

THE NEED FOR ***FREE, PRIOR AND*** ***INFORMED*** CONSENT:

An Evaluation of the Policies and Standard Operating Procedures of Ten Major
Corporate Groups involved in Forest-Risk Commodity Supply Chains in Southeast Asia

FPIC

FREE, PRIOR AND INFORMED CONSENT

Indigenous Peoples' rights to land are enshrined in the United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP), specifically, their right to own, use, develop, and control their traditionally owned or occupied lands, and the right to maintain and strengthen their spiritual relationships with their traditionally owned or occupied lands and to uphold this for future generations. UNDRIP expressly outlines Indigenous Peoples' right to Free, Prior, and Informed Consent (FPIC) to any project that may affect them or their land — that this process is free of coercion, that it takes place prior to any development, that it is based on sufficient information so affected communities are fully informed when making decisions, and that consent can be given or withheld by affected communities.

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INTRODUCTION

The push of industrial agriculture into forests which are traditionally managed by Indigenous or local communities results in a cascade of harmful impacts. Conflict with communities is common as Indigenous Peoples' rights are violated — particularly their right to give or withhold their Free, Prior and Informed Consent (FPIC). What's more, land and environmental defenders — who are also often Indigenous Peoples — face growing violence, intimidation and criminalization. According to the Business and Human Rights Resource Centre, worldwide, there have been more than 2,000 attacks on land and environmental defenders since 2015, with 572 attacks happening in 2019 alone. They find that these attacks often take place "in the context of economic models which prioritise investments and profit over respect for human rights and protecting the environment."¹ Environmental defenders who are also Indigenous Peoples are being killed at alarmingly higher rates than any other group — representing 40% of murders worldwide in 2015 and 2016, and 30% of murders in 2017.² The expansion of industrial agriculture is not only one of the most significant drivers of deforestation, it is also significantly responsible for the violence Indigenous Peoples face. Agribusiness as a sector is responsible for most of the killings of environmental defenders, second only to mining.³

Indigenous Peoples' rights to land are enshrined in the United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP). Adopted internationally in 2007, UNDRIP remains the most comprehensive framework on the rights of Indigenous Peoples.⁴ In Articles 25 and 26, UNDRIP specifically highlights Indigenous Peoples' right to own, use, develop and control their traditionally owned or occupied lands, and the right to maintain and strengthen their spiritual relationships with their traditionally owned or occupied lands and to uphold this for future generations.⁵ What's more, UNDRIP expressly outlines Indigenous Peoples' right to Free, Prior and Informed Consent (FPIC) — the right to give or withhold consent to any project that may affect them or their lands.⁶

Indonesia's palm oil and pulp and paper industries are dominated by a small number of conglomerates, which are owned and controlled by powerful Indonesian tycoons or family groups, as well as by foreign investors based in Singapore, Scotland and South Korea.⁷ **This report focuses on ten of the largest Corporate Groups that have benefited from the widespread logging and deforestation of Indonesia's rainforests for timber, palm oil, and pulp and paper: Best Industry Group, Genting Group, Jardine Matheson Group, Korindo Group, Rajawali Corpora, Royal Golden Eagle Group, Salim Group, Sinar Mas Group, Triputra Group, and Wilmar International.** Each of these corporate groups controls over 100,000 hectares of oil palm plantations, and in the cases of the pulp and paper giants Sinar Mas Group and Royal Golden Eagle Group, millions of hectares of plantations.⁸ Over five million hectares of Indonesia's lands are managed by this powerful collection of forestry and agribusiness giants, including stands of rainforests and peatlands that remain 'undeveloped' within areas allocated to them by the government, or set-aside as conservation areas. Collectively this group has a huge forest footprint and an enormous impact on the Indigenous Peoples and local communities of Indonesia.

This report focuses on ten of the largest Corporate Groups that have benefited from the widespread logging and deforestation of Indonesia's rainforests for timber, palm oil, and pulp and paper: **Best Industry Group, Genting Berhad, Jardine Matheson Group, Korindo Group, Rajawali Corpora, Royal Golden Eagle, Salim Group, Sinar Mas Group, Triputra Group, and Wilmar International.**

Given the growing violence, intimidation and criminalization facing communities on the frontlines of agricultural expansion, and the widespread failure of Corporate Groups to resolve conflicts and deliver remedy for rights violations, it is of critical importance to investigate and improve upon the effectiveness of the policies, procedures and quality assurance mechanisms to ensure the fulfilment of FPIC rights by the most influential actors involved in the forest-risk commodity sectors. The published policies and Standard Operating Procedures (SOPs) to uphold the rights of communities to give or withhold their Free, Prior and Informed Consent (FPIC) to any development on their lands were evaluated for the ten most influential Corporate Groups producing, processing and trading forest-risk commodities in South-East Asia.⁹ The evaluation compared the published policies and SOPs on the fulfilment of FPIC rights (as of August 12, 2020) for each Corporate Group against the “best practice” requirements related to FPIC rights that are contained in the High Carbon Stock Approach Social Requirements (HCSA SRs)¹⁰ and associated Implementation Guidance (IG).¹¹

The High Carbon Stock Approach (HCSA) is a methodology that distinguishes forest areas designated for protection from degraded lands with low carbon and biodiversity values which may be developed. The methodology was developed to provide a practical, transparent, robust, scientifically credible and widely accepted approach to operationalise commitments to halt deforestation in the tropics, while ensuring that the rights and livelihoods of indigenous peoples and local communities are fully protected. On August 12th, 2020 the HCSA published an updated detailed set of Social Requirements and Implementation Guidance that set out comprehensively what is required to ensure the protection of the rights and livelihoods of communities affected by commodity production. These requirements provide a useful benchmark for evaluating the effectiveness of published policies and FPIC procedures, and they should be adhered to not only by all members of the HCSA, but also by all companies that are seeking to produce forest-risk commodities in accordance with international human rights norms, and with the policies adopted by major brands and banks involved in sourcing or financing forest-risk commodities.

The evaluation’s findings are summarized in this document, while individual evaluations for each Corporate Group’s policies and SOPs are found at www.ran.org/FPICevaluation. The methodology used to undertake this assessment, including an appendix on FPIC rights and international human rights instruments, can also be found here. The evaluation’s findings for each Corporate Group are presented in the form of a high-level summary for each and three matrices. The first matrix presents the evaluation of the published policies of the Corporate Group, and those of its affiliated companies or subsidiaries, that contain commitments to the fulfilment of FPIC, as well as any Standard Operating Procedures (SOPs) on the operationalization of these commitments, again of the Corporate Group and/or any of its affiliated companies. These SOPs are then evaluated in more detail in Matrices 2 and 3, against the requirements and criteria for the fulfilment of FPIC rights set out in the High Carbon Stock Approach (HCSA) Social Requirements (SRs) and Implementation Guidance (IG). Where no published SOPs are available, as is the case for the majority of the Groups, relevant policies of subsidiary or affiliated companies with references to FPIC rights were evaluated instead against these criteria.

The methodology was developed to provide a practical, transparent, robust, scientifically credible and widely accepted approach to operationalise commitments to halt deforestation in the tropics, while ensuring that the rights and livelihoods of indigenous peoples and local communities are fully protected.

KEY FINDINGS

Summary of Findings of Evaluation of the Free, Prior and Informed Consent (FPIC) policies and Standard Operating Procedures (SOPs) of ten Corporate Groups producing, processing and trading forest-risk commodities in South-East Asia

The individual evaluations in no way represent a complete assessment of the extent to which each Corporate Group, or its subsidiaries or affiliated companies, are in compliance with these requirements for the fulfilment of FPIC rights — whether in the operations of their affiliated subsidiaries, in those of their affiliated companies, or in their supply chains. They do, however, provide valuable insight into the commitments made by each Corporate Group — including whether or not these explicitly cover all four core tenets of FPIC, and whether they explain in detail the procedures and mechanisms that align with best practices to fulfil FPIC rights. The evaluations also set out the major shortcomings of the policies and SOPs that have been published by each Corporate Group to date. These shortcomings reveal that the policy commitments to the fulfilment of FPIC rights that have been made by a few of the Corporate Groups, and by many of their affiliated subsidiaries and affiliated companies, are nothing more than empty promises, as they lack the detailed SOPs necessary to guide their effective implementation, let alone robust quality assurance based on independent verification of the FPIC process. Furthermore, the evaluation found that:

- None of the published policies and Standard Operating Procedures (SOPs) of the ten Corporate Groups producing, processing and trading forest-risk commodities in South-East Asia are adequate — being either absent, not disclosed, or not consistent with the High Carbon Stock Approach Social Requirements (SRs) and Implementation Guidance (IG). The HCSA Social Requirements are the “best practice” set of requirements and guidance that must be adhered to, and have performance independently verified against, in order to demonstrate that the rights of affected communities to give or withhold their Free, Prior and Informed Consent (FPIC) to proposed and existing oil palm and pulp plantation development, or forestry operations, on land that communities own and use, are being upheld. Despite the unequivocal commitments to respect FPIC rights that are contained in the published policies of three of the Corporate Groups and a majority of their affiliated subsidiaries, none of the Corporate Groups have published Standard Operating Procedure (SOPs) that set out in detail the procedures and mechanisms by which they ensure the fulfilment of FPIC rights.
- Only one Corporate Group has affiliated subsidiaries that have published documents that present their FPIC procedures. These documents, published by Sinar Mas Group subsidiaries Asia Pulp and Paper (APP) and Golden Agri Resources (GAR), are highly inadequate compared to the requirements of the HCSA Social Requirements and Implementation Guide. Other Sinar Mas Group affiliated companies that are not publicly acknowledged by the Sinar Mas Group as being under its control, despite evidence to the contrary, lack published FPIC policies and SOPs.
- Only three of the ten Corporate Groups have sustainability policies that both apply across all affiliated subsidiaries or affiliated companies of the Corporate Group and contain commitments to respect the rights of communities to give or withhold FPIC to proposed developments on land they own and use. None of these three Corporate Groups explicitly define Corporate Groups as including all companies where there is formal ownership, investments, and/or an ownership or management relationship, family control, financial control, beneficial ownership and/or shared resources, however.¹² Given that it is common practice for major conglomerates to hide their true ownership or affiliation with companies that continue to expand and engage in controversial practices through opaque ownership structures and offshore holdings,¹³ it is of critical importance that policies apply across all companies over which the Corporate Group has influence. Affiliated subsidiary companies of seven of the Corporate Groups have published sustainability policies that contain such commitments to fulfil FPIC rights. Two Corporate Groups lack published policies with commitments to fulfil FPIC rights all together, and their subsidiary companies which are involved in the plantation sector also lack such policies.

● Nearly all of the sustainability policies evaluated include commitments to respect human rights and fulfil FPIC rights. These policies contain few further details on FPIC rights, however, and only one Corporate Group's affiliated subsidiaries' policies refer explicitly to all four core tenets of FPIC, albeit briefly. These are that the process is Free of coercion; it takes place Prior to any development; it is based on sufficient information so affected communities are fully Informed when making decisions; and that Consent can be given or withheld by affected communities. Eight of the ten Corporate Groups fail to make an explicit commitment to FPIC processes that are free of coercion. This is an extremely alarming finding, especially given the well-documented cases of the use of coercion, intimidation, criminalization or violence in this sector, including cases involving some of the Corporate Groups evaluated here, being Best Group, Korindo Group, Sinar Mas Group, Royal Golden Eagle Group and Wilmar International.¹⁴

● None of the sustainability policies or SOPs evaluated provide adequate instructions on any of the other elements that are necessary for effective and rights-fulfilling FPIC processes.¹⁵ which are fair representation, meaningful participation, full transparency, robust quality assurance and independent verification, and effective grievance mechanisms, or on the fulfilment of the FPIC rights of communities affected by existing operations. Most of these aspects are barely mentioned, if at all, by any of the policies evaluated.



A hand holding a wooden stick against a sunset background. The hand is in the foreground, holding the stick vertically. The background shows a sunset with orange and yellow hues on the left and greenish-yellow on the right, with a silhouette of a person in the distance.

RECOMMENDATIONS

- The gulf between the published policies containing commitments to fulfil FPIC rights, and the near-total absence of the disclosure of the SOPs and mechanisms used to achieve these commitments in practice, must be addressed by each Corporate Group as a matter of urgency. Each Corporate Group must adopt or improve their policies and develop and publish sufficiently detailed FPIC SOPs that cover all four core tenets of FPIC and the various other key aspects that need to be met to fulfil FPIC rights, in accordance with the requirements set out in the High Carbon Stock Approach Social Requirements and Implementation Guidance. The gaps in existing policies and SOPs that are highlighted in each individual Corporate Group evaluation must be addressed.
- Detailed evaluations of the fulfilment of FPIC rights in all the existing and new pulp and palm oil plantations or forestry operations controlled by each Corporate Group, and in the operations of all third-party suppliers supplying forest-risk commodities to their global supply chains, remain of paramount importance. These FPIC assessments and independent verification exercises must be undertaken in the field by qualified social experts, with the meaningful participation of affected communities. They should use full compliance with the High Carbon Stock Approach Social Requirements and Implementation Guidance as their benchmark for assessing the fulfilment of FPIC rights.
- Increased transparency is necessary for affected communities, so that they can make an informed decision during the FPIC process, but also for external stakeholders such as non-government organizations, brands and banks, so that they can better understand where new developments are planned and if and how FPIC procedures are being implemented, and monitor the effectiveness of these to ensure that FPIC rights are being respected. Transparent, legitimate, effective, and accessible grievance mechanisms must also be established so communities can have their grievances heard and resolved and external stakeholders can determine if problems that have arisen are being addressed in accordance with international human rights norms.
- Additional investigations must also be undertaken by the major brands that are sourcing forest-risk commodities from these ten Corporate Groups, and by the banks and financial institutions providing financial services to them, to verify the evidence that has been presented by affected communities and civil society organizations to the media, via grievance mechanisms, and/or to certification systems through their complaints mechanisms, of flawed and fraudulent FPIC processes, and of various other violations of local communities' and Indigenous Peoples' rights that have allegedly occurred in the operations of many of these Corporate Groups' subsidiaries or affiliated companies.

FINDINGS ON CORPORATE GROUP AND AFFILIATED SUBSIDIARY OR AFFILIATED COMPANIES' PUBLISHED POLICIES ON THE FULFILMENT OF FPIC RIGHTS

Matrix 1 of the evaluation sets out all the relevant published policies of the Corporate Group and its affiliated subsidiary and/or affiliated companies that contain commitments to the fulfilment of Free, Prior and Informed Consent (FPIC) rights. The findings from the evaluations of each Corporate Group's available published policies are summarised in Table 1 below. **Three of the ten Groups surveyed have a published sustainability policy at the Corporate Group level that includes commitments to respect human rights and the fulfilment of FPIC rights, but all three — Korindo Group, Royal Golden Eagle Group, and Wilmar International — fail to define Corporate Groups** as including companies where there is formal ownership, investments, and/or an ownership or management relationship, family control, financial control, beneficial ownership and/or shared resources.¹⁶ As mentioned, it is of critical importance that policies apply across all companies over which the Corporate Group has influence, as it is common practice for major conglomerates to hide their true ownership or affiliations with companies that continue to expand and engage in controversial practices, through opaque ownership structures and offshore holdings. **Seven of the ten Groups do have affiliated subsidiaries or affiliated companies that have published sustainability policies that include similar commitments to the fulfilment of FPIC. The other two Corporate Groups — Best Industry Group and Triputra Group — have no published policies at Group or subsidiary levels.**

The sustainability policies that were evaluated all contain broad commitments to respect human rights, as well as specific references to their respect for FPIC rights. This includes commitments to 'apply' or 'adhere to' international human rights instruments such as the Universal Declaration of Human Rights (UDHA) and the UN Guiding Principles on Human Rights and Business (UNGPs), which contain indirect provisions for the fulfilment of FPIC rights.¹⁷ A few policies also refer to international human rights instruments with direct provisions on FPIC rights, including the UN Declaration of the Rights of Indigenous Peoples (UNDRIP). These commitments to respect specific international human rights instruments, and human rights more broadly, all imply a commitment to fulfil FPIC rights as well, whether directly or indirectly. Only two of the Corporate Groups, Korindo and Wilmar International, have stand-alone human rights policies, which contain additional commitments to the fulfilment of FPIC rights. Wilmar International is the only Corporate Group evaluated with a published sustainability policy that also includes a specific commitment to the HCSA Social Requirements.

Of the sustainability policies evaluated, seven of the ten Corporate Groups and/or their affiliated subsidiaries state explicitly that they apply to subsidiaries, operations they own or manage, and to third party suppliers. However, these policies lack explicit commitments on their application to affiliated companies, those in which the association tends to be via family control, financial control, beneficial ownership and/or is evidenced through shared resources. More detailed evaluation of the policies of some of the publicly acknowledged subsidiaries or affiliated companies of the ten Corporate Groups revealed that the policies of subsidiaries or affiliated companies of three Corporate Groups lack any specific references to the fulfilment of FPIC rights. The companies are Wilmar International's joint venture partner, Wilmar Adani; Royal Golden Eagle subsidiaries Bracell and Asia Pacific Rayon; and Sinar Mas-affiliated PT Arara Abadi and PT Wirakarya Sakti. Wilmar International-affiliated Gama Group, and Royal Golden Eagle-affiliated Toba Pulp Lestari have sustainability policies that contain only a brief and highly inadequate reference to FPIC. Sinar Mas-affiliated Capitol Group has no published sustainability policy.

Based on the findings set out in the individual evaluations, and summarised in Table 1, each Corporate Group must adopt or improve their existing policies on the fulfilment of FPIC rights. These policies must apply across all affiliated subsidiaries or affiliated companies of the Corporate Group, defined as companies where there is formal ownership, investments, and/or an ownership or management relationship, family control, financial control, beneficial ownership and/or shared resources. The policies must cover the four core tenets of FPIC, and the other key elements involved in the fulfilment of FPIC rights, in accordance with the High Carbon Stock Approach Social Requirements and Implementation Guidance, which represent the benchmark for best practice on the fulfilment of FPIC rights.

TABLE 1:

Summary of Matrix 1 on the published policies and SOPs related to the fulfilment of FPIC rights of ten Corporate Groups

IMPORTANT NOTE: * Indicates that affiliated subsidiaries and companies of the Corporate Group are members of the HCSA or voluntary certification scheme

	Corporate Group Sustainability Policy with commitments to fulfil FPIC rights and human rights	Sustainability Policy of affiliated subsidiaries or companies with commitments to fulfil FPIC rights	SOPs on the operationalization of these commitments to fulfil FPIC rights	Commitment by Corporate Group, and/or its affiliated subsidiaries/ companies, to ensure fulfilment of FPIC rights by affiliated subsidiaries/ companies	Commitment by Corporate Group and/or its affiliated subsidiaries/ companies, to ensure fulfilment of FPIC rights by third-party suppliers	Stand-alone Corporate Group Human Rights policy including commitment to fulfilment of FPIC rights	Corporate Group membership of HCSA, entailing commitments to the fulfilment of FPIC rights in all developments and by all affiliated subsidiaries/ companies/ third-party suppliers	Corporate Group commitment to the fulfilment of FPIC rights via membership of other voluntary certification scheme with a standard that requires the fulfilment of FPIC rights
Best Industry Group	NO	NO	NO	NO	NO	NO	NO	NO
Genting Group	NO	NO ¹⁸	NO	NO	YES ¹⁹	NO	NO* ²⁰	NO* ²¹
Jardine Matheson Group	NO	YES ²²	NO	YES ²³	YES ²⁴	NO	NO	NO
Korindo Group	YES ²⁵	YES	NO	YES	YES	YES ²⁶	NO ²⁷	YES, but subject to complaint on failure to fulfil FPIC* ²⁸
Rajawali Corpora	NO	YES ²⁹	NO	YES ³⁰	NO	NO	NO ³¹	NO ³²
Royal Golden Eagle Group	YES ³³	YES ³⁴	NO	YES	YES	NO	NO ³⁵	NO ³⁶
Salim Group	NO	YES ³⁷	NO	YES ³⁸	YES	NO	NO	NO
Sinar Mas Group	NO	YES ³⁹	NO ⁴⁰	YES ⁴¹	YES ⁴²	NO	NO ⁴³	NO* ⁴⁴ , but subsidiaries subject to complaint on failure to fulfil FPIC
Triputra Group	NO	NO	NO	NO	NO	NO	NO ⁴⁵	NO ⁴⁶
Wilmar International	YES ⁴⁷	NO	NO	YES	YES	YES ⁴⁸	NO ⁴⁹	YES, but subject to complaint on failure to fulfil FPIC

This evaluation of published policies in no way represents the full extent to which each Corporate Group, or its subsidiaries or affiliated companies, are in compliance with the fulfilment of FPIC rights, whether in the operations of their affiliated subsidiaries, those of their affiliated companies, or in their supply chains. The adoption and publication of a policy committing to the fulfilment of FPIC rights by a Corporate Group or its affiliated subsidiaries and affiliated companies represents merely the first, albeit vital, step of demonstrating their willingness to recognize and fulfil FPIC rights. The next crucial step is the development and publication of the detailed Standard Operating Procedures (SOPs) that will be used to put this commitment into practice. The publication of the SOPs is vital to enable affected parties and external stakeholders to assess the effectiveness of the procedures and mechanisms used and their alignment with the best practices and requirements set out in the HCSA Social Requirements and Implementation Guidance. **As noted, all the Corporate Groups, and the vast majority of their affiliated subsidiaries and affiliated companies, have yet to publish dedicated and detailed FPIC SOPs.**

Ultimately, each Corporate Group must be able to demonstrate that effective and rights-respecting FPIC processes have been put into place in all the areas under its management and control, and thereby prove that the rights of affected Indigenous Peoples and local communities are being respected in practice — especially their right to give or withhold their Free, Prior and Informed Consent to proposed and existing developments that affect them and the customary lands that they own and use. This requires independent verification of the fulfilment of FPIC rights, which should be undertaken in the field by qualified social experts with the meaningful participation of affected communities, using compliance with the High Carbon Stock Approach Social Requirements and Implementation Guidance as a benchmark for assessing the fulfilment of FPIC rights. **In the absence of such robust quality assurance based on independent verification of FPIC processes, as well as the detailed SOPs necessary to guide their implementation, the FPIC policy commitments made by a few of the ten Corporate Groups, and by many of their affiliated subsidiaries and affiliated companies, are nothing more than empty promises.**

FINDINGS ON CORPORATE GROUP AND AFFILIATED SUBSIDIARY OR AFFILIATED COMPANIES' PUBLISHED STANDARD OPERATING PROCEDURES (SOPS) ON THE FULFILMENT OF FPIC RIGHTS

The commitments to respect both human rights and the fulfilment of Free, Prior and Informed Consent (FPIC) rights, made by the three Corporate Groups with published policies, and by the affiliated subsidiary companies of seven of them, entail an obligation to ensure the fulfilment of these rights in practice. However, **none of the Corporate Groups have published dedicated and detailed FPIC Standard Operating Procedures (SOPs), which is a necessary step towards being able to demonstrate that their commitments on FPIC rights are being effectively operationalized, through credible procedures and mechanisms. The only published FPIC SOPs that were identified in the evaluation, those of Sinar Mas Group's publicly recognized subsidiary companies, Golden Agri Resources (GAR) and Asia Pulp and Paper (APP), are highly inadequate compared to the HCSA Social Requirements (SRs) and Implementation Guide (IG).**

The current gulf between the widespread commitments to fulfil FPIC rights and the near-total absence of disclosure of any details on the procedures and mechanisms used to achieve this in practice must be addressed by each Corporate Group as a matter of urgency. **Each Corporate Group must develop and publish sufficiently detailed FPIC SOPs that cover all four tenets of FPIC and the other key aspects of an effective and rights-respecting FPIC process, according to the requirements set out in the HCSA SRs and IG.** The gaps in existing policies and SOPs are detailed in each individual Corporate Group evaluation, which are accessible on ran.org/FPICEvaluation, and are summarized here.

The adequacy or inadequacy of the published SOPs of each Corporate Group was evaluated in Matrices 2 and 3. Matrix 2 sets out the key elements that must be covered in an effective and rights-fulfilling FPIC SOP, in accordance with the HCSA Social Requirements. Its criteria range from an explanation of the four core tenets of FPIC — that consent can be given or withheld, that the process is free of coercion, that it takes place prior to any development, and that it is based on sufficient information — to the fulfilment of FPIC rights in existing operations. Matrix 3 then sets out all the actions that must be taken to fulfil FPIC rights in practice, from the identification of all potentially affected communities to the independent verification of the outcome of the process in the final ‘FPIC gate’, when communities formally give or withhold their consent to the co-developed, negotiated and agreed land use proposal.

Out of the ten Corporate Groups and their subsidiary or affiliated companies covered by this evaluation, only the publicly acknowledged subsidiaries of the Sinar Mas Group, GAR, and APP have published documents that could be evaluated in this way, entitled “FPIC SOPs” and “FPIC Process Flow” respectively. For another seven of the Corporate Groups, the evaluation criteria in Matrix 2 were applied instead to the references to the fulfilment of FPIC rights contained in the published policies of their affiliated subsidiaries or affiliated companies. The remaining two Corporate Groups, Best Industry Group and Triputra Group, have no published sustainability policies so it was not possible to evaluate either on their approach to the fulfil FPIC rights. This means that Matrix 2 and 3 are completely blank for Best Industry and Triputra Groups, and they will need to address all the elements of FPIC that are set out in these two matrices when they develop and publish their FPIC SOPs.

Table 2 below summarises some of the evaluation results of the FPIC SOPs documents published by Sinar Mas Group, and as just set out, the sustainability policies of seven Corporate Groups and/or their affiliated subsidiaries or affiliated companies, for those that did have these policies but lacked any published FPIC SOPs. **In relation to the four core tenets of FPIC**, Sinar Mas Group’s published FPIC SOPs do refer to all of them, but with little further detail on any. **The sustainability policies of three of the other seven Corporate Groups and/or their affiliated subsidiaries or affiliated companies that have them, only refer explicitly to one of the four tenets. Those of the other four Groups and/or affiliated subsidiaries or companies mention only two of the tenets. While most of the seven do state that consent can be given or withheld and that FPIC must take place before development starts, only one policy refers to the need for the process to be free of coercion, and none at all refer to the need for it to be based on sufficient information.** Thus, even though the sustainability policies of these seven Corporate Groups and/or their subsidiaries or affiliates do contain explicit commitments to respect FPIC rights, most of them provide little further detail. The final two Corporate Groups, Best Industry Group and Triputra Group, had no published policies at all to evaluate, so they are recorded as having no coverage of any of the four core tenets of FPIC.



TABLE 2:

Coverage of the four FPIC tenets in the published SOPs or sustainability policies of Corporate Groups and /or their affiliated subsidiaries or companies

	Consent can be given or withheld by affected communities	Process must be Free of any coercion or manipulation	Process must take place Prior to any development	Process must be based on sufficient information so the community is fully Informed	Number of tenets briefly covered
Best Industry Group	NO	NO	NO	NO	0 / 4
Genting Group	YES	YES	NO	NO	2 / 4
Jardine Matheson	NO	NO	YES	NO	1 / 4
Korindo Group	YES	NO	YES	NO	2 / 4
Rajawali Corpora	NO	NO	YES	NO	1 / 4
Royal Golden Eagle Group	YES	NO	NO	NO	1 / 4
Salim Group	YES	NO	YES	NO	2 / 4
Sinar Mas Group	YES	YES	YES	YES	4 / 4
Triputra Group	NO	NO	NO	NO	0 / 4
Wilmar International	NO	YES	NO	YES	2 / 4

The specific areas that are lacking in relation to the evaluation criteria, or are only briefly covered, in the references to FPIC rights made in the policies of the seven Corporate Groups that lack published FPIC SOPs, but refer to FPIC in their published sustainability policies, are set out in Matrix 2 of the individual Group evaluations. These show that **none of these policies provide adequate instructions on any of the criteria for effective and rights-fulfilling FPIC processes,⁵⁰ which are representation, participation, transparency, quality assurance and independent verification, grievance mechanisms, and the application of FPIC rights to communities affected by existing operations. Most of these aspects are barely mentioned, if at all, by any of the policies evaluated.** The policies of some Corporate Groups and/or their affiliated subsidiaries and companies do refer to broader grievance mechanisms, but none of them mention mechanisms for addressing any grievances that arise specifically in relation to the FPIC process. A few also refer to participatory mapping and social impact assessments, but again without explicit or sufficient reference to the specific role these elements play within the FPIC process.

FINDINGS ON THE FPIC SOPS OF SINAR MAS GROUP AFFILIATED SUBSIDIARIES GOLDEN AGRI RESOURCES AND ASIA PULP AND PAPER

Sinar Mas Group-affiliated subsidiaries Golden-Agri Resources (GAR) and Asia Pulp and Paper (APP) are the only companies covered in this evaluation that have policy documents approximating FPIC SOPs. Although both do mention all four of the core FPIC tenets, these documents are very brief, and contain very little of the detail that is necessary to guide effective implementation of the FPIC process and ensure the fulfilment of FPIC rights.

As set out in Matrices 2 and 3 in the Sinar Mas Group evaluation, these two documents, entitled “FPIC SOP” and “FPIC Process Flow” for GAR and APP respectively,⁵¹ provide highly inadequate coverage of the criteria essential for fulfilling FPIC rights. In relation to the criteria set out in Matrix 2,⁵² both documents do refer to representation — with APP providing some further detail on this aspect, while GAR’s coverage of this aspect is very limited. Participation and participatory mapping are both referred to in the GAR FPIC SOP, but there is limited detail on the role this plays in the FPIC process, and little on this aspect in APP’s FPIC Process Flow. Neither document refers to the requirement that all relevant information must be shared transparently with affected communities throughout the process and there are very few relevant references to quality assurance for the FPIC process. There are no references to the inclusion of field-based independent verification to ensure its credibility. Neither document refers to the establishment of grievance mechanisms specifically in relation to the FPIC process itself, although the sustainability policies of both companies do refer to broader policies on grievances. Neither document makes any reference to the fulfilment of FPIC rights in existing operations.

Only one reference is made in either document to any of the four FPIC ‘gates’, which are the points during the FPIC process at which affected communities are provided with an opportunity to withdraw from it, or consent to continued engagement, assessment and negotiation. APP’s process flow diagram does contain a clear route to non-consent following negotiation, which is the fourth and final FPIC gate. There are no references to the other three gates, however, while in GAR’s FPIC SOP, no references are made at all to these important FPIC gates. Instead, a box marked ‘agreement’ is included in its flow diagram.

Matrix 3 for the Sinar Mas Group evaluation — the only one for which Matrix 3 has been filled in at all due to the availability of policy documents approximating FPIC SOPs — shows how few of the numerous actions and sub-actions that are required in order to operationalize commitments to the fulfilment of FPIC rights are included in either GAR’s FPIC SOP or APP’s FPIC Process Flow documents.⁵³ Very limited instructions are given in both documents in relation to the first action of identifying potentially affected communities, with nothing on the important documentation of this process. The second set of actions — visiting these potentially affected communities to provide sufficiently detailed information in a number of areas concerning their rights and the nature of the proposed development — is covered in both only very partially and inadequately with reference only to one or two relevant aspects

of the information that must be conveyed to communities during this preparatory stage. The third action equates to the first FPIC gate — when communities have the opportunity to give or withhold their consent for the assessment process to proceed — which is not referred to in either document. The fourth set of actions concern the establishment of the mechanisms and procedures for meaningful engagement with communities throughout the process of seeking consent and beyond, including representation and grievance mechanisms. Although some of the necessary elements are referred to briefly in the APP documents, these are inadequate, while GAR's FPIC SOPs have no coverage at all of this critical area. Neither document refers to record-keeping of any aspect, as is necessary for quality assurance purposes.

The fifth set of actions consists of the conduct of participatory assessments to determine current land use patterns and establish community food security needs to input into the Integrated Conservation Land Use Plan (ICLUP). Elements of these actions are again covered to some extent, more so in GAR's FPIC SOPs, but with insufficient reference to the meaningful participation of communities, and none to the two more FPIC gates that constitute the sixth action. These provide communities with further opportunities to consider their options and choose whether or not to proceed into the negotiation stage, with the support of third-party advisors where appropriate. APP's document does make a reference to this latter element, but none to these FPIC gates. The seventh and eighth actions relate to the co-development of the proposed ICLUP, further negotiation on it and the other relevant aspects of the agreement between the developer and the affected communities. This process culminates in the fourth FPIC gate, when communities decide finally whether or not to go ahead with the planned development on their customarily owned and used land, according to the agreed terms. This final FPIC gate is covered in the APP process flow diagram, as mentioned, while some other elements of these actions are also covered in both documents, although in a limited way. The ninth action, related to quality assurance including independent verification in the field of completing the final FPIC gate — a vital aspect of ensuring and demonstrating that the FPIC process and its outcome are credible and robust — is lacking in both documents, although GAR's does include a general section on monitoring and evaluation. The tenth action of ensuring the effective operation of grievance mechanisms during the engagement process and subsequently is also missing.

GAR's brief and very limited FPIC SOP is in marked contrast with its 'Guidance on Participatory Mapping',⁵⁴ which does contain a good level of detail of the mechanisms and procedures involved in implementation and covers much of the necessary ground from definitions and principles, to responsibilities and other elements. This guidance was not developed specifically to contribute to the fulfilment of FPIC or other rights, and thus requires some revisions to align fully with the HCSA SRs, and according to the detailed guidance on participatory mapping in Appendix 3 of the IG. APP did publish a more detailed SOP titled "Standard Operating Procedure FPIC Implementation in New Planting Area", in April 2013. But this detailed SOP is no longer publicly available and has been replaced with the simplified and highly inadequate "FPIC Process Flow" document.

Various other Sinar Mas-affiliated companies that are not publicly acknowledged by the Sinar Mas Group (despite evidence of the affiliation through ownership and/or management ties, and via offshore holding companies such as PT Purinusa Ekapersada, which owns the APP 'brand'), lack published policies and FPIC SOPs altogether. **Sinar Mas Group's published documents on the implementation of FPIC rights thus represent only the start of the process of developing adequate SOPs that can provide an effective guide to the implementation of a rights-fulfilling FPIC process throughout the Corporate Group.**

In order for Sinar Mas Group to prove that Free, Prior and Informed Consent (FPIC) processes are in place for all areas under the management and control of the Corporate Group, and begin to demonstrate that the rights of affected Indigenous Peoples and local communities are being respected, especially their right to give or withhold their FPIC to proposed and existing developments that affect them, **the Sinar Mas Group must develop and publish detailed SOPs at the Corporate Group level on the implementation of FPIC processes, and it must strengthen considerably the existing FPIC SOPs of its affiliated subsidiaries and affiliated companies.** These companies, including Golden Veroleum Liberia, Capitol Group, PT Arara Abadi, PT Wirakarya Sakti, and other companies of which the ultimate beneficiaries are members of the Widjaja family, must also strengthen their policies and SOPs on FPIC rights.

FINDINGS ON THE PUBLISHED COMMITMENTS TO IMPLEMENT FPIC RIGHTS IN ACCORDANCE WITH THE BEST PRACTICE APPROACHES OF THE HIGH CARBON STOCK APPROACH SOCIAL REQUIREMENTS AND IMPLEMENTATION GUIDANCE

The High Carbon Stock Approach (HCSA) is a methodology that distinguishes forest areas designated for protection from degraded lands with low carbon and biodiversity values which may be developed. The methodology was developed to provide a practical, transparent, robust, scientifically credible and widely accepted approach to operationalise commitments to halt deforestation in the tropics, while ensuring that the rights and livelihoods of indigenous peoples and local communities are fully protected. The HCSA is governed by a multi-stakeholder Steering Group made up of Non-Governmental Organisations, Technical Service Organizations, Commodity Users, and Plantation Companies.

On August 12, 2020, the HCSA published its updated Social Requirements (SRs) and Implementation Guidance (IG), which draw on international human rights norms and instruments with relevance for FPIC rights to provide a best practice set of requirements and guidance that must be adhered to in order to fulfil FPIC rights effectively in existing and new forest-risk commodity developments. Box 1 below presents a summary of the requirements and guidance contained in the SRs and IG that are relevant to the fulfilment of FPIC rights. This evaluation has used the HCSA SRs and IG as the benchmark for this evaluation of the policies and SOPs of each Corporate Group, as it represents the best practice for the protection of rights and livelihoods and must therefore be adhered to by all Corporate Groups and companies producing, processing and trading forest-risk commodities in South-East Asia and elsewhere.

As a condition of membership, members of the HCSA are required to apply the HCSA methodology for new developments involving land use change, including the application of the updated HCSA SRs and IG. But while a number of the multinational brands which are the end-users of forest-risk commodities are members of the HCSA, **this evaluation found that not one of the ten Corporate Groups is a member of this leading sustainability initiative.** Wilmar International was a member but cancelled its membership in April 2020, a move criticised by NGOs as a signal of its failure to implement its 'no deforestation' commitment and provide evidence to the HCSA of its active implementation of the HCSA throughout its supply chain.⁵⁵ **Publicly acknowledged subsidiary companies of two of the Corporate Groups are members, however —Asian Agri of Royal Golden Eagle Group, and Golden Agri Resources (GAR) and Asia Pulp and Paper (APP) of Sinar Mas Group.** While Asian Agri has yet to submit any HCSA assessments to the HCSA's quality assurance process, which includes a desk-based peer review mechanism, both GAR and APP have submitted a number of assessments.

GAR has submitted two assessments that have completed the peer review process, both of which were reported as unsatisfactory in relation to FPIC processes and reporting on them.⁵⁶ It has one assessment undergoing an ongoing peer review assessment, and another four classed as registered.⁵⁷ GVL has registered for assessments in 13 separate locations in its operations in South-East Liberia. **APP has submitted one assessment that has completed the peer review process, covering five companies. The FPIC processes were assessed as being highly unsatisfactory with detailed criticism and recommendations from the reviewer.**⁵⁸ APP has another registered HCSA assessment, covering four companies, that is classed as ongoing, and a further five, covering 31 companies, that are as yet only registered.

Despite not being members of the HCSA, some affiliated subsidiaries or affiliated companies of five Groups — Genting Group, Korindo Group, Triputra Group, Rajawali Corpora and Wilmar International — have also submitted assessments to its peer review mechanism. **Two affiliated subsidiaries of Genting Plantations, a publicly-acknowledged subsidiary of Genting Group, have submitted assessments that have completed the peer review process, in both of which the FPIC process and reporting on it are deemed as unsatisfactory.**⁵⁹ This affiliated subsidiary has another assessment classed as ongoing, and four further registered ones.⁶⁰ **Two Korindo Group subsidiaries have also submitted assessments that have completed the peer review process, but issues were raised by reviewers in relation to the FPIC process of both. In the peer review report on Papua Agro Lestari (PAL) (POP F), FPIC and other social aspects were deemed unsatisfactory, while for PT Tunas Sawaerma (TSE) (POP A), the FPIC process was undertaken 10-20 years ago, and further clarifications were requested, including maps and records of negotiations on community village and use areas. Both peer reviews were based on desk-top assessments of documentation submitted.** Another four Korindo Group affiliated companies have registered assessments, one of which is marked as 'Peer review cancelled, company may resubmit'.⁶¹

Rajawali Corpora subsidiary, Eagle High Plantations, and Triputra Group subsidiary, Triputra Agro Persada (TAP), have both submitted assessments for peer review, the FPIC aspects of which were deemed to have been conducted satisfactorily also based on a desk-based assessment.⁶² Royal Eagle Group subsidiary, APRIL has registered for three assessments, one of which is classed as 'pending'. **Wilmar International has also submitted one assessment which has completed the peer review process, for the Calaro Estate of PZ Wilmar, located in Cross River State, Nigeria. Although the social aspects overall were deemed satisfactory, again by the desk-based assessment, the FPIC element was assessed as problematic due to the acquisition of the land by the Nigerian State through 'eminent domain'.**⁶³

The HCSA peer review process is now only used for stand-alone HCS assessments that were conducted before November 2017. For assessments conducted after this date, quality assurance is undertaken via the High Conservation Value Resource Network (HCVRN) and its peer review process, which ensures that assessments and reports meet the requirements set out in the Integrated HCV-HCS Assessment Manual.⁶⁴ The HCVRN quality assurance system also remains limited to a desk-top review of assessments only.

Some of the sustainability policies evaluated also make references to the application of the HCS Approach, particularly in relation to the fulfilment of their 'no deforestation' commitments. This includes the policies of Genting Group affiliated subsidiary, Genting Plantations, Royal Eagle Group and its affiliated subsidiaries, APRIL and Asian Agri, and Sinar Mas affiliated subsidiaries, GAR and APP. Wilmar International's published sustainability policy also includes a specific commitment to the HCSA Social Requirements, but it has failed to publish a dedicated and detailed SOP to demonstrate how this commitment to the HCSA SRs is being implemented.

Of the remaining Corporate Groups covered in this evaluation, **Best Industry Group has no published sustainability policy and has not submitted any HCSA assessments to the peer review mechanism, despite evidence from civil society organizations that it is engaging in new plantation development in Indonesia.**⁶⁵ **The Salim Group also lacks an explicit published Corporate Group sustainability policy and has not submitted any HCSA assessments to the peer review mechanism.** The policy of its affiliated subsidiary, Indofood Agri Resources, does refer to "High Carbon Areas" and states that, "Prior to any new planting we use the HCS Approach Toolkit which allows estates to quantify carbon stocks of assets and **gauge FPIC in the community.**" Its reference to "and gauge FPIC" is clearly not an explicit commitment to ensuring the fulfilment of FPIC rights.⁶⁶ In its response to the letter sent to notify the Salim Group of this assessment, Indofood Agri Resources reiterated its use of the "HCS evaluation methodology using the HCS toolkit approach," and that its policy is "underpinned by a set of core commitments including 'free, prior and informed consent'". It also claimed to have a FPIC SOP that is not published. Other affiliated companies of the Salim Group, such as Indogunta Group, have no published sustainability policies, and have not submitted any assessment to the HCSA peer review mechanism. This is despite this company having substantial proposed new developments, including in West Papua and Papua.⁶⁷

In relation to membership of voluntary certification schemes entailing commitment to the fulfilment of FPIC rights, only one Corporate Group (Wilmar International) is a member of the Roundtable on Sustainable Palm Oil (RSPO), as are the affiliated subsidiaries and/or affiliated companies of a further five (Genting Group, Royal Golden Eagle Group, Sinar Mas Group, and Triputra Group, and Rajawali Corpora).⁶⁸ The RSPO standard entails commitments to respect human rights and to fulfil FPIC rights, as well as to implement the HCSA when engaging in new development involving land use change, but does not yet fully align with the HCSA SR and IG. Korindo Group is a certificate holder of the Forestry Stewardship Council (FSC). The FSC has Forest Management standards that includes requirements to respect human rights and fulfil FPIC rights, which Korindo Group has so far failed to secure certification against.

Korindo Group subsidiaries have certificates via the FSC's Chain of Custody certification standard, which largely outlines requirements for the management of a Chain of Custody systems.⁶⁹ The Korindo Group is currently subject to a complaint concerning the operations of its affiliated companies in Papua and North Maluku. The FSC complaints panel found: "*violation of Indigenous Peoples' rights on the basis of clear and convincing evidence in Papua in the way it obtained access to land and timber resources.*"⁷⁰ FSC standards for forest management certification do not yet fully align with the HCSA methodology for achieving 'no deforestation' or its SRs and IG.

Over two-thirds of the Groups and/or their affiliated companies have made additional commitments to respect FPIC rights through their membership of these voluntary certification schemes. Membership of these certification standards does not equate to full compliance with their standards pertaining to production requirements, however. The individual evaluations of Korindo Group, Royal Golden Eagle Group, Salim Group, Sinar Mas Group and Wilmar International refer to the various complaints that have been filed against these Corporate Groups in the RSPO and FSC, due to a failure to fulfil FPIC rights, and other alleged and confirmed violations of rights.

Social Requirement 7: Free, Prior and Informed Consent

Principle: Indigenous Peoples, local communities and other land users have the right to give or withhold their FPIC to operations planned on their lands, as expressed through their own freely chosen representatives or representative institutions. This principle applies to planned estates and smallholdings and to any wider land use classifications, management and land use constraints and benefits resulting from plantings, High Conservation Value and High Carbon Stock forest areas.

Social Requirement 2: Fair representation and agreeing a process for consent

Principle: In line with international law on Indigenous Peoples, developers shall recognise peoples' right to choose how they be represented in their dealing with the developer and with other stakeholders such as government representatives, and that they have the right to decide how they should be consulted and whether and how to enter into agreements. Further, in line with the principle of non-discrimination, measures shall be agreed to ensure that the views of all sections of local communities and Indigenous Peoples are taken into account in decision-making.

Relevant sections on FPIC in the HCSA Implementation Guide

Preparation stage

IG Step 1.3 Initiate Engagement with Affected Communities, including a. identify potentially affected communities to include in FPIC process, b. fully inform them of all relevant aspects, c. seek their initial consent to the process, and d. develop mechanisms to manage further engagement, if consent granted.

IG Step 1.4 Conduct Land Tenure and Usage Study in order to develop an early understanding of local land tenure and usage patterns.

Assessment stage

IG Step 2.1 Continue Engagement with Communities including in relation to the mechanisms of engagement, as well as other relevant aspects such as conservation benefits, employment and grievance mechanisms.

IG Step 2.3 Conduct the HCV-HCSA Assessment, including a. due diligence by the assessment team, b. participatory mapping and other participatory social assessment, c. full consultation on the findings with communities, and d. preparation of the final assessment report (the basis of the proposed Integrated Conservation Land Use Plan or ICLUP).

Negotiation stage

IG Step 3.1 Further Consultation with Communities on the proposed ICLUP and associated management and monitoring plans, as well as other relevant aspects including employment and compensation.

IG Step 3.2 Negotiated Consent or Rejection of the final ICLUP, with its formal notarization if consent is given.

IG Step 3.3 Quality Assurance for the Negotiation Stage including field based independent verification to ensure that the FPIC rights of affected communities have been fulfilled in practice.

Operational stage

IG Step 4.3 Continue Engagement with Communities in relation to ongoing monitoring and management, according to existing mechanisms of engagement, and with adaptations as necessary.

CONCLUSION

Forests, the communities at the frontlines of forest destruction, and the global climate are increasingly under threat. Together, the inaction of these ten Corporate Groups enables continued human rights abuses. To end the violence, intimidation, and land grabbing experienced by Indigenous Peoples and local communities, these Corporate Groups, and the brand and banks that do business with them, must do more.

None of the published policies and Standard Operating Procedures of all ten Corporate Groups producing, processing and trading forest-risk commodities in South-East Asia are adequate, being either absent, not disclosed, or not consistent with the High Carbon Stock Approach Social Requirements (SRs) and Implementation Guidance (IG) — the best practice set of guidance and requirements that must be adhered to in order to ensure the rights of communities to give or withhold their Free, Prior and Informed Consent (FPIC) to proposed and existing oil palm and pulp plantation development, or forestry operations, that are located on customary lands they own and use.

The Corporate Groups, or their affiliated subsidiary or affiliated companies, that have published sustainability policies, do largely include commitments to respect FPIC rights specifically, and human rights more broadly. However, these commitments are generally set out very briefly and fail to refer to all four core tenets of FPIC, let alone the various other elements of a rights-respecting FPIC process, undertaken in accordance with the HCSA SRs and IG. The Sinar Mas Group has published documents on its FPIC procedures for two publicly acknowledged subsidiaries, Asia Pulp and Paper and Golden Agri Resources. But these 'FPIC SOPs' that have been disclosed are highly inadequate compared to what is required to fulfil FPIC rights in accordance with the HCSA SRs and IG, and with international human rights norms and instruments.

In order to prove that Free, Prior and Informed Consent (FPIC) processes are in place for all areas under the management and control of each Corporate Group, each Corporate Group must be subject to independent verification of their fulfilment of FPIC rights across the landbanks of all affiliated subsidiaries, companies and throughout their supply chains. As a step towards demonstrating that the rights of affected Indigenous Peoples and local communities are being respected, especially their right to give or withhold their FPIC to proposed and existing developments that affect them, all ten Corporate Groups must urgently develop and publish dedicated Standard Operating Procedures (SOPs) on FPIC. These must set out their approach to the implementation of FPIC rights in sufficient detail and include instructions on all the many necessary actions that are involved in the fulfilment of FPIC rights in accordance with the HCSA SRs and IG. Each Corporate Group must adopt published policies or strengthen existing ones so that these set out clearly their commitments to all the four core tenets of FPIC, along with all the other key elements, and address the gaps identified in their individual evaluations against the best practices and requirements outlined in the HCSA SRs and IG.




PHOTO: Paul Hilton / RAN

These strengthened policies and SOPs must then be applied in full across all landbanks and development areas and throughout the supply chains of the Corporate Group. **Field-based independent verification of the fulfilment of Free, Prior and Informed Consent (FPIC) rights through robust and credible FPIC processes must also be conducted in the existing operations and new proposed development areas of these ten Corporate Groups, in order to demonstrate whether or not FPIC rights are being fulfilled in practice in their operations, in accordance with the High Carbon Stock Approach (HCSA) Social Requirements (SRs) and Implementation Guidance (IG), and in keeping with their improved published policies on human rights and FPIC rights.** Until such detailed FPIC policies and SOPs are in place, and their effective implementation has been independently verified across the Corporate Group's entire operations, there can be no assurance whatsoever that any of the ten Corporate Groups included in the evaluation, or any of their publicly recognized subsidiaries or affiliated companies, are living up to their commitments to respect FPIC rights and human rights.

Multinational brands and major banks, including fast-moving consumer goods companies Colgate-Palmolive, Ferrero, Kao, Mars, Mondeléz, Nestlé, Nissin Foods, PepsiCo, Procter & Gamble, and Unilever, and the financial powerhouses of Mitsubishi UFJ Financial Group (MUFG), Bank Negara Indonesia (BNI), CIMB, Industrial and Commercial Bank of China (ICBC), DBS, ABN Amro, and JPMorgan Chase, are among some of the most influential corporations that are fuelling the violation of human rights in forest-risk commodity production through their commercial relationships with the Corporate Groups involved in production, processing and supply. **Brands and banks must make proving full compliance with laws, regulations, and best practices for Free, Prior and Informed Consent (FPIC) processes in all areas under the management and control of these Corporate Groups, as set out in the High Carbon Stock Approach (HCSA) Social Requirements (SRs) and Implementation Guidance (IG), a prerequisite for doing business with them. All pulp and paper and palm oil suppliers, investees and financial clients must be made to demonstrate, through the use of credible independent verification mechanisms that assess compliance against the HCSA SR and IGs, that the rights of affected Indigenous Peoples and local communities are being fully respected, especially their right to give or withhold their FPIC to proposed and existing developments that affect them and the customary lands they own and use.**

For more information on the methodology used to undertake this evaluation and to review the individual evaluation of the ten Corporate Group's policies and Standard Operating Procedures on the fulfilment of the rights of communities to give or withhold their Free, Prior and Informed Consent (FPIC) to any development on their lands, please visit www.ran.org/FPICevaluation. The ten Corporate Groups evaluated here are Best Industry Group, Genting Group, Jardine Matheson Group, Korindo Group, Rajawali Corpora, Royal Golden Eagle, Salim Group, Sinar Mas Group, Triputra Group, and Wilmar International. Responses received from the Corporate Groups following notification of this evaluation of their FPIC policies and SOPs are also available on the website.

ENDNOTES

- 1 [Human Rights Defenders & Business](#). Business and Human Rights Resource Center. 2020.
- 2 Butt et al. "[The supply chain of violence](#)". Nature Sustainability. Vol. 2. 2019.
- 3 Manongdo, Ping. "[Why attacks on environment defenders should scare big business](#)". Eco-Business. 2019.
- 4 United Nations. [United Nations Declaration on the Rights of Indigenous Peoples](#). UN. 2007.
- 5 United Nations. [United Nations Declaration on the Rights of Indigenous Peoples – Articles](#). UN. 2007.
- 6 Food and Agriculture Organization of the United Nations. [Free, Prior and Informed Consent](#). FAO. 2020.
- 7 TUK Indonesia. "[Tycoons in the Indonesian palm oil](#)." TUK Indonesia. March 2019.
- 8 Best Industry group, "[About Us](#)." Best Industry Group. Genting Berhad. "[Annual Reports](#)." Genting Berhad. Jardine Matheson Group, "[Our Company](#)." Astra Agro Lestari. Korindo Group. "[Our Business](#)." Korindo. Rajawali Corpora, "[Eagle High Plantations](#)." Eagle High Plantations. Royal Golden Eagle, "[Our Operations](#)." APRIL. "[Our Business](#)." Asian Agri. Salim Group, "[Plantation Division](#)." IndoAgri. Sinar Mas Group, "[Our Business](#)." Golden Agri Resources. "[Sustainability Report. 2018. Improving Lives](#)." Sinar Mas APP. Triputra Group. "[Agribusiness](#)." Triputra. Wilmar International. "[Driving transformation](#)." Wilmar International Limited. Sustainability Report 2018. All Retrieved November 2020. Aidenvironment. "[Nordic investments in banks financing Indonesian palm oil](#)." Aidenvironment. May 2017.
- 9 The Accountability Framework. "[Definitions](#)". The Accountability Framework. Retrieved November 2020.
- 10 High Carbon Stock Approach. "[The HCS Approach Toolkit – Social Requirements](#)". High Carbon Stock Approach. Revised requirements published August 2020.
- 11 High Carbon Stock Approach. "[Implementation Guide for the Social Requirements of the High Carbon Stock Approach](#)." High Carbon Stock Approach. Published August 2020.
- 12 The Accountability Framework. "[Definitions](#)". The Accountability Framework. Retrieved November 2020.
- 13 Chain Reaction Research. "[Shadow Companies Present Palm Oil Investor Risks and Undermine NDPE Efforts](#)". Chain Reaction Research. 2018.
- 14 Mongabay. "[Palm oil firm has farmers jailed for harvesting from land it stole from them](#)". Mongabay. 2020.
- Forest Stewardship Council International. "[Korindo Group – ‘Overview of Complaints Findings’ and ‘Korindo Group Additional Social Analysis By FSC International’](#)". FSC International. 2020.
- Mongabay. "[Conflict between Indonesian villagers, pulpwood firm flares up over crop-killing drone](#)". Mongabay. 2020.
- Various signatories. "[Civil Society Open Letter About APP’s Recurrent Violation of Farmers’ Land Rights in Jambi, Indonesia](#)". Various. 2020.
- Morgan, Brihannala. "[It’s time for Toba Pulp Lestari to keep its promises](#)". Rainforest Action Network. 2017.
- Anderson, Patrick. "[Press release: Report shows widespread human rights violations in Wilmar’s palm oil operations in West Sumatra](#)". Forest Peoples Programme. 2019. All Retrieved November 2020.
- 15 The High Carbon Stock Approach. "[The Social Requirements of the HCS Approach](#)". HCSA. Revised requirements published August 2020.
- 16 The Accountability Framework. "[Definitions](#)". The Accountability Framework. Retrieved November 2020.
- 17 See Appendix on FPIC and international human rights instruments in the Methodology for this evaluation
- 18 Genting Group/ Genting Berhad has no published policy but refers to commitments in its annual sustainability reports. <https://www.genting.com/wp-content/uploads/2020/04/GENT-Sustainability-Report-2019.pdf> and https://www.gentingplantations.com/wp-content/uploads/2020/04/GENP_2020_Final.pdf. Retrieved November 2020.
- 19 Genting Group/ Genting Berhad has no such commitment, but Genting Plantations does
- 20 Genting Plantations has however submitted assessments to the HCSA peer review mechanism.
- 21 Genting Group/ Genting Berhad is not a member of any voluntary certification schemes entailing commitment to FPIC rights fulfilment, but Genting Plantations is a member of the Roundtable on Sustainable Palm Oil (RSPO).
- 22 Astra Agro Lestari. "Sustainability Policy." <http://www.astra-agro.co.id/en/sustainability-policy/> and <http://www.astra-agro.co.id/wp-content/uploads/2020/01/AAL-Sustainability-Action-Plan-1.pdf> Retrieved November 2020.
- 23 Jardine Matheson Group has no such commitment, but Astra-Agro Lestari does.

- 24 Jardine Matheson Group has no such commitment, but Astra-Agro Lestari does.
- 25 Korindo Group. [Sustainability Policy](#). Korindo. Retrieved November 2020.
- 26 Korindo Group. [Human Rights Policy](#). Korindo. Retrieved November 2020.
- 27 Although affiliated subsidiaries have submitted HCSA assessments to the HCSA peer review process.
- 28 Korindo Group is a certificate-holder of the Forestry Stewardship Council although its association is conditional due to documented violations of the FSC Policy for Association, including FPIC rights. See: <https://fsc.org/en/unacceptable-activities/cases/korindo-group> Retrieved November 2020.
- 29 Rajawali Corpora has no such policy, but Eagle High Plantations does. http://www.eaglehighplantations.com/uploads/1/0/8/4/108415631/2018_policy.pdf Retrieved November 2020.
- 30 By affiliated company Eagle High Plantations.
- 31 Although affiliated subsidiaries have submitted HCSA assessments to the HCSA peer review process.
- 32 Rajawali Corpora is not a member of any voluntary certification schemes entailing commitment to FPIC rights fulfilment, but Eagle High Plantation is a member of the RSPO.
- 33 Royal Golden Eagle. "[Sustainability Framework](#)". RGE. Retrieved November 2020.
- 34 APRIL, Asia Symbol, Sateri, Asian Agri, Apical and all have sustainability policies with commitments to respect FPIC rights.
- 35 RGE Group is not a member of the HCSA, but Asian Agri is, and APRIL has submitted assessments to the HCSA peer review mechanism.
- 36 RGE is not a member of any voluntary certification schemes entailing commitment to FPIC rights fulfilment, but Asian Agri and Apical are members of the RSPO.
- 37 Indofood Agri Resources. http://www.indofoodagri.com/misc/sustainable_agriculture_policy.pdf . Indofood Agri Resources. Retrieved November 2020.
- 38 By affiliated company Indofood Agri Resources.
- 39 Golden Agri Resources. "[GAR Social and Environmental Policy](#)". GAR. Retrieved November 2020.
Golden Veroleum Liberia. "[GVL Human Rights and Sustainability Policy](#)". GVL. Retrieved November 2020.
Asia Pulp and Paper. "[APP's Forest Conservation Policy](#)". APP. Retrieved November 2020.
- 40 Golden-Agri Resources (GAR) has what it refers to as an FPIC SOP, and Asia Pulp and Paper (APP) has a document on 'FPIC Process Flow', https://goldenagri.com.sg/pdfs/Sustainability/SOP_FPIC.pdf, and http://www.fcpmonitoring.com/Pages/All_documents.aspx?M=10, under FCP – 'Social', 'Protocols for Social Management'. Retrieved November 2020.
- 41 Sinar Mas Group does not have such a commitment, but GAR and APP do.
- 42 Sinar Mas Group does not have such a commitment, but GAR and APP do.
- 43 Sinar Mas Group is not a member of HCSA, but GAR and APP are members of the HCSA.
- 44 Sinar Mas Group is not a member of any voluntary certification schemes entailing commitment to FPIC rights fulfilment, but GAR is a member of the RSPO.
- 45 Although affiliated company Triputra Agro Persada has submitted an assessment to the HCSA peer review process.
- 46 Triputra Group is not a member of any voluntary certification schemes entailing commitment to FPIC rights fulfilment, but Triputra Agro Persada is a member of the RSPO.
- 47 Wilmar International Limited. "[No Deforestation, No Peat, No Exploitation Police](#)". Wilmar. Retrieved November 2020
- 48 Wilmar International Limited. "[Human Rights Policy](#)". "[Human Right Framework](#)". Wilmar. Retrieved November 2020.
- 49 Wilmar withdrew from the HCSA in April 2020, having been a founding member and co-chair of the Steering Committee.
- 50 The High Carbon Stock Approach. "[The Social Requirements of the HCS Approach](#)". HCSA. Retrieved November 2020.
- 51 Golden Agri Resources. "Procedure for the Implementation of Free, Prior, and Informed Consent (FPIC)". GAR. Retrieved November 2020.
Asia Pulp & Paper. "FCP – 'Social', 'Protocols for Social Management'". APP. Retrieved November 2020.

- 52 The High Carbon Stock Approach. "[The Social Requirements of the HCS Approach](#)". HCSA. Published August 2020.
- 53 The High Carbon Stock Approach. "[The Social Requirements of the HCS Approach](#)". "[Implementation Guide](#)". HCSA. Published August 2020.
- 54 Golden Agri Resources. https://goldenagri.com.sg/pdfs/Sustainability/20150314_Panduan_Pemetaan_Partisipatif-AW-HP_ENG.pdf Retrieved November 2020.
- 55 Greenpeace Southeast Asia. "[Wilmar International's exit from the High Carbon Stock Approach marks its failure to end deforestation](#)". Greenpeace. 2020.
- 56 These are for PT Persada Graha Mandiri (PGM) and PT Paramitra Internusa Pratama (PIP).
- 57 The High Carbon Stock Approach. "[Registered HCSA Assessments](#)". HCSA. Retrieved November 2020.
- 58 This assessment covers PT Bumi Persada Permai (BPP) I and II, PT Rimba Hutani Mas (RHM), PT Sumba Hijau Permai (SHP) and PT Tri Pupajaya (TP).
- 59 These are for PT Palma Agro Lestari (PALJ) and PT Citra Sawit Cemerlang (CSC).
- 60 These are PT Agro Abadi Cemerlang (ACC), PT Sawit Mitra Abadi (SMA), PT Globalindo Agung Lestari (GAL), and PT United Agro Indonesia (UAI), with PT Surya Agro Palma (SAP) classed as 'ongoing' and 'under company's review'.
- 61 These are PT Gelora Mandiri Membangan (GMM), PT Berkat Cipta Abadi (BCA), PT Dongin Prabhawa (DP), which was withdrawn, and PT Tunas Samaerma (TSE), POP A, B and E. Note all that the companies with registered and peer reviewed HCSA assessments are included in the active complaint on Korindo Group at the Forest Stewardship Council (FSC). See documents titled 'Overview of Complaints Findings' and 'Korindo Group Additional Social Analysis by FSC International' available [here](#). Retrieved November 2020.
- 62 For PT Varia Mitra Andalan and PT Dwiwira Lestari Jaya (DLJ), respectively.
- 63 Referring to the expropriation of private or customarily owned land by the State, a potential violation of land rights, which is expressly prohibited by SR 7 on FPIC rights, which states, 'Developers do not accept lands expropriated by governments in the national interest (*'eminent domain'*)'. The High Carbon Stock Approach. "[The Social Requirements of the HCS Approach](#)". HCSA. Retrieved November 2020.
- 64 The High Carbon Stock Approach. "[About the Quality Review Process](#)". HCSA. Retrieved November 2020.
- 65 Chain Reaction Research. "[The Chain: Repeat Offenders Continue to Clear Forests for Oil Palm in Southeast Asia](#)". Chain Reaction Research. 2020.
- 66 The policy refers to High Carbon Stock 'forests' rather than areas, and to the HCSA Toolkit as an assessment that quantifies carbon stocks, while in fact it is a methodology that identifies the amount of carbon and biodiversity stored within an area of land that varies according to the type of vegetative cover.
- 67 awasMIFEE!. "[The Salim Group and land conflicts around West Papua](#)". awasMIFEE!. 2018.
- 68 The Roundtable on Sustainable Palm Oil. "[Members](#)". RSPO. Retrieved November 2020.
- 69 The Forest Stewardship Council. "[Certificate](#)". FSC. Retrieved November 2020.
- 70 These findings were confirmed by the additional social analysis, which also covered Korindo Group's subsidiary in North Maluku, PT Galora Mandiri Membangan (PT GMM). This report concluded: 'There is no more room for reasonable doubt that these multiple violations have occurred ... There is thus no reason for any further delay in starting the process of remedy.' See documents titled 'Overview of Complaints Findings' and 'Korindo Group Additional Social Analysis By FSC International', [here](#). The outcome of the complaint, of conditional continued association dependent on the fulfilment of strict conditions, was accepted by the Korindo Group: 'The Korindo Group acknowledges that its practice of FPIC (Free Prior and Informed Consent) may not have reached the high requirement of FSC standards. The Korindo Group agrees to collaborate in good faith and work with FSC in a constructive way and in a safe environment to implement appropriate measures and to take necessary actions in order to mitigate any past negative impacts.' See [here](#) for more detail. Retrieved November 2020.





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