

Clarification to Dr Marcus Colchester, Forest People's Programme Letter.

- 1. There has been a long-standing dispute with local communities, including some indigenous people ('suku anak dalam') over the lands taken over by PT Asiatik Persada in the area;**

Clarification: There is already an agreed form of land compensation that has been approved by the Government of Batang Hari to resolve any customary land disputes between PT Asiatik Persada and the rightful Indigenous People of Jambi (SAD) in the form of 1,000 ha plasma. Through a verification process that comprises of village headmen, customary leaders and government officials, any Indigenous people who believe that their rights to land have been compromised will have to be registered and verified. So far some 771 family heads were identified in June 2010 and are part of the plasma scheme. A co-operative was formed to manage this scheme on behalf of the plasma recipients. Any SAD who have yet to be identified but believe that they should be included in this scheme may do so by applying to the PEMDA of Batang Hari and go through the process of verification. Only Indigenous people that once were affected by the operation of PT Asiatik Persada before the issuance of its HGU in 1987 are entitled to this compensation.

- 2. On 8th August a truck was impounded in the compound of PT Asiatik Persada by company security staff who alleged that the drivers were carrying illegally harvested fruits;**

Clarification : The truck that was used to transport the illegally harvested crop was detained by the Police at their Batang Hari Station 90km away. It was returned to the Asiatik Security post at about 4am upon the request of the truck owner. The security department of Asiatik has been monitoring the activity of this truck over past months and we have sufficient evidence to prove that the crop was harvested illegally from Asiatik plantations. The truck owner upon further investigation by the Police admitted to his wrong doing.

- 3. The following day 15 BRIMOB soldiers sought to arrest the truck owner and in the process of negotiating the return of the weapons to BRIMOB and the truck to the owner, the truck owner's sons were threatened, the truck owner sought to protect them and incident became more violent. As more BRIMOB and policemen arrived, the unrest escalated and the truck owner's house was set on fire. The**

truck owner was arrested, and, allegedly, one person was shot in the back.

Clarification : NO one was shot in the back or in the front for that matter. No Houses were set on fire as alleged.

- 4. On the 10th August company personnel and BRIMOB soldiers forcibly harvested fruits near the village and then came to intimidate the local people during which they fired a gun into the air. While the villagers fled to avoid the further shooting that ensued, company bulldozers came into the village and crushed several houses along with their contents (video footage shows very extensive damage of several houses). Over 100 men, women and children were displaced. Other reports suggest that overall as many as 70 houses were destroyed in 2 hamlets.**

Some 350 ha of oil palm fields in Sebangkur estate, was controlled by Zainal and his men using Indigenous people from other areas to control the area illegally and prevent the plantations workers from harvesting under the guise of claiming land under customary rights. The area concerned is within our legal plantation land title (HGU). And it is a significant distance away from the hamlet of Sungai Beruang. It has also been confirmed by the Village headmen of Tanjung Lebar, Pak Edi Ramson, and this was further confirmed by Hamlet headmen of Sunggai Beruang, Pak Roni, that there is no other hamlet in the Sebangkur area other than the hamlet of Sungai Beruang. They further confirmed that all of these communities who occupied the land illegally in Asiatic are mixture of local communities and SAD from other areas who have no rights to land. The customary rights issue is used as a front to cover their modus operandi which is to steal crop from the estate. Most of the structures that were demolished were shelters made up of canvas or oil palm fronds. Only 4 semi permanent houses and 1 concrete house that belonged to Zainal and his family members who organised the illegal harvesting were constructed along Asiatic Riparian areas (Sungau Buaian)

Zainal confirmed that he constructed his concrete house about 4 months ago on Asiatic Riparian zone.

Prior to this incident, the management of Asiatic had made many attempts to inform these illegal occupants that what they are doing is wrong. Several meetings were organised to meet them and explain that if they feel that they have rights to land then they should approach the PEMDA of their respective district and get registered and go through the verification process.

On 18 July, the management of Asiatic organised a meeting between the

PEMDA of Batang Hari and the village headmen of Tanjung Lebar, the Local leaders of Hamlet of Sungai Beruang to explain the situation. Our meeting (together with the TUV Rheinland auditors) with Village headmen of Tanjung Lebar on 25 Aug 2011 at his home confirmed this.

5. We also understand that some 18 people have now been arrested as a result of the various incidents

Clarification: Yes 18 people were arrested on 9 August. But 11 was released the following day (10 Aug) upon confirmation that they were not involved in attacking the two BRIMOBs on the evening of August 8th.

6. Between 10th and 13th August local people as well as NGOs were prevented gaining access to the village, as the village site was blockaded by BRIMOB forces, and this has also impeded them from investigating what had occurred.

Clarification: No one was prevented from entering or leaving the Hamlet of Sungai Beruang.

7. There are also as yet unsubstantiated reports that two of those hurt in the dispute have subsequently died, a matter which requires urgent investigation.

Clarification: No one died during the operations. Zainal suffered a cut to his head which has healed. When TUV Auditors interviewed him at the Police station in Batang Hari, he informed them that he was not abused nor were any of his family members during his detention.

8. All local staff are instructed to freeze operations in the area until the conflict is resolved.

Clarification: There is no land dispute. This is a case of organized crime under the guise of customary rights by using indigenous people from other places as a front to legitimise the stealing of crop.

9. Wilmar instructs its operatives to cease making payments to local security forces and asks them to desist from threatening the local villagers;

Clarification: In view of the high incidences of organized crime operating in the area, the management has the right to protect its staff and property from harm. We have every right to safeguard our employees and the assets of the company and will do so in full accordance to Indonesian law and its legal system.

10. *Local villagers are permitted to return to their houses to recover their possessions and re-occupy their homes;*

Clarification: The illegal squatters were given an opportunity to remove their personal belonging before their shelters and quarters were dismantled. We observed that the illegal squatters had also taken back their personal effects the day after the incident. They had built their shelters in the riparian area and within the oil palm field of Asiatic which is legally part of our land title.

11. *Wilmar collaborates with local human rights and land agency personnel to allow a detailed and independent investigation of both the events and the underlying causes of the dispute;*

Clarification: Wilmar is always open to negotiation with local or indigenous community as long as they want to be facilitated or mediated to achieve an agreed process. For this incident, Wilmar has engaged TUV Rheinland, a Certification Body approved by RSPO to verify this case on the ground. Their report will be made public shortly.

Response to Setara Jambi Letter

Point 1. Not only did the company arrest 18 residents, along the mobile brigade (BRIMOB) it demolished 30 houses in Sungai Buaian, and 40 others in Sungai Beruang. The company (and the BRIMOB) has also been blockading access to the 4 sub-villages for a week, effectively cutting off the economic and information access of the locals.

Clarification : The 18 local community was arrested by the Police to avoid any untoward incidence that may lead to violence . This happen when Zainal asked them to join him to assist his son who was detained by the BRIMOB. Only 1 permanent house that was constructed illegally on the buffer zone of Sungai Buaian in Asiatic land was demolished. That house belonged to Zainal. Another 4 semi permanent wooden houses that were illegally constructed along the buffer zone of Sungai Buaian within Asiatic Land belonged to Zainal's sons

and family members. The rest of the shelters were made of makeshift tents and oil palm fronds. Asiatic only took action in dismantling the temporary shelters of those who were involved in stealing Fresh fruit bunches from Asiatic. This can be proven from the stacked FFB bunches and loosefruits within these structures. Not a single house in the hamlet of Sungai Beruang was demolished as alleged. Asiatic had done a social impact study some years ago through an independent consultant and has identified places/sites which are currently being inhabited by indigenous people that have long history of association with Asiatic. Zainal group's and those that illegally occupied the area were not identified because they only came in to claim land recently.

The company nor the BRIMOB did not cut any access of local community into the hamlet of Sungai Beruang.

Point 2 Principle 2 concerning compliance with applicable laws and regulations. The demolition of 70 houses in the four sub-villages is a gross violation of human rights as set forth in Human Rights Law No. 32

Clarification: In the first place, these shelters were illegally constructed and used for illegal activities and violence. When interviewed, Zainal confirmed that these local communities were involved in supplying stolen crop to him. This was confirmed by the availability of Fresh Fruit Bunches and loose fruits near their shelters when these structures were dismantled. Prior to being demolished, local communities were given a few hours to evacuate their personal effects. NO one was hurt in the process of dismantling.

Point 3 Principle 2 Criteria 2.1 and 2.2 – PT Asiatic Persada failed to promote FPIC (Free, Prior and Informed consent) principle in handling its conflicts, instead it committed violence on the locals, who are mostly the indigenous people of Suku Anak Dalam, which is clearly a violation of criteria 2.3. By demolishing the sub-villages, PT Asiatic Persada has eradicated the identity of the indigenous people, who had been managing the area for generations long before the company came and was granted HGU concessions

Clarification The current incidence has nothing to do with customary land claim. This is purely a security matter where some members of the local indigenous community were used as a front under the guise of customary rights.

The management of Asiatic Persada has informed the government, organized meetings between Village headmen of Tanjung Lebar on clarification of the

community claim on the 650 ha plasma in Sebangkur and about the illegal occupation of the land.

If the local community regardless of whether they are indigenous or non-indigenous have broken the law by illegally harvesting crop or illegally occupying land, then they should also be subject, like any other citizen in any country, to the laws of the country.

We have dated satellite imagery to show that the quarters constructed at our buffer zone along Sungai Buaian was only constructed last year. In the past we have also compensated local communities in Sebangkur area if they have sufficient proof of user rights over the land.

PT Asiatic Persada is always open, and will remain open for discussion on any genuine social matters. For instance, the negotiation between SAD 113 group and PT Asiatic Persada is still on going and both parties have decided to elect a new mediator which is the Provincial government of Jambi. SAD 113 have decided on their own accord, to remove the mandate they originally gave to Setara Jambi to mediate the matter on their behalf. We urge the local NGO Setara Jambi to respect the Indigenous community's decision.

Point 4. Principle 6 Criteria 6.1, 6.2, 6.3, and 6.4 on Responsible consideration of employees and of individuals and communities affected by growers and mills. In this case, the Wilmar Group via PT Asiatic Persada did not protect the existence of the indigenous people of Suku Anak Dalam, but it eradicated and erased their identity through the demolition instead. We need to inform you that the 4 sub-villages are completely devastated and are left empty as nearly all the locals fled into the forest (PT REKI's concession). Some are women and children.

PT Asiatic Persada recognized the customary rights of the Indigenous people that were affected when the land title was given to Asiatic. As a form of compensation, PT Asiatic Persada has developed a 1000 ha plasma for those Indigenous people who once resided within the land title of PT Asiatic Persada in 1987 and have not been duly compensated for their loss of rights. Only those who are the genuine Indigenous People as determined by the verification team comprising of Village headmen, Customary leaders and government official will be included in the scheme. To date 771 families have been successfully identified and incorporated into the plasma scheme.

We have also engaged some of these Indigenous People as entrepreneurs by taking contracts for loose fruit collections, transportation and field maintenance.

We would like to reiterate to you that no hamlet or sub-village were destroyed or devastated as alleged in your letter. The hamlet of Sungai Beruang and several others like Mat Ukup group, Kutar, Wahab, Abbas which is part of SAD 113 remain completely intact and undisturbed, contrary to what the complaint letter has stated. We have of course already conducted a High conservation value assessment for this area. Any natural areas that the Indigenous communities use as a source of their livelihood will be retained as HCV 5 and co-managed with the community.

It also became very clear, in the course of our investigations that the temporary makeshift shelters that encroached illegally into Asiatic land title were set up by outsiders and opportunists and not by indigenous community that have a long history of association with us. These opportunists took advantage of the situation by illegally claiming Asiatic land under the guise of Customary rights. If these communities feel that they have rights to land, then they should approach the local government through their representatives and request to undergo the verification exercise like any other Indigenous people that have claimed customary rights in Asiatic Persada. Illegal occupancy of the land and illegal harvesting of crop is not a way to exercise customary rights.

ENDS

Wilmar International Ltd
5th September 2011