Mediation: a strategy or a final objective?
“Some notes based on the experience of mediating conflicts between PT Asiatic Persada and the Suku Anak Dalam (Batin Sembilan) in Jambi Province”

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Translated and edited by Forest Peoples Programme
A pinch of chalk for a betel-nut

These are a few notes which embrace the whole history of a mediation process, both the first phase which was facilitated by Yayasan SETARA and the second phase facilitated by Jomet (a team made up of the CAO-IFC and the Jambi Provincial Government). The aim of these notes is to give other communities, farmers and activists who are involved in a mediation process the chance to learn from this experience.

Both the first and second phases of this mediation process also involved many other stakeholders, in particular NGOs including CAPPA, PH, AGRA, Sawit Watch, FPP and the Batin Sembilan Customary Association. It is highly likely that each organisation involved in the mediation process, whether as a monitor, as an observer, as a complaint signatory or by directly assisting the community and Suku Anak Dalam, would have made different notes and or would have a different perspective to that presented in these notes.
Introduction

The Bahar River Suku Anak Dalam (Batin Sembilan) peoples have traditionally lived along the banks of the Bahar River and other large rivers in Jambi Province such as the Kandang and Markandang Rivers (nowadays these lie within the Batang Hari and Muaro Jambi administrative districts). They meet their everyday needs from farming the land and making use of forest products. During the Dutch colonial period their rights to land were recognised within certain limits, but this changed after Indonesia achieved independence. Under Soeharto’s New Order government in the 1970s, increasingly vast areas of forest were cleared to accommodate business interests. These ranged from transmigration areas and timber operations (Forest Concession Rights known as HPH) to developing oil palm plantations. Such practices reduced the living space available to the Suku Anak Dalam (Batin Sembilan) peoples. Their rights to the land were not recognised by the state and the rate of land expropriation in their area increased. With their means of livelihood lost, the Bahar River Suku Anak Dalam (Batin Sembilan) became trapped in poverty.

PT Asiatic Persada, a large oil palm plantation, recently owned by Wilmar, operates within the Suku Anak Dalam (Batin Sembilan)’s territories. From the moment it was established, PT Asiatic Persada has constantly come into conflict with the Bahar River Suku Anak Dalam (Batin Sembilan). This conflict has also become broader, involving communities other than the Suku Anak Dalam (Batin Sembilan) who also believe that Asiatic Persada has seized land which they have a right to. The company, which was originally called PT Bangun Desa Utama (PT BDU), has operated since 1986, when it obtained cultivation rights (known as Hak Guna Usaha or HGU) for 20,000 hectares of land. The existence of settlements, villages and farmland belonging to the local Bahar River Suku Anak Dalam (Batin Sembilan) peoples was explicitly mentioned in the document releasing the land from the state forest estate to become an oil palm plantation, issued by the Forestry Department’s Agency for Forest Inventory and Management in Jakarta on 11th July 1987 (reference number No. 393/VII-4/1987). Point five of that document indicates that settlements, planted areas, fields and scrubland belonging to the local community were all found within the proposed plantation zone. The detailed figures were as follows: of 27,150 hectares released from the forest estate, 23,000 hectares was still forested, 1,400 hectares was scrub, 2,100 hectares was cultivated land, and 50 hectares was settlements.

Large-scale oil palm plantation development began in 1990. In 1992, PT BDU changed its name to become PT Asiatic Persada. Ever since oil palm development started, land conflict with the Suku Anak Dalam continued to increase, although the military might of President Soeharto’s regime meant that resistance was swiftly subdued. Since 1998, once President Soeharto was no longer in power, communities started to find the courage to resist and voice their demands for the return of their land, and demand compensation for land they had been evicted from. The ownership of PT Asiatic Persada also changed hands several times. Originally owned by the Senangsyah family, the company was sold in 2000 to the Commonwealth Development Corporation and Pacific Rim (CDC PacRim), subsequently to Cargill (in 2006), and eventually to Wilmar in the same year. In 2002, PT Asiatic Persada promised to develop a 600 hectare

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1 The Bahar River Suku Anak Dalam (Batin Sembilan) peoples (literally meaning Hinterland Children of the Nine Leaders, henceforth referred to by the abbreviation Suku Anak Dalam), inhabit several regencies in Jambi Province, living along the length of seven rivers or tributaries: Bahar, Jebak, Bulian, Jangga, Telisak, Sekamis, Pemusiran and Burung Antu.
“partnership” plantation (kebun kemitraan) in the northern part of their concession area, along with another 400 hectares in the southern part (the Bungin area), for the use of the Suku Anak Dalam living in Tanjung Lebar village, Sungai Beruang village and Muaro Penyerukan village. After Wilmar bought PT Asiatic Persada however, the plan to develop ‘partnership’ plantations was not realised, and this has since become a constant demand of Suku Anak Dalam groups.

In 2010 PT Asiatic Persada set aside 1,000 hectares to become a “partnership” oil palm plantations for the whole Suku Anak Dalam, which comprised 771 households as identified and verified by the Batanghari Regency Government. These ‘partnership’ plantations were to be located within the areas where PT Jammer Tulen and PT Maju Perkasa Sawit (MPS) had operated, as was later decreed by the Batanghari District Head in regulation (Perbup) No 14/2010. For the Suku Anak Dalam living in Tanjung Leher village, Sungai Beruang and Muaro Penyerukan villages, the area located in PT Jammer Tulen and PT MPS’s operational areas is not the same “partnership” plantation as they were promised in 2002, which was to be in the Bungin area. Because of that, they refused to become members of the “partnership”. Although a part of the Suku Anak Dalam welcomed this “partnership” agreement for 1,000 hectares of oil palm, the majority of the Suku Anak Dalam opposed the plan and instead continue to desire that the land claimed by each group is returned to them. Other Suku Anak Dalam groups such as Tanah Menang, Pinang Tinggi and Padang Salak refused the development of “partnership” smallholder plantations as a form of compensation for their land and fields from which they were evicted by PT Asiatic Persada, and they continue to demand their original land back.

Repeated attempts at conflict resolution by the Government (whether at the National, Provincial or Regency level) have engaged the Suku Anak Dalam groups which are in conflict with PT Asiatic Persada, but have not produced any solution that the Suku Anak Dalam find acceptable. The lack of a positive response from the government has meant that the Suku Anak Dalam groups felt they were in a hopeless situation. Internal conflicts within the Suku Anak Dalam, in particular between different groups claiming rights within PT Asiatic Persada’s HGU

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2 PT Jammer Tulen and PT Maju Perkasa Sawit are both companies owned by PT Asiatic Persada, with a plantation area of 7000 hectares for which the permit expired in 2005 and has not been extended. The area is currently comprised of land planted by local communities as well as 3000 hectares of oil palm trees owned by PT Asiatic Persada. This land is outside PT Asiatic Persada’s HGU area, but it is included in the land which the Forestry Ministry released from the state forest estate.
concession, have become increasingly frequent as a result of the land grabs and unresolved disputes with the company. Nearly all Suku Anak Dalam groups have used the tactic of occupying the land they claim, and the company has sometimes responded with military force. Arrests have not been uncommon - with the consequence that Suku Anak Dalam members are criminalised.

Pressure from the company and even the government on the Suku Anak Dalam to agree to and accept the resolution to form a ‘partnership’ on the 1000 hectares of land in PT Jammer Tulen and PT Maju Perkasa Sawit’s concessions has caused the Suku Anak Dalam to become increasingly divided, and many of them have actually started to step back from the struggle for their land rights.

Wilmar Group is one of the world’s largest palm oil companies, which takes its aim of campaigning for and promoting the production and consumption of sustainable palm oil around the world very seriously. Wilmar has received funding from the IFC and is also a member of the RSPO, an international forum which has been promoting sustainable palm oil since 2003. NGOs along with Suku Anak Dalam groups have made use of these facts to lodge complaints about violence carried out by PT Asiatic Persada, a subsidiary of Wilmar, with both the RSPO and IFC.

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3 The IFC is the investment division of the World Bank
Mediation: one strategy for resolving conflict

Mediation is actually not a new concept for the general public, nor for the Suku Anak Dalam. If the tradition of *musyawarah*, reaching agreement through collective discussion, is viewed as a form of mediation, then this practice has provided a space for the resolution of disputes and conflicts within the community for a very long time. However, as times have moved on, mediation or *musyawarah* has lost its prestige, as models for resolving disputes and conflicts have increasingly made use of the courts and other formal arenas.

Nowadays, when mediation is once again being promoted as a space for conflict resolution, especially in conflicts over the control of natural resources, people have struggled to express their response at the community level. For example, there have been doubts about the legal standing of agreements produced by mediation, and where the authority to enforce all parties to abide by these agreements might come from. Not only communities are stuck for how to respond to the idea of mediation, governments also experience similar concerns, and the same goes even for companies, which are important stakeholders in such conflicts.

It is not straightforward to promote mediation as a route to resolve conflicts and foster peace, because until now there have been few concrete examples to look at. Therefore it is not surprising that the attempt to mediate the conflict and build peace between the Suku Anak Dalam and PT Asiatic Persada has had its ups and downs. It was not uncommon for the process to stagnate or even reach deadlock, which also sometimes affected the energy and trust levels of the parties involved in the mediation process.

The description below will describe how mediation becomes a dynamic and complex forum and a learning process for all involved. Indeed, mediation would have missed its purpose if it wasn’t used as a means to learn respect, understanding and peaceful action.
The First Phase of Mediation: mediation conceived by Suku Anak Dalam groups together with their supporting organisations

A feeling of hopelessness had arisen, as the government continued to exert pressure on all Suku Anak Dalam groups that were in conflict with PT Asiatic Persada to accept the proposal to settle their disputes by means of a ‘partnership’ scheme on 1,000 hectares of land. Meanwhile all the groups were aware that this ‘partnership’ was impossible to agree to. For a start, it was very clear that the agreement had been proposed by the company without leaving any space for other parties to criticise its draft. Also, anyone who accepted the ‘partnership’ scheme would have to leave PT Asiatic Persada’s HGU area. This would include both those people who were occupying the land, or people who owned buildings within the HGU area. Then the ‘partnership’ program to be “agreed” was a ‘partnership’ based on profit-sharing. This would mean that the 1,000 hectare plantation would remain under company control but the payment for the fruit produced would be given to a community co-operative, less the overhead or production costs and repayments of credit given to develop the oil palm plantation. Faced with such prospects, when they felt there might be an opportunity to complain to the IFC as Wilmar’s funder, and to the RSPO regarding violations of the principles and criteria for sustainable palm oil by a Wilmar Group subsidiary, then several Suku Anak Dalam groups preferred to take those opportunities to seek a speedy solution to the conflict.

In October 2008, several prominent community members from the Suku Anak Dalam sent a letter of complaint to Wilmar’s management in Singapore, also sending copies to the RSPO and IFC. The letter contained complaints concerning human rights violations and acts of violence carried out by PT Asiatic Persada towards Suku Anak Dalam groups. Wilmar’s Singapore management made a reasonably positive reply to that letter, and as a way to move forward, several representatives of the Suku Anak Dalam were asked to attend a RSPO meeting in Bali in November 2008. The Suku Anak Dalam representative at that event was Nurman Nuri, who was accompanied by Abas Subuk. In an informal meeting with Wilmar management from Singapore and PT Asiatic Persada management, it was agreed that the two parties would hold a series of meetings to discuss the problems and also efforts to resolve them. In January 2009 the first of these meetings took place in Jambi, at that time facilitated by Yayasan SETARA Jambi, YLBHL and AMPHAL. Two Suku Anak Dalam groups attended, although all Suku Anak Dalam groups in conflict with PT Asiatic Persada had been invited. The two Suku Anak Dalam groups that attended were the 113 Three Villages Group and the Mat Ukup group.

As agreed by both sides, the mediation process would be carried out in three important stages, as follows:

Stage I, or the communication stage. This stage focussed on building communication in order to develop similar perceptions of the situation, and also avoid the conflict escalating. This first stage was also effective in bringing the two sides to agree to hold negotiations with the aim of moving forward and resolving the problem. Both parties learnt a lot during this first stage, as did the supporting organisations. Communication, which had previously been quite hostile, started to flow more easily. A level of trust started to emerge, especially when the company felled eleven oil palm trees which had been planted on a Suku Anak Dalam burial ground in the

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When the different groups were identified, five groups were found to be in conflict with PT Asiatic Persada, namely PERMASAD, FORKALASAD, FORMASKU, 113 Tiga Dusun Group and Mat Ukup Group.
Temidai area. All the Suku Anak Dalam were witnesses to the felling of the trees, which took place on 30th July 2009. Aside from cutting down the oil palm trees planted on the Suku Anak Dalam's former burial ground, the company also apologised to all the Suku Anak Dalam and all descendants of those buried on the site, and allowed all the Suku Anak Dalam to visit the site in accordance with their spiritual beliefs.

As well as the progress noted above, another outcome of this first stage was that both sides carried out a mapping of the area claimed by the Suku Anak Dalam which would later become a basis for negotiation in the second stage.

Once stage one was completed, the two parties moved on to the second stage of their negotiations. For this second stage the two parties each chose their negotiating team. Several mediators were proposed, representing the choices of the two parties: AKSENTA, Jambi University or the CAO. However, after taking everything into account, the two parties
eventually settled on Yayasan SETARA Jambi as the mediator with the CAO\(^5\) as an observer to the negotiation process.

Unlike the first stage, this second stage did not go so well, because PT Asiatic Persada's negotiating team only proposed one solution to the conflict, suggesting that the 113 Group and Mat Ukup Group accept the ‘partnership’ scheme on the 1,000 hectares of land in PT Jammer Tulen and PT MPS's concessions. Despite the mapping of the claim having been carried out together, and despite it having been identified that the Suku Anak Dalam had never voluntarily surrendered their right to land to the company, the company still stuck to its single proposal, the 1,000 hectare ‘partnership’ plan. The company tried different strategies to achieve this and somehow it worked. The company together with the Batanghari local government put pressure on the Suku Anak Dalam to accept the 1,000 hectare ‘partnership’ scheme. Unfortunately the Mat Ukup group agreed to this, having engaged in negotiations outside those that were being facilitated by Yayasan SETARA, and coming to an agreement that did not make use of the facilitation that had been previously agreed together. In the end the mediator stepped down\(^6\), no longer willing to facilitate negotiations with the Mat Ukup Group.\(^7\) Negotiations for the 113 Group continued until those negotiations also ran into problems in September 2010 when PT Asiatic Persada violated the ground-rules for the negotiations which both sides had already agreed to. Not only did the company infringe these ground-rules, they also ignored the minutes of the negotiations, which should have provided the structure to be adhered to.

The negotiations between PT Asiatic Persada and the 113 Three Villages group also did not give many hopeful signs, because before the negotiations were concluded, discussions for the negotiations revealed that PT Asiatic Persada had paid no attention whatsoever to the standards which formed the basis of the community's complaints such as the IFC's Performance Standards on Social and Environmental Sustainability and the RSPO's Principles and Criteria, not to mention respect for the right to FPIC. Pushing for only one possible solution was an indicator that although Wilmar had appeared to be changing for the better, the reality on the ground was that PT Asiatic Persada's actions were in absolute contradiction to what Wilmar had been promoting to the public internationally.

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5 CAO stands for the Compliance Advisory Ombudsman which takes care of complaints about IFC projects. The CAO’s responsibility comes directly from the World Bank President. The CAO’s involvement in the Wilmar case arose because of the complaint from Indonesian civil society organisations concerning violations and aggressions carried out by one of Wilmar’s Indonesian subsidiaries. Once that complaint was received, the CAO was obliged to look into the PT Asiatic Persada case. However, due to the CAO’s limited resources in Indonesia, it had to first attend to another case involving Wilmar in Sambas, West Kalimantan.

6 For a more complete account, read the chronology of negotiations

7 This occurred on the 11th March 2010.
Records of the first phase of mediation between the Mat Ukup and 113 Three Villages Group and PT Asiatic Persada.

<table>
<thead>
<tr>
<th>Suku Anak Dalam 113 Group</th>
<th>Outcome</th>
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<tr>
<td>On the 10th of February 2010 at the Cosmo Hotel. Participants were to listen to the PT Asiatic Persada's team's response to suggestions of how to settle the 113 Group's demands.</td>
<td>The Suku Anak Dalam 113 Group's negotiation team presented their demands and their suggestions for possible resolutions to PT Asiatic Persada's negotiating team. The meeting also agreed to give PT Asiatic Persada time to study the document outlining the demands and other related documents. It was agreed that the next meeting would take place on 10th March 2010.</td>
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<tr>
<th>Suku Anak Dalam Mat Ukup Group</th>
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<tr>
<td>On the 11th February 2010, at the Cosmo Hotel, the Suku Anak Dalam Mat Ukup group presented their demands and suggestions for possible resolutions.</td>
<td>This meeting also agreed to give PT Asiatic Persada's team more time to study the document containing the demands and other related documents. The next meeting would take place on 11th March 2010, where participants would hear PT Asiatic Persada's responses to the suggestions of how to settle the Mat Ukup group's demands.</td>
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| | On March 10th 2010 at the Cosmo Hotel, PT Asiatic Persada put forward their responses and made their own counter-proposals to the Suku Anak Dalam 113 Three Villages group's demands and suggestions. | PT Asiatic Persada's response comprised three points: 1. That the Suku Anak Dalam 113 Group could not base their demands around the mapping carried out by Daemeter, because the map produced then could not be taken as the basis for any claim. 2. That the Suku Anak Dalam 113 Group were asking for an enclave to be defined around 255 hectares of land within the HGU area which the Suku Anak Dalam are currently occupying to farm, and have planted with rubber trees. The Suku Anak Dalam would allow PT Asiatic Persada to turn that area into a symbol of the company's conservation efforts. However, according to the company, authority over conservation lies with the government. 3. PT Asiatic Persada would agree to set aside an enclave around any of the Suku Anak Dalam's burial sites within the HGU area. PT Asiatic Persada proposed that the Suku Anak Dalam 113 group participate in the 1,000 hectare ‘partnership’ scheme along with other Suku Anak Dalam groups, within the PT Jammer Tulen and PT MPS concessions. The Suku Anak Dalam 113 Group gave the following responses to PT Asiatic Persada's proposals:  |
| | On the 11th March 2010, a meeting took place between the Suku Anak Dalam Mat Ukup group and PT Asiatic Persada. | The responses which PT Asatic Persada put forward included: 1. The company accepted defining enclaves around the Suku Anak Dalam’s burial grounds and settlements, but could not yet agree to including land for cultivation. 2. PT Asiatic Persada proposed that the Suku Anak Dalam Mat Ukup Group should accept the 1000 hectare ‘partnership’ scheme within the PT Jammer Tulen and PT MPS concessions. Mat Ukup's responses: 1. requesting enclaves around burial sites, settlements and land for cultivation. 2. they accept the idea of a ‘partnership’ scheme, but not within the conflict zone.  |

The facilitator then offered the Suku Anak Dalam Mat Ukup Group the option of bringing some of PT Asiatic Persada's offers back to their group members in the village for further discussion. A 20 minute pause followed in order to write up the minutes. But during the break, PT Asiatic Persada and the district government continued to discuss with the Suku Anak Dalam Mat Ukup group outside the meeting room, and came up with an agreement which was signed by both PT Asiatic Persada and the Suku Anak
1. That they reject a ‘partnership’ if it were to be located within the PT Jammern Tolun and PT MPS concessions, because according to them, those areas are also subject to a dispute with people who live there and who are currently occupying the land.

2. The Suku Anak Dalam 113 Group suggest that the ‘partnership’ area should be located in the area which is claimed by their group because they have a connection with the area, as it is the land of their ancestors.

Concerning other issues, the Suku Anak Dalam 113 Group asked the company for more time so that they could discuss the matter with other members of the 113 group, elders (tuo tengganai) and community leaders, and so the next meeting was schedule for the 13th April 2010.

13th April 2010

The Suku Anak Dalam 113 group once more gave their reactions based on the suggestions and responses which PT Asiatic Persada gave on the 10th March 2010, including:

1. The Suku Anak Dalam 113 Group would accept the 1,000 hectares ‘partnership’ proposal on the condition that the whole 1,000 hectares would be for the 113 group only.

2. If PT Asiatic Persada could not accept the Suku Anak Dalam's proposal in point 1 above, the Suku Anak Dalam 113 Group asked that the whole area claimed by Suku Anak Dalam 113 within PT Asiatic Persada's HGU area should be returned to them.

3. The Suku Anak Dalam 113 proposed that the map be revised and improved.

As there was still no agreement, the two sides agreed to continue the talks on 29th April 2010.

Dalam Mat Ukup and witnessed by a regency government representative (head of the Batanghari Natural Resources division).

Being of the opinion that the negotiation process was only valid if it took place within the negotiating room, witnessed by observers to the process, the facilitator, out of respect for the negotiation ground-rules, stated that they would STEP DOWN FROM FACILITATING NEGOTIATIONS BETWEEN PT ASIATIC PERSADA AND THE SUKU ANAK DALAM MAT UKUP GROUP.

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<tr>
<th>Suku Anak Dalam 113</th>
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<tr>
<td>NO FURTHER NEGOTIATIONS TOOK PLACE WITH THE SUKU ANAK DALAM MAT UKUP GROUP</td>
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On 29th April 2010 another meeting took place between PT Asiatic Persada and the Suku Anak Dalam 113 Group.

Once again this meeting failed to find a solution to the various differences noted above. PT Asiatic Persada continued to propose that the Suku Anak Dalam 113 Group:

1. should become involved in the 1,000 hectare ‘partnership’ program which was intended for all the Suku Anak Dalam, and that ‘partnership’ would be considered to be a settlement of the Suku Anak Dalam 113 Group claim to the three villages.
2. In order to participate in the 1,000 hectare ‘partnership’ program in the Jammer Tulen and Maju Perkasa Sawit concessions the Suku Anak Dalam 113 would need to undergo a verification process with the District Government, and would have to prove that the Suku Anak Dalam 113 Group were former inhabitants of the three villages in question.
3. If the Suku Anak Dalam 113 Group were unable to accept the above proposal, the company suggested that the Suku Anak Dalam 113 group pursue the matter through the courts instead.

For their part, the Suku Anak Dalam 113 group gave the following option:

1. Enclave a 225 hectare area around the community's land located within PT Asiatic Persada's HGU area.
2. Enclave the Suku Anak Dalam 113 Group's burial grounds
3. PT Asiatic Persada should provide housing for the Suku Anak Dalam 113 group.
4. If PT Asiatic Persada was not able to accept these four points, Suku Anak Dalam 113 Group asks the company to set aside an enclave around the whole territory covered by the three villages (covering an area of 3,000 hectares)

The two parties would meet once again on 9th June 2010.

The talks resumed on 9th June 2010 at the Cosmo Hotel in Jambi.

In this meeting it was agreed that:

1. PT Asiatic Persada would provisionally agree to the Suku Anak Dalam 113 Group's demand for an enclave around the area which Suku Anak Dalam 113 were currently cultivating, which lay within the HGU area.
2. However that area would need to be mapped by the two parties once more, and the people managing and cultivating each piece of land would need to be identified.
3. PT Asiatic Persada would also to agree to designate enclaves around burial grounds at seven different locations, all also within the company's HGU area.
4. The mapping was planned to take place in June 2010

Meanwhile PT Asiatic Persada could still not agree the Suku Anak Dalam 113 Group's demands for a ‘partnership’ program intended only for the 113 group. To address this demand the two parties made plans to meet once again and attempt to find a solution to this point of contention.

Because of unsuitable weather conditions, the mapping eventually started on 27th July and continued through into the month of August.

The two parties (Suku Anak Dalam 113 Group) and PT Asiatic Persada took the co-ordinates of the area still being managed and cultivated by the Suku Anak Dalam 113 Group, and also identified the people who were managing and cultivating this area. The process of taking the co-ordinates was undertaken by the PT Asiatic Persada's survey team and the Suku Anak Dalam 113 Group's survey team together.

The next meeting would be for the two parties to sign their approval of the map and report of the mapping exercise. The map produced would be used in the negotiations to decide the areas included in the enclaves.

1st October 2010 in the Cosmo Hotel

PT Asiatic Persada and the Suku Anak Dalam 113 Group signed the report of the mapping of the areas which were planned to become enclaves for the community within the plantation, and also to sign their approval of the map that was produced. Because there were still some overlapping boundaries included in the land that had been mapped, the two parties agreed to meet once more on the 19th November 2010 to discuss the matter.

The mapping exercise discovered that the Suku Anak Dalam 113 group was still managing, cultivating and
occupying 241.26 hectares of land which was planted with fruit trees, rubber and dragon's-blood rattan palms.

<table>
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<tr>
<th>Date</th>
<th>Location</th>
<th>Event Description</th>
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<tr>
<td>14th December</td>
<td>Abadi Hotel</td>
<td>The company stated that it would set aside an enclave for the land still being managed and cultivated by the Suku Anak Dalam 113 Group, and also preserve enclaves around the burial grounds and take care not to disturb the graves. As for the 1,000 hectare ‘partnership’ scheme within PT Asiatic Persada's HGU area which the Suku Anak Dalam 113 community had demanded, the parties would discuss the matter in their next meeting.</td>
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<td>15th March 2011, Cosmo Hotel</td>
<td>In this ninth meeting, both parties provisionally agreed that 241.26 hectares of land would be set aside as an enclave, as would the burial grounds. Regarding the Suku Anak Dalam 113 group's demand for a ‘partnership’ scheme, PT Asiatic Persada proposed to the community that they should take up the case through the courts. For their part, the Suku Anak Dalam 113 Group did not want to follow this legal route, and made clear that they still wanted SETARA to facilitate further negotiations.</td>
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<td>8th April 2011, Cosmo Hotel</td>
<td>The tenth meeting took place, attended by the CAO and Sawit Watch, but a halt was called to the negotiations as the company stated that it did not feel secure, since at the same time, several Suku Anak Dalam from other groups were holding a demonstration at the Jambi Provincial Governor's office, led by Herman Basir. It was agreed that the next meeting would take place at an appropriate time. However no minutes of the meeting were taken that day.</td>
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<td>29th April 2011</td>
<td>The mediator received a letter from one of the members of the Suku Anak Dalam 113 Group's negotiating team, Abas Subuk. The letter was addressed to YLBH and the Setara NGO, and its purpose was to revoke their authority to represent or take action on behalf of the Suku Anak Dalam 113 Group from Tanah Village to settle their case. However the mediator did not heed the letter as Yayasan SETARA were not acting as advocates for the Suku Anak Dalam, and had never been given the authority to represent or take action on behalf of that group to settle the case. Both parties had only appointed SETARA to be a mediator in the negotiations.</td>
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<td>7th July 2011</td>
<td>As the next round of negotiations would address compensation for the loss of three villages (Pinang Tinggi, Tanah Menang and Padang Silak), and the Suku Anak Dalam 113 group had asked PT Asiatic Persada to provide 1,000 hectares of land within the company's HGU area, to be managed in ‘partnership’ scheme, as compensation for the loss of three Suku Anak Dalam villages, the mediator requested that Daemeter Consulting hand over the original of a map which was at that time in Daemeter's possession. According to the minutes of the negotiations, the MoU and the negotiations' ground-rules, the mediator had the right to request the map for the purposes of the negotiations. However, by 20th July 2011, Daemeter had yet to heed the request.</td>
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<td>28th July 2011</td>
<td>The mediator sent a letter of complaint to Daemeter about how the mediator's request to pass on the map of the Suku Anak Dalam 113 Group's claim for the purposes of the negotiations had been ignored. The letter claimed that Daemeter was creating difficulties for the negotiation process by not forwarding the map which</td>
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Daemeter responded to the mediator's complaint. Daemeter's response was as follows:

PT Asiatic Persada would have a problem if the map were passed on to the mediator, as the Suku Anak Dalam had revoked SETARA's mandate (PT Asiatic Persada were using the letter from Abas as a pretext to prevent the map being sent to the mediator).

### 7 September 2011

1. Because Daemeter were not prepared to send the map of the claim, giving the reason that PT Asiatic Persada had forbidden them to do so,
2. and also since the company continued to state that the mediator's mandate to mediate the negotiations had been revoked by Abas Subuk's letter, therefore the mediator sent a letter withdrawing from mediating the talks. The reasons were as follows:

   1. PT Asiatic Persada had contravened the agreed ground-rules of the negotiations by forbidding Daemeter to supply the map showing the Suku Anak Dalam 113 Group's claim for the purposes of the negotiations, whereas in the MoU, negotiation ground-rules and minutes it is stated that the mediator has the right to request documents relating to the negotiations, and so had the right to obtain the map which was being held at the time by Daemeter.
   2. PT Asiatic Persada was using a letter which had no relevance to the role of mediator as a means to delegitimise that role.

The process was closed.

This phase of negotiations was a serious disappointment for the Suku Anak Dalam group, since just when the negotiations were approaching a resolution, PT Asiatic Persada took steps which undermined and tainted the negotiation process. The company failed to respect the agreed ground-rules, failed to respect the mediator as has already been shown, and even failed to respect agreements that had been reached together. In this phase it was evident that one of the parties did not really understand the context of mediation, and was not truly aware that mediation was the most advantageous route, not only to resolve conflicts, but also as a forum for reconciliation and peace-building.

After the mediation process fell apart, the affected Suku Anak Dalam communities went back to organising demonstrations, and once again, the government with all its promises just built up hopes of solutions that have still not been realised until the present day.
Second Phase of Mediation; negotiations conceived through the CAO-IFC mechanism.

After the negotiations were called to a halt due to one of the parties having contravened the negotiation's ground-rules, several of the Suku Anak Dalam groups returned to the land that they had been claiming as theirs. The Mat Ukup group was no exception - the group had withdrawn from the negotiations because they were convinced that the Regency Government would facilitate the resolution of their conflict with the company, as they had been promised by Mr Baidawi of the Batanghari Regency Government Natural Resources Division. It was not only the Suku Anak Dalam groups which had participated in the failed negotiations that occupied land, other groups around the border with Muaro Jambi Regency also took the same kind of action. An investigation by Yayasan SETARA revealed that around seven different groups were occupying land within PT Asiatic Persada's HGU area at that time.

Finally, between 9th-11th August 2011, PT Asiatic Persada together with police officers committed an act of violence and violation of human rights. It was frankly a very embarrassing incident for the company, because at the same time, PT Asiatic Persada was in the process of submitting its audit for RSPO certification. The eviction meant that 83 families had to seek refuge in the forest or in nearby villages. At the time this report was written, no action had been taken to address these human rights violations committed by PT Asiatic Persada and the police. Although the company has paid compensation for the homes they destroyed, amounting to between six and eleven million Rupiah per household, there have still not been any signs of progress regarding the disputed land.

Despite all the protests that had occurred, PT Asiatic Persada stuck to its position, stating that the communities were in the wrong because they had occupied the company's land, and that the company's actions were only intended to secure its concession. The company showed a similar attitude when representatives of the Suku Anak Dalam communities met with Wilmar management in Kota Kinabalu, Sabah on 22-24th November 2011, where it was evident that Wilmar would not admit to any violations of human rights of communities in Sungai Beruang, Jambi.

On 11th November 2011, several Indonesian and international NGOs sent a letter of complaint to the CAO regarding the evictions in Sungai Beruang, and other negative incidents which had taken place in other parts of PT Asiatic Persada's HGU area. As a result of this letter, a meeting

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8 The government investigation team’s report published on 8th October 2011 it was found that 83 households had been evicted in three different areas: Jembatan Besi, Danau Minang and Sungai Buaian within Sungai Beruang village’s administrative area, and Tanjung Lebar.
was held in Jakarta on 29th November 2011, attended by the CAO, Wilmar, representatives of the Jambi Provincial and Batanghari Regency Governments, NGOs that were signatories to the letter of complaint, and several individuals from the Suku Anak Dalam who had also signed.

As a follow-up to this kick-off meeting in Jakarta, the CAO made an initial visit to Jambi from 10th - 14th December 2011 to evaluate the situation and meet with signatories, affected communities, PT Asiatic Persada, the Jambi Provincial Economic Development and Natural Resources Bureau, and Batanghari and Muaro Jambi Regency Government Units. This first visit further explained to the different stakeholders about what the CAO was and the reasons it was concerned with the conflict that had arisen between PT Asiatic Persada and the communities affected by this IFC-funded project/investment. The CAO also explained the different steps that it would take as part of its efforts to resolve the conflict which the letter of complaint had brought to its attention. On this visit, the CAO was represented by Gina Barbieri, Gamal Pasya, Susana Rodriguez and Agus Mulyana. The second CAO visit took place between the 27th-31st December 2011, in which the CAO once again met with the affected communities.

The CAO’s presence in Jambi put pressure on the government to find a swift resolution to the conflict with PT Asiatic Persada, in particular the case which was causing most tension at the time, which was the recent eviction. So on the 29th December 2011, a meeting took place at the Jambi Office of National Unity, Politics and Public Protection (Kesbangpol) where community members who had been evicted from the Jembatan Besi area met with PT Asiatic Persada to settle the matter of compensation for the houses of evicted families. The meeting, which was facilitated by the Jambi Provincial Economic Development Bureau, failed to fulfil its objective to pay compensation., as evicted community members felt that PT Asiatic Persada had not been transparent and had not engaged in a participative process, because it had imposed conditions which evicted community members would have to comply with, including forbidding them to rebuild houses on land that had been evicted.

9 ‘Not transparent’ here means that PT Asiatic Persada did not give a clear explanation of what implications this compensation would have for its recipients, and almost none of the Suku Anak Dalam knew and understood the contents of the agreement they needed to sign in order to receive the compensation.

10 ‘Not engaging in a participative process’ means that the company unilaterally determined the value of a house only by the value of its materials, and did not include the cost of possessions within the house. Additionally, the Suku Anak Dalam alleged that they were forced to accept this compensation scheme, and if they were unwilling then they would be arrested.
Another issue was that the government had been pushing for the wider conflict with PT Asiatic Persada to be dealt with by the conflict resolution team the Jambi Provincial Government had set up to resolve social conflicts in the province - not only relating to oil palm, but also other cases. The conflict resolution team, which was made up of representatives of the government, NGOs and the media, had not been operating effectively because of the different interests and viewpoints (and especially commitment) about conflict resolution in the multilateral team. The conflict between PT Asiatic Persada and the Suku Anak Dalam was only one of the problems which this team had been addressing. The team's work was wound up in December 2011 without one single case being resolved, including the Suku Anak Dalam's conflict with PT Asiatic Persada.

During the course of the government-initiated attempt to resolve the conflicts through its conflict resolution team, and the CAO's visits to Jambi to address complaints brought by civil society groups, differences of opinion emerged between the Jambi provincial government and the Regency governments regarding the CAO's involvement in resolving the conflict between the Suku Anak Dalam and PT Asiatic Persada. While the Jambi provincial government was open to the CAO being involved, both the Batanghari and Muaro Jambi district governments felt uncomfortable with the CAO's presence, feeling that an international organisation was getting involved in a domestic Indonesian affair. The Batanghari District Government also regarded the conflict between the Suku Anak Dalam and PT Asiatic Persada as already over, since PT Asiatic Persada was prepared to give a 1,000 hectare “partnership” plantation to the Suku Anak Dalam. In the informal meeting, the complaint signatories attempted to persuade Regency Government representatives that the CAO’s involvement should not be seen as a form of intervention that affected The Republic of Indonesia's national sovereignty, but rather that the conflict had already become an international issue, as PT Asiatic Persada was a subsidiary of Wilmar which was an RSPO member, and had also borrowed money from the IFC. Therefore it had an obligation to implement the working standards for investment contained in the RSPO’s Principles and Criteria and the IFC’s Performance Standards on Social and Environmental Sustainability.

Some of the outcomes of the CAO’s assessment were that the scope of the mediation would include issues around land acquisition, resettlement, respecting the rights of indigenous communities and cultural heritage, as described in the IFC's Performance Standards 5,7 and 8. The CAO also found out that several of the affected communities were prepared to resolve the conflict through CAO-facilitated mediation. Suku Anak Dalam and other affected communities made an agreement to this effect in a meeting on 2nd January 2012 in Jambi. That meeting was facilitated by Yayasan SETARA and other Jambi-based NGOs and the decision was subsequently reinforced by a letter (dated 2nd January 2012) sent by representatives of Suku Anak Dalam and other affected groups (the Terawang Group (including Suku Anak Dalam and

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11 This emerged during a meeting between the CAO team (Gamal Pasya, Agus Mulyana, Gina Lee Barbieri, Susana Cristina Rodriguez), the Jambi Provincial Government and Batanghari and Muaro Jambi Regency Governments on 13th December 2011 at the Jambi Provincial Government offices.
others), the Mat Ukup Suku Anak Dalam group, the Sungai Beruang Suku Anak Dalam group, KOPSAD and Suku Anak Dalam from Dusun Lamo Pinang Tinggi) to the CAO and Wilmar International. The letter requested that the CAO facilitate and mediate a conflict resolution process between them and PT Asiatic Persada. A copy of the letter was also sent to the Governor of Jambi province, in order to request the government's support and respect for the choice that the various Suku Anak Dalam and other affected groups had made in entering into a conflict resolution process facilitated by the CAO. It wasn't only the communities that wanted the CAO to be involved in the conflict resolution, PT Asiatic Persada also desired the CAO's full involvement in resolving its conflict with the Suku Anak Dalam. Taking this into consideration, the CAO explained to the government that they had been given a mandate by all parties to act as mediator in a mediation process.

In the CAO's subsequent visits to Jambi and the discussions that took place, especially when reflecting on the experience of previous processes, discussions led to an awareness of the importance of involving the government in any mediation process - not only as an observer, but also as a mediator. This was so that any agreements the two parties might come up with would not later be rejected by the government. The affected communities also expressed their approval of the idea to involve the government. Then on 14th February 2012, in the Jambi Governor's main office, a meeting attended by the CAO and Batanghari and Muaro Jambi District governments decided to form a Joint Mediation Team to address the conflict between the Suku Anak Dalam and PT Asiatic Persada which would be made up of the CAO and elements of the Jambi Provincial and Batanghari and Muaro Jambi District administrations. This Joint Mediation Team would comprise the CAO team and also a government team. The lead mediator would still be the CAO.

When the mediation process commenced on the 16th February 2012, the agenda for the first meeting was to readdress the Memorandum of Understanding to Begin Negotiations. Only six affected communities agreed to participate in the process: the Terawang group, Mat Ukup Group, Dusun Lamo Pinang Tinggi Group, the Evicted Group, Dusun 4 Sungai Beruang Group and the KOPSAD Group/ Persada Farmers’ Group. However, the Mat Ukup group subsequently failed to meet one of the conditions laid out for the negotiations, namely that each group must bring a letter of mandate from the group they represent. The representative of the Mat Ukup Group, Bahtiar A Roni, had been unable to obtain a mandate letter from the community, and so Acil, the chair of the Mat Ukup Group, did not attend this meeting. In this first meeting there were discussions of the preconditions which would be agreed by all affected communities and PT Asiatic Persada. One of the preconditions which community members wished to discuss before negotiations could take place was to resolve the issue of the eviction of residents of Jembatan Besi, Buaian Ilir/ Bidin and Danau Minang by PT Asiatic Persada. Discussions for this Memorandum of Understanding did not progress smoothly as both sides (PT Asiatic Persada and the affected communities) kept insisting on their own suggestions for preconditions. The Dusun Lamo Pinang Tinggi group even walked out of the negotiations at one point because they felt that PT Asiatic Persada was attempting to impose its will on the meeting. Even despite
this, some of the points which had already been agreed upon would be realised, such as an agreement for a settlement in the eviction case.

Discussions towards a Memorandum of Understanding were resumed on 29th March 2012, and produced agreements between representatives of five affected communities and PT Asiatic Persada. Each community had made a different agreement about the preconditions. Nevertheless, the key points common to all the agreements that were included in the Memorandum of Understanding to Begin Mediation were as follows: parties will respect the mediation process and not take actions that could cause the mediation process to fail, and during the mediation process, PT Asiatic Persada is not allowed to evict or clear land that is currently occupied by affected communities which are involved in the mediation process.

On March 30th, after the parties had met three times, agreement was reached about the ground-rules for the negotiations. The Suku Anak Dalam and other affected communities agreed to appoint the Joint Mediation Team (comprising the CAO and local government) to the role of mediator. On 16th April 2012 Jambi Provincial Government, via its Regional Secretary, issued a Task Order listing the names of people appointed as members of the Joint Mediation Team and giving them the task of mediating a resolution to the dispute between PT Asiatic Persada and the Suku Anak Dalam/ other affected communities. They were to report the outcome of the mediation to the Governor of Jambi Province and the Vice President of the CAO-World Bank.

The Process of Finding a Settlement in the Eviction Case

After the process facilitated by the Provincial Administration had failed to reach a settlement for the eviction case in December 2011, finding a satisfactory resolution became one of the preconditions included in the Memorandum of Understanding to Begin Negotiations. The signatories and evicted community members insisted that Wilmar should be obliged to support the evicted families with food and medicines until a settlement on the eviction case could be reached. Subsequently in the Memorandum of Understanding it was agreed that the case would be settled by paying compensation to 83 evicted households. The compensation would be paid on 7th March 2012 in Jambi, as was recorded in the minutes of a meeting between PT Asiatic Persada and representatives of the evicted families on 23rd February, and then later included as part of the agreements which made up the Memorandum of Understanding Prior to Negotiation. Compensation for the homes of people who had lived at Jembatan Besi (38 households) was agreed at 15 million Rupiah per household. People would not be allowed to rebuild their homes in the same place (because they have no connection to the land there), but they could build new houses around Dusun IV Sungai Beruang. For those that had been living in Sungai Buaiyan Ilir / (Mr Bidin et al) and Danau Minang / (Mr Mahadi Kulok), it was agreed to pay 10 million Rupiah per household as compensation. Only six of the 41 households from the Sungai Buaiyan Ilir area plus seven households from the Mahadi Kulok group would be allowed to rebuild their homes in that area until an agreement to settle the land claims was reached through the mediation process. Six of the households in the Sungai Buaiyan Ilir Group belonged to Bidin's wider family. While he personally has connections to that land, the others have no connection. Bidin had deliberately brought them to the area in order to strengthen his claim to the land. Seven of the households in Danau Minang are from Mahadi Kulok's wider family who do have a connection to the land. As it turned out, only Mr. Bidin's group were prepared to engage in the mediation process to resolve their land claim. Mr. Mahadi Kulok did not take part as the land they were occupying at the time was outside PT Asiatic Persada's HGU concession.

12 See also the attached Memorandum of Understanding and Ground Rules For Negotiations.
This is a description of some of the affected groups who were involved in the CAO mediation.\textsuperscript{13}

\begin{figure}
\centering
\includegraphics[width=\textwidth]{map.png}
\caption{Map of the affected groups and their claims.}
\end{figure}

\textbf{a. Terawang Group}

The Terawang Group is the community which claims land in the Bukit Terawang area in the northern part of PT Asiatic Persada’s HGU area, but which they were convinced was outside the HGU area. Because of this the Terawang Group’s principal concern / demand was to push for a resurveying of land cultivated by PT Asiatic Persada, which they believed extends beyond the company’s HGU permit boundary. The Terawang Group is comprised of Suku Anak Dalam and non-Suku Anak Dalam led by Idris Kuris (the former head of Pompa Air village) and Ahmad Nuri (Mat Nuri), a Suku Anak Dalam man who had lived in that area for a long time. The area the group is fighting for is around +928 hectares, and about 200 households are members of the group. The group had been supported by the Peduli Bangsa NGO since 2011, a local organisation in Batanghari Regency. With assistance from Mahyudin of Peduli Bangsa, this group had also lobbied for the support of the Jambi member of the Indonesian House of Regional Representatives (DPD), Hasby Anshori, to facilitate discussions about resurveying the area, inviting PT Asiatic Persada as the concession owner. The group felt that a repeat survey would be in their interests, because there were indications that the oil palm that the company had planted in their area was illegally planted. According to them, the HGU concession did not extend over the area they were claiming at that time.

\textsuperscript{13} A star shows the location of a group which agreed to the mediation process, while a red circle is an Suku Anak Dalam group that did not agree to engage in mediation or negotiation.
b. **Suku Anak Dalam Dusun Lamo Pinang Tinggi Group**

This group was originally part of a larger group which identified itself as the Suku Anak Dalam 113 Three Villages Group (Dusun Lamo - Tanah Menang, Dusun Lamo - Padang Salak and Dusun Lamo - Pinang Tinggi). Before PT Asiatic Persada’s HGU permit was issued the three villages’ area contained the Suku Anak Dalam’s homes, fields and forest gardens, from which they were evicted by PT Asiatic Persada in 1987. In 2010 the group was involved in a process of mediation aimed at resolving their conflict with PT Asiatic Persada facilitated by Yayasan SETARA Jambi. However that process was halted because PT Asiatic Persada did not allow the moderator access to a map of the group’s claim which was being held by Daemeter (as noted above). The Suku Anak Dalam 113 Group had also sent a letter stating that they removed their mandate to YLBHL and Yayasan SETARA to shadow and assist them, although in fact Yayasan SETARA was not shadowing the Suku Anak Dalam, its role was the mediator. When the CAO carried out their assessment of which affected groups were prepared to enter into a CAO-facilitated mediation process, the Three Villages Group led by Mr Abas made their refusal clear. In late 2011, the Suku Anak Dalam Dusun Lamo - Pinang Tinggi, which did want to engage in a mediation process facilitated by the CAO, split from the other two villages and formed a new group, with Mr. Maksum as the village chief and Mr. Nurman heading the negotiation team. The area covered by Dusun Lamo - Pinang Tinggi’s claim is 1,029 hectares, claimed by 200 households.

Community rights over the land they are claiming is clearly indicated in a micro-survey map produced by the Government in 1997, although that map does not make clear which individuals have rights to that land.

c. **Bidin Group/ Evicted Group**

This group is an alliance of Bidin’s wider family and that of his wife, which includes Cik Ida, Rudy and Yahya. The Bidin Group are a group of Suku Anak Dalam whose homes were cleared by PT Asiatic Persada in August 2011. They were claiming 282.73 hectares of land located on the Buaiyan Ilir river as the property of Bidin’s wider family and Rudy, Yahya and Cik Ida. The land they demand was handed down from Sawalajib (Bidin's father) and Mat Toya (father of Cik Ida, Rudy and Yahya). They have related how that land was full of durian, cempedak and other trees from which they made a living, but was cleared by PT Asiatic Persada to develop its oil palm plantation. Since 2009, this group has given mandate and power of attorney to Zainal Abidin, and he also became a member of the

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14 Their claim to have been living in the area was strengthened when a micro survey map was produced which the government had drawn up in 1986. This map was only recently released to the public but it has lent this group a considerable level of confidence to struggle for their land rights.

15 Zainal is a Jambi-based lawyer.
Evicted/Bidin Group's negotiation team, to address and resolve their land conflict with PT Asiatic Persada.

d. **Dusun IV Sungai Beruang Group**

Dusun IV Sungai Beruang is one of the original Suku Anak Dalam villages, and was previously known by the names Dusun Buruk or Dusun Tanjung Lebar Lamo. In the past, the area was used for fields and plantations of fruit trees such as rambutan, durian and cempakak, as well as trees grown for their timber and for bees to make their nests. Local people tell that in the past their houses were not concentrated in one place but spread out over some distance, following the course of the river. When the government launched their local resettlement program to build centralised settlements in 1974 and then again in the 1980s, the majority of residents joined the program. The settlement that was built is located in Tanjung Lebar village which nowadays is close to an oil palm plantation owned by PTPN VI. Most of the Suku Anak Dalam got involved in this government program, and moved to the new housing the government had built. However, in 2002 the community moved back to Dusun IV Sungai Beruang, which by that time was already part of PT Asiatic Persada's HGU concession. The community started to realise that their old village had now become PT Asiatic Persada's HGU once the company started planting oil palm seedlings.

Mediation was a new approach for the Dusin IV Sungai Beruang community. They had been more accustomed to defend their land through strength of numbers, and in this way they had managed to keep the land, even though between 2002-2005 they experienced intimidation and even an eviction, as PT Asiatic Persada called in the Police Mobile Brigade (Brimob). This experience has affected the way the Dusun IV Sungai Beruang community think about mediation quite a lot. They need a strategy and understanding of mediation that is based on their interests and a mutual understanding of differences before it could be possible to reach a joint agreement that would resolve their conflict.

Administratively, Dusun IV Sungai Beruang was officially designated as a sub-village (dusun) in 2010, part of the territory of Tanjung Lebar Village (desa), in Muaro Jambi Regency. By now the settled area of Dusun IV Sungai Beruang is inhabited by non-Suku Anak Dalam families, as well as the Suku Anak Dalam. Unfortunately however, despite the area having the official status of sub-village, the company continues to maintain that the Dusun IV Sungai Beruang administrative area is part of PT Asiatic Persada's HGU concession. The inhabitants of Dusun IV Sungai Beruang are demanding that an area around the village be excised from PT Asiatic Persada's HGU area. Dusun IV Sungai Beruang covers an area of +800 hectares, and 150 households live within this area.

e. **KOPSAD/ Persada Farmer's Group**

In 2001 KOPKAN HIPSI obtained a permit-in-principle from the District Chief of Muaro Jambi Regency to develop a 5,100 hectare oil palm plantation on land claimed by the Suku Anak Dalam. As part of their management operations, they formed the Suku Anak Dalam
Co-operative (Koperasi Suku Anak Dalam (KOPSAD)). After the Muaro Jambi office of the National Land Agency conducted a survey of the land, they realised it was actually in the Batanghari Regency's administrative area. For their part, the Batanghari Regency National Land Agency office, told them that while the 5,100 hectares was indeed within Batanghari Regency, it was part of PT Asiatic Persada's HGU area. In 2002, a meeting took place in the Ratu Hotel in Jambi between PT Asiatic Persada and representatives of KOPSAD, with the Batanghari and Muaro Jambi district government also in attendance. That meeting decided that PT Asiatic Persada would develop a 650 hectare ‘partnership’ plantation in the Bungin area for Suku Anak Dalam living in Dusun Muaro Penyeruan and Desa Tanjung Lebar (in the southern part of PT Asiatic Persada's concession). The Muaro Jambi district administration would try to find land to replace the 5,100 hectares of KOPSAD's permit-in-principle. KOPSAD held the view that the 650 hectares was their property and PT Asiatic Persada should move fast to establish the ‘partnership’ area. When they entered the mediation, this group changed its name to Persada Farmers' Group, led by Datuk Mustar (a Suku Anak Dalam member from Dusun Muaro Penyerukan) and they were supported in the negotiations by Mahyudin from the Peduli Bangsa NGO. This group was also convinced that the ‘partnership’ area they were demanding lay outside PT Asiatic Persada's HGU area. For this reason they were also urging the government to repeat the survey of PT Asiatic Persada's HGU area, along with the Terawang Group.

Twists and Turns of the Negotiations' Second Phase.

In the negotiations' ground-rules it had been agreed that five rounds of negotiations would take place with each group. The first set of negotiations for the Evicted/Biden Group took place on 16th April 2012, 17th April 2012 for the KOPSAD/Persada Farmers' Group, 18th April 2012 for the Dusun Lamo Pinang Tinggi Group, 19th April 2012 for the Dusun IV Sungai Beruang Group and 20th April 2012 for the Terawang Group. Dates for subsequent rounds of negotiations would be decided based on agreements reached in the previous round. All negotiations would take place in Jambi city.

Step-by-step notes from the second phase of mediation.

<table>
<thead>
<tr>
<th>Group Name</th>
<th>Mediation and Process</th>
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<tbody>
<tr>
<td>Terawang Group</td>
<td>In this first round of negotiations, only two of the five members of the Terawang Group's negotiation team showed up. As the team wasn't complete PT Asiatic Persada was not prepared to engage in negotiations. Apart from this, PT Asiatic Persada said that the Terawang Group had violated the preconditions agreed in the Memorandum of Understanding to Begin Negotiations by not letting the company harvest oil palm fruit in the zone which was being occupied by the Terawang Group. PT Asiatic Persada only wanted to negotiate if the Terawang Group complied with the agreed preconditions. The first round of negotiations only managed to agree that the Terawang Group's negotiation team would hold internal discussions within their group. It was known that the Terawang group had been occupying the land they were claiming since before the mediation process, had installed barbed wire around the area they were occupying and were also collecting the loose oil palm fruit that had fallen off fruit bunches. PT Asiatic Persada let the people collect the loose fruit, but did not let them harvest whole fruit bunches. The Terawang Group, which was being assisted by Mahyudin from the Peduli Bangsa NGO, was experiencing internal difficulties within the group. After the negotiations, the Terawang group held an internal meeting and one of the outcomes was to withdraw their agreement to all the preconditions which had been signed together with PT Asiatic Persada, believing they adversely affected group members. However they also asked that the Joint Mediation Team to continue mediating negotiations between them and PT Asiatic Persada. The outcome of this meeting was communicated to the Joint Mediation Team via an official letter signed by the head of the Terawang group (Ahmad Nuri), members of the negotiating team and an appendix with the signatures of all the group members who had been at the meeting, sent through PT Asiatic Persada. In the view of the Joint Mediation</td>
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This group believed that the land they were currently claiming was outside the HGU area. Because of that, the idea to resurvey of the HGU area proposed by the Peduli Bangsa NGO together with members of the House of Regional Representatives (DPD RI) seemed to be the best solution to find out if the land they claimed lay inside or outside the HGU area. In the Terawang Group’s opinion, if the land they claimed was outside the HGU area, PT Asiatic Persada would have to give the land back to them. If the land was found to be inside the HGU area, the company should define an enclave around that land. In connection with both the cancellation of the preconditions and also the planned resurvey of the HGU area initiated by the Terawang Group and Peduli Bangsa through the DPD RI’s Public Accountability Committee, the Joint Mediation team visited the Terawang group to meet with their leader and Peduli Bangsa. Although official notice of the visit had been sent, the Joint Mediation Team failed to meet with the head of the Terawang Group and Mahyudin from Peduli Bangsa because on 7th May 2012, Mahyudin and representatives of the Terawang Group had departed for Jakarta to meet with members of the DPD about the planned resurvey of PT Asiatic Persada’s HGU area. In the view of Agus Mulyana of the CAO, the Joint Mediation Team could officially close the mediation as one of the parties had chosen to follow a path other than the mediation process to resolve their conflict, and had also contravened the previously-agreed Memorandum of Understanding.

The plan to resurvey PT Asiatic Persada’s HGU area was reinforced after several members of the DPD RI’s Public Accountability Committee set up a meeting in the Jambi Provincial Governor’s office on the 1st August 2012. Representatives of Batanghari and Muaro Jambi district administrations also attended, as did representatives of PT Asiatic Persada and the affected communities. The meeting was to discuss plans to resurvey PT Asiatic Persada’s HGU area. PT Asiatic Persada said in that meeting that it would have no problem if the HGU was resurveyed, which according to National Land Agency measurements would cost between 1-1.2 billion Rupiah. The Terawang Group and Peduli Bangsa said that they were prepared to collect that sum by October 2012 at the latest and it would be deposited with the National Land Agency national office.

Because of that, the meeting decided that the resurvey of PT Asiatic Persada’s HGU area would take place in October 2012. However, the resurvey still hadn’t been carried out by the years’ end and even into 2013 as the money asked for had not been collected, and the government was also still not ready to conduct the resurvey.

On 27th March 2013, CAO released a statement halting the mediation process, because the Terawang Group had not used the mediation process as a means to resolve their problem.

KOPSAD / Persada Farmers’ Group

In the first round of negotiations between PT Asiatic Persada and the Persada Farmers’ Group, which took place on 17th April 2012, the Joint Mediation Team temporarily halted the process. The reason for this was that they felt the Persada Farmer’s Group’s negotiating team was not ready to start negotiations, because of the need for clarity about the object under dispute and the subject which was disputing it. The Joint Mediation Team would only restart the second round of negotiations if the Persada Farmers’ Group negotiation team sent them an official letter stating that they were ready to engage in negotiations, which would mean that the Persada Farmers’ Group would need to clarify the subject and the object of the dispute.

In the first round of negotiations, the Persada Farmers’ Group explained that the basis for their claim to 650 hectares of land cultivated as part of a “partnership” scheme was the permit-in-principle on 5,100 hectares of land which the Muaro Jambi District Chief had issued in 2001, but which was later cancelled because it was found that the 5,100 hectares lay within PT Asiatic Persada’s HGU concession. In 2002 a meeting between PT Asiatic Persada and representatives of the Persada Farmers’ group had taken place in the Ratu Hotel, Jambi, with representatives of the Batanghari and Muaro Jambi District Governments present. In that meeting it was agreed that PT Asiatic Persada would develop a 650 hectare “partnership” “partnership” plantation in the Bungin Area for the Suku Anak Dalam living in Dusun Muaro Penyerukan and Desa Tanjung Lebar - in the southern part of PT Asiatic Persada’s concession. The Muaro Jambi government would look for land to replace the 5,100 hectares covered by the Persada Farmers’ Group’s permit-in-principle. Because of that, the Joint Mediation Team held the view that the Persada Farmers’ Group’s demand for a 650 hectare “partnership” plantation was not appropriate as the object of a claim, because the 650 hectare “partnership” plantation mentioned in the minutes of that meeting made it clear that it was for the Suku Anak Dalam, not just for the Persada Farmers’ Group. In the opinion of the Joint Mediation Team, if the object of the claim was actually a permit in principle for 5,100 hectares, the Persada Farmers’ Group should actually take their demands to the Muaro Jambi Regency government. Because of that, any subject bringing a demand for a ‘partnership’ on 650 hectares of land should be Suku Anak Dalam and not the Persada Farmers’ group, whose members include both Suku Anak Dalam and non-Suku Anak Dalam.

In September 2012, the Persada Farmers’ group took action and occupied land in the area designated for the 650 hectares “partnership” in Bungin. Although this action contravened the preconditions that had been agreed between the Persada Farmers’ group and PT Asiatic Persada, Mahyudin said that the aim of the land occupation was to press PT Asiatic Persada to give the land to the Persada Farmers’ Group to start a “partnership” scheme.
In October 2012 the community prevented PT Asiatic Persada from harvesting in the area they were occupying, but this didn’t lead to clashes. On 29th November 2012 a meeting took place between the Persada Farmers’ Group and several other Suku Anak Dalam groups and representatives of PT Asiatic Persada, facilitated by the Batanghari Regency government. According to information from community members who were present, in that meeting the Batanghari Regency Government said that it would co-ordinate with their counterparts in Muaro Jambi Regency to collect data on the Suku Anak Dalam community members who had land rights within the planned 650 hectare ‘partnership’ zone. Several Suku Anak Dalam from Muaro Penyerukan had already left the ‘partnership’ site because they thought the local government was already handling the situation.

On 26th February 2013, the Joint Mediation Team issued a letter stating they were terminating the mediation process for this group.

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<th>Evicted / Bidin Group</th>
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| Negotiations between the Evicted/Bidin group and PT Asiatic Persada continued through three rounds of negotiations, but were halted during the fourth round. These are the notes from the process and the outcomes of each round of negotiations:

**First Round of Negotiations**
The first Round of Negotiations took place on 16 April 2012, starting with the Evicted/Bidin Group’s negotiating team explaining their demands, followed by a process of discussion and PT Asiatic Persada’s response to those demands. The meeting managed to reach agreement on several points. One of them being to survey land claimed by descendants of the late Sawalajib (Bidin) and the late Mat Toya (Rudy, Cik Ida and Yahya). Another was to search for further information relating to on the subject and object of the land dispute. This fact-finding and mapping took place on the 2nd and 3rd of May 2012 and was carried out by the Mediation Team (Agus Mulyana for the CAO and Sri Hastuti from the provincial plantations agency) with observers and signatories also present.

**Findings:**

- To establish the extent of the disputed land, the community had previously mapped their land claims and estimated that Sawalajib (Bidin)’s land comprised 157.5 hectares and Mat Toya (Rudy, Cik Ida and Yahya)’s land comprised 65 hectares. In 2010 PT Asiatic Persada had also mapped land together with the community. The results of that mapping exercise showed that land owned by Sawalajib (Bidin) amounted to 157.5 hectares. At the time of that survey Mat Toya’s land was taking place, part of the land was covered by flood-waters, so only the non-flooded land was mapped, which came to 24 hectares.
- Looking at the data that these previous surveys had produced, both the Evicted Group and PT Asiatic Persada could agree that the late Sawalajib (Bidin) had owned 157.5 hectares of land. Concerning Mat Toya's land, PT Asiatic Persada was not prepared to accept the results of the community's mapping exercise, and the Evicted Group were not prepared to accept the outcome of PT Asiatic Persada's previous survey either. For that reason, the parties planned to remap Mat Toya's land on 2nd May. Once at the location however, it was clear that the land to be surveyed was once again flooded and so the mapping failed to happen.

- On 3rd May 2012, a meeting took place in PT Asiatic Persada's office to agree on the area of land being claimed and discuss other issues related to clarifying the subject (ie. which people should be included as claimants in the land claim). During the meeting it was revealed by PT Asiatic Persada that the Tanjung Lebar village chief (Edy Ramsi) had once said that other parties (16 people) also claimed the land owned by Bidin and Rudy. However PT Asiatic Persada were unable to provide information about who those people might be nor was there a written statement from the Tanjung Lebar village head about such claims. In the meeting on 3rd May 2012 it was revealed that in 2004, Bidin had received 5,000,000 Rupiah compensation for 34 hectares of land. This 34 hectares was part of the land currently being claimed. Therefore, PT Asiatic Persada and the evicted group agreed that the amount of Sawalajib (Bidin)'s land that would be considered for a negotiated settlement would be 157.5 hectares less the 34 hectares for which compensation had already been paid, which works out as 123.5 hectares.

- Meanwhile, regarding the land which had belonged to the late Mat Toya, it was known that compensation had already been paid for 4.78 hectares of land in 2008, when 5,975,000 Rupiah was paid to Yanni (part of Rudy's family). At the end of the discussion, it was agreed that the area of land to become the object of negotiations in the second round would be taken as 35 hectares.

Second Round of Negotiations
These negotiations took place on 7th June 2012. After relating the outcomes of the fact-finding field visit on the 2nd-3rd May 2012, the meeting moved on to address what kind of framework would be followed to settle the Evicted Group / Bidin's claim. PT Asiatic Persada recognised Bidin's ownership of the land he was claiming and offered compensation for that land. The Evicted Group were easily able to say that they would accept PT Asiatic Persada's offer of compensation and would discuss the amount of compensation in a caucus between the two parties. SETARA and other observers tried their best during the meeting to convince the Evicted Group not to be so fast to accept the offer of compensation since there was still the very real opportunity that they could be returned the land they had been demanding. However, after long discussions with the Evicted Group's negotiating team, SETARA could see that the pressures of life and a feeling of hopelessness were exerting a strong influence on their choice of how they wanted to settle the dispute. This was also related to their capacity and a need for internal consolidation that were affecting the Evicted Group's preparedness to engage in the mediation process. Nevertheless, as part of their support role, SETARA continued to try to convince them to think again about the decision to choose to receive compensation for the land they were claiming.

Third Round of Negotiations
The third round of negotiations took place on 17th July 2012. In the caucus / direct negotiations between PT Asiatic Persada and the Evicted Group, it was originally agreed to pay land compensation of 10 million Rupiah per hectare. In the third round of negotiations however, PT Asiatic Persada was only prepared to pay 5 million Rupiah per hectare. PT Asiatic Persada said that the parent company (Wilmar) had not agreed to the 10 million Rupiah per hectare sum and the negotiation team could not go against the wishes of the parent company. In line with the principles of the negotiations, the negotiation team had been given a full mandate to take decisions, but by the third round, it was evident that any agreement PT Asiatic Persada's negotiation team might make could be changed if the parent company didn't accept it. This showed there was an internal problem within Wilmar which was affecting efforts to resolve the conflict with the Suku Anak Dalam in Jambi. One of the effects of the PT Asiatic Persada negotiating team's lack of assertiveness in deciding the value of the compensation was that Bidin and his family lost patience and started believing that PT Asiatic Persada had no intention of resolving the conflict. Because of this, Bidin and his family mobilised many people to occupy the land and harvest the oil palm on the land they were claiming. This in turn lead PT Asiatic Persada to ask the Bidin Group's negotiating team not to take any actions which violated the terms of the agreed memorandum of understanding. The Bidin group's negotiating team expressed the hope that in the fourth round of negotiations scheduled for 3rd August 2012 PT Asiatic Persada would be able to meet the agreed level of compensation of 11 million Rupiah per hectare. Bidin, who is a member of the negotiation team as well as being a landowner, was not present in this round of negotiations.

Fourth Round of Negotiations
These negotiations took place on 3rd August 2012. However, the Joint Mediation Team delayed this fourth round, as they judged that the Evicted Group's negotiation team was not ready to continue the negotiations. Here is a summary of the fourth round of the negotiation process.

A. Before the negotiations, the CAO encouraged signatories and observers to ask for input concerning
several new findings relating to a land claim from another party (Hermanto) for the same land as Bidin was claiming. Additionally there were several problems within the group which needed to be sorted out before the negotiations could continue. Because of this unpreparedness, if the negotiations were to go ahead they would have a less than positive impact on Bidin’s group. The signatories agreed that if Bidin’s group were indeed not ready to face the negotiations, it would be better just to delay the talks.

b. When the negotiations began, Zainal Abidin explained that in a letter from those in Bidin’s wider family with inheritance rights, they had revoked the power of attorney that they had given him, and they would settle the land problem themselves without Zainal’s involvement. Zainal Abidin and his son Bambang therefore stated that they were stepping down from the Evicted Group’s negotiating team.

c. Bidin and his wife (Cik Ida) stated that they, as inheritors of land, still wanted to continue negotiating. Bidin also said that the reason why they had encouraged his wider family to rebuild houses on the claimed land (in the pre-conditions it was agreed that only six houses could be built, but now there were about nine extra houses) was with the objective of pressing PT Asiatic Persada to be more serious about resolving the problem.

d. Concerning the provision of basic necessities, as was included in the minutes of the first round of negotiations, Asiatic Persada stated that they did not have that obligation. They only said that they were prepared to accommodate Bidin’s family in a housing complex for PT Asiatic Persada employees and to offer them work, but Bidin did not want this.

As a result of all these differences and the internal state of Bidin’s group which wasn’t really ready to face the negotiations, the fourth round of negotiations was postponed and a deadline of 30th September was set, with the advice to Bidin that he strengthen his negotiating team after two members had dropped out, and also settle the issue of someone else making a claim on his land.

Important Note: there is no basis for Hermanto et al’s claim on land claimed by Biden and actually this should not have been a reason to postpone the negotiations. The Joint Mediation Team should really have provided some notes about whether this information was valid or not.

In mid-December 2012, Bidin’s wider family made arrangements to meet with Hermanto and consider his claim on land within Bidin’s land claim. But after waiting some time, Hermanto did not show up. According to explanations given by the Tanjung Lebar village chief and Sungai Beruang village elders, Hermanto only had hereditary rights to one single tree that Bidin had given to him. The Joint Mediation Team concluded that Hermanto was not able to point to any supporting facts that could give weight to his claim to part of Bidin’s land. Hermanto’s land claim had proved to be quite disruptive to the ongoing mediation process between the Evicted / Bidin Group and PT Asiatic Persada.

This group also had to face another problem which was no less complicated. The amount of land the group wanted to claim was increasing in size, approaching areas close to Dusun Sungai Beruang.

As the conflict management and resolution with this group progressed ever more slowly, the situation was becoming more and more complicated. The demand for a decent livelihood became the main basis, and the Bidin group had contravened the ground rules several times. Apart from this, other matters which the company had long-promised to attend to never materialised, such as aid in the form of basic foodstuffs, medicines etc., meaning that this group felt that the company was not serious in its desire to resolve the long-standing conflict.

As an update, the Joint Mediation Team is still open to providing a forum for this group to continue negotiation with the proviso that the group should first sort out the problems with its negotiating team.

| Dusun IV Sungai Beruang Group. | Negotiations between Dusun IV Sungai Beruang and PT Asiatic Persada continued through five rounds of negotiations. The last session was described as session 1 of the fifth round of negotiations, but as there were still unresolved conflicts of interest between the two parties, the Joint Mediation Team allowed the possibility for negotiations to continue with a second session of the fifth round of negotiations. Below are full notes of the process and outcomes of each round of negotiations:

**First Round of Negotiations**

This took place on 19th April 2012. The Dusun IV Sungai Beruang negotiating team stated their demand that the lands of Dusun IV Sungai Beruang be released from PT Asiatic Persada’s HGU concession. Aside from the fact that Dusun IV Sungai Beruang has long been settled by the Suku Anak Dalam as evidenced by an old burial ground (the village was formerly called Dusun Buruk or Dusun Tanjung Lebar Lamo), also Dusun IV Sungai Beruang is administered by the Muaro Jambi Regency Government, while PT Asiatic Persada’s HGU area is administratively part of Batanghari Regency. Within the territory of Dusun IV Sungai Beruang there are houses, fields and forest gardens belonging to the community which they planted themselves. There is also a school which was built by the Muaro Jambi Regency administration. As a response, PT Asiatic Persada stated that since 2005 no oil palm development had taken place in the area and there had been no threats made to the Dusun IV Sungai Beruang community, even though they were within PT Asiatic Persada’s HGU concession. PT Asiatic Persada asked the Joint Mediation Team to communicate with the local government to clarify the status of the Dusun IV Sungai Beruang community. |
Beruang land because PT Asiatic Persada said that it did not have the authority to remove the Dusun IV Sungai Beruang land from the HGU concession.

In the process of discussions it was agreed that the Joint Mediation Team would collect information from government sources to establish the status of the Dusun IV Sungai Beruang land, and would also undertake a field review to find out more about conditions in Dusun IV Sungai Beruang, also mapping the burial grounds. Mapping the burial grounds should have taken place on 8th May 2012. Bearing in mind time and effectiveness however, the mapping of the burial grounds actually took place on the afternoon of 3rd May 2012, with the participation of PT Asiatic Persada, the Joint Mediation Team and the Dusun IV Sungai Beruang community. The burial ground that was surveyed was the Kuro Beredang site, situated outside the Dusun IV Sungai Beruang area (but nearby), and in the middle of PT Asiatic Persada’s plantation. Several graves were found, one of which was an old grave belonging to Puyang Kekap. When surveyed, the area of the graveyard was found to be 0.34 hectares. The Dusun IV Sungai Beruang community’s request to remove this burial ground from PT Asiatic Persada’s HGU concession would be discussed in the second round of negotiations.

Second Round of Negotiations.

These took place on 8th June 2012. In this meeting, the Joint Mediation Team revealed the results of their information-gathering connected with the status of land in Dusun IV Sungai Beruang. The negotiations reached agreement on the size of the Kuro Beredang burial ground (with 10 graves) as 0.34 hectares, based on the survey. Co-ordinates had also been taken for the Dusun Tanjung Lebar Lamo burial site (comprising two graves) and its area would be measured on 14th June 2012. PT Asiatic Persada would write an official statement of recognition concerning the existence, size and location of these two burial grounds so they could be preserved. In the meeting, the Joint Mediation Team communicated the results of the documents they had studied and information obtained from the field relating to the status of land in Dusun IV Sungai Beruang. Their findings were as follows:

- Landsat satellite images from 1973 show cleared land and areas with dense low-lying vegetation in Dusun IV Sungai Beruang, but did not show settlements.
- In the Forestry Department’s Micro Survey in 1987, no fields, shrubland or settlements were shown on the map.
- In the map of PT Asiatic Persada’s HGU area, Dusun IV Sungai Beruang is shown within the HGU area.
- In a 2011 investigation by the National Land Agency, the Dusun IV Sungai Beruang area is classified as ‘derelict land’. Committee C of the provincial and regency governments were currently studying that investigation.
- Field information: Dusun IV Sungai Beruang is an active settlement, where the control of land (owners, location and size) is clear, and includes people’s forest gardens and grave sites. There is also a primary school built with funds from the Muaro Jambi Regency budget and the Muaro Jambi administration is even currently building a housing development for teachers.

PT Asiatic Persada said in the meeting that the Dusun IV Sungai Beruang community did not have land rights, as in the micro-survey no housing or fields were found. Their negotiation team questioned the Dusun IV Sungai Beruang negotiating team’s story that the village had already existed for a long time. The Dusun IV Sungai Beruang team refuted what PT Asiatic Persada’s negotiation team had said. The existence of an old graveyard in the area showed that their ancestors had already inhabited the Dusun IV Sungai Beruang area for many years. The only thing was that back then the settlement, known at that time as Dusun Buruk, was quite small in numbers and was widely dispersed, not concentrated in one place. Apart from that, during the Social Services’ program from 1974 to the 1990s which sought to resettle people outside the forest area, many people had left the forest in order to accept that aid program. Signatories and observers that were present also said that legal state documents could not be used for an indefinite time as a support or reference in cases involving the presence and land rights of indigenous people in any particular place. In order to prove or disprove the history of Dusun IV Sungai Beruang, social and anthropological studies would also have to be carried out. SETARA also reminded the meeting that the IFC’s performance standards (PSSES) should act as guidelines to resolve the dispute between PT Asiatic Persada and the Dusun IV Sungai Beruang community.

This meeting concluded that both parties understood that at least five different pieces of information had been found relating to the status of the village and the land in the Dusun IV Sungai Beruang area, as mentioned above. However, both sides were also aware that there was still no agreement to use any one piece of data or information as a common point of reference.

After the second round of negotiations, SETARA and the Dusun IV Sungai Beruang Community held a participative mapping exercise to establish the boundaries and size of the village’s territory. This mapping was done in order to become material for discussion amongst all the inhabitants of Dusun IV Sungai Beruang.
Third Round of Negotiations

These were held on 18th July 2012. In the third round of discussions, PT Asiatic Persada’s negotiating team showed a more positive attitude than in the second round, and PT Asiatic Persada was prepared to recognise and respect the existence of the Suku Anak Dalam of Dusun IV Sungai Beruang’s old burial sites (Kuro Beredang and Dusun Tanjung Lebar Lemo). What’s more, PT Asiatic Persada’s negotiating team were also prepared to carry out a joint mapping of the Dusun IV Sungai Beruang area (in the first round of negotiations, PT Asiatic Persada had not been prepared to make a joint survey of the size of the village). The mapping would take place between 5th-8th September 2012 and the results of the mapping would become the object to be negotiated in the fourth round (10th September 2012).

Fourth Round of Negotiations

The agenda for the 10th September meeting was to discuss the results of the joint mapping of the Dusun IV Sungai Beruang area which had taken place from 6th-8th September, and it was revealed that the area of the village was 802 hectares. Talks continued on 11th September, discussing different proposals for how to settle the dispute. The process is summarized in the notes below:

a. After the results of the mapping were revealed, PT Asiatic Persada had a problem with part of the village’s land which the company considered as part of its buffer zone. PT Asiatic Persada’s negotiating team asked that the buffer zone area (± 250 hectares) be excluded from the village’s territory. The reason was that the company has an obligation under the RSPO’s Principles and Criteria to maintain the areas as a buffer zone (riparian strip [HCV4]). PT Asiatic Persada believed that if this area was included in the village’s territory, then the Dusun IV Sungai Beruang community would clear the buffer zone and would plant it with oil palm.

b. The Dusun IV Sungai Beruang negotiation team still wanted PT Asiatic Persada to release the mapped village territory from its concession area because it belonged to the village, even though PT Asiatic Persada had explained that it was part of a buffer zone. PT Asiatic Persada’s reasoning that they are obliged to safeguard a buffer zone should be questioned, since the facts on the ground show that the buffer zone that is being conserved is actually in the area currently controlled by the community. Because of this, the community continued to request that the buffer zone area stays within the village territory, and to let villagers manage it themselves. The community also agreed that the environment needs to be conserved, but social and economic aspects cannot be ignored. Because no agreement was reached the Joint Mediation Team suggested three options for the two parties to study and evaluate:

- **Option 1** The Buffer zone remains within PT Asiatic Persada’s HGU area and is managed jointly by the two parties according to rules which could be agreed together.
- **Option 2**, The buffer zone is managed by the community and excluded from the HGU. As far as its management is concerned, a village regulation would contain guarantees and prohibit the land from being sold.
- **Option 3**, The Buffer zone area is released to PT Asiatic Persada on the condition that PT Asiatic Persada provides an equivalent area of oil palm plantation in return.

c. Living in a village, the livelihoods of the Suku Anak Dalam have become intermixed with that of non-Suku Anak Dalam community members who also live in the village. These people also use land which is not all under the control of the Suku Anak Dalam, and this integration process has continued for many years. PT Asiatic Persada brought this up as a problem, saying that the company was not prepared to recognise the land rights of non-Suku Anak Dalam living in the village. Because of this, PT Asiatic Persada wanted to collect data on which people were Suku Anak Dalam and which were not, and map which people had control/use of each piece of land (both unused land and planted land) in the villages, saying this information would be discussed at the level of Wilmar’s management. That data would affect the amount of land to be included in the settlement because PT Asiatic Persada would only recognise land belonging to the Suku Anak Dalam inside the village area. Suku Anak Dalam community members from Sungai Beruang did not accept the idea.
of PT Asiatic Persada distinguishing between Suku Anak Dalam and non-Suku Anak Dalam villagers because it would create social conflict between residents of Dusun Sungai Beruang and the matter of land distribution within the village was the village's own internal responsibility. As far as the community was concerned, PT Asiatic Persada should release the whole village area as surveyed in the joint mapping exercise.

d. PT Asiatic Persada's negotiating team stated that compensation had already been paid for 26 hectares in the Sungai Beruang area. Therefore the Sungai Beruang negotiating team asked PT Asiatic Persada's team to join them in checking this information on the ground (this was to take place on 17th September 2012), in order to confirm whether or not compensation had actually been paid on the 26 hectares in question.

According to SETARA's notes, PT Asiatic Persada was trying to reduce the size of Dusun Sungai Beruang's land, under the pretext that part of the site was within the buffer zone and that part of the land was being used by non-Suku Anak Dalam community members. The position PT Asiatic Persada was trying to defend did not make sense, and the idea that buffer zones and high conservation value areas could not be under the Suku Anak Dalam's control was wrong. Apart from that, the company was trying to create divisions in the village community where both Suku Anak Dalam and non-Suku Anak Dalam were currently living. The Sungai Beruang community stated that they were still not prepared to let land controlled by non-Suku Anak Dalam community members pass over to PT Asiatic Persada and preferred to continue to have a conflict with the company than to have a conflict with their own neighbours in the village.

After these negotiations, on 17th September 2012, two groups met to check the situation on the ground concerning the 26 hectares for which PT Asiatic Persada believed compensation had already been paid. Once the checks were made, both parties agreed that compensation had indeed been paid for the 26 hectares in question. On 23rd September 2012, the Suku Anak Dalam Dusun IV Sungai Beruang community held a consultation meeting between all its members and agreed on option 1 where the buffer-zone land would be under the community's control and management. They stated that the fact that the Dusun IV Sungai Beruang community had followed the mediation process right up to the last round had showed that the Dusun IV Sungai Beruang community had acted in good faith so that the conflict could be resolved through seeking common agreement. However, if the final round failed to achieve an agreement, the Dusun IV Sungai Beruang community would not move away from the Dusun IV Sungai Beruang site.

**Fifth Round of Negotiations**

These took place on 6th November 2012. In this meeting, PT Asiatic Persada only acknowledged the two burial sites but refused to accept that the community had rights to the land at Dusun IV Sungai Beruang. What's more, PT Asiatic Persada still wanted the area of buffer zone located within the Dusun IV Sungai Beruang area to be returned to the company. Because no concurrence had been found, the two sides agreed to hold a caucus / direct discussion between the two parties. After the caucus PT Asiatic Persada and the Dusun IV Sungai Beruang negotiation teams did reach some agreements: the Dusun IV Sungai Beruang negotiating team would hold a community assembly to discuss PT Asiatic Persada's request for the Dusun IV Sungai Beruang community to collect data on land ownership, and the size and ownership history of each parcel of land. The data collected would then be discussed in a caucus between Dusun IV Sungai Beruang and PT Asiatic Persada. The schedule of negotiations would be decided in the caucus meeting. The Tanjung Lebar village head, Patrick Anderson as a representative of complaint signatory FPP, and an observer from the RSPO attended these negotiations.

On 8th March 2013, the group's negotiating team sent a letter to the Joint Mediation Team, asking the Team to facilitate further negotiations, because some important decisions had been made at the community level. However by the end of March 2013 the Joint Mediation Team was still not prepared to facilitate such talks, not having received a reply from the company regarding the Suku Anak Dalam Dusun IV Sungai Beruang negotiating team's plans and proposals. This caused some disappointment as the Joint Mediation Team's response was not an official document.

Eventually on 10th April 2013, the Joint Mediation Team communicated that Wilmar had sold all its shares in PT Asiatic Persada.

While this report was being compiled, the fate of the mediation process was still not clear, but then on 26th October 2013, the Joint Mediation Team officially communicated that PT Asiatic Persada and its new owner were not prepared to continue the mediation that had been facilitated by the Joint Mediation Team.

| Dusun | Negotiations between the Dusun Lamo Pinang Tinggi Group and PT Asiatic Persada progressed to the fourth round of negotiations (that fourth round was split into two sessions). The Dusun Lamo Pinang Tinggi Group already had the experience of negotiating with PT Asiatic Persada. Because of that the Dusun Lamo Pinang Tinggi group's negotiating team had a reasonable level of knowledge and ability to make use of the RSPO and IFC's PSSES in negotiations. That meant that several agreements which were produced in the course of the mediation produced relatively positive results for the group. In the context of supporting or shadowing the group, SETARA only |
provided summaries on the outcomes and negotiation process between the Dusun Lamo Pinang Tinggi Group and PT Asiatic Persada. Here are some notes from the process along with the outcomes of each round of negotiations.

**First Round of Negotiations.**

This took place on 18th April 2012. In the meeting, the Pinang Tinggi negotiating team put forward their demand for the return of their village’s land from which they had been evicted by PT Asiatic Persada in 1986. The whole process went smoothly, and PT Asiatic Persada’s negotiating team’s attitude was relatively positive and they were ready to admit that Dusun Lamo Pinang Tinggi had rights inside PT Asiatic Persada’s HGU concession and accommodate the Dusun Lamo Pinang Tinggi negotiating team’s position. The first round of negotiations produced an agreement to mutually acknowledge that each party had rights within the area under dispute. It was then agreed to map the disputed area, and to undertake other studies connected to the subject and object of the dispute - this would take place on 7th - 12th May 2012.

After this first round of negotiations, the planned mapping of the dispute area and fact-finding connected to the basis of rights to the disputed area failed to take place. The plan failed because on 7th May 2012 the Batanghari District Head (Bupati) issued notice number 593/1626/HK, which was an appeal to vacate occupied land, directed to the Dusun Lamo Pinang Tinggi Suku Anak Dalam Group, Dusun Tanah Menang, the Suku Anak Dalam from Dusun Padang Salak, the Ujong Aspal Group and the Terawang Group. Naturally this letter had an impact of the ongoing mediation process. Because of this, on 10th May 2012, SETARA together with the Dusun Lamo Pinang Tinggi negotiating team and Ruwi from the CAO sent a direct letter to the Batanghari Bupati explaining the mediation process currently taking place between the Dusun Lamo Pinang Tinggi Group and PT Asiatic Persada. A meeting was held with the Legal Section Chief of Batanghari Regional Secretariat at the Batanghari Regency Government offices in Muaro Bulian, and the Batanghari Regency administration said that Dusun Lamo Pinang Tinggi was not one of the parties which would be affected by the letter from Batanghari's District Head.

In a meeting with the Batanghari Regional Secretary, a member of SETARA's staff (Rian) explained once more about the mediation process that was taking place among various Suku Anak Dalam groups and other affected community groups and PT Asiatic Persada, and that it was facilitated by the Joint Mediation Team, one of whose members was a representative of the Batanghari Regency government, Juliando. Rian also explained the negative impact on the process if the notice to vacate was followed up. In accordance with the insistence of several parties no land had been cleared by the 12th May 2012, as the notice to vacate had requested.

There was a suspicion that this notice to vacate had been issued at PT Asiatic Persada’s request to put pressure on groups in conflict with the company. Because of this situation, the Joint Mediation Team invited PT Asiatic Persada and the Dusun Lamo Pinang Tinggi's negotiating teams plus signatories and observers to the negotiations to attend a meeting on 11th May 2012 where the agenda was to discuss the Batanghari District Head's appeal to vacate and to plan the next actions in the mediation process between PT Asiatic Persada and Dusun Lamo Pinang Tinggi. The Joint Mediation Team made clear in that meeting that PT Asiatic Persada and the Dusun Lamo Pinang Tinggi group had made the commitment to abide by the various agreements and the current mediation process. In connection to the letter of appeal to vacate land, the Dusun Lamo Pinang Tinggi had taken action to save the mediation process by going to the Batanghari government office and explaining about the mediation process. Meanwhile PT Asiatic Persada were stating that they would fully abide by any policy the government issued but were not prepared to do the same where Dusun Lamo Pinang Tinggi was concerned. This statement indicated that PT Asiatic Persada were not fully committed to deal with the threat to the mediation process caused by the District Head’s Appeal to Vacate. Because of this, one agreement reached was that if there were to be any eviction or land clearing in the Dusun Lamo Pinang Tinggi area, the Joint Mediation Team would check if the terms of the Memorandum of Understanding Prior to Mediation had been violated, and if so this would then be the basis to stop all of the ongoing negotiations between PT Asiatic Persada and the affected communities. Another agreement was that the Joint Mediation Team would continue with the joint fact-finding and verification of documents connected to the object and subject of the dispute by 30th June at the latest.

**Second Round of Negotiations.**

These negotiations took place on 9th June 2012 and the main agenda item was for the Joint Mediation team to go through the results of their findings from studying documents and fact-finding field visit on 9th June 2012. Amongst the documents they had studies were the map produced by a Forestry Department micro-survey in 1987, an officially-stamped document which documented land ownership in Dusun Lamo Pinang Tinggi including location information, a will and testament from Alam Kunci to beneficiaries in Dusun Lamo Pinang Tinggi, a letter of explanation dated 9th January 1986 from the Markandang village chief, Darmo, concerning origins of the Suku Anak Dalam community's swidden cultivation in Dusun Lamo Pinang Tinggi, Markandang, Sungai Bahar, including a sketch and co-ordinates.

The mediation team said that the documents give both a mutually-reinforcing and mutually-coherent picture of the Dusun Lamo Pinang Tinggi group’s presence on the land which has become the object of their demands, with evidence of location and land ownership. Dusun Lamo Pinang Tinggi was one location shown on the Forestry Department’s 1987 micro survey of cultivated land and scrub.
Despite all this, PT Asiatic Persada's negotiating team held the view that there was still uncertainty whether this cultivated land and scrub belonged to Dusun Lamo Pinang Tinggi. What could be proof that these cultivated areas and scrub belonged to Pinang Tinggi? Before PT Asiatic Persada obtained their concession, the area was classified as forest, with companies CV Rudi and Primkopad owning forest concession rights (HPH). Why did Pinang Tinggi not protest against these timber concessions but only protest now? From SETARA's point of view, this was not a consistent attitude, because during PT Asiatic Persada's second round of negotiations with the Dusun IV Sungai Beruang Group, the company's negotiating team had claimed that that group had no rights over the land they claimed, because that location was not included in the 1987 micro-survey map. Then in the negotiations with Pinang Tinggi, although Pinang Tinggi's location did appear in the micro-survey map, the company still wouldn't recognise Pinang Tinggi's land rights. Dusun Lamo Pinang Tinggi's negotiation team and the signatories and observers present also made similar points, and questioned what was the connection between CV Rudi and Primkopad's forestry concessions and the land Pinang Tinggi was claiming. Eventually PT Asiatic Persada expressed the desire that the Joint Mediation Team invite those two companies to give information to the third round of negotiations.

In this second round of negotiations it was agreed that the Joint Mediation Team and the Dusun Lamo Pinang Tinggi group would hand over the documents mentioned above to PT Asiatic Persada's negotiating team for further study. As part of their study, PT Asiatic Persada would invite the Dusun Lamo Pinang Tinggi negotiation team to meet directly / hold a caucus if questions related to those documents arose. The caucus would take place with the Joint Mediation Team's knowledge.

**Third Round of Negotiations.**

These took place on 3rd July 2012. In the meeting, PT Asiatic Persada said that they had not been able to bring CV Rudy and Primkopad to the meeting as they had promised in the second round of negotiations. In this third round, PT Asiatic Persada's negotiation team tried to string out the process, by discussing issues unrelated to the substance of the negotiations. Then PT Asiatic Persada's negotiation team said that they had studied the documents that they had been given and had found land for which compensation had already been paid within the land that Dusun Lamo Pinang Tinggi were claiming. PT Asiatic Persada possessed documents about the people who had received compensation, and would pass the documents to the Joint Mediation Team for verification. In these negotiations it was agreed to carry out a mapping of the Dusun Lamo Pinang Tinggi area. The results of this mapping would be overlaid on the Forestry Department's 1987 micro-survey map, the map of PT Asiatic Persada's HGU area, the map of already-compensated land belonging to PT Asiatic Persada and the map of where PT Asiatic Persada had planted oil palm.
The mapping took place on the 6-10 July 2012, jointly by PT Asiatic Persada and Dusun Lamo Pinang Tinggi’s negotiating teams, facilitated by the Joint Mediation Team. The mapping revealed that the area of Dusun Lamo Pinang Tinggi was 1,029 hectares (see map above). This map was then overlaid on the micro-survey map, the map of PT Asiatic Persada’s HGU, the map of compensation paid on PT Asiatic Persada’s land, and PT Asiatic Persada’s map of planted areas. Overlaying the maps showed that of this land PT Asiatic Persada had paid compensation for 610 hectares, land controlled by local farmers / not planted by PT Asiatic Persada came to 168 hectares, and land on which compensation had yet to be paid comprised 232 hectares. When discussing the results of the mapping, Nurman, the head of the Dusun Lamo Pinang Tinggi’s negotiating team mentioned that further clarification was needed about who had received the compensation for the 610 hectares of land, because it was probable that PT Asiatic Persada had paid compensation to people who actually did not have rights to the land in Pinang Tinggi. All of the results obtained from the mapping and document study would become topics for discussion in the fourth round of negotiations.

It was planned to hold the fourth round of negotiations on 2nd August 2012 but the negotiation teams from PT Asiatic Persada and Dusun Lamo Pinang Tinggi agreed to reduce the level of the talks to a pre-negotiation meeting, or consultation meeting. There were several reasons for this, most importantly connected to the failure of some of PT Asiatic Persada’s negotiating team members to appear. Only three members of PT Asiatic Persada’s team members showed up, out of seven in total. Low Kim Seng (head of the negotiating team) and Syafei were among the absent team members, although they both had an important decision-making role in the negotiations. Before the talks commenced, Dusun Lamo Pinang Tinggi’s negotiating team handed a letter to PT Asiatic Persada’s team. The letter was asking PT Asiatic Persada to come to a decision because this was the fourth round of negotiations, which were supposed to be the negotiations which discussed matters of substance to settle the conflict. The letter also referred back to the Negotiation Ground-Rules, which state that the negotiating team is the one that has to be able to take a decision. The key points of the Dusun Lamo Pinang Tinggi negotiating team’s letter were as follows:

- The experience of the negotiations with the Evicted/Bidin Group, where PT Asiatic Persada’s negotiation team had said that they were only ordinary employees, and it was Wilmar as the company owner which must decide.
- That the fourth round of negotiations was the round which would establish whether the dispute could be settled or not.

Because PT Asiatic Persada could not ensure that the negotiations that day would produce a good agreement, and they were also not sure whether or not they had the power to take decisions, the two sides were agreed to reduce the level of these fourth set of talks to a pre-negotiation consultation, attended by observers and signatories and facilitated by the Joint Mediation Team. In the meeting, SETARA asked the Joint Mediation Team for the opportunity to give copies of the IFC’s performance standards to PT Asiatic Persada’s negotiating team and the Joint Mediation Team, in the hope that those involved in the negotiations would refer to these standards during the talks. After this, Ruwi (Joint Mediation Team) gave a presentation of the PSSES, to act as an explanation for all those present.
The next agenda item was to discuss the documents the Joint Mediation Team had verified. (To recall, before mapping the area of Pinang Tinggi’s land claim, PT Asiatic Persada’s negotiating team had said that compensation had been paid for around 610 hectares of land that Dusun Lamo Pinang Tinggi was claiming, and PT Asiatic Persada possessed documentation of the compensation. Both sides had agreed that the documents would be verified by the Joint Mediation Team). When the Joint Mediation Team was about to relate the findings of its verification of compensation paid for cultivated plants, PT Asiatic Persada’s negotiating team asked the Joint Mediation Team not to reveal the results of its verification, giving the reason that the documents the company had given the mediation team were not complete, and they requested that the documents be handed back to them so they could put them in order. The Pinang Tinggi negotiation team stated that there was no need to withdraw the documents, if any documentation was incomplete, the company should provide what was missing, rather than withdraw all the documents already in the Joint Mediation Team’s possession. In the minutes of the previous meeting it was very clear that the Joint Mediation Team would hold and verify the documents.

The debate couldn’t find a compromise path as PT Asiatic Persada’s negotiating team kept trying to impose its will and so the Joint Mediation Team called for a break. Once the break was over PT Asiatic Persada’s negotiating team said that it didn’t want to continue the meeting that day, but did not give clear reasons. When they were asked to state why they were stopping the meeting, PT Asiatic Persada’s negotiating team only said that they had the right to continue with the meeting or call a halt, and that since today was not the fourth round of negotiations, it was not necessary to go to the police. The Joint Negotiation team, signatories and observers who were present in the meeting tried to make suggestions to PT Asiatic Persada to keep going with the meeting, but PT Asiatic Persada’s negotiation team still didn’t want the meeting to continue. The events of that meeting indicated PT Asiatic Persada’s disparaging attitude towards the Joint Mediation Team-facilitated negotiation process, even despite the CAO’s involvement as a mediator in that team. In the end the meeting could only agree that before commencing the fourth round, a consultation meeting would be held to discuss the mapping and the compensation documents the Joint Mediation Team had verified.

The events of that meeting also provoked the signatories to send a letter of complaint to Wilmar concerning the negotiation process. The letter, which was sent on 9th August 2012, asked Wilmar International to: make an evaluation of PT Asiatic Persada’s negotiation team, and to press and remind PT Asiatic Persada’s negotiating team that it should comply with the regulations governing the negotiations, amongst others the Memorandum of Understanding to Begin Negotiations, the Negotiation Ground-rules and the mutually-agreed minutes, and request that PT Asiatic Persada make a serious effort to use the Joint Mediation Team-facilitated negotiations to resolve the dispute with all the affected groups.

PT Asiatic Persada’s negotiation team met their counterparts from Dusun Lamo Pinang Tinggi once more on 9th-10th October 2012 for a pre-fourth round meeting. The meeting on the 9th agreed to first discuss how to reach agreement on the object of the dispute, and then move on to discuss how to reach a settlement about that object. The meeting continued by discussing the results of the Joint Mediation Team’s verification of the compensation paid for 610 hectares of land within the object / disputed land. The results of the Joint Mediation Team’s verification showed that only 32 hectares were completely documented (ie. the object and subject both clear). PT Asiatic Persada disagreed, believing that the compensation documentation was sufficient. Basically, PT Asiatic Persada’s negotiating team did not believe the results of the Joint Mediation Team’s verification of the documents. Responding to this, the Joint Mediation Team requested that PT Asiatic Persada and Dusun Lamo Pinang Tinggi submit their responses to the mediators in writing for the next pre-negotiation meeting (10th October 2012).

In the pre-fourth round meeting on 10th October, the document which PT Asiatic Persada produced as a response to the results of the Joint Mediation Team’s verification still stated that the object and subject of the compensation paid on 610 hectares of land was clear. The Dusun Lamo Pinang Tinggi negotiating team stuck with the results of the Joint Mediation Team’s verification. Because no agreement had been reached, PT Asiatic Persada and Dusun Lamo Pinang Tinggi agreed to go down the path of litigation / use the courts to prove whether the appropriate subject and object had been applied in the process of giving compensation for land (regarding the basis for land rights claims and so on). The results of that litigation process would be brought back to the Joint Mediation Team for discussion. The Dusun Lamo Pinang Tinggi and PT Asiatic Persada negotiation teams agreed to make a joint report to the police. In fact the observers and signatories suggested that it would be sufficient to use an independent auditor, because going down the litigation path would take a long time. Apart from that, there was the question of 92 hectares of land in Dusun Lamo Pinang Tinggi which had been occupied by non-Suku Anak Dalam residents of Pinang Tinggi and once again the two parties agreed to take the case to litigation. It seemed to the observers as if this could potentially create friction within the community because it meant using a legal approach to resolving the problem. Moreover, the fate of around 742 hectares of disputed land would lie in the litigation process, although the outcome of that case would need to be discussed again in the negotiation process.

**Fourth round of Negotiations**

These took place on 11th October 2012. The Joint Mediation Team reviewed once more the outcomes reached in the pre-negotiation meetings, focussing on discussing the the disputed area and the settlement scheme that would be developed. The Joint Mediation Team defined three separate areas within the overall area under dispute as follows: the 258 hectares which it was agreed was land which had never been compensated by PT Asiatic.
Persada, the 610 hectares for which PT Asiatic Persada claimed it had already paid compensation, and the 168 hectares of land which was currently being occupied by other groups or other people not from Dusun Lamo Pinang Tinggi. After getting the agreement of the two parties, the Joint Mediation team set an agenda for discussing the 258 hectares. As the discussions over this land commenced, the Dusun Lamo Pinang Tinggi negotiating team were asking for the land to be returned to them and PT Asiatic Persada's negotiating team was offering three settlement schemes: firstly, offering compensation, secondly a “partnership” scheme where profits would be split 80:20 (80% to PT Asiatic Persada and 20% to the community), and third, the company would rent the land for nine years at 150,000 Rupiah per hectare per year.

The Dusun Lamo Pinang Tinggi and PT Asiatic Persada negotiation teams asked for time to hold a bilateral caucus (direct meeting between the two parties) facilitated by the Joint Mediation Team (without the observers present). Based on the results of the caucus, the Dusun Lamo Pinang Tinggi negotiation team would first discuss with the members of their group the settlement schemes offered by PT Asiatic Persada. Both parties were agreed that that day would be the first phase of the fourth round of negotiations and the second phase would take place on 7th November 2012. Also present at this negotiation were Gina and Julia (from the CAO in Washington) and Simon Siburat (Wilmar). Simon Siburat was attending as a response to the letter of complaint that the signatories had sent to Jeremy Goon (Wilmar International). Simon Siburat said in the meeting that Wilmar International was committed to continue with the mediation process facilitated by the Joint Mediation Team and would respect any agreement that the two parties had reached.

The second phase of the fourth round of negotiations took place on 23rd November 2012. The results of this meeting were quite positive, as PT Asiatic Persada was prepared to hand over to the community the 258 hectares of land in the Dusun Lamo Pinang Tinggi area that the company and the Suku Anak Dalam Dusun Lamo Pinang Tinggi group were disputing. The process of transferring the land would be in accordance with current legal regulations. PT Asiatic Persada would then rent the land through a lease agreement (perjanjian sewa pakai lahan) which included the following points:

a. An acknowledgement from PT Asiatic Persada that the land to be leased was owned by the Dusun Lamo Pinang Tinggi group.

b. The land would be leased for nine years from the date the contract was signed to the end of PT Asiatic Persada's HGU license in 2021.

c. The rent would be 150,000 Rupiah per hectare per month.

d. Payment would be made on a yearly basis, with 464,400,000 being paid for the first year. For subsequent years it was suggested to make payments once every two years. This proposal would be discussed by PT Asiatic Persada's negotiation team and their Management Team.

e. PT Asiatic Persada as the leasehold owner would have the sole rights to manage all 258 hectares of leased land

f. The Dusun Lamo Pinang Tinggi group would guarantee that the leased land was free from any other parties who might try to make a claim or occupy the land.

g. an agreement to jointly maintain security on the leased land.

h. The lease agreement would be drawn up with a notary present and witnessed and signed by local government, the National Land Agency and the Joint Mediation Team.

The two parties also agreed that the costs of the National Land Agency’s land survey would be borne jointly by the two parties. The Dusun Lamo Pinang Tinggi group would pay their share of the costs of the survey after receiving PT Asiatic Persada’s rent payment. The Joint Mediation Team would consult with the Jambi Province National Land Agency about the survey.

Concerning the 610 hectares of land, the Joint Mediation Team suggested two methods of settling the dispute: a. follow both the mediation and the litigation route, through a process of working together to group all transactions made. b. If the litigation process was proving seriously disadvantageous to the Dusun Lamo Pinang Tinggi Group then it would be desirable if the Dusun Lamo Pinang Tinggi group could re-open informal talks to discuss the case again, based on the interests of the two parties. Meanwhile regarding the problem of the 168 hectares of land which was currently controlled by other groups, it was agreed to resolve the issue through a customary law approach which the Dusun Lamo Pinang Tinggi Suku Anak Dalam Group would initiate, supported by PT Asiatic Persada and the Joint Mediation Team.

Until December 2012, negotiations between PT Asiatic Persada and the Dusun Lamo Pinang Tinggi Suku Anak Dalam continued with an agenda of consultations which it was hoped could produce an agreement on the object of the dispute. The parties hoped that the fifth round would reach an agreement which would resolve the conflict.

However, shocking news arrived on 10th April 2013, as the Joint Mediation Team communicated that Wilmar had sold all its shares in PT Asiatic Persada to other companies which did not have a connection with the RSPO or the IFC.
As the CAO-IFC had said, the mediation process would be closed. In the end it appears that this time Wilmar was able to deceive the mediation process, and managed to use mediation as a tool to consolidate its position and deny it's responsibility to resolve conflicts.

Back in the first phase of negotiations, it was PT Asiatic Persada which violated the negotiation ground-rules which led to the mediation being terminated, and then in this phase it was PT Asiatic Persada's shareholders that threw a tantrum and sold all their shares in PT Asiatic Persada to PT AMS which clearly has no link to the CAO-IFC and is not a member of the RSPO. This is despite the fact that it is very clear that the impetus for this period of mediation came from Wilmar's violation (through its subsidiary PT Asiatic Persada) of the IFC's investment standards. Selling all its shares means cutting the link which obliges PT Asiatic Persada to adhere to the mediation process and also frees PT Asiatic Persada from the obligation to abide by any agreements the negotiation process had already produced. It has become clear that PT Asiatic Persada has never wanted to learn from past mistakes, and has never wanted to learn the lesson that mediation is the best route for them to go down, as it is the cheapest and most efficient for them.
Mediation: a forum for learning, consolidation, evaluation and reflection?

Mediation, as a “new” model for communities, in this case the Suku Anak Dalam, must become a learning experience for them, and should also be used as an opportunity to consolidate and co-ordinate the strength of their position. Mediation is not the resolution process’s final objective, mediation is merely one possible way to move towards a resolution. For the groups which directly support them on the ground and find themselves in the middle of the communities in conflict, mediation is a kind of “ceasefire” or space to “take a break”, especially for communities which are always on alert and always head-to-head with the corporation. But is this forum being used in a good and appropriate way, whether by communities or the organisations which support them on the ground? Or should it really be considered a worthless forum, where consolidation is limited to how to plan the right demands, how to behave in the mediation process, and how to make sure to attend each negotiation meeting even if sometimes the negotiations are only discussing unimportant points.

Mediation: how to transform it into a space for learning
Various processes take place in mediation, including the process of constructing demands, consolidating negotiating positions, building up diplomatic capabilities, understanding the details of documentation and data, developing strategies and many more. All of these individual processes constitute a learning process, especially for the communities which get involved.

Mediation: how to make it a forum for consolidating strengths
Many people and parties understand mediation as merely being a forum for the negotiation team, so the rest of the community only have the status of supporters of the negotiation, as if they had no involvement or interest in the matter. It is therefore not surprising if this situation means that mediation becomes something meaningless for future achievements and outcomes.

It is necessary to note that no-one can predict the future, and especially can't predict whether mediation will achieve a solution that can resolve a conflict or not, or if it will actually make the solution more distant from people's hopes. For this reason, mediation must be considered as only one route to resolution, whose success or otherwise is dependent on consistency and commitment. The same is also true for other models of resolution, such as demonstrations or land occupations - those strategies are sure to produce results if they are transformed into a space for consolidation and to strengthen positions, which must also be based in consistency and commitment.

Let's take a look at what can happen if mediation is not used as a space for consolidation, for example what happens if the company involved withdraws from the mediation, or the company is sold off to someone else who is known to have no
respect whatsoever for the people's rights. It is certain that the community will feel a prolonged sense of hopelessness, and it is probable that their lack of confidence in mediation will increase.

If we, as community groups or their supporters, fail to use mediation as a space for learning, consolidation and reflection, we will in fact unknowingly be handing that space over to other parties with their own interests in the mediation.

Let's take a look at how mediation can be used as a space for consolidation. PT Asiatic Persada, in its conflict with the Suku Anak Dalam in Jambi, took advantage of the mediation as a space and time where it could discover its opponents' weaknesses, and a time of respite whereby it could consolidate its strength to fight the Suku Anak Dalam. Therefore in the mediation process, for example in the first phase of negotiations facilitated by SETARA\(^\text{16}\), the company successfully consolidated its position to ensure the negotiations failed. Looking back at the notes of that first phase, we can see that PT Asiatic Persada used two methods, firstly by violating the negotiation ground-rules, but also provoking a Suku Anak Dalam group to organise demonstrations, so that it seemed as if the ground-rules had been violated not only by the company but also by the Suku Anak Dalam groups. In this phase PT Asiatic Persada learnt that the long and convoluted mediation process had provoked a feeling of exhaustion among the Suku Anak Dalam groups involved in the mediation. In the second phase, when the Joint Mediation Team (Jomet - the CAO-IFC\(^\text{17}\) together with Jambi Provincial Government) convened the mediation, PT Asiatic Persada used a different tactic\(^\text{18}\) to disable the mediation. In this phase PT Asiatic Persada continued to learn over the two years\(^\text{19}\) of Jomet-convened negotiations, and thus found points where they could evade their responsibility to comply with agreements that were almost achieved in this phase of mediation. Of course, these actions by Wilmar and PT Asiatic Persada succeeded in ensuring that the Suku Anak Dalam groups involved in the mediation started to lose their grip, whereas some of the Suku Anak Dalam groups had been very dependent on the mediation, and really believed that mediation could return them their rights to land that was currently under PT Asiatic Persada's control.

So, if mediation should not be seen as a choice or final objective, therefore it is desirable if mediation is used as much as possible as a space for learning, for strengthening positions, for strengthening capacity and as a space for consolidation. If

\(^{16}\) The first phase of mediation, which took place between 2009-2011

\(^{17}\) The CAO-IFC got involved at this stage because 100% of the shares in PT Asiatic Persada were owned by Wilmar and Wilmar is a client of the IFC (the World Bank's private sector investment division).

\(^{18}\) Selling all of Wilmar's shares to other companies which have almost no best-practice standards.

\(^{19}\) 2011-2013
that forum does not work as a learning process or space for consolidation, then the purpose of the mediation itself should be called into question.
Finally these notes have reached their end, and it should be pointed out that these are personal notes which have been compiled from the daily notes we took during both the first and second phases of mediation, in which we were fully involved. Hopefully these notes can act as a contribution, reflection and learning material for groups and communities which are currently engaged in mediation, or considering mediation, and for any groups which support communities which might be promoting mediation as a path to reconciliation. Because mediation is not only about producing an agreement, or producing an improvement in the relationship between two conflicting parties, but mediation can also provide a framework for consolidation and a space for reflection.

Jambi, 26 October 2013

Authors