



Roundtable on Sustainable Palm Oil

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(Attn: Dato' Lee Yeow Chor)

Long Teran Kanan
Tinjar, Baram
Miri, Sarawak
(Attn: Mr Lah Ngah Anyie)

Social NGOs
% Friends of the Earth Netherlands (Milieudefensie)
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(Attn: Geert Ritsema)

DISPUTE BETWEEN IOI AND THE COMMUNITY OF LONG TERAN KANAN, MIRI, SARAWAK, MALAYSIA

On behalf of the Grievance Panel of the RSPO, I am writing this letter as an official communication to inform you about RSPO's latest view regarding the issue between IOI and the community of Long Teran Kanan, Miri Sarawak. This letter shall also be treated as our formal response to the letter sent to RSPO by IOI on 31/01/2012. This letter should also inform Milieudefensie and the other parties that wrote to the RSPO on 19/04/2012 as well as follow up to the various informal meetings with both IOI as well as with Long Teran Kanan and Social NGOs regarding the matter.

The Grievance Panel would like to express its appreciation to all parties, IOI, the Long Teran Kanan community and the social NGOs, for all the efforts being put into trying to achieve mediated process agreement about dispute settlement (Stage 1) in order to proceed to the mediation proper (Stage 2).

From the report received from the mediator, it is unfortunate to note that the Stage 1 process has not yet concluded adequately, therefore not allowing the process to move forward to Stage 2. The Panel also notes the recommendations for next steps from the mediator. Please be informed that the Grievance Panel is of the opinion that the mediation approach is not fully exhausted and the mediator's recommendations still leave room to proceed.

Nevertheless, at the same time the Panel acknowledges the challenge to reach process agreements for mediation if any party continues to harvest. This disincentive for coming to the mediation table will need to be taken away. Therefore, the Panel observes that IOI has wanted to ask legal assistance and enforcement on what it may consider "FFB stealing". The Panel also observes that Long Teran Kanan perceives IOI has failed to comply with the Court ruling that IOI timely compensates the community for NCR land illegitimately occupied by IOI. The Panel would like to insist on IOI to do everything within its powers to prevent the escalation of the use of security forces against members of the communities. This is at the core of the High Court's ruling, which the Grievance Panel understands has led to different interpretations by the disputing parties.

The Grievance Panel envisages a temporary solution in which the disputing parties agree that IOI harvests and shares the proceeds 50/50 with the claimants, such proceeds to go on the claimants' side into an escrow account until the proportion attributable to individual claimants has been agreed.

Considering all aspects mentioned above, the Grievance Panel is of the opinion that:

To IOI:

The scope of suspension of new certifications of plantations in the IOI Group could now be temporarily restricted to the IOI estates in the state of Sarawak. This will be valid for 6 months after which the scope reverts back to current situation (where all new certifications are stopped) if insufficient progress is reached on resolving the dispute as specified below.

To the LTK community and the social NGOs:

The Grievance Panel would like to explicitly acknowledge their roles in jointly bringing this case to the RSPO's attention and their continued willingness to settle the case through mediation out-of-court. The Panel wishes to emphasize all parties in this case including the RSPO are going through a steep learning curve.

The Panel recommends the RSPO Executive Board to evaluate grievance procedures and their implementation, including aspects of timely and adequate communication. Reviewing the best ways to make use of the RSPO

Dispute Settlement Facility in grievance cases is also expected to surface important lessons.

Notwithstanding the process requirements specified in the Grievance Panel's earlier decision, by email of 17 June 2011, within this 6 months period, the disputing parties are requested as follows:

- a) IOI, the complainant NGOs and the local community of Long Teran Kanan to explicitly comment on the findings and in particular the acceptability and feasibility of each of the recommendations therein of the mediator's report.
- b) RSPO's Dispute Settlement Facility should facilitate a meeting between the local community of Long Teran Kanan, social NGOs/complainants, and IOI to clarify what has stopped them from moving to stage 2 and what all parties can do to remove any blocks that stop the negotiation/ mediation between IOI and the local community of Long Teran Kanan.
- c) IOI and the local community of Long Teran Kanan develop a time-bound plan for addressing each of the recommendations from the mediator, in order to subsequently arrive at a successful closure of Stage 1, focusing on the need to resolve the continuing land conflict.
- d) IOI and the local community of Long Teran Kanan clarify their positions on the court case with a view to the RSPO understanding areas of agreement and disagreement.
- e) IOI and the local community of Long Teran Kanan explicitly express their willingness to negotiate a solution through compensation arrangements that may include but are not restricted to financial compensation. In other words they also consider compensation mechanisms that involve benefit sharing models (smallholder schemes) or the return of the land.
- f) All parties, including IOI, the social NGOs and RSPO, support and work together to build and raise the capacity of the local community to enable them to identify leaders, acceptable to all, who can go to the negotiation table with the trust of all the communities. The result is that the community has chosen representative spokesperson(s) (in a workable number);
- g) IOI and the local community of Long Teran Kanan agree on a date for the first official mediation meeting to be set and agreed by all parties.
- h) IOI and the local community of Long Teran Kanan agree on proper arrangements about harvesting from the area during those 6 months and make every effort to ensure that no outside parties interfere to upset this position.

The DSF/RSPO or its appointed agency will facilitate and provide the required support to achieve the desired results as mentioned above.

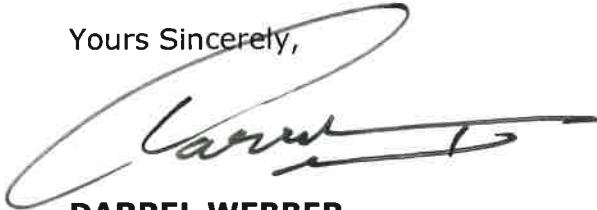
We wish to remind the parties that progress on the case can only come if all parties agree to proceed.

If IOI does not want to sign the time bound plan to settle the issue and the local community of Long Teran Kanan can show that it has exhausted all reasonable communication efforts to sit around the same table and sign, the RSPO's only conclusion can be that the certification suspension for IOI is automatically raised to cover all IOI's operations, according to the RSPO Certification System requirements.

If on the other hand the local community of Long Teran Kanan do not want to sign the time bound plan to settle the issue and IOI can show that it has exhausted all reasonable communication efforts to sit around the same table and sign, then the RSPO's only conclusion can be that the certification suspension for IOI is automatically lifted.

With regards to Ketapang, the RSPO Grievance Panel has concluded that there is insufficient evidence to prove that HCV areas were deliberately cleared by IOI in Ketapang or that the estates involved were knowingly proceeding to clear land without being in possession of all permits required. Given the seriousness and continuing nature of the Long Teran case, and having received assurances from IOI that their operating procedures would be tightened to prevent a repeat of the problems encountered in Ketapang, it was decided that it would serve better to allow IOI to focus its efforts on resolving the land dispute.

Yours Sincerely,



DARREL WEBBER
Secretary General RSPO

Cc: Borneo Resource Institute (BRIMAS)
Sarawak Indigenous Lawyers Association (SILA), Malaysia
Sarawak Dayak Iban Association (SADIA), Malaysia
Tenaganita, Malaysia
Pesticide Action Network Southeast Asia Pacific (PAN-AP), Malaysia



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