

To  
RSPO Secretariat Sdn Bhd  
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Tel: +603 23021500 Fax: +603 22014053  
Email:

Date: 13<sup>th</sup> August 2018

Dear Sir,

**SUBMISSION OF FOURTH NEW COMPLAINT ABOUT GOLDEN AGRI-RESOURCES**

I/We, Forest Peoples Programme (FPP) and Transformasi Untuk Keadilan – Indonesia (TUK-I), wish to lodge a complaint concerning the Golden Agri Resources (GAR) company, located in Indonesia.

This complaint is made on behalf of all those affected by GAR's operations.

My full details are as follow:

Name: Marcus Colchester  
Position: Senior Policy Advisor  
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Please find attached herewith the details information regarding the complaint which includes:

- A: Description of the name, address and location, and nature of the Company being complaint (please provide map if possible)**
- B: Description of the action taken by me/ us to try to settle the issues (please provide details based on chronological event)**
- C: List of other person(s) contacted by me/us in attempt to settle the issues (please provide any relevant documents if any)**
- D: Any other relevant facts and/or other materials to support this complaint.**

I/we fully understand and agree that RSPO Secretariat will be looking into this complaint based on its standard Grievance & Dispute Settlement Handling Protocol.

Thank you.

Yours sincerely,



Marcus Colchester

Forest Peoples Programme

## **Substance of the Complaint**

Since 2015, the RSPO Complaints Panel - in upholding the complaint to RSPO CP made by Forest Peoples Programme in 2014 - has required that Golden Agri Resources provides a 1,000 hectares of smallholdings to the Dayak and Melayu communities whose lands it took over for the development of oil palm plantations by its subsidiary PT Kartika Prima Cipta. The company has been extremely slow to take any measures to fulfil this requirement and has still not done so, although it has begun to open further land south east of its concession (*ijin lokasi*) between the Dayak hamlets of Menapar and Jongkong with the aim of allocating this land for smallholdings. FPP has been raising concerns about the slow pace and distant location of these allocations repeatedly since 2014 and has asked the CP to insist that PT KPC/GAR act speedily to provide the smallholdings to the communities.

### ***A: Description of the name, address and location, and nature of the Company being complaint***

Golden Agri Resources (GAR) is a large consortium legally incorporated in Singapore but with its main offices in Jakarta. It is represented on the Board of Governors of RSPO. GAR operates in Indonesia under the brand name Sinar Mas ('Golden Rays'). The operational address for GAR is: Sinarmas Land Plaza Tower 2, Jl. M.H. Thamrin No.Kav 51, RT.9/RW.4, Gondangdia, Menteng, Kota Jakarta Pusat, Daerah Khusus Ibukota Jakarta 10350 Tel: +62 21 50338899

### ***B: Description of the action taken by me/ us to try to settle the issues (please provide details based on chronological event)***

This matter has been raised repeatedly by FPP with the RSPO Complaints Panel since 2014. The lack of action by the RSPO complaint secretariat or the Complaints Panel on this question has repeatedly been raised by FPP with the CP in the following three years but no action has been taken. The matter is therefore being brought back to the RSPO Complaints Panel for resolution as a new and separate complaint.

### ***C: List of other person(s) contacted by me/us in attempt to settle the issues (please provide any relevant documents if any)***

This matter has been repeatedly discussed by FPP with senior staff of GAR without satisfaction.

### ***D: Any other relevant facts and/or other materials to support this complaint.***

Detailed explanatory and background materials on this case have already been lodged with the CP. It is acknowledged that the communities in Suhaid, Semitau, Mantan and Menapar who received (nugatory) compensation for the release of 5,000 hectares of land to PT KPC, were given to expect to get 1,000 hectares as smallholding as partial compensation. By 2014, when the complaint, was filed only 550 hectares of small holdings had been provided. Moreover, the communities complained that the smallholdings had been provided late, were distant from their own villages, the returns were minimal and their legal status was

uncertain. In its decisions on the case in 2015, the CP required GAR/PT KPC to make up the required area of smallholdings to 1000ha. This has still not been done.

In our discussions with GAR and PT KPC, and in our letters to the Complaints Panel, we have consistently recommended that to speed up giving the affected communities their dues, the extra 450 ha of land lands should be allocated to the communities from the area already planted with oil palm in the core estate (*inti*). There are a number of reasons for this:

1. This has been requested by the communities
2. The *inti* is already planted, mature and productive and so the people will not have to wait any longer before getting an income from their shares in the smallholdings
3. The areas allocated would be closer to the communities concerned and within their traditional rights areas so, when the lands are eventually returned to their ownership and management, they will be accessible
4. Since the smallholdings are anyway managed under the *satu atap* (one roof) system, in the meantime the day to day management of the smallholdings would not materially change.

GAR/KPC have instead argued that if it is to make up the required 450 hectares more of smallholdings, the communities must instead surrender yet more land. Initially the communities refused saying that the 450 hectares should be made up from the lands already surrendered. The company then sought to expand the smallholder area southwards outside of its *ijin lokasi* onto the lands of the village of Tungkup. This was halted when FPP pointed out that the community of Tungkup in Desa Emperiang had not given FPIC to this arrangement. Now the company has prevailed on the community of Menapar to let it begin its expansion south eastwards from its *ijin lokasi* in the lands between Menapar and Jongkong. The company claims that the community of Menapar has agreed to this expansion. The legality of this expansion outside the company's *ijin lokasi* is unclear to FPP.

The various reasons that PT KPC and GAR staff have given for persistently refusing to provide smallholder areas in the *inti* is that this: would affect the company's profitability; would require changing the boundaries of the legal licences (IUP and the application for the HGU - which is currently suspended while the wider land dispute is settled) and; would require a renegotiation with the Bank.

Meanwhile the communities who surrendered their lands in 2006-7 are still waiting for the smallholdings they are entitled to. In effect, the smallholders are being required to suffer the costs of delay and not the company. It should not require pointing out that asking poor rural farmers who have relinquished a substantial part of their lands already over 10 years ago to wait still longer for their dues is both unjust and contrary to the RSPO P&C which require fair deals for smallholders. Even if these additional smallholdings are planted this year it will mean that the community members will have had to wait up to 15 years before

they start to get returns from these distant smallholdings and by the time the (originally unexplained) debt burden is paid off it will be more like 25 years from the time they relinquished their lands to when they start to make a significant income from the smallholdings.

There are a number of other reasons the current arrangement is unfair or unviable:

1. The new smallholdings are even further away from the original villages than ever
2. Although the cooperative members have all requested that their holdings be titled as individual holdings (*sertipikat hak milik*), the community of Menapar which claims the underlying customary right over the new expansion area does not accept that the smallholders from distant villages should be granted permanent titles over these areas, as most of them are from a different ethnic group. This means that either the preference of the local Dayak community of Menapar is overruled or the Melayu of Suhaid and Semitau will not secure permanent rights.
3. To our knowledge neither a New Planting Procedure notification nor an HCV assessment for the new area of expansion have been filed with the RSPO (or ALS).

We are asking the Complaints Panel to insist that GAR/PT KPC allocates the required 450 ha of smallholdings from the *inti*, with immediate effect.

Any provision of smallholdings must be agreeable to the persons who released lands to the company and must fulfil the following conditions to be acceptable:

- Details are provided to each smallholder/cooperative member of :
  - a. The extent of their holdings
  - b. The exact location of their holdings
  - c. The terms for re-payment of debt and all other charges to be levied by the *satu atap/ kemitraan* system
  - d. Details of the land title they will be provided with.