrimination is a sensitive and often endemic issue that is apparently both difficult to pick up and address in audits.<sup>119</sup>

#### 4.4.5 Security of employment

Twenty violations of the right to security of employment were reported – 16 of these relate to the tea sector in which companies keep workers locked permanently in temporary status. Temporary workers

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118 SA8000 provisions on housing quality consistently use the term 'dormitories'; PPE is mentioned only once and there is no reference to (agro) chemicals at all. This language may be reminiscent of SA8000 strong focus on factories and the garment sector but is less appropriate in the context of health and safety for farm workers.

119 SOMO website, News, "Unilever steps up efforts to address sexual harassment at its Kenyan tea plantations", 6 February 2014, <<http://www.somo.nl/news-en/unilever-steps-up-efforts-to-address-sexual-harassment-at-its-kenyan-tea-plantations>> (11 November 2014).

typically form the majority of the workforce at tea companies. The availability of work in the tea sector fluctuates by season. However, there are clear indications that many temporary workers could be employed permanently by tea companies on the basis of the availability of work throughout the year (#1, 2, 10, 12 and 15). There is also evidence from the coffee, flower and pineapple sectors that employers are avoiding hiring more workers permanently by keeping staff on rotating temporary contracts or outsourcing (e.g. #1, 2 and 19).

A plausible explanation for the fact that this phenomenon is apparently not being addressed by the implicated sustainability certifications (Rainforest Alliance, Fairtrade, UTZ Certified, RSPO and MPS-SQ) is that the codification of security of employment in the standards of sustainability certifications is often deficient. For example there is no explicit reference in the codes of UTZ Certified, RSPO and Rainforest Alliance to prevent employers hiring workers throughout the year and indeterminately as temporary workers, as many of them are. Only under Fairtrade and MPS-SQ is this not allowed; under SA8000 it may be allowed but only if national legislation permits it. Other violations relate to companies not providing workers with contracts (#18 and 9) and unfair dismissals (#2) on these issues the implicated sustainability certification codes (RSPO, Fairtrade and MPS-SQ) are more vocal.

#### 4.4.6 Child labour

Four violations of the right of children to education and play and not to work were recorded on plantations. If this recorded prevalence relative to other kinds of violations is a reliable indicator of the prevalence of child labour among sustainability certifications in general then this is one of the issues that sustainability certifications apparently seem to manage better than most other rights. From another perspective, this figure also shows that child labour is still problematic. As there were relatively few violations and only three sustainability certifications (Fairtrade #10, Rainforest Alliance #17 and RSPO #18) implicated, no further analysis is made on code language.

#### 4.4.7 Overtime and forced labour

Whereas overtime is reported frequently (e.g. #2), the nature of the reported cases does not allow them to be classified as violations of prevailing ILO conventions.<sup>120</sup> In addition to overtime there are also reports of overtime hours not attracting the premium rate it legally should (#20 and 2), not being paid for at all (#14 and 2) and not being done voluntarily (#2). At least in the field research case study in Kenya (#2) these issues are violations under the relevant sustainability certification (Fairtrade, Rainforest Alliance and MPS-SQ).

##### **Quota rate**

A key issue with overtime is that many workers in the agricultural sector in developing countries, for instance harvesting tea, bananas, mangoes and oranges, are paid on a quota basis and not for hours worked. While wage levels for a regular eight-hour working day should be commensurate with realistic daily targets, in practice they may not be aligned (e.g. #15 and 2). Hence, overtime hours

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<sup>120</sup> See footnote 41.

may not be recorded at all as such by either employers or workers. As a result, the fact that workers may regularly work in excess of the standard 48 hours stipulated by sustainability certification, this possible overtime does not attract the premium it should.

### **Involuntary overtime**

In some codes, e.g. Fairtrade (compliance mandatory for certification) and Rainforest Alliance (compliance not mandatory for certification) it is clearly indicated that overtime should be voluntary. This is commendable as ILO conventions on forced labour (C105 and C29) may offer too limited possibilities to address the issue of involuntary overtime. For instance, report #2 highlights that workers cannot refuse overtime for fear of losing their job. This may not be formally considered as forced labour – though it may feel like it for the worker involved. Regardless of this specific case it should be noted that no formal violations of the elimination of forced labour were recorded at certified farms in the literature at all.

Finally, from studies like case #2 and others<sup>121</sup> it is clear that it is difficult for workers (and those that want to support them) to collect convincing/irrefutable evidence of the violation of overtime regulations. There is a need to keep and collect individual records of time worked each working day (as employers may not keep them as noted above) over long periods of time as sustainability certifications allow employers to work more than 60 hours for several weeks in exceptional circumstances.<sup>122</sup> All in all it seems likely that issues with overtime may be relatively under-represented in the results.

## **4.5 Social audits and workers awareness**

The quality of the sustainability certifications' social audits may also be a factor explaining overall prevalence of labour right violations on certified farms. Social audits are used by sustainability certifications to verify whether conditions at certified farms comply with their standards. However, flawed social audit practices are reported by at least eight different studies (#1, 2, 8, 9, 10, 12, 15 and 16) pertaining to at least five different sustainability certifications (Fairtrade, SA8000, UTZ Certified, Rainforest Alliance and MPS-SQ).<sup>123</sup> In all these cases, except for study #16, there is reference to workers not being able to speak freely to auditors, if at all. For instance, in the field research in Kenya (#2), 40% of workers reported not speaking freely to auditors. Other issues include audits not involving trade unions (#16), being too shallow (#12 and 15), being biased to the company perspective or dominant trade union perspective (#15), and being manipulated (#1, 12 and 15). The analysis of freedom of association and right to collective bargaining in section 4.4.2 also points out indirect evidence of flawed audit practices.

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121 C.f. S. van der Wal & K. Rácz, Socio-economic Issues in the Peruvian Mango Supply Chain of EU Supermarkets, <[http://www.somo.nl/publications-en/Publication\\_3639/at\\_download/fullfile](http://www.somo.nl/publications-en/Publication_3639/at_download/fullfile)> (26 July 2014).

122 E.g. Rainforest Alliance 5.7.

123 It should be noted that when collecting literature the focus was not specifically on social audits, hence there maybe more information available publicly on this subject and with the desired focus.

**Need for better auditing**

In all these cases sustainability certifications clearly do not get a good perspective on working conditions at their client's farms. Having a good understanding of the true nature of on-farm compliance with labour standards is essential to be able to ensure compliance with them as well as being able to consciously deliver targeted beneficial impacts. In a reaction to this report Rainforest Alliance acknowledges the need for better auditing and stresses that stronger social auditing techniques are effective since October 2014 for the East African Tea sector. The use of these will be rolled out to other sectors and regions the first half of 2015.<sup>124</sup>

**Worker awareness of sustainability certification**

Another related factor that may not help sustainability certifications in achieving proper impact is their low visibility to workers as reported in field case studies (#1 and 2). In Indonesia (#1) for example awareness of Rainforest Alliance and UTZ certification and the potential benefits thereof is very low overall. In Kenya (#2) awareness of sustainability certification is usually higher, although at least 30% of workers were unaware of it – in some cases (for instance for MPS-SQ) this figure rises to 80%. This low awareness – in addition to the auditing that (as the same case shows) apparently is more permissive than that of Fairtrade – may play a role in MPS-SQ not being acknowledged by workers as having an impact, despite having a relatively strong standard.

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124 Rainforest Alliance, e-mail 24 December 2014.

## 5 Overall concluding discussion and recommendations

In this chapter the results of both the case study and literature study are reviewed and analysed in an integrated way. The objective is to distil key findings of the research, to put them into perspective and to present recommendations.

### 5.1 Evidence of impacts on aggregated labour rights

The field study for this report shows that workplace conditions are generally better at certified companies than at non-certified companies sampled. Most notably, workers at certified estates tend to have higher wages, better health and safety conditions, more security of employment, fewer problems with gender discrimination and claim better fulfilment of their right to freedom of association and collective bargaining than workers interviewed at non-certified farms. Despite this, agricultural workers on 70 sustainability certified farms have complained that up to six of their key workplace rights simultaneously have not been respected. This number of cases is considerable because these farms should essentially and/or largely be free from labour rights violations precisely as the result of the interventions of sustainability certifications. In addition, the total number of violations reported on these farms amounted to 207, which conceals even higher numbers of violations as specific key labour rights are sometimes violated in multiple ways on farms but are registered in this research as an individual violation. Moreover, there are a number of good reasons – including the number of official complaints some sustainability certifications report receiving, and the experience of SOMO in conducting field studies on two different occasions in this area – to believe that the prevalence of labour rights violations at certified farms may be much more substantial in reality.

#### Symptoms of systemic problems

There is also a general pattern observed in the findings that suggests that these violations are not merely incidents but symptoms of systemic problems in achieving decent working conditions at sustainability certified farms. The literature research shows that, when the relative prominence (i.e. visibility or importance) of all sustainability certifications reviewed is estimated by the number of farms, number of certified commodities and number of years they have been active, violations are reported for the most prominent sustainability certifications only. This can probably be explained by the fact that watchdog organisations are likely to take more interest in monitoring, or reporting on, the impact of relatively more important sustainability certifications than relatively less important ones. Consequently, and because all sustainability certifications reviewed in this research were selected for having similar approaches, the fact that no violations have been reported publicly for a number of sustainability certifications probably indicates that they simply are not prominent enough, and not necessarily that they are doing better than other sustainability certifications reviewed in this report. From this follows that the analysis of violations patterns below may also be relevant to the sustainability certifications for which no violations were reported.

### **Geographical and sectoral factors**

The findings suggest that there is a relationship between the number of violations reported from farms and both the commodity it produces and the country where it operates. While cases are reported from certified farms from 13 different countries producing eight different commodities, more cases are reported for some of these countries and sectors than others. Based on the estimated distribution of certified farms in different sectors and countries, the number of reported cases from the coffee sector is exceptionally low and exceptionally high from both the tea sector in India and the banana sector in Costa Rica. It is not possible to confidently assess which factors converge to produce these special situations, however, this finding need not be the result of sustainability certifications being fundamentally more or less successful in ensuring working conditions are of internationally accepted standards. The relatively low or high number cases may simply be related to the interest and presence of monitoring NGOs for these situations. For the coffee sector this may even be likely.

### **Differences between sustainability certifications**

Labour rights violations are reported on farms certified by seven of the 14 sustainability certification initiatives initially selected for further research. The findings suggest that there may also be a correlation between the type of certificate a farm has received and the number of reported violations from it. Closer inspection reveals that many more cases are reported for SA8000, and many less for UTZ Certified, than can be expected based on their respective share of the total number of farms relevant sustainability certifications certify. It is suggested that these findings may be explained by the exceptionally large presence of SA8000 in the tea sector, and UTZ Certified in the coffee sector.

### **Code quality**

The findings show that code quality is very likely to play a role in the number violations that are reported from certified farms. Fewer violations are reported from reviewed farms certified by sustainability certifications with relatively more elaborate and stringent labour right provisions, such as Fairtrade and MPS-SQ, compared to those with relatively weaker standards such as RSPO, UTZ Certified, SA8000 and Rainforest Alliance. The field research also produced a few indications that differences of quality between sustainability certifications may relate to differences in impacts on labour rights on farms. For instance, most evidence that sustainability certifications have an impact on the ground was noted for Fairtrade. Workers in the field research in Kenya associated Fairtrade with higher wages due to a collective bargaining agreement that needed to be signed to fulfil initial certification requirements, and a specific company failed to achieve Fairtrade certification several times while it had received MPS-SQ certification.

### **Audit quality and worker awareness**

Eight of the 20 reports collected for the literature research show that social audits for at least five important sustainability certifications are flawed at implicated farms. This means that, at least in these cases, sustainability certifications do not get to see (all of the) important labour rights issues that are of concern to workers and therefore cannot remedy them. In the main, the truth is concealed because workers do not feel free to speak to auditors, if at all. In addition, from the case studies it was evident that many workers simply are not aware of the type of certification that applies to their workplace, nor what it entails. Audit quality and worker awareness are likely to have an effect on the labour rights situation on certified farms and that is why they are deemed important by sustainability

certifications. Hence they may also have had an effect on the pattern of labour violations found in this research. To what extent this was the case cannot be explored analytically as no indicators are available to do so, or could be constructed for this research.

## 5.2 Evidence of impacts on specific labour rights

When moving away from the overall prevalence of labour rights violations on the certified farms reviewed and focussing on specific labour rights instead, some interesting patterns emerge in this report's findings. First of all, living wage, freedom of association and right to collective bargaining, health and safety, non-discrimination and security of employment are the issues that are most frequently reported in both the literature and field study as being of most concern to workers when it comes to their labour rights. Hence this section focuses on these rights in particular.

### Living wages

The results from both the field and literature research show that sustainability certification does not achieve payment of living wages for all workers at certified farms. The literature research indicates that this is the issue most workers complain about at the certified companies reviewed. The cause for this grievance is simple: despite the fact that some of their codes may suggest otherwise, sustainability certifications tend to ensure minimum or regional industry standard wages which usually are (far) below the level of what would constitute a living wage. Also a dedicated study on this specific subject and an impact literature review confirm that the issue of living wage is problematic for workers at certified plantations and for sustainability certification.<sup>125</sup>

### Impacting wage levels

Some of the leading sustainability certifications, including SA8000, UTZ Certified, Fairtrade and Rainforest Alliance, have taken action to address living wages in their approaches. This clearly shows they are struggling to ensure this right for workers at certified farms. While sustainability certifications may not have been able to guarantee living wages, and in a few cases do not seem to secure minimum wages either,<sup>126</sup> the field study does show that workers on certified farms earn more than those on non-certified farms. In one certified farm higher wages were associated by workers with Fairtrade (as noted in the previous section) and in another farm in Indonesia wage raises at least coincided with receiving certification. A Fairtrade commissioned impact literature review also finds some evidence for improvements in worker income on larger Fairtrade farms.<sup>127</sup> By contrast, two impact studies were unable to find positive impacts on wages for workers at Fairtrade certified flower farms in

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125 E.g. Oxfam, Ethical Tea Partnership, "Understanding Wage Issues in the Tea Industry", May 2013, <[http://www.oxfam.org/sites/www.oxfam.org/files/oxfam\\_etp\\_understanding\\_wage\\_issues\\_in\\_the\\_tea\\_industry.pdf](http://www.oxfam.org/sites/www.oxfam.org/files/oxfam_etp_understanding_wage_issues_in_the_tea_industry.pdf)> (20 September 2013); S. Smith, Fairtrade Impact Studies Review – Presentation Summary April 2013, <[http://www.fairtradegemeenten.nl/wp-content/uploads/2013/03/Bijeenkomsten\\_Impact-Day1.pdf](http://www.fairtradegemeenten.nl/wp-content/uploads/2013/03/Bijeenkomsten_Impact-Day1.pdf)> (10 November 2014).

126 See case #1 (Indonesian certified coffee producer) and #16 (India).

127 S. Smith

Ethiopia<sup>128</sup> and Rainforest Alliance coffee farms in Brazil.<sup>129</sup> Hence it is also clear that sustainability certifications do not manage to raise wage levels everywhere they are active.

### **Freedom of association and collective bargaining**

Both the literature and field research show that the right of freedom of association and collective bargaining is violated at the certified plantations reviewed. This finding is particularly problematic because workers that want to improve their working conditions need to be able to organise. Closer inspection of the codes of the five sustainability certifications associated with violations in reports showed a number of differences in comprehensiveness and detail. For instance it was found that Fairtrade has the best and Rainforest Alliance has the worst provisions regarding this right of the sustainability certifications for which cases were reported. Indeed there are indications that sustainability certifications with better code quality on freedom of association and right to collective bargaining tend to also have fewer cases for this right.

### **Evidence of impact**

The field study shows that freedom of association and right to collective bargaining is better respected at the certified companies it reviewed than at non-certified companies. Moreover there was also evidence that certification directly contributed to improving the situation at certified farms. Two examples that show improved collective bargaining that allowed wage raises were just noted above. From the violation case studies reviewed in the literature study there is also a study that is vocal about the impacts of Fairtrade on freedom of association and right to collective bargaining in the flower sector in Tanzania. The study indicates that Fairtrade certification has empowered trade unions and improved collective bargaining at the farms that are Fairtrade certified.<sup>130</sup> However despite this evidence of sustainability certifications having positively impacted freedom of association and right to collective bargaining it is also clear from the field research in Kenya that many workers testify to a need to improve trade union rights even at certified companies where this right may not formally be violated.

### **Health and safety**

The third most violated labour right in the literature study was that of worker health and safety. The two most dominant health and safety issues are inadequate application of PPE and exposure to pesticides. All of the sustainability certifications for which violations of this right are recorded require that workers protect themselves with PPE when doing hazardous work such as applying pesticides. In practice evidence from the field and literature study shows that they are regularly being applied without PPE. In the field study there were indications that certification has positively impacted health and safety at certified companies reviewed, especially by equipping workers with PPE and training them on health and safety. Despite these interventions, the cases in the field study also show that in practice PPE is not always available and/or used properly.

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128 C. Cramer.

129 A. C. Barbosa de Lima et al., Does certification make a difference? Impact assessment study on FSC/SAN certification in Brazil, 2009, <[https://www.imaflorea.org/downloads/biblioteca/Does\\_certification\\_make\\_a\\_difference.pdf](https://www.imaflorea.org/downloads/biblioteca/Does_certification_make_a_difference.pdf)> (18 November 2014).

130 See case #8.



### **Mixed results**

The relative prominence of the health and safety issue in this research comes as a surprise. In literature on impacts of sustainability standards, improvement of the health and safety situation is often reported as one of the biggest and clearest impacts on working conditions.<sup>131</sup> In addition, two impact studies on Fairtrade flower farms in Kenya<sup>132</sup> and Rainforest Alliance coffee farms in Brazil find some evidence of improved health and safety conditions for workers on large farms.<sup>133</sup> Clearly, despite evidence of positive impacts of sustainability certifications on health and safety, they are not always successful ensuring healthy and safe workplaces.

### **Non-discrimination**

The fourth most violated labour right in the literature study is the issue of discrimination which, next to tribal discrimination, mostly appears in the form of gender discrimination. Different reports highlight women not having equal rights in promotion, not receiving the same benefits and payment as men, and sexual harassment. For a few certified companies reviewed in the field research in Kenya, reduction of discrimination was attributed by workers to the impact of certification. Whereas gender discrimination is less pronounced at certified companies than at control group companies it is problematic in most of the certified companies sampled in the field study. To illustrate further, a literature review of impact of Fairtrade on workers for instance indicates that 'women are typically still less likely to be employed in skilled positions – this has the effect of reinforcing gender inequalities'.<sup>134</sup>

### **Security of employment**

The last labour right for which relatively many violations are reported is the security of employment. The most prominent problem reported by workers for this right is the perpetual casual status many workers experience. However, except for Fairtrade, there simply is no explicit reference in the implicated sustainability certifications codes to prevent employers hiring workers throughout the year and indeterminately as casual or temporary workers.<sup>135</sup> This omission clearly may not help to address this issue in a sector that thrives to a large extent on temporary and casual labour. The field case studies highlight that, compared to their permanent status colleagues, temporary workers tend to have lower income and job security but they are also disadvantaged because they are entitled to fewer benefits from health care to social security. Workers at certified companies indicate experiencing more security of employment than their colleagues at non-certified companies in the field study in Kenya. This finding is supported by other impact research as well.<sup>136</sup> However, only in one company is this difference by workers attributed to certification.

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131 E.g. M. Chan & B. Pound, 24 April 2009, Final report: literature review of sustainability standards and their poverty impact, <[http://www.nri.org/projects/tradestandards/docs/pound\\_and\\_chan.pdf](http://www.nri.org/projects/tradestandards/docs/pound_and_chan.pdf)> (17 November 2014). It should be noted that this study is not clear about the relative size of farms assessed and also includes impacts of standards that do not issue certificates.

132 S. Klier, Assessing the Impact of Fairtrade on Poverty Reduction through Rural Development, Final Report Fairtrade Impact Study, 15 July 2012, <[http://www.fairtrade.net/fileadmin/user\\_upload/content/2009/resources/Final\\_Report\\_Fairtrade\\_Impact\\_Study.pdf](http://www.fairtrade.net/fileadmin/user_upload/content/2009/resources/Final_Report_Fairtrade_Impact_Study.pdf)> (17 November 2014). It should be noted that all interviews were organised by the farm management which makes this study less objective.

133 A. C. Barbosa de Lima.

134 S. Smith.

135 In the SA8000 standard (8.5) there is reference to a similar provision which is effective however on condition that national legislation forbids it. SAI, SA8000:2008.

136 S. Klier.

### Other labour rights

The share of violation reports on child labour represents only 2% of the total number of reports and no violations are reported for forced labour and overtime at certified producers at all. This suggests that violations of these rights are now a relatively minor issue, and that sustainability certifications apparently were more successful in securing these rights than other workplace rights. Still, this figure also shows that child labour is not entirely eradicated. Moreover, the field and literature research shows that overtime may be an issue that is also relatively underreported and that is typically overlooked by sustainability certifications in audits.

## 5.3 Recommendations

### General recommendations for stakeholders

- There is a need to further investigate the magnitude and nature of non-compliance with workers' rights at certified farms, preferably in comparison with non-certified farms. Such research could provide more clues as to what may be going wrong and where, and make clear the urgency of the problem. To this end, especially more field research is needed. Further literature research could also be useful provided it can integrate relevant information that stakeholders, such as sustainability certifications, NGOs and academics, may have access to but have not shared publicly.
- More, and preferably rigorous scientific, research is needed into the impact of sustainability certification on worker's rights in large scale farms generally and especially on coffee farms. This kind of research should allow workers to participate genuinely freely and without fear of retaliation from farm management. The scant research available often seems to involve plantation management, raising doubts about workers being truly able to speak freely.
- It is recommended that any remedial and further analysis by stakeholders is especially focused on the five labour rights – living wages, freedom of association and collective bargaining, non-discrimination, health and safety and security of employment – that this research has shown to be most prone to violation at certified farms and/or are the right violations most workers complain about.

### General recommendations for sustainability certifications

- Sustainability certifications should provide public access to (more) details of the complaints they receive, how they follow them up and what the outcome of the complaint and remedy process has been. With the exception of RSPO<sup>137</sup> such information is generally not disclosed.
- Sustainability certifications active in the banana and tea sector should investigate the exceptionally high number of violations reports from these sectors and address the workplace conditions that give rise to these concerns especially in Costa Rica and India where most of these reports originate from.
- Sustainability certifications – especially Rainforest Alliance, UTZ Certified, RSPO and SA8000 – need to consider improving their codes in relation to these five rights as they are sometimes rudimentary and inexplicit, and hence open to loose interpretation.

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137 Accessibility of the RSPO complaint could however be improved.

- Sustainability certifications are recommended to require auditors to be more sceptical of the situation at certified farms, be more critical of the information they collect in audits, ensure that they are better informed by workers and pay (more) attention to dissonant sources such as non-dominant trade unions and local labour rights NGOs.
- Sustainability certifications are recommended to seek better involvement of workers in their approaches for example through awareness raising and training. While it may be too costly to have dedicated programmes for specific farms, and heed should be taken to not take over the role of legitimate trade unions, possibilities could be further explored to organise sector wide programmes (e.g. training) for workers on specific labour rights issues such those highlighted in this report.
- Sustainability certifications, individually but especially as a movement, are recommended to seek more involvement of stakeholders such as trade unions, national and local governments, NGOs and research organisations in their approaches in producing and consuming countries in order to develop evidence-based discussions on how to improve their impacts on specific labour rights.

### **Recommendations for addressing specific labour rights for sustainability certifications**

- To promote living wages it is recommended that sustainability certifications (better) articulate the definition of living wages in their standards and specify clear(er) incremental steps towards achieving these. They should also conduct research in to what constitutes a living wage in different sectors and countries, and align their mechanisms to evaluate wages in line with these levels. Some sustainability certifications such as Fairtrade, SA8000, Rainforest Alliance and UTZ Certified have started working on this already and Fairtrade, SA8000 and UTZ Certified have made changes to their most recent standard versions.<sup>138</sup> Moreover they should be more transparent about this issue publicly and not leave stakeholders in the dark about not being able to guarantee living wages now or in the near future, as they have done for such a long time. Indeed, more openness about their struggle to achieve payment of living wages in markets where value is distributed unevenly and where there is a strong emphasis on low costs may lead to more shared responsibility and may avoid reputational damage.
- The results indicate that sustainability certifications need to take action to better promote the freedom of association and collective bargaining. While there is evidence that at least some sustainability certifications, such as Fairtrade and Rainforest Alliance, have taken steps to improve their impact in this area, the issue has not received concerted attention from sustainability certifications as has the issue of living wages, for instance. Sustainability certifications are recommended to improve auditing and the content of their codes with regards to freedom of association and collective bargaining which are often rudimentary and allow loose interpretation. More complete and unambiguous provisions would incentivise auditors and farm management to better guarantee the right to freedom of association and collective bargaining. In addition, more research into trade union rights in the specific countries and sectors in which the clients operate should be able to identify specific obstacles and allow tailor-made programmes or interventions to support workers in securing their rights.

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<sup>138</sup> It remains to be seen whether these changes are both ambitious and precise enough to effectively achieve payment of living wages in the near future. The new Fairtrade standard, for instance, does not specify when living wages must be reached or how fast the progress towards these must be (Fairtrade Standard for Hired Labour, 2014).

- The results as to health and safety primarily indicate a need for sustainability certifications to ensure more effective enforcement and/or more sensitive auditing. As health and safety issues are more readily visible than those of most other labour rights, more ambitious action in this area could also more easily lead to substantial improvements. Passive exposure to pesticides is a problem that (also) needs better absorption in the codes of SA8000, RSPO and Rainforest Alliance.
- Gender discrimination in all forms merits special attention in the approaches of sustainability certifications. Auditors should be able to gauge gender discrimination in remuneration and promotion on farms by interpreting figures available to them in the documentation farms have to produce for audits. Based on this information, incremental steps towards achieving more equitable gender relations could be formulated. Sexual harassment is difficult to reveal and address in audits. Where there is ample evidence of sexual harassment on a sectoral level it is recommended that special efforts are made by addressing situations (e.g. hiring, allocating tasks, or promotion) in which women are more prone to experience sexual harassment, conducting gender specific research and setting up gender committees.<sup>139</sup>
- As regards the security of employment, sustainability certifications, with the exception of Fairtrade, should specify (more clearly) in their codes that employers should refrain from hiring workers with (rotating) temporary contracts for permanent jobs. In addition it is recommended that sustainability certifications investigate more closely the particularities of each sub-sector and the activities in which client farms are involved. The risk of workers having temporary contracts indefinitely is highest on farms that produce products that can be harvested throughout the year (e.g. bananas, flowers, and to a lesser extent tea and coffee) or that grow products with adjacent harvest seasons. In such cases more care should be taken by sustainability certifications to allow for more permanent contracts wherever possible as these usually have much more favourable terms than non-permanent contracts.
- Sustainability certifications should pay more attention in their approaches to curb involuntary and excessive overtime, and ensure that workers are paid for their overtime work at higher rates. This could for instance be accomplished through a specific focus on this issue in audits and compelling farms to record working time, including overtime for all their workers continuously and building the capacity of workers (organisations) to do the same.

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139 Cf. SOMO website, "Unilever steps up efforts to address sexual harassment at its Kenyan tea plantations", <<http://www.somo.nl/news-en/unilever-steps-up-efforts-to-address-sexual-harassment-at-its-kenyan-tea-plantations>> (17 November 2014).

## 5.4 Concluding remarks

This study aims to contribute to the understanding of the impact of sustainability certification on working conditions in the large scale production of food and agricultural commodities in developing countries. The wealth of information and analysis it produces in the form of detailed and in-depth field research and systematic, innovative and comprehensive literature research shows that this goal has been reached.

### Limitations

The study also ran into a number of limitations that hinder the results being generalised. For example, little information is available for analysis for a number of sustainability certifications for which violations are reported, most notably UTZ Certified, MPS-SQ and Fair for Life. The same is true for coffee as an important commodity sector for sustainability certification. Also the sample of companies in the field study that provides most of this report's longitudinal and comparative information – i.e. how conditions relating to certified companies develop over time and how they are doing relative to non-certified companies – is relatively small. Nevertheless, it can be concluded that the study's findings are substantive enough for making recommendations and conclusions.

No system of rules and enforcement is fail-proof, nor is sustainability certification. There is always, even if small, the risk that a system does not achieve (all) the desired outcomes. However, as noted throughout the report, a number of findings clearly support the belief that reported transgressions are not incidents but symptoms of a more structural and systemic problems of sustainability certification in large scale agricultural production. This evidence includes: the high number of official complaints some sustainability certifications say to receive; the experience of SOMO in conducting field studies on two different occasions in this area; the persistent nature of problems such as trade union rights not being respected or not being addressed adequately – such as living wage; and the pattern indicating that specific conditions not primarily related to sustainability certification quality, such as the interest and capacity of civil society organisations, are necessary to expose problems at certified farms. On the other hand, sustainability certified farms also have better working conditions and there are indications that working conditions on sustainability certified farms are better than those on non-certified farms. Hence, it is hoped that this study's findings and recommendations will support sustainability certifications in further improving conditions for agricultural workers.

## Annex 1

References to reports used in the literature study, Chapter 4

**Table 8: References to reports reviewed in the literature study Chapter 4**

Report	Full reference
1	Section 3.2 of this study.
2	Section 3.1 of this study.
3	Oxfam, Ethical Tea Partnership, "Understanding Wage Issues in the Tea Industry", May 2013, < <a href="http://www.oxfam.org/sites/www.oxfam.org/files/oxfam_etp_understanding_wage_issues_in_the_tea_industry.pdf">http://www.oxfam.org/sites/www.oxfam.org/files/oxfam_etp_understanding_wage_issues_in_the_tea_industry.pdf</a> > (20 September 2013).
4	Oxfam Deutschland, Mangos with Blemishes, The Market Power of German Supermarket Chains and Unfair Working Conditions in Peru, 4 June 2013, < <a href="http://www.oxfam.de/sites/www.oxfam.de/files/130705_oxfam_mangostudie_englisch_web.pdf">http://www.oxfam.de/sites/www.oxfam.de/files/130705_oxfam_mangostudie_englisch_web.pdf</a> > (9 December 2014).
5	R. Smith, Sustainable Living Wages and the Impact of Fairtrade at Volta River Estates Limited (VREL) Banana Plantation Ghana, September 2009, < <a href="http://www.makefruitfair.org.uk/sites/makefruitfair.org.uk/files/report_vrel.pdf">http://www.makefruitfair.org.uk/sites/makefruitfair.org.uk/files/report_vrel.pdf</a> > (9 December 2014).
6	Bananalink website, "Fairtrade banana crisis brewing in Colombia", < <a href="http://www.bananalink.org.uk/fairtrade-banana-crisis-brewing-colombia">http://www.bananalink.org.uk/fairtrade-banana-crisis-brewing-colombia</a> > (9 December 2014).
7	S. Rieper, Fair Trade and Labour Standards in the Tanzanian Cut Flower Industry, June 2010, < <a href="http://www.fes-tanzania.org/files/fes/pdf/Fair%20Trade%20and%20Labor%20Standards%20-%20Sarah%20Rieper.pdf">http://www.fes-tanzania.org/files/fes/pdf/Fair%20Trade%20and%20Labor%20Standards%20-%20Sarah%20Rieper.pdf</a> > (18 June 2014).
8	Human Right Watch, Ripe with Abuse Human Rights Conditions in South Africa's, Fruit and Wine Industries, August 2011, < <a href="http://www.hrw.org/sites/default/files/reports/safarm-0811webwcover.pdf">http://www.hrw.org/sites/default/files/reports/safarm-0811webwcover.pdf</a> > (27 March 2014).
9	Journeyman website, "The Business of Good Conscience" (documentary transcript), < <a href="http://www.journeyman.tv/?lid=63025&amp;tmpl=transcript">http://www.journeyman.tv/?lid=63025&amp;tmpl=transcript</a> > (18 June 2014) and ILRF, The Sour Taste of Pineapple: How an Expanding Export Industry Undermines Workers and Their Communities, 20 October 2008, < <a href="http://www.laborrights.org/sites/default/files/publications-and-resources/ILRF_pineaplereport.pdf">http://www.laborrights.org/sites/default/files/publications-and-resources/ILRF_pineaplereport.pdf</a> > (18 June 2014).
10	A. Sukthankar and P. Rosenblum, Assessing the Impact of Fairtrade on Workers in Indian Tea Plantations Fairtrade Tea India, 16 December 2010, (unpublished report commissioned by the Fairtrade Labelling Organizations International).
11	M. Ssebuyira, "Life is not so rosy at mairye flower farm", Daily Monitor, 4 June 2012, < <a href="http://www.monitor.co.ug/artsculture/Reviews/Life-is-not-so-rosy-at-mairye-flower-farm/-/691232/1419756/-/item/0/-/umepll/-/index.html">http://www.monitor.co.ug/artsculture/Reviews/Life-is-not-so-rosy-at-mairye-flower-farm/-/691232/1419756/-/item/0/-/umepll/-/index.html</a> > (9 December 2014).
12	Columbia Law School Human Rights Institute, "The More Things Change ...", January 2014, < <a href="http://web.law.columbia.edu/sites/default/files/microsites/human-rights-institute/files/tea_report_final_draft-smallpdf.pdf">http://web.law.columbia.edu/sites/default/files/microsites/human-rights-institute/files/tea_report_final_draft-smallpdf.pdf</a> > (11 February 2014).

Report	Full reference
13	Buro Jansen and Janssen website, "Chiquita and Myth of Corporate Social Responsibility", 10 July 2013, < <a href="http://www.burojansen.nl/artikelen_item.php?id=507">http://www.burojansen.nl/artikelen_item.php?id=507</a> > (9 December 2014).
14	Bananalink, The Rainforest Alliance and Certifying Bodies in Costa Rica: a Manoeuvre to Avoid Workers' Rights, 10 March 2010, < <a href="http://www.bananalink.org.uk/sites/bananalink.neontribe.co.uk/files/documents/What%20we%20do/The%20rainforest%20alliance%20and%20certifying%20bodies%20-%20SITAGAH%20complaint.pdf">http://www.bananalink.org.uk/sites/bananalink.neontribe.co.uk/files/documents/What%20we%20do/The%20rainforest%20alliance%20and%20certifying%20bodies%20-%20SITAGAH%20complaint.pdf</a> > (9 December 2014).
15	S. van der Wal, Certified Unilever Tea, Small cup, big difference? 31 October 2011, < <a href="http://www.somo.nl/news-en/precarious-work-in-certified-tea-production-for-unilever/at_download/attachment">http://www.somo.nl/news-en/precarious-work-in-certified-tea-production-for-unilever/at_download/attachment</a> > (9 December 2014) and Rue89 website, "Le Business du commerce équitable, le docu qui fait déchanter, Unilever Tea Kenya," 6 August 2013, < <a href="http://www.rue89.com/2013/08/06/business-commerce-equitable-docu-fait-dechanter-244778?imprimer=1">http://www.rue89.com/2013/08/06/business-commerce-equitable-docu-fait-dechanter-244778?imprimer=1</a> > (7 April 2014)
16	ILRF and Organic Consumers Association, Response to Rainforest Alliance, 1 June 2009, < <a href="http://www.organicconsumers.org/artman2/uploads/1/Rainforest_Alliance_Response_6_1_09.pdf">http://www.organicconsumers.org/artman2/uploads/1/Rainforest_Alliance_Response_6_1_09.pdf</a> > (27 March 2014).
17	ANEP website, 12 October 2010, "ANEP denuncia trabajo infantil y despidos antisindicales en piñera Agromonte S.A.", < <a href="http://www.anep.or.cr/article/anep-denuncia-trabajo-infantil-y-despidos-antisind/">http://www.anep.or.cr/article/anep-denuncia-trabajo-infantil-y-despidos-antisind/</a> > 18 June 2014.
18	ILRF and Sawit Watch, Empty Assurances, 2013, < <a href="http://www.laborrights.org/sites/default/files/publications-and-resources/Empty%20Assurances.pdf">http://www.laborrights.org/sites/default/files/publications-and-resources/Empty%20Assurances.pdf</a> > (18 June 2014)
19	ILRF, The Sour Taste of Pineapple: How an Expanding Export Industry Undermines Workers and Their Communities, 20 October 2008, < <a href="http://www.laborrights.org/sites/default/files/publications-and-resources/ILRF_pineaplereport.pdf">http://www.laborrights.org/sites/default/files/publications-and-resources/ILRF_pineaplereport.pdf</a> > (18 June 2014) and ILRF website, "Workers Struggle for Recognition at Dole Philippines, < <a href="http://www.laborrights.org/freedom-at-work/philippines/workers-struggle-for-recognition-at-dole-philippines">http://www.laborrights.org/freedom-at-work/philippines/workers-struggle-for-recognition-at-dole-philippines</a> > (27 November 2013)
20	ILRF website, "Stand Against Union Busting at Chiquita Bananas", 27 April 2013, < <a href="http://archive-org.com/page/1942317/2013-04-27/http://www.ilrf.org/what-you-can-do/2030">http://archive-org.com/page/1942317/2013-04-27/http://www.ilrf.org/what-you-can-do/2030</a> > (18 June 2014)

## Annex 2

### Detailed frequencies for statistical analysis

The detailed frequencies ( $O_i$  = observed frequency and  $E_i$  = expected frequency) for the statistical analysis in section 4.2, 4.3 and 4.4 are provided in the tables below.

**Table 9: Frequencies for commodity, country and sustainability certification comparisons**

Commodity	Frequencies		Country	Frequencies		Sustainability certification	Frequencies	
	$O_i$	$E_i$		$O_i$	$E_i$		$O_i$	$E_i$
			India	28	11.06	Fairtrade	10	5.49
Coffee	1	40.82	Costa Rica	19	10.59	Rainforest Alliance	32	25.23
Banana	20	13.57	Kenya	5	9.65	RSPO	3	7.91
Flowers	6	7.92	Colombia	3	20	UTZ Certified	3	23.67
Other	42	6.69	Philippines	1	4.47	Other	22	7.91
	69		Other	12	12.24			
<b>Sum</b>	<b>35</b>	<b>69.00</b>	<b>Sum</b>	<b>68</b>	<b>68.01</b>	<b>Sum</b>	<b>70</b>	<b>70.21</b>
Tea*		4.52				SA8000*	19	3.47



## Annex 3

### Sustainable certification policy quality benchmark

Table 7 shows the scores for code provision quality related to the five most violated key labour rights for each of the sustainability certifications for which violations were reported. See Table 10 for detailed criteria and how these were converted to scores and Table 11 for details on the criteria each sustainability certification upholds for each relevant labour right.

This report's quality analysis is confined to (core) code provisions as noted in the formal standard each sustainability certification publishes. Sustainability certifications may provide further guidance on how auditors and certification applicants should interpret and implement their norms in the standard document and/or separate guidance documents such as audit protocols. Such guidance elements may also be relevant for assessing and comparing the quality of standards. This however requires a more comprehensive assessment than is the ambition of this research.

**Table 10: Criteria and conversion table for scoring code provision quality**

Criterion	Score
<b>Labour right: Freedom of association and right to collective bargaining</b>	
1 Join and form freely (mandatory)	> 5 criteria = 4
2 No discrimination of members	5 criteria = 3
3 impeding of functioning	4 criteria = 2
4 Inform workers of rights	< 4 criteria = 1
5 Bargain collectively (mandatory)	
6 Company needs to have a formal policy	
7 Trade unions have access to workplace	
8 Not supporting one workers' organization over another	
9 Need for workers' committee in absence of trade union	
10 Convening during working hours possible	
11 Regular meetings with management	
12 Workers able to draw up their constitutions and rules, to elect their representatives and to formulate their programmes	

Criterion	Score
<b>Labour right: Health and safety</b>	
1 Housing	> 4 criteria = 4
2 Quality housing mandatory	4 criteria = 3
3 Medical care	3 criteria = 2
4 Medical care mandatory	< 3 criteria = 1
5 Prohibiting exposure to agrochemicals applied by others	
6 Right to be removed from imminent danger	
7 Reference to (agro)chemicals/crop protection in context of H&S	
<b>Labour right: Living wage</b>	
1 Living wage mandatory	Criterion 1 = 3
2 Reference to living wage	Criterion 2 = 2
3 No reference	Criterion 3 = 1
<b>Labour right: Non-discrimination</b>	
1 General provision	> 5 criteria = 4
2 Not interfere with the exercise of personnel's rights	5 criteria = 3
3 No tolerance for behaviour that is threatening, abusive	4 criteria = 2
4 No pregnancy tests	< 4 criteria = 1
5 No retaliation when workers use grievance procedure	
6 Formal policy regarding worker qualifications & training	
7 Special grievance procedure for sexual harassment	
<b>Labour right: Security of employment</b>	
1 Regular work is undertaken by permanent workers (mandatory)	Criterion 1 = 3
2 Regular work is undertaken by permanent workers (conditional)	Criterion 2 = 2
3 No reference to regular work is undertaken by permanent workers	Criterion 3 = 1

Table 11: Inventory of criteria covered for each sustainability certification

Key labour right/ Sustainability Certification	Fair for Life	Fairtrade	MPS-SQ	Rainforest Alliance	RSPO	SA8000	UTZ Certified
Freedom of association and right to collective bargaining		1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12	1, 2, 5, 9	2, 6		1, 2, 3, 4, 5	1, 2, 3, 5, 7
Health and safety		1, 3, 5, 6, 7	1, 4, 5/6, 7	1, 3, 7	1, 7	2, 4, 6	1, 4, 6, 7
Living wage	2	2	1	3	1	1	3
Non-discrimination		1, 3, 4, 5, 6, 7	1, 3, 4, 6, 7	1	1	1, 2, 3, 4	1, 3
Security of employment		1	1	3	3	2	3

## Annex 4

### **Reactions of sustainability certifications and companies on draft results**

As noted in the methodology section, all the sustainability certifications and companies for which labour rights violations are recorded were asked to review the draft results prior to publication of them in the form of this report. In Kenya all companies reacted but in the end no relevant comments were received. No responses were received from the surveyed companies in Indonesia at all. All seven sustainability certifications that were sent the review request acknowledged receiving it, and except for RSPO all commented in detail. Consequently a few factual errors were corrected (mostly related to the policy benchmark) and, where relevant, their perspectives and or comments were integrated into the report.

Most specific comments relate to details of their codes as reflected in the benchmark of the sustainability certification policy quality (Annex 3). The most common general comment pertained to how the findings in one form or another can be generalised. For instance, Rainforest Alliance and UTZ Certified commented that they view the findings as relevant only/largely to the plantations referenced in this report (i.e. and not beyond as is argued in this report). MPS-SQ claims not to recognise itself in the findings because, among other comments, conclusions are drawn based on findings at only one MPS-SQ certified company.<sup>140</sup> Another more widely shared comment is the recognition of the need for more research in the area of the impact of sustainability certification on labour conditions for workers as is the subject of this report. Accordingly, both Fairtrade and Rainforest Alliance explicitly claim to appreciate the insights this research has given to them. Finally SA8000, Rainforest Alliance and Fairtrade have expressed in different ways their objection of the use of the term 'guarantee' in the title and text of this report in the context of sustainability certification.

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140 In fact in this research there is reference to two MPS-SQ certified companies

## Goodness guaranteed

### Assessing the impact of sustainability certification on the labour conditions of farm workers

Sustainability standards that aim to ensure sustainable production of agricultural commodities in developing countries have been increasingly successful in penetrating markets. For some commodities such as coffee (40%), cocoa (22%), palm oil (15%) and tea (12%) they have even managed to capture significant shares of global production. Not only do most supermarkets in Western countries stock numerous ethically labelled products, the biggest food companies increasingly have accommodated sustainability certification in their business and in specific product lines. Sustainability certification is perceived as a credible and practical way for food and retail companies to ensure and communicate good social, economic and environmental conditions in agricultural commodity supply chains originating in developing countries.

The growing market for sustainability certification and the increasing reliance on it to address sustainability issues in primary production of tropical agricultural commodities make it important for sustainability certifiers and their proponents to demonstrate their effectiveness at the field level. However there still is scant literature with a specific focus on impact of sustainability certification on working conditions, and even less on working conditions in large scale agricultural production for export.

The aim of this study is to contribute to the understanding of the impact of sustainability certification on working conditions in large scale production of food and agricultural commodities in developing countries. The results of this study are to support policy makers in governments, civil society, companies and sustainability certifications to improve approaches to ensure decent working conditions for agricultural workers in developing countries.

