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Indonesia: Wilmar Group-01/West Kalimantan Final Report – CAO Dispute Resolution Function

Introduction

This is the final closure report of the first complaint filed to the Office of the Compliance Advisor Ombudsman (CAO) regarding the Wilmar Group. CAO received three complaints regarding IFC's investment in the Wilmar Group which were filed in July 2007, December 2008, and November 2011, respectively. This first complaint relates to Wilmar's operations in Sambas, West Kalimantan, Indonesia, and led to both an intervention by CAO's dispute resolution team, and a CAO compliance investigation of IFC's investments in Wilmar.

Summary

The CAO-convened dispute resolution process in Sambas generated agreements through mediation between over 1,000 members of the Senujuh and Sajingan Kecil affected community groups in Sambas and Wilmar's subsidiaries Wilmar Sambas Plantation Company and PT Agronusa Investama (PT ANI) in October and November 2008 respectively. The agreements set out a series of actions to be implemented over several years. The mediation process and its outcomes were summarized in a CAO Conclusion Report in October 2009. A joint Monitoring and Evaluation (M&E) team has monitored the implementation of agreed actions, and CAO publicly reported on the implementation activities on its website at www.cao-ombudsman.org. In late 2013, the final outstanding aspects of the agreement had been substantially addressed by the parties. As a result, CAO is concluding its monitoring activities and closing the case.

The Agreements

Two agreements were reached in October and November 2008 between members of the Senujuh and Sajingan Kecil affected community groups and the Wilmar subsidiaries to settle disputes relating to 3,170 hectares of land.

The agreements contain detailed provisions, some of which are highlighted below:

1. The return of 1699 hectares of community forest land to the affected community groups;
2. Company to support the set-up of smallholder oil palm plantations (PLASMA);
3. Company compensation to households for land that had been appropriated and for losses suffered as a result of the company's land clearance activities;
4. Company provision of community investment funds, and access to development opportunities for the broader community;
5. Establishment of a joint M&E team to ensure implementation of these agreements.

Monitoring Process

In December 2009, the M&E team first met and reported out on the current status of agreement implementation, at a relatively early stage in the implementation process. All monitoring reports are available on CAO's website at www.cao-ombudsman.org.

Closure of monitoring for the Senujuh community: By the time of the next meeting of the M&E team in July 2011, the agreement between the Senujuh community and PT ANI was being implemented. The M&E team concluded their monitoring of that agreement and thereafter focused on the agreement between the Sajingan Kecil community and PT ANI.

Implementation of agreement for the Sajingan Kecil community: At the July 2011 meeting, the M&E team reported that implementation of the agreement was incomplete in two aspects:

1. Smallholder plantations (PLASMA): The 2008 agreement stipulated that an area of 403 hectares of already cleared land would be designated a smallholder oil palm plantation of the Sajingan Kecil community. The company would plant the cleared area for the smallholders. A re-mapping found that this area was actually 472 hectares. On the date of the field visit, the M&E team found that 1.5 hectares still remained to be planted. By the time of the next visit, this issue had been addressed.

Further, PT ANI was to manage the plasma area for the first five years of operation. The M&E team found that the plantation area was not managed in the best possible manner, and noted concerns about planting, area clearing, access road maintenance, harvesting, and pest control.

2. Reforestation: The 2008 agreement set out 327 hectares of forest land that was to be kept as community forest land. Any deforested sections were to be reforested by PT ANI. Remapping of this forest area found that 47 hectares need to be reforested. The parties agreed to opt for monetary compensation of this reforestation obligation, and agreed to proceed with negotiations on the amount.

At the **next M&E team meeting in April 2013**, the reforestation issue was still unresolved. Renewed negotiations about the compensation amount were underway, further constrained by another party's claim to the land. Both parties agreed to continue to discuss the compensation amount, and to jointly address the other party's claim on the land, both by looking for cooperation, and by requesting that the Sambas District Government and the National Land Agency (BPN) protect the mediated agreements.

In **May 2013, - PT ANI and Sajingan Kecil signed an agreement** in the presence of a notary on the compensation for reforestation of 47 hectares of land in the amount of Rp 215,000,000. This agreement was made without the involvement of the M&E team.

Final Implementation Agreement and Case Closure

At an **M&E team meeting in June 2013**, the Sajingan Kecil community reported that an internal community assembly had agreed to use the compensation funds for: (a) direct distribution to families (Rp 130,000,000); (b) adding to the construction of a mosque (Rp 40,000,000); and (c) for the operational funds of the hamlet and the Sajingan Kecil team (Rp 45,000,000). In the meeting, PT ANI accepted the change in usage of the compensation funds, and the community group guaranteed to continue reforestation, with PT ANI's support in the form of payment of maintenance workers.

During June and July 2013, the M&E team was informed by both PT ANI and the Sajingan Kecil community that payment of reforestation compensation had been made and, therefore, all issues regarding the implementation of the agreement between PT ANI and the Sajingan Kecil community had been completed. CAO carried out a final visit to Sambas to follow up on the M&E activities and conclude CAO's active involvement in December 2013. CAO planned to close the case in early 2014 utilizing a formal process of engagement with the relevant stakeholders to reflect on the process to date. With insufficient interest by key stakeholders regarding such a process, CAO determined to go ahead and close the case without such an engagement in June 2014.