



APP'S PERFORMANCE IN MEETING ITS SOCIAL RESPONSIBILITY COMMITMENTS

NGO Submission Provided to Rainforest Alliance's
Evaluation of APP's Progress in Fulfilling Social
and Environmental Commitments

HuMa





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BACKGROUND

Asia Pulp and Paper (APP) has a well-documented legacy of adverse social and environmental impacts associated with its operations. In February 2013 - after widespread public criticism of the company, community opposition and pressure from customers and investors - APP released a Forest Conservation Policy (FCP) that, along with other public commitments made by the company between 2012-2014, set out the company’s intention to reform its practices and address its legacy of destruction and conflict.

APP has a 2.6 million hectare land bank in Indonesia. The company has cleared and drained extensive areas of rainforest and peatlands in Sumatra and Kalimantan and converted them to monoculture pulpwood plantations. About half of its plantations are located on carbon rich peatlands. The development and operation of plantations in these areas involves natural forest clearance and peat drainage and is a major source of Indonesia’s greenhouse gas emissions. APP’s legacy also includes the clearance and conversion of vital rainforest habitat for a rich diversity of species including the critically endangered Sumatran tiger.

Further, the development of these plantations has come at a large cost to indigenous peoples and local communities that have, in many cases, had their customary lands taken, their traditional livelihoods undermined and their human rights violated. The failure of APP and the Indonesian government to respect community rights and recognize land tenure has created hundreds of conflicts between communities and APP across the company’s concession areas.

As part of APP’s Forest Conservation Policy of February 2013, the company committed to resolve these land and other social conflicts, respect the right of communities to give or withhold their Free, Prior and Informed Consent (FPIC), meaningfully engage stakeholders and to practice transparency. Many in civil society, industry and government welcomed APP’s commitments. However, because APP had made similar promises in the past and failed to meet them, many groups have called for the implementation of APP’s commitments to be independently verified to have an impact on the ground prior to customers and investors resuming or starting business with APP and its affiliates.

In January 2014, APP announced that the Rainforest Alliance (RA) would conduct an independent evaluation of the company’s performance in implementing its social and environmental commitments. RA developed Key Performance Elements and associated Performance Indicators to evaluate APP’s progress in implementing the commitments it has made.

EXECUTIVE SUMMARY

A coalition of Indonesian and International NGOs and community based organizations largely focused on human rights, land and social issues but with a deep commitment and substantial expertise in environmental issues and sustainable development has come together to provide input - mostly on APP's performance relating to its commitments on social issues, stakeholder engagement and transparency - into RA's evaluation. They include Wahana Bumi Hijau, Scale Up, Rainforest Action Network, HUMA, Jaringan Masyarakat Gambut Riau, Jaringan Masyarakat Gambut Jambi, Forest Peoples Programme, Link-AR Borneo, Persatuan Petani Jambi, KPA Hijau and Pusaka.

Several of these groups are working with communities impacted by APP and affiliates. Several have been engaging with APP directly both prior to the company committing to adopt reforms as well as after the company's commitments were made. Most have participated in APP Focus Group Discussions, as Independent Observers or in the Solutions Working Group.

The input to the RA Evaluation is based on interviews with village leaders and community members from 17 communities impacted by APP and its affiliates in Riau, Jambi, South Sumatra, West Kalimantan and East Kalimantan conducted between March and September 2014. It is also based on the experience of several organizations that have been working over time with these and other communities and farmer groups impacted by APP. Finally, the input and analysis of APP's performance in the Submission is drawn from these organizations observing and engaging APP on the implementation of its commitments in a variety of settings since February 2013. In the Submission, we refer to and present data and analysis on the set of Key Performance Elements and Indicators developed by Rainforest Alliance. The submission does not reflect actions APP may have taken after August 2014. However, this summary and these recommendations reflect issues that remain relevant and of utmost importance if APP is going to meet its commitments on social issues, stakeholder engagement and transparency commitments in 2015 and beyond. The Submission has the following elements:

1. Findings and Experience Related to APP's Performance in Implementing its Commitments on Social Issues and Community Engagement in 17 villages
2. Analysis and Conclusions Relating to APP's Performance on Key Elements and Indicators of APP's FCP Policy Commitment 3 on Social Issues and Community Engagement
3. Analysis and Conclusions relating to APP'S Performance on Additional Key Elements and Indicators Relating to Transparency, High Conservation Values, High Carbon Stocks, etc.

In summary, we find that much work remains to be done before APP can be seen to be successfully implementing its policy commitments related to resolving land conflicts and respecting FPIC and rights or to be seen to be satisfactorily meeting its commitments relating to stakeholder engagement and transparency. Although the company has put a host of building blocks in place to implement its commitments, in most cases, changes have yet to reach the ground (i.e. the Forest Management Unit level) where many practices remain the same as prior to APP's announcement of its FCP.

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Resolving Conflicts

We found that APP was not responding adequately to conflicts brought to its attention in at least four provinces. This indicates that APP has yet to satisfactorily focus on implementing its social commitments. It raises questions about how the company will work with communities and NGO advisors and will scale up efforts to resolve the numerous conflicts found throughout its concessions. In at least five villages with land and social conflict (Lubuk Mandarsah in Jambi, Minas Barat and Teluk Meranti in Riau, Labai Hilir in West Kalimantan and Manamang Kiri in East Kalimantan), APP failed to inform communities about its policies, establish agreed conflict resolution processes with the community and NGO advisors, respond to community complaints in a timely way or register community complaints using its grievance mechanism. And, even in areas where conflicts had been brought to the company's attention, APP is failing to consult communities and their NGO advisors or to get agreement with key stakeholders on what processes are needed to resolve conflicts, preferring instead to develop conflict resolution action plans in isolation. Further, APP is using the fact that it is developing an action plan for a community as a reason not to be transparent about the conflict or post community complaints on the company dashboard thereby triggering open grievance procedures.

APP has not shared the results of its conflict mapping or satisfactorily consulted rights holders or other key stakeholders on its strategy for scaling up its conflict resolution efforts or on the action plans it is developing to address specific conflicts. This is preventing affected communities, NGO advisors and other key stakeholders from being able to communicate and coordinate with APP in order to plan for or play a constructive role in sharing information, building capacity and developing effective and equitable conflict resolution processes and pathways with communities. In some cases (e.g. Labai Hilir, Tuluk Meranti), APP appears to want to avoid communities having NGO advisors present for its meetings or negotiations with communities.



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The most promising finding concerning APP's performance to resolve conflicts is seen in two communities, Datuk Rajo Malayu in Riau province and Riding in South Sumatra province, where APP is piloting a conflict resolution approach that utilizes a mutually agreed third party mediator and a broadly accepted conflict resolution methodology...”

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...with hundreds of conflicts yet to be resolved and with APP's poor performance in addressing community complaints and conflicts in the five other villages we surveyed, the company has a long way to go before its commitment to resolve conflict and respect rights is satisfactorily met.”

Though the exact number is not available publicly, there remain hundreds of unresolved land and other disputes with communities across APP's and its suppliers' land bank. APP responds that they have done conflict mapping and are developing action plans to address conflicts across their land bank, however, it is troubling that affected communities and other key stakeholders have not had the opportunity to participate in the conflict mapping process or in the development of action plans that concern their own future and interests.

The most promising finding concerning APP's performance to resolve conflicts is seen in two communities, Datuk Rajo Malayu in Riau province and Riding in South Sumatra province, where APP is piloting a conflict resolution approach that utilizes a mutually agreed third party mediator and a broadly accepted conflict resolution methodology. In these cases, both communities have chosen to have NGO advisors that have assisted communities by providing information and conducting community organizing. This approach shows significant promise, with one of the communities (Riding, South Sumatra) reaching an agreement with APP in late November 2014, and should be seen as model to scale up. In addition, APP has made largely satisfactory progress in developing SOPs/protocols relating to conflict resolution and Free, Prior and Informed Consent. The company's grievance mechanism remains problematic. And, with hundreds of conflicts yet to be resolved and with APP's poor performance in addressing community complaints and conflicts in the five other villages we surveyed, the company has a long way to go before its commitment to resolve conflict and respect rights is satisfactorily met.

Free, Prior and Informed Consent

APP has not fully respected the right of communities affected by the proposed OKI Pulp and Paper mill to give or withhold their consent (FPIC). APP has already started construction of the mill, yet the company has not followed key elements of its own SOP/protocol relating to FPIC. For example, participation in the FPIC process was limited. Information provided was often inadequate and not given in writing. Written consent from a majority of community members or groups potentially affected by the project was not obtained. Permits for the Mill and construction of the Mill commenced before consent was given by one or more of the potentially affected communities with a right to FPIC. In short, the Free, Prior and Informed Consent of at least one community directly affected by the proposed new mill has yet to be obtained and several aspects of the FPIC process in other affected communities has been flawed.

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Additional Performance Elements Relating to High Conservation Values, High Carbon Stocks, Stakeholder Engagement and Transparency

Our submission to the Rainforest Alliance evaluation finds that APP has failed to adequately share information, consult or address social issues in the High Conservation Value (HCV) and High Carbon Stock (HCS) assessments it is conducting. Specifically, APP's performance has not been satisfactory in that:

- The process of consulting and collecting data for HCV 5 & 6 in draft HCV reports has been flawed (e.g. assessments failed to adequately consult communities about land use and values prior to plantation establishment)
- The content of HCV studies relating to HCV 5 & 6 fail to adequately capture livelihood and cultural values associated with the areas being assessed (e.g. of the more than 1 million hectares of concessions in Sumatra, less than 3,500 ha have been identified as HCV 5 or 6)
- Stakeholders have not been provided with appropriate opportunities for input in HCS process and HCS reports have not been shared with stakeholders
- There are serious and outstanding concerns that the HCS studies, reports and recommendations will not include results of participatory mapping or identify areas claimed by communities or important for community land use, and that areas identified as HCS will not require FPIC by rights holders prior to land use designation

In addition to FPIC, conflict resolution processes and direct negotiations with specific communities, the main mechanism APP is developing to meet its commitments and achieve improved social and environmental outcomes on the ground are Integrated Sustainable Forest Management Plans (ISFMPs) that bring together information and recommendations from APP's various studies (e.g. HCV, HCS, conflict mapping) and put forward specific management plans to be implemented. As of September 2014, no ISFMPs had been developed and there had been little engagement with rights holders and stakeholders on the ISFMPs. In October 2014, APP hosted the first meeting with stakeholders in Jambi on the ISFMP process where the approach is being piloted. In November APP met with stakeholders to explain the ISFMP and its restoration commitment. These are positive developments, but these are still early days. The Jambi ISFMP may take a year or more to develop and only then can the quality of the plan and an assessment of its implementation be made.

The development and implementation of ISFMPs and the impacts of carrying out the plans are one of the most fundamental and important indicators for whether APP is in fact meeting its commitments. The lack of information about and the mixed quality of the conflict mapping, peatland studies, HCV and HCS studies that will become the basis for the ISFMPs, suggests that the ISFMPs will need to be carefully developed and monitored. ISFMPs will also require robust engagement with stakeholders and the Free, Prior and Informed Consent of rights holding impacted communities to areas impacted by the plans. Until ISFMPs have been developed and implemented in Jambi and several other provinces, it is too soon to tell the extent to which APP is meeting its social and environmental commitments and whether promised social and environmental improvements are being delivered on the ground.

Our Submission finds that, to date, APP has failed to meet or fallen short on its commitments relating to information sharing, transparency and stakeholder engagement. In several core areas, from social conflict mapping to FPIC implementation and from HCS studies to the development of ISFMPs, APP has not adequately shared information or meaningfully involved rights holders or other key stakeholders. Where stakeholders have provided input, the company has frequently failed to adopt the input or to explain why it was rejected. Generally, we found that consultation and use of stakeholder input happens at the convenience of the company or when sufficient pressure is applied. APP continues to under value stakeholder consultation and input as a necessary and additive part of the FCP implementation process.

“ Until Integrated Sustainable Management Plans (ISFMPs) have been developed and implemented in in Sumatran province of Jambi and several other provinces, it is too soon to tell the extent to which APP is meeting its social and environmental commitments and whether promised improvements are being delivered on the ground ”

“ Our research suggests that APP is still in the preliminary stages of implementing its social commitments and that, in most cases, changes on the ground have yet to take place. ”

“ Because there are so many areas... where implementation has yet to begin or where it is still too early to evaluate the tangible impacts of reforms, it is vital that ongoing monitoring and independent verification of APP’s performance continue.

We believe satisfactory performance by APP in implementing its social, transparency and stakeholder engagement commitments will help create better outcomes and more durable and equitable agreements with communities. ”

Conclusions

Our research suggests that APP is still in the preliminary stages of implementing its social and environmental commitments and that, in most cases, changes on the ground have yet to take place. Because there are so many areas – e.g. HCS, ISFMPs, FPIC, resolving community conflicts, stakeholder engagement, wood supply and transparency – where implementation has yet to begin or where it is still too early to evaluate the tangible impacts of reforms, it is vital that ongoing monitoring and independent verification of APP’s performance continue.

The Rainforest Alliance evaluation submission contributors think it is important that the results of our monitoring, research and analysis catalyse and become part of ongoing scrutiny and public discourse on APP’s progress toward meeting its social and environmental commitments. Our intent is to encourage APP to effectively implement its commitments and to help secure community rights and remedies for past harm. We will continue to examine how APP is implementing its social and transparency commitments and will continue to make recommendations about how APP can improve its performance. We will continue to support communities affected by APP to know and exercise their rights, resolve conflicts and secure remedies for past harm. We believe satisfactory performance by APP in implementing its social, transparency and stakeholder engagement commitments will help create better outcomes and more durable and equitable agreements with communities. We are committed to working with APP to implement its commitments in good faith.

In this spirit, the focus of the RA Submission is on areas where we found that APP’s performance is lacking or needs improvement. The intention is to provide credible information on the current status of how the company is implementing its commitments, to point out areas for improvement and to provide specific recommendations. This executive summary and the RA Submission have been shared with APP prior to publication to indicate factual inaccuracies and to provide an opportunity for the company to respond to the recommendations below.

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RECOMMENDATIONS

General Recommendations for the Implementation of Social Commitments

1. APP prioritizes the implementation of its social commitments and best practice with regards to FPIC and conflict resolution and stakeholder engagement. The company should ensure this happens at the Forest Management Unit level and add personnel and capacity to achieve this as needed. It should include performance on social issues as part of employee evaluations and compensation.
2. APP ensures that social mapping and participatory mapping of community land use, claims and tenure take place as part of the HCS and ISFMP processes and that conflicts regarding community land use, tenure and claims are resolved prior to the finalization of Integrated Sustainable Forest Management Plans (ISFMPs).
3. Where communities reject pulpwood plantations, Integrated Sustainable Forest Management Plans (ISFMPs) or other developments on their customary lands should not be imposed (and, by agreement, village lands should be excised from, or 'enclaved' within concessions).
4. Where communities agree to relinquish areas for pulpwood plantations or other company interests, studies of HCS, HCV and peatland zoning and the development of ISFMPs for managing these values should be carried out with the involvement of the affected communities and their NGO advisors, and recommendations for managing these values should have the Free, Prior and Informed Consent of affected communities and become part of any negotiated agreement with APP. These agreements should:
 - clarify what managing particular values will mean to villagers in terms of their continued access to lands and resources
 - clarify who will manage such areas (e.g. areas might be proposed as community managed or co-managed, or company managed areas depending on the main purpose of the areas and depending on agreements negotiated with each community based on FPIC)
5. APP shares information on new plantation expansion areas as well as on new concessions and areas for development with stakeholders so that stakeholders may observe and so they can support affected communities.
6. APP works with key stakeholders to develop agreed improvements to its grievance mechanism/SOP as well as to the information it shares on the dashboard relating to social issues and ISFMPs. For example, APP's recognition that conflict is present from its conflict mapping process must not preclude listing and transparency regarding specific conflicts via its grievance mechanism. Conflict resolution action plans shall be agreed with rights holders, their chosen NGO advisors and other key stakeholders.
7. APP contributes to a trust fund and mechanism to provide expert advice (e.g. mapping, accounting, legal, agricultural, etc.) for communities, based on a governance system that is agreed with the Social Issues Working Group
8. APP works with stakeholders and government to secure enforcement of existing and, where needed, revisions to relevant policies and regulations so that community rights are recognized and respected prior to the allocation of further industrial pulp wood plantation (HTI) permits/ licenses and so that the resolution of conflicts within existing concessions is achieved.

Recommendations for Addressing Specific Problems Identified in the RA Submission

9. APP promptly publishes the complaints it has received from communities, including Manamang Kiri in East Kalimantan, Labai Hilir in West Kalimantan, Lubuk Mandarsah in Jambi, Muara Bungkal and Teluk Meranti in Riau. APP works with rights holders and stakeholders to resolve these complaints, with an initial step being a mutually agreed plan with complainants and their NGO advisors on the steps that will be undertaken to resolve these complaints.
10. APP works with rights holders and stakeholders to revisit and address shortcomings in the OKI Mill FPIC process so that affected communities are able to give or withhold their consent (FPIC) to the proposed mill and associated infrastructure. This process should include consultations with affected communities to develop mutually agreed frameworks and timetables so that the communities are able to participate in social and environmental assessments, consider the costs and benefits of the proposed developments, and negotiate agreements with APP concerning these developments. During this process construction of the mill and other mill associated activities must be suspended.

The process must also:

- Involve wide participation by various social groups within the community until decision making processes and representatives have been agreed by the community
 - Generate information about the project by undertaking studies with the involvement of affected communities; e.g. area and size, timing and duration, social and environmental impact assessments and HCV and HCS - including impacts on lands, vegetation, the river, fishing and water supplies, etc.
 - Ensure that the communities have access to NGO advisors and independent expert advice on legal, financial, environmental and other relevant matters.
11. APP states publicly that they have not yet implemented their own FPIC SOP/protocol, do not yet have community consent for the development of the OKI mill and will do further work to conduct a credible FPIC process and will inform investors and the public of the outcomes.

Recommendations on Stakeholder Engagement and Transparency

12. APP works with key stakeholders and advisors to activate the Social Issues Working Group with a terms of reference mutually agreed by its members that allows for information sharing with relevant constituents.
13. APP shares its conflict resolution strategy, implementation/action plans and the results of its conflict mapping and conflict typology studies as well as other relevant procedures and data with the Social Issues Working Group and other key stakeholders as appropriate.
14. The Social Issues Working Group and other key stakeholders review and come to agreement on APP's conflict resolution strategy and action plans including: process for consulting and coming to agreement with communities and NGO advisors on how specific conflicts should be resolved; next phases of APP's social conflict resolution program and time-bound performance targets and milestones for its implementation.
15. APP, the working group and other key stakeholders develop and agree to monitoring, verification and reporting provisions and plan for reporting and independent monitoring and verification of the implementation of the conflict resolution system, strategy, targets and milestones.