



**Plantation**

## **PRESS STATEMENT**

**For Immediate Release  
Friday, 10 July 2020**

### **Sime Darby Plantation's Response to Liberty Shared's Petition to the United States Customs and Border Protection (2nd Statement)**

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**Kuala Lumpur, 10 July 2020** – We refer to our statement dated 8 July 2020 in response to a petition submitted by Liberty Shared (LS) to the US Customs and Border Protection on 20 April 2020, to block Sime Darby Plantation's (SDP) exports to the United States, which is estimated at USD3 million annually (based on FY2019 volumes). As a matter of urgency and to ensure that any potential issues are expeditiously resolved, we have contacted LS by e-mail and have had a tele-conversation with Duncan Jepson, the author of the petition, to initiate discussions and to better understand concerns raised.

SDP is committed to eradicating any and all instances of human rights infringements within our operations and supply chain. If there is cause, we will immediately institute appropriate corrective actions to secure the wellbeing of all our employees. For this reason, we have requested for further details and information of the breaches and serious allegations alleged in LS' petition. Despite the absence of such crucial information at this time, we will still provide our initial response in the best possible manner, based on statements contained in the petition summary, and our internal records relating to the matters raised.

Meanwhile, we welcome and appreciate any further information from any other sources that can help us identify the existence of and/or root cause of, any breakdowns in our system. SDP has always and will continue to close all gaps and correct any lapses in our operations and supply chain.

SDP will also continue to further engage, raise awareness and train our managers, assistant managers, and mandors on responsible business behaviour. Any non-compliance to our commitments will be addressed swiftly and firmly, after thorough investigations are concluded. We will also take all necessary steps to minimise the risk of such issues recurring.

Our review of the matters raised in the petition summary and our responses, which include background information for context, as well as our current practices and challenges, are contained in Appendix 1 set out hereunder.

We believe our responses to the summary of allegations demonstrate SDP's commitment to uphold human rights throughout our operations. We are transparent about the challenges we face in our efforts to improve our practices on the ground, as we believe this is the best way to move forward. As with any organisation, we are aware that there will often be areas of improvement, especially with on the ground implementation of commitments, especially in an operation the size of ours.

SDP welcomes all stakeholders who are interested to discuss these issues in greater detail to engage with us, as we would be more than happy to share our perspective and position, as well as explore potential avenues to solve the challenges that we and the industry are facing.

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**Matters Raised in the Petition Summary and Sime Darby Plantation’s Existing Practices**

**1) Minimum Wages Not Paid**

<b>Statements Made By Liberty Shared</b>	<b>Current Practice and SDP’s Response</b>
<ul style="list-style-type: none"> <li>• No foreign worker interviewed said they received minimum wage once deductions were taken into account, and some said they were unable to determine the wage they would receive.</li> <li>• There is an expectancy of minimum wage and also an expectancy of the wage set out in the agreed contract</li> <li>• Local workers deceived as to pay as workers describe not receiving minimum wage and sometimes only 60%.</li> <li>• Workers should be paid minimum wage under Malaysian law but report that they never receive this. On top of this, there are also deductions that they cannot understand.</li> <li>• Because their wage is often much lower than minimum wage, some workers borrow from loan sharks. In fact loan sharks have entered the plantation and, according to the workers, have abducted children to force and extort repayment which causes workers to enter into new arrangements with other loan sharks.</li> </ul>	<ul style="list-style-type: none"> <li>• In Malaysia, the payment and rates of wages are governed by collective agreements between the unions and SDP. The payment of wages is in accordance with applicable laws such as the Minimum Wages Order (MWO) 2020 and all other laws issued previously.</li> <li>• The minimum wage is stipulated in the employment contracts of both foreign workers and local workers.               <ul style="list-style-type: none"> <li>○ Workers who are absent without permission or justification, or on unpaid leave will not receive wages for the days in which they were absent or on such leave. This is in accordance with our employment laws.</li> <li>○ Piece-rated workers are expected to complete production tasks for the day. Minimum wage is still guaranteed even though they do not achieve their targets through a top-up mechanism.</li> </ul> </li> <li>• Based on our policies and procedures, SDP only makes deductions on employee salaries for:               <ul style="list-style-type: none"> <li>○ Local workers’ contribution to the Employee Provident Fund, which is statutory in nature.</li> <li>○ Workers’ contribution to Social Security (SOCSO), which is statutory in nature.</li> <li>○ Union fees, if they are union members.</li> <li>○ Salary advances made in the previous month are reflected as a deduction for the advance payment. These cases are the most common deduction and also typically</li> </ul> </li> </ul>

	<p>the biggest deduction applied.</p> <ul style="list-style-type: none"><li>• Workers are provided with other in-kind benefits such as food supplies and electricity subsidies which enables them to utilise their wages for other necessary expenditure.</li><li>• We acknowledge that there have been challenges in workers' understanding the computation of their wages as it includes variable components pegged to productivity for harvesters' group.<ul style="list-style-type: none"><li>○ Therefore, a new salary slip format was implemented in June 2019 that provides clearer details pertaining to workers' wages for better understanding.</li><li>○ Communication activities have been undertaken to raise awareness on the new salary slip format to help workers understand the components of their salary and the details in their salary slips.</li></ul></li><li>• All our estates have close contacts and have strong working relationships with the local police and to date we have not been informed of any police reports concerning loan sharks or abduction of children related to loan sharks within our estates.</li></ul>
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## 2) Recruitment Fees

Statements Made by Liberty Shared	Current Practice and SDP's Response
<ul style="list-style-type: none"> <li>• Workers say they had to pay recruitment fees and most had to take out loans, some at high interest rates, to pay the fees, and in some cases further fees were raised after initial payments had been made.</li> <li>• All workers say they paid the recruitment agents for arrangement of the job, transport, and entry into Malaysia</li> <li>• Debt incurred to pay for recruitment and therefore must work to pay off debt (this is the same as the previous kangani system.</li> <li>• The kangani would recruit workers from his home area and facilitate their transition into workplaces in Malaya. The kangani received "head money" for each day worked by each laborer (which he lost if workers deserted). This has been replaced by contractors.</li> </ul>	<ul style="list-style-type: none"> <li>• SDP does not charge workers any recruitment fee for obtaining a job. SDP pays for all official and legal recruitment costs as required by the Government of Malaysia, and other costs which includes return airfare for the workers, amongst others.</li> <li>• Currently, SDP only works with 5 agents in Indonesia and 5 agents in India that are registered as Private Employment Agency with the Malaysian Ministry of Human Resources. <ul style="list-style-type: none"> <li>○ In an effort to control agents and the use of sub-agents, SDP holds its agents accountable to ensure that their sub-agents do not charge exorbitant costs to workers, by way of legal contracts executed between SDP and its agents.</li> <li>○ However, it is important to note, the use of intermediaries often occurs in remote villages and in some instances involves family members of the workers. This makes it difficult for us to have oversight of their relationship.</li> <li>○ Based on our engagements with agents and workers, workers often take loans in their country of origin to leave money for their families. This practice unfortunately leaves them in debt.</li> </ul> </li> <li>• To further understand the costs incurred by our workers, SDP's recruitment team participates in processes on the ground in countries of origin to further engage with our agents' sub-agents. This effort is on-going and will continue once recruitment of migrant</li> </ul>

	<p>workers resumes after the COVID19 situation.</p> <ul style="list-style-type: none"> <li>• SDP does not hire third-party contract workers. <ul style="list-style-type: none"> <li>○ However, some work such as replanting and nursery activities are contracted out to contractors and some contractors employ foreign workers.</li> <li>○ Contractors are bound by our code of conduct and attest to our Vendor Letter of Declaration that prohibits unlawful labour practices. This is closely monitored by our operations team.</li> </ul> </li> </ul>
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Since 2016, the following efforts have been made by SDP with recruitment agents in our efforts to uphold responsible recruitment practices:

- **Direct Recruitment** – We conduct all selection and hiring through our dedicated team named Workforce Management Unit in all origin countries which in the last three years have been in Indonesia and India specifically. We are involved in socialisation efforts by visiting villages and briefing communities on SDP and work in palm oil. Standard and suitable briefing materials are deployed with the use of audio visual aids that are translated into local languages, which helps potential recruits have a better understanding on the type of work to be expected and the details of the salaries and benefits provided.
- **Transparent contracts** – All our contracts are translated into Indonesian, Bengali, Nepali, Hindi, Sinhalese, Myanmar, Cambodia, Pakistan, Tagalog and Thai languages respectively, as applicable. The terms of contract are briefed to the workers in respective languages during recruitment, upon induction and upon signing. All our recruitment materials are in their respective languages.
- **Recruitment fees** – SDP pays for recruitment costs which include amongst others official cost of levy, calling visa, medical examination, security clearance, agent fees and return airfare. SDP does not charge any recruitment fee to our workers. We continuously engage with recruitment agents to identify some of the other applicable costs involved. We have engaged with agents’ sub-agents to gain better understanding of our worker supply chain in the various countries of origin.
- **Training and engagement** – We continuously send our recruitment agents for training under various platforms on responsible recruitment and outline these practices in our engagement with them. Emphasis on ethical practices are conducted through our continuous engagement sessions.

Despite all efforts made by SDP to date, there remain challenging issues that are out of our control in origin countries. Even though sub-agents are not recognised, in reality, the industry relies on sub-agents to socialise jobs, especially in remote areas. Workers may be led to believe that they need to pay for ‘recruitment costs’ that they do not understand.

Since 2016, SDP has spent considerable resources in engaging with our agents' sub-agents and will continue to do so once the migrant worker recruitment resumes after the COVID19 situation permits.

### 3) Deception

Statements Made by Liberty Shared	Current Practice and SDP's Response
<ul style="list-style-type: none"> <li>• A number (of workers) described how they had been deceived into believing they would be working in factories and that the salary level would be higher than that which they actually receive.</li> <li>• Deceived by recruitment agent in relation to nature of work and level of pay.</li> <li>• SDP contracts with many Indonesian workers, and they should have the corporate governance, risk management and internal controls to ensure that the hiring and onboarding process for foreign workers on plantations ensure they are treated and received in a manner that resolves and mitigates issues arising from their recruitment – e.g. debt and contract substitution – rather than exacerbating their experiences and turning them into mechanisms for further abuse.</li> </ul>	<ul style="list-style-type: none"> <li>• SDP's dedicated team, Workforce Management Unit, conducts interviews directly in the country of origin. Agents are only responsible to bring prospective recruits to the interview in the countries of origin. Our direct hires to date are mainly from Indonesia and India.</li> <li>• During recruitment interviews in the country of origin, the following key activities, amongst others, are conducted: <ul style="list-style-type: none"> <li>○ Video showing "a day in the life" of a worker that follows a harvester's typical work life.</li> <li>○ Video with exact footage of the plantation, harvesting and other work activities.</li> <li>○ Slides on oil palm fruit, palm tree and the work involved in pictorial form.</li> </ul> </li> <li>• Upon completion of the briefing, the interviewer confirms the workers' understanding of their work in the estate and reiterates the terms of work including the salary and benefits offered.</li> <li>• The worker signs a self-declaration form stating his attendance at the briefing and understanding of the work at the estate.</li> <li>• Upon arrival at the estate, the worker is further engaged at an induction or onboarding briefing that outlines the estate and terms of employment.</li> <li>• No recruitment agent is involved in the selection and interview process. The agent's responsibility is only to gather the workers and provide</li> </ul>

	<p>logistical support such as venue and meals (if any).</p> <ul style="list-style-type: none"> <li>• All workers are provided with contracts which are translated into their languages. These contracts are explained and briefed to them before signing.</li> <li>• These are but some of the practices that SDP has implemented over the years to help ensure that workers who are recruited by SDP are fully aware and understand the nature of work and the salary and benefits structure that are on offer, prior to accepting a job with SDP.</li> </ul>
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#### 4) Passport Retention

Statements Made by Liberty Shared	Current Practice and SDP's Response
<ul style="list-style-type: none"> <li>• Passports retained, ID cards and copies of passport inconsistently available.</li> <li>• All retained BUT moreover no provision, such as a lock box, for workers to store their own passports safely and still have access. Audit report findings do discuss/explain SDP's intent with regards to passport retention.</li> </ul>	<ul style="list-style-type: none"> <li>• Since 2016, SDP implemented a policy ensuring all foreign workers in our Malaysia operations to have access to their passports. <ul style="list-style-type: none"> <li>○ Foreign workers have the option to keep their own passports or request for management to keep it in a safe.</li> <li>○ Workers have free access to their own passports, should they decide for the management to keep it.</li> <li>○ Workers are required to sign a consent letter should they request for management to keep their passports.</li> <li>○ Passports are submitted to management for renewal of permits or renewal of passports. This must be done at least 60 days prior to expiry as the process can take anywhere between 14 and 30 days.</li> </ul> </li> </ul>



	<ul style="list-style-type: none"> <li>• According to our records on 7 July 2020, across our operations in Malaysia, all passports of our foreign workers are properly handled and accounted for with 6% being kept by individual workers, 64% with SDP for safe keeping and with due consent from workers and 30% are being processed for renewal.</li> <li>• The statistics above serve to highlight that there are instances where workers are indeed keeping their own passports, but majority of the workers prefer for the management to safe keep the documents for them. It further highlights that the option to keep their passports are made available, and there are workers who chose to exercise their right to keep their own documents.</li> <li>• We acknowledge that there may still be limitations in the execution of these processes and procedures (P&amp;P) such as communication and education barriers leading to workers not acquiring full understanding of the P&amp;P. As a progressive company, we are constantly reviewing the P&amp;P, and improving on our communications especially to managers, workers and mandors.</li> <li>• The main goal is to ensure all managers and workers fully understand that workers have the right to access their documents.</li> </ul>
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## 5) Housing

<b>Statements Made by Liberty Shared</b>	<b>Current Practice and SDP's Response</b>
<ul style="list-style-type: none"> <li>• For local workers, housing is provided by SDP and may be removed at any time, simply by changing the worker's status from employee (which has access to housing) to contractor (which enjoys no such right).</li> <li>• The housing contract does not seem to give any assurances of continuity or a secure term of tenancy – the provision of housing</li> </ul>	<ul style="list-style-type: none"> <li>• Housing is provided to workers as a benefit. <ul style="list-style-type: none"> <li>○ A house is provided to each person working with SDP. If both spouses are employed, only one house is provided. However, if both father and son are employed, they will be provided a house each.</li> </ul> </li> </ul>

is essentially at the discretion of the relevant manager, which seemingly creates persistent vulnerability and an unmitigated mechanism for coercion and abuse.

- Housing is provided as a benefit to our workers throughout the course of their employment with SDP. If any worker chooses to leave employment with SDP, they will no longer have access to the housing provided, along with other benefits provided by SDP.

- Managers at the plantation cannot remove employment benefits as they are provided to our employees in line with terms and conditions outlined in their employment contract. SDP does not practice conversion of worker's status from employee to contractor as a means to revoke housing benefits. We are certainly not aware of any permanent workers that we terminated and converted to contractors in order to pull out the housing from them. There are of course workers terminated due to other reasons such disciplinary, performance and misconduct
- The Plantation industry are among the few industries that provide housing for employees as a benefit. The industry practice is to provide housing for employees during their tenure of employment only and are to vacate the houses upon retirement or resignation. As far as we understand, no company or industry provides lifetime housing for their employees either in Malaysia or elsewhere in the world, even in developed nations.
- All workers in Malaysia are permanent fulltime employees except for our contractors' employees as explained in item 2 above. Foreign workers are also employed permanently fulltime for the duration of their work permits as approved by the Immigration Department.

## 6) Physical and Sexual Violence, Threat and Intimidation

Statements Made by Liberty Shared	Current Practice and SDP's Response
<ul style="list-style-type: none"> <li>• Conversely, audit assessments also stated that no sexual or physical harassment took place, yet the workers we interviewed described this as an issue.</li> <li>• Threats are made with arbitrary penalties and fines.</li> <li>• A clear threat is to be sent to a remote part of the plantation, and women are threatened with rape, refused work and reprimanded verbally.</li> <li>• Female workers say there is continual threatened sexual harassment.</li> </ul>	<ul style="list-style-type: none"> <li>• SDP subscribes to a Code of Business Conduct that explicitly outlines the standards of behaviour expected of all our employees at all levels, including lower, middle and top management levels. This standard of behavior includes zero tolerance to sexual harassment.</li> <li>• SDP has instituted a sexual harassment policy that outlines the process for reporting such incidences. In 2019, for example, 4 sexual harassment cases (none of which relates to sexual violence or rape) were reported through our various channels across the Group. These cases have been investigated internally and subsequent action taken.</li> <li>• To date, we have not received any reports of sexual violence or rape cases through our existing grievance channels.</li> <li>• We acknowledge that the nature of these issues can be difficult to trace, and in certain cases, victims may be reluctant to report these incidences. Therefore, we have implemented various processes to assist us in reaching out and preparing our operations to handle these issues: <ul style="list-style-type: none"> <li>○ Each estate has a Gender Committee that is responsible to provide support and refer cases of sexual violence.</li> <li>○ The Chair and members of the Gender Committee are female employees.</li> <li>○ Awareness workshops in all our operations in Malaysia was conducted in 2019 together with Women's Aid Organisation (WAO) to provide support tools as well as reporting protocols for sexual violence.</li> </ul> </li> </ul>

	<ul style="list-style-type: none"> <li>○ Independent 3<sup>rd</sup> party grievance hotline has been made available in the event any victims would prefer not to use existing grievance channels and mechanisms.</li> <li>• There are still areas of reporting that can be improved, and the Group is committed to further improving our processes and procedures, and to raise awareness on this issue internally.</li> </ul>
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## 7) Child Labour

<b>Statements Made by Liberty Shared</b>	<b>Current Practice and SDP's Response</b>
<ul style="list-style-type: none"> <li>• Local workers reported that, as recently as less than four years ago, children of local plantation workers were used by a plantation manager and mandors to place rat poison at the foot of the palm oil trees</li> <li>• The children were not given any protective equipment.</li> <li>• The local workers do not seem convinced that the practice will not be repeated in the future.</li> </ul>	<ul style="list-style-type: none"> <li>• SDP adheres strictly to the policy to only hire workers above the age of 18 as outlined in our Human Rights Charter.</li> <li>• This policy has been implemented since 2010 and is clearly communicated to all our workers and management on site.</li> <li>• We have not received any report of child labour in recent time. However, our past records indicate one isolated incident in 2008 at one of our Malaysian operations for which necessary action was taken on the estate management.</li> <li>• Another allegation was also made in a report which was made public in 2017 on one of our Indonesia operations. However, based on our internal investigations done after receiving details of the allegation, we did not find any evidence to support the allegation. Nevertheless, the estate management subsequently further tightened up the processes and issued strict reminders to employees to SDP's strict policy on no child labour. There have not been any similar reports received ever since.</li> </ul>

## 8) Others

Statements Made by Liberty Shared	Current Practice and SDP's Response
<ul style="list-style-type: none"> <li>• The first line of defense: plantation managers, mandors and risk management. In regards to protection of workers from coercion, abuse and conditions of forced labor, the plantation managers and mandor are the first line of defense – and yet the interviewed workers describe abuse by these very people.</li> <li>• The lack of thorough ongoing assessment of the conduct and behavior of plantation managers and mandors (particularly in relation to dealings with recruitment agents), the incongruity of audit assessment conclusions against the statements</li> </ul>	<ul style="list-style-type: none"> <li>• SDP plantation managers are bound by the Code of Business Conduct which stipulates appropriate behavior and respecting others.               <ul style="list-style-type: none"> <li>○ Managers are periodically updated on strict standards such as the Roundtable on Sustainable Palm Oil (RSPO) through scheduled and regular platforms comprising meetings, seminars and trainings held monthly and annually.</li> <li>○ Managers are supported on the ground by teams of sustainability practitioners as well as head office support functions.</li> <li>○ All of our plantations are subject to periodic internal audits and external RSPO as well as Malaysian Sustainable Palm Oil (MSPO) audits in Malaysia.</li> </ul> </li> <li>• With regards to the recruitment agents, as described in item 2 above, SDP only works with a limited number of agents.               <ul style="list-style-type: none"> <li>○ These agents are bound by SDP's Code of Business Conduct, and have clauses included in their contract.</li> <li>○ SDP sends our appointed recruitment agents for awareness and training sessions on ethical recruitment practices.</li> <li>○ Recruitment agents are only hired for administrative purpose in countries of origin. Our Workforce Management Unit conducts interviews and selection directly. Recruitment agents do not have any engagement with plantation management or mandors.</li> </ul> </li> </ul>

	<ul style="list-style-type: none"><li>○ Recruitment agents conduct visits to the estates to engage with our foreign workers. Any grievance received during these engagements are subsequently raised to our Workforce Management Unit which will then be investigated and acted upon.</li><li>• There are various grievance channels made available to workers in our operations to highlight any issues they have with the operations, which includes the behaviours of the managers / mandors, such as:<ul style="list-style-type: none"><li>○ The SDP Group Whistle blowing channel</li><li>○ “Suara Kami” or Worker’s Voice helpline (in collaboration with Nestlé) which is available in multiple languages free of charge.</li><li>○ Traditional grievance channels such as log books and face to face engagements.</li></ul></li></ul>
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