



Forest Peoples Programme

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Dear Meg and Amar,

Clarification of Issues and Ombudsman Role for ‘Topic 2’ of Wilmar Complaint

We are writing to clarify our understanding of where we now stand with regard to the second set of issues raised by our complaint to the IFC-CAO about IFC Project Number 25532, being an investment guarantee of US\$50 million to the company Wilmar Trading / Wilmar International.

You will recall that, in our original complaint, we had identified the following matters of concern, which - after detailed discussions with yourselves – it was agreed should be grouped into three sets of issues (‘Topics’) for discussion with the relevant parties through dialogues or negotiations, to be mediated by the CAO.

Issues raised by complainants	Topic
Illegal use of fire by Wilmar to clear lands	2
Clearance of primary forests by Wilmar	1
Clearance of areas of high conservation value by Wilmar	2
Take over by Wilmar of indigenous peoples’ customary lands without due process	1
Failure by Wilmar to carry out free, prior and informed consultations with indigenous peoples leading to broad community support	1
Failure by Wilmar to negotiate with communities or abide by negotiated agreements	1
Failure by Wilmar to establish agreed areas of smallholdings	1
Social conflicts triggering repressive actions by Wilmar companies and security forces	2
Failure by Wilmar to carry out or wait for approval of legally required environmental impact assessments	2
Clearance by Wilmar of tropical peat and forests without legally required permits	2
Wrong classification by IFC of project as Category ‘C’ not Category ‘A’	3
IFC did not follow the IFC’s newly adopted E&S Review Procedures	3
IFC did not give due consideration of IFC’s newly adopted Performance Standards PS1 - PS8	3
IFC did not adhere to the IFC’s Information Disclosure policy	3
IFC did not assess / detect Wilmar’s non-compliance with several Performance Standards	3
IFC wrongly noted on its website that Wilmar was compliant with RSPO standards	Already addressed

Two other concerns, which were also mentioned in our letter and the associated documents of our submission, were brought out further in the initial discussions between Amar and Kate and the complainants in early 2007. These two concerns are that Wilmar is sourcing FFB and CPO from other companies which are also acting contrary to law and good practice (eg Duta

Palma) and Wilmar subsidiaries are also in direct conflict with communities in other parts of the archipelago, not just in Sambas. Some of these affected groups are represented by signatories who attended the (unsuccessful) 'Topic 3' CAO-mediated dialogue with IFC held on 30th November 2007. Our understanding is that these two issues have also been grouped in 'Topic 2'.

As complainants we agreed with this grouping of our concerns under the three 'Topics'. We also agreed with your advice that it would be better to start making progress with the CAO-mediated negotiations under Topic 1 before moving on to Topic 2. The Topic 1 negotiations are now underway (and see below).

However, with respect to Topic 2 we are now concerned by two matters. First, we now sense a reluctance on the part of the CAO to engage in Topic 2 as a CAO-mediated dialogue. Secondly, we are concerned that the CAOs are now suggesting that the Topic 2 discussions will no longer specifically address **Wilmar's** operations but should instead examine the generic problems with RSPO compliance in the oil palm sector in Indonesia. We are also concerned that the CAOs have got the impression that we, as complainants, have divergent views about the best way forwards on this matter.

By means of this letter we would like to reassure you that we **are** in agreement about the way forwards. We **do** still want the Topic 2 discussions to address our concerns about **Wilmar's** compliance with legality and good practice standards (and not to be a generic discussion about challenges to RSPO compliance in Indonesia). We **do** still expect the CAO to undertake a mediated dialogue on these Topic 2 matters. We would also like to note that we think these discussions should be commenced as a matter of urgency.

The Other 'Topics'

As this is an open letter we are not here making any comment on the progress being made, under Chatham House Rules, on 'Topic 1' of the complaint, except that we take this opportunity to note our continuing commitment to the Ombudsman-mediated process and to say we believe that the progress being made is significant even though, doubtless, all parties may wish that agreements were being reached more speedily. .

Meanwhile we look forwards to further information about the progress being made on 'Topic 3' issues – being IFC's compliance with its own policies and procedures, which after the failed mediated dialogue between the complainants and IFC on 30th November 2007, is now being considered for an audit under the compliance function of the CAO. The process of undertaking this audit is taking longer than we had expected and we are alert to the fact that despite this audit not yet being completed, according to the IFC's website the IFC is planning to give further credit to the Wilmar group within this month. See:

<http://www.ifc.org/IFCExt/spiwebsite1.nsf/0/dcdc081efe24c7ca852574890079b13e?OpenDocument>

We are extremely surprised by this premature move by IFC, which seems to us to be in bad faith, and we would like to have your views on this matter. We also look forward to learning how you think we should move forwards on 'Topic 2' as a matter of urgency.

Yours sincerely

Marcus Colchester
Director (on behalf of the other signatories)