Welcome

IMPARTS OF NO-DEFORESTATION POLICIES

July 2016

BACKGROUND

2014 was a significant year for the environment when four of the largest palm oil companies: Asian Agri, Cargill, Golden Agri-Resources and Wilmar committed to support the New York Declaration on Forests at the United Nations Climate Summit New York in September.

Of these groups, Wilmar was the first to launch its integrated No Deforestation, no Peat, no Exploitation (NDPE) policy in December 2013, and more came on board thereafter. Their purchasing policies apply to all refineries, mills or plantations owned, operated or invested in as well as third-party suppliers. These policies are currently driving the transformation of the palm oil industry towards responsible practices.

This newsletter serves to inform NGOs and grassroots leaders in Southeast Asia-Pacific about the impacts of these policies, and the opportunities they offer to civil society.

The information presented in this update is based on Aidenvironment’s monitoring work.

We welcome inputs and suggestions from our readers. Please email Priscillia Moulin (priscillia@aidenvironment.asia).

There is no shortage of newsletters and other publications that laud or criticize recent efforts by the palm oil industry to achieve its commitments to transform towards sustainability. Few of these proactively aim to reach out to NGOs and other civil society actors on the ground, be it with background on social activism, environmental justice or otherwise.

Aidenvironment first started to uplift local concerns over unsustainable oil palm practices to global audiences in 1997. In recent years, we see those concerns being taken more seriously than ever before. In fact, we see an increasing number of mainstream Asian companies firmly embracing sustainability.

We consider it essential that the civil society in Southeast Asia engages in the process of change because it offers opportunity to save forests and peat lands, sort out long-lasting social conflicts and influence policy. Such is only possible when civil society actors have insight in the change that is being achieved and the challenges faced.

A next step is to see civil society, companies and government engage with each other to avoid or not to repeat wrongdoings of the past with a perspective into the longer-term future.

Eric Wakker, Aidenvironment Asia
FEATURE STORY: WILMAR’S PROGRESS WITH THIRD PARTY SUPPLIER INTERVENTIONS

Following the announcement of their commitment to ‘no deforestation policies’, most of these palm oil trader-refiners have launched the so-called dashboards that provide public insight in the companies’ policies, supply base and complaints raised against them or their suppliers. In this feature story, we zoom in on Wilmar’s progress with third-party supplier engagement, and evaluate Wilmar’s NDPE policy and its impact on its supply chain.

Based on Aidenvironment’s findings, from the time of the launch of their No Deforestation, no Peat and no Exploitation (NDPE) policy until May 2016, Wilmar has accumulated a portfolio of approximately 60 cases that they monitor. These cases, which include complaints registered on their Grievance Procedure and the suppliers they proactively monitor with support from an independent consultant, involve 92% third-party suppliers, and the remainder Wilmar subsidiaries. A whopping three-quarters of the cases concern suppliers in Indonesia, mostly in Kalimantan and Sumatra. Most cases concern a mix of non-compliance issues but environmental issues so far dominated with three-quarters of all cases recorded, such as deforestation on High Carbon Stock (HCS) forests and High Conservation Value (HCV) areas, peat land development and burning; with social issues representing the rest.

According to Wilmar, at present, 40% of all cases remain in progress. Seven supplier groups have committed to adhere to their purchasing policy, with some preferring not to publicly announce their commitments. An equal number of companies were suspended, some by RSPO and others by buyers as well.

The impact of Wilmar’s policy and intervention is noteworthy; our research reveals that the supplier groups that agreed to compliance stopped land development and the total area of forest, peat and community land involved is estimated at 350,000 ha.

We reckon the relative share of “No Exploitation” cases may rise in future because cases involving deforestation and peat land development will decrease in the coming years whilst the market will likely step up accountability to sort out social injustice. The number of cases in “third-supplier countries” such as Papua New Guinea may also increase, following restrictions to plantation expansion in Indonesia.
PALM OIL GROWERS ADOPT ‘NO DEFORESTATION POLICIES’

The launch of Wilmar’s NDPE policy on December 5th, 2013 and subsequent commitments by Golden Agri-Resources (GAR) in February 2014, Cargill in July 2014, Asian Agri and Apical in September 2014, Musim Mas in December 2014, Archer Midlands Daniels in May 2015 and other trader-refiners brought one clear message to palm oil growers: plantation development that comes at the expense of HCS forests, HCV areas, peat lands and human rights is no longer accepted. Unwillingness to accept this bottom line may result in refinery gates being closed for access. Several of the aforementioned companies, again led by Wilmar, went another unprecedented step further by publishing lists of their suppliers.

Given peer pressure in Malaysia and Indonesia, it is not totally surprising that those who visibly pursue this industry transformation agenda in Southeast Asia are mostly based in Singapore. Among them are three out of four ‘pure’ plantation groups who adopted NDPE policy in 2015. They are Kencana Agri, First Resources and Bumitama Agri. The fourth group to join the pack of forerunners was Astra Agro Lestari, an Indonesian company group. These growers jointly hold a plantation land bank of 750,000 ha in Indonesia.

In addition to market push, NGOs also played an important role in helping to accelerate the move of these companies. The case of Kencana Agri Ltd, was first raised by Greenomics in mid-2014. The company’s subsidiaries held legal rights to clear and plant just over 27,000 ha of dense forest in the heart of Gorontalo district, Sulawesi. Wilmar, who holds a 20% stake in Kencana Agri, subsequently engaged with Kencana Agri, resulting in the latter launching its own ‘sustainability policy’ in January 2015 which included environmental and social principles similar to Wilmar’s NDPE policy. Monitoring by Aidenvironment confirms that no further land development took place since then (image left), and thus some 20,000 ha of dense tropical forest will now not be cleared for oil palm within the Kencana Agri concessions.

The second company group to commit was First Resources Ltd, also listed on the Singapore Stock Exchange (SGX). First Resources launched its policy on July 1st, 2015. Following the commitment, the company’s CEO heard the cases put forth by NGO representatives in Kuala Lumpur. Each represented four RSPO complaints filed against First Resources’ subsidiaries. The CEO committed to taking appropriate steps to correct management decisions of the past that would be non-compliant with Group’s policy today.

Bumitama Agri Ltd, was the third palm oil grower to commit to ‘NDPE policy’ in August 2015. Just two years earlier, the company faced intense pressure from a range of NGOs for non-compliance with RSPO rules. A joint field visit by the RSPO, Rabobank and Aidenvironment in March 2015 (image right) led the company’s CEO to mandate his Corporate Social Responsibility (CSR) team to put sustainability in practice on the ground. In September 2015, the Group committed to not open up thousands of hectares of potential HCS forest and peatland to which the group holds legal access. In August 2015, Bumitama committed to landscape approaches to sustainability.

The fourth palm oil grower to commit was Astra Agro Lestari, whose policy was launched in September 2015. This move followed Forest Heroes’ ‘She’s not a Fan’ campaign that targeted Mandarin Oriental Hotel, which is owned by the same investors as who hold controlling stakes in Astra Agro Lestari.

Unfortunately, these are the only four company groups that have so far publicly committed to the NDPE policy. There are others who have committed to the same but only bilaterally due to concerns over push-back by their peers and politicians in the regions and countries where these companies operate.
THE 2015 FIRES: OUTCOMES AND CHALLENGES

2015 was yet another disastrous year of fire outbreak in Indonesia and transboundary haze. Fires raged through protected areas, community lands and plantation concessions, including High Conservation Value (HCV) areas set aside, especially in peat. The Indonesian government has prohibited the use of fire to clear land for plantation development for 20 years now. Growers that are found guilty of practicing open burning can now also count on being excluded from the palm oil supply chain. Wilmar International, for example, states that: “All our suppliers have been notified that any breach of our No Burn policy, proven to be deliberate, will result in the immediate termination of business dealings.”

The difficulty remains, as always, to prove that burning was deliberate and even when this can be proven, to ensure that relevant decision makers are sanctioned. The Indonesian government already lost one law suit filed against PT Bumi Mekar Hijau, a supplier to Asia Pulp & Paper, to the “outrage, dismay and disbelief” of observers. Punitive action may not be the most effective approach in landscapes where vast areas of peat are already being drained, natural forests have been degraded beyond repair and where companies and communities are fighting over access to land: in most instances it will be near to impossible to place the blame for fire outbreak upon a single actor. The Indonesian cabinet decision of October 2015 to ban all companies from planting up burned areas and to occupy remaining peat areas (even if they are located inside concession areas) and to set up the Peat Restoration Agency represents a more constructive step forward. Local regulations that allowed open burning by local communities are also revised to ensure a blanket ban on the use of fire.

Meanwhile, resource-based companies launched the Fire-Free Alliance (FFA) which is a voluntary, multi-stakeholder platform to aid in the solution to land and forest fires in Indonesia. FFA members have jointly committed to collaborate and share knowledge, information and potentially resources to roll out fire prevention initiatives based on April Group’s Fire Free Village Program (FFVP). They will also help enhance fire monitoring, detection and suppression.

The situation is different in Papua, which also suffered severe haze in 2015. With most peat land and forest still intact, it is quite obvious that fires resulted from intentional burning to clear land for oil palm expansion. The Landsat imagery to the left and the graph below clearly illustrate the connection between deforestation for oil palm development by the South Korean company Korindo and fire outbreak. Publicly available data about Korindo’s buyers list Musim Mas, Wilmar, ADM and IOI Loders Croklaan.

The South Korean daily SisalN covered the Korindo case on May 28th, 2016. Whilst the company was cited to deny the allegations, the evidence is so overwhelming that the company will likely lose all buyers listed above unless it firmly commits to stop deforestation and open burning, and to resolve a host of land conflicts.
TO SUSPEND OR NOT TO SUSPEND?

Most ‘no deforestation’ policies contain a clause which states that the signatory may opt to suspend or cancel supply contracts in case a supplier refuses to comply with the buyers’ purchasing policy. Such punitive measures are considered a last resort and enforced only when engagement has failed. Once suspended by one or several buyers, the supplier is forced to find alternative uptake for its palm oil and this can come at significant financial loss.

Suspensions and cancellation of contracts is common practice in business. It cannot be, after all, that a trader is forced to purchase products from suppliers, knowing that the product cannot be onsold. Suspensions are also enforced by certification schemes, such as the RSPO who suspended IOI Group from trading certified palm oil from April 4th onward until it had resolved a complaint filed by Aidenvironment. RSPO’s decision caused several of IOI’s buyers to also suspend their purchases from IOI. Such sanctions are not new in the palm oil discourse. Back in December 2009, Unilever suspended PT SMART for its unwillingness to be transparent about the permits for its concessions in Central Kalimantan. In July 2013, RSPO evicted the Duta Palma group from its membership.

Not everyone is supportive of market-based sanctions. For example, a good portion of civil society feels that governments need to uptake their responsibility to regulate the industry because voluntary mechanisms cannot be relied on. The problem is, however, that many governments are too slow in ensuring that legislation and law enforcement are upgraded. When the market commenced to fill the regulatory gap, the main refiner-traders that enforce their ‘no deforestation policies’ were confronted with significant push back. It is argued, among other, that suspensions negatively affect smallholders. At the same time, no one can force consumers to purchase products that originate from unsustainable practices.

Suspensions and contract cancellations will continue to be subject to hot political debate. It is important to consider that buyers successfully engage most suppliers in constructive dialogue. Sanctions are applied only to a minute portion of the supply base and only when the supplier consistently resists to comply with purchasing requirements. When applied, outcomes vary considerably.

The NGOs who filed a complaint against the Duta Palma group were unsatisfied with RSPO’s decision to expel the company from its membership because the decision effectively put an end to leverage. Indeed, Duta Palma continued to occupy protected forestland in Sambas District until the government intervened; several major land conflicts remain unresolved today. Sawit Sumbermas Sarana, suspended by various buyers in 2015, continues to clear peat forest regardless.

On the other hand, Unilever’s suspension of PT SMART ultimately brought Golden Agri-Resources (GAR) on board of the RSPO in March 2012. A year earlier, GAR was the first to launch its Forest Conservation Policy and to introduce the High Carbon Stock (HCS) Approach, effectively the first ‘no deforestation’ policy but which only limits to its own operations. GAR now applies its policy to its third-party suppliers as well, which resulted in some suspensions. Austindo Nusantara Jaya, which was also suspended by several buyers in 2015, halted further forest clearance in Papua pending HCS studies.
WHEN OIL PALM EXPANSION IN INDONESIA COMES TO AN END, WHAT’S NEXT?

Over the past 15 years many NGOs campaigned to put an end to unsustainable oil palm plantation expansion. Today, market forces and government policies finally converge towards a serious slow-down in expansion. For example, analysts from DBS Bank in Singapore forecast that oil palm expansion will be limited to 60,000 hectares annually up to 2025; and their assessment does not even take into account Indonesian Environment and Forestry Minister Siti Nurbaya’s recent decision to not approve permit applications over an estimated 1 million hectares of convertible forestland. This is not to mention the sometimes sizeable areas of forest and peat that plantation companies have set aside for conservation. For example, Wilmar International alone has set aside 30,000 ha of land for conservation purposes.

Now that millions of hectares of forest and peat land will not be cleared for oil palm expansion, the question arises: what is next? How do we restore, protect and sustainably use those lands, and for whose benefit?

There is some urgency in addressing such questions because forests and peat areas that are not used in some way may end up being taken for other non-sustainable uses. Fortunately, the Indonesian cabinet circular of July 2015 discourages local governments from re-issuing concessions over HCV areas identified for plantation companies. Also, some local governments have adopted regulations that allow for legal protection of HCV areas.

However, a top-down approach to conservation is not likely to result in sustainable and equitable outcomes even if large areas of the remaining forests and peat land are exclusively set aside for conservation, as such lands may be susceptible to illegal encroachment. In most instances the best formula would be to commence dialogue between local stakeholders to determine how such set-aside lands are to be managed and for whose benefit. In many areas forest set-asides could be enriched with trees and other species that contribute to local communities’ subsistence and cash income. This could include a range of Shorea species known as tengakwang (engkabang in Malaysia), or the illipe nut which provides the raw material for illipe butter. Portions of the forest and peat could be turned into ‘food forests’, similar to the tembawang of Kalimantan. Productive use of forest and peat set-asides could be framed in village land-use plans and be supported by companies’ CSR teams. Bumitama Agri is one of the first plantation companies that recognizes the need to develop a non-forest timber product livelihood and/or alternative programmes which will support the conservation of forests and/or corridors to protected forests.

A different approach will be required in High Forest Cover landscapes such as in inner Kalimantan, Sulawesi and Papua where concessions as large as 20-30,000 hectares have effectively become “no-go” areas for oil palm planters.
Further information

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