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## Indonesia - How RSPO addressed concerns raised against First Resources, one of its members

A short video “Manufacturing Consent”, (4) shows how PT Borneo representatives came to the Muara Tae village on 18 August 2011, asking for permission to enter the community’s territory. According to traditional leader Ignacius Igoqu, in a meeting that day “the community including me and the village head refused the presence of PT Borneo who wanted to partner with us”.<sup>(5)</sup> He also notes that about a month later, on 11 September 2011, PT Borneo people returned. During that visit the company representatives stated “we will not be detrimental to the community” and claimed that partnering with the company would be “very profitable” for the community. The community again refused to partner with the company. Ignacius Igoqu summarizes: “We do not want to accept the presence of oil palm because the only resource Muara Tae villagers want are forests and land [...] since most of our territory is converted into a coal mine, we only have the left side of Nayan river to make a living.”

The dispute over the destruction by the oil palm plantation company of communal forest and land used by the communities for planting food crops escalated in June 2012. According to Ignacius Igoqu: “Although many of us tried to stop the conversion, they stop when they see us, but when we get back to the village, they continue. Even during the night”.

Several community members have tried to fight back by replanting territory taken by the company, with food crops in an attempt to reassert their use of the land. With the deforestation resulting from expansion of the oil palm plantations, the Utak Melianu river, one of the two rivers crucial for supplying the village with water, is becoming severely degraded. Village leader, Masrani notes that: “Under these conditions, with the river destroyed in this way, there might be no source of water for public consumption in the village”.

On 18 September 2012, while bulldozers from First Resources’ subsidiary were still destroying Muara Tae communal forest and land, First Resources posted documents on the RSPO website that it had started the 30 days consultation period for new plantings of PT Borneo. Other documents were posted on the same website, showing the results of the Social and Environmental Impact Assessment (SEIA) and the High Conservation value (HCV) assessment, carried out by RSPO auditor TUV Nord. The assessment declares PT Borneo’s compliance with RSPO principle 7. This principle prohibits clearance of primary forests for new plantings established after 2005, demands that no “area required to maintain or enhance one or more High Conservation Values” be destroyed in the course of establishing new oil palm plantations, and that “no new plantings are established on local peoples’ land without their free, prior and informed consent”.<sup>(6)</sup>

In the video, a village leader explains that “(...) they did not enter with the consent of the community. They forced entry, demolishing the community territory forcibly. (...) they ignored the rejection by the villagers of Muara Tae”. Another villager complements that the company brought in “BRIMOB [riot police] to intimidate people so they don’t defend their land”, adding that they also have been “destroying the forest wood and traditional medicines that have been maintained by the community”.

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About the HCV areas, village leader Masrani comments that:

*"[...] this HCV assessment is only to survey certain areas and only protects certain areas based on their own desires. As for us here, all of the territory of Muara Tae has a high value. The forests in Muara Tae's territory all have great potential. Besides that, it's really for the community. The territory of Muara Tae is a daily source of livelihood. For farming, for gardening. So if you want to find high value, all of Muara Tae has value."*

## **The complaint to the RSPO**

In October 2012, EIA presented a formal complaint to RSPO, requesting a number of actions such as that the RSPO call for the company to "cease land clearing immediately", that the RSPO facilitate "the restitution of annexed lands", and ensure a "compensation process agreeable to the affected parties".(7)

Ignoring its own timelines for responding to such complaints, RSPO took no action for three weeks, and on 7 November 2012, EIA publically stated that "RSPO fails to act as Muara Tae is destroyed."(8) EIA goes on to note that RSPO acceptance of the complaint as legitimate would have obligated First Resources to cease operating in Muara Tae until the dispute was resolved. Furthermore, EIA notes, that:

*"Masrani, the Petinggi (village head) of Muara Tae, attended the RSPO's annual roundtable in Singapore last week. At the meeting, both Bambang Dwi Laksono, Corporate Head of Sustainability at First Resources, and Ravin Krishnan, RSPO complaints coordinator, encouraged the community to enter into dialogue with the company. However, in meetings with First Resources during the past two years, the community has repeatedly rejected the proposed plantation, a view which has been entirely ignored. Indeed, while offering the prospect of dialogue to Masrani in Singapore, First Resources was simultaneously preparing to bulldoze his father's land."(9)*

Only on 10 December 2012, the RSPO finally informed First Resources by letter that a complaints procedure had been opened. In its letter, RSPO states that its Complaints Panel considered that EIA had submitted sufficient evidence for the RSPO to accept the complaint that First Resources had neither identified HCV areas in advance, nor conducted a SEIA before planting. Furthermore, RSPO "suggests a possibility of infringements where Free Prior and Informed Consent (...) may not have been obtained prior to development in the said area" RSPO further notes that the company had been involved in clearing HCV areas before in another region, adding that this might suggest not just a "one off failing" but possibly an issue "more systemic in nature." To address the issues raised in the EIA complaint, the RSPO Complaints Panel requested among others that PT Borneo "review the situation on-the-ground via an independent third-party Certification Body" and "work with the complainants on a suitable roadmap/action-plan to deal with the land dispute of the local community (Muara Tae), leading towards an amicable solution." This was all to be done within 6 months, and PT Borneo was requested to "cease all development on this said piece of land, pending satisfactory completion" of the action requested in the RSPO letter.(10)

This list of 'homework' provided the basis for the review on the ground - which basically confirmed the claims made by EIA.(11) As a consequence, RSPO sent another letter to First Resources (FR) on

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17 April 2013. This letter includes another long list of activities that should be done by FR to “resolve” the conflict and achieve compliance with RSPO Principles and Criteria. While requesting a lot of technical assessments, the company is allowed to resume planting on land identified not to be in dispute once HCV and impact assessment reviews have been completed. For the land in dispute, the company must resolve the conflict with the community first. RSPO recommends the company should improve the FPIC process, and make a “Schedule of Payments for Compensation”, and the company should provide regular updates on its operations to be disseminated to the communities. In RSPO’s view, “this will help FR in communicating the details of the plasma scheme [the scheme through which villagers plant oil palm for sale to the company] and the [Corporate Social Responsibility] programmes.”(12)

On 24 April, FR was “pleased to inform” that “we are committed to implementing all the recommended actions by 30 June 2013”. They further mention that they will hire “external expertise” and “develop a timeline programme for (...) HCV management and monitoring and send it to the [Grievance] panel for review”.(13) On 29 June 2013, FR informs that “constructive progress” has been achieved in relation to the proposed actions. 892 hectares were identified through a consultancy report as HCV areas.(14) The last available information on RSPO’s website is that RSPO, in its reply on 16 December 2013, demands a number of additional actions to the company, including a timeframe when these actions will be implemented and completed (15) 18 months after the complaint was presented, no substantial information regarding the status of resolution of the issues raised in the complaint is available on RSPO’s website.

### **What can we learn from this experience?**

The Muara Tae community has all along voiced two basic demands: That the company stop operating in their territory immediately and that the land already occupied by the company be given back to the community. RSPO’s appeal for an “amicable solution” marginalizes these two basic demands from the community.

The community requests all but disappear in the RSPO letters and the company’s responses. Requests for the company to stay out of the community’s traditional territory are turned into appeals for yet more “dialogue” and “communication” with the new invader into their territory, about discussing sizes of HCV areas and “clear procedures” for “management” and “dispute settlement”. The community had on several occasions already given clear answers to these attempts at “dialogue” and “communication”: They did not wish to take up the company’s offer. In this context, RSPO’s call for “improving” FPIC is disingenuous. FPIC includes the option to say ‘no’, as RSPO notes in its letter of April 2012. The letter, however, does not adequately acknowledge that members of the communities have said ‘no’ on several occasions to requests from First Resources that they be allowed to enter their territory. The RSPO responses thus far show either unwillingness or inability on the part of the RSPO to listen to, understand and attend to community demands expressed in the complaint. As a result, the RSPO suggestions in and by themselves amount to an implicit rejection of the demands presented by community members while the original request from the company for the community to accept payment and become oil palm growers for the company – the request rejected on numerous occasions by community members long before they filed a complaint – is strengthened.

Where there are different perspectives in a community over how to respond to such offers by oil palm companies, the way RSPO dealt with the complaint in this case further complicates these internal debates and may contribute to escalating rather than resolving these as implicitly, RSPO sides with those arguing for partnering with companies in the expansion of industrial plantations in such a context.

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- (1) See [http://www.rspo.org/en/status\\_of\\_complaint&cpid=21](http://www.rspo.org/en/status_of_complaint&cpid=21)
  - (2) See [www.rspo.org](http://www.rspo.org) for more information on these New Planting Procedures and RSPO Principles and Criteria
  - (3) [http://www.eia-international.org/wp-content/upload/PT-BSMJ\\_NPP\\_Grievance\\_ALL\\_171012\\_FINAL.pdf](http://www.eia-international.org/wp-content/upload/PT-BSMJ_NPP_Grievance_ALL_171012_FINAL.pdf)
  - (4) this video was produced by EIA and later included in the complaint to RSPO
  - (5) In Indonesia, about 30% of the national palm oil production is produced by smallholders often through a so-called 'plasma' scheme where they have about 2 hectares of lands in an area surrounding the plantation of one particular company with whom they have a contract to supply their oil palm fruit harvest.
  - (6) [http://www.eia-international.org/wp-content/upload/PT-BSMJ\\_NPP\\_Grievance\\_ALL\\_171012\\_FINAL.pdf](http://www.eia-international.org/wp-content/upload/PT-BSMJ_NPP_Grievance_ALL_171012_FINAL.pdf)
  - (7) [http://www.eia-international.org/wp-content/upload/PT-BSMJ\\_NPP\\_Grievance\\_ALL\\_171012\\_FINAL.pdf](http://www.eia-international.org/wp-content/upload/PT-BSMJ_NPP_Grievance_ALL_171012_FINAL.pdf)
  - (8) <http://www.eia-international.org/rspo-fails-to-act-as-muara-tae-is-destroyed>
  - (9) <http://www.eia-international.org/rspo-fails-to-act-as-muara-tae-is-destroyed>
  - (10) <http://www.rspo.org/file/PTBSMJFR.pdf>
  - (11) Except for suggesting that FPIC had been 'poorly done', in contrast to the statements in the EIA film that the community had not given its consent to the oil palm project.
  - (12) <http://www.rspo.org/file/CPDecisionMoodyReport17Apr2013.pdf>
  - (13) [http://www.rspo.org/file/Reply\\_on\\_BSMJ\\_Complaint\\_24April2013.pdf](http://www.rspo.org/file/Reply_on_BSMJ_Complaint_24April2013.pdf)
  - (14) [http://www.rspo.org/file/Letter%20to%20RSPO%20re\\_%20completion%20of%20BSMJ%27s%20corrective%20actions%2029%20June%202013.pdf](http://www.rspo.org/file/Letter%20to%20RSPO%20re_%20completion%20of%20BSMJ%27s%20corrective%20actions%2029%20June%202013.pdf)
  - (15) <http://www.rspo.org/file/16Dec2013%20decision%20on%20PT%20BSMJ-FR%281%29.pdf>