



Forest
Peoples
Programme



Sawit Watch

Jeremy Goon
Group Head of Corporate Social Responsibility
Wilmar International (Group)
56 Neil Road 088830
Singapore

14th May 2013

Re: Complaint regarding Wilmar Group's sale agreement of PT Asiatic Persada (Jambi, Indonesia) to Prima Fortune International Ltd and PT Agro Mandiri Semesta without prior consultation or information-sharing with Suku Anak Dalam (SAD) affected communities currently engaged in IFC CAO mediation with the district government of Jambi (Joint Team Mediation) and coalition of complaint signatories

Dear Jeremy Goon,

On behalf of the affected communities of Sungai Beruang and Pinang Tinggi, we respectfully address this complaint to you regarding Wilmar Group's sale agreement of Wilmar concession PT Asiatic Persada (Jambi, Indonesia) to Prima Fortune International Ltd and PT Agro Mandiri Semesta.

Since a consortium of concerned NGOs filed a complaint with the International Finance Corporation's (IFC) Compliance Advisory Ombudsman (CAO) in 2007 on serious breaches of IFC Performance Standards by client Wilmar, the Ombudsman has been able to resolve land disputes in three concession areas in West Kalimantan (Senujuh and Sajingan Kecil) and Riau (Pangean).¹ Meanwhile, it is still engaged in another Wilmar concession, PT Asiatic Persada in Jambi Province, where serious human rights abuses occurred in 2011² which led to a third complaint to the IFC CAO on 9th November 2011.³

On 19th – 23rd April 2013, a team of signatories to the original complaint (Forest Peoples Programme, Setara Jambi and Sawit Watch) visited the concession to interview local communities, the IFC CAO and PT Asiatic Persada on their views on the mediation process. PT Asiatic Persada did not respond to our request to meet.

The research team found that while progress is slow and tangible outcomes have yet to be achieved, at least two SAD communities (Dusun 4 Sungai Beruang and Kelompok Pinang Tinggi) see great value in the IFC CAO mediation process, which they wish to see continued and improved. Of paramount concern to these communities is **the sale agreement of PT**

¹ http://www.forestpeoples.org/documents/ifi_igo/ifc_wilmar_cao_audit_report_jun09_eng.pdf

² www.forestpeoples.org/human-rights-abuses-and-land-conflicts-in-pt-asiatic-persada-palm-oilconcession-Jambi-Indonesia

³ <http://www.forestpeoples.org/sites/fpp/files/publication/2011/11/fpp-and-allies-ifc-cao-3rd-complaint-re-wilmar-nov-2011.pdf>

Asiatic Persada, which they were informed of by the CAO in the course of April 2013, **while IFC CAO mediation with the provincial government of Jambi (Joint Team Mediation) is still ongoing**. This handover, and uncertainties over its terms and implications for the mediation process, have had serious impacts on the morale of these communities, and created significant anxiety as to how the progress achieved through CAO mediation will be sustained and enhanced, now that PT Asiatic Persada has been sold to non-Wilmar, non-RSPO and non-IFC funded companies.

Having received no formal communication from Wilmar on the sale agreement, on 23rd April 2013, Setara requested clarification from Wilmar and was informed that Wilmar had signed an agreement to sell PT Asiatic Persada to Prima Fortune International Ltd and PT Agro Mandiri Semesta, and that information on this sale was publicised in a local newspaper (Sinar Harapan) on 23rd March 2013. Wilmar also informed us that it expected to

“complete the sale soon. As of 1 April 2013, we [Wilmar] have handed over management of the property to the Buyers [...] We will notify our stakeholders once we have completed the sales of the said property.”

We, the SAD communities affected by PT Asiatic Persada’s operations, together with the complaint signatories, attended a meeting with the IFC CAO and the Jambi province government team (Joint Team Mediation) on 6th May 2013, to discuss the implications of the handover of PT Asiatic Persada to other parties in relation to the ongoing mediation process. In this meeting, all parties present agreed that the Joint Team Mediation continue the aforesaid mediation process as well as pursue implementation of several agreements already reached with parties involved in this process.

We also agreed that Wilmar, as the former owner of PT Asiatic Persada, should remain involved in this continued mediation process as a key observer, as we believe that although PT Asiatic Persada is now owned by another party, Wilmar still bears responsibility to ensure that agreements made are kept and implemented as required, and that mediation continues in line with the processes developed by the parties and stated in the Agreement Note and Pre-conditions of Negotiation.

Precedents in West Kalimantan and Riau have shown that resolution of conflicts through IFC CAO mediation have led to mutually satisfactory outcomes for Wilmar and affected communities, and we strongly welcome Wilmar’s initiative and cooperation in these particular cases. As SAD communities affected by the activities of Wilmar company PT Asiatic Persada, we have great hopes that similar outcomes will result from the CAO mediation process underway in Jambi as well.

However, the lack of information-sharing and consultations with the affected communities and co-signatories of the complaint prior to the sale of PT Asiatic Persada regrettably lead us to conclude that Wilmar’s actions amount to bad faith and lack of transparency in transactions that evidently impact in a negative manner on the mediation process currently underway in this concession.

In the light of the above, and on behalf of the affected local SAD communities in PT Asiatic Persada, we thus request clarification from Wilmar on the following points:

- 1) Why the affected communities were not formally informed of the sale of PT Asiatic Persada prior to its agreement and prior to its completion?
- 2) Why the affected communities were not formally informed of the notice advertised by Wilmar in Sinar Harapan (this advertisement appears to constitute the only form of public notification from Wilmar to date on this sale agreement)?
- 3) How, prior to the sale agreement, Wilmar anticipated that this sale would affect the local communities in the IFC CAO mediation process and sought to address this prior to sale completion?
- 4) How Wilmar has ensured that the new management of PT Asiatic Persada is fully informed of the chronology, process, progress to date, actors and expected outcomes of the IFC CAO mediation?
- 5) How Wilmar has ensured that affected communities have access to the contact details of individuals in the new management in order to facilitate communication and the continuation of mediation, through IFC CAO or other means?
- 6) What responsibility Wilmar itself takes to ensure that the resolution of conflicts in PT Asiatic Persada is achieved, now that management has been handed over to the Buyers?
- 7) What space is now left for affected communities to participate in negotiations over the terms of sale of PT Asiatic Persada, having not been informed of this until the sale agreement was entered into by Wilmar and the Buyers?
- 8) Whether PT Asiatic Persada will remain a supplier of Wilmar under the new management and if so, how Wilmar intends to ensure that its supplier resolves the ongoing conflicts in a manner that is mutually satisfactory to and agreed to by all parties?
- 9) Whether Wilmar Group still holds shares in PT Asiatic Persada and if so, whether it will do so to an extent that Partial Certification under the RSPO P&C still applies to PT Asiatic Persada?

As a member of the RSPO, Wilmar is required to act ‘in good faith’ and ‘commit to adhering to the principles set out in this Code [the Code of Conduct]’. The Code of Conduct requires Wilmar to ‘commit to open and transparent engagement with interested parties, and actively seek resolution of conflict.’⁴ Comprehensive, formal information-sharing well in advance of the sale agreement process with the affected communities in PT Asiatic Persada would have been required for open and transparent engagement to be deemed to have been respected by Wilmar.

We look forward to Wilmar’s clarifications on the questions above and to how Wilmar will sustain its engagement in and responsibility of ensuring that conflicts in PT Asiatic Persada are resolved in ways that respect the livelihoods and rights of the affected communities.

Yours sincerely,

Abun Yani, Ketua Adat Suku Anak Dalam Batin Sembilan
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Marcus Colchester, Forest Peoples Programme
Rukaiyah Rofiq, Yayasan SETARA Jambi

⁴http://www.rspo.org/files/resource_centre/keydoc/3%20en_Code%20of%20conduct%20for%20members%20of%20the%20RSPO.pdf

Signatories

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