



Forest
Peoples
Programme



Sawit Watch

7th June 2013

Re: Wilmar response to complaint dated 14th May 2013 regarding sale agreement of Wilmar Group oil palm concession (PT Asiatik Persada, Jambi, Indonesia)

Dear Jeremy Goon,

We have received your response dated 30th May to our complaint dated 14th May 2013 regarding Wilmar Group's sale agreement of Wilmar concession PT Asiatik Persada (Jambi, Indonesia) to Prima Fortune International Ltd and PT Agro Mandiri Semesta.

Our complaint described in substantial detail the concerns expressed by affected Suku Anak Dalam communities over this agreement, carried out without consultation or information-sharing, despite the fact that IFC CAO mediation was ongoing at the time of the sale agreement negotiations between Wilmar and the Buyers above.

Unaddressed concerns raised in complaint

Pertinent to this development, we raised in our letter nine inquiries requiring clarification on the part of Wilmar, noting that transparent engagement and information-sharing with stakeholders is a commitment of Wilmar as a Group and also a requirement upon Wilmar as a member of the RSPO, subject to the RSPO's Code of Conduct. Regrettably, the response we received fails to address the majority of these inquiries in any substantial depth, and therefore we find ourselves obliged to re-submit these queries to you through this second complaint. These queries are reiterated below:

- 1) Why the affected communities were not formally informed of the sale of PT Asiatik 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 Asiatik 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 Asiatik 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 Asiatik Persada, having not been informed of this until the sale agreement was entered into by Wilmar and the Buyers?

Wilmar response to complaint

In addition to the above, we note in your response to our complaint that ‘Our [Wilmar’s] intention has always been to inform the stakeholders of the intended sale of PT Asiatic Persada’. However, the stakeholders in question (as listed in the attendance list) consist exclusively of parties to the agreement (Wilmar as the seller and PT AMS as the Buyer) and JOMET, without the participation of or consultation with affected local communities currently engaged in mediation, despite the fact that these communities are the prime stakeholders and affected parties by these negotiations, and the holders of the right to Free, Prior and Informed Consent, as per the RSPO P&C. We remind Wilmar that JOMET, as mediator, is not the representative of the affected local communities in question, and that their participation in the meeting of 29th March described in your response is in no way tantamount to participation by these communities. It is also unclear from your response as to the involvement of Prima Fortune International Ltd in these negotiations.

Related to the concern raised above, the response we have received appears to take into consideration only the engagement and interests of the Buyer and makes no reference at all to the affected local communities, leading us to question whether Wilmar has any sense of responsibility or commitment towards resolving the conflicts that its own operations and well-documented and publicised human rights abuses have created in PT Asiatic Persada. It is most regrettable to note that the perfunctory nature of Wilmar’s response to our complaint fails to demonstrate awareness and genuine concern for the livelihoods and rights of the affected SAD communities, which have been deeply affected by Wilmar’s operations.

As per our complaint of 14th May, the SAD communities and complaint signatories attended a meeting with the IFC CAO and the Jambi province government team (Joint Team Mediation) on 6th May 2013, where 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. However, over a month after this meeting, JOMET has been unable to organise a follow-meeting with PT Asiatic Persada, as planned, and no explanation has been given as to why the company is unable or unwilling to attend. This leads us to question Wilmar’s statement that Wilmar has ‘encouraged them [the Buyers] to continue with the mediation process’ and that Wilmar will ‘work to ensure that there is proper handover of the process to the buyer, and will assist them wherever we can to ensure a smooth transition.’ Meanwhile, the affected communities remain in a position of uncertainty, frustration and ignorance despite the urgency of the situation.

We look forward to receiving a prompt response to our renewed complaint, which is now to be understood as a complaint both against PT Asiatic Persada for its sale agreement without prior consultation, and also against Wilmar’s CSR for the dismissive treatment of our first complaint.

Yours sincerely,

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

CC:

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Simon Siburat, Group Sustainability Controller, Wilmar