

Continuing to exploit and deforest

Wilmar's ongoing abuses

FACTSHEET | MAY 2014



Friends of the Earth Europe

mobilize, resist, transform

Wilmar International is one of the largest palm oil companies in the world, and the largest palm oil refiner in Malaysia and Indonesia. On December 5th, 2013, after many years of operations with no accountability to principles of environmental and social sustainability, Wilmar published a policy committing to 'no peat, no deforestation, no exploitation.'¹

Wilmar's policy states that "Wilmar will cease to do business with any suppliers who our independent advisors or other stakeholders find are in serious violation of this policy, and who do not take immediate remedial action to correct those violations." Regarding the timeline for implementation, the policy states that "Effective immediately, Wilmar will not engage in development of HCS, HCV, or peat, nor knowingly source from suppliers engaged in development of HCS, HCV, or peat," and that "Wilmar expects all of its suppliers to be fully compliant by December 31, 2015." That is to say, Wilmar's sustainability policy may impact its future operations, but regarding the years of deforestation that lie behind us, as a company representative told Friends of the Earth, "You can't bring a dead fish back to life by throwing it in the river."

Despite this policy, Friends of the Earth continues to receive reports from groups and communities in Africa and Indonesia about land evictions and environmental degradation, by Wilmar, Wilmar's subsidiaries, and Wilmar's joint ventures and third-party suppliers. In its policy, Wilmar agrees to not to pursue development of High Carbon Stock (HCS) Forests, to conduct Free, Prior and Informed Consent (FPIC) and to resolve all complaints and conflicts through an open, transparent and consultative process. Yet many of the reports we receive demonstrate clear violations of the new policy, as Wilmar's affiliates continue to deforest or fail to respond to concerns of land grabbing and other forms of exploitation.

Company representatives have explained that Wilmar is developing management processes and establishing structures to implement its new policy. But six months after the announcement of the policy – and years after many of these cases have been raised with Wilmar, national governments, international financiers and other relevant bodies – no significant progress has been made in resolving the following cases:

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Nigeria

Wilmar International is expanding its operations in Cross River State in South-South Nigeria. The company has acquired a total of 30,000 hectares of land since 2011 and has plans to expand its operations to 50,000 hectares, including the construction of a refinery to process palm fruit.

As of May, 2014, Wilmar has yet to sign a Memorandum of Understanding with any of the 20 host communities in the area, where thousands of smallholder farmers face losing their ancestral land.² There is no Environmental Impact Assessment (EIA) on any of the concessions made to Wilmar, yet Wilmar has already deforested and bulldozed several thousand hectares of land in contravention of Nigeria's EIA Act CAP E12.

The Nigeria-based NGOs Rainforest Resource and Development Centre (RRDC) and ERA (Friends of the Earth Nigeria) contend that Wilmar is not complying with Nigerian laws³, resulting in human rights violations, environmental destruction, fraud, and land grabbing.

In April 2014, Wilmar is still grabbing forestland in the vicinity of Afi Wildlife Sanctuary, close to the Cross River National Park Okwangwo Division, which contains HCS forest. This territory is a buffer zone to the wildlife sanctuary of the National Park and Afi Forest reserve.

Radarsat images captured between June 2013 and April 2014 provide evidence of Wilmar's operations, and show deforestation in sensitive areas. In the words of RRDC, "Wilmar seems to be ignoring its responsibility to clearly assess the direct and indirect effects of its activities. It should at least take appropriate measures to understand what is happening in the direct surroundings of its activities, in particular if this is directly or indirectly linked to its activities."

The Nigeria case violates Wilmar's commitment not to clear High Carbon Stock (HCS) Forest.

Uganda

Wilmar is developing palm oil plantations in the highly biodiverse Kalangala islands in Lake Victoria, Uganda. The project is a partnership between Wilmar, the Government of Uganda, the International Fund for Agricultural Development (IFAD) and the Kenyan oilseeds company Bidco. The agreement commits to planting 40,000 hectares of palm oil in total.

Some communities in Kalangala where land was acquired for oil palm plantations have been displaced, often with little or no compensation or alternative livelihood options. A large proportion of the palm oil plantations are in areas previously covered by natural forest; an estimated 3,600 hectares of forest have been destroyed to make way for palm oil plantations.⁴ In addition to severe environmental and climate impacts, this deforestation has dispossessed a large number of islanders who depend on the forest for their food, medicine, and livelihoods.⁵ Communities complain of rising food insecurity on the island as large areas that previously produced food crops for local consumption have been converted to oil palm. Similar problems are ongoing in Buvuma District, also in Lake Victoria.

At the initiative of NAPE-Friends of the Earth Uganda, a committee was established in July 2013 which has confirmed Friends of the Earth's allegations and put forth demands that land taken from community members should be returned to them and they should be compensated for lost crops. To date, Wilmar has done nothing to address or resolve these concerns.

In its progress report⁶ on implementation of the policy Wilmar acknowledges that there have been problems with its operations in Uganda and Nigeria, but has not yet developed a timeline for improvement; nor have they considered providing compensation to the affected communities for lost lands and livelihoods.



Forest destruction and landgrabbing for palm oil in Kalangala, Uganda. © Jason Taylor / FoEI

Liberia

Wilmar's role in Liberia exists through its part-ownership of the Nauvu Joint Venture Company whose shares are split equally between Wilmar and Olam, another Singaporean agribusiness giant.⁷ Nauvu Joint Venture Company owns 27 percent of SIFCA, an agribusiness group based in Ivory Coast, which in turn controls two subsidiaries, Maryland Palm oil Plantation (MOPP) and Cavalla Rubber Corporation (CRC).

In January 2011 the Government of Liberia and Cavalla Rubber Corporation (CRC) signed a 50 year concession agreement for 30,000 hectares of land in Maryland County. In March 2011 the Government of Liberia and the Maryland Palm oil Plantation (MOPP) signed a 25 year concession agreement for 15,200 hectares of land in Maryland and Grand Kru Counties. These concession agreements failed to recognise communities' customary ownership of the land, do not stipulate the need for FPIC, and include provisions allowing for involuntary resettlement, all of which violate communities' rights and international human rights standards.

The lack of consultation caused numerous conflicts and violations: SIFCA surveyed land in new expansion areas without engaging in FPIC negotiations; communities that negotiated with SIFCA for land included in the Outgrower Scheme signed MOUs that do not contain the social benefits communities believed to be included; MOPP encroached on communities' reserve farmland and wetland areas and destroyed crops and water sources; and communities have not been sufficiently compensated in line with Ministry of Agriculture crop compensation price listings. None of this has been rectified since Wilmar announced its new policy.

When community members affected by SIFCA's operations protested the non-payment of wages, employment malpractice and insufficient compensation for destroyed crops,⁸ they suffered violence and illegal arrest at the hands of the paramilitary unit of the Liberia National Police Emergency Response Unit. In March, 2013 the Ministry of Labour ruled that sixty-two employees of MOPP and CRC had been illegally dismissed⁹ and ordered the companies to reinstate the employees with full payment of wages and benefits. This is the only ruling to date that these subsidiaries of the Wilmar-owned joint venture have had to face in Liberia.

By not properly addressing the ongoing conflicts and problems between SIFCA and the local communities, SIFCA is clearly violating Wilmar's policy to conduct Free, Prior and Informed Consent (FPIC).

Indonesia

Wilmar is involved in many problematic operations throughout Indonesia. Of the many cases of concern, a few of particular note include:

- Wilmar continues to purchase palm oil from Indonesian company Bumitama Agri Ltd. Bumitama has knowingly destroyed forest that is home to endangered orangutans, and continues to produce palm oil from at least one illegally held plantation (GMS/GY).¹⁰
- PT. Sawindo Cemerlang and its subsidiary PT. Sawit Tiara Nusa cleared primary forest belonging to indigenous forest communities in 24 villages in the West Popayato subdistrict of Gorontalo Province up until spring 2014. This is in violation of Wilmar's commitment not to clear High Carbon Stock (HCS) forests.
- Wilmar affiliate PT. Sawindo Cemerlang took over land owned by PT. Delta Subur Permai (DSP) in the Batui Banggai subdistrict, in the midst of active land conflict. Residents of nearby Honbola village opposed the company's permit application because they had previously filed an application for a Community Forest Permit (HTR) at that location. Wilmar's actions prevented the community from engaging in forest restoration.

These cases show that Wilmar, through its smaller subsidiary companies and third-party suppliers, is continuing to actively engage in deforestation in the provinces of Central Sulawesi and Gorontalo and thus is violating its own code.

New land clearing, digging of drainage canal in Indonesia. © Jason Taylor / FoEI



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The role of financiers

US and EU financiers have a total of 371 million Euro in Wilmar shares, and 1.1 billion Euro in loans outstanding to Wilmar. While some of Wilmar's financiers have contacted the company to inquire into the allegations noted here, they have categorically failed to ensure that Wilmar abides by best practice standards.

Many investors – including many that finance Wilmar's operations – have developed voluntary Environment, Social and Governance (ESG) policies intended to prevent the abuses outlined here. Broadly, ESG policies require companies to protect natural forests and respect national laws and global best practices on land rights and the environment; to employ indicators to assess companies' compliance with the financiers' policies; and require the financier to engage on a regular basis with companies to review their adherence.

However, when Friends of the Earth filed complaints against companies, many financiers fail to provide information on follow-up procedures, leaving the implementation and monitoring of ESG policies entirely non-transparent, unenforceable and dependent on voluntary actions by the financiers and companies. According to reports from FoE groups with experience of Wilmar's operations, financiers' ESG policies have not prevented land grabbing and other abuses by Wilmar and its affiliates, revealing that *even the most comprehensive ESG policies are ineffective due to their voluntary nature, which leads to wholesale failures of implementation, disclosure and enforcement*. Therefore we urgently need political will on the part of governments to *make these policies mandatory*.



Recommendations

The role of government is to protect human rights, prevent corporate abuse, and remedy harm. In order to prevent financing land grabbing, **home country governments** should implement policies that adhere to global best practice standards, international human rights principles, and the FAO Voluntary Guidelines on the Responsible Governance of Tenure of Land, Fisheries and Forests in the Context of National Food Security. Furthermore, there needs to be obligatory due diligence and disclosure by companies of the environmental and social impacts of their operations. Victims of Wilmar's operations should be entitled to hold Wilmar's financiers accountable in a court in the country where the financier is based.

Governments of host countries should ensure Wilmar's full compliance with all relevant legislation pertaining to land acquisition and operations, should implement and enforce environmental protections and should respect and defend people's rights to their land and resources, including ensuring that FPIC procedures are strictly adhered to, and preventing corruption in permitting processes, land leases, and other administrative procedures. In cases where communities have been deprived of land and livelihoods, the government should provide rehabilitation, compensation, and restitution of lands in accordance with international human rights standards.

Wilmar's financiers have been called upon by FoE to use their influence to resolve current land grabbing cases or cut their financial ties with Wilmar until the company has resolved its ongoing problems in practice – not merely on paper. Since Wilmar is continuing its harmful business, and even violates its own code of conduct, we call on financiers to divest from the company and withhold any new financial services until the problems have been resolved.

Wilmar has already stated the principles by which it claims to protect forests and community rights, but as these cases reveal, the company has failed to honor these principles in practice. As a minimum demonstration of its commitment, Wilmar should ensure full compliance with its own policies and broader human rights principles, and resolve the specific cases named in this brief, in the following ways:

Local people lost their land through landgrabbing for palm oil plantations, Kalangala, Uganda.
© Jason Taylor / FoEI

- **Apply Free, Prior and Informed Consent (FPIC)** and respect the right of communities to say “No”. Recognize and respect community cultivation areas.
- **Comply with the law:** Respect national laws, customary rights (*adat*), indigenous community conservations areas, international human rights laws, and global best practices including application of the FAO Voluntary Guidelines on the Responsible Governance of Tenure of Land, Fisheries and Forests in the Context of National Food Security, which is noted in Wilmar’s policy.
- **End deforestation and peatland destruction:** Halt and prohibit all further clearing of High Conservation Value (HCV) forests, High Carbon Stock (HCS) forests, and drainage or expansion on peatlands of any depth. Wilmar must meet requirements for conserving HCS forest by reducing concession areas, rather than by opening new concessions for conservation areas.
- **Improve transparency:** Make all Environmental Impact Assessments, Environmental Social Impact Assessments, concession maps, and supply chain maps publicly available and provide complete and detailed information on direct and indirect deforestation in and around all concessions.

- **Take accountability for damage** including providing adequate compensation for loss of land, crops, possessions and illegally cleared land. Where compensation is offered it should be according to national laws and standards. Ensure restitution for lands taken without FPIC and provide comprehensive rehabilitation for livelihood impacts.
- **Wilmar must refrain from any efforts to change laws and regulations regarding spatial planning and forest crimes.**

Alternatives

Forests are best managed by local communities. Much scholarly research, and the experience of communities, shows that the most effective, equitable, and sustainable way to maintain the world’s remaining forests is to support community land tenure and community-based forest management.

Farmland is for farming. Instead of the conventional, monoculture-based industrial approach, we need to develop mosaics of regenerative farming systems that improve the well-being of small-scale farmers, to create and support diversity to make food production resilient to a changing and unpredictable climate, and to produce sufficient food while enhancing, rather than disrupting, ecological systems.

Demonstration against landgrabbing in Nigeria. © RRDC.



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Aerial view of palm oil industry facilities and plantations in the Wilmar concession, Indonesia.
© John Novis, Greenpeace.

- 1 Wilmar's policy can be found here: <http://www.wilmar-international.com/wp-content/uploads/2012/11/No-Deforestation-No-Peat-No-Exploitation-Policy.pdf>
Response Friends of the Earth International can be found here: <http://www.foei.org/en/what-we-do/land-grabbing/latest-news/bowing-to-civil-society-pressure-palm-oil-giant-promises-to-end-its-forest-destruction>
- 2 Interview with His Royal Highness, Tufam Clement of EkpeEmayib Oban, community on March 4, 2014. The newly acquired estate is all forest reserve. This Reserve is community land which ought to attract royalty to them, but government gave it to former President of Nigeria OlusegunObasanjo without consulting the community people. The lack of any written policy or commitment to conservation was also implied in comments made by the Head of Human Resources of Wilmar International, Mr Steven Ebong, during an interview with him conducted by RRDC on March 4, 2014.
- 3 Laws of the Federal Republic of Nigeria (LFRN).
- 4 Friends of the Earth: landgrabbing for palmoil in Uganda: http://foeurope.org/sites/default/files/press_releases/land_grabbing_for_palm_oil_in_uganda_0.pdf
- 5 Friends of the Earth interviews with communities, primary research.
- 6 http://clients.squareeye.net/uploads/tft/TFT-Wilmar_first_progress_report_FINAL.pdf
- 7 Rights and Resources Group (2013). Investments into the Agribusiness, Extractive and Infrastructure Sectors of Liberia: An Overview, Washington DC: RRG, p.15.
- 8 Social Entrepreneurs for Sustainable Development and Sustainable Development Institute (2014). Forthcoming, The Informer, Crisis Engulfs Maryland Again – Several Protestors Arrested, February 14, 2013.
- 9 All Africa, Labor Orders CRC to Reinstate Employees, March 7, 2013.
- 10 See: Friends of the Earth: Bumitama's diary of destruction, March 2014: http://foeurope.org/bumitama_diary_destruction_250314 and Friends of the Earth: Commodity Crimes, November 2013: <http://foeurope.org/commodity-crimes-211113>



Friends of the Earth Europe campaigns for sustainable and just societies and for the protection of the environment, unites more than 30 national organisations with thousands of local groups and is part of the world's largest grassroots environmental network, Friends of the Earth International.



Friends of the Earth Europe gratefully acknowledges financial assistance from the European Commission. The contents of this document are the sole responsibility of Friends of the Earth Europe and cannot be regarded as reflecting the position of the funder mentioned above. The funder cannot be held responsible for any use which may be made of the information this document contains.

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