



HuMa



**TITIAN
SAMPAN**

JPIK Focal Point Kalbar



Jikalahari

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Linda Wijaya,
Asia Pulp and Paper
Jl. M.H. Thamrin 51
BII Plaza Tower I
Jakarta

Dear Ms. Wijaya,

We appreciate APP's new Forest Conservation Policy (FCP) that was announced on February 5th, 2013. This policy is now being translated into Standard Operational Procedures (SOP) or Protocols for APP's internal and suppliers' use. From the document that we received on April 17th, 2013, we would like to convey some substantial issues that still need to be improved in regards to social issue (FPIC and conflict resolution) and to conservation issues (forest and peat land) in both the FCP and the SOP draft. Considering how important and fundamental these issues are, we would like to ask APP to pay serious attention to these notes prior to enacting those protocols.

1. Implementation of FPIC

- The definition of FPIC as described in the guideline draft is still not in line with the complete and appropriate definition of FPIC. FPIC should refer to the meaning of the right of a community to obtain information (*informed*) prior to a development program or project being implemented in their area, and based on that information, they are *free* without any pressure to give or withhold their *consent*. In other words it is the right of a (indigenous) community to decide what kind of development activity that is permitted in their land. This means when consent from local community has not yet been obtained, APP operational activities should be stopped. If the company has taken and/or utilize the area to which the community has rights prior to obtaining the consent of the community, then the company shall return the area (object) to the entitled community.
- APP should have referred to the UN Resolution Number 61/295 of 2007 on United Nations Declaration on the Rights of Indigenous Peoples in defining FPIC, where FPIC is meant to *respect, protect* and *fulfill* the rights of indigenous communities. Therefore it is expected that in implementing FPIC, it will help resolve existing conflict and prevent new conflict in the future.
- The FPIC Guideline draft has not addressed the question of at which stage respect for FPIC in the development of an Industrial Forest Plantation (HTI) will be implemented. We think that for existing licensed areas, FPIC should have been implemented prior to the submission of the Annual Work Plan (AWP=RKT), while for new permits, it should be implemented

after or simultaneously with the Environmental Impact Analysis (EIA=AMDAL). Hence, prior to the issuance of a definitive permit and more importantly prior to the operation of heavy equipment of the company in the area, respect for FPIC should have been obtained from the community that will be affected by the operation.

- In the implementation of FPIC, the community should also be guaranteed the freedom to obtain advice and assistance from relevant experts in deciding whether they agree or disagree with the proposed development; the community has a good understanding and are aware of the consequences of their informed decision.
- In the deliberation of options towards an agreement, the community shall also be guaranteed that there will not be any abuse of power, pressure, intimidation, fraud or bribery directly or indirectly by the company.
- The opportunity to involve independent observers, facilitators or mediators in every aspect of FPIC implementation shall also be respected and provided.
- As a consequence of FPIC implementation, it will be best for APP to have a special procedure to respect, protect and fulfill the rights of local and indigenous communities. The procedure shall refer to UN Resolution Number 61/295 of 2007 and other relevant procedures.
- In terms of information, APP shall not only focus on making the community understand about the benefit of their being in the area, but shall also be transparent in informing the community about potential impacts. The company should understand and respect the values of the community in regard to their land and natural resources including respecting their decision making mechanisms and institutions.

2. Conflict Resolution

- The term “social conflict” in this draft should be replaced by “tenure conflict” because this SOP covers conflict that emerges as the result of problems with forest tenure that have not yet been resolved.
- The standard approach in finding resolution on tenure conflict is dialog and agreement involving mutually agreed independent facilitators or mediators and that achieves peace, justice and prioritizes the rehabilitation of relationships in order to achieve harmony. Therefore legal formal/litigation approach should be avoided in resolving such conflicts.
- Tenure conflict resolution amidst the weakness of the forestry policy to address them can only be achieved with the good intention of all involved parties because the formal legal/litigation approach has been proven to fail in solving conflicts. In fact, in many cases this approach has only prolonged the conflict and created more disadvantages for the parties.
- The basis of claims should prioritize traditional/*ulayat*-rights and tenure. This relates to the obligation to respect, protect and fulfill the rights of indigenous and local communities.
- Efforts to resolve conflict should focus on land tenure and impacts of management on the well-being of the people including their livelihoods, provision of food, drinking water, energy and early prevention of violence that may cause injury or even casualties.
- Good conflict resolution requires balanced capacity of all parties involved. Therefore the community’s request to involve an advocate who will help them in improving their negotiating capacity should also be respected.
- At every stage of conflict resolution mutually agreed credible and independent/impartial facilitators or mediators and independent observers should be involved.
- Any agreement reached through negotiation or mediation should be accompanied by a comprehensive and long-term working agreement between the parties that addresses more than the object of the conflict.
- APP’s standard operating procedure should not only be based on formal law that cannot entirely address the issue. A formal legal approach should not be the focus of conflict

resolution processes to address tenure and other conflicts between a company and local community, and to this end conflict resolution efforts must be employed instead. APP conflict resolution SOP suggests that APP still uses a formal legal approach as it states that “land occupation is physical or factual occupation of a land without any right *according to legal definition*”

3. Lack of conservation benefit for Sumatra and unclear benefit for Kalimantan

Analyses by Greenomics¹ and Eyes on the Forest² conclude that the impact of new policy is very limited in Sumatra, the center of APP’s operations over the last three decades. Most of the natural forest in your suppliers’ concessions were cleared long before the policy was announced and of those remaining forest almost all are already protected by law or by previous company commitments to its creditors and customers. Therefore we recognize only very small conservation benefit of the FCP for Sumatra. Meanwhile for Kalimantan, since we receive very limited information from you, we do not know yet whether the policy is another green-washing attempt or provides meaningful conservation benefit for Indonesia.

4. Lack of compensation of past damage

The policy does not make any provision for remedying past damage to biodiversity, peat ecosystems and social issues, due to millions of hectares of natural forest clearance caused to supply natural forest fiber for APP’s pulp mills. Some of the forest clearance in Sumatra were conducted in violation of government regulations and APP’s own previous commitment to its creditors and customers. Various number of these log suppliers in the past are no longer acknowledged as suppliers any more, thus APP abandons its responsibility for the damages it has caused. Claims that the new policy represents a transformation towards a more responsible future ring hollow as these legacy issues are not addressed.

5. Potential continuance to source Mixed Tropical Hardwood in violation of FCP

APP’s FCP does not commit to stop the mixed tropical hardwood supply to any of its mills. The mills are still able to receive supply of mixed tropical hardwood indefinitely, leaving the door open for abuse and business-as-usual practices. The current monitoring arrangements fail to give any guarantee that all tropical forest fiber supply from anywhere in Indonesia to APP’s mills comply with the new policy due to the following shortcomings:

- Incompleteness—the internal monitoring is restricted to a few selected concessions, leaving other sources un-checked.
- Weak monitoring—the internal monitoring system developed by APP had not found two instances of policy violation by its suppliers until NGOs in West Kalimantan^{3,4} reported them to the “grievance process”.

¹ Greenomics (18 March 2013) APP’s artful deception. After pulping its remaining forests, APP positions itself as a conservation leader with new policy. http://www.greenomics.org/docs/APP%27s_artful_deception_with_new_policy_201303.pdf

² Eyes on the Forest (3 April 2013) Where are the trees? SMG/APP’s new forest policy kicks in only after company has completed its planned deforestation in Riau, Sumatra.

<http://www.eyesontheforest.or.id/attach/EoF%20%2803Apr13%29%20Where%20are%20the%20trees%20EN%20FINAL.pdf>

³ Relawan Pemantau Hutan Kalimantan / Kalimantan Forest Monitoring NGOs (25 March 2013) Relawan Pemantau Hutan Kalimantan Ragukan Komitmen APP pada Konservasi Hutan <http://www.wwf.or.id/?27740/Relawan-Pemantau-Hutan-Kalimantan-Ragukan-Komitmen-APP-pada-Konservasi-Hutan> / APP suppliers’ continued natural forest clearance and peat canal development shed doubt on APP’s forest conservation commitment.

http://www.eyesontheforest.or.id/attach/Joint%20Press%20Release_APP%20FCP%20Violation%20in%20West%20Kalimantan_260313_English_20130326090349.pdf

⁴ Relawan Pemantau Hutan Kalimantan / Kalimantan Forest Monitoring NGOs (9 April 2013) RPHK: Komitmen Forest Conservation Policy Perlu Libatkan Semua Pihak dan Sebenar-benarnya Lindungi Hutan dan Lahan Gambut <http://www.wwf.or.id/en/index.cfm?uNewsID=27920&uLangID=67> / Borneo’s RPHK Consortium Rebuts APP and The Forest

- Lack of transparency—unconditional observation of APP’s internal monitoring program is not provided to civil society and civil society are limited to a selected number of concessions. Complete information on the suppliers, the area and status of natural forest as well as the wood stocks inside and outside the mills is not provided.
- Lack of independent monitoring—there is no trusted third party auditing of compliance with the policy.

6. APP expansion

During the meetings with NGOs, APP stated that there were only 38 suppliers and most of them have completed their forest clearance process. We need to question why APP at the same time advertises the policy as their huge conservation achievement as there are little forests left for the policy to save. Are there any concessions and sources of mixed tropical hard wood that APP has not yet disclosed to public? Recent RISI’s latest article on APP’s major expansion plan in China also heighten our concern since the FCP does not include wood supply from other sources other than Indonesia for APP in Indonesia, China and other mills.

7. Peat land management model in APP concession area that has been and will be developed

Most of APP suppliers’ concessions – especially those in Sumatra island – are in peat land area and all of them use drainage/canal system for their water management. APP’s new policy only requires to continue and conduct HCV and HCS study in these areas that still have natural forest and supplies natural timber (1st commitment), though we know that most of APP suppliers’ concessions have been opened and converted into acacia plantation. As the result no HCV and HCS studies will be conducted in the existing plantations. Moreover, in the HCV module, it is not too clear how the distribution and depth of peat as well as hydrology system in APP suppliers’ areas would be mapped, even though this is an important thing to do. This information on peat land would be very useful for us to know the greenhouse gas emission potential from APP’s operation on the land as well as the impacts on the surrounding areas that are still within the contiguous hydrology unity. In the HCS module, it only calculates the above ground biomass carbon pools although most of APP’s areas are located in peat land area and according to UNFCC-REDD+ HCV analysis in the forest should include all carbon pools including soil carbon, in this case the carbon in peat soil. The impact of APP’s intervention committed in the FCP is not only significant because it affects new area with forest only, which in general has been protected through government’s moratorium policy, but also for the opened and planted areas located in peat lands (mostly in deep peat soil areas) where the suppliers will continue their business-as-usual practices. If that is the case then it will be very difficult for APP to achieve or fulfill its commitment as described in Commitment 2, which is low emission development and reduced greenhouse gas emissions.

There is a gap of information between APP and other peat land observers either in Indonesia or in international forum. APP through its experts’ study said that the industrial forest management of its acacia plantation does not emit greenhouse gas (especially CO₂) and even it contributes positively with replanting activity (which at the end of the cycle will be cut again hence the level of permanency is very low). This strongly contradicts with what we

know, read and observe, where management of industrial forest in peat land area using drainage system will emit large amount of carbon in the long run, until the peat is depleted on the land. We assume that the peat land will be degraded and subsided, hence the ground water surface will be below river or sea water surface. This would mean massive hydrology destruction and costly rehabilitation. As a company that wishes to achieve sustainability and cost efficiency this situation will only create more drawbacks for APP.

Therefore we kindly ask APP to clarify its commitment by taking the following measures:

- Include peat land component in their HCV and HCS studies (depth, distribution, carbon content and hydrology) and conduct them in all areas that have been developed and will be developed in their supplier areas.
- Change the management of peat land, should their HCV and HCS studies show that the area has high values but were converted into plantation already, either phase out for restoration for indefinite time or replace it with other commodity that does not require drainage.
- Develop research on different types of commodity that are more suitable for peat land area without drainage or other interventions that only ruin the natural environment of the peat land.
- Expand their plantation to other non-peat-land area that has been degraded and free from social conflict.
- Calculate carbon balance for their area of management by including all existing carbon pools and compare the result with the situation when the area is still natural forest or restored degraded forest.
- Narrow the gaps of information on acacia plantation management with the peat land drainage by organizing a panel discussion, collective analysis as well as monitoring that involves many parties with expertise in that field and is independent from APP.

In conclusion, in order to be accepted in the global market, APP has to acknowledge and redress the vast environmental and social damage that were caused by the company's practice and make ecosystem rehabilitation and the resolution of social conflicts the core of its new policy. The company's performance will be measured against those benchmarks.

We recommend APP makes the following changes to appropriately strengthen the policy and its implementation, to assure people that APP commits to supply responsible pulp and paper:

- Disclose to the public its wood supply plans and the whole wood sourcing base information for Sumatera and Kalimantan to clarify the real conservation benefit of the policy to prove that it is not just a green-washing exercise;
- Introduce a comprehensive program to rehabilitate and compensate the devastating damages company operations have caused and made the country's ecosystems to be more vulnerable, as well as resolving social conflicts based on the recommendations from completely independent external third party experts including civil society organization in Indonesia;
- Set May 5, 2013 as a hard deadline for all mills associated with APP globally to stop accepting and pulping of tropical forest fiber to show APP is serious about its new policy and does not leave any loophole for abuse;
- Significantly increase the transparency and thoroughness of the system to monitor and verify implementation of the improved policy, most importantly the company's wood sourcing, ecosystem restoration and social conflict mitigation activities.

In the next meeting between SMG/APP and NGO, we strongly suggest to discuss the aforementioned points. For your information we have provided additional notes on a list of topics, which we believe are very important for the formulation and implementation of new comprehensive forestry policies. The followings are our requests:

1. End to all supplies from tropical forest fiber to all APP's mills

- a. Announce to the public that May 5, 2013 as the fixed date after which APP will no longer transport tropical forest wood to any of its mills.
- b. Apply appended new forestry policy to SMG/APP associated operations worldwide.
- c. Install web cameras on the mill gates that are accessible by public to monitor Mix Tropical Hard Wood entering their mills.

2. Restoration of HCV Area and Peat Land

- a. Publicly commit to discuss and agree on areas where the company would restore the HCV areas and peat land areas in the ecosystems that have been destroyed by your operations based on recommendations from a truly independent, mutually acceptable, third party panel of experts.
- b. Publicly commit to implement the recommendations of HCV assessments done in all properties associated with APP's operations. The HCV assessments are to be conducted following the Indonesia HCV Toolkit and be peer reviewed.

3. Transparency

- a. Publicly state immediately the result of APP calculation on the volume of logs suppliers had stocked on January 31, 2013, the beginning of the self-imposed moratorium of forest clearance.
- b. Appoint a truly independent third party auditor acceptable to the public to assure that the sourcing of all forest fiber by all APP mills is in line with the new policy and disclose the audit findings to the public.
- c. Immediately publish the exact GPS coordinate of every location from where APP suppliers send their logs to every mill.
- d. Allow civil society organizations to enter and/or fly over each concession and/or mill at any time.
- e. Allow civil society organizations to mark any log to be sent to APP's mills and recover the mark again when the logs arrive in the mill.
- f. Allow civil society organizations to request, review and photograph the documents and loads accompanying any truck or barge or any other vehicle carrying logs to any of APP's mills.
- g. Allow civil society organizations to install cameras at any mill gates, provide resources for the cameras as needed and ensure that each camera is in operation constantly as long as civil society organizations consider necessary
- h. Immediately publish the exact polygons of every concession of APP's suppliers existing on January 31, 2013, and each concession for which any APP associated companies have pending permit applications.
- i. Establishes a group consisting of civil society organizations and experts with international reputations to peer review and approve the HCV and HCS areas identified by APP contractors.
- j. Publish by the date they are completed, the polygons of each HCV and HCS areas identified by the APP contractors.
- k. Immediately publish identities and details of Terms of References of all APP contractors working on the announced HCV, HCS, peat expert studies, as well as monitoring program

- l. Immediately publish the exact standards against which APP contractors identify HCV and HCS areas, especially describe in detail the apparent very different types of HCV assessments you plan to do in the various concessions.
- m. Immediately publish which concession blocks which HCV, HCS and monitoring activities will be conducted.
- n. Immediately publish baseline map and land cover stratification map made by your HCS contractor.
- o. Publish as soon as submitted to you all HCV, HCS, monitoring and peer review reports of these reports by all APP contractors involved.

We really hope that these recommendations could be considered in creating specific objective and performance parameters relevant to social conflict, FPIC and conservation as well as restoration as what has been described in your commitment to sustainability and its implementation plan.

We look forward to hearing from your response and are prepared to address any questions.

Regards,

1. Harry Oktavian, Scale Up
2. Made Ali, Jikalahari
3. Sisilia / Andiko, HUMA
4. Diki Kurniawan, WARSI
5. Manggara Silalahi, Burung Indonesia
6. Aidil Fitri, Wahana Bumi Hijau
7. Nursamsu, WWF Indonesia
8. Pajri, Sampan
9. Sulhani, Titian
10. Erlangga Rizky Ananta, Link-AR Borneo
11. Rangga Irawan, JPIK Focal Point Kalimantan Barat