

THIRD PARTY COMPLAINT VERIFICATION REPORT

Olam Progida (Turkey)

June 29, 2021

Background

Olam International ("Olam") has been affiliated with the Fair Labor Association ("FLA") since 2012 and initiated its Sustainable Hazelnut Program in 2013. Olam Progida in Turkey is responsible for the hazelnut business of Olam International. As a requirement of affiliation, the FLA conducted the first Independent External Monitoring (IEM) in 2014 in the company's upstream supply chain – at the farm level. Since then, the FLA has conducted six IEMs, one Independent External Verification (IEV), one COVID-19 focused assessment, and one Social Impact Assessment in Olam Progida's hazelnut supply chain.¹

On November 6, 2018, the FLA accepted² a Third Party Complaint ("TPC") filed by the Tekgida Union ("the union") at Step 2³ concerning the Piraziz factory ("the factory"), which is owned and operated by Olam and located in Giresun, Piraziz. The Third Party Complaint filed with the FLA was based on allegations of workers' rights violations focused on the freedom of association rights of the workers in the factory.

The union claimed that:

- 1) A total of twelve workers were dismissed from the factory in February 2018, and nine out of those twelve workers were pioneer members of the Union and were dismissed due to their union membership status and their active involvement in Tekgida's ongoing organizing efforts;⁴
- 2) Senior executives/managers of the factory gathered the workers and organized a meeting where they made statements against unions and unionization; and
- 3) Mid-level executives/managers of the factory mounted pressure on union members to discourage them from retaining their union membership status and to press them to disaffiliate from the Tekgida union.

¹ The FLA's Independent External Assessment efforts for its Agriculture Affiliates focus on the upstream supply chain at the farm level, not the company's manufacturing or any other type of business operations.

² Prior to the acceptance of this Complaint, FLA staff based in Turkey made efforts to mediate between the two parties to address the allegations raised in the Complaint and related matters for an extended period between April and November 2018.

³ According to the FLA's Third Party Complaint Procedure, Step 2 provides that companies have up to 45 days to make an assessment and develop relevant remediation. Alternatively, companies can waive the 45-day period and have the FLA designate an independent third party to assess the situation and as appropriate, make remediation recommendations. In this case, Olam chose to conduct the assessment and hired an investigator, after which the FLA reviewed the report thoroughly – and later reviewed and assessed follow-up information provided by the factory.

⁴ These allegations are related to FLA's Workplace Code of Conduct Elements FOA.2, FOA.5 and FOA.6. See details here:

https://www.fairlabor.org/sites/default/files/fla_workplace_compliance_benchmarks_rev_10.2020.pdf

Under Step 2 of the FLA's Third Party Complaint procedure, Olam, as an FLA affiliate, decided not to waive its right to undertake its own investigation and proceeded with that investigation by commissioning Professor Omer Ekmekci as the investigator.

Olam selected Professor Ekmekci mainly because of his reputation as a well-known academician with a strong background in labor and social security law-related matters in Turkey. Prior to the investigation, the Tekgida union representatives also expressed their trust in Professor Ekmekci and their commitment to helping him by providing all relevant information and documentation during the investigation process.

Under the scope of the inquiry, the investigator conducted interviews with the dismissed workers, as well as workers and supervisors currently working at the factory, and held meetings with company management and union representatives. The investigation started on November 26, 2018, and the TPC Report was published on April 19, 2019.⁵

Although the report was inconclusive in terms of certain allegations of violation of freedom of association rights, specifically concerning whether the dismissal of nine union members was linked to their union affiliation, the investigator did conclude as follows:

- He acknowledged the company's failure to specify grounds for the termination of the nine union members;
- He prescribed detailed recommendations for the company to implement to fortify its internal mechanism for protecting workers (see below on *Implementation of the Corrective Action Plan*); and
- He presented eleven specific recommendations for the company to implement in order to prevent similar situations in the future. The status of implementation of these is discussed in greater detail below.

Issues Concerning Worker Dismissals and Reinstatement

The investigator, however, did not recommend reinstatement of the dismissed union-member workers, stating in the report that reinstatement of those workers might be harmful to peaceful relations in the workplace.⁶

The FLA, in its Summary Report published on May 8, 2019, noted certain concerns with this rationale for rejecting the reinstatement of the dismissed workers in accordance with the result of the judicial process and in line with the FLA's Workplace Code and

⁵ https://www.fairlabor.org/sites/default/files/documents/reports/olam_progida_tpc_report_final_5_7_19.pdf

⁶ See pages 24 and 25 of the investigation report for more details.

Benchmark requirements.⁷ As that FLA Summary Report stated: “Yet after reaching this decision not to make a determination as to the motivations underlying the workers’ dismissals, the report nevertheless then goes on to weigh in concerning the option of reinstatement of some or all of the nine dismissed workers – specifically recommending against any such reinstatement. The FLA has concerns about both the reasoning of the report in this regard and with the decision to make a recommendation on this issue – which is also likely to be part of a future court ruling in the ongoing judicial proceeding.”⁸

The ongoing judicial process subsequently concluded in favor of the nine dismissed union members in December 2020, with the court verdict finding that the termination was not based on valid grounds and that factory management violated freedom of association rights by terminating the nine union members based on their union affiliation status. However, to date Olam has decided not to reinstate those nine union members.

According to Turkish law, if the court determines that termination is not based on valid grounds and/or is based on the union affiliation status of the worker, the employer is obliged to reinstate the dismissed workers within one month. However, the law also gives employers leeway to avoid reinstatement by providing extra compensation (in essence, paying a fine) to the workers that they do not want to rehire, and this option in fact has often been used by employers in Turkey.

As a result, Olam chose not to rehire the dismissed workers who applied for reinstatement and decided instead to provide extra compensation, as determined by the court. The company has informed the FLA that this the payment to dismissed workers is complete, although there has not been an opportunity to verify that independently (the union has not provided the FLA with information on this process).

Meanwhile, on March 8, 2019, the FLA had received another Third Party Complaint submission from the Tekgida Union regarding alleged anti-union practices and dismissals of union members from Olam Progida's other manufacturing site located in Sakarya. Since the investigation of anti-union practices and earlier dismissals at the Piraziz factory was still ongoing, the FLA decided not to accept the new complaint at that time.

The Tekgida Union subsequently brought the second set of dismissals at the Olam factory in Sakarya to the Turkish judicial system. On June 9, the lower court dismissed

⁷ https://www.fairlabor.org/sites/default/files/fla_workplace_compliance_benchmarks_rev_10.2020.pdf (FOA.6)

⁸ <https://www.fairlabor.org/report/olam-progida>

the union's petition alleging anti-union behavior. The union subsequently informed the FLA that it has filed an appeal of that decision.

Although factory management has engaged with the Tekgida union, the FLA Summary Report noted that both parties "share responsibility for taking steps to mitigate such concerns, including through a renewed dialogue on the underlying issues." That has not yet been forthcoming. Olam responded that it has taken an important step toward improving its practices by establishing a dialogue with employee representatives in both manufacturing sites (Piraziz and Sakarya). Olam is not presently committed to engaging in social dialogue with the union itself, though it has pledged to maintain the employee dialogue.

Implementation of the Corrective Action Plan

As part of the investigation process, the investigator made a number of recommendations to the company, focused on actions to reinforce the company's policy, procedures, and practices in managing terminations, eliminating discriminatory practices, and enabling a fair workplace for employees.

After the publication of the FLA report on May 8, 2019, the company started to work on the corrective action plan (CAP) development. For the eleven specific recommendations set out in the report, Olam developed a total of sixteen activities. Olam did not develop an action plan for the recommendation related to establishment of social dialogue with the union.

Out of the sixteen remediation actions, twelve are now "completed", one is "partially completed", and three are still "Ongoing". The realization of the remediation activities was significantly impacted by the COVID-19 Pandemic throughout 2020 and the first months of 2021.

The FLA team provided an extensive review of the action planning and closely followed its implementation. The company lead point of contact and the FLA staff members maintained regular communication on the status of the open action plan items. In addition, the FLA reviewed the evidence of implementation thoroughly and provided regular technical support to the company.

The following table provides summaries of the recommendations and the remediation actions implemented by the company as of April 2021:

Recommendation (A)	According to the result of the reinstatement lawsuits, the employer will have the option to choose between the alternatives of reinstating the workers or paying the amounts specified in the court awards. However, if the court rules on the reinstatement of the dismissed workers and only some of the workers will be invited to work, and some of them will only be paid for the compensation claims, it will cause inequality allegations between the dismissed workers.
Corrective Action Plan	Olam chose to pay compensation instead of re-employing the dismissed workers to work in the Factory.
Status	Please see the summary in the text above. The lawsuit concluded in favor of the union members; the court verdict in December 2020 states that the dismissals were based on union affiliations and were undertaken without valid ground.

Recommendation (D) ⁹	It is not a legal obligation for the employer to hold a meeting with the Union in the event that the Union was not authorized at the workplace. Even though the parties came together before as required by the FLA Code of Conduct and Compliance Benchmarks, it was concluded that this was not caused by an obligation but was rather optional and that still the parties could meet at any time in accordance with the principle of good faith.
Corrective Action Plan	Olam did not develop any action plan related to this finding.
Status	Nothing further planned. As noted above, the FLA continues to favor establishing and maintaining a dialogue between the factory and the unions, including with respect to the dismissals at both Olam Progida facilities and the union’s allegations that these were driven by anti-union objectives. The FLA also reiterates its readiness to help the parties in a facilitator role if that would be seen as beneficial.

Recommendation (E)	It is recommended that the employer hold training sessions for the workers at least four times a year, providing them with information on their rights, particularly the FLA Code of Conduct and Compliance Benchmarks, as well as freedom to associate, collective bargaining agreements and union rights, and distribute the Company Manual to the workers against signature until the third quarter of 2019.
Corrective Action Plan	E 1. Providing training on labor rights to all employees four times a year. Creation of training materials to explain FLA workplace rules and

⁹ Recommendations (B) and (c) by the investigator reflected findings/analysis but not actual recommended corrective actions, so those were not integrated into Olam’s action plan.

	<p>compliance benchmarks to all employees, including freedom of association and collective bargaining.</p> <p>E 2. Distribution of the company manual</p>
Status	<p>E 1. Ongoing</p> <p>E1. Although planned, labor rights training sessions were postponed in 2020 due to the pandemic restrictions imposed by the Turkish Government. Olam stated that it planned to conduct training sessions four times in 2021.</p> <p>The first batch of training was delivered on February 16-17 2021, with a total of 61 workers covered in two different sessions. The FLA acknowledges the revisions made by Olam based on the feedback that the FLA provided. The FLA recommends Olam include post-training evaluation to measure the change in knowledge. Olam reported that the remaining training sessions will be conducted in May, August, and November 2021. (The FLA is still seeking verification that the May session did occur and will provide an update when that information becomes available.)</p> <p>E 2. Completed</p> <p>E2. Although it was suggested to disseminate the employee handbook in 2019, implementation of this activity was postponed to 2020 and then to 2021. Olam prepared the Employee Handbook to distribute to all staff members. The FLA provided comments and other follow up on the document, and understands the manual is now ready for distribution.</p>

Recommendation (F)	<p>It is recommended that the employer hold training the sessions for everyone working at the Human Resources Department, providing them with information on particularly FLA Code of Conduct and Compliance Benchmarks, as well as Human Resources Policies and Procedures, freedom to associate, collective bargaining agreements and union rights, train these people in a competent manner, and complete these training by the end of 2019.</p>
Corrective Action Plan	<p>F 1. Providing trainings for everyone working in the Human Resources Department, providing them with information on particularly FLA Code of Conduct and Compliance Benchmarks, as well as Human Resources Policies and Procedures, freedom to associate, collective bargaining agreements, and union rights. Identifying the consultancy firm that will provide the training and planning the trainings.</p>
Status	<p>F 1. Completed</p>

	<p>F1. Although it was suggested to complete managerial level training sessions in 2019, the first such training sessions took place in early 2020. Two training modules were developed; while one of the modules focuses on the legal framework of labor rights, the second module focuses on the FLA Workplace Code elements. The target group of these trainings was the Human Resource Department.</p> <p>Olam conducted a two hour training session for seven staff members (relevant Human Resource staff) on FLA Workplace Code elements on February 7, 2020.</p> <p>A third-party consultancy company conducted a total of 12 hours of technical trainings sessions on the "Turkish Labor Law" and "Processes involved in CBA" on October 22-23, 2020. A total of seven staff members participated in this two-day training sessions.</p>
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<p>Recommendation (G)</p>	<p>It is suggested to provide the mid-level managers and white-collar administration staff (supervisors and managers) with trainings on Problem Solving Techniques, General Communication Skills, Empathy and Emotion Handling and Leadership Skills with a view to improving their general management skills. It is recommended that trainings are held on particularly FLA Code of Conduct and Compliance Benchmarks, as well as freedom to associate, collective bargaining agreements and union rights.</p>
<p>Corrective Action Plan</p>	<p>G 1. Training of frontline manager and supervisors on the topics of Problem Solving Techniques, General Communication Skills, Empathy and Emotion Handling, and Leadership Skills.</p>
<p>Status</p>	<p>G 1. Completed</p> <p>G1. Olam partnered with a private company to conduct trainings for frontline managers and supervisors on the following topics:</p> <ul style="list-style-type: none"> * empathy and communication: (6 hours training) - 17 participants – October 20,.2020 * leadership skills (6 hours training) - 15 participants - October 21, 2020 * problem solving (6 hours training) - 16 participants – October 27, 2020 <p>Trainings were held in particular on the FLA Code of Conduct and Compliance Benchmarks, with a special emphasis on freedom to association and collective bargaining agreements. See notes for F1 above.</p>

<p>Recommendation (H)</p>	<p>It is suggested that, with a view to ensuring that workers use Complaint, Suggestion and Opinion boxes more actively and the employment relationship is rendered compliant with the FLA Code of Conduct and</p>
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	Compliance Benchmarks, workers be notified during the training suggested to be provided within 2019, that these boxes are taken into consideration by the employer and they be encouraged to use these boxes in a more efficient manner.
Corrective Action Plan	<p>H 1. The FLA Code of Conduct and Compliance Benchmarks training materials prepared for all employees will include a detailed description of the opinion, suggestion and complaint procedure.</p> <p>H 2. A meeting will be held with the workers' representatives and opinion, suggestions and complaints procedures will be explained to them in detail, and at the end of the meeting, the workers' representatives will be able to explain the opinions, suggestions, and complaints procedures to the other workers.</p> <p>H 3. Posters will be prepared to contain the items in the opinion, suggestion, and complaint procedure and these posters will be hung in areas and on announcement boards to be seen by all employees.</p>
Status	<p>H 1. Completed</p> <p>H1. FLA Workplace Rules and Compliance Standards training module includes employee suggestion, opinions, and compliant procedures; see notes on E1. Olam conducted a one-hour training session on labor rights and responsibilities for a total of 564 workers between November 1, 2019, and December 31, 2019.</p> <p>H 2. Completed</p> <p>H2. Olam' Human Resource Department staff conducted a meeting on February 2, 2020 with worker representatives to explain procedures on opinion, suggestions, and complaints procedures. A total of three worker representatives participated in the consultation meeting.</p> <p>H 3. Completed</p> <p>H3. Posters that explain Olam's opinion, suggestion, and complaint procedure were hung on areas and announcement boards in 2021. (The FLA was able to review photos of these posters.)</p>

Recommendation (I)	In order to decrease the tension between the union-member and non-union member workers, it is recommended that the employer prevent creation of an environment of fight and fear, and thus words and acts be avoided during the trainings to be provided to the workers in 2019, which could result misunderstandings between them or which could be offensive for them, and that an environment of peace be encouraged.
Corrective Action Plan	I 1. Under the Olam Progida Opinion and Suggestion Sharing meetings, the employer will periodically gather employees and open up the discussion for their work in peace (tracking the language of the recommendation directly).
Status	I 1. Completed

	I 1. Due to the Covid-19 Pandemic, worker consultation sessions were postponed to the second quarter of 2020. A total of 14 meetings (two hours each) were organized with the participation of 177 employees in 2020. The factory manager facilitated these consultation sessions.
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Recommendation (J)	It is suggested that the company create an internal audit system and perform such audit in an active manner, and that necessary works be carried out for correction of the deficiencies and non-conformities observed during these audits within at least one year starting from the date they were observed.
Corrective Action Plan	J 1. It was decided to get consultancy services for the establishment of the internal audit system. It is planned to search for a consultancy firm that will provide services.
Status	J 1. Completed Olam contracted with an outside party to conduct a general audit at its factories. The FLA reviewed the third party's audit report. The FLA notes that it did not address freedom of association issues.

Recommendation (K)	It would be appropriate to be transparent with respect to calling blue-collar workers for work and to make necessary adjustments on the issue. In addition, the reason of the complaints suggesting that managers favor some workers while they call workers for work should also be investigated by Progida, and necessary actions should be taken urgently in accordance with the result of the investigation.
Corrective Action Plan	K 1. Procedure on calling blue-collar workers to work will be formed in prior to the seasonal work period. K2. The procedure will be explained in detail to all of the shift supervisors. K 3. The Human Resources Department will check the records at the end of the month and give feedbacks to departments to take corrective actions.
Status	K 1. Completed K1. Olam developed a procedure for calling seasonal workers. An alphabetical list has been prepared to call the seasonal employees to work. According to the system, based on weekly production volume, the management team sets the number of labor requirements, then the HR Department will call laborers according to the list – providing an objective means as the alphabetical listing is now the only criterion utilized for this purpose. K 2. Completed K2. The seasonal labor call procedure was explained to labor supervisors on September 19, 2019.

	<p>K 3. Completed</p> <p>K3. The Human Resource Department checks the records at the end of the month. The FLA reviewed several checks of monthly working hours.</p>
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<p>Recommendation (L)</p>	<p>The employer needs to ensure that workers are periodically provided with information about all practices; these meetings should have a periodic nature, and the employer must clearly explain why the working conditions are determined in such manner, and a system based on the principle of merit should be established. In this connection, the performance system which was said would be established just recently needs to be made more functional, and it is mandatory to assess performance on the basis of objective criteria.</p>
<p>Corrective Action Plan</p>	<p>L 1. Developing a performance evaluation system and basic competence system for blue-collar workers will be completed.</p> <p>L 2. Training meetings will be planned to transfer the performance evaluation system to those concerned.</p> <p>L 3. Performance evaluations will be performed, and their routine will be defined.</p>
<p>Status</p>	<p>L1. Seasonal workers: Completed Permanent workers: Ongoing</p> <p>Olam completed the establishment of a performance evaluation system for seasonal workers, while action items related to a performance evaluation system for permanent workers are ongoing.</p> <p>L1. Olam developed separately a performance evaluation system for seasonal and permanent workers. The system was applied for seasonal workers in 2019, but due to the Covid-19 pandemic and job rotation, it only was partially applied in 2020 for permanent workers.</p> <p>L2. Seasonal workers: Completed Permanent workers: Ongoing</p> <p>L2. Olam planned to conduct training sessions on the performance evaluation system for workers in Spring 2021. (The FLA is awaiting confirmation concerning these sessions, and will provide an update when that is available.)</p> <p>L3. Seasonal workers: Completed Permanent workers: Ongoing</p> <p>The activity is ongoing with respect to permanent workers. The FLA will be following up with Olam on the dissemination of a performance evaluation system for permanent workers.</p>

<p>Recommendation (M)</p>	<p>The TPC assessment performed has revealed that there was no Annual Leave Committee at the workplace. It is recommended that a Leave Committee be established at the workplace within 2019, that the</p>
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	Committee consists of the representatives of both the employer and the workers elected by democratic methods, and the Committee be commissioned as set forth in the Labor Law.
Corrective Action Plan	M 1. Forming the Annual Leave Committee.
Status	M 1. Completed M1. Olam announced the process of forming an Annual Leave Committee and invited workers to open voting for selecting the names for the Committee. A meeting was held on September 17, 2019 to record the election process and an orientation session was delivered to the new members of the Committee on the same day. The Committee members; job description is defined and is in line with national legal requirements. The FLA has accessed records of the latest Committee meeting that took place on January 3, 2020. The FLA reviewed the job description, Committee voting report, meeting minutes for 2019 and 2020, training records, and annual leave plans.

Conclusions

As set out above, Olam has completed action on a substantial majority of the items in the corrective action plan, though certain important matters remain in the “Ongoing” category. These actions are welcomed by the FLA and reflect progress on a number of significant procedural issues in the workplace.

At the same time, the decision not to reinstate the dismissed workers, consistent with what is permissible under Turkish law and concerning which the investigator did not issue a determination, remains a key element of the continuing impasse between the company and the union. Prospects for resumption of a constructive dialogue do not seem great at present, especially with the ongoing litigation in the Turkish judicial system concerning the second set of dismissals (with the lower court finding for Olam and the union’s appeal of that decision).

The FLA will continue to monitor relevant developments, and hopes that the constructive actions reflected in this report might extend to a future dialogue between the parties both on the issues where progress clearly has been made and those for which it has not occurred to date. The FLA is prepared to provide updated information on the issues covered in this report as that becomes available.